



Appeal Decision

Inquiry held between 8-11, and 29 January 2024

Site visits made on 11 and 12 January 2024

by D R McCreery MA BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2024

Appeal Ref: APP/U2235/W/23/3329481

Land north of the A20, Ashford Road, Hollingbourne, Kent, ME17 1XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wates Developments against the decision of Maidstone Borough Council.
 - The application Ref 23/500899/OUT, dated 7 March 2023, was refused by notice dated 28 June 2023.
 - The development proposed is outline application for the erection a building for storage and distribution (Class B8 use) with a floorspace up to 10,788sqm (Gross External Area), ancillary offices, associated car parking, HGV parking, landscaping and infrastructure (All matters reserved except for access).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A case management conference was held online with the Appellant and Council on 27 November 2023. The purpose was to provide a structure for the ongoing management of the inquiry. No discussion of the merits of the respective cases took place. A note of the conference was made publicly available shortly after.
3. An overarching statement of common ground (SOCG) between the Appellant and the Council was agreed on 15 December 2023. A further statement relating to economic need [ID15] (Economic Need SOCG) was agreed on 19 January 2024.
4. The Council published their 2022/23 Annual Monitoring Report (AMR) [ID19] in December 2023. The inquiry was adjourned between 11 and 29 January to allow the parties to consider it.
5. The proposal is an outline application with all matters reserved for subsequent approval except for access. Details of reserved matters, including the submitted masterplan, have been treated on an illustrative basis. The acceptability of the proposed access is not in dispute. I have no reason to adopt a different view.
6. A legal agreement under section 106 of the Town and Country Planning Act 1990 (S106) has been submitted. The S106 contains obligations aimed at securing an off-site habitat net gain and monitoring fees. No local policies requiring a certain level of net gain have been drawn to my attention and the proposal would not be subject to the statutory requirement as it falls under the transitional arrangements. Nevertheless, the net gain obligation is consistent with policy in National Planning Policy Framework (the Framework) Paragraph 186(d) about planning decisions providing net gains for biodiversity.

7. Examining the policy basis and rationale for each of the obligations (including the cost breakdown for the monitoring contributions) I am satisfied that they meet the relevant tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as repeated in paragraph 57 (Framework). I have taken the S106 into account. In light of the S106, the Council confirmed that their reason for refusal number 3 had been addressed. I have no reason to adopt a different view.

Planning Policy

8. Applications for planning permission are to be determined in accordance with the development plan unless material considerations indicate otherwise. Policies of central relevance to the main issues are in the Maidstone Local Plan (Local Plan); namely Policies SS1 (Maidstone Borough spatial strategy), SP17 (The countryside), SP21 (Economic development) and DM30 (Design principles in the countryside).
9. The Framework is a material consideration. It was updated in December 2023, with the parties given the opportunity to comment on any implications for their cases.
10. The Maidstone Local Plan Review (LPR) is currently being examined for soundness. The parties agree that the LPR is material to the determination of the appeal, but not the weight to be afforded to relevant policies within it. I will return to the LPR later in the decision.

Main Issues

11. The main issues are:

- Effects on the character and appearance of the area, including the setting of the Kent Downs Area of Outstanding Natural Beauty (AONB)
- Whether the proposal accords with local and national policy when regard is paid to the location of economic development

Reasons

Character and appearance

12. The site is not subject to any designations of direct relevance to the main issues and the Appellant and the Council agree that it is not within a valued landscape for the purposes of Paragraph 180(a) (Framework). It is also agreed that the site is located around 520m away from the boundary of the AONB and that it is within its setting. The steep upper slopes (scarps) of the Downs can be seen from the area around the site.
13. Employment development and transport infrastructure informs the surroundings, with the A20, Junction 8 of the M20, and the employment allocation EMP1(4) (Local Plan) (Woodcut Farm) at the boundaries of the site.
14. The Landscape and Visual Impact Assessment [CD1.2] and addendum [CD1.7] (LVIA) considers the likely effects on the landscape. Although there are differences in professional judgment between experts, there is no dispute between the Council and the Appellant that the LVIA is of a factual and largely uncontentious nature and broadly accords with the relevant guidance¹.

Landscape character

15. The SOCG agrees that the Maidstone Borough Council Landscape Character Assessment (LCA) is material to the determination of the appeal. It is also the most granular and spatially specific of the assessments.

¹ GLVIA3 [CD5.1]

16. The Leeds Castle Parklands character area sub area (White Heath Farmlands) describes key characteristics that are representative of the site and surrounding landscape; specifically major infrastructure, urban influences, modern development, and vegetation belts. Addressing the wider character area, the LCA acknowledges the influence of major infrastructure and the fragmentation it has brought to the local landscape, along with visual detractors that include commercial development along the A20. This part of the description fits the site and surroundings, notwithstanding the LCA pre-dating Woodcut Farm.
17. Paragraphs 49.19 and 49.20 (LCA) describe features that are only partially consistent with the site itself. Although the site is an arable field and is perceived visually as farmland, it is not particularly large. The employment and transport infrastructure development around it has had the effect of severing the site from the original field pattern and creating a residual land parcel. In this respect the site does not read as a continuation of the rolling countryside that is seen most immediately to the south west. The reference in the LCA to views within the area being relatively open across farmland is of most relevance to the area on the south side of the A20.
18. The descriptions of condition and sensitivity at paragraphs 49.25 and 49.26 (LCA) have continuing relevance and are representative of the site and surroundings. The reference to wide views of the North Down scarps are of greater relevance as seen from the south side of the A20. The LCA also highlights the sensitivity of the location in providing the setting to the AONB.
19. The Kent County Assessment [CD5.7] (KCA) considers a wider spatial scale and therefore does not have the level of focus and specificity seen in the LCA. Emphasis in the inquiry was placed on the reference to the rural and tranquil nature of the site being shattered by the alignment of the M20 and Channel Tunnel rail line. The language is colourful but doesn't particularly assist with forming a balanced view about the site and its immediate surroundings, given the wider area the KCA considers and the reference to influences, particularly the channel tunnel rail link, that are of less relevance to this appeal. In this respect the KCA adds very little to the description of the fragmenting effect of infrastructure that is described more even handedly and with greater specificity in the LCA.
20. All landscape character work should be used sensibly considering their spatial scale, age, and changes in the landscape that have occurred since production. Woodcut Farm is an obvious example of the latter. It is the LCA that is most spatially specific, includes more descriptive elements that are representative of the site and surroundings and assists most in forming a view on existing character and the effects of the proposal on features that make the landscape distinctive.
21. There is also consistency of theme within the assessments that highlights the positive influence of the surrounding countryside and the need for management of transport infrastructure and modern development in the interests of minimising detracting effects.
22. Woodcut Farm is a considerable built intervention and a relevant and evolving part of the site context and character of the surroundings. The development disrupts the perceived continuity of open countryside between the south and north sides of the A20, an effect that will increase when fully constructed, with development in the south eastern corner still to follow.
23. Beyond the employment and transport infrastructure, and despite their influence on the locality, the character of the surroundings is predominantly that of open countryside. This is most immediately evident on the opposite side of the A20, where large open fields carry on into the distance, punctuated by vegetation of varying scale and small buildings. This area shares countryside characteristics with the AONB and is, therefore, complementary.

24. In relation to the value and susceptibility of the appeal site itself, the conclusions in the LVIA are fair on both counts. Undulating farmland may be highly characteristic of the land to the south of the A20, but the same cannot be said of the site due to the level of interruption brought about by employment uses and transport infrastructure. For these reasons, I do not agree that the site's contribution of arable land to farmland character justifies a conclusion of greater value than that set out in the LVIA. The justification at paragraph 4.4 of the LVIA for the conclusion on susceptibility in relation to arable land is reasonable.
25. The proposal will result in no loss of hedgerows, tree cover, water features, or recreational opportunities. The loss of perceivable topographical profile and arable field land use generates minor to moderate adverse effects on the site itself. There would be gains in terms of additional tree cover to provide boundary planting and landscape mitigation. This is beneficial, although I would stop short of describing the effect as major beneficial.
26. Overall, I agree with the classification of the landscape effects on the appeal site as set out in the LVIA (i.e. moderate adverse, reducing over time).
27. Paying regard to the landscape character assessments and the discussion of specific aspects discussed above, the overall categorisation of the effects on the various character areas in the LVIA is reasonable, including the LCA. At worst, moderate adverse effects would result with a reasonable prospect of reducing over time as the development and mitigation becomes established. The additional landscape screening proposed during the appeal doesn't materially change this overall position as it is targeted primarily at managing visual impacts from specific viewpoints (discussed below). The adverse effects arise principally because of the further encroachment of modern development into what is presently perceived as open land, albeit within the evolving context influenced by Woodcut Farm.

Visual impacts

28. The LVIA includes an appropriate range of representative viewpoints within a reasonable zone of influence. It makes reasonable assumptions about the sensitivity of two relevant categories of visual receptors; road users (low sensitivity) and right of way users (medium to high sensitivity). The photomontages provided by both parties were discussed in detail at the inquiry and are a tool to assist with forming a view on site.
29. The site is not currently prominent in the landscape. Nevertheless, it is widely visible within a localised viewing area. In many cases, where visible, the perception of countryside is disrupted by transport infrastructure and employment development as discussed above.
30. The inquiry focused on this perception as experienced from two areas. Firstly, the field containing the public right of way across from the site that connects the A20 with Old Mill Road (the PRow) and, secondly, Old Mill Road itself.
31. The PRow is signposted and unobstructed. It has no obvious worn track, which is just as capable of being attributed to users taking different routes across the open field as non-use. The Appellant's survey evidence does not lead me to make a finding that the PRow is not used, as the survey is limited in duration and the representativeness of the timing is open to question. The extent of use of the PRow therefore has no impact on my conclusions either way.
32. From the PRow the proposal would be seen from a relatively short viewing distance. Although the precise path of the PRow is unclear, the waymarking provided by the stile at the A20 results in a travel direction approximately towards the main existing buildings of Woodcut Farm, with the site visible to the north east. In these views it is partially obstructed or filtered through trees on the M20/A20 junction embankment and within the field itself.

33. The prominence, and therefore visual impact of the development, would increase as one moves from the Old Mill Road entrance to the PRoW towards the A20. To say that moving closer to a development increases its perceived prominence is of course stating the obvious. However, in this instance topography also plays a role as the Old Mill Road end of the PRoW is on higher ground and the land closer to the A20 is, at best, on a level with the site. The differing views along the PRoW are well represented by the existing photographs in Mr Radmall's appendices².
34. Looking from the Old Mill Road end of the PRoW (VP6) towards the site, the proposal would be partially obscured by embankment vegetation. This would break the appearance of building mass. I have no reason to conclude that the embankment vegetation will be a less reliable continuing form of screening than any other vegetation in the surroundings.
35. The view from the higher ground of VP6 would result in background countryside, including the scarp, remaining visible. However, the increased built presence would reduce the level of through visibility of the background countryside and the quality of the view. Some mitigation for a reduction in quality of view would arise because of the proposed landscaping, both within the site and within the field containing the PRoW. The year 15 visualisation provided by Mr Cook³ shows that the mitigation has some prospect of being effective in managing views from VP6 to a degree. Nevertheless, the reduction in views of a countryside backdrop in favour of built form would result in a deterioration in the quality of the view.
36. Moving further along the PRoW to the area represented by VP6A, the lower ground would result in more scarp views being obscured by building. The Council's visualisation of this view places field and embankment vegetation in the background. It overstates the likely prominence of the building by not fairly representing the contribution that natural landscape features would play. The additional field landscaping proposed has some reasonable prospect of managing effects further to a degree. Restrictions on building height, which could be secured by condition, would reduce the potential for more extensive views of the building against the skyline. Accounting for this mitigation, there would still be a deterioration in the quality of the view for the same reasons as VP6.
37. The representative view at VP6B would be substantially affected by the proposal. The location, closer to and at best on a level with the site and beyond the tree line that informally divides the field containing the PRoW, reduces the level of natural screening and the potential for mitigation within the field. The existing road embankment vegetation and proposed site landscaping would offer limited screening in this location. The proposal would be a dominant feature, more so than Woodcut Farm due to the relative proximity. There would be significant deterioration in the quality of view from this location.
38. Turning to Old Mill Road, the parties agree that VP6 is an adequate representative view from the road. As such, my reasoning and conclusions related to effects from the PRoW at VP6 applies equally in this location. A distinguishing factor is that the road is predominantly used by vehicles, although I do not discount pedestrian use. In LVIA terms this reduces the sensitivity of receptors, which I have considered. The length and route of Old Mill Road results in views over a much longer viewing distance than the PRoW. There would be a reduction in the quality of the view with additional landscaping providing some mitigation.
39. Considering my assessment above alongside the LVIA, I am of the view that the LVIA understates the predicted magnitude of change from VP6. The landscaped frontage of the proposal would not be a significant feature in this view in comparison to the scale of the building and the assessment does not fully reflect the extent to which the proposal would block the view of background countryside, even where it sits below the horizon and some legibility of the scarps would remain. The magnitude of change would be high at year 1.

² CD7.11. - Appendix B.2 - VP6, VP6A, and VP6B

³ CD.8 -Appendix 11

40. With the additional landscaping proposed by the Appellant [ID6] factored in, the magnitude would be medium/high at year 1. The scale of visual effect would reduce over time to moderate. I would extend this judgement to VP6A. This is a reasonable representation of the visual effects of the development on Old Mill Road and much of the PRow. In relation to VP6B, the scale of visual effects would be greater than that set out in the LVIA.
41. Turning to effects on road users of the A20 and its junction, the level of fragmentation provided by transport infrastructure results in minimal opportunity to associate the site with the open pastureland to the south of the A20 from this area. Woodcut Farm already disrupts the perception of rolling countryside continuing between the north and south sides of the A20. The proposal would not materially affect this already changed perception.
42. The contribution of the site to the sense of countryside when travelling on the A20 from west to east is minimal when compared to the land to the south. For these reasons and adopting VP4 as being reasonably representative of these views, I would not depart from the conclusions reached in the LVIA.

AONB

43. The LCA and other evidence, including comments of the AONB Unit, highlights the importance of views of the scarps and the sensitivity of the location in respect of AONB setting. The scarps can be seen from the area around the site, including from the countryside on the south side of the A20 and the area around VP6. The scarps are an important reason for the AONB designation, along with the long distance panoramas from them across open countryside. The AONB Management Plan [CD3.3] and Setting Position Statement [CD3.5] further highlights the importance and sensitivity of setting.
44. The Management Plan (at page 9) acknowledges that views from the landscape beyond the AONB looking towards it are relevant to the consideration of setting. It also makes the point that proposals affecting the setting of the AONB are not subject to the same level of constraint as those affecting the AONB itself.
45. The LVIA doesn't attribute a specific characterisation to the AONB as a landscape receptor. Paying regard to Mr Radmall's evidence at Table 4.1 of his proof and the wider evidence base (including the importance of the scarps in the reasons for designating the AONB) I judge 'high' to be a reasonable characterisation of sensitivity. I would stop short of 'very high' sensitivity as this would put it on a par with the AONB itself.
46. The inquiry focused on effects on setting as predominantly viewed from the PRow and Old Mill Road. In this respect some of my observations on local visual effects can be applied to AONB setting. Even where some legibility of the AONB scarps would remain there would be a deterioration in the quality of the views that would have an adverse impact on the setting of the AONB and the ability to appreciate its special qualities, critically the scarps that are a key reason for the designation. Screening designed to mitigate the impact and fixing the maximum height of buildings would reduce the effect, but there would continue to be an adverse residual impact.
47. In relation to effects on the AONB itself, the proposal would be partially visible from the AONB at a distance, limited by the rising topography. Paying regard to the LVIA representative views and the additional view point suggested by the AONB Unit at the inquiry, the views towards the site are generally of expansive panoramic quality allowing for extensive appreciation of the surrounding countryside. Within the views, Woodcut Farm can be seen but is neither a particular focal point nor a significant detractor from the quality of the view. In distant views from the AONB the proposal would be visible but would not create an easily perceivable increase in cumulative built development to fundamentally change the character of the view. The finish of roof materials would need to be carefully considered to ensure a muted effect and could be the subject of condition.

Conclusion on character and appearance

48. The proposal would result in adverse impacts, which the LVIA characterises in a broadly reasonable way (subject to any variation arising from my reasoning above). The LVIA assists in forming the necessary planning judgment on any conflict with development plan policy that arises.
49. There would be a loss of openness from the site and a change in character. This would be an inevitable consequence of the change in land use and introducing a development of the scale proposed, justifying the high magnitude of change expressed in the LVIA.
50. In local landscape views the proposal would be perceived as an eastward extension of Woodcut Farm when both are fully constructed. On the one hand, this would provide visual context and avoid the development being completely alien to the surroundings. On the other hand, there would be an encroachment of additional large scale built development that would impact negatively on the quality of local views. Such views would be localised and mitigation has some prospect of reducing adverse effects. However, residual adverse effects would remain that generates harm to the character and appearance of the area and conflict with Policy SP17(1) (Local Plan).
51. There would be adverse impacts on the setting of the AONB arising from the reduction in opportunity to appreciate the scarp slope and quality of views. Policy SP17(4) (Local Plan) requires that proposals should not have a significant adverse impact on the setting of the AONB, standing separate from the more general requirement in SP17(1). The Management Plan and the supporting text of SP17 assist with reaching a view on significance, with the instruction to take account of the Management Plan explicitly in the body of SP17. Page 29 of the Management Plan addresses setting and SD8 sets out the principle of ensuring proposals do not negatively impact on the setting and views to and from the Kent Downs AONB.
52. In this context, and balancing the importance of the scarp slope to the AONB designation against the localised impacts, the adverse impacts identified would be significant and would generate conflict with Policy SP17(4) (Local Plan)
53. In reaching this conclusion, I have paid regard to the duty in s.85 Countryside and Rights of Way Act 2000 (CROW). There is no guidance on how the amended duty should be applied. However, the harm arising to setting and the importance of the scarps to the AONB designation leads me to conclude that the duty to 'seek to further the purpose of conserving and enhancing...' would not be met by a conclusion of no significant adverse impacts.
54. The proposed landscaping would manage the adverse effects to a degree. It does not offer a benefit to the setting of the AONB, including by providing further screening of Woodcut Farm.
55. Conclusions reached on adverse impacts in the consideration of the allocation of Woodcut Farm and subsequent applications were arrived at in the context of that development. They also responded to the character and appearance of the surroundings as they were at that time. These factors limit what can reasonably be drawn from the conclusions. The conclusions on AONB impacts reached in the Chestnuts decision⁴ were on the premise development would represent an infill between the Woodcut Farm allocation, rather than an expansion of it. The same cannot be said in the case of the proposal, which would be a very clear eastwards extension of employment land.
56. The absence of objection from Natural England to the proposal is based on the submitted plans and the need for local assessment. Their response is not determinative.

⁴ 21/506792/HYBRID

57. In conclusion on this main issue, the proposal would result in harmful effects on the character and appearance of the area, including the setting of the AONB. Conflict with the development plan arises, specifically Policy SP17 (Local Plan) which says that development proposals in the countryside will not be permitted that result in harm to the character and appearance of the area and should not have a significant adverse effect on the AONB.
58. Policy DM30 (Local Plan) relates to detailed design, which would be the subject of a reserved matters application. A conclusion on conflict with this policy would be premature.

Location

59. The locational strategy in Policy SS1 (Local Plan) places emphasis on the granting of planning permissions and the allocation of sites to meet identified employment needs, including a contribution from allocations identified on the policies map. The detailed figures set out in SS1(1) are not maxima, so can be exceeded. Read plainly and in its full context, SS1 provides a clear exposition of where development should be directed as part of a plan led approach. The site is not allocated for employment development and is designated as countryside in policy terms.
60. It is sufficiently clear from a reading of Policy SS1, the supporting text, and the policies map together that 'a prestigious business park' in SS1(4) is intended to refer to Woodcut Farm. Interpreting it to say that development more generally around junction 8 of the M20 would be within the policy stretches it beyond reasonable limits.
61. The site is adjacent to Woodcut Farm, and therefore the proposal would have a visual association with it. However, the proposal would not be part of, or physically or functionally linked to it. The Council permitting additional development at Woodcut Farm outside of the area identified on the policies map without identifying conflict with Policy SS1 is not materially relevant in the present circumstances where development outside of Woodcut Farm is being assessed.
62. For the purposes of the locational strategy in Policy SS1 the site is in an 'other location' where SS1(9) says that protection is to be given to the rural character of the borough. In all cases, SS1(10) says that the AONB and its setting and landscapes of local value will be conserved and enhanced. Compliance with Policy SS1 needs to be considered in the context of other relevant policies. My reasoning on character and appearance is therefore of relevance. Here, conflict with SP17 leads me towards a conclusion that SS1(9) and (10) would also be breached.
63. In relation to economic development, Policy SP21 reinforces the intention to meet needs through the allocation of sites. Although the proposal would bring jobs, the evidence does not demonstrate that it would be reasonable to conclude that the jobs would encourage highly skilled residents to work in the borough to reduce out commuting. SP21(iv) is not therefore engaged.
64. The proposal would not result in the expansion of existing economic development premises in the countryside. The site is an arable field, with no premises to expand. It is adjacent to, but not part of, Woodcut Farm. It would not be a reasonable interpretation of Policy SP21 to regard the proposal as an expansion of Woodcut Farm, paying regard to what the policy says and the supporting text (specifically paragraph 4.144). SP21(viii) is not therefore engaged and specific consideration of Policy DM37 is not triggered.
65. The essence of Policy SP21 is about supporting and improving the economy of the borough and providing for the needs of business. The policy detail provides a positive approach to achieve that aim, and signals support where it is engaged.

66. It would run counter to the purposes of the policy to view any proposal on an unallocated site or not within the eight criteria as conflicting with it. Although Policy SP21 is not engaged by the proposal, there is no breach of it.
67. The proposal does not accord with local and national policy when regard is paid to the location of economic development. There is conflict with the development plan, specifically Policy SS1 which manages the location of economic development.

Other considerations

Need

68. The Economic Need SOCG sets out the agreed position that there is a continuing locally driven need for the borough to accommodate additional B8 warehousing space up to at least 2038. There is also agreement relating to the Appellant's logistics and distribution specific market analysis, demand evidence, and the attractiveness of the M20 as a location for distribution activity.
69. The parties agree that the LPR evidence base is material to the determination of this appeal. The evidence is used selectively in the context of the proposal. It is not a purpose of this appeal to examine the LPR evidence base in its wider plan making context.
70. The LPR examination is at an advanced stage and the Inspector's stage 1 letter [CD6.6] makes positive remarks about the comprehensiveness of the economic development evidence and the Council's approach not constraining the economic potential of the borough. The stage 2 letter [CD6.7] does not include employment land amongst the issues raised.
71. Findings made at different stages of an examination are subject to change as part of an evolving process, which includes considering consultation responses on proposed main modifications. This said, given the advanced stage of the LPR examination and the findings made to date, there is not strong evidence indicating material weakness in the Council's approach to employment land or a preference towards utilising a different calculation model. Nevertheless, I have taken account of the Appellant's modelling analysis.
72. The Council's evidence of need⁵ is focused on meeting the needs of the borough. In relation to industrial uses (including B8) it concludes that most demand is reported to come from locally based firms seeking smaller premises. Demand for industrial space is acknowledged as tending to increase with proximity to the M20.
73. The Appellant's evidence⁶ uses material from across differing spatial geographies to identify market demand arising from commercial and consumer behaviour, the increasing popularity of London and the south east for logistics activity and the attractiveness of the region (including in locations along the M20), along with rental data from across Kent showing Maidstone's relative position. Leasing data from identified sites highlights the strength of the local market. The Locate in Kent letter⁷ and the response from the Council's Economic Development team [CD2.4] provides further evidence of demand for the proposal. Notwithstanding their respective interests, and with some qualification in the case of the Council's letter, both add support to the proposition that there is market demand.

⁵ Including CD6.7

⁶ Including evidence summarised at paragraph 3.4 to 3.9 (Economic Need SOCG)

⁷ Dated 30 November 2023

74. Taken as a whole the evidence indicates that there is market demand for additional large warehouse space. This arises primarily because of demand for strategic distribution across the wider area (that includes Maidstone). The level of demand is not persuasively quantified in the evidence, nor is it apportioned to Maidstone specifically. Nevertheless, a level of need flows from the demand.
75. It is not for Maidstone to meet all the needs of the wider area. Although the demand could (in general terms) be met elsewhere, as set out in Mr Kinghan's assessment of the functional economic area⁸, there is limited evidence to indicate whether it would be or the extent to which B8 provision would be suitable for larger warehouse use. The Appellant has also provided information about supply across the wider area, including age of existing stock and vacancy rates, which is also relevant.
76. The availability of the unit at Woodcut Farm does not dent the credibility of the Appellant's evidence on demand, particularly considering the discussion that took place at the roundtable highlighting how the unit has been marketed. The decision of the Woodcut Farm developer to sub-divide units appears to be a commercial choice. The reasoning for it is a matter of speculation. It neither supports a view that it arose because of lack of demand for larger units nor that it has removed supply from the market that must be replaced to address pent up demand.
77. The industrial and distribution market is not locally defined. As such, it is always going to be possible to say that demand can be met elsewhere. However, the qualitative needs of a sector serving a wider area (including Maidstone) could be met by the appeal site. This is primarily due to its relationship with the M20, flexibility to accommodate a building of the required size, access to workforce and surrounding infrastructure.
78. In these circumstances, need for a larger warehouse use is a consideration deserving of weight in the planning balance. A lack of persuasive quantification and attribution to Maidstone specifically means that I am unable to conclude on a specific level of identified need. Nevertheless, other sources of supply within the borough that could meet the qualitative requirements of such a use is of some relevance.
79. Paragraph 4.1 (Economic Need SOCG) summarises the agreed position on sites available to accommodate an identified borough specific need for B8 space (of all sizes). No sites are available for purely B8 use, indicating that the final balance between different permitted employment uses on each site is subject to a degree of speculation. Nevertheless, it is an agreed position that the sites offer a quantitative supply that could meet and potentially exceed the identified B8 need. Allocations within the LPR are subject to confirmation of soundness.
80. Whether the 2021/22 or the 2022/23 AMR is used, the same general conclusions can be drawn on supply. While the quantitative provision of overall B8 supply is reasonably healthy, the opportunities within the supply to accommodate larger B8 provision is unclear and prompts a deeper exploration of individual sites. In this regard, the Appellant's Site Portfolio Analysis⁹ provides a fair overview of the qualitative suitability of the main allocated (and proposed to be allocated) sites.
81. Woodcut Farm has been built out at pace and in a phased manner. Letting/occupation information for three of the four largest buildings, along with voluntary sub-division of the largest building by the developer indicates that Woodcut Farm does not have a reasonable likelihood of being able to accommodate additional demand for bigger B8 units over the medium and longer terms.

⁸ Paragraphs 7.10-7.12 [CD7.12]

⁹ Appendix II [CD7.9]

82. The Former Syngenta Works is a site likely to come forward in the shorter term. Further details are to follow as part of reserved matters. It is some distance from the major road network, potentially limiting attractiveness for large scale distribution activity. Although larger scale B8 use is not out of the question, the location of the site makes it an unreliable source of supply.
83. The proposed Lidsing Garden Settlement would include significant employment provision, including potential for larger scale B8 use with good access to the major road network. Even if Main Modifications limiting size of buildings are taken forward, the site would remain appropriate for what would still be B8 use of a large scale. The assumed timing for delivery of the development makes this a source of supply that can only reasonably be regarded as longer term.
84. Heathlands Garden Settlement will meet some local B8 need but is not demonstrated as being suitable for larger scale B8 use. West of Barradale, South of Claygate, and Ashford Road are not demonstrated as being reasonably capable of meeting a need for larger scale B8 use due to the size and location of the sites. Beyond allocations, windfall development is not shown to be a reliable source of larger B8 sites.
85. Overall, there is some need for a larger B8 use to help address demand from across the wider area. There are some limitations on local sources of continuing supply of sites when qualitative requirements are considered. However, the absence of persuasive quantification of need and specific attribution to Maidstone does not allow me to conclude categorically that unmet need should be met by the borough. Nevertheless, need is a consideration deserving of weight in the planning balance.

Maidstone Local Plan Review (LPR)

86. The examination of the LPR has been through two stages of hearings. Each stage was followed by a letter from the Inspector. A consultation on main modifications to the LPR has taken place and we await further instructions from the Inspector. In these circumstances it would be wrong to characterise the examination as not having moved on substantially since June 2023.
87. The LPR is at such an advanced stage of preparation that relevant policies are capable (in principle) of attracting significant weight when paragraph 48a (Framework) is applied in isolation. A more detailed examination of the relevant policies is necessary to establish whether lesser weight should be afforded as a consequence of paragraph 48b and/or 48c, taking also a rounded view of paragraph 48.
88. Both LPRSS1 and LPRSP11(B) are related in that they set out a minimum requirement for B8 provision and together identify sites that may meet it. The policies are consistent with the Framework in that they set and overall strategy for development in the borough. While there are unresolved objections¹⁰ and how the examining Inspector will respond to them is subject to a degree of uncertainty, the advanced stage of the examination and the findings of the Inspector to date do not indicate a high likelihood of a significant change to the overall approach to employment land. Nevertheless, on balance, the policies attract moderate weight due to the unresolved objections.
89. LPRSP9 is consistent with the Framework in defining the countryside for planning purposes and setting out how development proposals will be treated. The main modification that criterion 1 should be amended to qualify that 'significant harm' to the character and appearance of the area will not be permitted comes at the suggestion of the Inspector for the clear reasons set out in the stage 2 letter [CD6.7]. I do not have evidence of unresolved objections that may be of significance. The policy, as modified, attracts significant weight.

¹⁰ Including from the Appellant detailed in CD6.5

90. LPRSP11(A) relates to safeguarding existing employment sites and premises. The site is adjacent to, but not part of, Woodcut Farm. Regarding the proposal as an expansion or intensification of Woodcut Farm would not be a reasonable interpretation of LPRSP11(A), even noting that the policy refers to industrial or business uses. In this case the use is an agricultural field. As LPRSP11(A) is not material to my conclusions making a finding against paragraph 48 serves limited purpose.
91. LPRSP11 and LPRQ&D411 are not material to my conclusions as they mostly represent a continuation of the policy approach in the Local Plan. Making a finding against paragraph 48 serves limited purpose.
92. In summary, when regard is paid to paragraph 48 (Framework), moderate weight may be afforded to Policies LPRSS1 and LPRSP11(B) and significant weight to LPRSP9 as emerging plan policies. Although paragraph 48 is not an instruction that weight must be given, I see no justification to not give the requisite weight in this instance.

Other Matters

93. I have paid regard to comments from other interested parties, including those who made representations at the inquiry. Comments relating to the main issues and planning balance have been considered as part of my reasoning elsewhere in this decision.

Conclusions

94. My consideration of weight and degree of conflict uses the scale - Limited/ Moderate/ Significant / Substantial.
95. The proposal would result in harmful effects to the character and appearance of the area, including the setting of the AONB. It would also not accord with local and national policy when regard is paid to the location of economic development. Conflict with the development plan arises from these main issues, which amounts to conflict with the plan as a whole.
96. The conflict resulting from harm to AONB setting is significant. Whilst the effects are localised, the importance of scarp views to the designation and the relevant statutory duties are important considerations. I have considered the proposal in line with the amended duty at s85 CROW. For the avoidance of doubt, the overall outcome would have been the same had I been considering the duty pre-amendment.
97. Paragraph 182 (Framework) directs that conservation and enhancement of the AONB should be given great weight. Whilst seen within the context of Woodcut Farm, the proposal would be viewed as an eastwards extension of employment land. It cannot be regarded as sensitively located. Adverse impacts would not be avoided. Mitigation, principally in the form of screening, would reduce the impacts to a degree but not to an acceptable extent.
98. Paying regard to my conclusions on character and appearance, the conflict with Policy SP17 arising from local landscape and visual effects is moderate due to the localised nature of views and the context provided by Woodcut Farm. This is not to diminish the value of 'ordinary' countryside but to recognise that the AONB has a different statutory and policy context that lifts my view on degree of conflict. In reaching this view I have paid regard to paragraph 180b (Framework) on recognising the intrinsic character and beauty of the countryside.

¹¹ LPRSP11, LPRQ&D4

99. The proposed use falls outside of the locational strategy in Policy SS1 in circumstances where warehouse floor space is being delivered in accordance with it on a quantitative basis and the degree to which the strategy should be expected to accommodate the qualitative demands of the wider area for larger B8 use is not demonstrated. The absence of reason for not including the site within the Woodcut Farm allocation in the first instance is not of itself materially relevant.
100. Although moderate conflict with Policy SP17 arises from local landscape and visual effects, the proposal cannot be said to protect the rural character of the borough. Nor would the setting of the AONB be conserved and enhanced. As such, the proposal is inconsistent with Policies SS1(9) and (10). Although not part of the prestigious business park identified at SS1(4), it is reasonable to attribute some favourable weight to the fact that the spatial strategy directs employment growth towards this area. For this reason, I fall short of concluding that there is substantial conflict with Policy SS1. The conflict is instead significant.
101. For the reasons set out above, there is no conflict with Policy SP21.
- Other material considerations (including benefits)*
102. In terms of general B8 provision, the Council can demonstrate that identified locally specific needs are being met. Although the relevant policies in the LPR can only be given moderate weight, they provide reasonable evidence that general B8 needs will continue to be met on a quantitative basis. The Council's progress with bringing forward the LPR and action on plan making compared to others does not affect my conclusions one way or another.
103. A demand for larger scale warehouse development to meet market demand and the locational requirements of the distribution sector is established. This arises from demand across the wider area (including Maidstone). It is not Maidstone specific, it is not persuasively quantified, and levels of expected contributions are not attributed across the wider area. Because of this, demand cannot easily be translated into a level of need. Nevertheless, giving weight to need in the planning balance is justified, paying regard also to Paragraph 87 (Framework). However, it falls short of the substantial weight claimed by the Appellant.
104. The proposal would generate other economic (and social) benefits in the form of close to 200 direct and indirect jobs and around £4.7 million gross value added in construction benefits (including workers, local spend, and supply chain). Given the question marks over continuing larger scale B8 supply, it is not demonstrated that the same benefits would be generated from similar development on allocated sites. It is not reasonable to judge the benefits against those that arose from consideration of the Woodcut Farm planning applications, as they had their own specific balancing of benefits and adverse effects.
105. Paragraph 85 (Framework) is of relevance. The proposal would support economic growth and productivity by offering a wider opportunity for development that would assist in the continuing growth of the wider area as a location for logistics and distribution. With this in mind, and paying regard to the benefits described above, the relevant economic and social benefits of the proposal attract significant weight.
106. There would be net gains for biodiversity. Although not mandated by law or policy, provision of some gain would be consistent with Paragraph 186(d) (Framework). Paying regard to the relatively modest level of gain proposed, it attracts limited weight as a benefit of the proposal.
107. The scheme aiming to achieve a BREAAAM 'excellent' standard would be more than the Local Plan requirement of very good. This is a benefit that could be secured by condition and attracts moderate weight considering its specificity and the scale of development that it would apply to.

108. The more general sustainability credentials of the scheme, even if certified by a third party and required by condition, are not evidenced as a benefit attracting more than limited weight. Similarly, the transportation benefits and its co-location with Woodcut Farm are not evidenced to result in anything more than limited weight. There is a degree of alignment with the Council's Economic Development Strategy [CD6.8], which attracts limited to moderate weight. The Council's Strategic Plan [CD8.1] has priorities that pull in different directions, alignment with it is not demonstrated as a benefit.
109. Moving on to consider whether paragraph 11 (Framework) applies. The agreed and relevant most important policies in the Local Plan are SS1 and SP17¹².
110. Policy SP17 was adopted in the national policy context of the 2012 Framework and at paragraph 4.95 includes reference to countryside protection for its own sake, before going on to discuss the need for some flexibility. It is not reasonable to read the policy itself as a blanket restriction on any harm occurring in the countryside by virtue of the second limb of SP17(1). The policy does not say 'any' harm and also mentions accordance with other policies in the plan. More widely the policy includes reference to appropriate mitigation of adverse impacts (at SP17(2)) and significant adverse effects to AONB setting at SP17(4), indicating that some harm may be tolerable. This does not point towards Policy SP17 being intended to impose a blanket restriction. The aims of Policy SP17 are consistent with paragraph 180b (Framework) on recognising the intrinsic character and beauty of the countryside.
111. Policy LPRSP9 (LPR) is capable of attracting significant weight but does not introduce a materially different relevant policy environment. As such, it does not affect my overall conclusions. The main modification suggested by the examining Inspector comes from concerns about potential for zealous application of it without clarification. The proceeding sentences in the Inspector's letter reference application of the policy to housing proposals in smaller villages. It cannot reasonably be inferred from the modification that Policy SP17 (Local Plan) is out of date.
112. Policy SS1 accords with Section 3 (Framework) by setting out a strategic direction for the borough. The Council can demonstrate warehouse floor space provision in line with the policy. The demand for larger warehouse space to serve the needs of the wider area does not make SS1 and its approach towards addressing local needs out of date. The LPR identifying a need for additional warehouse space across a different (but overlapping plan period) does not render SS1 out of date.
113. Policies SP17 and SS1 (Local Plan) are not out of date. Therefore, paragraph 11 (Framework) is not a material consideration. Even if paragraph 11 were engaged, the harm to the setting of the AONB provides a clear reason for refusing the proposed development. As such, 11d would not apply.
114. Carefully weighing the benefits against the plan conflict, I recognise and give significant weight to the issues of need and wider economic and social benefits, alongside other benefits. However, they are not of a level to outweigh the conflict with the development plan, which includes a significant departure from the strategy intended to direct the location of employment uses and significant harm to the setting of the AONB.
115. For these reasons, the appeal is dismissed.

D R McCreery

INSPECTOR

¹² SP21 (Local Plan) is not relevant for the reasons explain above

Annex A – Appearances

FOR THE APPELLANT:

Counsel for the Appellant - Paul Tucker KC and Shemuel Sheikh

Witnesses:

Landscape - Andrew Cook BA(Hons) MLD CMLI MIEMA CEnv (Pegasus Group)

Planning - Asher Ross BSc (Hons) MPhil MRTPI (Wates Developments Ltd)

Martyn Saunders MIED (Avison Young) and Ed Cole (JLL) spoke at the roundtable on economic need.

FOR THE LOCAL PLANNING AUTHORITY:

Counsel for the Local Planning Authority - Emmaline Lambert

Witnesses:

Landscape - Peter Radmall MA B.Phil CMLI

Planning - Richard Timms BA (Hons) MA TCP MRTPI (Maidstone Borough Council)

Matthew Kinghan BA (Hons) MSc MIED Assoc. RTPI (Iceni) spoke at the roundtable on economic need.

INTERESTED PARTIES:

Katie Miller MRTPI (representing the Kent Downs Area of Outstanding Natural Beauty Unit)

Councillor Garten (speaking in their elected capacity)

Councillor Springett (speaking in their elected capacity)

Annex B – Documents

Documents submitted during or after the inquiry

Accepted on the basis that I was satisfied the material was directly relevant to, and necessary for, my decision and that no prejudice arose from accepting them.

ID1 – Appellant Opening Statement
ID2 – Council Opening Statement
ID3 – White Heath Appeal Decision
ID4 – National Design Guide Jan 2021
ID5 – Maidstone Landscape Capacity Study: Sensitivity Assessment
ID6 – Proposed Field Restoration Plan RevB
ID7 – Andrew Cook Proof of Evidence Appendix 2 Update
ID8 – Technical Note - Visual Representation of Development Proposals
ID9 – Woodcut Farm Watercourse Plan
ID10 – Kent Downs AONB Unit Verbal Submissions
ID11 – LPA Statement on NPPF Changes
ID12 – Agreed Draft Section 106
ID13 - Amended Agreed Draft Section 106
ID14 - Amended Agreed Conditions
ID15 - Economic Need Statement of Common Ground
ID16 - Appellant Clarification from Economic Roundtable
ID17 - Appellant Review of Maidstone AMR 22/23
ID18 - Matt Kinghan Proof of Evidence Addendum
ID19 - Maidstone AMR 22-23

Core documents

Agreed by the parties as core documents ahead of the inquiry and included for reference purposes only. Not all were necessarily drawn upon during the inquiry.

CD1.1 - Planning Statement
CD1.2 - Landscape and Visual Impact Assessment
CD1.3 - Photomontages
CD1.4 - Design and Access Statement
CD1.5 - Transport Assessment
CD1.6 - Economic Needs Assessment
CD1.7 - Landscape and Visual Impact Assessment Addendum
CD1.8 - Traffic Impact Addendum
CD1.9 - BNG Assessment
CD1.10 - BNG metric
CD1.11 - Location Plan (1:1250)
CD1.12 - Location Plan (1:500)
CD1.13 - Proposed Site Access Arrangements Plan
CD1.14 - Illustrative Masterplan
CD1.15 - Illustrative Landscape Masterplan
CD2.1 - National Highways Response
CD2.2 - Kent County Council Highways Response
CD2.3 - Kent Biodiversity Response - June 2023
CD2.4 - Economic Development Response
CD2.5 - Kent Ecology Response - May 2023
CD2.6 - Kent Minerals Response
CD2.7 - Kent Ecology Response - April 2023

CD2.8 - Southern Water Response
CD2.9 - Environmental Protection Response
CD2.10 - Lead Local Flood Authority Response
CD2.11 - Natural England Response
CD2.12 - Kent Archaeology Response
CD2.13 - HSE Response
CD2.14 - Hollingbourne Parish Council Response
CD2.15 - Kent Downs AONB Unit Response - March 2023
CD2.16 - Kent Downs AONB Unit Response - May 2023
CD2.17 - Decision Notice
CD2.18 - Delegated Officer Report
CD2.19 - KCC Ecology Advice - 23 November 2023
CD2.20 - Peter Radmall Associates LVIA Review Responses
CD3.1 - Maidstone Borough Local Plan 2011 to 2031
CD3.2 - Maidstone Local Plan Review Regulation 19 Version
CD3.3 - Kent Downs AONB Management Plan 2021 to 2026
CD3.4 - Kent Mineral and Waste Local Plan - Early Partial Review 2020
CD3.5 - Kent Downs AONB Setting Position Statement
CD3.6 - Extract of Local Plan Policies Map
CD3.7 - Maidstone Local Plan Inspector 'Interim Findings Report'
CD3.8 - Final Report - Examination of the Maidstone Local Plan 2017
CD4.1 - Kent International Gateway Location Plan
CD4.2 - Kent International Gateway Inspector Report
CD4.3 - Kent International Gateway Secretary of State Decision
CD4.4 - 20/505195/OUT Committee Report
CD4.5 - 21/506792/HYBRID Committee Report
CD4.6 - 23/502387/REM Delegated Report
CD4.7 - 17/502331/OUT Committee Report
CD4.8 - Cawrey Ltd v SSCLG, 2016, EWHC 198 (Admin)
CD4.9 - Crane v SSCLG and Harborough DC, 2015, EWHC 425 (Admin)
CD4.10 - Chalgrove Decision - 2023 APP/Q3115/W/22/3309622
CD4.11 - Chiswell Green Decision- 2022APP/B1930/W/21/3279463
CD4.12 - Woodcut Farm LVIA for 17/502331/OUT
CD4.13 - 20/505195/OUT Decision Notice
CD4.14 - Woodcut Farm Approved Levels - 21/502637/REM
CD5.1 - Guidance for Landscape and Visual Impact 3rd Edition
CD5.2 - TGN 02-21 Assessing Landscape Value
CD5.3 - Kent Property Market Report 2023
CD5.4 - Qualitative Employment Site Assessment Report 2014
CD5.5 - Economic Sensitivity and Employment Land Forecast 2014
CD5.6 - Maidstone Landscape Character Assessment 2013
CD5.7 - Landscape Assessment of Kent 2004
CD5.8 - 'MSenvision' Version of LVIA View Point 6 and Additional Views
CD5.9 - Woodcut Farm Approved Landscaping Plan 21/502637/REM
CD5.10 - Tonbridge/Malling Economic Development Needs Part1 2022
CD5.11 - Medway Employment Land Needs Assessment 2020
CD5.12 - Maidstone Annual Monitoring Report 2021 to 2022
CD5.13 - Savills UK Big Shed Briefing - July 2023
CD5.14 - Savills Logistics Market in London and South East - July 2023
CD6.1 - Maidstone Borough Regulation 18 consultation
CD6.2 - Wates Regulation 18 consultation response
CD6.3 - Wates Regulation 19 consultation response
CD6.4 - Wates Hearing Statement Matter 5
CD6.5 - Wates response to Main Modifications
CD6.6 - Inspector's post Stage 1 letter
CD6.7 - Inspector post Stage 2 letter

CD6.8 - Economic Development Strategy 2021
CD6.9 - Economic Development Needs Study (EDNS) Addendum 2021
CD6.10 - Economic Development Needs Study (EDNS) Stage 1 2019
CD6.11 - Economic Development Needs Study (EDNS) Stage 2 2020
CD6.12 - Garden Settlements Economic Report 2021
CD6.13 - Economic Development Topic Paper
CD6.14 - Local Plan Review Main Modifications Schedule
CD7.1 - Appellant Statement of Case
CD7.2 - Council Statement of Case
CD7.3 - Statement of Common Ground
CD7.4 - Kent AONB Unit Response
CD7.5 - Secretary of State Screening Direction
CD7.6 - Agreed List of Conditions
CD7.7 - Asher Ross Proof of Evidence
CD7.7 - Asher Ross Proof of Evidence Appendices
CD7.8 - Andrew Cook Proof of Evidence
CD7.8 - Andrew Cook Proof of Evidence and Appendices
CD7.9 - Martyn Saunders Proof of Evidence
CD7.10 - Richard Timms Proof of Evidence
CD7.11 - Peter Radmall Proof of Evidence
CD7.11 - Peter Radmall Proof of Evidence Appendices
CD7.12 - Matthew Kinghan Proof of Evidence
CD7.13 - BNG Assessment- November 2023
CD8.1 – Maidstone Council Strategic Plan