

Application Number	19/00356/AS	
Location	Oakover Nurseries, Maidstone Road, Westwell, Ashford, Kent, TN26 1AR	
Grid Reference	96829/46913	
Parish Council	Westwell	
Ward	Downs West	
Application Description	Removal of condition 31 on planning permission 16/01387/AS restricting occupation	
Applicant	Mr Sykes of Vatre Terracotta Limited, Dencora Way, Leacon Road, Ashford, Kent, TN23 4FH	
Agent	Mrs Locking of NTR Planning, Clareville House, 26-27 Oxendon Street, London, SW1Y 4EL	
Site Area	2.92 ha	
(a) 7/1R	(b) S	(c) -

Introduction

1. This application is reported to the Planning Committee because it is a major application.

Site and Surroundings

2. The application site forms part of Oakover Nurseries, a wholesale commercial grower of plants and trees for distribution throughout the country. It falls within the countryside for Development Plan purposes but is located in a semi-rural location on the westerly edge of Ashford along the A20 in Westwell. Opposite the site is the Hop Pickers public house and Holiday Inn hotel and two dwellings, with the M20 motorway running along the northern boundary and domestic and High Speed 1 (HS1) railway lines to the north east. The site is understood to have been used as a bulking plant for the construction of the M20 motorway and the existing access was originally created to accommodate contractors of the Channel Tunnel.
3. The site is largely open to the A20, with a 25m thick densely planted embankment to the motorway. A concrete track runs from the access through the site and this follows the HS1 safeguarding area. Within the centre of the

site is a small, low lying building and an area of hardstanding, used as a nursery selling are for produce from Oakover Nurseries. The remainder of the site is laid to grass, with a customer parking area just off the concrete track to the north.

4. A watercourse runs along the southern boundary of the site, linked to a balancing pond beyond the north eastern corner of the site with the motorway. There is a strip of native trees along the southern boundary with the neighbouring property Lake House/Banyan Retreat. The level of the land falls away slightly from west to east.
5. The site falls within the Charing Heath Farmlands Wealden Greensand Landscape Character Area (LCA) and the countryside beyond the motorway and railway links falls within the Kent Downs Area of Outstanding Natural Beauty (AONB). A key characteristic of the LCA is its major transport links, its condition and sensitivity are considered moderate and the guidelines for this area are to conserve and improve, including the conservation of the foreground setting of the Kent Downs AONB. The site also covers an area of archaeological potential and a High Speed 1 (HS1) safeguarding area runs through the site, following the existing access.

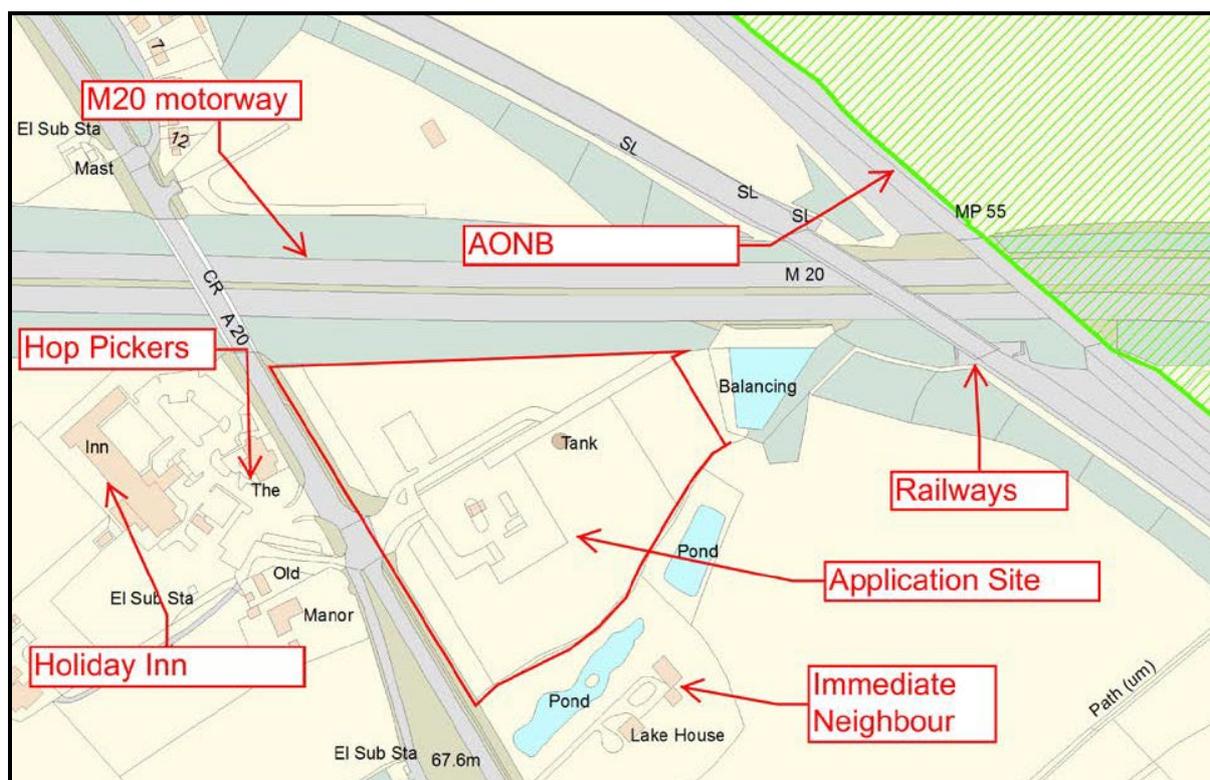


Figure 1 - Site Location Plan

Proposal

6. The application is made under S73A of the Town & Country Planning Act 1990 and seeks to remove condition 31 imposed on the granting of planning

approval 16/01387/AS. The permission granted was for the change of use of the land to B8 (storage and distribution), with the erection of a warehouse with hardstanding areas for car and HGV parking, goods loading/unloading area, turning area, pallet handling/sorting and pot storage and lighting of the site.

7. The above permission is extant and therefore the principle of the development has already been accepted. However, for the benefit of the committee, details of the proposed building are included below which have been taken from the original committee report for the site which is appended as annex 1 of this report.

Previously approved and extant permission – 16/01387/AS

8. The proposed warehouse would be sited along the northern boundary and dug into the ground, with a gross external footprint of 3025m² and height of 9.8m to the ridge and 7.2m to the eaves. The building would be rectangular in planform, with a clear spanning duo-pitched roof and clad with a profiled metal cladding system with concrete blocks at low level. Its windows would be rectangular, aluminium and double glazed and the south western corner of the building is to be glazed in curtain walling. The building would have a continuous ridge line, but its eaves are to be set lower in the warehouse section behind, and the roof would overhang the south elevation. Its accommodation would comprise ancillary office/reception space over two storeys totalling 448m² gross internal area and a principle open-span space of 2,680m² dedicated to the storage, sorting and selection of products prior to dispatch.

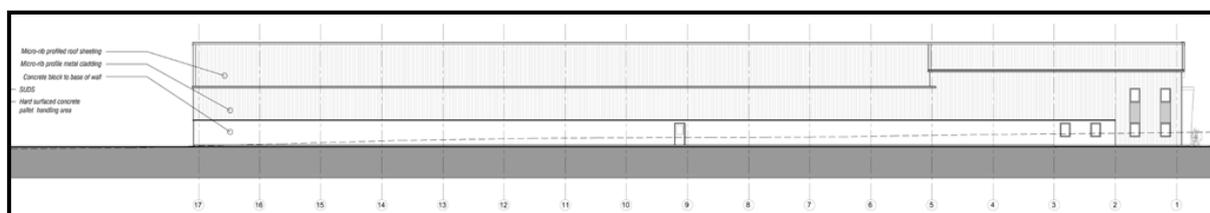


Figure 2 - West Elevation - previously approved – to remain unchanged



Figure 3 - North Elevation - previously approved – to remain unchanged

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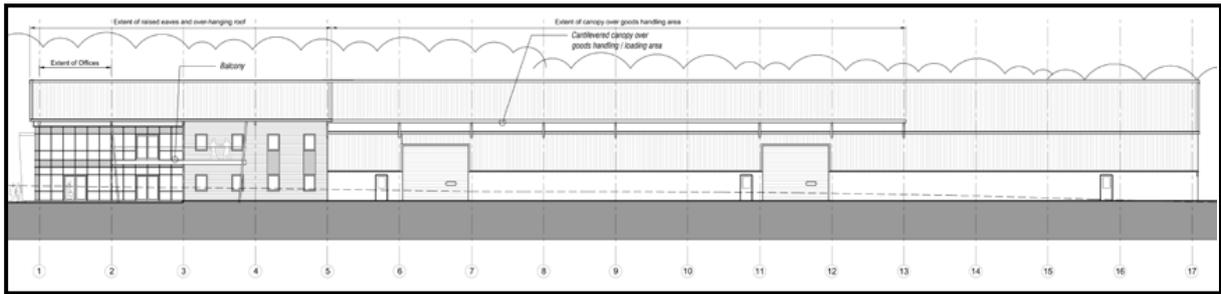


Figure 4 - South Elevation – previously approved – to remain unchanged



Figure 5 - East Elevation - previously approved - to remain unchanged

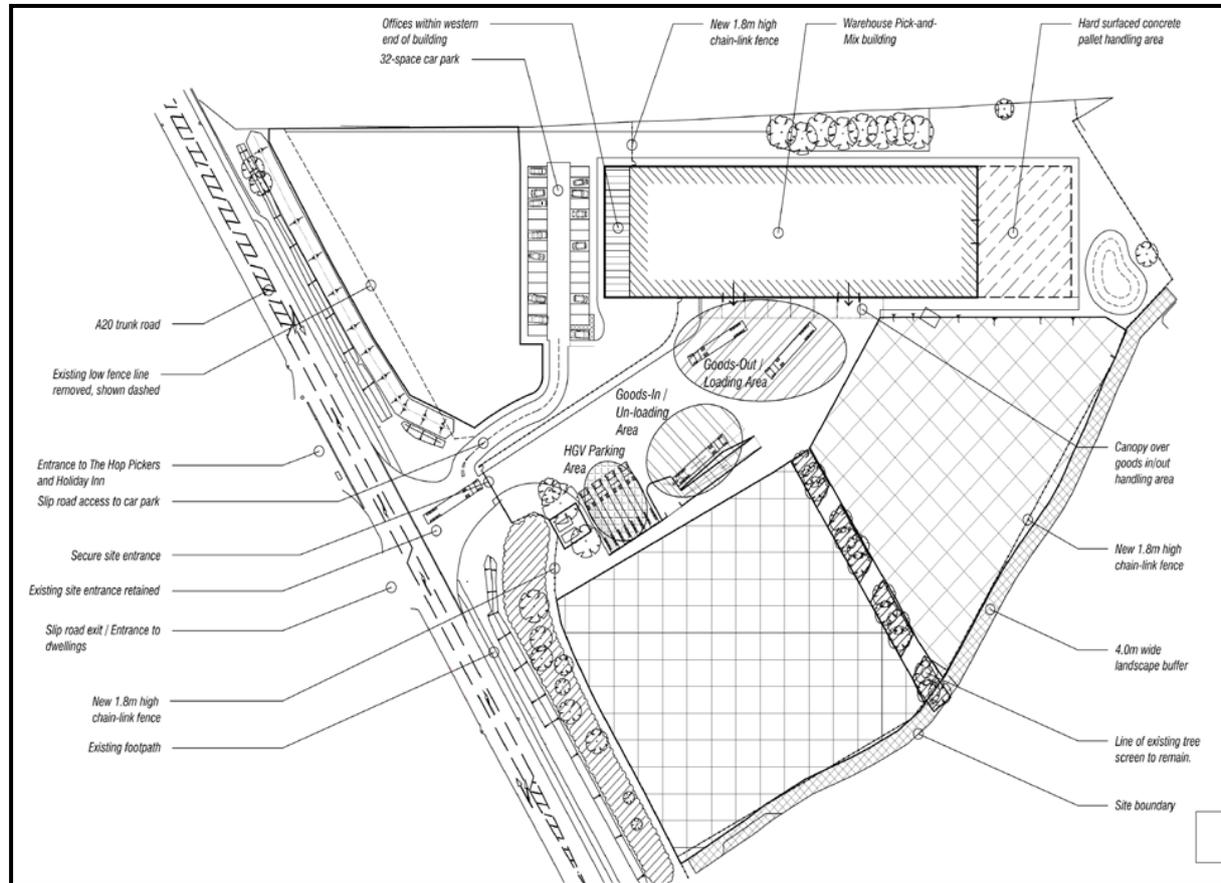


Figure 6 Site Layout Plan - previously approved - to remain unchanged

9. The existing access and hard-paved apron forms the site entrance and this would lead to a service yard in the centre of the site that would accommodate freight parking (with four HGV parking spaces) and turning, an unloading ramp/dock and a temporary pallet handling area. The western end of the proposed warehouse would open onto a concrete paved area to facilitate product sorting prior to its use in the warehouse and a small car park providing 32 spaces would be located on the opposite side (where a gabion wall 1.5-2m high is proposed and would continue behind the proposed warehouse). The opposite side of the central circulation area to the south would be dedicated to the open storage of palletised goods on a large area of hardstanding totalling 720m².
10. Lighting is proposed to key areas as required to support the safe operation of the business. Along the access road and around the car park would be 6m high floodlighting, with 8m high floodlighting proposed around the external storage area and service yard and 4m high floodlighting under the loading bay canopy to the front of the proposed warehouse. There would also be perimeter security LED lighting mounted at 3.8m high along the outside wall of the proposed warehouse. All floodlighting would be of a down facing and directional design, incorporating baffles where necessary to control light spillage.
11. The proposal includes a soft landscaping scheme, including a 3m high earth bund with tree planting ranging between 1.25m and 4.5m in height along the boundary with the A20. The site would be bound by 1.8m high chain link fencing with boundary planting and 2m high noise attenuation fencing is proposed along the southern boundary with the neighbour Lake House/Banyan Retreat. A new security gate would be installed to the existing access with a 1.5m high gabion wall either side, set back on the existing apron so that delivery vehicles can pull fully-off the highway before stopping. A pond is also to be created in the north eastern corner to the site, to take surface water run-off from the proposed warehouse and hardstanding.

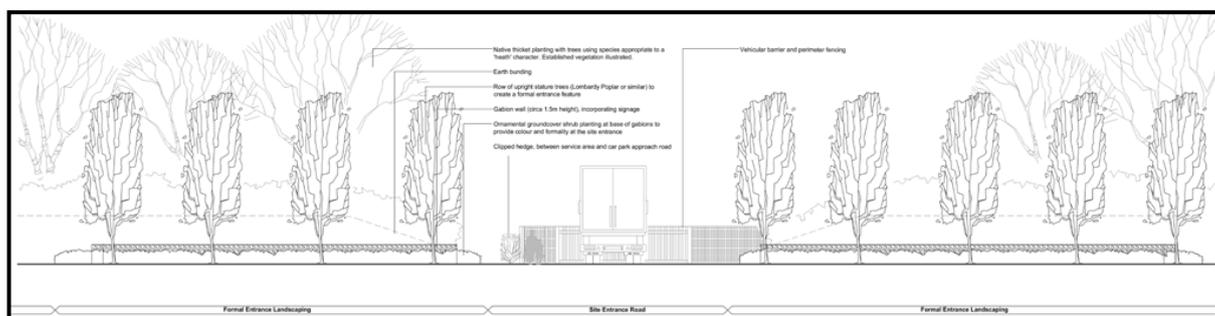


Figure 7 Site Entrance Elevation

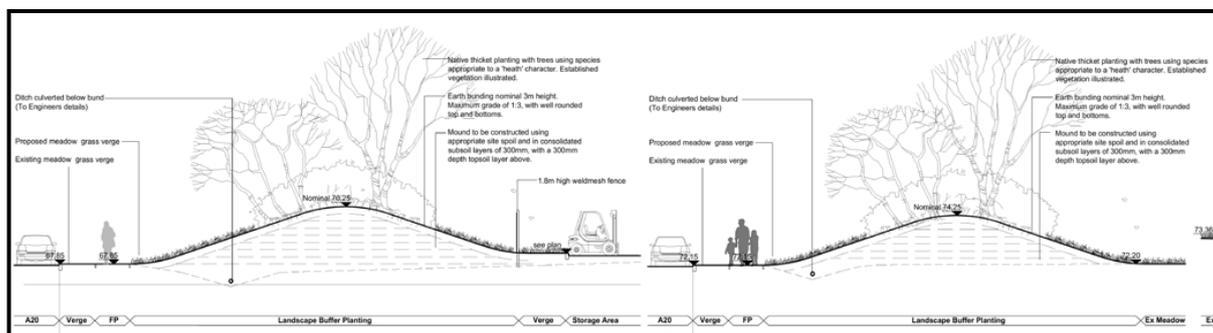


Figure 8 Bunding to South and North of Existing Access

12. The following supporting information was submitted in support of the application. The company submitting the application, Vatre Terracotta supplies flower pots and garden accessories to over 1000 garden centres and horticultural outlets throughout the UK and Ireland (the business has recently started selling its products to other countries).
13. The company was set up in 1985 and has been established in Ashford for over 30 years, currently operating from premises on Dencora Way, where its offices, yard and covered sorting space is based (the warehouse has a footprint of approximately 2145m²). In addition, a 1800m² building at Leacon Road has been leased for storing flower pots. The company has grown steadily into a successful and profitable business, turning over £13.5 million a year. The company employs 62 full-time staff (33 of which are located in Ashford) and has long-standing arrangements with several suppliers in Ashford, including third party logistics suppliers (Ace Transport) and equipment manufacturers (for example, Chart Stables). As well as its own brand, Apta, the company also manufactures and sells flower pots and associated products under license for several leading brands, including the Royal Horticultural Society (RHS) and Laura Ashley. The company has also recently been appointed as the exclusive license holder for the National Trust, and plans to introduce a National Trust range post relocation.
14. The reason behind the application is that the company has expanded significantly in recent years and their current premises is unable to hold sufficient stock on site and the packaging of products for distribution and the arrival and departure of delivery vehicles has become impractical. The short-term solution has been to rent an additional warehouse in Leacon Road but this is not considered sustainable. The company is keen to remain in Ashford.
15. In support of the original application which was approved, the agent made the following comments in the accompanying Supporting Planning Statement and Design and Access Statement:
 - the current situation the company faces is uneconomic and threatens the continued competitiveness of the business - the existing premises is overcrowded, limiting operational movements in and around the site;

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- stock must be located at a single location otherwise the company's operations become inefficient and more costly;
- the existing premises is overcrowded, limiting operational movements in and around the site;
- the company have spent considerable time and effort looking for alternative sites in Ashford but no suitable alternative to the development proposed has been identified;
- the site was identified as suitable in view of the synergy of the company with the landowners Oakover Nurseries, who retain a major land holding for their business as a wholesale commercial nursery - there are logistical advantages of locating adjacent to each other;
- there is an overwhelming and pressing need for the applicant's business to be relocated from its existing premises as it has outgrown its current location and the physical limits of the existing premises are making the company's current operation inefficient – this is stymieing future growth;
- the site is ideally located in terms of its accessibility to the highways network and its proximity to the existing site;
- the development would ensure that the company retains all of its current employees and allow potential for additional employment with future growth;
- a very important factor for the business is the need for a large warehouse with a large external hardstanding for storage, which is central to the company's business;
- not being able to relocate the business to a suitable site locally would restrain the growth of the business and the ability of the business to employ additional staff and increase its input into the local, regional and national economy;
- the proposed warehouse has been designed to appear more agricultural;
- the development represents the reuse of an existing commercial site and it has been set into the topography of the site;
- as per the ecology surveys carried out, there are no ecological reasons why the development should not be permitted;

- there is already substantial green screening between the site and the neighbouring Lake House/Banyan Retreat;
- as per the transport statement, there are no reasons why the proposals cannot be permitted on highways grounds;
- the applicant has liaised with the neighbour at Lake House/Banyan Retreat, who raised concerns relating to the limiting of noise at the weekends and the height of storage pallets adjacent to the boundary and the enhancement of existing boundary planting and fencing and in response to these:
 - it would be necessary to have some flexibility to allow some weekend working if required but the applicant is willing to limit this between 8am and noon on Saturdays with no working on Sundays or bank holidays; and,
 - the applicant is happy to limit the height of storage pallets on the boundary to a maximum of 3 in height (this equates to 5m);
- the proposed warehouse may have some attenuation benefit to the neighbouring Lake House/Banyan Retreat in creating a physical barrier from the current noise generated by the M20; and,
- the proposed warehouse is set back from the A20 to minimise its impact and also to optimise the remaining part of the site for any potential future use, thus ensuring that the land use is optimised.

Removal of condition

16. Condition 31 states:

The development hereby approved shall be first occupied by the applicant's business Vatre Terracota Limited.

Reason: *The development has been permitted on the basis of the needs of this particular business and the condition enables the Local Planning Authority to regulate and control the development in the interests of the amenity of the area.*

17. The application is made on the basis that the condition restricting the occupation of the building to the applicant only is a barrier to securing funding from the potential funders of the development. The difficulty relates to the risk of funding a development that is reliant upon being first occupied by a specific business. If, in the unlikely circumstances, Vatre Terracotta ceased trading during the build they would be unable to occupy the development as required by the condition leaving the funders with a partially completed building with little value due to the first occupation restriction.

18. One of the lenders approached has confirmed that the issue around the limited marketability of the site if for some reason they had to enter into possession due to either failure of the business or other issues which meant that the lender would have to sell the site. The condition would result in challenges which would be difficult to mitigate unless the condition was relaxed. It is also highlighted that any valuer/solicitor would, through the correct level of due diligence highlight that the condition would materially impact any valuation which is typically based on a "market value" and if the market is one company, then it restricts the value and in a worse-case scenario the site would become almost worthless with the current planning restrictions.
19. The use of conditions is outlined by the applicant within their submission. It is put forward that permission goes with the land and it is rarely appropriate to provide otherwise. It is further contended that the guidance was taken out of context on the basis of a permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. If the current applicant was unable to continue to trade or were unable to first occupy the approved building, it would be difficult for the Council to resist the removal of the condition for an alternative occupant if the alternative was that the premises would remain unused or unmarketable.

Planning History

16/01387/AS – Change of use from sui generis to B8 (storage and distribution) and erection of a warehouse with car parking, hardstanding, landscaping and lighting. – Permitted 05/06/2018

Consultations

Ward Member: Is a member of the Planning Committee.

Westwell Parish Council: supports with the following points made:

- Support the relocation from the current unsuitable site
- There was surprise at the condition as the Parish Council are sympathetic to the rationale for industrial premises moving to the rural area
- The plans respect the AONB
- Respect neighbouring uses
- The site access is on a major route

- The access is sensitive given the visibility and would be unsuitable for high frequency use or by unfamiliar traffic. The proposed user would meet this criterion and is an acceptable use for the site. Occupancy by others would require an appropriate condition.
- Since the planning application was approved on 30 May 2018, the Local Plan has been adopted
- Traffic orders restrict overnight parking in the locality
- Conditions for other users of the site would be required to protect amenity and other difficulties
- Conditions to restrict to one B8 storage and distribution business to avoid multiple occupancy in the interest of highway safety and amenity
- Sufficient parking must be provided as required under TRA3b and in respect of TRA9
- Permitted development rights should be removed

7 Neighbours consulted: 1 objection received from the Holiday Inn opposite the site which raises the following points:

- The condition was imposed on the basis of the needs of this business
- Removal would mean this land could be sold to anyone and used as a warehouse generating additional lorry movements
- Result in excessive noise for hotel guests
- Highway safety issues

Planning Policy

20. 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) and the Kent Minerals and Waste Local Plan (2016).
21. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).

22. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Local Plan to 2030

SP1 - Strategic Objectives

SP3 - Strategic Approach to economic Development

SP6 - Promoting High Quality Design

EMP5 – New Employment remises in the Countryside

EMP6 - Promotion of Fibre to the Premises (FTTP)

TRA3b - Parking Standards for Residential Development

TRA7 – The Road Network and Development

TRA8 – Travel Plans, Assessments and Statements

TRA9 – Planning for HGV movements

TRA7 - The Road Network and Development

ENV1 - Biodiversity

ENV3a - Landscape Character and Design

ENV4 - Light pollution and promoting dark skies

ENV6 – Flood Risk

ENV9 - Sustainable Drainage

ENV11 – Sustainable Design and Construction – non-residential

ENV15 – Archaeology

Supplementary Planning Guidance/Documents

Landscape Character Assessment SPD 2011

Sustainable Design and Construction SPD 2012

Sustainable Drainage SPD 2010

Dark Skies SPD 2014

Kent Downs AONB Management Plan 2014-2019

Government Advice

National Planning Policy Framework (NPPF) 2019

23. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says 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:-
24. Paragraph 83 states that planning policies and decisions should enable sustainable growth and expansion of all types of business in rural areas including well-designed new buildings.
25. Paragraph 84 goes on to outline that it should be recognises that sites to meet local business and community needs in rural areas may have to found adjacent to or beyond existing settlements, and in locations that are well served by public transport. It is important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads.
26. Paragraph 109 states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
27. Paragraph 163 states that development should ensure that flood risk is not increased elsewhere.
28. Paragraph 170 states that the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services should be included in the decision making process.
29. Paragraph 189 outlines the requirement for applicants to submit a desk-based assessment and where necessary a field evaluation for sites where the proposal includes or has the potential to include, heritage assets with archaeological interest. Paragraphs 192-194 outlines the requirement to assess the impact of a proposed development on the significance of a designated heritage assets. It goes on to state:

great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any

harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

National Planning Policy Guidance (NPPG)

Assessment

30. The main issues for consideration in the determination of this application are:
- Principle
 - Visual amenity
 - Residential amenity
 - Parking/turning & Highway safety
 - Other issues ie. flooding and drainage, ecology, trees, archaeology, HS1 safeguarding

Principle

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraphs 2 and 11 of the NPPF state that planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
32. As outlined earlier in this report, there is an extant permission for the development under 16/01387/AS. The permission granted was for the change of use of the land to B8 (storage and distribution), with the erection of a warehouse with hardstanding areas for car and HGV parking, goods loading/unloading area, turning area, pallet handling/sorting and pot storage and lighting of the site. This application seeks to remove condition 31 regarding the occupation of the site for the reasons outlined earlier in this report.
33. Condition 31 was imposed as the proposed development was very much designed to meet the specific needs of the applicant (i.e. large external storage areas and good access to major routes for logistical purposes) and because it was sited within the Countryside. Whilst the business has a close synergy with garden centre/nursery use it does not strictly speaking essentially need to be located in the countryside and the original permission was a departure from adopted/emerging development plan policies at the time.
34. It is a material consideration that planning permission was granted on the basis of the above and that this permission is extant. Whilst this application seeks to remove this condition, which at the time of determination was

considered necessary to make the development acceptable as it was predicated on meeting the needs of the end user, it is clear that this cannot be delivered which would put at risk the continued operation of this business and employment. Further it could be deemed that the condition as a result is unreasonable and therefore fails to meet the 6 tests for the imposition of conditions. The NPPF and development plan are very supportive of appropriate growth of businesses and it has been subsequently demonstrated that condition 31 fails to allow for this.

35. Notwithstanding the above the site has been designed to very specifically meet the operational needs of the applicant's business with the custom-built and unique layout of the building and the site layout with extensive areas of external storage. This is unlikely to appeal to general storage and distribution businesses or indeed meet their operational needs. It is for this reason, despite extensive research, that an existing site that can meet their very specific operational needs has not been found. Consequently this is not a site that has been designed to appeal to speculative developers.
36. The proposed development would remain a departure from the development plan but condition 31 does not add any weight to this. In any event condition 31 would have allowed the site to be sold on to a general storage and distribution user once the applicant's business had first occupied the site.
37. In the context of all of the above considerations removal of condition 31 is unlikely to result in this site being desirable to a speculative developer but will allow the applicant to build what has previously been granted and ensure the retention of a growing business within the Borough. In this context it is not considered that removal of condition 31 would make the scheme unacceptable to warrant refusal of this application.

Visual amenity

38. There is no change proposed to the design of the building or layout of the service yard, vehicular access or parking/storage areas to that which was approved under 16/01387/AS. See appended report in Annex 1. Whilst this report makes reference to the emerging Local Plan policies at paragraph 35, these allocations were deleted prior to the adoption of the Local Plan but not on grounds of visual harm to the character of the area but due to their location and accessibility to basic day-to-day services without the reliance on the private motor car. This materially alters the conclusion previously reached with respect to the changes to the character of the area as a result of potential residential development outlined in the previous report. However, given the context of the site in close proximity to the M20 and rail corridor and surrounding build development, together with the bunding and landscaping proposed, it is not considered that there would be significant visual harm to warrant refusal in the absence of these site allocations in the Plan.

Residential amenity

39. There is no change proposed to the design of the building or layout of the service yard, vehicular access or parking/storage areas to that which was approved under 16/01387/AS. There has also been no change in terms of context since this report and therefore no harm to residential amenity. Although it is noted there is concern raised by the Holiday Inn on the opposite side of the A20, this situation remains unchanged from the conclusion reached under the original application. See appended report in Annex 1.

Parking/turning & Highway safety

40. There is no change proposed to the design of the building or layout of the service yard, vehicular access or parking/storage areas to that which was approved under 16/01387/AS. Sufficient parking is provided on site in accordance with the adopted Local Plan policies and it is not considered that there would be harm to parking/turning or highway safety. See appended report in Annex 1.

Other issues

41. As outlined in the three sections above, the proposed development would not alter the conclusions reached under the original assessment made under 16/01387/AS. See appended report in Annex 1. Notwithstanding this, the previously approved development was considered against the old development plan polices, including policy CS10 for Sustainable Design and Construction and as a result, a S106 agreement secured contributions towards Carbon Off-setting contributions to enable compliance with this now superseded policy. This has since been superseded and policy ENV11 requires a BREEAM standard for sustainable construction which can be secured by way of condition. This can be imposed should members consider the removal of condition 31 acceptable.

Human Rights Issues

42. 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

43. 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

44. The proposal fails to accord with the whole of the development plan in so far as the site is a departure from policy EMP5 given that the site is within the countryside and the business does not arguably essentially demand a rural location (although finding a site in the urban area to meet the business's specific requirements has not been possible despite years of research).
45. It is a material consideration that planning permission was granted and that this permission is extant, so the principle of development has already been accepted. Whilst this application seeks to remove condition 31, the custom-built and unique layout of the building and site layout specifically lend themselves to the applicant's business needs (as opposed to a speculative development to raise land values) and therefore it is highly unlikely that the site would be desirable to a general storage and distribution operator under Use Class B8 of the Town & Country Planning (Use Classes Order) 1987.
46. The difficulty in securing funding for the proposed development has been evidenced and this is caused solely by condition 31 as explained in the report. The removal of this condition will allow the development to proceed and allow for the retention and growth of a local employer in the Borough in accordance with the principles set out in the NPPF and Local Plan for the supporting of existing businesses. The original application was a departure from the development plan and this likewise remains so. The removal of Condition 31 for the reasons set out in the report does not result in a greater departure from the development plan. As a consequence I recommend that condition 31 is removed and permission is granted.

Recommendation

- (A) Subject to delegated authority to either the Head of Planning and Development or the Development Control Managers to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as s/he sees fit.**
- (B) Permit**

Subject to the following conditions and informative notes:

Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision on planning approval 16/01387/AS (dated 05/06/2018).

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. Written details and samples (including colour) of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the dwellings hereby permitted and the development shall only be carried out using the approved external materials.

Reason: In the interests of visual amenity.

5. The premises/site shall be used for B8 (storage and distribution) and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 or any Order revoking or re-enacting that Order.

Reason: In order to preserve the amenity of the locality.

6. No new floor space shall be created inside the warehouse hereby approved without the prior written consent of the local planning authority.

Reason: To enable the Local Planning Authority to regulate and control the development of land and to protect the amenity of the locality.

7. The office on approved Warehouse & Office - Ground & First Floor Plans Drawing No. 15.17.010 Rev D shall not be occupied at any time other than for purposes ancillary to the B8 (storage and distribution) use hereby approved.

Reason: To enable the Local Planning Authority to regulate and control the proposed development in the interests of the amenity of the area.

8. The site shall not be used at any time for the sale or display of goods stored and distributed on site.

Reason: To enable the Local Planning Authority to regulate and control the proposed development in the interests of the amenity of the area.

9. Industrial processing shall only take place in the building identified on the approved plans.

Reason: In order to preserve the visual character of the property and the amenity of the surrounding area.

10. No external storage of materials shall take place outside the area specified for that use on approved Block Plan Drawing No. 15.17.003 Rev I and Proposed Site Plan Drawing No. 15.17.005 Rev C. The height of any storage within that area shall not exceed 5 metres above ground level.

Reason: To enable the Local Planning Authority to regulate and control the proposed development in the interests of the amenity of the area.

11. All forklifts operated on site shall be 'low-noise' electric models only and not be fitted with tonal reversing 'bleepers' but rather alternative broadband alert 'bleepers' or where permissible non-auditory safe systems of work, shall be used.

Reason: In the interests of preserving the amenity of the neighbouring Lake House/Banyan Retreat.

12. No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside 07:00-19:00 Mondays to Fridays and 07:00-12:00 Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the residential amenity.

13. Prior to the commencement of development, details of the works for the disposal of sewage and foul water shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To avoid pollution of the surrounding area.

14. Prior to the commencement of the development hereby approved, plans and particulars of a sustainable drainage system (including the details below) for the disposal of the site's surface and foul water based on the principles set out in the approved Flood Risk Assessment by GTA Civils Ltd Ref: 3540/2.3F dated July 2016 and Drainage Strategy Drawing No. 6240/100 Rev A and in line with the Council's Sustainable Drainage SPD shall be submitted to and approved in writing by the Local Planning Authority.

The submitted system shall be designed to:

- (i) avoid any increase in flood risk,
- (ii) avoid any adverse impact on water quality,
- (iii) achieve a reduction in the run-off rate in accordance with the Ashford Borough Council Sustainable Drainage SPD document, adopted October 2010,
- (iv) promote biodiversity,
- (v) enhance the landscape,
- (vi) improve public amenities,
- (vii) return the water to the natural drainage system as near to the source as possible and,
- (viii) operate both during construction of the development and post-completion.

The submitted system shall include:

- A system that comprises retention or storage of the surface water on-site or within the immediate area in a way which is appropriate to the site's location, topography, hydrogeology and hydrology;
- a plan indicating the routes flood waters would take should the site experience a rainfall event that exceeds the design capacity of the surface water drainage system, or in light of systems failure (Designing for exceedance), including appropriate mitigation measures and emergency response procedures;
- details of the implementation, maintenance and management of the approved system, including:
 - a timetable for its implementation; and,
 - a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The approved system shall thereafter be carried out in accordance with the approved details and timetable and shall be maintained in accordance with the approved details.

Reason: In order to reduce the impact of the development on flooding, manage run-off flow rates, protect water quality and improve biodiversity and the appearance of the development pursuant to Local Plan policy ENV9.

15. Visibility splays of 200m in the southerly direction and 160m in the northerly direction, within which there shall be no obstruction in excess of 0.9 metres in height above the carriageway edge, shall be provided at the access before the development commences and the splays shall be so maintained at all times.

Reason: In the interests of highway safety.

16. Prior to works commencing on site, details of parking for site personnel/visitors as well as details of loading/unloading and turning areas for construction traffic shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be provided and retained throughout the development. The approved parking, loading and turning areas shall be provided prior to the commencement of development.

Reason: To ensure provision of adequate parking, loading and turning facilities for vehicles in the interests of highway safety and to protect the amenities of local residents in accordance with policy.

17. Prior to the commencement of development, details of facilities, by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances at the application site, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall then be provided prior to the works commencing on site and thereafter shall be maintained in an effective working condition and used before vehicles exit the site and enter onto the adopted highway for the duration of the construction works.

Reason: To ensure that no mud or other material is taken from the site onto the neighbouring highway by wheels of vehicles leaving the site to the detriment of highway safety and the amenities of local residents.

18. The vehicle parking/turning and loading/unloading areas as shown on approved Block Plan Drawing No. 15.17.003 Rev I, Proposed Site Plan Drawing No. 15.17.005 Rev C, Proposed Good Handling Plan Drawing No. 15.17.006 Rev B and Loading ramp and stage details Drawing No. 15.17.020 shall be provided prior to the development to which they relate being occupied and the facilities shall be retained for ancillary parking and loading/unloading use and access thereto shall not be precluded.

Reason: To ensure the provision and retention of adequate off-street parking/turning and loading/unloading facilities in the interests of highway safety.

19. The development shall be carried out in accordance with the recommendations in the approved Preliminary Ecological Appraisal by KB Ecology Ref No 2015/08/04 dated 08th September 2015 and any license issued by Natural England unless otherwise agreed in writing by the Local Planning Authority and Natural England and the approved replacement habitats shall remain in situ.

Reason: To protect existing populations of protected species on the site.

20. Prior to the commencement of the development hereby approved, details of a scheme for the protection and enhancement of biodiversity on the site, including the provision of bat and bird boxes, sparrow terraces and amphibian hibernacula adjacent to the new pond, the use of native species in landscaping and the incorporation of features beneficial to wildlife such as ponds and wildflower planning, together with details of the timing/phasing of the respective elements forming the scheme and proposed management arrangements, shall be submitted to and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved details, with any amendments agreed in writing.

Reason: In the interests of enhancing the biodiversity of the site.

21. Prior to the commencement of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) detailing the landscaping and ecological design and management for the site shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:
- purpose and conservation objectives of the landscaping and ecological design, including the creation of the reptile receptor area;
 - timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - description and evaluation of features to be managed;
 - aims and objectives of management, including the long-term management of the of the reptile receptor area;
 - appropriate management prescriptions for achieving aims and objectives;
 - preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - details of the body(/ies) or organisation(s) responsible for implementation of the LEMP; and,
 - ongoing monitoring and remedial measures.

Reason: In the interests of maintaining the biodiversity of the site enhanced as part of the development.

22. The landscaping scheme shown on approved Landscape Proposals Drawing No. MHS157/16-G01 and Landscape Sections Drawing No. MHS157/16-C61 shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.

Reason: In order to protect and enhance the amenity of the area.

23. The development shall be carried out in accordance with the details of levels, earth bunds and fencing shown on approved Block Plan Drawing No. 15.17.003 Rev I, Proposed Site Plan Drawing No. 15.17.005 Rev C, Site Section B-B Drawing No. 15.17.004 Rev B, Site Section - A/A Drawing No. 15.17.015 Rev A, Landscape Proposals Drawing No. MHS157/16-G01 Rev C and Landscape Sections Drawing No. MHS157/16-C61 Rev A unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

24. The development shall be carried out in accordance with the hard and soft landscaping shown on approved Landscape Proposals Drawing No. MHS157/16-G01 and Landscape Sections Drawing No. MHS157/16-C61 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

25. No external lighting shown on the submitted plans shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority. This submission shall include;-

(i) a layout plan with beam orientation and a schedule of lighting equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles).

(ii) the use of time switches and PIR to switch off lighting outside the permitted operating hours set out in condition 11.

(iii) the approach to security lighting/task lighting outside the permitted operating hours set out in condition 11.

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.

26. The development shall be carried out in accordance with the recommendations in the Noise Impact Assessment by MRL Acoustics Report No. MRL/100/1026.2v1 dated July 2017 unless otherwise agreed in writing.

Reason: In the interests of preserving the amenity of the neighbouring Lake House/Banyan Retreat.

27. Prior to the commencement of the development hereby approved, details of an acoustic barrier to be erected along the southern boundary of the site, including details of its ongoing maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The fence shall then be erected in accordance with the approved details before the first use of the site and shall be subsequently permanently retained and maintained in an effective condition.

Reason: In the interests of preserving the amenity of the neighbouring Lake House/Banyan Retreat.

28. The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:
- All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with BS 5837:2012, (Trees in relation to design, demolition and construction - recommendations) and in accordance with the approved Pre-development Tree Survey and Report and accompanying Tree Protection Plan and Arboricultural Method Statement, to the satisfaction of the Local Planning Authority. Such tree protection measures shall remain throughout the period of construction;
 - No fires shall be lit within the spread of branches or downwind of the trees and other vegetation;
 - No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
 - No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;
 - Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.
 - No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

29. Any existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. Any existing hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any parts of hedges or hedgerows removed without the Local Planning Authority's prior consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing hedges or hedgerows.

30. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

31. a) The building shall be built to at least a minimum BREEAM 'Very Good' standard, with at least a 40% improvement in water consumption against the baseline performance of the building (Wat1, 3 credits).

(b) Within 6 months of the completion of the building, hereby approved, a report based on BREEAM standards shall be submitted to and approved in writing by the Local Planning Authority confirming the minimum BREEAM standard mentioned in (a) has been achieved.

Reason: In accordance with the NPPF and policy ENV11 of the Ashford Borough Local Plan 2030

32. The building hereby approved shall not be subdivided in any way to facilitate the use of the site by another business or persons.

Reason: To prevent the intensification of the use of the site by another to the detriment of the amenity of the locality.

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

within Classes H and J; of 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

Working with the Applicant

1. 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 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,
 - informing applicants/agents of any likely recommendation of refusal prior to a decision and,
 - by adhering to the requirements of the Development Management Customer Charter.

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. It is the responsibility of the applicant to ensure that before the development hereby approved is commenced, all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
 3. The applicant's attention is drawn to the advice and guidance contained in the Environment Agency's letter dated 06 October 2016, KCC Flood and Water Management's letter dated 4 October 2016, Southern Water's letter dated 29/09/16 and the Rover Stour Internal Drainage Board's email dated 04 October 2016 under planning approval 1601387/AS.

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 19/00356/AS)

Contact Officer: Rob Bewick
Email: rob.bewick@ashford.gov.uk
Telephone: (01233) 330683

Application Number	16/01387/AS
Location	Oakover Nurseries, Maidstone Road, Westwell, Ashford, Kent, TN26 1AR
Grid Reference	96829/46913
Parish Council	Westwell
Ward	Downs West
Application Description	Change of use to B8 (storage and distribution) and erection of a warehouse with car parking, hardstanding, landscaping and lighting
Applicant	Mr Sykes of Vatre Terracotta Limited, Dencora Way, Leacon Road, Ashford, Kent, TN23 4FH
Agent	Mrs Locking of NTR Planning, Clareville House, 26-27 Oxendon Street, London, SW1Y 4EL
Site Area	2.92ha

(a) 15/1R	(b) Hothfield - R Westwell - R	(c) KCCD - + EA - X IDB - + Drainage - X CPRE - R ND AONB - R EH (C) - + KCC Eco - + KH&T - X NR - X HS1 - + EH (C) - X
15/-		

Introduction

1. This application is reported to the Planning Committee as it is a major application.

Site and Surroundings

2. The application site forms part of Oakover Nurseries, a wholesale commercial grower of plants and trees for distribution throughout the country. It falls within the countryside for Development Plan purposes but is located in a semi-rural location on the westerly edge of Ashford along the A20 in Westwell. Opposite the site is the Hop Pickers public house and Holiday Inn hotel and two dwellings, with the M20 motorway running along the northern boundary and domestic and High Speed 1 (HS1) railway lines to the north east. The site is understood to have been used as a bulking plant for the construction of the M20 motorway and the existing access was originally created to accommodate contractors of the Channel Tunnel.
3. The site is largely open to the A20, with a 25m thick densely planted embankment to the motorway. A concrete track runs from the access through the site and this follows the HS1 safeguarding area. Within the centre of the site is a small, low lying building and an area of hardstanding, used as a nursery selling are for produce from Oakover Nurseries. The remainder of the site is laid to grass, with a customer parking area just off the concrete track to the north.
4. A watercourse runs along the southern boundary of the site, linked to a balancing pond beyond the north eastern corner of the site with the motorway. There is a strip of native trees along the southern boundary with the neighbouring property Lake House/Banyan Retreat. The level of the land falls away slightly from west to east.
5. The site falls within the Charing Heath Farmlands Wealden Greensand Landscape Character Area (LCA) and the countryside beyond the motorway and railway links falls within the Kent Downs Area of Outstanding Natural Beauty (AONB). A key characteristic of the LCA is its major transport links, its condition and sensitivity are considered moderate and the guidelines for this area are to conserve and improve, including the conservation of the foreground setting of the Kent Downs AONB. The site also covers an area of archaeological potential and a High Speed 1 (HS1) safeguarding area runs through the site, following the existing access.
6. A site location plan is attached as Annex 1.

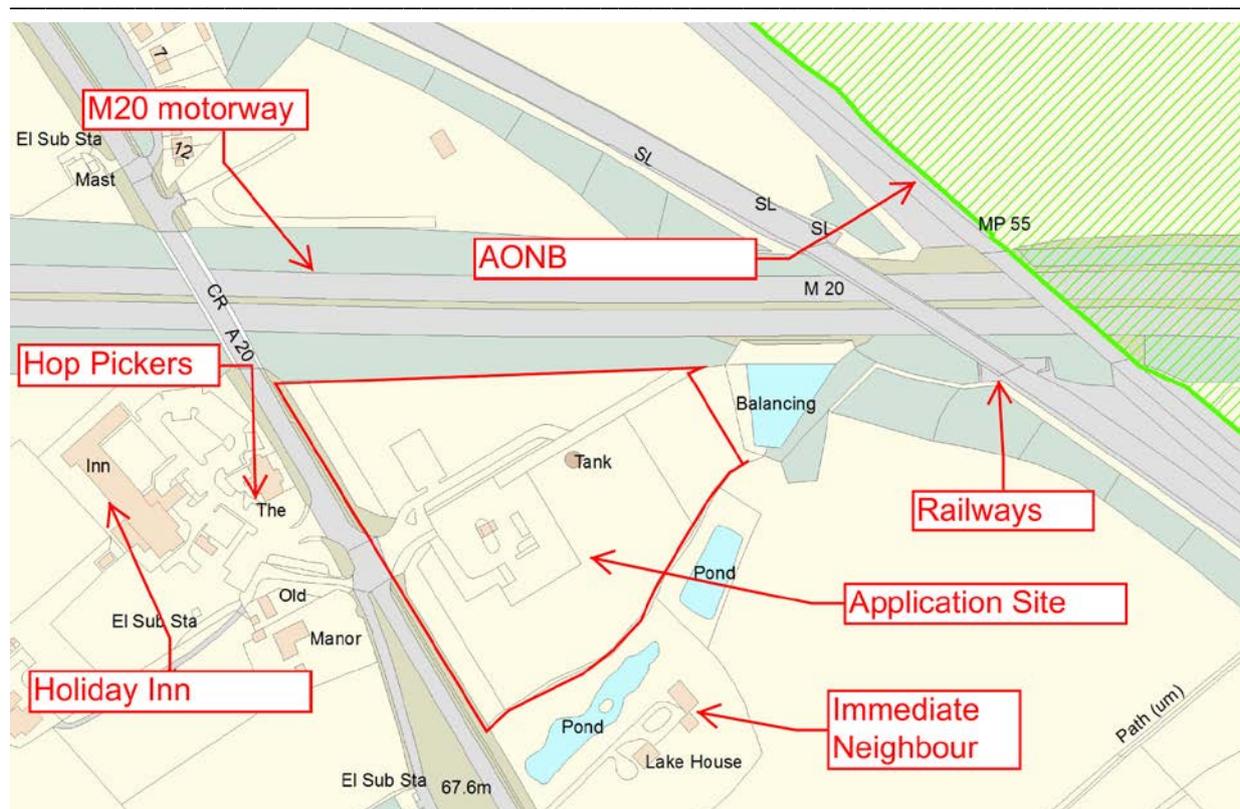


Figure 1: Location plan

Proposal

7. Full planning permission is sought for the change of use of the land to B8 (storage and distribution), with the erection of a warehouse with hardstanding areas for car and HGV parking, goods loading/unloading area, turning area, pallet handling/sorting and pot storage and lighting of the site.
8. The proposed warehouse would be sited along the northern boundary and dug into the ground, with a gross external footprint of 3025m² and height of 9.8m to the ridge and 7.2m to the eaves. The building would be rectangular in planform, with a clear spanning duo-pitched roof and clad with a profiled metal cladding system with concrete blocks at low level. Its windows would be rectangular, aluminium and double glazed and the south western corner of the building is to be glazed in curtain walling. The building would have a continuous ridge line, but its eaves are to be set lower in the warehouse section behind, and the roof would overhang the south elevation. Its accommodation would comprise ancillary office/reception space over two storeys totalling 448m² gross internal area and a principle open-span space of 2,680m² dedicated to the storage, sorting and selection of products prior to dispatch.

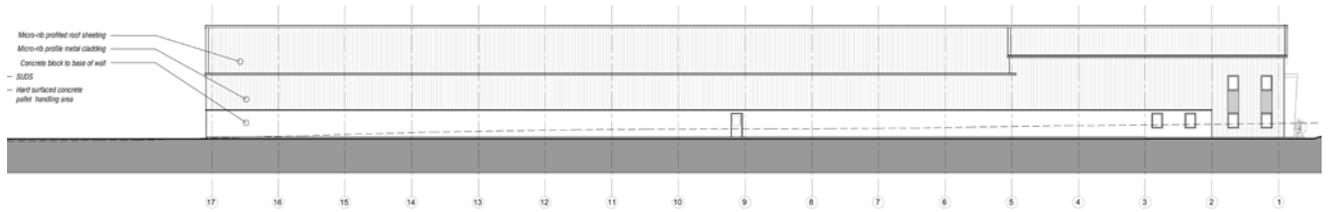


Figure 2: West elevation



Figure 3: North elevation

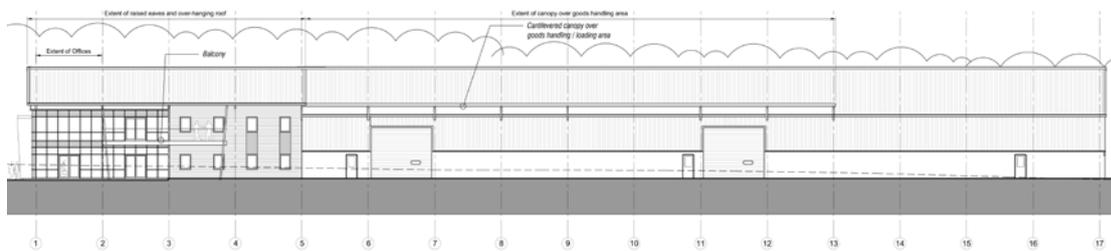


Figure 4: South elevation



Figure 5: East elevation

Figure 6: Section across northern part of site

9. The existing access and hard-paved apron forms the site entrance and this would lead to a service yard in the centre of the site that would accommodate freight parking (with four HGV parking spaces) and turning, an unloading ramp/dock and a temporary pallet handling area. The western end of the proposed warehouse would open onto a concrete paved area to facilitate product sorting prior to its use in the warehouse and a small car park providing 32 spaces would be located on the opposite side (where a gabion wall 1.5-2m high is proposed and would continue behind the proposed warehouse). The opposite side of the central circulation area to the south would be dedicated to the open storage of palletised goods on a large area of hardstanding totalling 720m². This area would be divided into roughly two

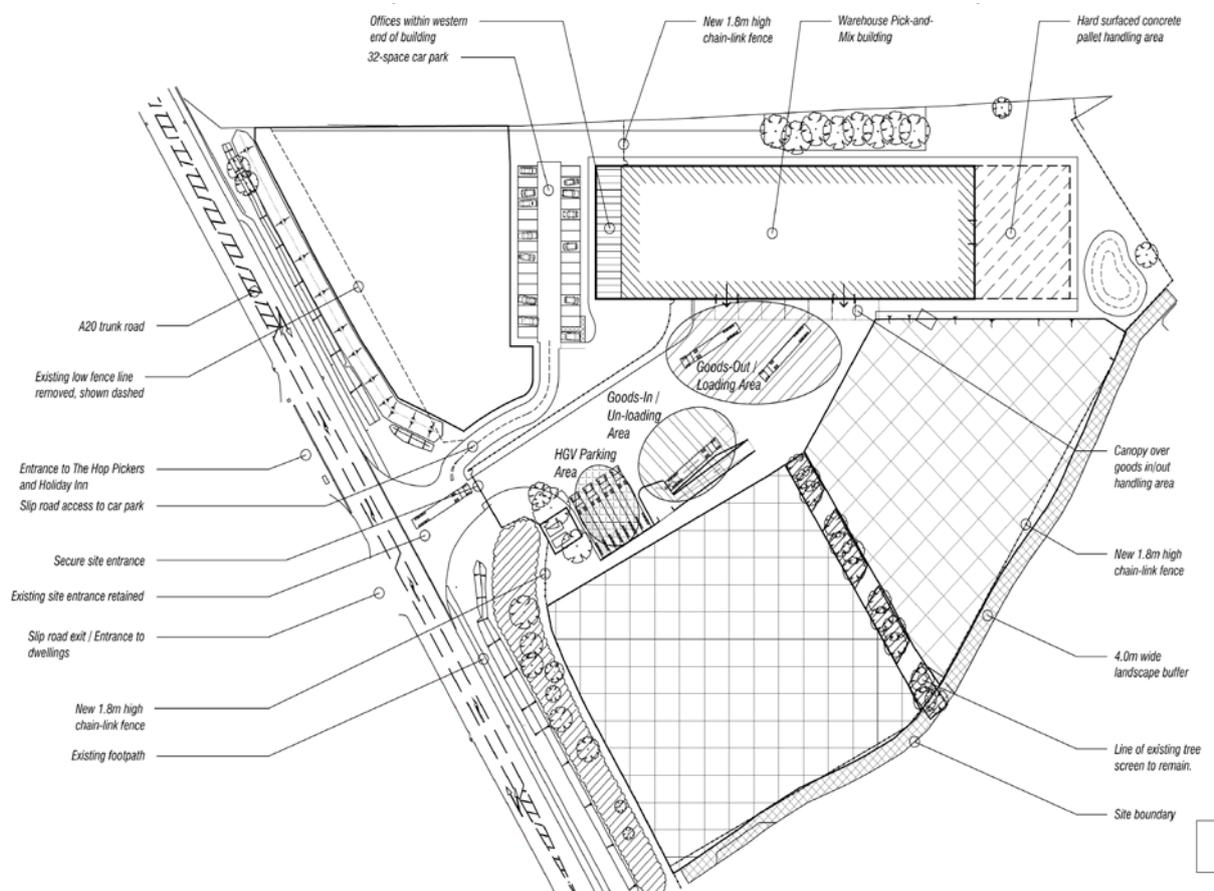


Figure 7: Block Plan

10. Lighting is proposed to key areas as required to support the safe operation of the business. Along the access road and around the car park would be 6m high floodlighting, with 8m high floodlighting proposed around the external storage area and service yard and 4m high floodlighting under the loading bay canopy to the front of the proposed warehouse. There would also be perimeter security LED lighting mounted at 3.8m high along the outside wall of the proposed warehouse. All floodlighting would be of a down facing and directional design, incorporating baffles where necessary to control light spillage. A copy of this plan will be displayed at the meeting.

11. The proposal includes a soft landscaping scheme, including a 3m high earth bund with tree planting ranging between 1.25m and 4.5m in height along the boundary with the A20. The site would be bound by 1.8m high chain link fencing with boundary planting and 2m high noise attenuation fencing is proposed along the southern boundary with the neighbour Lake House/Banyan Retreat. A new security gate would be installed to the existing access with a 1.5m high gabion wall either side, set back on the existing apron so that delivery vehicles can pull fully-off the highway before stopping. A pond is also to be created in the north eastern corner to the site, to take surface water run-off from the proposed warehouse and hardstanding.

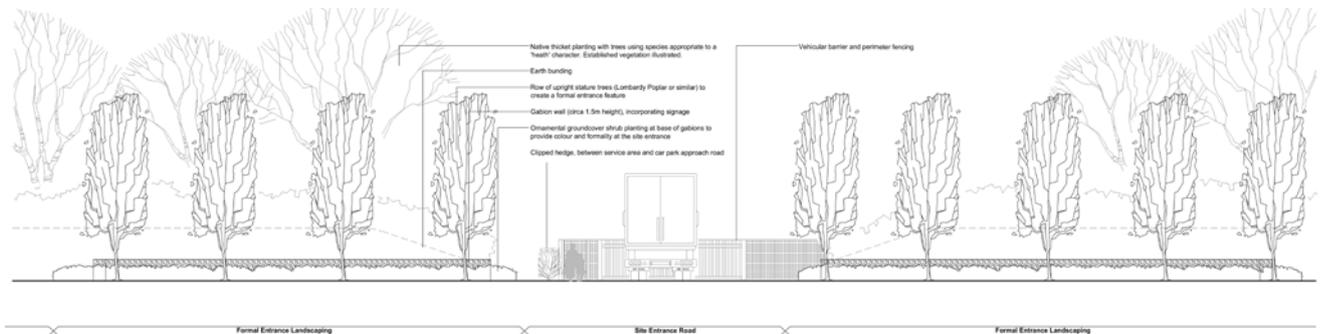


Figure 8: Site entrance elevation

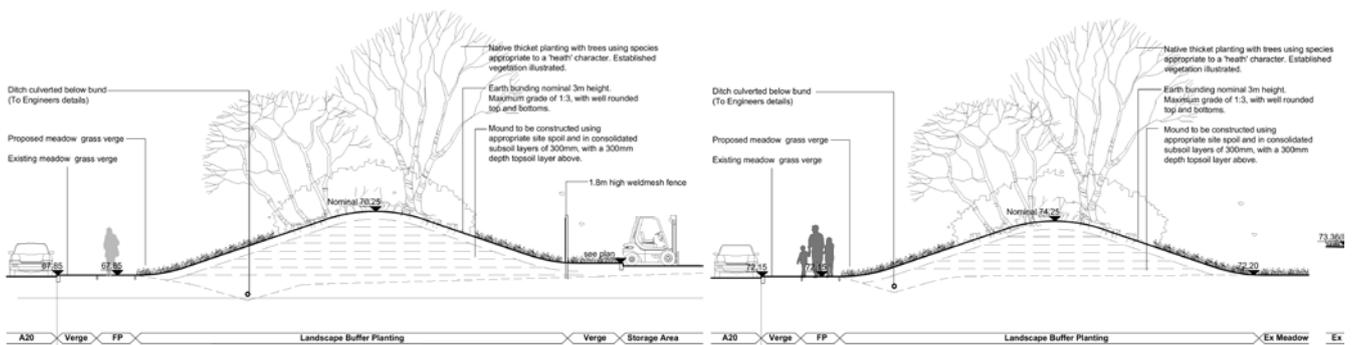


Figure 9: Bunding to south and north of existing access

12. The site would be occupied by the company Vatre Terracotta, which supplies flower pots and garden accessories to over 1000 garden centres and horticultural outlets throughout the UK and Ireland (the business has recently started selling its products to other countries). The company employs 60 full-time staff (32 of which are located in Ashford) and has long-standing arrangements with several suppliers in Ashford, including third part logistics suppliers (Ace Transport) and equipment manufacturers (for example, Chart Stables). The company has an exclusive licence until at least 2017 to manufacture and sell Royal Horticultural Society (RHS) flower pots and associated products.
13. The company was set up in 1985 and has been established in Ashford for over 30 years, currently operating from premises on Dencora Way, where its offices, yard and covered sorting space is based (the warehouse has a footprint of approximately 2145m²). In addition, a 1800m² building at Leacon Road has been leased for storing flower pots. The company has grown steadily into a successful and profitable business, turning over £13.5 million a year.
14. The reason behind the application is that the company has expanded significantly in recent years and their current premises is unable to hold sufficient stock on site and the packaging of products for distribution and the arrival and departure of delivery vehicles has become impractical. The short-term solution has been to rent an additional warehouse in Leacon Road but this is not considered sustainable. The company is keen to remain in Ashford.
15. In support of the application, the following documents have been submitted:
 - Preliminary Ecological Appraisal: this found the following:
 - the likelihood of presence of great crested newts (GCNs) in the overall area is likely and whilst no ponds are present on site, GCNs may be present in the balancing pond, reservoir and pond within 50m of the site and are likely to forage and take refuge on the site, with piles of rubble/earth providing ideal hibernation sites;
 - the likelihood of reptiles to be present in the overall area is relatively high, with areas of uncut vegetation on site offering good potential habitat for reptiles and the piles of rubble/earth providing ideal hibernation sites;
 - the site has high potential to support breeding birds within the trees and hedging;
 - the site has no potential to support hazel dormouse due to lack of connection to suitable woodlands;

- no setts or signs of badgers were identified during the survey but the grassland habitat on site provides foraging opportunities and the boundary vegetation provides a small amount of refuge and sett digging opportunities;
- no bats or signs of bats were found during the internal/external inspection of the existing building on site, which was judged as offering negligible potential for roosting bats, and none of the trees present on site offered potential for roosting bats but the site is likely to be used by foraging and commuting bats;
- the site has moderate potential to support hedgehogs; and
- common mammal species such as rabbit, field vole, and fox are likely to be present on site

and makes the following recommendations:

- trees to be retained should be protected during construction work through a tree protection plan (which has been provided);
- full GCN surveys to find out whether GCNs are using the ponds within the vicinity of the site and therefore potentially using the site during their terrestrial phase of life and this should guide any mitigation strategy required to minimise disturbance to the species;
- reptile survey looking at presence/absence and any necessary mitigation;
- consideration must be given to the timing of vegetation removal in respect of breeding birds;
- the design of any lighting scheme should take bats into consideration; and,
- ecological enhancements should be included in the development for example, the provision of bird boxes, bat roosting spaces within the proposed building, reptile/amphibian hibernacula (a place in which a creature seeks refuge) and log piles for invertebrates, reptiles and amphibians, tree/shrub/hedgerow planting with wildflower planting on amenity grassland, enhanced hedgerow management and the use of nectar flower mixtures, SUDS, the provision of green/grey roofs and the use of a grid mesh system with topsoil and seeding with a wildflower species mix to car parking areas and new access drives.

- Habitat Suitability Index of Ponds and Great Crested Newt Survey: in response to the recommendation of the Preliminary Ecological Appraisal, this survey measured the HSI calculations for four ponds within the vicinity of the site and found them to have either an average or excellent suitability but no GCNs were seen or caught in any of the ponds surveyed - no specific mitigation work is therefore recommended.
- Transport Statement: this makes the following comments:
 - the A20 in the vicinity of the site is fairly straight and visibility from the access is good in both directions;
 - the site has fairly good accessibility onto the strategic road network;
 - there are no congestion issues along this stretch of the A20 and there is a significant amount of spare capacity available;
 - the likely traffic generation of the existing use involves a small number of trips on a daily basis;
 - the development is likely to generate about 2 deliveries per normal day and 7 deliveries per peak season day by 16.5m long articulated lorries;
 - as a worst case scenario, the development would generate 14 trips (7 deliveries) to and from the site daily from Monday to Friday (this equates to up to 2 lorry trips an hour) but due to a decrease in deliveries from July to December, it is likely that there would be less than 7 deliveries made daily during these months;
 - using TRICS data, the development would likely generate around 16 additional two-way trips in the AM peak period (08:00-09:00), around 19 additional two-way trips in the PM peak period (17:00-18:00) and a total of around 119 trips;
 - the office use from the TRICS analysis would give a daily total of 72 trips to be added;
 - given the existing peak hour two way traffic flows on the A20 of 940 vehicles with a capacity of 2500, the number of additional trips would not be significant and could be easily accommodated on the local highway network, not being noticeable within the typical daily variation of traffic flow;
 - swept path analysis shows that articulated lorries can enter and exit the site and adequate turning areas would be provided within the site; and,

- a visibility splay in excess of 200m is achievable in a southerly direction and to the north, a visibility splay of 160m is possible.
- Pre-development Tree Survey and Report: this states that the trees on site are predominantly small, semi-mature, open grown, ornamental species that are considered to be of low to moderate visual amenity value and the majority of these are to be removed as part of the development, with new planting to mitigate against this loss. An Arboricultural Method Statement and Tree Protection Plan accompany this.
- Noise Impact Assessment (updated following concerns from Environmental Health): this carried out noise measurements of the site where the business currently operates to establish typical source noise levels from HGV deliveries and the general movement of forklift trucks in the external storage area and at the site boundary with the nearest affected noise sensitive property (Lake House/Banyan Retreat). The results indicate that the noise impact from the use of the proposed warehouse and a HGV delivery event is lower than the existing background noise climate (by 17dB(A)). It found that the noise impact from forklift truck movements in the proposed external storage area would be 1dB(A) greater than the existing background sound level at the boundary with the neighbouring Lake House/Banyan Retreat however the British Standard 4142 indicates that this is a 'less than' an adverse impact. In addition, it states that this impact would be less as a result of the landscape buffer to be provided between the external storage area and the boundary with neighbouring Lake House/Banyan Retreat, the lake between the common boundary and the actual neighbouring building and the fact that the far end of the area of external storage closest to the common boundary would be used for long term storage and so would generate less use of forklift trucks than the assessment was based on. The report also outlines a number of noise mitigation measures, namely recommendations on the construction of the proposed warehouse and the erection of a 2m noise attenuation fence along the common boundary with the neighbouring Lake House/Banyan Retreat.
- Lighting Preliminary Calculations report, lighting specification and light spillage plan: this provides an overview of the lighting proposed on site, including 3D visuals and the potential light spillage shown on a layout plan.
- Site search and sequential test: Taylor Riley Stafford carried out a search for alternative sites for three months using the following criteria:
 - a total site area of 3 acres minimum;
 - a building of 20,000-30,000 sq ft;
 - direct access to an A road; and,

- within a 15 mile radius of Ashford town centre.

Requirement details were sent to over 250 of the south east's most active agents and 10 sets of sales particulars were received, relating to sites in Ashford, Lympne, Larkfield, Detling, Canterbury, Aylesford and Faversham but these were either too far away or lacked sufficient external storage to be of serious interest.

- Flood Risk Assessment: this makes the following statements:
 - the flood risk profile of the site is low;
 - the main risk of flooding is from surface water but this is limited to two areas, the north west and centre of the site - the north western corner has been removed from the development and the overland flow from the centre could be dealt with through SUDS;
 - a permeable surface is the most viable option for draining surface water from this site;
 - the proposed warehouse's roofed area and external hardstanding would discharge into a gravelled area with concrete baffles (a widespread construction used in flood alleviation and that proposed is large enough to store the critical '1 in 100 years +30% climate change' storm's volume);
 - the new pond in the north eastern corner would accept the roof's and service yard's surface water and the outfall would discharge into the nearest gravel area; and,
 - the development would not increase the flood risk either of this site or of neighbouring properties.

16. In support of the application, the agent makes the following comments in the accompanying Supporting Planning Statement and Design and Access Statement:

- the current situation the company faces is uneconomic and threatens the continued competitiveness of the business - the existing premises is overcrowded, limiting operational movements in and around the site;
- stock must be located at a single location otherwise the company's operations become inefficient and more costly;
- the existing premises is overcrowded, limiting operational movements in and around the site;

- the company have spent considerable time and effort looking for alternative sites in Ashford but no suitable alternative to the development proposed has been identified;
- the site was identified as suitable in view of the synergy of the company with the landowners Oakover Nurseries, who retain a major land holding for their business as a wholesale commercial nursery - there are logistical advantages of locating adjacent to each other;
- there is an overwhelming and pressing need for the applicant's business to be relocated from its existing premises as it has outgrown its current location and the physical limits of the existing premises are making the company's current operation inefficient – this is stymieing future growth;
- the site is ideally located in terms of its accessibility to the highways network and its proximity to the existing site;
- the development would ensure that the company retains all of its current employees and allow potential for additional employment with future growth;
- a very important factor for the business is the need for a large warehouse with a large external hardstanding for storage, which is central to the company's business;
- not being able to relocate the business to a suitable site locally would restrain the growth of the business and the ability of the business to employ additional staff and increase its input into the local, regional and national economy;
- the proposed warehouse has been designed to appear more agricultural;
- the development represents the reuse of an existing commercial site and it has been set into the topography of the site;
- as per the ecology surveys carried out, there are no ecological reasons why the development should not be permitted;
- there is already substantial green screening between the site and the neighbouring Lake House/Banyan Retreat;
- as per the transport statement, there are no reasons why the proposals cannot be permitted on highways grounds;
- the applicant has liased with the neighbour at Lake House/Banyan Retreat, who raised concerns relating to the limiting of noise at the weekends and the height of storage pallets adjacent to the boundary and the enhancement of existing boundary planting and fencing and in response to these:

- it would be necessary to have some flexibility to allow some weekend working if required but the applicant is willing to limit this between 8am and noon on Saturdays with no working on Sundays or bank holidays; and,
- the applicant is happy to limit the height of storage pallets on the boundary to a maximum of 3 in height (this equates to 5m);
- the proposed warehouse may have some attenuation benefit to the neighbouring Lake House/Banyan Retreat in creating a physical barrier from the current noise generated by the M20; and,
- the proposed warehouse is set back from the A20 to minimise its impact and also to optimise the remaining part of the site for any potential future use, thus ensuring that the land use is optimised.

Planning History

17. There is no relevant planning history.
18. As part of this application, an Environmental Screening Opinion was carried out and this concluded that an Environmental Impact Assessment was not required.

Consultations

Ward Members: The Ward Member is a member of the Planning Committee and has requested that the application be determined by the planning committee.

Hothfield Parish Council: comment that there are merits in the points raised by Westwell Parish Council.

Westwell Parish Council: object to the application on the following grounds:

- the exceptional justification for the development is stated as being the potential for joint working between Vatre Terracotta and Oakover Nurseries but this is not reflected in the Design and Access Statement, nor in the operations or transport assessment (no cumulative data on the anticipated transport movements of the businesses working together, nor an assessment of movements of plants or pots across the A20 between the two sites);
- one of the reasons given for Vatre Terracotta moving to this site is to enable existing workers to move with the business but there is no new offer of local employment - the development cannot therefore be justified as 'new employment in the borough' unless there is a prospective new business or expansion to occupy Vatre Terracotta's current site on Leacon Way;

- the site is currently a rural agricultural site with trees and a concrete road across it to the edge of the embankment down to the motorway - the development would transform the character of the area from countryside to industrial and the impact of this on the wider setting needs to be considered;
- there has been no assessment of theoretical visibility from the AONB in particular from the Pilgrims Way, which is a nationally important footpath and byway - there is concern about the impacts of the building design, materials, height and colour treatment and lighting of the site and if the site is operational from 7am to 7pm, it would be clearly visible from the AONB at the beginning and end of each day in the winter months, based on its artificial lighting alone;

(Joint Development Control Manager comment: the agent has since provided lighting information).

- this application should be properly considered with respect to the site being in the setting of the AONB and that a precautionary approach is taken;
- the neighbouring property and the A20 suffer from flooding during periods of heavy rain - the development should ensure that existing problem is not aggravated by it;
- there is overnight and over-weekend parking of HGVs along the section of the A20 from J9 to the site, which results in a heavy cost in environmental nuisance, noise, air pollution and road safety for residents and other road users - the question is how operations on site would be managed to ensure that none of the drivers delivering to or collecting from the site take their rest breaks or leave their trucks or their trailers anywhere that is not on site or an official lorry park;

(Joint Development Control Manager comment: this is not a planning issue but a matter for the Highways Authority to deal with under their legislation)

- as the actual movement data is available from the applicant's current operation, the transport assessment should be based on survey data and not on TRICS;

(Joint Development Control Manager comment: the use of TRICS data is the typical standard used for transport assessments and in any event, is more appropriate in this instance as the development allows for an expansion of the business)

- the highways assessment only focuses on the adequacy of the bellmouth access and the right turn across the A20 from Ashford into the site is not addressed at all;

- the application states that Vatre Terracotta requires 'both a substantial warehouse and an extensive external storage area to function efficiently and be able to expand further in the future' - this is not a sufficient reason to be in the countryside when Ashford has other sites available that are designated for B8 use, for example Sevington;
- the proposed warehouse is not agricultural in style but is typical of speculative warehouse design, with glass curtain walling for the office area that is unsympathetic to the rural area; and,
- the use of further screening and limiting storage height to no more than 3 pallets high is too vague

(Joint Development Control Manager comment: the agent has since confirmed that the open storage of pallets would be limited to 5m in height).

Neighbours: 15 neighbours consulted; 1 representation received objecting to the application on the following grounds:

- it is unclear where water would drain from the front of the proposed building and pallet storage area and further information is requested;

(Joint Development Control Manager comment: the application includes a drainage strategy plan)

- this neighbour operates a natural healing centre from their property where peace and tranquillity is important - the hours of operation may be disruptive to this business and further information is requested;

(Joint Development Control Manager comment: the application form states the proposed hours of opening to be Monday to Saturday 07:00-19:00 and a noise impact assessment has been carried out)

- what would be visible from this neighbour's property is of concern and they ask how high the pallets would be stacked;
- this neighbour requests evergreen shrubs planted along the common boundary with the site and this should retain a secure perimeter to this neighbour; and,

(Joint Development Control Manager comment: the application includes a plan showing hard and soft landscaping and boundary treatments)

- general lighting and security lighting in the proposed pallet storage area adjacent to this neighbour's property and the rest of the site is of concern and

further information is requested on their hours of operation and how this lighting will affect them

KCC Flood and Water Management: comment that should planning permission be granted, conditions re: detailed sustainable surface water drainage scheme and details of its implementation, maintenance and management and no infiltration of surface water drainage into the ground without the written consent of the Local Planning Authority be attached. They also require the drainage design to accommodate the 1 in 100 year storm with a 20% allowance for climate change and an additional analysis undertaken to understand the flooding implication for a greater climate change allowance of 40%.

Environment Agency: Raise no objection subject to conditions re: drainage systems for the infiltration of surface water drainage and contamination.

Southern Water: comment that should planning permission be granted, conditions re: SUDS and means of foul and surface water sewerage disposal be attached.

River Stour Internal Drainage Board: comment that details of the proposed SUDS should be agreed in direct consultation with KCC's drainage and flood risk team, as well as the Council's own drainage engineer.

Drainage (internal): raise no objection subject to the conditions suggested by KCC Flood and Water Management and the Environment Agency.

Campaign to Protect Rural England: object on the following grounds:

- the site has a horticultural use and cannot be regarded as a brownfield site;
- the proposed industrial use does not require a rural location (contrary to policy TRS10 of the Tenterden & Rural Sites DPD) and this is evident through it having been run successfully from the centre of Ashford;
- the Planning Statement makes much of the potential operating synergy between Oakover Nurseries and Vatre Terracota but this is not followed through in their business case or transport strategy - the development should be considered as a standalone B8 warehouse in the countryside;
- on rising ground close to one of the A20 bridges over the M20 motorway where it passes into the AONB, the site is clearly within the setting of the AONB;
- the fact that the site is located in the Heathy Farmlands LCA has not been considered;

- it is not sufficient to rely on semi-mature deciduous trees to protect the Pilgrims Way route from visual damage;
- the development would industrialise the nationally important habitat Heathy Farmlands, changing its character entirely, and this includes the Hothfield Heathlands, which contain one of the few remaining fragments of open heath and acid grassland;
- the additional impacts of lighting, traffic noises and hard surfaces associated with the development would change the rural visual character of the area;
- the use of the A20 by very large and slow moving lorries as they enter and leave the site at peak traffic times would greatly increase the dangers on this piece of road;
- there is an existing problem of unsocial and hazardous overnight parking on this stretch of road and should the application be permitted, the traffic situation should be kept under review;
- no attention has been paid to invertebrates and the site may contain protected species of local importance; and,

(Joint Development Control Manager comment: appropriate ecological surveys have been carried out and reports provided with the application)

- the application is for a greatly increased area of buildings and hard surfaces and would be out of context with the existing buildings in the area, which would impact on the visual character of the area and harm the setting of the AONB.

Kent Downs AONB: make the following comments:

- although not lying within the Kent Downs AONB, the proximity of the site to the boundary, along with the scale of the development and the largely undeveloped nature of the site means that the development has the potential to impact on the setting of the AONB;
- no reference to the Kent Downs AONB is made within the submission;
- the upper half of the Holiday Inn on the opposite side of the A20 to the site is visible from the Kent Downs AONB, from the North Downs Way, an important national trail within the AONB, along Westwell Downs - in view of the similar land levels and scale of buildings, it is considered likely that the development would be similarly visible;

- should the application be approved, it is imperative that the materials used on both the walls and roof are dark and non-reflective to ensure that the visual impact of the building in views from the AONB is mitigated; and,

(Joint Development Control Manager comment: details of materials can be required by condition)

- we also have concerns about the potential impact of proposed lighting in this rural location - insufficient information has been submitted to demonstrate that this would not impact on dark skies.

Environmental Services Manager: comment that conditions re: hours of operation and disposal of sewage should be attached to any permission granted.

KCC Ecology: make the following comments:

- additional information is required prior to the determination of the application;
- the development would have a negative impact upon reptiles - detailed knowledge of the development is known and so a detailed mitigation strategy should be submitted but they consider that from consulting the submitted Landscape Proposals, it would be possible to retain the population on site subject to the area being enhanced and managed appropriately;
- a brief management plan is required to ensure that the landscaped areas are managed appropriately and this can be controlled by condition; and,
- the enhancement measures outlined in the submission can be controlled by condition.

Kent Highways: raise no objection subject to conditions re: provision of construction vehicle loading/unloading and turning facilities, site personnel/visitor parking facilities, wheel washing facilities, provision and permanent retention of vehicle parking spaces and loading/unloading and turning facilities.

Network Rail: Raise no objection.

HS1: Do not have any comments per se as the development would not affect any of their physical railway infrastructure. However, the proposed warehouse would block an existing pedestrian access right for HS1, which could easily be diverted around its perimeter and legal reassurance is being sought from the applicant that HS1's access rights can still be achieved as part of development.

Following receipt of information relating to lighting and noise impact, neighbours and the Environmental Health Manager were consulted and whilst no neighbour representations were received, the Environmental Health Manager commented that

they note the high background noise levels at this location and requests conditions restricting the hours of operation and industrial processing taking place in the proposed warehouse only, limiting forklifts operating on the site to 'low-noise' electric models only (not fitted with tonal reversing 'beepers') and requires details of an acoustic barrier with the neighbouring Lake House/Banyan Retreat and the design and build of the proposed warehouse being carried out in accordance with the recommendations made in the updated Noise Impact Assessment be attached to any permission granted. However, no objections are raised to the lighting information provided.

Planning Policy

19. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012, the Chilmington Green AAP 2013 the Wye Neighbourhood Plan 2015-30 and the Pluckley Neighbourhood Plan 2016 - 30. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016 and closed after 8 weeks. Proposed 'Main Changes' to the draft Local Plan were approved for further consultation by the Council on 15 June 2017 and consultation has now commenced. At present, the policies in this emerging plan can be accorded little weight.
20. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

GP12 - Protecting the countryside and managing change

EN31 - Important habitats

EN32 - Important trees and woodland

Local Development Framework Core Strategy 2008

CS1 - Guiding Principles

CS7 - The Economy and Employment Development

CS9 - Design Quality

CS10 - Sustainable Design and Construction

CS11 - Biodiversity and Geological Conservation

CS15 - Transport

CS20 - Sustainable Drainage

Tenterden & Rural Sites DPD 2010

TRS10 - New employment premises in the Countryside

TRS17 - Landscape character & design

Local Plan to 2030

SP1 - Strategic Objectives

SP3 - Strategic Approach to Economic Development

SP6 - Promoting High Quality Design

EMP5 - New employment premises in the countryside

TRA7 - The Road Network and Development

TRA8 - Travel Plans, Assessments and Statements

TRA9 - Planning for HGV movements

ENV1 - Biodiversity

ENV3 - Landscape Character and Design

ENV4 - Light pollution and promoting dark skies

ENV6 - Flood Risk

ENV9 - Sustainable Drainage

ENV11 - Sustainable Design and Construction - Non-residential

ENV15 - Archaeology

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

Supplementary Planning Guidance/Documents

Sustainable Design and Construction SPD 2012

Landscape Character Assessment SPD 2011

Sustainable Drainage SPD 2010

Dark Skies SPD 2014

Kent Downs AONB Management Plan 2014-2019

Government Advice

National Planning Policy Framework (NPPF) 2012

22. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says 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 14 sets out presumption in favour of sustainable development;
- Paragraph 17 sets out the 12 core planning principles, including supporting sustainable economic development, conserving and enhancing the natural environment, seeking to secure a good standard of amenity for all existing occupiers of buildings, taking full account of flood risk, encouraging the effective use of land that has been previously developed (provided it is not of high environmental value) and focusing significant development in locations which are or can be made sustainable;
- Section 1 seeks to support sustainable economic growth and support existing business sectors, taking account of whether they are expanding or contracting;
- Section 3 requires planning policies to support a prosperous rural economy and the sustainable growth and expansion of all types of businesses and enterprise in the rural area, through the conversion of existing buildings or well designed new buildings;
- Section 4 requires developments that generate significant amounts of movement to be supported by a Transport Statement;
- Section 7 requires great importance to be attached to the design of the built environment;

- Section 10 required planning to minimise flooding vulnerability and direct development away from areas at highest risk; and,
- Section 11 sets out conserving and enhancing the natural environment, minimising impacts on biodiversity and encouraging opportunities to incorporate biodiversity in and around developments, intrinsically dark landscapes and nature conservation, giving great weight to conserving landscape and scenic beauty in landscapes such as Areas of Outstanding Natural Beauty (which have the highest status of protection), taking account of ground conditions and land stability and limiting the impact of light pollution from artificial light on local amenity.

Assessment

23. The main issues for consideration are:

- Principle
- Visual amenity
- Residential amenity
- Parking/turning and highway safety
- Other issues ie. flooding and drainage, ecology, trees, archaeology, HS1 safeguarding
- Whether planning obligations are necessary

Principle

24. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraphs 2 and 11 of the NPPF state that planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 14 of the NPPF also states that at the heart of the NPPF is a presumption in favour of sustainable development and this should be seen as a “golden thread running through decision-taking”. There are three dimensions to sustainable development: economic, social and environmental and to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

25. The NPPF is supportive of economic growth in the rural areas in order to create jobs and prosperity by taking a positive approach to sustainable development. It also states that to promote a strong rural economy, Local

Planning Authorities should support 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. These objectives are endorsed by Development Plan policy. The development would result in a new employment site in the countryside and policy TRS10 of the Tenterden and Rural Sites DPD seeks to resist this unless exceptional circumstances can be demonstrated to set aside the normal presumption against such developments. These comprise:

- a) it is essential to be located in the countryside;

Westwell and Hothfield Parish Council and CPRE and Kent Downs AONB question the need for the business to operate from this site. Whilst the business does not demand a rural location in terms of the nature of the business (as it is not agricultural per se) the specific nature of the business is semi-rural in character given its close synergy with horticultural produce and this makes suitable sites in the urban area difficult to find, as demonstrated by the Site Search and Sequential Test Report submitted in support of the application. The company requires considerable external storage space, as well as a large warehouse building, which it has not been possible to find in the urban area. To this end, a rural location to meet these needs can be justified.

The location of the site on the outskirts of Ashford is sustainable in terms of its connectivity to the local highway network, being on the A20 and close to the M20 motorway - this is ideal for the business distributing its flower pots and garden accessories to garden centres and horticultural outlets.

A material consideration is also the current use of the site as a nursery selling produce from Oakover Nurseries and whilst this currently operates at a small scale, the intensity of this could increase without the need for planning permission. In addition, the company intends to work closely with Oakover Nurseries in producing containerised planting and developing shared national markets in the horticultural sector.

It is clear from the submission that the company has outgrown its current premises on Dencora Way but it is keen to stay in the borough. An objective of the Core Strategy and NPPF is to promote and achieve greater economic prosperity and the retention of the company in the borough, and the jobs and investment it brings, would contribute towards meeting this. As previously mentioned in the Proposals section, half of the company's employees are located in Ashford and the company has long standing arrangements with several suppliers in Ashford. The location of the business at this site would allow the company to retain its local employees and with the company's intentions of expansion to include export sales, this can be accommodated on this site and would generate additional local employment, in line with the

council's aspirations to deliver economic growth. I consider the above to weigh in favour of supporting the application.

- 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;

See Visual amenity section.

- c) there would be no significant impact on the amenities of any neighbouring residential occupiers; and,

See Residential amenity section.

- d) it can be demonstrated that the development will not generate a type of amount of traffic that would be inappropriate to the rural road network that serves it.

See Parking/turning and highway safety section.

Visual amenity

- 26. Westwell and Hothfield Parish Council, CPRE and the Kent Downs AONB Unit raise concerns with the impact of the development on the rural character of the site and the setting of the nearby AONB in terms of the scale of built development, lighting and traffic and its visibility from the North Downs/Pilgrims Way, an important national trail within the AONB.
- 27. As stated in the Site and Surroundings section, the site falls within the Charing Heath Farmlands Wealden Greensand LCA. The Landscape Character Assessment SPD acknowledges that there are a number of visual detractors in this area, with the landscape marked by the major transport routes of the M20 and the Channel Tunnel Rail link as well as the A20, which has a number of recent large scale development along it, including hotels, a nursery, large agricultural buildings and a large cold store building. Whilst not lying within it, the site is in close proximity to the boundary of the Kent Downs AONB and the development has the potential to impact on the setting of this.
- 28. Aside from the major transport routes adjacent to the site, there are a number of large scale prominent buildings within the vicinity, namely the Holiday Inn hotel and the Hop Pickers public house directly opposite, the Esso petrol garage and Hothfield Car Sales. There are also large agricultural buildings associated with Oakover Nurseries nearby and the Ardo cold storage facility to the north west of the site. Views of the site are limited on approach from both directions along the A20 by the significant tree planting along the motorway embankment and the common boundary with the neighbouring dwelling Lake House/Banyan Retreat (which is proposed to be retained or

enhanced), however the site is open to the front boundary with the A20. In my view, there are three key elements of the development that would have the greatest impact in visual terms: the proposed warehouse, external storage area and lighting.

29. The proposed warehouse is of a size proportionate to its function (smaller in footprint than the company's current premises on Dencora Way and Leacon Road) and would be dug into the topography of the site and sited towards the north eastern corner to reduce its prominence from the A20 and the proposed car park and area of grassland to the side would provide some open relief with the road. Its design to reflect an agricultural building is appropriate given its rural location and similar style buildings near the site, but its glazed south western corner and canopy add interest to the building.
30. Turning to the external storage area, this is larger than that currently available at Dencora Way and whilst it would cover a significant proportion of the site, it is justified in terms of the needs of the business. However, it would extend very close to the road boundary. To reduce its visibility, the height of pallets stored externally would be limited to 5m and this can be controlled by condition. Furthermore, a 3m high earth bund with tree planting between 1.25m and 4.5m in height is proposed along the entire frontage to provide a natural form of screening of the development.
31. In terms of lighting, much of the nearby AONB currently enjoy low levels of light pollution and is an important aspect of their landscape character and tranquillity and this should be conserved and enhanced. As per the Council's Dark Skies SPD, particular attention should be paid to lighting proposals in the zones of darkest skies and existing low district brightness and in such zones, lighting should be the minimum required for security or working purposes and should minimise the potential obtrusive light from glare or light trespass. The development includes the provision of floodlighting to the access road, car park and external storage area and security lighting on the proposed warehouse, which I consider to be reasonable, and its use would be limited to the hours of operation 07:00 - 19:00 Monday to Friday and 07:00-12:00 Saturday.
32. Assessing the other development proposed, 1.8m high chain link fencing is proposed along the boundaries of the site for security reasons and this would be consumed by existing and proposed landscaping. The gabion wall to the access, service yard and car park is acceptable in visual terms.
33. Moving onto the visibility of the site and the proposed development from the North Downs/Pilgrims Way within the nearby AONB, the Kent Downs AONB Unit acknowledge that the upper half of the Holiday Inn hotel is visible from here - this building is of a significant width and the proposed warehouse would be viewed in the context of this, appearing less prominent given its orientation

and smaller size. However, I agree with the Kent Downs AONB unit that materials are key to help mitigate the visual impact of the development and a condition requiring details of this has been attached.

34. In comparison, the Ardo warehouse to the north west of the site is much larger and visible than the proposed warehouse would be. Firstly, it is sited adjacent to the A20 on rising land levels. Secondly, the main warehouse has an eaves height of 13.1m and ridge height of 14.5m to the ridge and a floor area of 5808m². In addition, the Ardo site is smaller than the application site but there is much more built development on it - as well as the warehouse building, there is a two storey office building 890m² in floor area and hardstanding providing 38 lorry spaces, 66 car spaces and associated turning – little room was left for landscaping, unlike the proposal on the application site.
35. Furthermore, two new site allocations for housing have been included in the emerging Local Plan to 2030 in the immediate vicinity - one opposite the site to the side and rear of the Holiday Inn hotel and the other to the side of the neighbouring property Lake House/Banyan Retreat (which adjoins the application site). Whilst the emerging Local Plan holds very little weight at present, if these sites remain in the emerging Local Plan when adopted, the development of these sites will change the character of the landscape and is material to the consideration of this development.
36. On balance, whilst I agree with objectors that the development would result in a degree of visual harm, considering the justification for the development, the context of the site and the measures proposed to assimilate the development into the countryside, I find that this would not be significantly harmful to the character and appearance of the countryside and the setting of the nearby AONB. This is endorsed by the decision taken that an Environmental Impact Assessment is not required for the development.

Residential amenity

37. Only one dwelling, Lake House/Banyan Retreat, neighbours the site to the south and this also offers a small, non-residential day retreat. This neighbour has objected to the application and their main concerns relate to noise and disturbance during hours of operation and lighting.
38. In terms of noise and disturbance, the hours of operation are to be limited to 07:00 - 19:00 Monday to Friday and 07:00-12:00 Saturday and this can be controlled by condition. The proposed warehouse has been sited away from this neighbour along the northern boundary, with vehicle movements concentrated within the centre of the site. Adjacent to the common boundary with the neighbour would be an external pallet storage area. The Noise Impact Assessment considered the main source of noise from the site would

be from HGV deliveries and the use of forklift trucks moving pallets in the external storage area and following noise measurements taken from the site where the building currently operates, it concluded that that the noise impact from a typical HGV delivery event is lower than the existing background noise climate. It did find that the noise impact from forklift truck movements in the proposed external storage area would be greater than the existing background sound level at the boundary with the neighbouring Lake House/Banyan Retreat but the difference would be so small that the British Standard 4142 indicates that this is a 'less than' an adverse impact. In addition, this impact would be reduced by the landscape buffer to be provided between the external storage area and the boundary with neighbouring Lake House/Banyan Retreat, the lake between the common boundary and the actual neighbouring building and the fact that the far end of the area of external storage closest to the common boundary would be used for long term storage and so would generate less use of forklift trucks than the assessment was based on. Environmental Health commented that they note the high background noise levels at this location and requests conditions restricting the hours of operation and industrial processing taking place in the proposed warehouse only, limiting forklifts operating on the site to 'low-noise' electric models only (not fitted with tonal reversing 'beepers') and requiring details of an acoustic barrier with the neighbouring Lake House/Banyan Retreat and the design and built of the proposed warehouse being carried out in accordance with the recommendations made in the updated Noise Impact Assessment be attached to any permission granted. Subject to these conditions, I am of the view that the development should not result in a significant noise impact or adverse effect on the residential amenity of the neighbour.

39. Turning to lighting, obtrusive external lighting can be harmful to residential amenity but as mentioned in the Visual amenity section, I consider that proposed to be reasonable and Environmental Health raise no objection, given the separation distance from and screening with the neighbouring Lake House/Banyan Retreat. Also, its use would be limited to the hours of operation 07:00-19:00 Monday to Friday and 07:00-12:00 Saturday.
40. In light of the above, I consider that the development would not result in an unreasonable level of harm to the residential amenity of the occupiers of the neighbouring dwelling. In addition, the distance from and relationship with other nearby dwellings means that the development is unlikely to have an adverse impact on the residential amenity of their occupiers.

Parking/turning and highway safety

41. Westwell and Hothfield Parish Councils and CPRE raise concerns with the increase in traffic that would be generated by the development.

42. Using the trip rate provided in the Transport Statement submitted and TRICS data, the development would generate 2 deliveries on a normal day (with a worst case scenario of 7 deliveries daily in the peak season of January to June), made by 16.5m long articulated lorries. In terms of staff, the development would generate 16 additional two-way trips in the AM peak period and 19 additional two-way trips in the PM peak period. In total, peak hour generations would be a maximum of 2 lorries and 37 cars and on a daily basis, this would equate to up to 72 trips. The A20 has a maximum hourly flow capacity of 2500 vehicles and considering the actual hourly flow of traffic is 940, there is significant spare capacity on this road to accommodate the traffic generated by the development. Given this, I do not consider that the development would adversely impact upon traffic flows.
43. The existing access is to remain unchanged, with adequate visibility splays achieved from it (these would not be affected by the proposed earth bund and associated planting along the roadside boundary of the site), and Kent Highways consider there to be no highway safety issues with the use of the existing access. The swept path analysis submitted shows that lorries can enter and exit the site and adequate parking/turning areas would be provided within the site and Kent Highways are satisfied with this.
44. Given the above and the fact that Kent Highways do not object to the application, I am satisfied that the road network serving the site is suitable for the scale and type of vehicle movements associated with the development and so the proposal is considered acceptable in parking/turning and highway safety terms.

Other issues ie. flooding and drainage, ecology, trees, archaeology, HS1 safeguarding

Flooding and drainage

45. The site lies outside Floodzones 2 and 3 and is of permeable geology (Folkestone formation sandstone). The only flood risk relates to surface water and this is limited to two areas on the site - the north west and centre of the site. The development would result in a greater impermeable area than existing, however the risk is to be managed through the use of permeable paving for the external storage areas, with the construction of an infiltration pond to partially accommodate surface water runoff from the proposed warehouse's roof and hardstanding. The Environment Agency, KCC Flood and Water Management, River Stour Internal Drainage Board and Council's Drainage Engineer do not raise an objection and whilst the proposed drainage strategy is considered feasible, a condition requiring further design details for the SUDs system is required. Subject to this, I am satisfied that the proposed surface water drainage strategy would be suitable, feasible and SPD compliant.

46. Turning to foul water drainage, the nearest foul water drain runs along the A20 with a public foul manhole adjacent to the site's access - it is proposed to route the development's foul sewage into this, subject to permission from Southern Water. Southern Water raise no objection. I therefore consider that an adequate means of foul water drainage can be pursued and would therefore be acceptable.
47. In light of the above, I am satisfied that the development would not increase the flood risk of the site or elsewhere.

Ecology

48. As part of the application, a Preliminary Ecological Appraisal and Habitat Suitability Index of Ponds and Great Crested Newt Survey were undertaken and this found the ponds surveyed on and off site to have either average or excellent suitability for GCNS but none were seen or caught in any of the ponds surveyed and so no specific mitigation work is recommended. However, the surveys did conclude that the site and surrounding land contains habitat suitable for supporting reptiles, breeding birds, hazel dormouse, foraging badgers, foraging and commuting bats and common mammal species. The reports make a number of recommendations, including the protection of trees during construction work, timing of vegetation removal and a number of ecological enhancements (listed in the Proposals section).
49. A detailed mitigation strategy in respect of reptiles has not been provided and as the development would result in the disturbance of this protected species, there is a prohibition on granting planning permission unless certain conditions are met: there must be no satisfactory alternative, the favourable conservation status of the protected species on the site would be maintained and granting permission must be in the interests of imperative reasons of overriding public interest. Whilst KCC Biodiversity raised the absence of a mitigation strategy as a concern, they acknowledge that through the landscaping proposals outlining a number of ecological areas, it would be possible to retain the population on site through enhancements and appropriate management and so I am content that all three conditions are met so that the prohibition does not apply and this detail can be required by condition. A brief management plan would also be required to ensure that these ecological areas are managed appropriately and again, this can be controlled by condition.
50. In light of the above, I consider that the development would not be harmful to ecology.

Trees

51. The trees along the boundaries of the site and the group running partially through the middle of the site are to be retained and the Arboricultural Method Statement and Tree Protection Plan submitted ensure the protection of these trees. The majority of trees within the site are to be removed as part of the development, however the Pre-development Tree Survey and Report found these to be of low to moderate visual amenity value and their loss is acceptable. To mitigate against the loss of these trees, extensive planting to the proposed earth bund along the roadside boundary and within the site is proposed. Given this, I consider the impact of the development on trees to be acceptable.

Archaeology

52. The site is located within an area of archaeological potential associated with prehistoric, post medieval and modern activity. Prehistoric activity was located during HS1 works to the north east. The site is also opposite a post medieval farm complex and associated activity may extend to the site. There is also a World War II crash site nearby. In view of this potential, some level of archaeological work would be appropriate but given the level of existing disturbance, the development can be covered by a watching brief. Subject to condition, I therefore consider that the development would not have an adverse impact on archaeology.

HS1 safeguarding

53. As mentioned previously in the Site and Surroundings section, a HS1 safeguarding area runs through the site, following the existing access and this covers an exiting pedestrian access right for HS1. HS1 do not object to the application as the development would not affect any of their physical railway infrastructure. However, the proposed warehouse would block their pedestrian access and are currently in discussions with the applicant to divert this around the perimeter of the building. I understand that this issue is being resolved through a legal agreement, which is outside the control of the planning process.

Whether planning obligations are necessary

54. Regulation 122 of the Community Infrastructure Regulations 2010 says that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) necessary to make the development acceptable in planning terms,
 - (b) directly related to the development; and,
 - (c) fairly and reasonably related in scale and kind to the development.

55. I recommend the planning obligations in Table 1 be required should the Committee resolve to grant permission. I have assessed them against Regulation 122 and for the reasons given consider they are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, they may be a reason to grant planning permission in this case.

Table 1

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
1.	<p><u>Carbon off-setting</u></p> <p>Contribution for funding carbon savings based on the residual carbon emissions of the dwelling or building set out in the approved energy performance certificate and quantified over 10 years.</p>	<p>To be calculated using the shadow price of carbon set out in the Sustainable Design and Construction SPD</p>	<p>Payable on the first use of the development</p>	<p>Necessary in order to ensure the development is carbon neutral pursuant to Core Strategy policies CS1, and CS10 I, the Sustainable Design and Construction SPD and guidance in the NPPF.</p> <p>Directly related as only carbon emissions from this development would have to be off-set.</p> <p>Fairly and reasonably related in scale and kind as off-setting would not be required in the absence of carbon emissions from this development and any payment is based on the amount of carbon dioxide</p>

				to be offset.
2.	<p><u>Monitoring Fee</u></p> <p>Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking</p>	£1000	Payment upon commencement of development	<p>Necessary in order to ensure the planning obligations are complied with.</p> <p>Directly related as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations to be monitored.</p>

Human Rights Issues

56. 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

57. In accordance with paragraphs 186 and 187 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 as explained in the note to the applicant included in the recommendation below.

Conclusion

58. The development would result in the creation of a new employment site in the countryside. However, the specific nature of the business is semi-rural in character and the storage requirements (particularly external) makes suitable sites in the urban area difficult to find. The site is in a sustainable location in terms of its connectivity to the local highway network. The company, who is keen to remain in the borough, makes a valuable contribution to the economic prosperity of the borough in terms of the local employment, business and investment it provides and this would increase should it be allowed to relocate to the site, in line with the objectives of the Council’s Five Year Corporate Plan 2015-2020.
59. In terms of visual impact, there are a number of visual detractors within the vicinity of the site and the scheme has been designed and laid out to minimise its prominence and visibility from outside the site and the wider area, including the AONB beyond the adjacent motorway and railway links. Subject to the development being carried out in accordance with the details provided, along with conditions requiring further detail, I consider that the development would not result in significant harm to the character and appearance of the countryside or the setting of the nearby AONB.
60. Turning to residential amenity, again the development has been laid out as to minimise any noise and disturbance to the immediate neighbour Lake House/Banyan Retreat. In addition, the updated Noise Impact Assessment found that the noise impact from the development would result in a ‘less than’ an adverse impact on the neighbouring Lake House/Banyan Retreat.

61. In addition, lighting proposed on the site has been designed to be the minimum required for the needs of the development whilst being appropriate for the rural area.
62. Considering parking/turning and highway safety, the Transport Assessment found that the visibility splays achieved from the existing access and the parking/turning areas proposed to be adequate and the traffic flows generated by the development can easily be accommodated by the local highway network. Kent Highways are also satisfied that the development makes adequate parking/turning provision.
63. The development is also acceptable in terms of flooding and drainage, ecology, trees, archaeology and HS1 safeguarding, subject to condition.
64. In light of the above, I consider that the development broadly complies with the Development Plan policy and represents a sustainable form of development in line with the NPPF, therefore I recommend the application for approval.

Recommendation

(A) Subject to the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations related to:

- a. carbon offsetting; and,
- b. monitoring fee

as detailed in Table 1, in terms agreeable to the Head of Development Strategic Sites and Design or the Development Control Managers in consultation with the Head of Legal and Democratic Services, with delegated authority to either the Head of Development Strategic Sites and Design or the Development Control Managers to make or approve changes to the planning obligations and planning conditions, as they see fit.

(B) Permit

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. Written details and samples (including colour) of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the dwellings hereby permitted and the development shall only be carried out using the approved external materials.

Reason: In the interests of visual amenity.

5. The premises/site shall be used for B8 (storage and distribution) and not for any other purpose whether or not in the same use class of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or any subsequent Order revoking or re-enacting that Order, or whether the alternative use is permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking or re-enacting that Order.

Reason: In order to preserve the amenity of the locality.

6. No new floor space shall be created inside the warehouse hereby approved without the prior written consent of the local planning authority.

Reason: To enable the Local Planning Authority to regulate and control the development of land and to protect the amenity of the locality.

7. The office on approved Warehouse & Office – Ground & First Floor Plans Drawing No. 15.17.010 Rev D shall not be occupied at any time other than for purposes ancillary to the B8 (storage and distribution) use hereby approved.

Reason: To enable the Local Planning Authority to regulate and control the proposed development in the interests of the amenity of the area.

8. The site shall not be used at any time for the sale or display of goods stored and distributed on site.

Reason: To enable the Local Planning Authority to regulate and control the proposed development in the interests of the amenity of the area.

9. Industrial processing shall only take place in the building identified on the approved plans.

Reason: In order to preserve the visual character of the property and the amenity of the surrounding area.

10. No external storage of materials shall take place outside the area specified for that use on approved Block Plan Drawing No. 15.17.003 Rev G and Proposed Site Plan Drawing No. 15.17.005 Rev C. The height of any storage within that area shall not exceed 5 metres above ground level.

Reason: To enable the Local Planning Authority to regulate and control the proposed development in the interests of the amenity of the area.

11. All forklifts operated on site shall be 'low-noise' electric models only and not be fitted with tonal reversing 'bleepers' but rather alternative broadband alert 'bleepers' or where permissible non-auditory safe systems of work, shall be used.

Reason: In the interests of preserving the amenity of the neighbouring Lake House/Banyan Retreat.

12. No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside 07:00-19:00 Mondays to Fridays and 07:00-12:00 Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the residential amenity.

13. Prior to the commencement of development, details of the works for the disposal of sewage and foul water shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To avoid pollution of the surrounding area.

14. Prior to the commencement of the development hereby approved, plans and particulars of a sustainable drainage system (including the details below) for the disposal of the site's surface and foul water based on the principles set out in the approved Flood Risk Assessment by GTA Civils Ltd Ref: 3540/2.3F dated July 2016 and Drainage Strategy Drawing No. 6240/100 Rev A and in line with the Council's Sustainable Drainage SPD shall be submitted to and approved in writing by the Local Planning Authority.

The submitted system shall be designed to (i) avoid any increase in flood risk, (ii) avoid any adverse impact on water quality, (iii) achieve a reduction in the run-off rate in accordance with the Ashford Borough Council Sustainable Drainage SPD document, adopted October 2010. (iv) promote biodiversity, (v) enhance the landscape, (vi) improve public amenities, (vii) return the water to the natural drainage system as near to the source as possible and (viii) operate both during construction of the development and post-completion.

The submitted system shall include:

- the submitted system shall comprise retention or storage of the surface water on-site or within the immediate area in a way which is appropriate to the site's location, topography, hydrogeology and hydrology;
- a plan indicating the routes flood waters would take should the site experience a rainfall event that exceeds the design capacity of the surface water drainage system, or in light of systems failure (Designing for exceedance), including appropriate mitigation measures and emergency response procedures;
- details of the implementation, maintenance and management of the approved system, including:
 - a timetable for its implementation; and,
 - a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The approved system shall thereafter be carried out in accordance with the approved details and timetable and shall be maintained in accordance with the approved details.

Reason: In order to reduce the impact of the development on flooding, manage run-off flow rates, protect water quality and improve biodiversity and the appearance of the development pursuant to Core Strategy Policy CS20 Sustainable Drainage.

15. Visibility splays of 200m in the southerly direction and 160m in the northerly direction, within which there shall be no obstruction in excess of 0.9 metres in height above the carriageway edge, shall be provided at the access before the development commences and the splays shall be so maintained at all times.

Reason: In the interests of highway safety.

16. Prior to works commencing on site, details of parking for site personnel/visitors as well as details of loading/unloading and turning areas for construction traffic shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be provided and retained throughout the development. The approved parking, loading and turning areas shall be provided prior to the commencement of development.

Reason: To ensure provision of adequate parking, loading and turning facilities for vehicles in the interests of highway safety and to protect the amenities of local residents in accordance with policy.

17. Prior to the commencement of development, details of facilities, by which vehicles will have their wheels, chassis and bodywork effectively cleaned and

washed free of mud and similar substances at the application site, shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall then be provided prior to the works commencing on site and thereafter shall be maintained in an effective working condition and used before vehicles exit the site and enter onto the adopted highway for the duration of the construction works.

Reason: To ensure that no mud or other material is taken from the site onto the neighbouring highway by wheels of vehicles leaving the site to the detriment of highway safety and the amenities of local residents.

18. The vehicle parking/turning and loading/unloading areas as shown on approved Block Plan Drawing No. 15.17.003 Rev G, Proposed Site Plan Drawing No. 15.17.005 Rev C, Proposed Good Handling Plan Drawing No. 15.17.006 Rev B and Loading ramp and stage details Drawing No. 15.17.020 shall be provided prior to the development to which they relate being occupied and the facilities shall be retained for ancillary parking and loading/unloading use and access thereto shall not be precluded.

Reason: To ensure the provision and retention of adequate off-street parking/turning and loading/unloading facilities in the interests of highway safety.

19. The development shall be carried out in accordance with the recommendations in the approved Preliminary Ecological Appraisal by KB Ecology Ref No 2015/08/04 dated 08th September 2015 and any license issued by Natural England unless otherwise agreed in writing by the Local Planning Authority and Natural England and the approved replacement habitats shall remain in situ.

Reason: To protect existing populations of protected species on the site.

20. Prior to the commencement of the development hereby approved, details of a scheme for the protection and enhancement of biodiversity on the site, including the provision of bat and bird boxes, sparrow terraces and amphibian hibernacula adjacent to the new pond, the use of native species in landscaping and the incorporation of features beneficial to wildlife such as ponds and wildflower planning, together with details of the timing/phasing of the respective elements forming the scheme and proposed management arrangements, shall be submitted to and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the approved details, with any amendments agreed in writing.

Reason: In the interests of enhancing the biodiversity of the site.

21. Prior to the commencement of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) detailing the landscaping and ecological design and management for the site shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:

- purpose and conservation objectives of the landscaping and ecological design, including the creation of the reptile receptor area;
- timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- description and evaluation of features to be managed;
- aims and objectives of management, including the long-term management of the of the reptile receptor area;
- appropriate management prescriptions for achieving aims and objectives;
- preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- details of the body(/ies) or organisation(s) responsible for implementation of the LEMP; and,
- ongoing monitoring and remedial measures.

Reason: In the interests of maintaining the biodiversity of the site enhanced as part of the development.

22. The landscaping scheme shown on approved Landscape Proposals Drawing No. MHS157/16-G01 and Landscape Sections Drawing No. MHS157/16-C61 shall be carried out fully within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.

Reason: In order to protect and enhance the amenity of the area.

23. The development shall be carried out in accordance with the details of levels, earth bunds and fencing shown on approved Block Plan Drawing No. 15.17.003 Rev G, Proposed Site Plan Drawing No. 15.17.005 Rev C, Site Section B-B Drawing No. 15.17.004 Rev B, Site Section - A/A Drawing No. 15.17.015 Rev A, Landscape Proposals Drawing No. MHS157/16-G01 and Landscape Sections Drawing No. MHS157/16-C61 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

24. The development shall be carried out in accordance with the hard and soft landscaping shown on approved Landscape Proposals Drawing No. MHS157/16-G01 and Landscape Sections Drawing No. MHS157/16-C61 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

25. The approved lighting scheme shall be installed, maintained and operated in accordance with the approved details and shall not be operated except during

the hours limited by condition 12 of this permission, 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.

26. The development shall be carried out in accordance with the recommendations in the Noise Impact Assessment by MRL Acoustics Report No. MRL/100/1026.2v1 dated July 2017 unless otherwise agreed in writing.

Reason: In the interests of preserving the amenity of the neighbouring Lake House/Banyan Retreat.

27. Prior to the commencement of the development hereby approved, details of an acoustic barrier to be erected along the southern boundary of the site, including details of its ongoing maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The fence shall then be erected in accordance with the approved details before the first use of the site and shall be subsequently permanently retained and maintained in an effective condition.

Reason: In the interests of preserving the amenity of the neighbouring Lake House/Banyan Retreat.

28. The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:

- a. All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with BS 5837:2012, (Trees in relation to design, demolition and construction - recommendations) and in accordance with the approved Pre-development Tree Survey and Report and accompanying Tree Protection Plan and Arboricultural Method Statement, to the satisfaction of the Local Planning Authority. Such tree protection measures shall remain throughout the period of construction;
- b. No fires shall be lit within the spread of branches or downwind of the trees and other vegetation;
- c. No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
- d. No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;
- e. Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

- f. No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan.

29. Any existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. Any existing hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any parts of hedges or hedgerows removed without the Local Planning Authority's prior consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing hedges or hedgerows.

30. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

31. The development hereby approved shall be first occupied by the applicant's business Vatre Terracota Limited.

Reason: The development has been permitted on the basis of the needs of this particular business and the condition enables the Local Planning Authority to regulate and control the development in the interests of the amenity of the area.

32. The building hereby approved shall be constructed achieve a minimum Building Research Establishment BREEAM (or subsequent equivalent quality assured scheme) overall (good) standard comprising the following minimum elements:

- i. 'Excellent' standard in respect of energy credits;

- ii. 'Excellent' standard in respect of water credits; and,
- iii. 'Very Good') standards in respect of material credits

Prior to development commencing, the following details shall be submitted to the Local Planning Authority for written approval:

- g. details of a 'Design Stage' assessment and related certification; and,
- h. details of how the development will reduce carbon dioxide emissions to a level 10% below the predicted total energy demand through the use of on-site sustainable energy technologies such as renewables and/or low carbon technologies.

Following completion of the final building, a BREEAM 'Post Construction Stage' assessment and related certification confirming the BREEAM standard that has been achieved and stating the amount of residual carbon emissions and how they are proposed to be dealt with to ensure that the development is carbon neutral (including details of any necessary mechanisms to be put in place and associated timetables) shall be submitted to and approved in writing by the Local Planning Authority.

Following any approval of a 'Post Construction State' assessment, the approved measures and technologies to achieve the BREEAM (good) standard and to ensure that development is carbon neutral shall be implemented in accordance with the approval and thereafter shall be retained in working order in perpetuity.

Reason: In order to ensure that the energy efficiency through sustainable design and construction is achieved.

Notes to Applicant

1. It is the responsibility of the applicant to ensure that before the development hereby approved is commenced, all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
2. The applicant's attention is drawn to the advice and guidance contained in the Environment Agency's letter dated 06 October 2016, KCC Flood and Water Management's letter dated 4 October 2016, Southern Water's letter dated 29/09/16 and the Rover Stour Internal Drainage Board's email dated 04 October 2016.
3. The development is subject to an Obligation under Section 106 of the Town and Country Planning Act 1990, which affects the way in which the property may be used.

4. Working with the Applicant

In accordance with paragraphs 186 and 187 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,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance;

- the applicant/agent was updated of any issues after the initial site visit,
- the applicant/agent was provided with pre-application advice,
- the applicant/agent responded by submitting amended plans, which were found to be acceptable and permission was granted,
- the applicant/agent was provided the opportunity to submit amendments to the scheme/ address issues,
- the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

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 16/01387/AS)

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Annex 1

