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| <b>Application Number</b>      | 22/00136/AS   |
| <b>Location</b>                | Liberty Barn, Canterbury Road, Brabourne, Kent  |
| <b>Grid Reference</b>          | Easting (x) 610832; Northing (y) 142188   |
| <b>Parish Council</b>          | Brabourne   |
| <b>Ward</b>                    | Bircholt  |
| <b>Application Description</b> | Proposed erection of an off-grid residential dwelling (under paragraph 80 of the NPPF) utilising existing access. Alterations to existing barn, removal of stables and landscape enhancement works to wider site. |
| <b>Applicants</b>              | Mr Alex Richards and Dr Caroline Richards   |
| <b>Agent</b>                   | Mr Alex Richards  |
| <b>Site Area</b>               | 25 acres (including the land included within the blue line)<br>4150sqm approx. (area of land within the red line)   |

### Introduction

1. This application is reported to the Planning Committee at the request of the Ward Member for Bircholt, Councillor William Howard in the light of the Officer recommendation to refuse planning permission.

### Site and Surroundings

2. The site area proposed to change use which includes the dwelling and the access would approximately measure 4150sqm. The 25 acre landholding is located to the north east of Brabourne village, which is a small village approximately 5 miles from Ashford. Currently, the applicant has a herd of circa 15 cattle and 20 sheep. The landholding comprises: Seven grazing fields, the northern five of which extend east west, adjoining the southern edge of the North Downs Way; Two barn / stabling structures in the south-eastern; and two existing access points, both from Canterbury Road to the south.
3. The site is located within the Kent Downs Area of Outstanding Natural Beauty (AONB). The North Downs Way (a byway, Number AE299) is located within and to the north of the landholding and Public Right of Way (PRoW) Number AE300 runs in a north-south direction across the most westerly grazing field. An area of Ancient woodland lies to the north-west corner of the site. The site also lies within an area identified as having archaeological potential in Ashford's Local Plan Policies Map. Finally, the site falls within the Stodmarsh catchment area.

4. A site location plan is as shown in Figure 1 below.

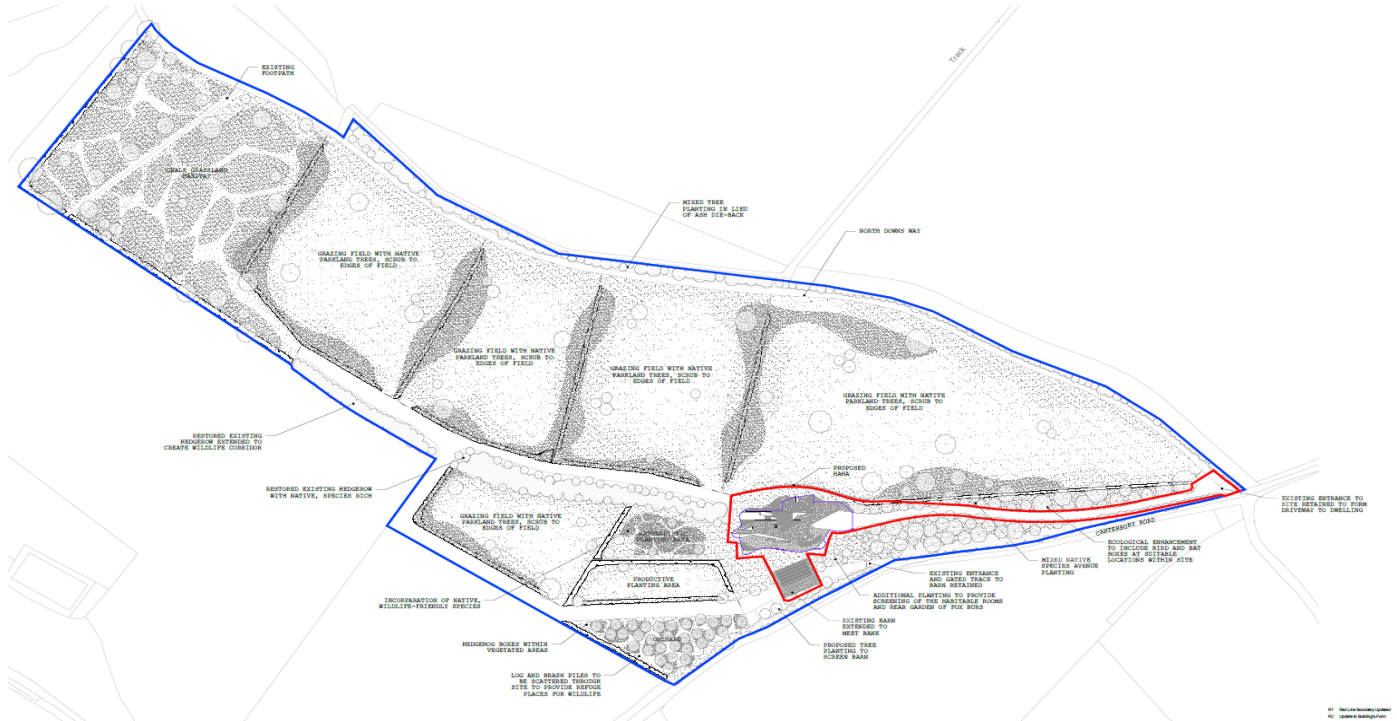


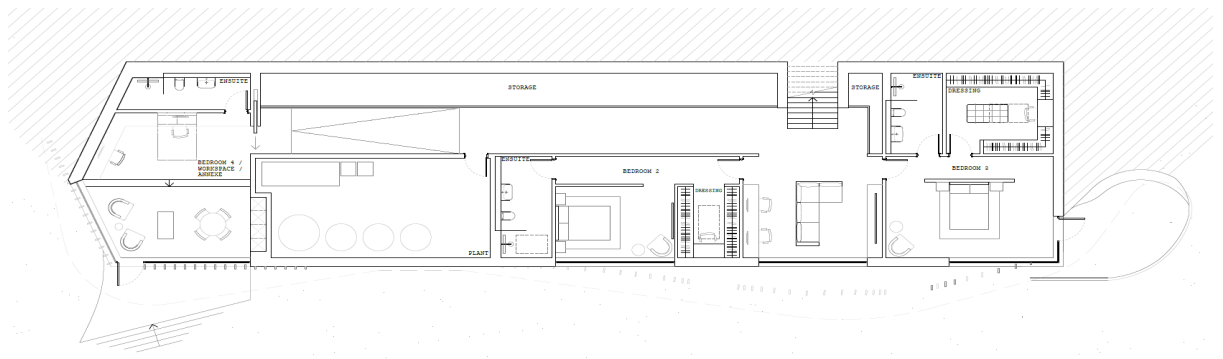
Figure 1: Site Location Plan



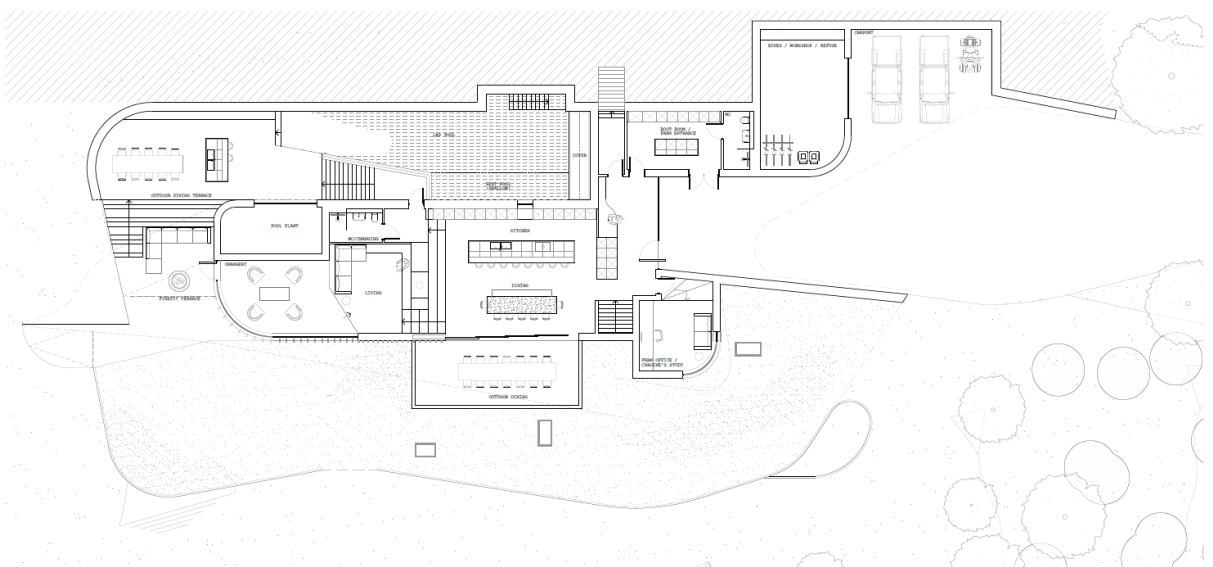
Figure 2: Aerial View

## Background and Proposal

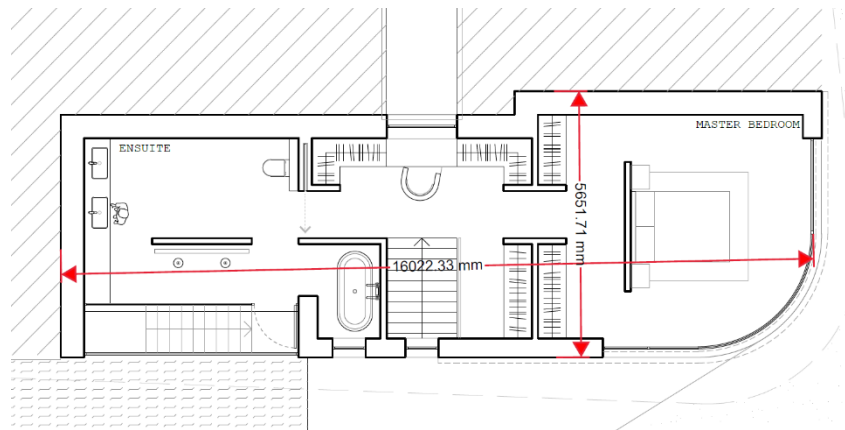
5. The application seeks permission for the erection of an off-grid 4-bed dwelling with associated access drive and parking. An off-grid dwelling means it would not be connected to conventional electricity, gas/oil or telephone supplies. It would produce its own electricity, with the help of hydrogen and solar panels. It would also involve the provision of a vegetable/kitchen garden; construction of a ha-ha; demolition of the existing stable block and storage barn. The application also seeks to extend another existing barn into the hillside with a larger footprint and roof area. The roof of the extended barn would be utilised to mount solar panels.
6. The form and design of the dwelling would follow the topography of the site by using the rising slope of the land. The proposed structure would be divided into three floors - lower ground floor, ground floor and first floor. The lower ground floor would comprise three bedrooms, two walk-in closets, services areas, storage and TV room. The area would approximately measure 335sqm.



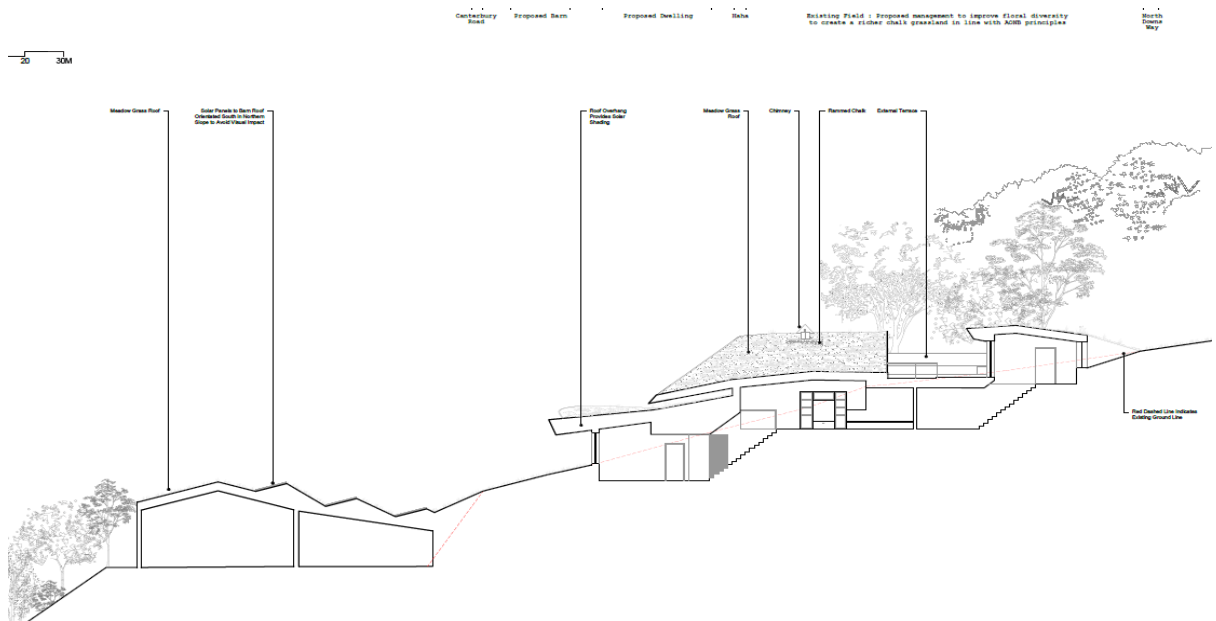
7. The ground floor would comprise a 10-seater outdoor dining terrace with access to a large swimming pool, 14-seater spacious outdoor dining area, internal dining room and kitchen, lounge, orangery, pool plant, bathroom, boot room, office, bikes/workshop/refuse area and car parking area. The area of the ground floor excluding the parking area would measure approximately 560sqm.



8. The upper ground floor comprises an ensuite master bedroom measuring approximately 84sqm.



9. The application is accompanied by a Farm Management Plan. The Management Plan concludes that the purpose of the farm will fundamentally change from meat production to maximising biodiversity through rewilding large areas of the farm. The proposal seeks to maximise biodiversity and provide microhabitats specifically targeted to species of fauna and flora that are under threat on chalk grassland.



10. The materials palette would include meadow grass to encompass extensive areas of the roof and rammed chalk to form the external façade of the dwelling.
11. The farm currently benefits from 2 access points onto Canterbury Road.
- A) The lower access to the farm and buildings
12. The lower access is secured by a gate, set back from the highway with the first section of driveway often used as a passing place. From this access a small track leads to the barn and tables, from which it is possible to access the lower fields and link to the access track connecting the fields.



Lower Access

B) The upper access to the North Downs Way and top fields

13. The top access is a shared access with the North Downs Way. Along the track (owned by applicant) is a gate into the first field. From this access location all of the top fields are accessed via either a series of top gates, or via the central track. The proposed dwelling would utilise the existing shared access to the north-eastern side of the site. A reinforced driveway would be introduced from the access to the dwelling measuring approximately 211m in length.



Upper Access

### Planning History

14. There is no relevant planning history for the site.

## **Consultations**

15. The application has been subject to formal statutory and non-statutory consultation comprising the display of a site notice, a press notice and notification letters sent to the properties in the vicinity of the application site.

### **Kent Downs AONB Unit**

Kent Downs AONB Unit objects to this proposal on the following grounds:

- AONBs are placed in a special category of protection, requiring great weight to be afforded to them; this is only applied to a small number of other interests in the NPPF. The relevant decision-makers are required to take into account and weigh all material considerations. However as the NPPF places the conservation of the landscape and scenic beauty of an AONB into a special category of material consideration: as a matter of policy paragraph 176 requires it to be given "great weight".
- The proposed new dwelling is of innovative and striking design. Nonetheless, we have concerns that it would appear incongruous on the highly sensitive upper reaches of the escarpment of the Kent Downs, where residential development is currently absent.
- Fundamentally, the proposal would result in a domestic intrusion onto the escarpment, the design of which would diminish the soft, organic qualities of the site and fail to fully respond or integrate with the character of its landscape setting. This harm to the landscape and scenic beauty would not be mitigated by the proposed overall landscape and management enhancements across the wider site and the proposal would harm the character and appearance of the area and fail to conserve and enhance the natural beauty of the Kent Downs AONB.
- The proposal is therefore considered contrary to paragraph 176 of the NPPF, policies HOU5 and ENV3b of Ashford's Local Plan, as well as Principles SD1, SD2, SD3, SD7, SD8, SD9 and LLC1 of the Kent Downs AONB Management Plan.

### **KCC Archaeology**

- Views not received.

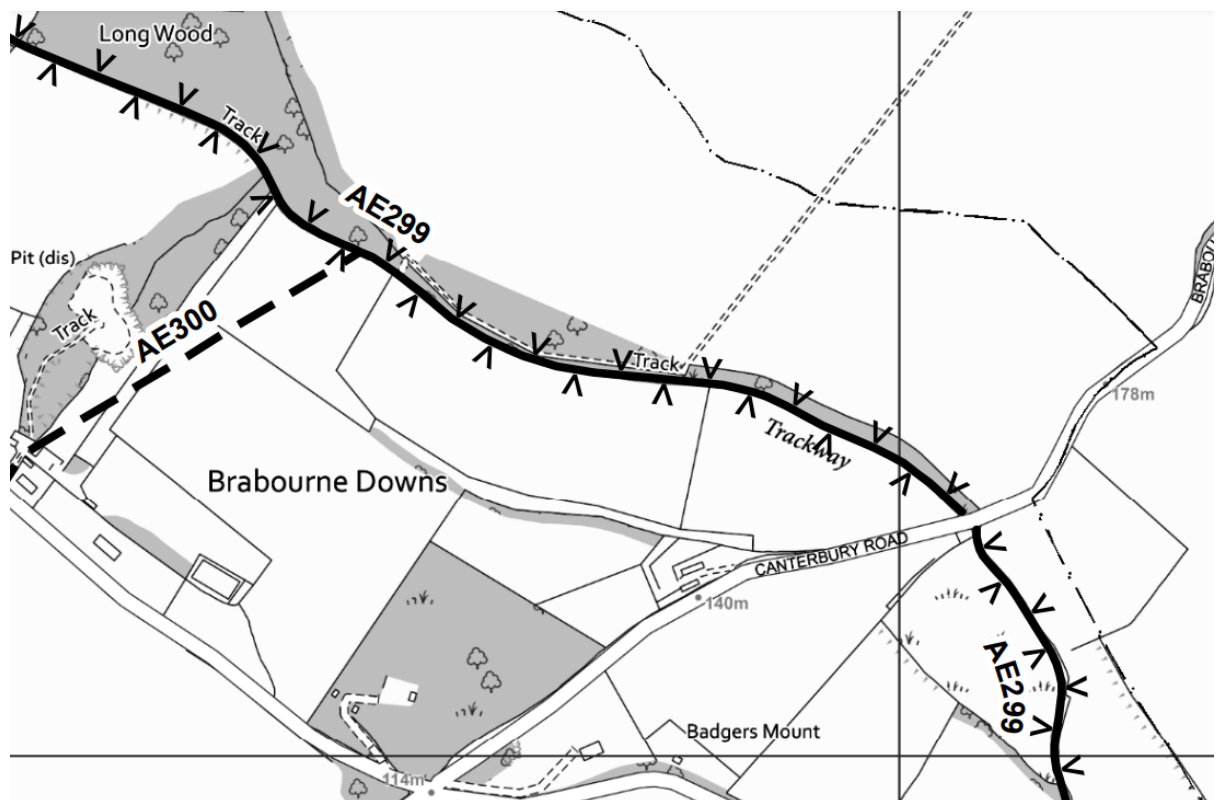
### **KCC Biodiversity**

- No objection subject to conditions.

### **KCC PROW**

- Public Right of Way AE299 passes immediately adjacent to the proposed new dwelling and would form part of the access to the property, while public footpath AE300 dissects the area identified as chalk downland habitat, as shown on the attached extract of the Network Map of Kent.

- The Network Map is a working copy of the Definitive Map. The existence of the right of way is a material consideration. The Definitive Map and Statement provide conclusive evidence in law of the existence and alignment of Public Rights of Way. While the Definitive Map is the legal record, it does not preclude the existence of higher rights, or rights of way not recorded on it.
- Public Right of Way AE299 forms part of the North Downs Way National Trail and is recorded as a byway so although this permits public vehicular access its primary use is for pedestrians and equestrians with occasional vehicular use. Individuals using the byway to access their land or property would be considered to be exercising a private right. Residents often desire a higher level of maintenance than that considered acceptable for the status of byway. As the proposal would generate additional vehicular use both during the construction and subsequent residential occupation, the County Council may require those responsible to fund or contribute to any repair work required. There is no recorded width for public byway AE299 within the Definitive Statement so there is a presumption that the width of the highway is the full width between boundaries and there must be no encroachment upon this.
- Finally, the applicant's attention is drawn to the following general informatives:
  1. No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority;
  2. There must be no disturbance or deposits onto the surface of the right of way, or obstruction of its use, either during or following any approved development;
  3. No hedging or shrubs should be planted within 1.5 metres of the edge of the Public Path.



- No objection

#### **Environment Agency**

- No objection subject to recommended conditions and informatives in respect of land contamination and surface water drainage.

#### **Southern Water**

- No objection raised.

#### **Natural England**

- As submitted, the application could have potential significant effects on Stodmarsh Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site and Site of Special Scientific Interest (SSSI). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. provide a Habitats Regulations Assessment.
- Submission of test results for the proposed Packaged Treatment Works to confirm nutrient removal efficiency rates.
- Clarification of the woodland planting strategy outlined in the mitigation proposal, i.e. species of tree and density of planting.
- Details regarding the maintenance and management of the proposed mitigation, as well as how it will be secured in perpetuity. Without this information, Natural England may need to object to the proposal.

#### **Rural Planning Consultant**

- The proposal does not fall within Rural Planning Advisory's limit.

#### **ABC Environmental Protection**

- No objection. A condition for EV charging has been recommended to be attached to the permission.

#### **Brabourne Parish Council**

- Support the planning application whilst making the following comments:
- Currently, we do share some of the concerns raised by the AONB Unit.



Given the highly prominent location of the proposed dwelling on the escarpment where domestic use is currently absent, it is important that the dwelling be designed as sensitively as possible.

- In terms of the exposed angular facias, we say that they are potentially overly acute and do not necessarily sit naturally with the rolling topography of the hills. We would also question what appears to be the metallic nature of those facias and whether some potentially softer materials could be adopted.
- The exposed chimney is rather “blocky” in its appearance, as the AONB Unit puts it, and say that this would benefit from some design adjustments. We also raise the issue of light spillage and how this is to be satisfactorily controlled from the exposed areas of glazing. This is important because, in addition to the NPPF paragraph 176 requirement, Local Plan Policy ENV3b requires that proposals sited within an AONB should enhance its tranquillity.
- All external material choices must be compliant with a colour scheme as detailed on pages 14-16 (Chalk Scarps and Vales) of the “Guidance on the Selection and Use of Colour in Development” document that is produced by the Kent Downs AONB Unit.

#### **KCC Developer Contributions**

- KCC requested developer contributions as originally the application included 25 acres of land within the red line. Subsequently, the application was amended to exclude the wider land and only includes 4150sqm within the application site i.e., it is now below KCC’s threshold (0.5ha) for contributions.

#### **Neighbours**

16. Twelve (12) letters of support have been received making the following comments:
- House completely off-grid will be the future of rural housing
  - Any development should be done extremely sensitively and enhance rather than detract from the environment. However, these plans and the proposed rewilding would in my opinion have a very positive impact.
  - The combination of eco-credentials and sympathetic architecture would in our view enhance the landscape.
  - Having the first house in the UK to be powered and heated by Hydrogen that is completely off grid would be a huge honour for the parish of Brabourne.

#### **Planning Policy**

17. The Development Plan for Ashford borough comprises the Ashford Local Plan 2030 (adopted February 2019), along with the Chilmington Green Area Action Plan (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), the Boughton Aluph and Eastwell

Neighbourhood Plan (2021), the Egerton Neighbourhood Plan (2022) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).

18. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).

19. The Local Plan policies relevant to this application are as follows:

- SP1 Strategic Objectives
- SP2 The Strategic Approach to Housing Delivery
- SP6 Promoting High Quality Design
- HOU5 Residential Windfall Development in the Countryside
- HOU12 Residential Space Standards Internal
- HOU14 Accessibility Standards
- HOU15 Private External Open Space
- TRA3a Parking Standards for Residential Development
- TRA7 The Road Network and Development
- ENV1 Biodiversity
- ENV3b Landscape Character and Design in the AONB's
- ENV4 Light Pollution and Promoting Dark Skies
- ENV7 Water Efficiency
- ENV8 Water Quality, Supply and Treatment
- ENV9 Sustainable Drainage
- ENV15 Archaeology
- EMP 6 Promotion of Fibre to the Premises (FTTP)

20. The following are also material considerations to the determination of this application:-

#### **Supplementary Planning Guidance/Documents**

- Fibre to the Premises SPD, 2020
- Dark Skies SPD, 2014
- Residential Space and Layout SPD, 2011
- Sustainable Drainage SPD, 2010
- Residential Parking and Design Guidance SPD, 2010
- Landscape Character SPD, 2010

#### **Informal Design Guidance**

- Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins
- Informal Design Guidance Note 2 (2014): Screening containers at home
- Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point
- Kent Downs AONB Landscape Design Handbook
- Kent Downs AONB Management Plan 2021-2026

**Government Advice**

- National Planning Policy Framework (NPPF) 2021
  - Planning Practice Guidance
  - National Design Guide 2021
  - Technical Housing Standards – nationally described standards
  
  - Article 6(3) of the Habitats Directive; Habitats Regulations 2017
21. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). Relevant paragraphs of the NPPF are listed in the
22. The key areas for consideration in the assessment of this application are as
- Principle of Development
  - Impact on the Kent Downs AONB and Design
  - Renewable Energy
  - Stodmarsh & Nutrient Neutrality
  - Highways
  - Ecology
  - Archaeology
  - Residential Amenity
  - Living conditions of the future occupants

**Principle of development**

23. The starting point for decision making, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990, is the adopted development plan. Decisions should be taken in accordance with the policies in such plans, unless material considerations indicate otherwise.
24. At the present time the Council is unable to demonstrate a 5-year housing land supply, although it should be noted the Council has not 'failed' the Housing Delivery Test for the purposes of Paragraph 11 of the NPPF (i.e. the delivery of housing has not been substantially below the housing requirement over the previous three years).
25. In the absence of a deliverable housing supply, Paragraph 11 d) of the NPPF, states that the development plan policies most important for determining the appeal are out of date. However, the '*tilted balance*' in favour of the grant of planning permission at

paragraph 11 d), is conditional on satisfying criterion (i) of whether there are policies in the NPPF that protect areas of particular importance which provide a clear reason for refusing the development proposed. *Footnote 7* lists the policies in the NPPF that protect areas or assets of particular importance and these include those in the Framework relating to AONB's, habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest. This applies to Stodmarsh Lakes and consequently sites located in the Stour catchment. As such, the tilted balance is disengaged in this instance.

26. As identified in the assessment below (please see ***'Impact on the Kent Downs AONB and Design'***), there would be harm to the character and appearance of the AONB. Therefore the proposal conflicts with paragraphs 174 and 176 of the NPPF which seeks to limit the extent of development in these nationally sensitive landscapes. Additionally, the proposal has the potential to harmfully impact upon Stodmarsh Lakes which is a site of international importance and designated as a Special Protection Area, Special Area of Conservation, Ramsar site and Site of Special Scientific Interest. The development would therefore be contrary to the Conservation of Habitats and Species Regulations 2017 (as amended) and paragraph 181 of the National Planning Policy Framework which ensures protection of these areas.
27. In respect of the AONB, paragraph 176 of the NPPF states that *"great weight should be given to conserving landscape and scenic beauty in (sic) Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues"*. Policy HOU5 states that where a proposal is located within or in the setting of an AONB, it will also need to demonstrate that it is justifiable within the context of its national level of protection and conserves and enhances its natural beauty. Policy ENV3b seeks to conserve and enhance the natural beauty of the Kent Downs and High Weald AONBs. These policies are broadly consistent with the aims of the NPPF including the need to: recognise the intrinsic character and beauty of the countryside. It is therefore considered that, for the purposes of this application, ENV3b should be afforded full weight. In summary, the proposed development would introduce a substantial dwelling in a highly prominent location i.e. the actual escarpment of the Kent Downs and would not conserve and enhance its natural beauty. It would therefore be contrary to policies HOU5, ENV3b and paragraphs 174 and 176 of the NPPF.
28. Policy HOU5 applies to windfall housing sites outside the built settlement confines. It is a permissive policy and seeks to grant development outside the built confines but in a sustainable location with no significant ecological or landscape impacts. The policy aligns with the aim of the NPPF to 'avoid isolated development in the countryside' unless one of the exceptions is met. The site lies in an isolated and an unsustainable location, some 3.2km from Brabourne Lees (identified as a HOU5 settlement) and lies in a location where development would not normally be permitted. Therefore, it is relevant to consider whether any of the exceptions mentioned within policy HOU5 would apply. The relevant exception that could apply includes, *"A dwelling that is of exceptional quality or innovative design\* which should be truly outstanding and innovative, reflect the highest standards of architecture, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area;"*. Overall, the policy is broadly consistent with the Framework. It is therefore considered that, for the purposes of this application, HOU5 should be afforded full weight.
29. NPPF paragraph 79 requires that "housing should be located where it will enhance or maintain the vitality of rural communities" and paragraph 104 prioritises pedestrian and

cycle movements and facilitating access to high-quality public transport whilst paragraph 105 requires significant development to be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. For the avoidance of doubt, it is necessary to state that by virtue of the location of the site, the proposal would be contrary to paragraphs 79, 104, and 105 of the NPPF.

30. The application seeks to achieve the high bar set out within paragraph 80 of the NPPF that requires the local planning authority to avoid isolated homes in the countryside unless one of the 5 exceptions stated within the paragraph are met. The application aims to achieve paragraph 80(e) which states, “the design is of exceptional quality, in that it: - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.” An in-depth assessment of this criterion has been carried out within the report under sections ***‘Impact on the Kent Downs AONB and Design’***.
31. Members should note that whilst paragraph 80 does not explicitly exclude building in the AONB, it does afford the highest status of protection to these areas with a view to protect the beauty of the designated landscape and as such, the assessment takes into account the irreversible impact on the significance of the AONB and merits of design to reach a joint conclusion i.e. the NPPF should be read as a whole and paragraph 80 should not be assessed in isolation for the purposes of decision making.
32. The proposed development is not considered to meet the criteria set out under Paragraph 80(e) of the NPPF which allows for dwellings of exceptional design quality in rural areas.

### **Impact on the Kent Downs AONB and Design**

33. The site lies outside of settlement confines and within the AONB. Therefore, Policy ENV3b is relevant in this instance. The policy requires the Council to have regard to the purpose of conserving and enhancing the natural beauty of the Kent Downs AONB. Proposals within AONB’s will only be permitted where:
  - The location, form, scale, materials and design would conserve and where appropriate enhance or restore the character of the landscape.
  - The development would enhance the special qualities, distinctive character and tranquillity of the AONB.
  - The development has regard to the relevant AONB management plan and any associated guidance.
  - The development demonstrates particular regard to those characteristics outlined in Policy ENV3a, proportionate to the high landscape significance of the AONB.
34. Regard must also be had to the paragraph 176 of the NPPF states that *“great weight should be given to conserving landscape and scenic beauty in (sic) Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues”*. Regard should also be had for the Kent Downs AONB Management

Plan and the Kent Downs Handbook, which provide advice on how to protect and enhance the AONB. Section 85 of the Countryside and Rights of Way Act 2000 (CROW Act) states that *“in exercising or performing any functions in relation to, or so as to affect, land in areas of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving or enhancing the natural beauty of the area of outstanding natural beauty”*.

35. The Kent Downs AONB Management Plan promotes a landscape led approach to new development. It highlights that the special characteristics and qualities of the AONB include the quality of the built heritage and settlement patterns. In order to conserve and enhance the natural and scenic beauty of the Kent Downs, the scale, extent and design of new development, is critical.
36. The Kent Downs AONB Landscape design Handbook identifies that new development within and adjacent to rural settlements should reflect the settlement character and form and respect its relationship with the surrounding landscape. New dwellings and their associated boundaries and accesses, should not be suburban in character and materials should reflect local distinctiveness.
37. The site lies on the actual escarpment of the Kent Downs, which was the main target for AONB designation, in 1968. It falls within the Stowting sub-area of the Postling Character Area as identified in the Landscape Assessment of the Kent Downs AONB. Within this landscape character area, key characteristics are identified as a strongly crenelated and steep south facing scarp, thin and dry soils on the scarp, vernacular buildings constructed of red brick, tile, ragstone and flint, a network of historic lanes and tracks, contrasting textures between the smooth outlines of the scarp and the wooded farmland at the base and outstanding views from the scarp. The landscape management recommendations for this area includes the following:
  - protect the open and rural character of the northern part of the LCA;
  - protect the distinctive local character of built form and seek the use of sympathetic local materials including brick, tile and ragstone;
  - seek opportunities to extend areas of chalk grassland on scarp slopes;
  - restore landscape features such as hedgerows and shaws at the scarp foot, and beech stands on the hill tops (around Stowting) which emphasise the bold scale of the surrounding landform,
  - manage the loss of hedgerow and infield trees resulting from Ash Dieback by conducting a programme of replacement and promotion of trees from hedgerows and natural regeneration;
  - retain/reinstate field boundaries; and
  - enhance habitat links.
38. The site is currently largely undeveloped, other than a barn and stable building, located close to the site's boundary with Brabourne Lane. The land is currently used for grazing, with much of the site visually prominent in views from the North Downs Way, which runs along the north of the site and from a large geographical area to the south. The site is characteristic of the LCA within which it lies and by virtue of the topography of the land, the site makes a significant contribution to the intrinsic beauty of the wider landscape.
39. The application seeks to achieve the high bar set out within paragraph 80 of the NPPF. The NPPF affords the highest status of protection to these areas and as such, the

assessment takes into account the irreversible impact on the significance of the AONB and the merits of design to reach a joint conclusion. As mentioned above, the NPPF should be read as a whole and the proposal should not solely be assessed against paragraph 80 in isolation. Furthermore, policy HOU5 of the local plan requires such proposals to demonstrate that they are 'justifiable within the context of their national level of protection and conserves and enhances their natural beauty'.

40. During the course of the application, discussions took place regarding the proposed development between the applicant/agent and the officers to explore possible amendments to the scheme to overcome concerns raised. Whilst the original design submission was not considered to be an appropriate response to the context there were also issues of principle relating to development in this particular part of the AONB which was the main target for the AONB designation. Notwithstanding the fundamental objection regarding development in this prominent and highly valued sensitive landscape, further amendments were made to the design of the dwelling in line with the suggestions provided by the Council's Urban Design Officer. Originally, the architectural form included substantial areas of glazing, a large and dominant eaves feature i.e. angular projections protruding up and above the natural landscape sweep of the escarpment. It included extensive earthworks on this field and a configuration of mounds to hide the built form and the built form itself was considered to be alien feature in the landscape and an obtrusive addition to the natural hillside. The building form and site configuration was not based on understanding of the local context of farm buildings.

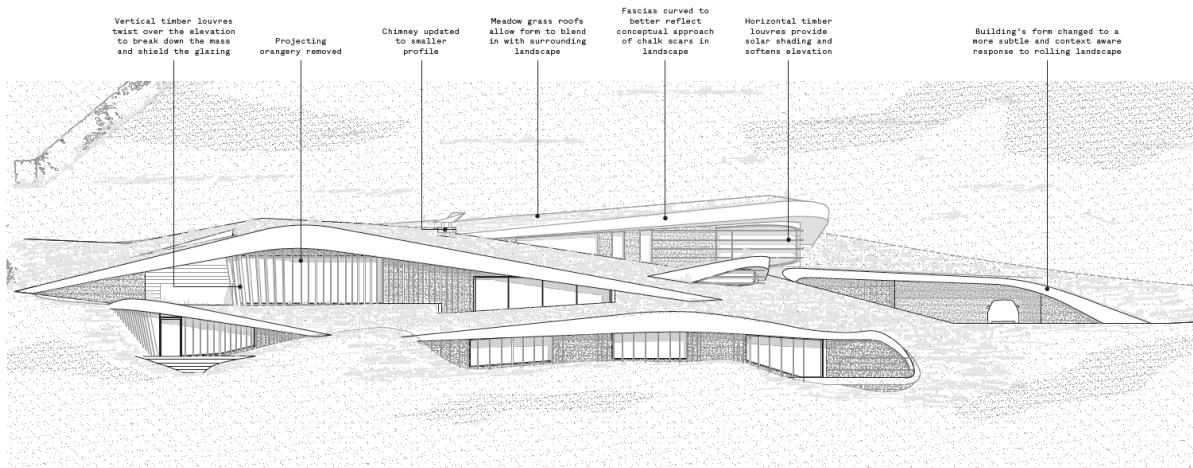


**Original Proposal**

41. Subsequently, amended drawings were received which sought to reduce the prominence and depth of the pointed eaves by introducing a curvilinear form in layout and elevation. Whilst the extent of glazed facades have not been reduced, vertical timber louvres have been introduced to the main elevation that overlooks the wider landscape. The updated design statement states that the addition of vertical timber louvres would break down the overall building mass and provide solar shading. Whilst these louvres would add an element of interest to the main elevation, it is not considered that this would break down the 'mass' of the structure as asserted within the updated statement.

Ashford Borough Council - Report of the Head of Planning and Development  
Planning Committee 07 December 2022

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**Aerial view – amended proposal – Figure 1**

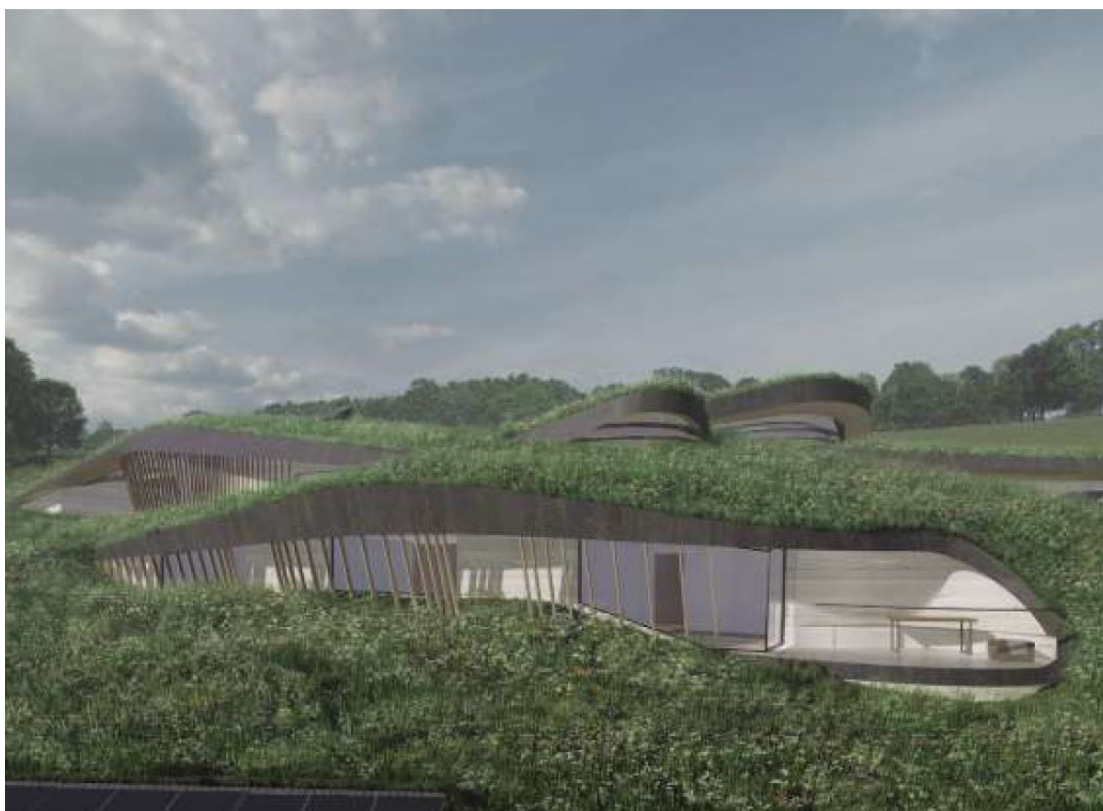




**Amended proposal – Figure 2**



**Amended proposal – Figure 3**



**Amended proposal – Figure 4**

42. The proposal would introduce a built domestic form into the currently largely undeveloped and uninhabited upper parts of the Kent Downs escarpment. At present, housing in the locality, in common with much of the Kent Downs escarpment, is limited to spring line villages along the base of the escarpment, sporadic development that has evolved along the Pilgrims Way on the lower parts of the escarpment and isolated farms set back from the top of the escarpment. The LCA specifies that there is a historic time depth to the landscape elements in this location and that settlement is nestled along the foot of the scarp with mellow coloured housing blending into the landscape. This is also acknowledged in the LVIA accompanying the application.
43. Whilst the impacts are sought to be moderated by avoiding positioning the dwelling on the most visible part of the overall wider site, as acknowledged in the LVIA the new dwelling would nonetheless be visible from extensive locations to the south of the site, due to its position on the higher part of the escarpment, as well as from the North Downs Way national trail which passes through the site, along its northern boundary. The importance of the North Downs Way is recognised with its designation as a National Trail and it is the main promoted route within the Kent Downs; the AONB Unit hosts the North Downs Way Trail Manager. In respect of views from the North Downs Way, while recognising that panoramic views over the built form would still be apparent, the change from rural undeveloped foreground to a contemporary residential built form would detract from and damage the views.
44. Whilst the prominence of building within the wider landscape remains a significant concern, it is acknowledged that the proposal seeks to moderate impacts on the landscape, with the built form proposed partially underground and the design

incorporating a 'meadow grass' roof and rammed chalk to reflect the underlying geology. The amended design which now seeks to incorporate deep curved fascias whilst considered a significant improvement from the previously submitted proposal, by virtue of its significant scale and siting of the structure, it would remain highly prominent within the rolling topography of the Kent Downs, harming the flow of the sinuous escarpment side.

45. Paragraph 185 of the NPPF states that new development should protect tranquil areas and limit the impact of light pollution on intrinsically dark landscapes and nature conservation. Light pollution affects tranquillity and the perception of tranquillity as well as having ecological impacts. Lack of light pollution and tranquillity are important facets of the AONB which make up its special character and sense of place. Principle SD7 of the AONB Management Plan looks to retain and improve tranquillity, including through conserving dark night skies. It is therefore imperative these qualities are maintained and conserved, particularly in remote rural locations such as on the higher parts of the Kent Downs escarpment where, due to lack of development, there are currently no sources of light pollution. The design of the dwelling incorporates measures such as louvres with a view to reduce glint and glare from the glazing. A lighting impact assessment has also been submitted during the course of the application. However, as there is no external lighting scheme, the assessment could not be carried out although recommendations have been made to limit light spill from within the building itself as much as is reasonably practicable. It is recommended to limit all upwardly directed light, and any potential for light to be reflected from ground surfaces upwards into the sky. In terms of the proposed lighting design, the existing external lighting on the barn would be removed. The internal lighting within the barns would be replaced with downward facing lights with hoods. The proposed dwelling would not have any external lighting. The proposed windows on the dwelling would be recessed across the façade and include louvres. Similarly, the majority of new lighting within the dwelling would be recessed into the ceiling. It is considered that these measures would help reduce the amount of light spillage from the extensively glazed facades of the dwelling. Whilst the efforts to reduce the lighting spill from the dwelling are appreciated, given the scale of the building, it is not considered that the harm from lighting spill could be sufficiently mitigated to be considered acceptable in the 'dark sky zone' and would likely be visible from a wide area south of the site. It would therefore be contrary to the paragraph 185 of the NPPF and SD7 of the AONB Management Plan.
46. Kent Downs AONB Unit recognise the off grid nature of the proposal and energy efficiency measures incorporated into the house, however, concerns are raised regarding the impacts on soil/carbon sequestration. The proposal would involve excavating significant amounts of soil due to the partially buried nature of the proposal. While this helps reduce the visual impacts, it would destroy the biodiversity and carbon storage properties of the soil, with impacts exacerbated as a result of the large footprint involved. Kent County Council has recently published a study into 'Natural Solutions to Climate Change in Kent' which notes that grassland soils in the UK have the highest carbon stock of any other habitat, referring to The Kent and Medway Emissions Analysis and Pathways to Net Zero report (December 2020) which calculates that neutral grasslands throughout Kent store 69 tonnes of CO<sub>2</sub>/year within the top 15cm of soil. Stripping soil off development sites, storing it in large stockpiles and then redistributing elsewhere (burying the existing ecology) has a significant detrimental impact on the ability of an area to sequester carbon. It also ignores the biodiversity value of soil (microorganisms like bacteria and fungi and invertebrates such as earthworms) which is estimated to contain in excess of a quarter of all species on Earth.

47. Regard must also be had to the proposed landscape enhancements across the site, including a wildlife meadow, native hedge planting and additional indigenous trees throughout the site and also proposes a more sensitive management approach across the site, including no longer harrowing or rolling pasture land and reduced use of fertiliser. The landscaping strategy has been welcomed by the AONB Unit and as such there is no dispute regarding the benefits to the wider landscape as a result of the proposals, which largely fit with principles in the Management Plan and Landscape Recommendations in the LCA. The above said, members should note that Natural England has requested further clarification in respect of the woodland planting strategy outlined in the mitigation proposal, i.e. species of tree and density of planting. Furthermore, details were requested regarding the maintenance and management of the proposed mitigation, as well as how it will be secured in perpetuity. However, further details have not been received in this regard at this stage.
48. Kent Downs AONB Unit further stated that this does not lead to the conclusion that the effects of the built form on landscape character are of any less significance, nor that the proposal complies with the overarching principles set out in the Management Plan seeking to ensure conservation and enhancement of the Kent Downs for example by maintaining and strengthening local distinctiveness. Furthermore, the majority of the landscape enhancements would not appear to be dependent on the creation of a new dwelling.
49. The application has been accompanied by a Landscape Visual Impact Assessment. Given the significance of the site under consideration, the AONB Unit have carried out an indepth analysis of the LVIA. Your officers concur with the analysis carried out by the AONB Unit. There are a number of disagreements in respect of how the impacts have been assessed and the conclusions reached. Firstly, there is a strong disagreement regarding the repeated references in the document to the new dwelling being sited within the lower parts of the scarp slope (such as at paras. 11.10 Viewpoint 5, 11.18 viewpoint 8 and 11.14 Viewpoint 9). While a position even higher up the escarpment may have been discounted, the proposed site of the dwelling nevertheless clearly remains on the upper parts of the escarpment.
50. In terms of the assessed level of landscape impacts, it is agreed that the sensitivity of the site is high. It is also agreed that the overall likely landscape effect would be at least Moderate Adverse on completion at a site level, which represents a 'significant effect'. However, there is strong disagreement in respect of the conclusion reached within the LVIA regarding the reduction of the impact over time 'due to the establishment of the new vegetation and management practices.....given the beneficial contribution that the wider landscape management proposals will make to the AONB objectives.' The AONB Unit have opined that if landscape harm is able to be off-set by wider landscape improvements in this way, any new harmful development could be rendered acceptable by enlarging the application site and making landscape enhancements on the balance of that site.
51. The LVIA rightly acknowledges that *'the scarp is an important and recognizable landscape feature locally and development on the scarp is relatively limited. There is, however, more built form (farms and scattered properties) within the mid-lower parts of the slopes, consistent with the published findings of the local landscape character areas'* and yet the assessed magnitude of effect on the local character area Postling Scarp and Vale has been deemed to be minor adverse within the LVIA. It is considered that this downplays the impact the proposal would have on the important key

escarpment feature of the Kent Downs, which has a high sensitivity to change and where contemporary urban development is currently absent on its upper reaches. The introduction of a domestic property and associated solar array and garden area and alterations to the natural landform of scarp face, on the upper part of the escarpment would result in an alteration to the features of the baseline landscape character type that would be uncharacteristic within the receiving landscape, causing a noticeable difference to the landscape, representing a moderate magnitude of effect. Within a landscape of high sensitivity to change this is considered to result in a moderate adverse effect on the local landscape character area, which is classified as significant.

52. In respect of visual impacts, the LVIA states that 'overall, the site is visible from a wide geographical area to the south of the Site within the vale landscape given the elevated position of the Site which forms part of the scarp of the Kent Downs' and that views from the north are not possible, apart from the North Downs Way (which passes over the northern most part of the site and from which much of the site would be visible).' Whilst this statement made within the LVIA is agreed, the conclusion reached regarding the magnitude of effect on several viewpoints identified within the assessment is considered to be under-assessed. The AONB Unit have opined that the magnitude of effect on Viewpoints 1 and 2 assessed as 'Very Low' is considered unrealistic, given the proximity of these viewpoints to the development and change in view of the immediate foreground. A 'Very Low' magnitude of effect is described in the LVIA as '*Typically, the Proposed Development would appear as a barely noticeable component, resulting in an unobtrusive change / small-scale contrast in the view. The change may be permanent or temporary/short-term.*' The close-up nature of Viewpoints 1 and 2 to the built form and nature of change; introducing a striking, contemporary built form where there currently is none, in the immediate foreground of the views, would in a Moderate magnitude of effect, described as '*Typically, the Proposed Development would appear as a visually prominent feature and have a medium-scale effect on the view, resulting in a noticeable change / contrast in the view. The change may be permanent or temporary/short-term.*' Balancing a moderate magnitude of effect against the viewer's high sensitivity, results in a Moderate adverse and therefore this would constitute significant effect. It is important to note that adverse effects on an AONB do not have to be classed as 'significant' in order for great weight to be afforded to it in decision-making.
53. In summary, the visual impact of the development would fail to enhance its immediate setting and the environmental credentials of the building have not been fully substantiated (see below). Therefore, granting permission for a new isolated home in the countryside would conflict with the AONB designation and would be contrary to policy ENV3b of Ashford Local Plan 2030 and would not satisfy the criteria under paragraph 80(e). Finally, it would be contrary to paragraphs 174 and 176 of the NPPF which require the planning policies and decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and afford great weight to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty.

### **Renewable Energy Strategy**

54. Regard has been had to the renewable energy strategy proposed. The proposal seeks to utilise hydrogen and solar panels to produce energy. A report has been submitted with the application which outlines the strategy. The report in its introduction identifies the challenges of using hydrogen including obstacles with regards to the production of sufficient quantities of low to zero emission hydrogen to fulfil demand of the UK gas

network, the integrity of the pipe network to be able to contain hydrogen, which is a much smaller molecule than natural gas, and finally the reconfiguration of burners at the demand sites. It is claimed that the methodology that would be utilised in this instance would not face any of these issues and carbon zero green hydrogen would be produced onsite, therefore removing the production and transmission difficulties and our solution uses heat pumps for water and space heating. The heat pumps would be electrically driven as opposed to combustion, and the electricity is produced using solar array and a fuel cell reaction of hydrogen and oxygen to produce harmless water. A passing reference has been made to demonstrator homes however, it has not been specified which demonstrator homes have been studied with a view to arriving at this concept. No further detail has been presented in this regard.

55. The report estimates an annual electricity requirement of approximately 7,500 kWh. Based on this energy requirement, a renewable energy system has been presented with the following highlights –
- A 10.64 kW solar array, consisting of 28, 380W panels. This will generate over 11,500 kWh of energy over the course of a year at Liberty Farm.
  - A 15.4 kWh battery that will cope with energy demand fluctuations. It will take the energy load, cover short periods of low solar (such as overnight) and be charged by the hydrogen fuel cell when solar production is insufficient over longer periods.
  - A 9 kW inverter driven heat pump to provide the building with heating and direct hot water as well as heating the pool during the summer.
  - A 1,500 kWh green hydrogen system, comprising the following –
    - o 2.2 kW electrolyser.
    - o Hydrogen compressor.
    - o 350 bar hydrogen storage cylinder with a hydrogen storage capacity of 46 kg.
    - o 4 kW fuel cell.
56. Based on the above specifications and energy usage assumptions of the building, it is anticipated by the applicants that the system will allow Liberty Farm to be fully off-grid.
57. However, given the size of the dwelling (the total floor area equalling approximately 980sqm or 10,530sqft), it is considered that the energy requirement estimated is low. Furthermore, whilst the intention to have an off-grid dwelling is appreciated, insufficient research has been presented which would demonstrate that this could be a practical solution. Therefore, at this stage, without further detailed calculations based on realistic energy requirement estimation, it remains uncertain that the aim to function off-grid could be practically achieved. Notwithstanding the above, the intention to achieve a zero-carbon home is appreciated and whilst it does have some merit, it requires substantial work to be carried out. Should members resolve to grant the application, appropriately worded conditions would be attached to the permission securing the proposed off-grid nature of the proposal.
58. Overall, the environmental credentials of the proposed dwelling are not considered to demonstrably meet the requirement of Paragraph 80(e) of the NPPF for exceptional design quality or to outweigh the identified harm to the landscape character of the AONB.

### **Stodmarsh & Nutrient Neutrality**

59. The Council is committed to ensuring that development only takes place if it is sustainable and respects the relevant environmental protections. Part of this consideration is whether there would be a detrimental impact on any European Designated Nature Conservation Sites.
60. The site is located within the Stour River Catchment. The River Stour feeds into Stodmarsh Lakes to the east of Canterbury. Stodmarsh Lakes are a set of lakes that are afforded a range of protection including, a Special Protection Area (SPA), Ramsar site, Special Area of Conservation (SAC), and a Site of Special Scientific Interest (SSSI). Parts are also designated a National Nature Reserve (NNR).
61. In July 2020, Natural England (NE) issued an Advice Note to Ashford Borough Council titled 'Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites – For Local Planning Authorities'. This Advice was then updated in November 2020 and again on 16 March 2022. The Advice note sets out that there are excessive nitrogen and phosphorus levels in the Stodmarsh Lakes, and so the water within the Lakes is in an unfavourable condition and has the potential to further deteriorate.
62. In line with established case law and the 'precautionary principle', Natural England advise that applications for certain types of development (including housing) within the Stour River catchment, and/or which discharge to particular Waste Water Treatment Works within the catchment, should be the subject of an Appropriate Assessment (AA) under the Habitat Regulations.
63. The AA is required to determine the effect on the integrity of Stodmarsh Lakes. In order for an AA to conclude that there is no significant effect, the decision maker must be satisfied that the development can achieve nutrient neutrality.
64. In June 2022, a nutrient neutrality assessment was submitted to support the planning application. The Council commissioned AECOM Consultants to carry out the Appropriate Assessment and an initial report was received. Natural England was also formally consulted. Natural England requested further clarification in respect of the drainage strategy. Subsequently, a further report was received from the applicant which concluded that the development would be nutrient neutral. However, the Appropriate Assessment has not been carried out to confirm the findings within the amended report. Therefore, as it stands, whether the development would cause harm to the integrity of Stodmarsh Lakes has not been ruled out. For the foregoing reasons, the application is not considered acceptable.
65. The applicant was advised that if the application was prematurely reported to the Planning Committee without the results of the Appropriate Assessment and the final comments from Natural England, it would constitute another reason for refusal. Nevertheless, the applicant requested that the application is reported to Committee based on the information submitted so far.

### **Impact on Highways**

66. The development would utilise the existing shared access with North Downs Way. KCC PROW have advised that Public Right of Way AE299 forms part of the North Downs Way National Trail and is recorded as a byway so although this permits public vehicular access it's primary use is for pedestrians and equestrians with occasional vehicular

use. It is further advised that as the proposal would generate additional vehicular use both during the construction and subsequent residential occupation, the County Council may require those responsible to fund or contribute to any repair work required. Finally, no objection has been raised in this regard.

67. Policy TRA3(a) requires that development provide adequate parking to meet the needs which would be generated, balancing this against design objectives. It requires that 4-bedroom houses to provide 3 spaces per unit. These figures are described as minimums. Additionally, visitor parking should be provided at a rate of 0.2 parking spaces per dwelling. Spaces should be independently accessible and garages are not considered to provide car parking spaces.
68. The ground floor plan shows the provision of car parking for two cars and a scooter. Having regard for the size and layout of the car parking area, it is considered that three vehicles could easily park and manoeuvre within the area designated for parking and turning purposes. The development also includes defined provision of cycle parking spaces, as recommended by the Kent Design Guide (including Interim Guidance Note 3) and the NPPF. The proposal would therefore comply with policy TRA 3a of the local plan.

### **Impact on Ecology**

69. The EU Habitats Directive 1992, requires that the precautionary principle is applied to all new projects, to ensure that they produce no adverse impacts on European Sites. Local Plan policy ENV1 states that proposals that conserve or enhance biodiversity will be supported. Proposals for new development should identify and seek opportunities to incorporate and enhance biodiversity. Regard has been had to Natural England's Standing Advice which suggests that in rural areas, the likely presence of bats, breeding birds, badgers, reptiles and great crested newts could be expected. The application site is in a rural location. The site itself contains unmanaged grassland surrounded by dense mature trees/hedges and Ancient Woodland which could provide habitat for protected species. The application has been supported by a Phase 1 Habitat Survey and the relevant species specific surveys.
70. KCC Ecology have not raised an objection. A few conditions and an informative have been recommended to be attached to the permission. Therefore, in the event of grant of permission, appropriately worded conditions and informatives would be attached, relating to badgers, breeding birds, bat sensitive lighting scheme, submission of a scheme of reasonable avoidance measures for reptiles and an ecological enhancements management plan.

### **Archaeology**

71. The site has been identified as an area with significant archaeological potential. The application has been accompanied by an archaeological desk based assessment. The report provides an assessment of the contextual archaeological record in order to determine the potential survival of archaeological deposits that may be impacted upon during any proposed construction works. The assessment has generally shown that the area to be developed is within an area of low archaeological potential. Paragraph 194 of the NPPF states that, "...Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation." Consequently, in the



event of grant of planning permission, it is recommended to attach a condition to secure implementation of a programme of archaeological work in this instance.

### **Residential Amenity**

72. There are no residential properties in the vicinity of the site to be directly affected by the proposal.

### **Living conditions of the future occupants**

73. Regard must be had to whether the proposed development would provide a high standard of amenity for the future occupants. The proposed dwelling, together with individual rooms, would be of a good size, whilst all habitable rooms would be naturally lit. The dwellings would all meet the Nationally Described Space Standards in accordance with Local Plan policy HOU12. The dwelling would have substantial areas allocated for private amenity purposes. As such, the living conditions of future occupiers would be acceptable. The proposal would therefore comply with policy HOU15 of the local plan and paragraph 130 of the NPPF.

### **Human Rights Issues**

74. Human rights issues relevant to this application have been considered. The "Assessment" section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

### **Conclusion**

75. Whilst the individual design of the building is of some interest, and the development would potentially be of a high standard of sustainable design and construction, the development would cause substantial harm to the special character and appearance of the area, within the countryside and the Kent Downs AONB. This harm more than outweighs the benefits of the proposal. As such, and having full regard for the policies within the local plan and provisions of the NPPF as a whole, the proposal is judged to be contrary to policy ENV3b of the Ashford Local Plan and paragraphs 174 and 176 of the NPPF. It does not meet the exceptions allowed within policy HOU5 and paragraph 80(e) of the NPPF. It would also be contrary to the Principles SD1, SD2, SD3, SD7, SD8, SD9 and LLC1 of the Kent Downs AONB Management Plan. Further to this, it would lie in a highly unsustainable location and would therefore be contrary to the NPPF which promotes sustainable development. Finally, the site lies within the Stodmarsh catchment area and the effects of increases in wastewater on the designated Stodmarsh sites have not been ruled out. Therefore, the proposal would be contrary to the Development Plan policies and would not be supported by the provisions of the NPPF.

## Recommendation

Planning Permission BE REFUSED for the following reasons:-

- (i) The site lies well outside of defined settlement boundaries and, as such, the erection of a dwelling represents an unsustainable and inappropriate form of development within the countryside contrary to policies SP1, SP6 and HOU5 of the Ashford Local Plan (2030) and paragraphs 79, 104 and 105 of the National Planning Policy Framework (2021).
- (ii) The proposed development, by virtue of its location and scale would urbanise the site in a sensitive countryside location, causing a harmful effect upon the scenic beauty of the countryside and the Area of Outstanding Natural Beauty contrary to policy ENV3b of the Ashford Local Plan and paragraphs 174 and 176 of the NPPF. It does not meet the exceptions allowed within policy HOU5 and paragraph 80(e) of the NPPF. It would also be contrary to the Principles SD1, SD2, SD3, SD7, SD8, SD9 and LLC1 of the Kent Downs AONB Management Plan.
- (iii) The proposal has failed to demonstrate that wastewater from the proposed dwelling would not add to current problems of increasing nitrogen and phosphorus levels at Stodmarsh Lakes which is a site of international importance and designated as a Special Protection Area, Special Area of Conservation, Ramsar site and Site of Special Scientific Interest. The development would therefore be contrary to the Conservation of Habitats and Species Regulations 2017 (as amended) and paragraph 181 of the National Planning Policy Framework which ensures protection of these areas.

## Note to Applicant

1. Working with the Applicant
2. List of plans / documents refused

## Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://www.ashford.gov.uk)). Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference //AS)

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