



Appeal Decision

Inquiry held on 17, 18, 19 and 24 September 2024

Site visit made on 19 September 2024

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2024

Appeal Ref: APP/U2235/W/24/3344070

Land North & South of Kenward Road, Yalding ME18 6JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Hallam Land Management Ltd against Maidstone Borough Council.
 - The application Ref is 23/505139/OUT.
 - The development proposed is the removal of existing polytunnels on land north of Kenward Road and the erection of up to 112no. dwellings (Class C3), associated infrastructure and landscaping, together with the change of use of land south of Kenward Road to provide informal/recreational open space, sustainable urban drainage features, landscaping, and ancillary works/infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of existing polytunnels on land north of Kenward Road and the erection of up to 112no. dwellings (Class C3), associated infrastructure and landscaping, together with the change of use of land south of Kenward Road to provide informal/recreational open space, sustainable urban drainage features, landscaping, and ancillary works/infrastructure at Land North & South of Kenward Road, Yalding ME18 6JP in accordance with the terms of the application, Ref 23/505139/OUT, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issues

2. The application from which this appeal results was made in outline with details of access only. Matters relating to scale, layout, appearance and landscaping are reserved for later determination. Where plans have been identified as being illustrative or superseded, I have treated them as such in the determination of the appeal.
3. The appeal results from the Council's failure to determine the application within the relevant timescales. The Council has submitted that, had they determined the application they would have refused to grant consent for matters relating to the effect of the proposed development on the character

and appearance of the area, including the Greensand Ridge of Landscape of Value.

4. Matters relating to the provision of sustainable transport and pedestrian access, affordable housing and contributions towards education provision were referred to by the Council but, as recorded within the Statement of Common Ground (SoCG) Addendum, have been resolved by way of a planning obligation such that these matters are no longer at dispute between the parties. I refer to the planning obligation and conditions later.
5. As such, the main issue is:
 - i. The effect of the appeal scheme on the character and appearance of the area, including the setting of the Greensand Ridge Landscape of Local Value (LLV)

Reasons

6. The appeal site, consisting of two parcels of land separated by Kenward Road, is allocated¹ for 'approximately 100' dwellings in the Maidstone Borough Council Local Plan Review (the LP) and the settlement boundaries were revised to include the appeal site.
7. Inherent in this allocation is the substantial and consequential change in the character and appearance of the appeal site from agricultural, albeit with extensive polytunnels, to residential built development including residential dwellings, roads and hard and soft landscaping. Nonetheless it still stands that the effect of the appeal scheme on the character and appearance of the area, including the Greensand Ridge LLV is a material consideration.
8. The appeal site and the immediately adjacent settlement of Yalding is located on the southern side slopes of the Beult Valley at the foot of the Greensand Ridge scarp. The surrounding open landscape includes scattered farm buildings and agricultural uses including polytunnels and greenhouses, Yalding is nonetheless a prominent feature in the landscape.
9. The appeal site is not subject to any statutory or non-statutory landscape or heritage designations. The Greensands ridge Greensand Ridge LLV is located approximately 50m to the north of the northern boundary of the appeal site.
10. I saw at the site visit that Yalding has grown over time, this is reflected in the layout, design and appearance of the built environment. A common characteristic of Yalding is the green open spaces and trees found in both private gardens and in public spaces.
11. Other than the details of access show on the 'site access plan'² the limited remaining details of the appeal scheme are largely shown on the 'Proposed Parameters Plan'³. The plan shows, in very broad terms, residential and 'landscaping and openspace' land uses, along with the indicative alignment of planting corridors, amongst a number of other features.

¹ CD2.1 Policy LPSA248 - LAND AT KENWARD ROAD, YALDING - Maidstone Borough Council Local Plan Review, adopted 2024.

² Site Access Plan (drawing no. 10751-HL-01 I)

³ Proposed Parameters Plan (drawing no. 35214 201 P12)

12. The planting corridors are shown as being an inverted Y on a north – south axis with a spur to the east and across the entirety of the northern boundary. The landscaping and open space to the boundaries of the site are of a varying depth but are detailed as being between 16m and 29m⁴ on the western boundary and between 32 and 46 on the northern boundary of the site. I note that these boundaries are particularly sensitive being the outer edges of the appeal site adjacent to the countryside. While illustrative only, the layout plan⁵ shows trees and areas of green open space to the boundaries, corridors and elsewhere on the site.
13. The appellant describes⁶ woodland and hedgerow planting, consisting of a mix of native species identified in the Maidstone Landscape Character Assessment. The council's landscape witness noted⁷ that, because of the use of 'whips' of 60-80cm in height, it would take some time for the planting to become established.
14. Turning to short distance views, the submitted evidence⁸ shows that the approach to Yalding, along Kenward Road, would be changed by the appeal scheme. However, the parameters plan shows the residential land use being set back behind an area of landscaping and open space and hedgerow to the boundary, which would afford a good degree of screening.
15. With regards longer distance views, Little Venice Country Park⁹ was referred to by the Council, describing "glimpsed views of the site A polytunnels"¹⁰. I saw at the site visit that the appeal site is visible from this location but is seen in the context of Yalding and the surrounding countryside including the prominent polytunnels.
16. In evidence, The council's landscape witness suggested the reallocation of some space from the eastern boundary of the site, and from reducing the number of dwellings from 112 to 100, to create additional space for planting to the north and the west. Such changes would, on the basis of the evidence before me, make only a marginal difference to the amount of land dedicated to landscaping at the boundaries of the site and consequentially only a marginal increase in the mitigating effect of the landscaping.
17. Moreover, the Council describe¹¹ the appeal scheme as being at odds with the "clusters of low-density housing" found in Yalding. However, layout is a reserved matter, and I am satisfied that as a result of the inherent size of the appeal site there remains the potential to deliver a varied density of housing with green spaces and trees across the appeal site.
18. I am aware that landscaping and layout, of particular relevance to the considerations referred to above, are reserved matters. Nonetheless, I am satisfied that the basis of the details before me, in particular the parameters plan, demonstrates that the proposed development would incorporate both boundary and internal structural landscaping of a level and arrangement that

⁴ Inset 2 in Mr Williams' evidence.

⁵ Illustrative Site Layout (drawing no. 35214 306 P5)

⁶ 'LANDSCAPE ENVIRONMENTAL & MANAGEMENT PLAN' by FPCR Ltd dated October 2023

⁷ Paragraph 8.3.3 of Mr Kirkpatrick's Evidence

⁸ photograph M of Mr Kirkpatrick's Evidence

⁹ Photograph K of Mr Kirkpatrick's Evidence

¹⁰ Paragraph 5.1.3 of Mr Kirkpatrick's Evidence

¹¹ Mr Kirkpatrick in evidence

responds to the site's topography and is sufficient to mitigate the inherent effects of the creation of the built form of the appeal scheme on the character and appearance of the area.

19. Furthermore, on the basis of the illustrative layout and the parameters plan and referred to above is of such a level that I am satisfied that the proposed development is reflective of the character, specifically the open spaces, of Yalding and would not result in dominant or urbanising effect, in particular with regards longer distance views.
20. Thus, I am satisfied that the appeal scheme would not have an unacceptable harmful impact on the character and appearance of the area, including the Greensand Ridge Landscape of Local Value and is therefore in accordance with the Site Allocation Policy LPRSA248 and is not contrary to Policy LPRSP15 that seeks good design.

Other Matters

Approximately

21. The allocation refers to "approximately 100 dwellings at an average density of approximately 30 dwellings per hectare". The policy also refers to a number of 'conditions' relating to design and layout, landscape/ecology, access, highways and transportation, open space and utilities infrastructure.
22. The Examining Inspector¹² amended the wording of LPRSA248 to include "approximately". There was the option at that stage to also set a range or a maximum number of dwellings that the site could accommodate, not to do so gave flexibility to the decision maker determining a subsequent application.
23. The Local Plan does not define 'approximately' for the purposes of policy LPRSA248. The parties were in agreement that whether or not the proposed 112 dwellings and 33 dwellings per hectare is approximately 100 and 30 of the policy is a matter of judgement to be exercised by the decision taker.
24. The Oxford Dictionary of English defines approximately as "close to the actual, but not completely accurate or exact" and the generally understood meaning and use of the term conforms with this definition. On this basis I am satisfied that both 112 and 33 can, for the purposes of Policy LPRSA248, reasonably be considered to be approximately 100 and 30 respectively.
25. Thus, I conclude the appeal scheme is in compliance with Policy LPRSA248 in this regard.

LVIA or LVA

26. Turning to another condition of policy LPRSA248, whether the layout and form of the housing element has been informed by an LVIA (Landscape and Visual Impact Assessment). I note that the appellant has submitted a document titled Landscape Visual Appraisal by FPCR dated October 2023 (LVA).

¹² CD 4.1 Paragraph 311 Report on the Examination of the Maidstone Local Plan Review

27. The term LVIA and LVA are commonly used, occasionally interchangeably. I understand that in general terms the LVA is a more informal assessment and does not identify “likely significant effects” as a LVIA would as part of an Environmental Assessment. Indeed, the council’s landscape consultant describes¹³ an LVA as an “abbreviated form” of an LVIA.
28. The submitted LVA undertakes a comprehensive assessment of baseline visual and landscape conditions, an appraisal of the landscaping component of the appeal scheme and outlines the likely landscape and visual effects that would arise from the appeal scheme. On the basis of the submitted evidence, I am satisfied that the reliance on an LVA rather than an LVIA does not cause the appeal scheme to fail to comply with Policy LPRSA248.
29. For the purposes of assessing the appeal scheme, where an Environmental Impact Assessment is not required, I am satisfied that the detailed LVA submitted by the appellant is comparable to an LVIA. Moreover, I am satisfied that it has been adequately demonstrated that the layout and form of the proposal has taken account of landscape matters in accordance with policy LPRSA248.

Flooding

30. Yalding Parish Council referred to difficulties experienced with fluvial and surface water flooding at the appeal site and with other developments nearby.
31. The appellant has considered the issue of flooding¹⁴ and in terms of fluvial flood risk, the proposed dwellings on land north of Kenward Road are entirely within Flood Zone 1 and as such has a low probability of flooding from this mechanism. The appellant’s assessment¹⁵ of other potential flooding mechanisms shows the same land to have a low probability of flooding from overland flow, ground water and sewer flooding. Furthermore, the submitted plans show that the appeal scheme includes provision for the use of sustainable drainage measures and extensive areas of open space and landscaping.
32. Furthermore, no objection has been raised by Kent County Council as Lead Local Flood Authority and the parties have agreed a suitably worded condition referring to a scheme to control surface water. As such, I have no substantive evidence before me that would lead me to conclude other than the appeal scheme is acceptable with regards flooding.

Conditions and Planning Obligation

33. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework details that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation meets the three tests detail in the legislation. The council’s CIL compliance statement sets out the detailed background and justification for each of the obligations. I am satisfied from the evidence before me that the obligations are necessary, directly related to the proposal and fair and

¹³ Mr Radmall, Review of Landscape and Visual Matters - March 2024

¹⁴ Flood Risk Assessment by Brookbanks (October 2023)

¹⁵ Flood Risk Assessment by Brookbanks (October 2023)

reasonable in scale and kind to the appeal scheme. As a result, I have taken the obligations into account as part of my overall conclusion that the appeal should be allowed.

34. I have considered the conditions agreed between the parties in light of the relevant guidance contained within the Planning Practice Guidance (the PPG). Where necessary, I have amended them in the interests of precision and so that they meet the relevant tests as set out in the Framework. With regard to Section 100ZA of the Town and Country Planning Act 1990 (as amended), the appellant has expressed agreement to the pre-commencement conditions suggested by the council and where I have modified these it has had no material bearing on their function.
35. In order to define the permission and to control the timescales for the submission of reserved matters, I have included conditions relating to reserved matters (1), the life of the permission (2 and 3), the approved plans (4).
36. In order to secure to secure appropriate archaeological investigation at the site I have included conditions (5 and 6) relating to an archaeological field investigation. In the interest of the environment and in response to comments from the lead local flood authority and Yalding Parish Council I have included a condition (7) relating to surface water.
37. In the interests of the environment, the living conditions of the occupiers of nearby properties and highway safety, I have included a condition (8) relating to the submission of and adherence to a Construction Method Statement that controls various details, including but not limited to the routing of construction and delivery vehicles.
38. To protect the character and appearance of the area I have included a condition (9) relating to the finished floor levels of the development. For the same reason and for the protection of the environment, I have included conditions (10) relating to a Landscape management plan and (11) habitat protection plan, (12) the monitoring and management of the habitat and the submission (13) of a Biodiversity Gain Plan.
39. In the interests of the character and appearance of the area I have included a condition (14) requiring the submission of all external materials.
40. In the interests of the environment and to protect trees on the site, I have included a condition (15) relating to a tree protection plan, (16) renewable energy and (17) external lighting.
41. In the interests of the future occupiers of the appeal scheme I have included a condition (18) referring to the phasing, delivery and future management of the public open spaces on the appeal site.
42. In the interests of highway safety, I have included conditions relating to the (19) surface of the access, (20) the prevention of discharge of surface water on to the highway, (21) visibility splays and (22) the creation of the access.
43. In the interests of the environment and the living conditions of future occupiers, I have included conditions relating to (23) accessibility and adaptability and (24) water efficiency in the new dwellings. I note the

appellants comments with regards the inconsistency of the application of policy LPRQD6, relating to accessible and adaptable dwellings, but I have no substantive evidence before me that would lead me to conclude that the appeal scheme cannot deliver accessible and adaptable dwellings in accordance with the provisions of that policy.

44. In the interests of highway safety, I have included a condition (25) relating to the creation of the access as per the approved plans.
45. In the interests of the environment and living conditions of future residents I have included a condition (26) relating to refuse.
46. Also, in the interests of the living conditions of future residents and highway safety I have included a condition (27) relating to the provision of the pedestrian crossings and pavements.
47. In the interests of the environment, I have included conditions relating to (28) contaminated land, (29) the implementation of landscaping, (30) protected species, (31) tree protection measures, (32) tree and hedge retention, and (33) public art. With regards public art I note the appellant's comments with regards the policy justification of this, but the council has referred to an adopted a supplementary planning document specifically referring to the provision of public art in new developments and development plan policies that seek good design. Thus, I am satisfied that the condition is necessary and relevant to planning.
48. I have not included a condition to control the number of storeys permitted because it is unnecessary. This detail is ultimately controlled by reserved matters, and I note that the parameters plan includes reference to the height and number of stories also. Furthermore, I have not included a suggested condition relating to noise, because I am satisfied that this is adequately dealt with in the Construction Management Plan that refers, amongst other matters, to measures to control noise from construction work, plant and machinery.
49. Moreover, I have not included a condition suggested by Kent County Council requiring a survey of highway access routes and a commitment to fund and repair any damage caused by vehicles related to the development because it is imprecise and thus fails the relevant tests.

Conclusion

50. For the reasons given above the appeal should be allowed.

Mr M Brooker

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with drawing nos:
 - : Existing Extent of Site Plan (drawing no. 35214 101 P6)
 - : Proposed Parameters Plan (drawing no. 35214 201 P12)
 - : Site Access Plan (drawing no. 10751-HL-01 I)
 - 5) No development shall take place until:
 - (i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority
 - 6) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 5.
 - 7) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.
- The submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) routing of construction and delivery vehicles to and from the site
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vi) wheel washing facilities;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) delivery, demolition and construction working hours.
 - x) procedures for responses to complaints from residents or the local authority.
 - xi) Measures to control noise from construction work, plant and machinery.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 10) Before the development is first occupied a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. All landscaping shall be managed in accordance with the approved landscape management plan.
- 11) No development above ground level shall take place until a habitat protection plan has been submitted to and approved in writing by the local planning authority. The habitat protection plan shall include:
- A plan showing habitat protection zones;
 - Details of development and construction methods within habitat protection zones and measures to be taken to minimise the impact of any works;

- Details of phasing of construction.

The protection plan shall be implemented in accordance with the approved plan.

- 12) The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan demonstrating a BNG of at least 20% has been submitted to, and be approved in writing by, the local planning authority. The Biodiversity Gain Plan shall include:
 - a) Detailed proposals for biodiversity net gain which shall include information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat; the pre-development biodiversity value of the onsite habitat; the post-development biodiversity value of the onsite habitat.
 - b) A Habitat Management and Monitoring Plan (HMMP) for maintaining the onsite biodiversity net gain for a period of 30 years from completion of the development which shall include:
 - (i) a non-technical summary;
 - (ii) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - (iii) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - (iv) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years (to align with years 2, 5, 10, 15, 20, and 25) from the completion of development ; and
 - (v) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority .

The development shall be implemented in full accordance with the requirements of the approved HMMP.

Notice in writing shall be given to the Council when the habitat creation and enhancement works as set out in the HMMP have been completed.

Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

- 13) No development shall take place until a Biodiversity Gain Plan to ensure a minimum 20% net gain in habitat types on the site has been submitted to and approved in writing by the Local Planning Authority.
- 14) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 15) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree

protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 16) No development above ground level shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and thereafter retained in operation.
- 17) Prior to the installation of external lighting, other than in private gardens, full details including height, design, location, intensity and shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details.
- 18) Prior to, or as part of, any relevant reserved matters application a scheme for the phasing, delivery and future management of the proposed public open spaces within the proposed development, including an Open Space Strategy specifically relating to the land south of Kenward Road produced in collaboration with the Council and Yalding Parish Council, shall be submitted to and approved by the Council. The development shall thereafter be built in accordance with the approved strategy.
- 19) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
- 20) Prior to the first use of the accesses for Sites A and B the surface finish of the first 5 metres access measured into the site from the edge of the highway shall be provided in a bound surface and maintained permanently as such.
- 21) Prior to the occupation of the development hereby approved, details shall be submitted to and approved by the local planning authority to demonstrate the provision of measures to prevent the discharge of surface water onto the highway.

- 22) The visibility splays shown on approved drawings (drawing number: 10751-HL-01 Rev I titled 'site access plan') shall be provided prior to the first use of the approved new access with no obstructions over 0.6 metres above carriageway level within the splays. The approved visibility splays shall be retained permanently thereafter.
- 23) The access/s as shown on the submitted plans (drawing number: 10751-HL-01 Rev I) titled 'site access plan' shall be completed prior to the use of the site commencing and retained permanently thereafter.
- 24) All dwellings hereby approved shall meet the accessible and adaptable dwellings building regulations Part M4(2) standard or any superseding standard. No dwelling shall be occupied unless this standard has been met and the dwelling shall be thereafter retained as such.
- 25) All dwellings hereby approved shall meet the higher level of water efficiency of 110 litres per person, per day as set out under the building regulations Part G2 or any superseding standard. No dwelling shall be occupied unless this standard has been met for the dwelling.
- 26) The details submitted pursuant to Condition 1 shall include details of facilities for the storage of refuse on the site and the approved facilities shall be provided before the first occupation of the dwelling to which they relate and retained thereafter.
- 27) Prior to the occupation of the development hereby approved details shall be submitted to and approved in writing by the Local Planning Authority for the highways works and shall include the design of all crossings on Kenward Road, pavement provision, and details of entrances (pedestrian, cycle, vehicular). These works shall be implemented prior to the occupation of the development.
- 28) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development [or relevant phase of development] shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 29) All planting, seeding and turfing specified in the approved landscape details shall be carried out in the first planting season (October to February) following the occupation of the building and any trees or plants which, within five years from the first occupation of a building, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.
- 30) From the commencement of works (including site clearance), all mitigation measures for protected species will be carried out in accordance with the details contained in 'ECOLOGICAL APPRAISAL' and

'LANDSCAPE ENVIRONMENTAL & MANAGEMENT PLAN' by FPCR Environment and Design Ltd dated October 2023 unless otherwise varied by a Natural England licence.

- 31) All development including site clearance and demolition shall take place in accordance with the Tree protection measures detailed in the Arboricultural Assessment by FPCR Environment and Design Ltd in accordance with the current edition of BS 5837. The development shall be carried out in full accordance with the hereby approved Arboricultural Implications Assessment ref 10787_AIA.001 in relation to tree and hedgerow protection measures.
- 32) With the exception of trees/hedges directly within the access points to Kenward Road hereby approved, all existing trees and hedges on, and immediately adjoining, the site, shall be retained, unless the Local Planning Authority gives written consent for removal within a Reserved Matters consent. All trees and hedges shall be protected from damage in accordance with the current edition of BS5837. Any trees or hedges removed, damaged or pruned such that their long-term amenity value has been adversely affected 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 to mitigate the loss as agreed in writing with the Local Planning Authority.
- 33) Prior to the first occupation, a scheme and timetable for the provision of Public Art in accordance with Maidstone Borough Council's Public Art Guidance 2017 shall be submitted to and approved by the Local Planning Authority. Should a piece of artwork be commissioned, it shall be installed thereafter as approved.

APPEARANCES

FOR THE APPELLANT:

- : Paul Tucker KC and Martin Carter – Kings Chambers, counsel for the Appellant instructed by Mr Adam Ross BA (Hons) DipTP MRTPI, [Director, Nexus Planning]
- : Andrew Williams (BA Hons Dip LA Dip UD CMLI) - Director at Define
- : Adam Ross (BA Hons DipTP MRTPI) – Executive Director at Nexus Planning
- : Melanie A'Lee (Engtech FIHIE MCIHT) – Director of Transportation and Highways at Brookbanks Transportation

FOR THE LOCAL PLANNING AUTHORITY:

- : Matthew Henderson, Landmark Chambers – Counsel instructed by Russell Fitzpatrick [Planning Team Leader – Mid Kent Legal]
- : Stephen Kirkpatrick: (BSc BLD CMLI) Director, Scarp Landscape Architecture Ltd
- : Sean Scott (BSc (Hons) MA MRTPI) Principal Planning Officer, Maidstone Borough Council

INTERESTED PARTIES:

- : Geraldine Brown, Yalding Parish Council

DOCUMENTS

Inquiry Documents

- ID1: Appearances for the Appellant
- ID2: Appearances for Maidstone Borough Council
- ID3: Opening Statement on behalf of the Appellant
- ID4: Opening Statement on behalf of Maidstone Borough Council
- ID5: Statement from Yalding Parish Council
- ID6: LVA Review list
- ID7: Maidstone Play Strategy

Core Documents

<https://maidstone.gov.uk/home/primary-services/planning-and-building/information/land-north-and-south-of-kenward-road>