

<b>Application Number</b>	PA/2023/0360
<b>Location</b>	Daniel Farm, Pluckley , Ashford, TN27 0SY
<b>Grid Reference</b>	Easting (590763) Northing (144319)
<b>Parish Council</b>	Pluckley
<b>Ward</b>	Upper Weald; Weald North
<b>Application Description</b>	Change of Use of the existing Barns to Commercial B2 use. Erection of a B2 Drying Kiln, an E(g)(i) Office and an area of B8 Open Storage. Erection of 32 solar photovoltaics to Barn B. With associated landscaping
<b>Applicant</b>	Mr D Pearce
<b>Agent</b>	Mr Guy Osborne, Chegworth Manor Barn, Chegworth Road, Harrietsham, Maidstone, Kent, United Kingdom, ME17 1DD
<b>Site Area</b>	4.3 hectares

### **Introduction**

1. This application is reported to the Planning Committee at the request of the Ward Member, Councillor Clair Bell.

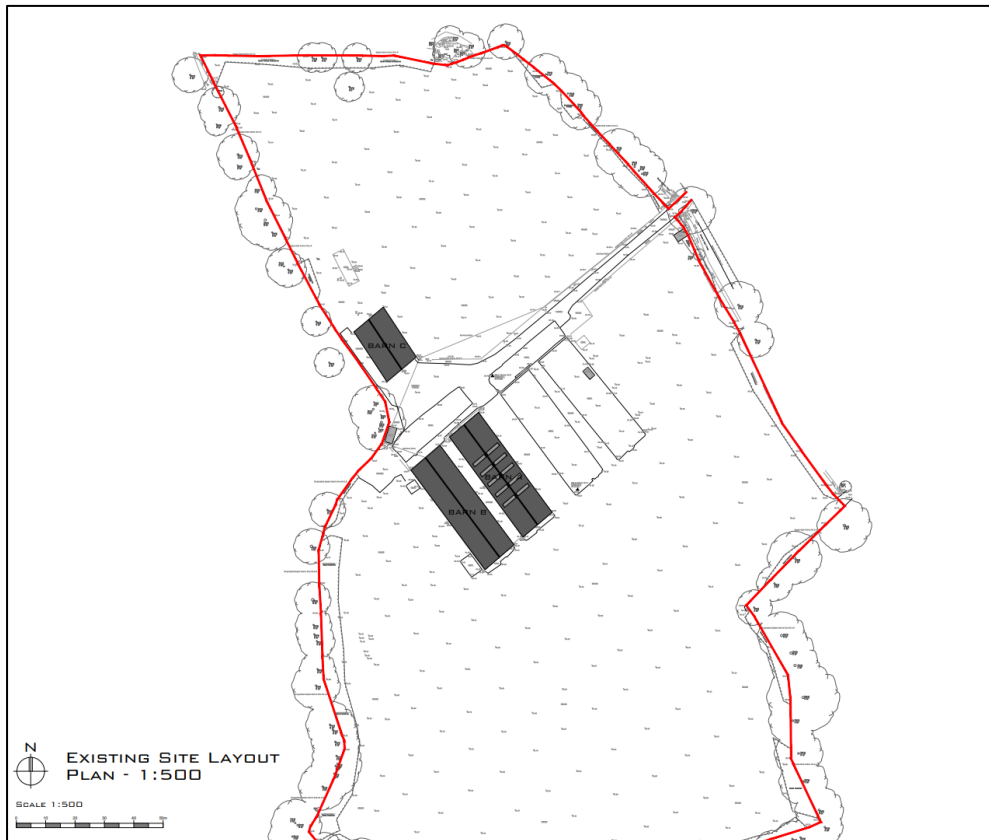
### **Site and Surroundings**

2. The application site forms part of Daniel Farm which is located on the southern side of Smarden Bell Road. The site is located in the Parish of Pluckley.
3. The site consists of 2 large enclosed barns (referred to as Barns A and B), 1 open fronted barn (referred to as Barn C), 2 large concrete slabs and surrounding open grazing fields. Barns A and B both measure 543sqm in size and Barn C measures 254sqm. The site was previously used as a poultry farm; however this use ceased in May 2005.
4. There were previously 2 additional barns at the site on the footprint of the existing concrete slabs but these have been removed in 2014.
5. The site is accessed via a long private gravel driveway from Smarden Bell Road that passes the residential dwelling at Daniel Farm (this property is registered with the Post Office as Clover Farm but not with the Council and is still known as Daniel Farm). To the immediate west of the access from Smarden Bell Road is the existing site at Invicta Palletts.

6. The centre of Pluckley is located over 1900m (1.2 miles) to the northeast of the site and Pluckley train station is located over 2200m (1.4 miles) to the southeast of the site. The site is located in the countryside for development management purposes.
7. The site is located in the Dering Wooded Farmlands Landscape Character Area and a Public Right of Way (AW148 – Public Footpath) runs through the site to the south of the existing barns.
8. There are several large ponds to the north of the site between the main house at Daniel Farm and Smarden Bell Road. To the southwest and southeast of the site is a designated Wildlife Site known as Pasture and Orchard, Pluckley. To the southwest of the site is Dering Wood, which is designated Ancient Woodland and is also covered by Tree Preservation Order 7, 1978.
9. The site measures 4.3 hectares in size.
10. The site is located in Flood Zone 1 with the lowest risk of flooding.



**Figure 1: Site Location Plan**



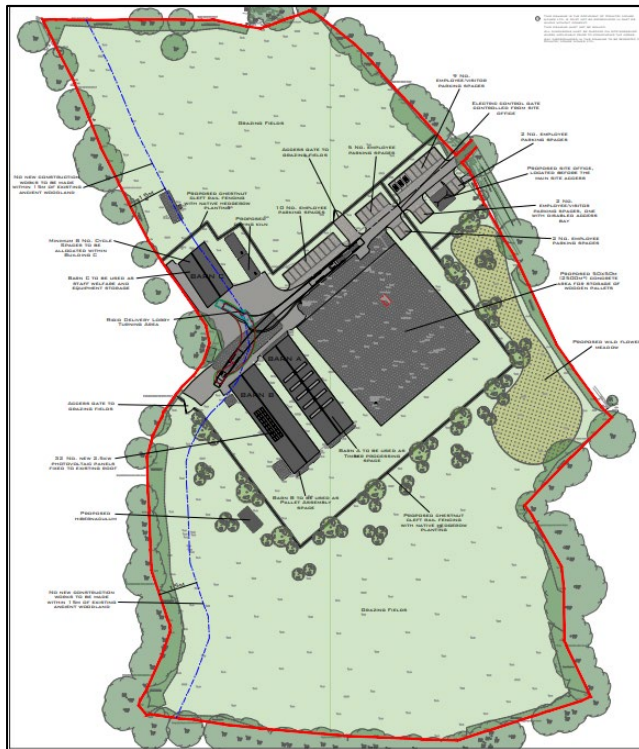
**Figure 2: Existing Site Layout**



**Figure 3: Aerial Photograph of Site**

## Proposal

11. Planning permission is sought for the redevelopment of the site for use by Invicta Pallets. It is proposed to change the use of Barns A, B and C to Class B2 use for general industrial purposes and provide new solar photovoltaic panels to the roof of Barn B. These barns are located furthest into the site at the southwest side. Barn A would be used as a timber processing space and Barn B would be used as a pallet assembly space. Both barns measure 543sqm totalling approximately 1086sqm in terms of its footprint. Barn C would be used for staff welfare and equipment storage and measures 254sqm. The existing hard surfacing between Barns A and B and Barn C would be used as a turning area larger vehicles accessing the site.
12. A proposed single storey flat roof building would be erected immediately to the northeast of Barn C for use as a drying kiln under Class B2. This would measure 75sqm in size and would be finished in a combination of light grey (walls) and dark grey (roof) sheeting. In addition, a new single storey barn-hipped building would be erected further to the northeast by the site entrance for use as a site office under Class E(g)(i). This would measure 45sqm in size and would be finished in a combination of stock facing bricks (plinths), ebony stained horizontal weatherboarding (walls) and plain clay tiles (roof).
13. The existing concrete slabs in the centre of the site would be increased in size to provide an open storage area of approximately 2500sqm (50m by 50m) for pallets. To the immediate north of this and by the proposed site office would be up to 24 parking spaces for use by employees and visitors.
14. The site includes two existing grazing fields. The applicant has confirmed that the use of these fields would not change and would remain within grazing use.
15. The site would be surrounded by 0.9m high Chestnut cleft rail fencing with native hedgerow planting in order to separate the site from the surrounding grazing fields. A number of new trees would be planted along the southern part of the site beyond the fencing by Barns A, B and the open storage. A wildflower meadow is proposed towards the eastern part of the site.
16. The business operates during the working hours of 8:30am to 5pm on Mondays-Fridays and currently employs 14 members of staff. It is planned to increase the number of staff to 20 by 4 per annum over the following 2 years if the company was able to relocate.
17. The existing business has a HGV Operators Licence for 6 HGVs but currently only utilises 4 HGV's. It is planned to increase the number of operating HGVs to 5 following relocation.
18. The applicant has confirmed that the facility would not require any external lighting other than 3 moment sensor controlled downlights.



**Figure 4: Proposed Site Layout**



**Figure 5: Existing Buildings from Entrance (Barns A and B on Left and Barn C on Right)**



**Figure 6: Existing Buildings (Enclosed Barns A and B)**



**Figure 7: Existing Building (Open Fronted Barn C)**



**Figure 8: Existing concrete slabs**

### **Planning History**

19. **92/01359/AS** - Erection of two 5000 sq.ft chicken units including feed hoppers and extension to existing road and retrospective application for existing road and access onto highway. PERMIT (Subject to a S106 Agreement dated 2/7/1993).

**95/01355/AS** - One new chicken rearing unit to match the existing buildings in every respect. **Permit (Subject to a S106 Agreement dated 30/10/1996).**

**95/01356/AS** - One new chicken rearing unit to match the existing buildings in every respect. **Permit (Subject to a S106 Agreement dated 30/10/1996).**

**97/00794/AS** - Storage shed to serve existing chicken enterprise. **Permit.**

**98/01260/AS** - New bungalow. **Permit (Subject to an AOC and a S106 Agreement dated 9/8/2000** which inter alia restricts occupation of bungalow for agricultural accommodation ancillary to the land, the bungalow not to be sold separately and the demolition / removal of the 4 poultry sheds within 12 months of ceasing to use them for poultry farming).

**00/00961/AS** - Change of use of no. 1 building from chicken rearing to preparation and packaging of slaughtered and cleaned carcasses. PERMIT.

**04/00147/AS** - Change of buildings and land from chicken rearing to free range and barn egg production. **Proposed Use/Development Would Be Lawful.**

**06/01115/AS** - Conversion and change of use of 2 redundant poultry sheds for stabling and ancillary storage, use of agricultural building 5 for storage of horse boxes and trailers and construction of ménage to provide an equestrian livery business with associated parking. Use of farm bungalow in association with equestrian livery use. **Refused / Dismissed At Appeal.**

**09/00863/AS** – Conversion and change of use of 2 redundant poultry sheds for stabling and ancillary storage, use of agricultural building for storage of horse boxes and trailers and construction of ménage to provide an equestrian livery business with associated parking. Use of farm bungalow in association with equestrian livery use. **Refused / Allowed At Appeal** (Subject to a S106 Agreement which in effect replaced the 9/8/2000 Agreement to cover the two scenarios of the appeal permission being implemented or alternatively the current situation continuing).

This permission was not implemented and has lapsed.

**16/00264/AS** - Certificate of lawful development - Existing - Unrestricted residential use contrary to Condition 7 of 98/01260 (Agricultural Occupation Condition). **Existing Use/Development Is Lawful.**

**16/00265/AS** - Certificate of lawful development - Existing - Lawful use of former agricultural buildings for B8 storage use. **Existing Use/Development Is Not Lawful.**

**20/00595/AS** - Prior approval for change of use from one agricultural barn and land within its curtilage to one dwelling house and associated operational development. **Prior Approval Refused.**

#### **Invicta Palletts Site (Pinnock Bridge Farm, The Pinnock)**

20. **09/00983/AS** - Change of use of agricultural building to the use for the storage, maintenance and repair of plant and machinery owned by the occupier of the Unit (Retrospective). **Refused / Allowed At Appeal.**

**19/01246/AS** - Retrospective planning application for the change of use of land to include the storage, maintenance and repair of plant and machinery, and for the stationing of a two storey site office, a steel framed drying kiln and a static caravan for overnight security guards. **Permit.**

#### **Consultations**

21. **Ward Member:** Cllr Bell has requested for the application to be determined at Planning Committee.



22. **Pluckley Parish Council;** Object. The following (summarised) comments have been provided:

- A similar change of use application was made under reference 16/00265/AS and refused as the applicant was unable to prove continuous use for non-agricultural purposes;
- There is no planning reason that would justify a change of use from Agricultural to B2 Commercial use;
- Visual impact on surrounding countryside including Public Footpath AW148;
- The area already experiences significant issues with lorries and HGV's accessing the Invicta Pallets site;
- Expansion of commercial activity and a commensurate increase in the volume of lorries accessing and leaving the site;
- The roads are unsuited and dangerous;
- Pluckley is a rural community which is keen to maintain its agriculture heritage;
- Detracts from area and gives impression of industrial estate;
- ABC's enforcement officer is already dealing with another development 18/01498 Enforcement ref: CO/22/00048 which is immediately adjacent to this site where an agricultural building is being used for storage;
- Concerns regarding agricultural buildings being developed into Industrial Estates.

23. **KCC Ecological Advice Service;** The following (summarised) comments have been provided:

Protected / notable species

Harm to breeding birds, reptiles and foraging/commuting bats can be avoided through precautionary mitigation. An Impact Assessment and Conservation Payment Certificate must be submitted as part of this application in relation to GCN.

Ancient Woodland / Local Wildlife Site

Question the need for areas of hard standing to be retained for use and if additional planting can be carried out within/adjacent to these areas to minimise how these areas will be used by future occupants of the site.

Additional information is required regarding operational hours / types of lighting to ensure that measures are in place to ensure that any impacts are minimal.

OFFICER NOTE: The business operating hours have been confirmed (in the submitted DAS) as being 8:30am to 5pm on Mondays to Fridays with no requirement for external lighting other than 3 moment sensor controlled downlights.

Enhancements

More could be done to benefit the site including the enhancement of the area of grassland used for grazing and increasing the number of ecological enhancement features (such as bat and bird boxes) within the wider site.

24. **KCC Public Rights of Way and Access Service**; No objections subject to informatives.
25. **ABC Environmental Protection**: No objections subject to conditions.
26. **Neighbours**: 3 neighbours consulted; 2 representations received –
  - More lorries along The Pinnock due to the site being bigger;
  - What will happen to the site when Invicta Pallets move?
  - This will open up the existing site to unknown further commercial uses;
  - Improvements to visual amenity if pallet business moved further away;
  - The site has been used for commercial purposes when permission was granted for agricultural use;
  - Attempts to create an industrial estate with this site and Frith Court Farm being located so close together;
  - The expansion of industry on this scale is not acceptable.
27. The application has also been advertised by a site notice and a press advert.

### **Planning Policy**

28. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (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).
29. The relevant policies from the Development Plan relating to this application are as follows:-
  - SP1 – Strategic Objectives
  - SP3 – Strategic Approach to Economic Development
  - SP6 – Promoting High Quality Design
  - EMP5 - New Employment Premises in the Countryside
  - EMP6 - Promotion of Fibre to the Premises (FTTP)
  - ENV1 – Biodiversity
  - ENV3a - Landscape Character and Design
  - ENV4 – Light pollution and Promoting Dark Skies
  - ENV9 – Sustainable Drainage
  - TRA3b – Parking Standards for Non Residential Development
  - TRA6 – Provision for Cycling

TRA7 - The Road Network and Development  
TRA9 - Planning for HGV Movements

30. The following are also material considerations to the determination of this application.

**Supplementary Planning Guidance/Documents**

The Reuse of Agricultural Buildings SPG7 (February 1995)

Landscape Character Assessment SPD

Dark Skies SPD 2014

Fibre to the Premises SPD 2020

Pluckley Neighbourhood Plan – Policy R1 (Landscape Character and Design)

**Government Advice**

31. National Planning Policy Framework (NPPF) 2023

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 NPPF. The NPPF states that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

- Paragraph 11 – Presumption in favour of sustainable development.
- Paragraph 47 – Determination in accordance with the development plan.
- Paragraph 130 – Achieving well-designed places.
- Paragraphs 174 – Conserving and enhancing the natural environment.

32. Planning Practice Guidance (PPG)

33. National Design Guide 2021

**Assessment**

34. The main issues for consideration are:

- a) Site History
- b) Principle of development
- c) Visual Amenity
- d) Residential Amenity
- e) Highway Safety

### **Site History**

35. The site has a complex planning history dating back to the 1990s when permission was granted, subject to a S106 Agreement, for 4 large units in connection with the existing poultry business. The erection of buildings in the countryside is strictly controlled but exceptions are made for buildings to serve uses such as agriculture, in this case. The Council feared that the poultry business might fail and this led to the signing of the Agreement with the applicant at the time.
36. The S106 Agreement dated 9/8/2000 (attached to planning application 98/01260/AS) succeeds the earlier ones. The S106 Agreement provides for, among other things, the bungalow to be used only for agricultural accommodation ancillary to the land, the bungalow not to be sold separately from the land, and to demolish and remove the 4 poultry units within 12 months of ceasing to use them for the trade or business of poultry farming.
37. A planning application was submitted under reference 06/01115/AS in relation to an equestrian livery business, which was refused. In the appeal for this application the Planning Inspector assessed the existing S106 Agreement at Paragraphs 13 to 19 of the decision.
38. At Paragraph 15 the Planning Inspector noted: "*The Agreement related to planning permissions for a substantial built development in the countryside, as an exception to the normal planning controls, and in a case where the Council had doubts about the viability of the venture but was willing to give the applicant the benefit of the doubt provided that he removed the 4 large buildings if the poultry business failed*". The Planning Inspector then commented on the reasonableness of this approach and stated: "*there is no evidence that the Agreement was entered into other than voluntarily*".
39. At Paragraph 16 the Planning Inspector stated: "*With the information currently to hand, and despite there being no development plan requirement for the removal of the buildings, I find no element of the Agreement that conflicts in principle with the 5 tests (found at Paragraph B5 of Circular 5/2005 at the time of the decision). It is relevant to planning and was necessary to make the proposed development acceptable in planning terms, for a proposal of doubtful viability. Clearly the Agreement is directly related to the proposed development*".

*and fairly related in scale and kind to it and, from the information available, it appears to be reasonable in all other respects. Indeed, there is nothing before me to demonstrate that the voluntary Agreement has inherent flaws or that it is "Wednesbury" unreasonable".*

40. At Paragraph 17, the Planning Inspector noted the Council's position in relation to the existing buildings at the site and stated: *"The Council's position is that the poultry use has ceased, the buildings should be removed from the site and any proposals be considered against an open and undeveloped site. But it also states that it would probably allow a modification to the Agreement to retain one or more of the buildings for uses associated with the rural area. The Council argues that a balance would need to be struck over allowing the harmful presence of the buildings to remain and that it would probably only do this for agriculture or for an equestrian use, in principle"*.
41. At Paragraph 18, the Planning Inspector commented on potential action being taken at the site and stated: *"If a poultry business could be viable at the site, any case for the use of the buildings for other than poultry would have to be considered against a background wherein they only remained in existence to serve a viable poultry use and that there was potential for that use to take place. No doubt, if a poultry use did not commence, the Council would need to consider what action it should take; or, if it commenced in only 1 or 2 of the buildings, what action should be taken with regard to the others"*.
42. At Paragraph 18, the Planning Inspector concluded: *"The only certainties are that the 4 large buildings exist, they are subject to the requirements of a S106 Agreement and the Agreement is potentially enforceable but no steps have been taken by the appellant to seek to modify or discharge it and no steps have been taken by the Council for its enforcement"*.
43. In 2011, a further planning application was refused under reference 09/00863/AS in relation to an equestrian livery business; however this was later allowed at appeal. This allowed for the conversion and change of use of 2 redundant poultry sheds for stabling and ancillary storage, use of agricultural building 5 for storage of horse boxes and trailers, construction of ménage to provide an equestrian livery business, associated parking and use of farm bungalow in association with equestrian livery use
44. This permission was subject to a signed S106 Agreement dated 15/12/2010. The S106 Agreement related to the nature of the livery enterprise and restricted the use of the premises to the provision of full livery services and ancillary activities comprised within the equestrian business. The S106 stated that if at any time the buildings were not used either for full livery or poultry/egg production they would have to be demolished within 12 months of the cessation of such use. It also stated that the dwelling could only be occupied in accordance with the occupancy details set out so as to ensure the dwelling remains in use or available to help meet the accommodation needs of certain rural workers. This S106 Agreement essentially replaced all previous S106s as

the Council released all covenants and conditions contained in the earlier s.106s via the 2010 deed.

45. A deed of variation, as mandated by Section 106A (2) of the Town and Country Planning Act 1990, is requisite to appropriately address this application and retain the existing buildings for the proposed use. This necessitates an application to modify the planning obligation, facilitating its variation between parties. Upon submission of this deed of variation, the Council will be responsible for determining whether there was sufficient justification for the retention of the buildings on the site. Failure to adhere to the correct procedural steps by the applicant is evident. The proper process for implementing changes to a Section 106 Agreement involves distinct tests and legislative provisions, different from those implicated in the current application.

### **Principle of development**

46. The site is located in the countryside; therefore the main policy for consideration is EMP5 which relates to 'New Employment Premises in the Countryside'. Policy EMP5 states that proposals for employment development on new sites in the countryside will not be permitted unless the following criteria can be met:-
- a) It is essential to be located in the countryside;
  - b) Development can be integrated sensitively into its context respecting the character of any important existing buildings, the landscape setting and sites of biodiversity value;
  - c) There would be no significant impact on the amenities of any neighbouring residential occupiers; and,
  - d) It can be demonstrated that the development will not generate a type or amount of traffic that would be inappropriate to the rural road network that serves it.
47. NPPF Paragraph 84 states that planning policies and decisions should enable the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings.
48. The applicant is the owner of Invicta Pallets which is a pallet recycling business that is currently located to the north of the site at Pinnock Bridge Farm. Invicta Pallets has been operating from this site since 2013 and the site itself has been an established commercial site since around 2010 when application 09/00983/AS was allowed at appeal. Invicta Pallets brings in used pallets and refurbishes them into new and usable pallets that are distributed to its customers.
49. The applicant has stated the business has grown over the past 10 years and the existing site is now too small for the scale of current and future business activities. The existing business carries out its pallet assembly work under lean-to canopies within the open yard and this is subject to the vagaries of the weather. Once the pallets have been refurbished they are stored in the open

yard area before being kiln-dried and distributed to customers. The differing size/typology of pallets is quite varied (with up to 12 differing variants) and they all require slightly differing processing, assembly and drying credentials. In view of the wide range of pallets being refurbished, the degree of external storage space required to stack the differing pallets in their associated typologies is large. The applicant has stated the existing site cannot be expanded and the remaining part of the farm to the immediate north is already leased on a long term basis to another business.

50. The site being proposed under the current application would allow the existing business to relocate to a new site that would be locationally identical in transportation terms (for distribution needs and staff). The proposed site has a greater degree of internal space for the timber processing and pallet assembly works, and it is located further away from the nearby residential dwellings. The applicant has pointed out that relocating the site away from the area would be a major negative for the business.
51. Taking all of the above into consideration, whilst it is acknowledged the proposal would allow an existing business to expand in the locality, it is not considered essential for the employment premises to be located in the countryside. Although the existing Invicta Pallets business is already established at Pinnock Bridge Farm, the proposal requires the assessment of this newly proposed employment premises in a location in the countryside that is materially different.
52. For the foregoing reasons, the proposal would conflict with the current requirements of part (a) of Policy EMP5. Parts (b) to (d) of Policy EMP5 have been discussed at length below.

### **Character and Appearance (Visual Amenity)**

53. Strategic Policies SP1 and SP6 promote high quality design that responds positively to its surroundings and Policy ENV3a states that the Council shall have regard to the purpose of conserving and enhancing the landscape. Policy EMP5 states at part (b) that new employment premises in the countryside should be integrated sensitively into their context and should respect the landscape setting of the area.
54. In addition to local plan policies, the Council has an adopted supplementary planning guidance (SPG7) on the re-use of agricultural buildings which gives clear guidance on the design of building conversions. This guidance makes specific reference to uses being compatible with the character of the rural area (Paragraph 2.1.4).
55. NPPF Paragraph 130(a) states that planning policies and decisions should ensure that developments add to the overall quality of the area and are sympathetic to the surrounding landscape setting (c). Paragraph 174 states that proposals should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.

56. The proposed use of the existing barns at the site for general industrial purposes under Class B2 would be inappropriate in this sensitive location, which has previously only been considered suitable for agricultural use or equestrian use. The proposal would result in the creation of a much larger expanse of concrete for the open storage of pallets together with additional built development in the form of a drying kiln and site office, and a formal parking area with all of its associated vehicles. Essentially, the proposal would result in an unacceptable encroachment into the countryside and would fail to contribute to and enhance the natural and local environment thereby detracting from the character and appearance of this part of the countryside and the wider landscape. In addition, there would be associated vehicle movements with cars and HGVs entering right into the heart of this part of the countryside which presently experiences minimal comings and goings. Although it is acknowledged the site would have previously been used and accessed by large farming vehicles and machinery, this would not have appeared out of character in this particular location given its historical use for agricultural purposes.
57. The applicant has stated that the existing buildings in situ, which were formerly used as part of the poultry farm business, have been used as car body repair businesses for a number of years. However, the site does not benefit from any planning permission or lawful development certificate relating to the alleged uses. When the site was visited by officers, cars were observed in 'Barn C' (as shown at Figure 6 above) whilst Barns A and B were not accessible. Therefore, it has not been possible to inspect these barns during the site visit. Notably, the remaining parts of the site, including existing concrete slabs, appeared dormant.
58. Whilst a comparative assessment of the existing situation and proposed situation would involve analysis of an existing unlawful use at the site, this nonetheless would be contained within the existing buildings. Taking all of the above into consideration, it is concluded that there is no compelling justification for the proposed business premises to be sited in this exposed location. Whilst the proposal would deliver some economic benefit in terms of jobs creation, it is not considered that these benefits would be sufficient to set aside significant landscape harm identified. Regard has also been had to the landscaping scheme submitted with the application. Whilst it includes some trees and hedges, given the scale and prominence of the development in the wider landscape views, it would do little to mitigate the landscape harm arising from the proposed development. Consequently, the proposal would conflict with Policies SP1, SP6, ENV3a, EMP5 of the Ashford Local Plan (2030) and Paragraphs 130 and 174 of the NPPF (2023).

### **Residential Amenity**

59. Strategic Policies SP1 and SP6 promote high quality design that responds positively to its surroundings. Policy EMP5 states at part (c) that new



employment premises in the countryside should not result in any significant impact to the amenities of neighbouring residential occupiers.

60. NPPF Paragraph 130(f) states that, amongst other things, planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
61. Given the separation distance to the surrounding neighbouring properties, it is considered that the proposal would not result in any unacceptable loss of daylight/sunlight, loss of privacy or loss of outlook.
62. The applicant has submitted a Noise Impact Assessment (dated April 2023) as part of their proposal. The main noise sources have been identified as being the generator used for the kiln, the saw and the nail gun used to repair the pallets and through the operation of four diesel forklifts across the site. Background levels were measured at the residential property at Daniel Farm between the hours of 7.00am to 6pm on weekdays only. This property is located approximately 170m away from the site and the Noise Impact Assessment looked at the excess over background to be equal to or below the measured background levels.
63. The Noise Impact Assessment identifies that the highest noise levels at the site would be from the movement of forklifts around the site. ABC's Environmental Protection team has confirmed the Noise Impact Assessment appears satisfactory but, in the event of complaints, the business may need to consider using quieter running forklifts to the current diesel ones and an alternative forklifts signalling systems, for example with white noise rather than traditional beepers.
64. ABC's Environmental Protection team has stated that the proposed mitigation measures identified in the Noise Impact Assessment would need to be implemented by the applicant prior to first use. The business may also need to carry out a reassessment once operational in order to assess the noise impact of the forklifts if complaints are received from any of the nearby residential properties. These matters could all be dealt with through appropriately worded planning conditions.
65. In terms of general disturbance from the proposed development, it is considered the main impact would be to the residential properties immediately adjacent to the site entrance along Smarden Bell Road. However, in view of the fact the existing Invicta Pallets business is already operating in this location, any likely impact from vehicles movements would be similar to what is already experienced. The business itself would be located further away from these properties and this would result in a general improvement in this regard.
66. Subject to appropriate conditions in line with the above it is considered the proposal would comply with the requirements of Policies SP1, SP6, EMP5 and NPPF Paragraph 130(f) in relation to residential amenity. Although the

relocation of the business away from the existing site would allow a new (unknown) business to move into the existing site with its own potential impacts, this would need to be assessed on its merits.

### **Highways Safety**

67. Policy TRA3b relates to 'Parking Standards for Non Residential Development' and states that B1 office uses (up to 500m<sup>2</sup>) should provide 1 space per 20sqm and B2 uses should provide 1 space per 50sqm.
68. Policy TRA7 states that proposals that would generate levels and types of traffic movements, including heavy goods vehicle traffic, beyond that which local roads could reasonably accommodate in terms of capacity and road safety will not be permitted. Policy TRA9 relates to proposals that would generate significant heavy goods vehicle (HGV) movements.
69. Policy EMP5 states at part (d) that new employment premises in the countryside should not generate a type or amount of traffic that would be inappropriate to the rural road network that serves it.
70. Policy TRA6 relates to cycle parking provision.
71. NPPF Paragraph 111 states that development proposals should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be 'severe'
72. KCC Highways and Transportation has confirmed that a total of 30 parking spaces is required and this has been provided on site. As such, there are no objections from a parking perspective.
73. The business currently has 4 HGV vehicles (although it has Operator Licenses for 6 in total) and they would also be seeking to acquire 1 additional HGV vehicle. Vehicle tracking has been demonstrated on the submitted plans for a 16.5 metre long articulated vehicle to show that it can enter the site, turn and exit in forward gear.
74. There is an established vehicular access to the site from Smarden Bell Road with passing spaces provided. The existing Invicta Pallets business is located to the immediate north of the site and has been in operation for the past 10 years or so. The applicant has confirmed the proposal would see a minor expansion of the business that would increase the level of transport movements to and from the site. However, the increase in transport movements would be offset by the loss of the existing unlawful commercial uses on the land at Daniel Farm.
75. KCC Highways and Transportation has confirmed that a total of 8 cycle parking spaces are required to be provided as well as a minimum of 3 active electric

vehicle charging spaces (to a 7kw standard). Whilst these have not be shown on the submitted plans it is considered that this could be dealt with by way of appropriately worded planning conditions.

76. Taking all of the above into consideration, it is considered that parking could be adequately accommodated on site and any additional traffic load to the highways network would be unlikely to lead to any additional discernible transport impacts that would warrant refusal of planning permission on this basis. As such, the proposal is acceptable from a highways safety perspective and would comply with Policies TRA3b, TRA6, TRA7, TRA9 and EMP5 and NPPF Paragraph 111. However, the associated harm to the landscape from vehicles entering right into the heart of this part of the countryside is a serious concern as highlighted in the previous sections above.

### **Trees and Ecology**

77. Policy ENV1 states that proposals for new development should identify and seek opportunities to incorporate and enhance biodiversity. In particular, development should take opportunities to help connect and improve the wider ecological networks. Policy EMP5 states at part (b) that new employment premises in the countryside should respect sites of biodiversity value.
78. NPPF Paragraph 130(b) states that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. NPPF Paragraph 179 specifically refers to the protection and enhancement of biodiversity and Paragraph 180 states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
79. The applicant has submitted a Preliminary Ecological Appraisal (dated 20/3/2023) as part of their proposal and they have confirmed they have started the District Level Licensing process with Natural England in relation to Great Crested Newts.
80. KCC's Ecological Advice Service are satisfied with the conclusions of the Preliminary Ecological Appraisal in terms of breeding birds, reptiles and foraging/commuting bats as any associated impacts can be avoided through precautionary mitigation measures.
81. With regards to Great Crested Newts it has been detailed in the Preliminary Ecological Appraisal that the impacts will be avoided through the District Level Licence (DLL) scheme and information has been provided to confirm that discussions with Natural England have commenced. KCC's Ecological Advice Service has stated that an Impact Assessment and Conservation Payment Certificate must be submitted as part of the application. This has not been done by the applicant as they have only provided confirmation from Natural England that the application for DLL is provisionally accepted. However a suitably

worded condition could ensure this is provided prior to commencement of any development on site.

82. In terms of the adjacent Ancient Woodland / Local Wildlife Site, the Preliminary Ecological Appraisal has confirmed that the proposed development would not be carried out within 15m of the Ancient Woodland. This has also been shown on drawing nos. 367/IP/003/A and 367/IP/14/A. The Preliminary Ecological Appraisal demonstrates that the areas of hard standing directly adjacent to the areas of Ancient Woodland would be retained and the proposal would also be utilising existing buildings in this area. KCC's Ecological Advice Service has recommended that a condition be imposed to require additional planting to be provided in, and adjacent to, these areas of hardstanding in order to minimise how they would be used by the future occupants of the site.
83. KCC's Ecological Advice Service has stated that no information has been provided to assess the impact on the Ancient Woodland / Local Wildlife Site from an operational use perspective, particularly in terms of potential noise and lighting. KCC's Ecological Advice Service has stated that additional information should be provided in relation to operational hours / types of lighting; however these have been identified in the submission. The applicant has confirmed that the proposed business would operate from 8:30am to 5pm on Mondays to Fridays and the development would not require any external lighting other than 3 moment sensor controlled downlights. It is understood that the proximity of the existing buildings to the Ancient Woodland would require measures to be put in place to safeguard against any potential impacts; however it is considered this matter could be dealt with by a suitable worded pre-commencement condition.
84. KCC's Ecological Advice Service has stated that improvements could be made to the submitted landscaping plan, including the enhancement of the area of grassland used for grazing and increasing the number of ecological enhancement features (such as bat and bird boxes) within the wider site. It is considered this could be dealt with by a suitable worded pre-commencement condition.

### **Human Rights Issues**

85. I have also taken into account the human rights issues relevant to this application. In my view, 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).

## **Working with the Applicant**

86. In accordance with paragraphs 38 of the NPPF, Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative manner as explained in the note to the applicant included in the recommendation below.

## **Conclusion**

48. In conclusion, the development plan allows for new employment premises in the countryside if it considered (amongst other things) essential for them to be located in the countryside. This is not the case for the current proposal. The proposal would result in unacceptable encroachment into the countryside and fail to integrate sensitively into the rural context thereby causing significant harm to and detracting from the character of the countryside and the wider landscape. As such, the proposal would conflict with Policies SP1, SP6, ENV3a, EMP5 of the Ashford Local Plan and paragraphs 130 and 174 of the NPPF.

## **Recommendation**

### **Refuse**

1. The proposed development, if permitted, would result in an unjustified commercial development, outside of any defined urban or village confines, the need for which has not been demonstrated sufficiently to override normal restraint policies. Therefore, the proposal would fail to comply with Policy EMP5(a) of the Ashford Local Plan (2030).
2. The proposed development would result in unacceptable encroachment into the countryside to the significant detriment of the rural character and appearance of the countryside and the wider landscape, contrary to Policy ENV3a of the Ashford Local Plan (2030) and paragraphs 130 and 174 of the National Planning Policy Framework (2023).

### **Informatives:**

1. Working with the Applicant (Refusals)
2. Refused Plans list

## **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 PA/2022/2223)

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