

Application Number	21/01862/AS
Location	Land at the Street and North of Court Lodge, The Street, Brabourne, Kent
Parish Council	Brabourne
Ward	Bircholt
Application Description	Conversion and change of use of the ground floor to distillery use (Sui Generis)
Applicant	The Wineburner LLP Martello Lodge Undercliff Sandgate, Folkestone, Kent, CT20 3AT
Agent	Ian Bull Consultancy Ltd 1 Mountbatten Way Brabourne Ashford, Kent, TN25 6PZ
Site Area	0.2ha

Supplementary Report

Introduction

1. The Planning Committee considered the above planning application on the 17th August 2022 and decided that the application should be granted, on the terms recorded in the minutes of the meeting (copy at Annex 2) for the change of use of the ground floor of an agricultural building to distillery use (sui generis) at the building known as 'The Magnum Building'. In reaching its decision, the Planning Committee considered the officer's report and the associated update report (copy at Annex 1).
2. There has been a material delay in officers implementing the decision of the Planning Committee, due to the application for permission to apply for a Judicial Review of the Committee's resolution to grant permission to the High Court of Justice. The application for Judicial Review was refused on two occasions by the High Court and a subsequent application to the Court of Appeal was again refused on 14 August 2023.
3. As required by the Court of Appeal's judgement in *R. (Kides) v. South Cambridgeshire DC* (2002) and subsequent caselaw, most recently the High Court's decision in *Hayle TC v. Cornwall Council* (2023), the Local Planning Authority must have regard to all material considerations up to the time of granting planning permission. I have therefore considered, in this report, all material changes in circumstances and material considerations that have

arisen since the previous decision of the Planning Committee referred to above.

4. In line with the caselaw, if there have been any changes in material considerations or circumstances since the Committee's previous decision which I consider would be realistically capable of causing it to reach a different decision now, then the decision should be referred back to the Committee. In case of doubt, the Court indicated that I should err on the side of caution and refer the application back to the Committee.
5. This application is therefore returned to the Planning Committee to establish if members consider if there has been a change in material considerations or circumstances since the previous resolution to grant that would lead the Committee to reach a different conclusion.

Legal Challenge History

6. A local resident, Mr. Jonathan Armstrong (the Claimant) submitted an application to the High Court of Justice for permission to apply for a Judicial Review of the previous resolution to grant on the following grounds:

Ground 1: Those in opposition to the application were wrong-footed at the start of the committee meeting on 17 August 2022 by being told the application only affected the ground floor of the building and that the Council did not properly deal with the questions raised by Rural Planning (*the Council's agricultural planning advisors*) which included:

- a) Whether the building was necessary for agricultural purposes and should have been authorised at all.
- b) Whether agricultural use had ceased and;
- c) Whether this application, by reducing the space available to store machinery, would lead to or should be interpreted as an application for further building for that purpose.

Ground 2: The Planning Committee was misled by the officer's report by the absence of information relating to the three points raised by Rural Planning (summarised above). In particular, the report did not address the question of what would happen to the machinery for whose storage the building had originally been authorised and whether an application for some further building should be anticipated and that the officer focused on the existence of a small quantity of evidence showing that the building had been put to lawful agricultural use.

7. The above grounds of challenge were first dismissed 'on paper' as unarguable by Her Honour Judge Karen Walden-Smith in the High Court in

November 2022, and the Claimant was ordered to pay some of the Council's legal costs. Following an oral hearing in February 2023, at which the Council was represented by Counsel instructed by Legal Services, Mr Justice Bourne concluded in his published Judgment that "*neither ground has a realistic prospect of success, and permission to seek judicial review is refused*" for the following reasons:

Ground 1: There was no arguable unfairness in relation to the clarification of the scope of the application, since upon reading the application carefully it would have been clear that the application only related to the ground floor of the building, as per the plans. Then the Officer's report was published 1 week before the committee meeting on the 17th August 2022 and made this perfectly clear. with Mr Justice Bourne concluding "*it therefore should not be assumed that anyone was wrong-footed when the scope of the application was clarified at the start of the meeting*"... "*and created no need for any further consultation*".

Ground 2: It is not arguable that the absence of any further amplification of the comment made by Rural Planning meant that the report misled the Planning Committee about a material matter. Moreover, the Judge concluded that in any event "*it is highly likely that the outcome for the Claimant would not been substantially different if the Officer's report had fully set out the concerns of Rural Planning*".

8. The Claimant subsequently appealed this decision to the Court of Appeal on the following grounds:

Ground 1: Mr Justice Bourne erred in considering that the change in the description of the application to change of use of the ground floor (as opposed to change of use of the building) did amount to clarification only. The underlying concern was that during the consultation exercise everyone was "*shooting at the wrong target*".

Ground 2: That Mr Justice Bourne was wrong to conclude that the officer's report provided a sufficient summary of the point made by Rural Planning and that questions should have been answered on whether if the building was not now required to store agricultural machinery, had it been required in the first place and, if not, could enforcement be taken and if storage of the machinery was necessary, was the application to be regarded as a new building?

9. The Court of Appeal concluded that Mr Justice Bourne was "*entitled to conclude that "the report dealt adequately with the points raised"*" and that "*there was no question of the report misleading members on this issue*". Furthermore, "*there is no realistic prospect of either ground 1 or 2 succeeding*"

on appeal. There is no other compelling reason for allowing an appeal to continue. Accordingly, permission to appeal is refused”.

Material Considerations Since the Resolution to Grant

10. The conclusions by the High Court and Court of Appeal are clear in that all legal grounds to quash the Committee’s resolution put forward by the Claimant have been dismissed. It therefore follows that the totality of the information provided in the previous reports, and provided orally to the Committee meeting, adequately dealt with the matters and did not mislead the Committee. The Committee was therefore correct to afford weight to the content of the reports and advice at the meeting and the officers’ recommendations in making its decision. Attention must now be given to whether there have been any material changes since the resolution to grant on the 17th August 2022 which would potentially alter the decision.
11. The proposal remains the same as that previously presented to Committee Members with no amendments submitted.
12. In November 2023, the AONBs in England were re-named by the Government to ‘National Landscapes’ to raise the profile of these areas. The Kent Downs AONB, which this application site is within, is now referred to as Kent Downs National Landscape. Whilst the naming has been updated, the technical designation remains the same in terms of the policy, legislation and guidance which applies. Therefore, this change, although relevant to note, does not form a material change to the previous assessment on the impact of the proposal on the surrounding landscape.
13. In terms of national and local policy, the statutory development plan and supplementary planning document policies applicable to this application remain unchanged. The NPPF was updated in December 2023 however, the primary effect of the changes to the NPPF related to housing land supply. I would note that none of these have a material impact upon the consideration of this application.
14. Since the Committee resolution, Brabourne Parish Council have been in contact with the LPA and have raised concerns regarding the potential impact of the scheme on the character of the National Landscape (formerly AONB), including the light spill from the existing roof lights (roof windows) and elevation windows in the application building. In addition, they have asked whether the question of sustainability should have been considered in the previous officer assessment and why Ashford Local Plan policy EMP5 is not applied.

15. Following concerns about the building as constructed (pursuant to permitted development rights) an enforcement case was opened. This related to concerns over additional fenestration and an external staircase on the western elevation. This enforcement case has since been closed following an investigation, as the alterations were considered not to have any detrimental visual or amenity impact and it was concluded that it was not expedient to pursue any enforcement action.
16. In addition, a second enforcement case was opened regarding the roof lights in the application building after a suggestion these were not in accordance with the submitted permitted development proposal. This enforcement case has since been closed following an investigation, as the submitted plans included with the Prior Notification application, included the text "S.A.B Grade Roof Lights". The scope of requirements to be submitted with an application as to whether prior approval is required (as was the case for this proposal) are very limited and it was considered in this case that those limited requirements were met. In reaching this conclusion and in consideration of the building as constructed it is my view that there has been no breach of planning control and the roof lights and the building as constructed are considered to be lawful.

Impact on the character of the locality:

17. The previous Committee reports in Annex 1 of this supplementary report highlighted that the proposal would utilise part of the existing building on site and that there would be no physical changes to it. I also consider it important to note that the limited scale and intensity of the proposed change of use of the ground floor level within the existing building, would not in my opinion create any significant adverse impact on the character of the surrounding locality compared with the existing authorised use of the ground floor for machinery storage. The previous officer report also recommended a planning condition to ensure that there would be no uncontrolled external storage within the application site boundary which could potentially impact the character of the area. Condition 7 of the previous report stated:

No external storage shall occur on site unless a scheme has been submitted to and approved in writing by the Local Planning Authority. The storage shall then be carried out in accordance with the approved details.

Reason: In order to protect the visual amenities of the locality.

18. As referenced in the previous officer report, the improvements to the access and parking area for the site, would not result in any significant adverse visual harm in the locality.

19. With regard to the lighting at the site, it should be noted that the existing building, approved in 2019 (19/01436/AS) via a Prior Notification application had no conditions/restrictions attached to the approved use for the storage of machinery. Therefore, internal and/or external lights can currently be operated at any time of the day or night, irrespective of this change of use application.
20. This application, by contrast, is seeking to change the use of the ground floor of the building and, as it is a full planning application rather than a Prior Notification, can have conditions attached to an approval to control lighting and times of use for the proposed distillery use. The applicant has applied for the hours of opening to be 9 am to 5 pm, with condition 8 of the previous officer report / Committee resolution controlling the use of the ground floor of the building in accordance with this principle, as follows:

There shall be no servicing of the building, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded, within the application site before 9.00am; or after 17.00 hours Mondays to Fridays: and none on Saturdays or at any time on Sundays or Bank or public holidays.

Reason: To protect the residential amenity of the locality.

21. Considering the Parish Council's concerns regarding external light spill, and to complement condition 8, it is now proposed to include an additional condition to restrict the distillery use to only operate between the hours of 9 am to 5 pm Monday to Friday inclusive only, as per the hours applied for by the applicant.
22. The distillery use of the ground floor part of the building could therefore not operate after 5 pm and it would be assumed that all lighting in association with this use would also be switched off while the distillery was not in use, i.e. past 5 pm. There would be a small gap during the winter months of roughly an hour when sunset is earlier than 5 pm but this is not considered to be so significant that it would have a detrimental impact upon the surrounding National Landscape (formerly known as AONB) or nearby neighbouring residents.
23. In order to ensure that there would not be any light spill from the roof lights of the building, I would recommend that an additional condition should be applied to any permission, which would secure the addition and details of automatic black-out blinds to the roof light windows of the building. Such blinds would need to coordinate with sunset and sunrise times to ensure there would not be any light spill from the roof lights.
24. All external lighting within the application site is already covered as per condition 6 of the previous officer report:

No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area/the environment and wildlife/local residents from light pollution.

25. In terms of light spillage, in conclusion if this application were permitted and implemented by the applicant, it would actually result in a betterment to the unrestricted situation which currently exists through the application of the suggested conditions to help and control the use of lighting in and outside part of the building.
26. Overall, subject to the imposition of the conditions I have suggested, I do not consider that the proposal would detrimentally impact the character of the locality.

Policy EMP4 of the Local Plan:

27. Paragraphs 36 to 48 of the original officer report (see attached Annex 1) explains the previous assessment as to why EMP4 of the Local Plan was the appropriate policy. This assessment remains valid and policy EMP4, for the conversion of rural buildings, is still considered to be the appropriate policy to assess the scheme against, as opposed to EMP5 which is for the assessment of employment development on new sites in the countryside. This is a lawful building and therefore policy EMP4 for conversion is correctly applied. As previously highlighted the principle of the development is therefore acceptable.

Other Issues

28. I would highlight that issues relating to residential amenity and highway safety are satisfactorily addressed in the previous officer report in Annex 1. No other new issues have been raised.

Human Rights Issues

29. I have 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

30. 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

31. Pursuant to the requirement in law, established in *Kides*, I have assessed all those changes in material considerations that have arisen since the previous Committee resolution and set out my recommendations above.
32. It is considered that there have not been any significant material changes since August 2022 which would warrant a change to the recommendation previously proposed, and subject to the proposed additional conditions referred to in this report and taking account of all the policies and representations discussed in the previous officer report, the application is recommended for approval subject to conditions.

Recommendation

Permit

Subject to all Conditions and Notes listed in the Minutes of the Meeting of 17 August 2022, with the addition of conditions recommended in paragraphs 21 and 23 of this report restricting the times of operational use and (if members consider appropriate) seeking details regarding automatic blinds to the existing roof lights of the building.

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council website (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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Annex 1 – Committee Report dated 17 August 2022

Application Number	21/01862/AS
Location	Land at the Street and North of Court Lodge, The Street, Brabourne, Kent
Parish Council	Brabourne
Ward	Bircholt
Application Description	Conversion and change of use to distillery (Sui Generis)
Applicant	The Wineburner LLP Martello Lodge Undercliff Sandgate, Folkestone, Kent, CT20 3AT
Agent	Ian Bull Consultancy Ltd 1 Mountbatten Way Brabourne Ashford, Kent, TN25 6PZ
Site Area	0.2ha

Introduction

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

Site and Surroundings and Constraints

2. The application site is positioned at the edge of Brabourne village at the foot of an escarpment of the Kent Downs Area of outstanding natural beauty. It is within the AONB and the LCA of the Kent Downs in a sub area known as the Stowting sub area and the Postling Scarp and Vale Landscape Character Area of the Kent Downs LCA. The key characteristics of the area are listed as predominantly agricultural use, small historic spring line villages and vernacular buildings constructed in red brick, tile, ragstone and flint.
3. The current building, although large and utilitarian, reflects the AONB characteristics of the immediate area.
4. To the north of the building extends the Kent Downs AONB which is also an area of potential archaeological interest.

5. The application building is to the north of The Street and within a large field currently set out as a vineyard. It was constructed as an agricultural machinery storage building under a Prior Approval in 2019 and replaced a former building which was deteriorating. This building is isolated and very visible from the local roads, and footpaths (Namely AE303 and AE229 and the North Downs National Trail to the north of the site).
6. The application building sits to the north of the Street and also to the north of another partly constructed building frame to the west of the road upon entering the farm which was to have been used for Viticulture Educational purposes in partnership with Hadlow College. This arrangement has fallen through and the use of the building is yet to be established although its lawful use is educational, as restricted by condition 10 of that permission. Pre commencement conditions have recently been approved and construction is proceeding in accordance with the approved plans.
7. The application building comprises 0.2 ha of The Penstock Farm Estate stretching to 482 ha of which 309 ha are combinable crops on arable farming land, with an established vineyard making up 12.95ha of the estate with a further 5 acres of vines being planted.

Site Constraints

8. The Brabourne Conservation Area boundary starts directly opposite the farm on the south western side of The Street and it extends further to the south west. Within the Conservation Area are several listed buildings opposite the barn, known as 1 & 2 Hill View, Court Lodge Barn and further to the east of the farm entrance are Church Farm House and Croquet Lodge. The farm sits outside the Conservation Area.
9. Directly adjacent to the farm entrance, on its eastern side is another listed building, known as Court Lodge and this is used as a holiday let. The area surrounding Court Lodge is also of possible archaeological interest.
10. To the north of the application site and within the wider AONB is a large area of archaeological interest which is currently in agricultural and vineyard usage.

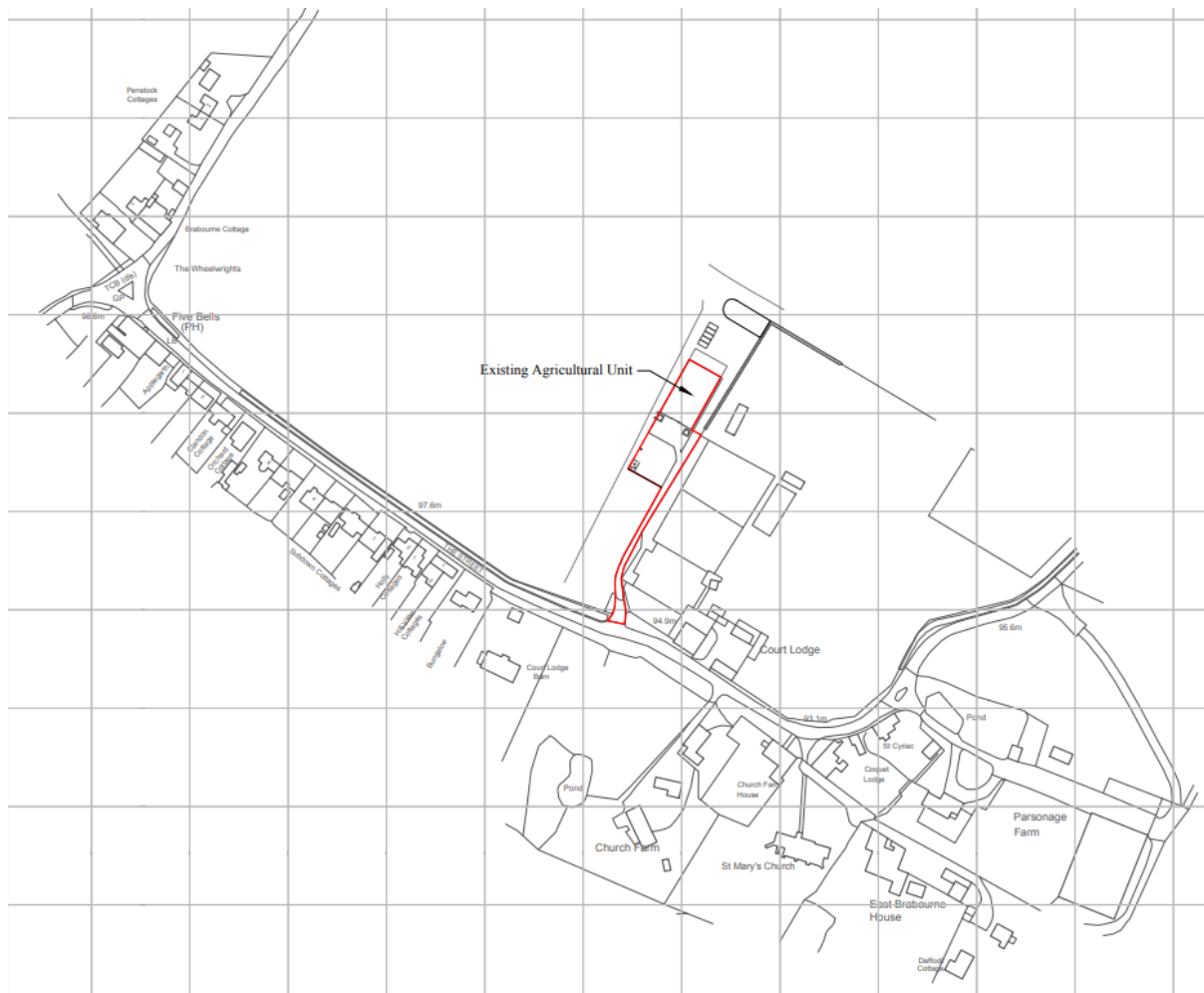


Fig.1: Location Plan

The Proposal

11. Planning permission is sought for the conversion and change of use of the ground floor of the agricultural storage building, (approx. 550sqm), known as the Magnum building, to use as a craft distillery as a fledgling business venture, utilising produce from the farm for its production. The grain and the pomace (pulpy residue) produced from squashed grapes, following juice extraction for the winemaking would be produced by the wider farm thereby avoiding transportation off site.
12. The micro-distillery would be set up through leasing the ground floor of the building to the Wineburner LLP with the mezzanine floor being in continued used for Vineyard staff facilities and storage together with the Covered Apron, alongside routine vineyard operations.
13. The applicant's statement explains the proposed operations.

14. The micro-distillery would create fruit spirits and grain whisky at a rate of approximately 1 barrel per day. This would require 400kg of grain mashed with water to produce 200l of fermentable liquid. After about a week of fermentation, the liquid is distilled and goes into a cask for maturation over 3-10 years. The grain store is about 600m away from the distillery, (on Penstock Farm), and cask maturation is all on site. The spent grain is then used as animal feed.
15. The intention was to create some synergy between the vineyard and the distillery, which would be mutually beneficial as well as creating local tourist interest by making Penstock Estate vineyard an attractive addition to the portfolio of vineyards in Kent. The grain and grapes would be produced at Penstock Farm with some additional fruit from nearby farmers and vineyards. The main produce would be whisky with the fruit and grape skins delivering smaller productions in a smaller market.
16. The operation represents a new style of craft whisky production in the UK and is based on specialist production techniques currently used in the rural Armagnac distilleries in France and which rely on locally grown fruits, grapes and pomace being turned into spirits, concepts which are relatively new to England. The proposal uses energy from sustainable sources and processes which minimise waste and utilise local produce and energy thereby seeking to preserve and maintain the arboreal and arable history of the County.
17. Additionally the applicants, a father and son partnership, would, in time, offer local training opportunities and careers by way of apprenticeships for about 5 young people to master the skills and experience necessary for certification through the Institute of Brewers and Distillers. Initially, there will be only one full time employee with a part time assistant. They have recently been certified as Spirits Educators through the Wines and Spirits Education Trust.
18. The building is of sufficient design and construction to accommodate the distillery without having to build anything further with the mezzanine floor and covered apron continuing to be adequate for vineyard operations which are centred on Penstock Hall Farm.
19. The application would offer parking for up to 5 staff and offer internal bike storage. Access would be controlled by electric gate, set back from the road with infra red CCTV to avoid the need for security lighting. No bar is planned for the distillery and foot traffic would be minimal due to the remote location. Local interest has been shown in premium gin and liqueur ranges for the local market.
20. Noise and odour are not anticipated to represent a problem due to the small scale of the operation.

21. The supporting statement also highlights the desire to be environmentally responsible with the handling of waste and not rely on single use plastic products or non- recyclables. Rainwater would be collected on site and water would be re-used through closed loop systems and rain water storage tanks. Steam and hot water cleaning would be used throughout with organic residue being collected in an on site bio-digester. Other waste would necessitate controlled removal by specialists.
22. The applicants are members of the Growing Green and Growing Kent and Medway schemes and in partnership with Kent University and NIAB to pioneer new techniques in distillery sustainability to save large quantities of fresh water and thousands of Kw of power. Electric vehicles will be used and power will be by 100% renewable energy in order to respect and invest, in the future of the North Downs Ecology.
23. Deliveries are planned to be twice a week in Luton size vans or smaller. Larger vehicular movements would be irregular. Operating hours would be 9-5. A transport statement accompanies the application and estimates no more than 2 deliveries and/or collections per day between (9.00am and 4.30 pm).
24. Parking for a total of 11 cars, plus one disabled person parking space, would be provided in front of the building with surfacing being permeable Type 1 compacted hardcore/ aggregate and would be accessed by a driveway, constructed with the same surface material, from The Street.

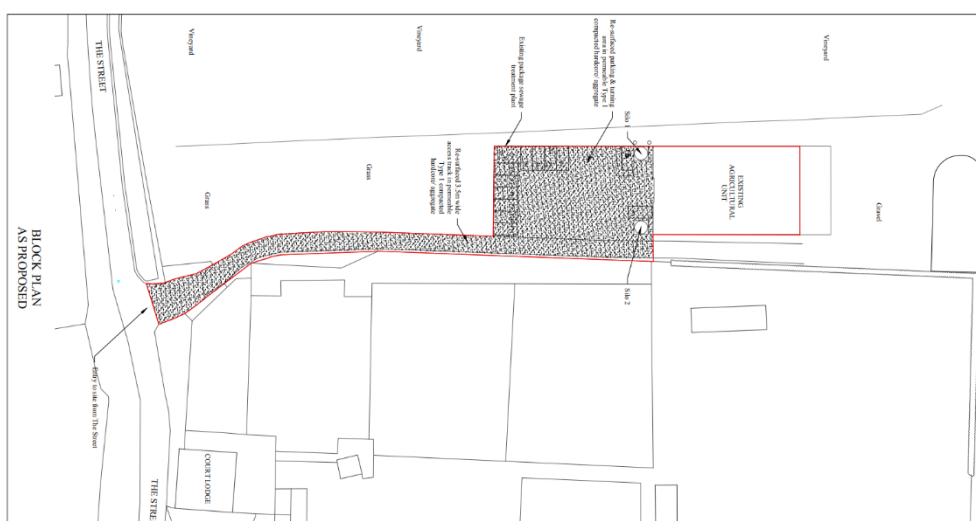
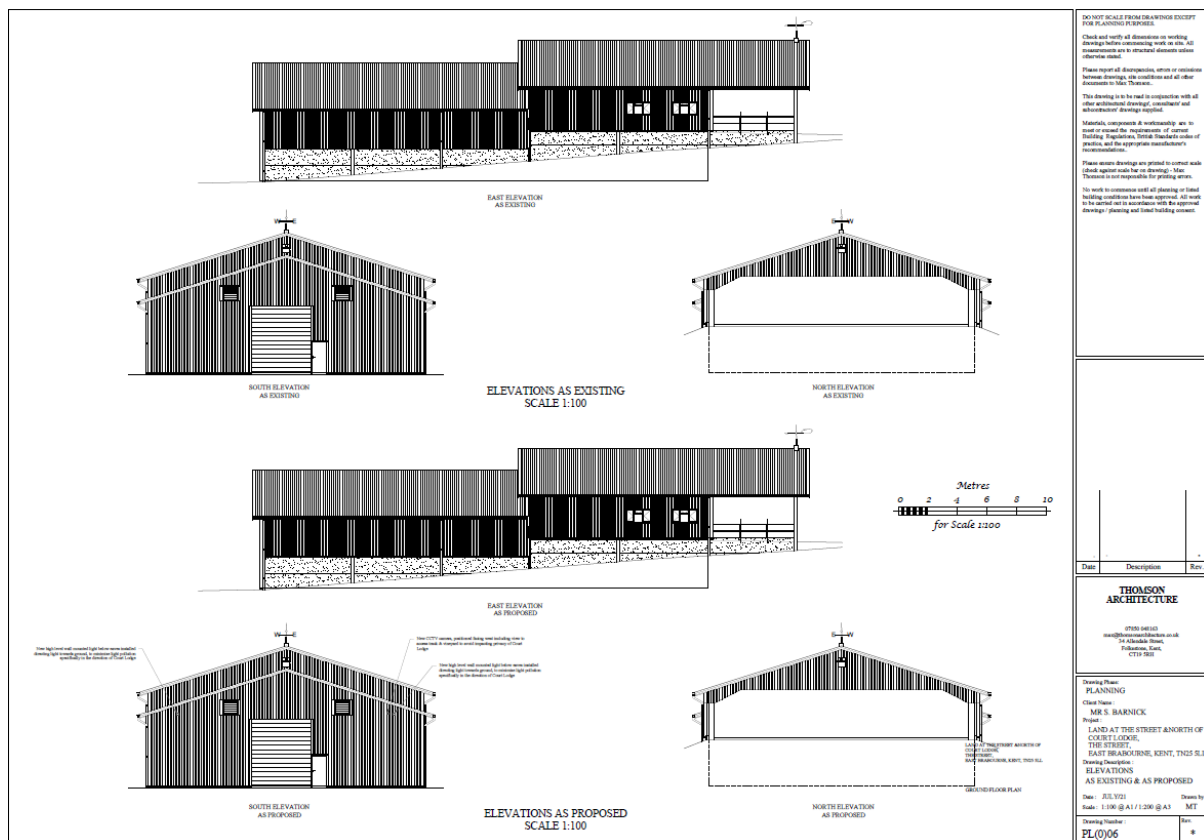


Fig. 2: Block Plan



Planning History

25. **21/01341/AS** – Application withdrawn for Change of use of agricultural building permitted under Prior Approval ref. 19/01436 to Distillery with associated works

21/01015/AS – LDC for use of the building for processing farm produce via distillation – not proceeded with.

21/01436/AS – Prior Approval for steel framed building for Agricultural machinery storage ,granted 30/10/2019

18/01113/AS – Proposed New Viticulture Education Centre – half constructed

18/01113/CONa/AS – discharge of pre-commencement conditions of 18/01113/AS

18/01113/CONB/AS – ditto

18/01113/CONC/AS – ditto

Consultations

26. The following consultation responses have been received:

Ward Member: Councillor William Howard of Bircholt Ward, has referred this application to Committee due to the level of public interest in the application.

Brabourne Parish Council – object to the application due to the complex history of the wider site and its activities and claim the building the subject of the application is unlawful and should be removed. They go on to quote policy EMP5 of the Local plan and question the need for a distillery to operate in a rural location. They express extreme concern about the effects on the residential amenities of neighbours and suggest non compliance with the NPPF.

KCC Highways and Transportation: – state that the application does not meet the criteria for their involvement.

Environment Agency – suggest the imposition of various conditions relating to land

KCC PROW – There must be no encroachment onto PROW AE303 which was diverted in 2018 and maintains a width of 2.5m and which passes immediately adjacent to the site entrance. No furniture should be erected on it or disturbance or deposits or hedging planted on it without consent of the Highway Authority. Confirmed by NPPF Para 98 Open Space and Recreation.

Rural Planning – questioned the legal status of the application building for agricultural use and raises questions about the future of the possible development on the wider farm and vineyard.

Environmental Protection – No objections or comment on the application

Kent Downs AONB – raise concerns about maintaining the landscape and scenic beauty of the AONB as required by NPPF para 176 and Policies SD2, SD3, SD8, FL5, FL7, VC4 and AEU 14 of the Kent Downs Management Plan and stress that had the building been the subject of a planning application for the now proposed use, an objection would have been raised as inappropriate scale and bulk development in the AONB and further raise concerns about the future need for more harmful development in the AONB.

Neighbours

27. 63 Representations were received from the 85 consultation letters that were issued. 5 letters of support and 55 objections were received on the grounds of:-
- Light pollution from the existing farming operations.
 - Surface Water Drainage especially in relation to the proposed biodigester
 - Concerns about large lorries entering the site.
 - Highway safety and sightlines.
 - Proposed increase in traffic on narrow country lanes
 - Confusion about the wider use of the agricultural holding and the buildings on the site and the viticulture building.
 - Unsuitability of an industrial use in a hamlet.
 - Move away from agricultural purposes.
 - Decrease in green space
 - Greater environmental impact in terms of lighting, noise and traffic
 - No justification for rural location
 - Concerns about the aspirations of the distiller for growth

Planning Policy

28. The Development Plan for Ashford Borough 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) 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
 - EMP4 – Conversions of Rural Buildings to non- residential uses.
 - EMP5 – New Employment Premises in the Countryside
 - EMP6 – Promotion of Fibre to the Premises (FTTP)
 - TRA3b – Parking Standards for Non Residential Development
 - TRA6 – Provision for Cycling

TRA7 – The Road Network and Development

ENV1 – Biodiversity

ENV3a – Landscape Character and Design

ABC Local Plan 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.

Policy **EMP4** – Conversions of Rural buildings to non- residential uses states:-

Proposals to convert rural buildings to employment, non- residential tourism, leisure or community-related uses will be permitted subject to meeting all of the following criteria:-

- a) The building does not require complete or substantial reconstruction;
- b) The building is of a permanent and substantial construction;
- c) The building is to be converted in a way that preserves its integrity and character;
- 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 it serves; and,
- e) the scale and character of the proposed use would not result in any significant adverse impacts on the character of any settlement or buildings, the surrounding landscape, its biodiversity value of the amenities. of local residents

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

Supplementary Planning Guidance/Documents

Landscape Character Assessment SPD 2011

Sustainable Drainage SPD 2010

Dark Skies SPD 2014

Fibre to the Premises SPD 2020

Government Advice

National Planning Policy Framework (NPPF) 2021

31. 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:-
2. Achieving sustainable development.
 4. Decision-making
 5. Building a strong competitive economy
 11. Making effective use of land
 12. Achieving well-designed places
 13. Conserving and enhancing the natural environment.

Paragraph 81 requires that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 84 is particularly relevant. It states that;

“ Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;

c) sustainable rural tourism and leisure developments which respect the character of the countryside;

d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”

Para. 176 suggests that great weight should be given to conserving and enhancing landscape and scenic beauty in... AONBs. The scale and extent of development should be limited while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Assessment

Principle of Development

32. The principle of the change of use falls to be considered under the Employment and Local Economy policies of the Ashford Local plan 2030, mainly EMP4 and EMP5. and weighed against Policies ENV3a and b which seek to restrict development in the AONBs to only that which is in the public interest.
33. Officers have discussed the status of the building and which policy is the most relevant and the Legal status of the building has been raised as a concern in the representations.
34. There has been a question as to its usage since it was granted permission under Permitted Development for agricultural machinery storage since 2019. However, the evidence suggests that it has been used in accordance with the consent granted in 2019 and a practical stance has been adopted and the use is considered lawful. It has not been built entirely in accordance with the originally approved plans but the alterations are included in this application and are considered acceptable in retrospect and no action is considered necessary to correct the differences.

Design and Appearance

35. The building on this site already exists and physical changes to it are not being proposed. Therefore its location, size, design and appropriateness are not for consideration as part of this application. These are acceptable under the original notification for its construction and this is a change of use so that matters of design and location are not considered here.

Principle of the use

36. Therefore, as an existing and lawful building it falls to be considered under policy EMP4 as a conversion of a rural building rather than under EMP5, as new employment premises in the countryside which refers to new sites. It is not a new site or a new building and it exists as a result of an existing rural enterprise, albeit a diversification of that business and as such it would fall within the remit of EMP4.
37. Policy EMP 4 goes onto to state that conversions will be permitted subject to
- a) The building does not require complete or substantial reconstruction;
 - b) The building of a permanent and substantial construction;
 - c) The building is to be converted in a way that preserves its integrity and character;
 - d) It can be demonstrated that the development will not generate a type or amount of traffic that would be inappropriate to the rural network that serves it; and:-
 - e) The scale and nature of the proposed use would not result in any significant adverse impacts on the character of any settlement or buildings, the surrounding landscape, its biodiversity value or the amenities of local residents.
38. Whilst there remain certain questions surrounding the future uses of other buildings on the wider Penstock farm, these are outside the application site boundary of this building and also outside the control and remit of the applicants for the distillery. It is therefore contended that this application should be considered on its own, individual merits.
39. The applicant has outlined in detail the nature of his intended business operation and the activities that it is anticipated will result in the short term.
40. The proposed change of use therefore complies with the requirements of policy EMP 4.
41. The relevant part of Policy EMP5 which has raised questions in representations, should it have been part of the primary consideration, is whether it is essential that the use be located in the countryside, which can be addressed here although not directly a policy requirement . Whilst it is not essential that a distillery use is located the countryside, there are sustainability

issues with this development which clearly make it desirable for this rural re-use of an existing building which meets the conversion requirements. The distillery use would retain and use products and waste from the farming operation and reduce the need for extra transportation elsewhere and off site, and the consequent import of alternatives to the support the distillery operation thereby negating the need for wasteful transportation and utilising local products at source.

42. The building could also be used for other farming operations and result in a greater intensity of use and require larger and more frequent traffic movements which would fall outside planning controls as lawful agricultural uses. The concept is one of sustainability and local terroir for the spirits and the winemaking on this farm and the use of an innovative concept in the UK, to achieve environmentally sustainable produce.
43. In addressing Para 8 of the NPPF which suggests the 3 objectives of sustainability should include economic, social and environmental objectives, the following should also form part of the strategic considerations of this application:-
44. Economic objective – is to help build a strong, responsive and competitive economy which supports growth. This application seeks to diversify the farm activities and establish new opportunities for growth which can then be passed onto the next generation by way of training. It would enable an otherwise underused building to be brought back into a viable use and help to support the tourism sector of the local economy by being of possible interest to those visitors staying in the various holiday let accommodations locally with locally produced wine and spirits.
45. Social objective – the proposed operation would offer training and employment opportunities for local young people and local entrepreneurs and maintain a diverse population. It would also help support agricultural enterprises and secure jobs in that sector.
46. Environmental objectives – The building and associated informal parking area, silos and sewage package treatment plant, already exist and this proposal would seek to secure and enhance the biodiversity and maintain the arboreal interest in the AONB with measures to reduce carbon and water consumption and light pollution with the use of technologically sound, albeit innovative industrial practices.
47. The planning balance is therefore in favour of supporting this proposal with the imposition of relevant planning conditions to ensure these stated principles are adhered to and no additional harm results.

48. The suggested conditions will therefore apply only to this building and the operations associated with the distillery and not the wider Penstock Farm operation which fall under different ownership and management and outside the boundary of this planning application.

Residential Amenity

49. There is no indication from the consultees that residential amenity would be harmed by way of lighting, noise, traffic frequency or odour as it is small scale operation working between normal business hours.

Highways and parking

50. The transport statement outlines the anticipated vehicular movements and their projected timings and vehicle sizes. There is no evidence to suggest that the traffic will cause harm to the local road network. Parking and turning space is provided on site with electric vehicle charging points conditioned.

Visual amenities

51. Other than the regularisation of the building alterations undertaken, and the improvement of the parking arrangements there is little in terms of built form which will significantly, visually alter or harm the existing situation.
52. On that basis there is no impact on local **heritage** assets.

Human Rights Issues

53. I have 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) and the wider public interest.

Conclusion

54. Taking account of all the policies and representations discussed above the application causes insufficient planning harm to justify a recommendation to refuse permission and therefore approval subject to conditions is recommended.

Recommendation

APPROVE subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3. The development approved shall be made available for inspection, at a reasonable time, by the local Planning authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

Reason: In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.

4. The Magnum building shall only be used for sui generis, distillation purposes and no other alternative industrial purpose.

Reason. In the interests of the Local amenities of the area and the protection of the AONB.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no development shall be carried out within Class A of Part 8, of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.

Reason: In the interests of protecting the character and amenities of the locality

6. No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. This submission shall include a layout

plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area/the environment and wildlife/local residents from light pollution.

7. No external storage shall occur on site unless a scheme has been submitted to and approved in writing by the Local Planning Authority. The storage shall then be carried out in accordance with the approved details.

Reason: In order to protect the visual amenities of the locality

8. There shall be no servicing of the building, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded, within the application site before 9.00am; or after 17.00 hours Mondays to Fridays: and none on Saturdays or at any time on Sundays or Bank Holidays.

Reason: To protect the residential amenity of the locality

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

10. The application states that foul drainage will connect to the existing package treatment plant, however, no further details are provided. Clarification is required on the discharge volumes and methods to assess whether a permit is required.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

11. The use of the building shall not commence until the water and the residue from the distillation process has been adequately managed and disposed of in accordance with details to be submitted to and agreed by the Local Planning authority.

Reason: to ensure the surface water and residues do not compromise the local drainage system in an unacceptable way or cause water pollution or cause detriment to the local wildlife, thereby compromising biodiversity in line with paragraph 170 of the NPPF.

12. The use shall not begin until details of the bicycle storage facilities showing a covered and secure space have been submitted to an approved in writing by the Local Planning Authority. The approved bicycle storage shall be completed prior to commencement of the operation development and shall thereafter be retained.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

13. The proposed parking area shall be surfaced in permeable materials in accordance with the details submitted in Block plan PL0(03) and that area shall not thereafter be used for any purpose other than for the parking and manoeuvring of vehicles.

Reason: To ensure the provision and retention of adequate off-street parking facilities for vehicles in the interests of highway safety and to ensure efficient and sustainable natural drainage.

14. Prior to the first occupation of the Magnum building at least one electric vehicle charging point shall be installed. The charging points may be a dedicated electric vehicle charging socket, or a suitably rated three-pin socket capable of safely providing a slow charge to an electric vehicle via a domestic charging cable. The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles.

Reason: To take into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles.

Informatives:

1. In accordance with paragraph 38 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;
- offering a pre-application advice service,
 - as appropriate updating applicants/agents of any issues that may arise in the processing of their application
 - where possible suggesting solutions to secure a successful outcome,

In this instance the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

2. Any foul system discharging to ground in this area may require an environmental permit, unless it is discharging via a BS drainage field and meets the General binding rules for small scale sewage discharges.

<https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

If a permit is required the applicant should submit sufficient information to the EA to show that a permit could be achieved for this design of foul drainage in this locality. Discharges are not normally allowed in an SPZ1 or direct to groundwater in areas of shallow water tables. The information required to submit a permit application is on the .gov website under Environmental Permits, discharges to ground.

<https://www.gov.uk/government/publications/application-for-an-environmental-permit-part-b6-new-bespoke-water-discharge-activity-and-groundwater-point-source-activity>

Foul system discharges to ground in areas where there is a high water table will always be precluded and in these areas alternative arrangements for discharges to any available watercourses may be considered, if proposals meet the general binding rules. Where this is not possible an environmental permit may be required or foul arrangements will have to involve modern sealed cess pits, with tankering away of effluents on a regular basis.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (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 22/01862/AS

Contact Officer: Karen Fossett
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Telephone: (01233) 330253

Relevant section of the update report for the 17th August 2022 Planning Committee

(a) 21/01862/AS – Land at the Street and North of Court Lodge, The Street, Brabourne, Kent – Conversion and change of use to distillery (Sui Generis)

Information has been received about the new road signage limiting the lorry sizes along Canterbury road to those with a width no greater than 2.0m.

Additional representations have been received which highlight matters relating to the historic situation concerning the Magnum building and its perceived inadequacies which are not directly relevant to consideration of this planning application which is for a change of use of an existing building.

Para 8 requires clarification that the holiday let arrangements do not concern the main dwelling and relate only to one outbuilding on the site.

Para 29 should include reference to Policy ENV3b - Landscape Character and Design in the AONBs.

Revised schedule of conditions:-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3. The development approved shall be made available for inspection, at a reasonable time, by the local Planning authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

Reason: In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.

4. The ground floor of the Magnum building shall only be used for sui generis,

distillation purposes and no other alternative industrial purpose.

Reason: In the interests of the Local amenities of the area and the protection of the AONB.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out under Part 7, of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.

Reason: In the interests of protecting the character and amenities of the locality.

6. No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area/the environment and wildlife/local residents from light pollution.

7. No external storage shall occur on site unless a scheme has been submitted to and approved in writing by the Local Planning Authority. The storage shall then be carried out in accordance with the approved details.

Reason: In order to protect the visual amenities of the locality.

8. There shall be no servicing of the building, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded, within the application site before 9.00am; or after 17.00 hours Mondays to Fridays: and none on Saturdays or at any time on Sundays or Bank or Public Holidays.

Reason: To protect the residential amenity of the locality.

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

10. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

11. The use of the building shall not commence before the installation of arrangements to manage and dispose of the water and the residue from the distillation process in accordance with details to be submitted to and agreed by the Local Planning authority. Those arrangements shall thereafter be retained in operation for the duration of the use hereby approved.

Reason: to ensure the surface water and residues do not compromise the local drainage system in an unacceptable way or cause water pollution or cause detriment to the local wildlife, thereby compromising biodiversity in line with paragraph 170 of the NPPF.

12. The use shall not begin until details of the bicycle storage facilities showing a covered and secure space have been submitted to an approved in writing by the Local Planning Authority. The approved bicycle storage shall be completed prior to commencement of the use and shall thereafter be retained and available for use.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

13. Before the use commences the proposed parking area shall be surfaced in permeable materials in accordance with the details submitted in Block plan PL0(03) and that area shall not thereafter be used for any purpose other than for the parking and manoeuvring of vehicles.

Reason: To ensure the provision and retention of adequate off-street parking facilities for vehicles in the interests of highway safety and to ensure efficient and sustainable natural drainage.

14. Prior to the first occupation of the ground floor of the Magnum building at least one electric vehicle charging point shall be installed. The charging points may be a dedicated electric vehicle charging socket, or a suitably rated three-pin socket capable of safely providing a slow charge to an electric vehicle via a domestic charging cable. The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles.

Reason: To take into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles.

Annex 2 – Minutes of Committee Meeting dated 17 August 2022

Application Number	21/01862/AS
Location	Land at the Street and North of Court Lodge, The Street, Brabourne, Kent
Parish Council	Brabourne
Ward	Bircholt
Application Description	Conversion and change of use to distillery on ground floor (Sui Generis)
Applicant	The Wineburner LLP Martello Lodge Undercliff Sandgate, Folkestone, Kent, CT20 3AT
Agent	Ian Bull Consultancy Ltd 1 Mountbatten Way Brabourne Ashford, Kent, TN25 6PZ
Site Area	0.2ha

The Consultant Planning Officer gave a presentation, which included photographs and site plans, internal layouts, an outline of the proposed operation, and the perceived access issues. She referred the Committee to the Update Report, and added that, in very recent correspondence, the applicant and the agent had agreed to change the description of the application to refer specifically to the distillery being on the ground floor of the building. There was a further amendment to Condition 4, to delete 'and no other alternative industrial purpose' from the text. There was a further amendment to Condition 10, to add to it wording to the effect that once agreed, the arrangements shall be operated in accordance with the strategy and in perpetuity. On the Update Report itself, she also advised of an error in referring to paragraph 8, which should have referred to paragraph 9 instead. She thanked objectors, particularly Mr Armstrong, for his recent interesting submissions since the Agenda was published. She emphasised that the mezzanine level of the building, and the apron, would remain in farm use, as the application was for change of use of the ground floor of the building, for the proposed distillery.

In accordance with Procedure Rule 9.3, Mr Jonathan Armstrong, resident, was in attendance and delivered a speech in objection to the application.

In accordance with Procedure Rule 9.3, Mr Sebastian Barnick, applicant, was in attendance and delivered a speech in support of the application.

In accordance with Procedure Rule 9.3, Cllr William Harbottle, Chairman of Brabourne Parish Council, was in attendance and delivered a speech in objection to the application.

Resolved:

APPROVE subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the plans listed in the section of this decision notice headed Plans/Documents Approved by this decision, unless otherwise agreed by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

3. The development approved shall be made available for inspection, at a reasonable time, by the local Planning authority to ascertain whether a breach of planning control may have occurred on the land (as a result of departure from the plans hereby approved and the specific terms of this permission/consent/approval).

Reason: In the interests of ensuring the proper planning of the locality, the protection of amenity and the environment, securing high quality development through adherence to the terms of planning approvals and to ensure community confidence in the operation of the planning system.

4. The ground floor of the Magnum building shall only be used for sui generis, distillation purposes.

Reason. In the interests of the Local amenities of the area and the protection of the AONB.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out

under Part 7 of Schedule 2 of that Order (or any Order revoking and reenacting that Order), without prior approval of the Local Planning Authority.

Reason: In the interests of protecting the character and amenities of the locality.

6. No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area/the environment and wildlife/local residents from light pollution.

7. No external storage shall occur on site unless a scheme has been submitted to and approved in writing by the Local Planning Authority. The storage shall then be carried out in accordance with the approved details.

Reason: In order to protect the visual amenities of the locality.

8. There shall be no servicing of the building, no goods shall be loaded or deposited and no vehicles shall arrive, depart, be loaded or unloaded, within the application site before 9.00am; or after 17.00 hours Mondays to Fridays: and none on Saturdays or at any time on Sundays or Bank or public holidays.

Reason: To protect the residential amenity of the locality

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

10. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority. The use shall not commence until the arrangements so approved have been installed, and those arrangements shall thereafter be retained in operation and maintained for the duration of the use hereby approved.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

11. The use of the building shall not commence before the installation of arrangements to manage and dispose of the water and the residue from the distillation process in accordance with details to be submitted to and agreed by the Local Planning authority. Those arrangements shall thereafter be retained in operation for the duration of the use hereby approved.

Reason: to ensure the surface water and residues do not compromise the local drainage system in an unacceptable way or cause water pollution or cause detriment to the local wildlife, thereby compromising biodiversity in line with paragraph 170 of the NPPF.

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Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety

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Reason: To ensure the provision and retention of adequate off-street parking facilities for vehicles in the interests of highway safety and to ensure efficient and sustainable natural drainage.

14. Prior to the first occupation of the ground floor of the Magnum building at least one electric vehicle charging point shall be installed. The charging points may be a dedicated electric vehicle charging socket, or a suitably rated three-pin socket capable of safely providing a slow charge to an electric vehicle via a

domestic charging cable. The charging point shall thereafter be retained available, in a working order for the charging of electric vehicles.

Reason: To take into account the cumulative impacts of development on air quality and to encourage the use of sustainable transport modes including incorporation of facilities for charging plug-in vehicles.

Informatives:

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- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,

In this instance the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

2. Any foul system discharging to ground in this area may require an environmental permit, unless it is discharging via a BS drainage field and meets the General binding rules for small scale sewage discharges.

<https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-the-ground>

If a permit is required the applicant should submit sufficient information to the EA to show that a permit could be achieved for this design of foul drainage in this locality. Discharges are not normally allowed in an SPZ1 or direct to groundwater in areas of shallow water tables. The information required to submit a permit application is on the .gov website under Environmental Permits, discharges to ground.

<https://www.gov.uk/government/publications/application-for-an-environmental-permit-part-b6-new-bespoke-water-discharge-activity-and-groundwater-pointsource-activity>

Foul system discharges to ground in areas where there is a high water table will always be precluded and in these areas alternative arrangements for discharges to any available watercourses may be considered, if

proposals meet the general binding rules. Where this is not possible an environmental permit may be required or foul arrangements will have to involve modern sealed cess pits, with tankering away of effluents on a regular basis.