Planning Inspectorate

Appeal Decision

Hearing held on 9 and 10 January 2025

Site visits made on 17 December 2024 and 14 January 2025

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/H2265/W/24/3347410
Land part of Wrotham Water Farm, off London Road, Wrotham, Sevenoaks, Kent

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Moto Hospitality Ltd against the decision of Tonbridge and Malling Borough Council.
- The application Ref is 23/00681/OAEA.
- The development proposed is an outline application (all matters reserved except access) for construction of a secure 24-hour truck stop facility for up to 200 HGVs incorporating fuel station; amenity building of up to 1100 sqm; creation of a new access to A20 via roundabout; landscaping and other associated works.

Decision

1. The appeal is allowed and outline planning permission (all matters reserved except access) is granted for construction of a secure 24-hour truck stop facility for up to 197 HGVs incorporating fuel station; amenity building of up to 1100 sqm; creation of a new access to A20 via roundabout; landscaping and other associated works on land part of Wrotham Water Farm, off London Road, Wrotham, Sevenoaks, Kent, in accordance with the application Ref: 23/00681/OAEA, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was in outline with all matters reserved except access. The illustrative plans showed a maximum of 197 HGVs could be parked on the site and it was agreed at the Hearing that the description of development would be amended to reflect this minor reduction in the quantum of development. Of the six plans submitted with the application it was agreed that only the site location plan, parameters assessment plan and the potential site access arrangement were for determination at this stage. I have treated other plans as an illustration of how the development could come forward.

3. A number of parish councils within Tonbridge and Malling objected to the proposal. Together they formed an Alliance of Parish Councils representing Wrotham, Platt, Borough Green, Addington, Stansted and Igtham Parish Councils. I refer to them as the Parish Council Alliance (PCA) in this decision.

4. All Areas of Outstanding Natural Beauty (AONBs) have been renamed as National Landscapes. I therefore refer to the Kent Downs AONB as the Kent Downs National Landscape (KDNL) in this decision letter, unless specifically quoting from other documents.

5. A revised National Planning Policy Framework (the 2024 Framework) was published on 12 December. The parties, including the PCA, were given an opportunity to provide written comments on the implications of these changes in national planning policy to this case prior to the Hearing. I received written responses, and the changes were discussed at length during the proceedings. I am therefore satisfied that no-one has been prejudiced due to the timing of the Hearing in relation to these changes in national policy.

6. Statements of Common Ground (SoCG) between the appellant and both highway authorities, National Highways (NH) and Kent County Council (KCC), were submitted during the appeal. Having studied the contents of these documents I wrote to both highway authorities prior to the Hearing seeking further information and received written responses as requested. A final SoCG between the appellant and the Council addressing planning matters was signed on 8 January and provided at the Hearing on 9 January.

7. Prior to the Hearing the appellant provided two draft Unilateral Undertakings (UUs). The first with the Council related to a Landscape and Ecological Management and Monitoring Plan (LEMMP) and the second with KCC related to a travel plan monitoring fee. The provisions of these had been agreed prior to the Hearing and executed UUs, dated 22 January 2025, were submitted in accordance with the agreed timetable. Subsequently, I received written confirmation that these are acceptable to the Council and KCC. I have taken them into account in reaching my decision.

8. At the close of the Hearing, I asked the main parties and the PCA to provide me with short summaries of the key points of their cases. These have been received and I have had regard to them in reaching my decision.

Planning Policy Context

a) Green belt

9. The appeal site is in the Metropolitan Green Belt. Policy CP3 of the Tonbridge and Malling Core Strategy, adopted 2007 (Core Strategy), states that National Green Belt policy will be applied generally to the west of the A228 and within a number of named settlements. The Core Strategy released a single site from the Green Belt for development but otherwise retained the Green Belt boundaries that had been set in previous local plans.

10. The 2024 Framework reaffirms the importance of Green Belts, the fundamental aim of which is to prevent urban sprawl and keep land permanently open. However, where an authority cannot meet its identified development needs, the 2024 Framework requires the Green Belt boundaries to be reviewed as part of development plan preparation. Until that review has taken place the development plan cannot be considered to be out of date in respect of the extent of the Green Belt in the borough.

11. When determining proposals that affect the Green Belt, the 2024 Framework states that substantial weight should be given to any harm to the Green Belt and that inappropriateness is, by definition, harmful. Paragraphs 154 and 155 set out a series of developments which are exceptions to this approach. By contrast the Core Strategy does not address assessment of exceptions. As Policy CP3 requires the application of national policy, it cannot be considered

to be out of date, However, it is necessary to consider whether the proposal meets any of the exceptions set out in the 2024 Framework.

b) National Landscapes

12. The appeal site is very close to, and therefore in the setting of, a National Landscape. Development affecting these protected areas is subject to a raft of legislative and policy considerations to ensure that they are adequately protected and managed. The Core Strategy says that within AONBs the Council will give priority to conservation and enhancement of the natural beauty of those areas. Policy CP7 states that development will not be permitted which would be detrimental to the natural beauty and quiet enjoyment of the AONBs, including their landscape, wildlife and geological interest other than in exceptional circumstances. Neither the policy nor the supporting text to Policy CP7 make any specific reference to the setting of the protected areas.

13. Paragraph 189 of the 2024 Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. This differs from paragraph 190 which sets out a presumption against major development in a National Landscape other than in exceptional circumstances.

14. The Countryside and Rights of Way Act 2000 (the 2000 Act) set out a requirement for a Management Plan to be prepared and published for AONBs. Although not part of the development plan, the Kent Downs Area of Outstanding Natural Beauty - Management Plan 2021-2026 (the Management Plan) has been adopted by all the local planning authorities in Kent. It is therefore an important material consideration in planning decisions. The document sets out a series of principles, the most relevant of which to this case is to ensure that proposals do not, negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the KDNL. It advises that where the qualities of the KDNL are affected by proposals in the setting, the impacts should be given considerable weight in decisions. The Management Plan also promotes the use of the mitigation hierarchy, recognising that changes from infrastructure, growth, and a growing population close to the KDNL means that some adverse impacts are unavoidable. In such cases measures to mitigate the impact should be applied.

15. More recently the Levelling-Up and Regeneration Act 2023 (the 2023 Act) requires that a relevant authority must 'seek to further' the purpose of conserving and enhancing the natural beauty of the area when exercising functions in relation to, or so as to affect, land in an Area of Outstanding Natural Beauty. The Planning Practice Guidance (PPG) provides advice on how the Protected Landscapes duty is intended to operate and provides broad principles to guide decision makers in complying with it. In respect of the setting, the PPG recognises that development has the potential to adversely affect the natural beauty, special qualities, and key characteristics of a Protected Landscape. It specifically refers to matters which relate to management of water, ecological connectivity and recreational links.

16. The new statutory duty conferred by the 2023 Act and the principles set out in the Management Plan therefore go beyond the requirements of Policy CP7 of the Core Strategy. However, the duty and principles must be considered together with the 2024 Framework which presumes that development will take place in the setting of National Landscapes and should therefore be carefully controlled. It is also noteworthy that the Management Plan recognises that proposals which would affect the setting are not subject to the same level of constraint as those which would affect the Protected Landscape itself.

Main issues

17. Taking the above into account, together with everything that I have read and heard, I consider the main issues are:

    a) whether the proposal would conserve and enhance the Kent Downs National Landscape (KDNL):

    b) whether the proposal would be inappropriate development in the Green Belt:

    c) the effect of the proposal on the character and appearance of the area.

Reasons

Kent Downs National Landscape

18. The KDNL covers nearly a quarter of the total land area of Kent, some 878sq.km. It primarily comprises the eastern half of the North Downs, a chalk ridge which stretches from Farnham in Surrey to the English Channel at Dover. The KDNL is made up of diverse special characteristics and qualities which are highly valued. Those which are of particular note are the dramatic landform and views, farmed landscape, woodland and trees, and tranquillity and remoteness. Spectacular, long-distance panoramic views can be experienced from many places along the scarp. Elsewhere the KDNL offers areas of tranquil, remote countryside in which nature can be enjoyed. Its characteristics are in part the product of human intervention and activities in the landscape, including its use for agriculture and woodlands.

19. The appeal site is not in the KDNL, but in the Kemsing Vale character area just outside it, and wrapped around on three sides by the Kemsing Vale – Kent Downs character area which is within the KDNL. The boundary of the Kemsing Vale character area with the KDNL runs in a north-westerly direction along A20 from J2A of the M26 and from there southwards along the footpath which passes Park Farm a little over 0.5km to the west of the appeal site. Both the M20 and M26 pass through the KDNL in the vicinity and intersect with each other approximately 2km to the east of the appeal site. The motorways have been designed to integrate into the landscape through the use of cuttings, embankments and contextual planting which is now well established.

20. The Kemsing Vale character area is a small area comprising a patchwork of small woodlands, pasture and arable fields which date from medieval times. The area is now bisected by the M26. The appeal site is an open, undeveloped agricultural field within this small character area. It occupies approximately 6.5ha and lies immediately to the northwest of junction 2A of the M26. Its northeastern boundary runs along the A20. The ground falls away gently from the A20 towards the site's southeastern corner where it abuts the roundabout

at J2A. Therefore, whilst the site is outside the Protected Landscape, its rural character makes a positive contribution to the immediate setting of the KDNL.

21. The site's roadside boundary is predominantly open with only sporadic vegetation and trees. There are views from the roadside over the gently undulating countryside to the south and west of the site, towards the elevated section of the M26 and towards the rising ground beyond. Although the site is part of a much larger field, the watercourse towards the southern edge of the site provides a distinctive feature that delineates the site from the surrounding rural area. The northwestern side of the site is partially enclosed by commercial uses on the southern side of London Road, also outside the KDNL.

22. The A20 is an important local road which also provides a connection between the M20 and M26. With the exception of the open frontage to the appeal site, it is characterised by ribbon development comprising a mix of commercial and residential uses. Opposite the appeal site and within the KDNL is commercial and residential development, including the Nepicar Business Park, a row of dwellings, a petrol filling station and other small commercial enterprises. To the north-west, on opposite sides of the A20 are the Moat Pub and Moat Cottage, both Grade II listed buildings. The Invicta Business Park occupies land to the south of the A20. To the north of the A20, separated from it by a narrow strip of land, is the M20. This existing built form, some of which was permitted on previously developed land, already separates the site both visually and functionally from the foot of the south-facing chalk escarpment which rises steeply near Hognore Farm just over 1km away.

23. The Kemsing Vale character area, despite its predominantly agricultural use, is far from tranquil due to the presence of the M26. Whilst the landscape is visually dominated by the chalk scarp to the north, it is affected both visually and aurally by the motorway. There is no public access to the appeal site and no rights of way nearby which provide any direct connections between the area in the immediate vicinity of the site with the wider landscape of the KDNL. Consequently, views towards the scarp from this part of Kemsing Vale are not a significant factor in how the KDNL is experienced in this locality. Neither are there any important functional connections between this part of the setting and the Protected Landscape itself.

24. The appellant presented a detailed Landscape and Visual Impact Assessment (LVIA) as part of the Environmental Statement (ES). This addressed both landscape and visual effects of the proposed truck stop and identified places from where it would be possible to see the development within Zones of Theoretical Visibility (ZTF). The visual assessment considered a series of key viewpoints: a) along the A20 (viewpoints 1-3); b) from footpaths to the north on the rising ground from the foot of the scarp to a high point below Platt Hill Wood, (viewpoints 4-7) and c) from footpaths to the west of the site near Park Farm and Wrotham Park (viewpoints 8-9). I visited all of these on an unaccompanied basis with the agreement of the parties. I also walked along the area of open access land on the escarpment.

25. Neither the Council nor the PCA contested the methodology of the assessment. However, both disagreed with its conclusions that the effects of the proposal from the most sensitive locations would, at worst, be moderate/adverse and would diminish over time as landscaping mitigation measures became established. The Council, the PCA and the Kent Downs National Landscape

Team considered the proposal to be an unacceptable encroachment into the countryside by a large-scale urban development which could not be adequately mitigated through landscaping.

26. The appeal site is a buffer of open rural land between the M26 and the ribbon development along the A20. Its development as a truck stop with associated amenity building and fuel station would result in the loss of this function and would lead to a consolidation of built form on both sides of the road. It would also erode the gap between the roundabout at J2A and other development on the south side of London Road. The result would be a degradation of the landscape character of the Kensing Vale and an increase in the concentration of detracting features in the setting of the KDNL. These changes would be permanent, and the LVIA acknowledged the effect to be 'moderate-adverse' in year 1. Views from viewpoints 1-3 into the open, undeveloped fields of the Kemsing Vale beyond the site would be permanently obscured. However, given the existing development along the A20 changes from these viewpoints are not, in my view, highly sensitive.

27. The impact of the proposal on this part of the setting of the KDNL could be reduced in the longer term through sensitive and comprehensive landscaping. Given the proximity to the M26, the characteristics of the A20 and the presence of other development in the vicinity, the introduction of trees and other native vegetation in the immediate locality of the site would be appropriate in this context and would mature over time. This could include tree planting not unlike that which has been used to successfully integrate the motorway into its surroundings. The use of landscape mounding adjacent to the A20 would be an obviously manmade feature that would contrast unfavourably with the gentle undulating landscape leading towards the scarp. Nevertheless, its effects would be confined to the immediate surroundings and its height and extent would be subject to careful control and consideration as part of the reserved matters. I am therefore satisfied that the adverse impacts of the proposal on this area could be adequately mitigated.

28. I consider that the effects of the proposal on views of the wider landscape of the KDNL from the scarp of the North Downs is of greater importance than those from the A20. These were assessed from viewpoints 4-7, all of which are more than 1km from the site. I visited the specific viewpoints near Platt Hill Wood and Hognore Farm, walked along a section of the Pilgrims Way and also traversed the open access land below the wood. On the lower parts of the slope any visibility of the site would be considerably restricted by intervening vegetation and would not be intrusive. This contrasts with views from the upper part of the scarp over the Kent countryside which are panoramic and far reaching. However, even in winter with no leaves on the trees, it was not easy to see the existing development that straddles that A20, whereas the sand extraction activities to the south of the M26 were clearly visible.

29. The site's potential visibility would undoubtedly increase towards the top of the scarp and viewpoint 7 is the most sensitive location I was asked to visit. The view from here is particularly impressive when approached from the footpath through the woods on the uppermost slopes of the scarp. The expanse of countryside greets the walker abruptly as the footpath emerges from the trees into the open grassland. The preeminent experience of the view from viewpoint 7, and its immediate surroundings, is its expansive nature, reaching from the protruding scarp line to the east across a wide area of undulating

landscape to the south and west. As one absorbs the view, the presence of human activity is also readily apparent. One is looking over a living and vibrant area, not one that is remote or tranquil. Two motorways pass through it. Traffic on them and other roads can be both seen and heard. The noise is especially intrusive and contrasts with the stillness of the immediate surroundings of the viewpoint.

30. The PCA's evidence highlighted and illustrated the potential for coalescence of the existing and proposed development from this viewpoint which could be considered harmful. However, even from here development along the A20 is not prominent in the wider landscape, unlike the sand quarry to the south of the M26. It seemed to me that the use of bold colours in the PCA's illustration of a small section of the wider landscape somewhat exaggerated the effect of development and its coalescence when looking out over the surrounding countryside from viewpoint 7. The width and depth of the view extends far beyond the A20 and its ribbon development and the fields between the appeal site and the M26 would remain visible, providing a contrast with the wooded landscape beyond.

31. In this context I consider that with appropriate landscaping the proposal could be effectively integrated with existing development. Its proximity to other development would ensure that it would not stand out unduly. It would not appear as a separate, isolated or incongruous form of development within an otherwise undeveloped area of countryside. Neither would it be out of scale with the landscape as a whole. Even if the effects of a comprehensive and sensitive landscaping scheme did not fully neutralise the effects by year 15, any harmful impact on views from these higher elevations would be very significantly reduced.

32. Whilst the proposal is one of significant scale, a considerable proportion of the site would be hard surfacing, not buildings. The most prominent feature on the A20 would be the roundabout at the access. Lorries can be vibrant colours and there would be comings and goings during the day which would be apparent in the vicinity of the site. However, evidence from the operation of a similarly sized truck stop elsewhere, suggests that only about 25% of the parking area would be occupied for most of the day. As the land falls away gently from the roadside, the hard surfacing would not be especially conspicuous from the A20 and less so from viewpoint 7. The canopy of the fuel station, which would be the tallest element of the proposal, would be located on the lowest part of the site closest to J2A, thereby reducing its prominence. The amenity building is proposed to be single storey. This combination of factors would limit the development's visibility both from the surrounding area and further afield. From viewpoint 7 the visibility and movement of individual lorries over 1km away would cause only minimal visual intrusion. I am therefore not convinced that any of the scheme's elements would adversely affect enjoyment of the views out of the KDNL.

33. Concerns have been raised about the effect of lighting the development, particularly given the likely height of the columns and the 24-hour nature of the proposal. The facility is likely to be fully used overnight. Evidence from the PCA illustrated the potential for harm in twilight conditions at dusk and dawn. Although the M26 is not lit, there is existing street lighting along the A20, and photographs showed the Nepicar Business Park to be particularly visible at night. However, at the Hearing I was told this recent development had been

permitted without the imposition of conditions to control lighting. The most sensitive receptors to change would be people making use of the footpaths and public rights of way. As most walking on these routes is undertaken during the hours of daylight, I consider the potential for harm caused by additional lighting seen from viewpoint 7, the most sensitive location, cannot be considered to be more than minimal.

34. The Management Plan recognises the importance of dark skies which are increasingly difficult to find outside the KDNL. It therefore seeks to protect and extend these areas. However, in view of the existing lighting associated with the A20 and the surrounding businesses, the vicinity of the appeal site is not an area of dark skies. It therefore seems unlikely that it would be a candidate to be included in an extension to a dark sky area. I am therefore satisfied that by securing restrictions on lighting through the imposition of an appropriate condition, any harm resulting from light spillage would be minimised.

35. I walked the footpath from the A20 to the entrance of Wrotham Park to consider the visibility of the proposal across the Kemsing Vale from viewpoints 8 and 9 in the LVIA which are on the edge of the KDNL. The combined effects of the Invicta Business Park, the undulating nature of the landscape and the presence of trees in the fields to the west of the site would restrict visibility of the development from viewpoints 8 and 9. Views into the surrounding KDNL would therefore not be adversely affected from this part of the setting of the Protected Landscape.

36. To summarise, the proposal would result in increased consolidation of development along the A20 and result in the loss of an open and undeveloped field which contributes positively to the setting of the KDNL. These changes would cause limited and localised visual harm to the setting of the KDNL which could not be avoided. However, it would not give rise to any loss of functional connectivity between the Protected Landscape and its setting. I consider that subject to a comprehensive landscaping scheme and sensitive lighting, the proposal would not adversely affect to any significant degree how views from or towards the scarp of the KDNL would be experienced. I am also satisfied that other special characteristics of the KDNL, such as remoteness and tranquillity, would not be adversely affected by the proposal. Furthermore, the UU secures biodiversity improvements both on the site and off-site on the adjacent field, together with commitment to a programme of management over 30 years which will contribute to the conservation and enhancement of the ecology of this part of the setting of the KDNL.

37. Taking all the above into consideration, I conclude that the proposal would not be detrimental to the natural beauty or quiet enjoyment of the designated landscape and would comply with Policy CP7 of the Core Strategy as it is not a development within the KDNL. The proposal would also accord with paragraph 189 of the 2024 Framework which permits development within the setting of a national landscape providing it is sensitively located and designed to minimise adverse impacts on the designated area.

38. However, the proposal would fail to fully comply with Principles SD2 and SD8 of the Management Plan arising from the limited and localised harm to setting of the KDNL in the vicinity of the site. Consequently, it cannot be concluded that the proposal would fully accord with the duty to 'seek to further' the purposes of the Protected Landscape as the totality of the landscape, taking

account of its setting, will not be conserved and enhanced. These are material considerations which will attract great weight in the planning balance.

Inappropriate development

a) Grey belt

39. Prior to the publication of the 2024 Framework, it was common ground that the proposal would represent inappropriate development. However, paragraph 155 introduces the concept of grey belt land where development in the Green Belt may not be considered inappropriate, subject to a series of criteria. The definition of grey belt is set out in Annex 2. Firstly, it must be previously developed land and/or land in the Green Belt that does not strongly contribute to any of the purposes (a), (b) or (d) in paragraph 143. Secondly, grey belt excludes land where the application of policies relating to areas in footnote 7 to paragraph 11 d) i) (other than Green Belt) would provide a strong reason for refusing or restricting development.

40. It was common ground that the site does not contribute to Green Belt purposes (b) or (d). The PCA contended that it would give rise to urban sprawl in view of its proximity to nearby settlements and existing development along the A20. However, the definition of purpose (a) refers to 'the unrestricted sprawl of large built-up areas'. Development near the site primarily consists of villages and sporadic ribbon development along the main roads, namely the A25 and A20. The nearest built-up area of any significant size is Maidstone, beyond the borough boundary. Wrotham, the village closest to the site, is tightly defined. Whilst the proposal would add to existing ribbon development along the A20, it would not lead to the sprawl of the village or any other defined built-up area. The Core Strategy refers to the Green Belt in the borough as part of the outer edge of the Green Belt surrounding London. In this context, I consider that London is the most relevant large built-up area and consequently the site does not contribute strongly to purpose (a). The site therefore meets this first element of the grey belt test.

41. National Landscapes are one of the protected areas referred to in footnote 7. However, it will be seen from the analysis set out earlier that I have found only limited and localised harm to the setting of the KDNL and no harm to the special characteristics of the views into or out of the Protected Landscape. Notwithstanding that the proposal will not conserve and enhance the landscape and its setting considered together, I do not consider the identified harm would provide a strong reason to refuse or restrict the development.

42. I am therefore satisfied that the site and the proposal meet the definition of grey belt set out in Annex 2 of the 2024 Framework.

b) Green Belt purposes across the area of the plan

43. Paragraph 155 of the 2024 Framework provides for the possibility of development in the Green Belt not being regarded as inappropriate subject to it meeting a series of criteria. Having established that the site meets the definition of grey belt land, it is necessary to consider the second element of criterion (a) of paragraph 155, namely whether its loss would fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan.

44. I have already found that the site does not contribute to Green Belt purposes a), b) and d). By restricting development beyond urban boundaries Green Belt purpose e), seeks to encourage the recycling of derelict and other urban land. As such all Green Belt land contributes towards this purpose. The loss of the appeal site for the purpose of a truck stop serving the motorway network would not undermine purpose e) as it is not a use which could be provided on derelict or other land elsewhere within the urban area.

45. The only Green Belt purpose which would be breached by the proposal is c) as the development would represent an irreversible encroachment of built form into open and undeveloped countryside. However, the area lost would be small in relation to the totality of Green Belt which covers nearly three-quarters of the borough.

46. The performance of the Green Belt against the purposes for which it is protected was assessed within the Council's Stage 1 Green Belt Study September 2016. This divided the borough's Green Belt into a series of parcels. The appeal site lies within the Wrotham parcel which was assessed to be performing moderately against purpose c). The site is only a small proportion of the Wrotham parcel. Open undeveloped fields would continue to separate the development from the M26 and the A227 to the east of Wrotham, as would other countryside to the south of the M26 and to the west along the Kemsing Vale. Consequently, the overall effect on the countryside character of the remainder of this parcel of Green Belt land would be limited.

47. It therefore follows that the loss of the site to development would not fundamentally undermine the purposes (taken together) of the remainder of the Green Belt across the area of the plan. The site therefore complies with criterion (a) of paragraph 155.

c) Need for a 24-hour truck stop

48. Criterion b) of paragraph 155 states that there must be a demonstrable unmet need of the type of development proposed, in this case a 24-hour truck stop adjacent to the M26, part of the Strategic Road Network (SRN).

49. The freight and logistics sector is critical to the economy, delivering the goods on which we all rely. This was recognised in 2021 when the Minister for Transport issued a Written Ministerial Statement (WMS) setting out a joint initiative between the Department for Transport (Dft) and the Department for Levelling Up, Housing and Communities on planning reforms for lorry parking. A strategic national need was identified and improving facilities for drivers was seen as an essential element of effective and resilient supply chains. Consequently, in December 2022 the DfT updated its policy on the 'Strategic Road Network and the delivery of sustainable development' through the publication of Circular 01/2022. As a statement of government policy to be read alongside the 2024 Framework which, at paragraph 114, also recognises the importance of providing lorry parking facilities, the Circular is a material consideration that carries very significant weight.

50. Paragraphs 79-82 of this Circular specifically deal with the spacing of freight facilities, the starting point for which is the regime of statutory breaks and other working time restrictions which apply to drivers of heavy goods and public service vehicles. Adequate roadside facilities are considered critical to enable compliance with those requirements. The Circular therefore

acknowledges that new and expanded roadside facilities to serve the needs of lorry drivers using the SRN are likely to be needed.

51. The safe, effective and efficient use of the SRN is a priority for the DfT and most particularly for National Highways (NH) who are responsible for its safe operation and maintenance. When the motorway network was originally constructed, roadside facilities were provided as part of those schemes. Since de-regulation in the 1990s, responsibility for their provision has passed to the private sector. However, more recently the importance of providing secure facilities for lorries has been recognised by NH who have match funded improvements at existing facilities through their Route Investment Strategies (RIS).

52. The SRN carries 70% of all heavy goods vehicle (HGV) mileage. The Circular (footnote 26 to paragraph 81) states that at a national level the need for lorry parking is informed by regular updates to the DfT's National Lorry Parking Survey and demand assessments undertaken by NH. The survey undertaken by DfT in 2022 showed that there is a national excess of 4,473 vehicles compared to on-site capacity. The situation is worse in the Southeast where the excess vehicles total was 1,132 in 2022. The utilisation rate of existing truck stops in the region stands at 94%, which being above 85%, is considered to be critical. Demand for spaces outstrips supply resulting in lorries parking overnight in laybys, industrial sites and residential areas. Such locations do not provide drivers with adequate welfare facilities or suitable security for their loads. These surveys demonstrate that there is a need for additional lorry parking facilities both nationally and regionally.

53. Kent is a critical part of the SRN in the Southeast. Major routes connect the ports to London and beyond via the M2, M20, M26 and M25 which pass through the county. The provision of heightened security measures through RIS funding is particularly important in Kent due to its proximity to the channel ports. Drivers prefer to take their mandatory breaks in the UK rather than France to avoid the threat of migrants attempting to use lorries as a means of entering the UK.

54. Inappropriate lorry parking has long been recognised by KCC to be a problem across the county. It causes damage to roads, kerbs and verges, and leads to problems of litter, human waste and noise, which are particularly difficult to deal with if close to residential areas. The Kent Local Transport Plan 2016-2031 (LTP) identified the provision of overnight lorry parking as a strategic priority for the county. Additional capacity at the Ashford International Truckstop has been increased from 390-650 spaces. This, combined with increased enforcement in the surrounding area, has dramatically reduced the number of vehicles parking elsewhere in the Ashford area.

55. Nevertheless, the figures from the Kent overnight lorry parking survey (2017-2024) show that whilst Ashford and Canterbury have seen a reduction in parking away from official sites, Swale continues to have in excess of 100 lorries parked elsewhere overnight. In addition, five of the other districts, including Tonbridge and Malling, each have 40 or more lorries parked overnight in laybys, industrial estates and residential areas. A total of 426 and 474 lorries were seen to be parked in such locations across Kent in surveys undertaken in June and September 2024. Restricting access to laybys and increasing enforcement may reduce the problems associated with their use for

the highway authority and local people. However, it does not indicate that demand for provision of suitable facilities has diminished, and lack of facilities leaves the welfare needs of lorry drivers unresolved. At the Hearing there was broad agreement between participants that there is a need for an additional 1000 lorry parking spaces in Kent.

56. In its written response to my pre-hearing inquiries NH stated that existing facilities along the M20 corridor had utilisation rates of between 100-187%; whilst on the M25 the facilities at Thurrock had a utilisation rate of 184% and Clacket Lane stood at 93%. The continuing problem of lack of suitable facilities has also been highlighted by the most recent study undertaken by AECOM on behalf of the Partnership Board for Transport for the Southeast across the whole region, details of which were provided by KCC. This study found that the demand for additional truck stop capacity on the M20/A20 was expected to increase more than any of the other routes in the Southeast. Even in the low growth forecast scenario demand would be likely to more than double between now and 2040. KCC expressed preference for a dispersal of smaller sites (i.e. smaller than the Ashford site) across the county. In its view this would provide drivers with better choices and would avoid the tendency of those sites closest to the channel crossing terminals becoming over capacity. Whilst the need is most acute in Swale, lack of provision in that part of the county is not justification for setting aside proposals that would contribute to addressing needs on the M20 corridor.

57. Evidence of the shortage of facilities and on-going surveys demonstrated that the lack of lorry parking in Kent has been the subject of numerous studies dating back well over a decade. During that period no new sites have come forward and only the site at Ashford has been significantly enlarged. KCC advised that officers have been assisting developers in attempts to bring forward proposals for overnight lorry parks in recognition of the need. However, prospective sites rarely come forward and KCC's view is that most have not progressed beyond pre-application stage due to the planning risks and the high capital costs of construction. This is borne out by previous attempts to provide roadside facilities in the 1990s, when permission was refused on five different sites, including the appeal site.

58. The Road Haulage Association (RHA), representing those who work in the industry, are very concerned about the welfare of existing drivers. They are also equally concerned about the ageing workforce and an on-going shortage of drivers. The lack of suitable facilities contributes to the significant challenge facing the freight and logistics sector to recruit and retain professional drivers, and to increase the diversity of those working in the industry (currently only 2% are women). The welfare of drivers is therefore a matter of considerable concern for all of us with consequences for the ability of the industry to support the economy. In particular the RHA stressed the importance of such facilities for ensuring that drivers can take their strictly regulated mandatory and overnight stops. Personal safety of drivers and security of their loads are vital to give drivers opportunities for adequate rest. It seems to me that providing a safe place for drivers to use a toilet, have a shower, purchase a meal and sleep overnight without fear of crime can hardly be described as a luxury. I therefore consider the need to provide these basic and essential facilities for those who work in the logistics sector is not overstated. They are entirely justified for those employed in the industry and who perform a vital service to our economy and our society which depends on timely deliveries.

59. The lack of parking, security and welfare provision for HGV drivers is not only a serious concern for the RHA and NH but also has knock-on effects for all the users of the SRN. Driver fatigue is one of the leading contributors to accidents on the SRN. When crashes occur, they do not only affect those directly involved through injury and/or damage to vehicles but also result in significant congestion and delays for other users of the SRN. This reduces the efficient operation of the network with adverse effects on productivity across the economy, increased emissions and inconvenience for many.

60. From all that I have read and heard, I consider the need for lorry parking in Kent is compelling, ongoing and likely to increase over time. It was put to me that these needs could be met, at least in Tonbridge and Malling, by something other than a motorway truck stop. It was suggested that a smaller scheme to address lorry parking problems in the local area would be more appropriate, that it could be a rest area with fewer facilities and should not include a filling station. Table 1 of Annex A to the Circular sets out minimum and mandatory requirements for roadside facilities to be eligible for signing from the SRN. To meet the definition of a motorway rest area, the proposal would need to provide car parking for the general public and would therefore require more land. Neither would such a facility be focussing on the unmet need for lorry parking, or the fundamental welfare needs of their drivers. It would therefore not be a suitable alternative to the current proposal.

61. Although the proposal would have its direct access from the A20, which is the responsibility of KCC, its proximity to the motorway means that its primary purpose would be to serve the needs of drivers using the motorway as distinct from other parts of the SRN which are not motorways. Providing a lorry park which did nothing more than address the problem of overnight parking in Tonbridge and Malling (say of 40 spaces) would be a totally inadequate response to a problem which goes beyond the borough's boundaries. A site of 40 would not be able to provide the basic facilities that drivers need and would be too small to be signed from the motorway. Furthermore, there is no evidence that any proposals for smaller schemes have come forward in Tonbridge and Malling or elsewhere to address the needs in this way.

62. By contrast the proposal would meet all the minimum mandatory requirements for signage from the motorways. It would operate on a 24-hour basis, with free short-term parking, security monitoring equipment, an amenity building and a fuelling facility. The fuel station would be an essential part of the proposal and a mandatory requirement to comply with the Circular. Although there are other fuelling facilities reasonably close by on the A20, they occupy smaller sites and are likely to have height restrictions making them unsuitable for use by HGVs. Furthermore, their use by significant numbers of lorries would be likely to result in unacceptable on-site conflict with smaller vehicles and would create unnecessary additional lorry movements on the local road network. I am therefore satisfied that the proposal is of the appropriate type to address the identified need for facilities on this part of motorway network in Kent.

63. Once it has been established that there is a significant shortage of facilities, paragraph 81(i) of the Circular states that the maximum distance between facilities providing lorry parking should be no more than 14 miles. At present there is a gap of approximately 31 miles between the Maidstone Services on the M20 and the Thurrock Services on the M25 and a gap of just over 27 miles

between the Maidstone and the Clacket Lane Services on the M25. Both these gaps are approximately twice the distance that the Circular is now recommending as an appropriate gap where there is an identified need for additional facilities.

64. The appellant undertook an alternative sites assessment to address the Council's concerns that the scale and location of the proposed facility had not been justified. The purpose was to identify a location in which an additional facility could be provided between the services at Maidstone and Thurrock, both of which are known to be operating well above capacity. The provision of roadside facilities is one of the few exceptional cases where the Circular indicates that it may be appropriate to provide a new access onto the SRN. However, even in the absence of a full viability assessment, it is apparent from the information provided by KCC and the appellant that the cost of doing so to serve a truck stop would be prohibitive. Undertaking a site search focusing on areas within 2 miles of the motorway junctions on the M20 was therefore both logical and sensible.

65. The sifting process, which went through four stages, involved consideration of a range of planning and highway constraints. The sift began with 26 sites, stage 2 looked at key environmental constraints and reduced the number to 8. Stage 3 examined highway access and safety issues and reduced this to just 3 sites, one of which is the appeal site. Finally, at stage 4, the distance between the service stations was considered. Spider Hall Farm and Leybourne Farm would be about 10 miles from the Maidstone Services, but both would be more than 22 miles from Thurrock. The Council also asked the appellant to reconsider a site that had previously been rejected at Stage 1 as its Strategic Gap policy was out-of-date. This site, on land to the south-west of J5, was found to pass the first three stages of the sift but was only 8 miles from Maidstone and 25 miles from Thurrock.

66. By contrast to these other potential sites the distance between the appeal site and the Maidstone services is 14 miles and the distance to Thurrock is 18 miles. Whilst this does not fully comply with the Circular's requirements in respect of the spacing of freight facilities on motorways, it is the closest to its recommendations of any of the sites investigated. I consider this to be a factor which is significantly in the scheme's favour.

67. Notwithstanding the criticisms which have been levelled at the reports on the Alternative Sites Assessment, I consider the way in which alternatives were investigated was reasonable. The rationale for selecting the appeal site based on initially considering the gap between the Maidstone and Thurrock service stations on the M20 was justified, notwithstanding the need in other parts of the county. However, the appeal site provides an additional advantage by being close to the M26; providing the facility here would also significantly reduce the gap between the Maidstone and Clacket Lane service stations. The appeal site is therefore in a highly suitable location on this part of the SRN in Kent to address the acute needs of the logistics sector.

68. In any event, it should be noted that the proposal would only contribute towards the overall need for additional lorry parking in Kent. The sites which were assessed are therefore not genuine alternatives to each other. More sites are likely to be required elsewhere in Kent if the ongoing and significant shortfall of these vital facilities is to be addressed.

69. The 2024 Framework at paragraph 114 recognises the importance of providing adequate overnight lorry parking facilities and the Circular advocates National Highways (NH) working with local planning authorities to ensure that local plan allocations and planning application decisions address the shortage of HGV parking on or near the SRN. KCC has supported the inclusion of policies to provide for lorry parking facilities in local plans for Ashford, Dover and Folkstone & Hythe.

70. However, there was no evidence before me to indicate that similar policies are being developed for addressing this matter in the remainder of the county. Neither the Council nor others have identified any suitable sites in the area which would contribute to meeting the need for lorry parking and facilities for drivers. Instead, they preferred to suggest that as the need is not as great in this borough as it is elsewhere in Kent, others should take responsibility for addressing the issue. However, in my view the scale of the associated problems and the presence of motorways through this area make it an issue which needs to be addressed as a matter of urgency.

71. For all the above reasons I conclude that the proposal would provide facilities which would accord with the Circular and would be of an appropriate type to meet the demonstrable unmet need for additional lorry parking on the SRN in Kent. The scheme would therefore accord with criteria (b) of paragraph 155.

d) *Sustainability of location*

72. Paragraphs 110 and 115 of the 2024 Framework advocate locating significant development in locations which are or can be made sustainable. In most cases this will be to ensure development is located where modal shift can be encouraged, reducing car dependence, promoting active travel and the use of public transport. These objectives are not ones that are of primary importance when considering the location of a truck stop, whose main purpose is to serve lorries using the motorway network.

73. In this case, the location is close to the intersection of two motorways. Vehicles accessing directly from the M26 in either direction would only need to make use of the short section of the A20 between J2A and the proposed roundabout at the site access. Vehicles going to or from J2 of the M2 would make use of a slightly longer section of the A20. Concerns were raised by local people about the impact of additional lorry movements on the local highway network and the PCA undertook a critique of the appellant's transport assessment. However, the evidence demonstrated that these matters had been thoroughly investigated and tested using the appropriate transport planning tools. The effects of the additional movements have been fully assessed and agreed with KCC who were satisfied that there are no issues with potential re-routeing of traffic onto unsuitable parts of the local highway network. NH were also satisfied that there would be no adverse effects on the safe operation of the M26 or its slip roads.

74. Following a safety audit KCC were satisfied that the proposed roundabout access could be designed to suitable standards, which would include some local widening to provide additional capacity along the A20. The technical agreement reached was summarised in a SoCG on technical matters which confirmed that the necessary works could be secured by the imposition of appropriate conditions and delivered via a S278 agreement.

75. The truck stop would employ about 14 people. To promote the use of sustainable transport modes by staff, secure cycle parking and a travel plan could be secured by conditions. Monitoring of the travel plan has been secured through a UU.

76. Consequently, I consider that the location is a sustainable one for a motorway truck stop, and it would therefore comply with the objectives of paragraphs 110 and 115 of the Framework. The proposal would therefore accord with criterion (c) of paragraph 155.

e) Overall findings

77. For all the reasons set out above, I conclude that the proposal would use grey belt land and would not fundamentally undermine the purposes of the remaining Green Belt across the area of the plan. It would help to meet the significant and demonstrable unmet need for a motorway truck stop in Kent and would be in a sustainable location for its purpose. It would therefore comply with the relevant criteria set out in paragraph 155 of the Framework. Criteria (d), which refers to the 'Golden Rules' to be applied to housing development is not relevant to this case.

78. I therefore conclude that the scheme is not inappropriate development.

Character and appearance

79. As already discussed in this decision, the proposal would result in the loss of a green field which is currently undeveloped open countryside in the Kemsing Vale. This would be replaced by a large area of hardstanding, a single storey building of some 1100m^2 and a fuel station. The proposal would extend and consolidate the existing mix of ribbon development along the A20 and reduce the area's visual connection with the countryside. Views over the rural area to the south would be lost during daylight hours, largely obscured by a bund, the security fence, and the presence of parked lorries. At night the site would be lit, adding to the sense that the A20 was part of a built-up area.

80. The illustrative landscape drawing indicates that the site would be partially screened by the provision of a bund which would be planted with native trees and shrubs to provide screening. This would take time to mature and would require effective management and maintenance to ensure its successful establishment. Nevertheless, even with landscaping the proposal would represent a significant change to the character and appearance of the southwestern side of the A20, which would be harmful to its open rural character. The provision of a fence on the opposite side of the road to prevent headlight glare into the properties would also be a somewhat incongruous feature. However, these changes would be experienced in the context of an area of mixed residential and commercial character immediately adjacent to the roundabout at J2A of the M26.

81. I therefore conclude that there would be harm to the character and appearance of the area which is part of the setting of the KDNL. However, this harm would be limited and localised. The proposal would therefore conflict with Policy CP24 of the Core Strategy and Policy SQ1 of the Managing Development and the Environment Development Plan Document April 2010 (MD&E DPD), which, amongst other things, requires development to be well designed and not detrimental to the built environment within the countryside.

Other Considerations

Heritage Assets

82. There are two Grade II listed buildings in the vicinity of the site, Moat Restaurant and Mote Cottage, both of which date from the 16th century. Their significance derives from their age and architectural features which date from that period. Originally their settings would have been entirely rural. However, modern development along the A20 and the way in which the road is now used have eroded this to a significant degree. Intervisibility between Mote Restaurant and the appeal site is restricted by intervening buildings and vegetation. The proposal would have only a minor adverse effect on its setting.

83. Moat Cottage is closer to the site and looks out on the fields on the opposite side of the A20. Although it has been severed from its original setting by the presence and usage of the road the intervisibility between the sites contributes to the building's significance as a dwelling associated with surrounding agricultural activities. The proposal would result in the loss of visual connection between the house and its original rural context.

84. It was common ground that the proposal would give rise to less than substantial harm to the setting of both buildings. Whilst this would be at the lower end in respect of Moat Restaurant, it would be in the mid-range in respect of Moat Cottage. It will therefore be necessary to weigh this in the planning balance in accordance with paragraph 215 of the 2024 Framework.

Living conditions of neighbours

85. The introduction of a lorry park opposite residential dwellings would introduce additional noise and disturbance for these neighbours. However, in the context of traffic movements and other activities in the vicinity, the Council did not consider these changes would give rise to unduly harmful effects. I concur with this assessment. It is proposed that the impact of headlights sweeping across the front elevation of these properties would be mitigated through the provision of a fence combined with additional soft planting. I am satisfied that these are detailed matters which could be secured through the approval of the reserved matters and would prevent unacceptable harm to the living conditions of these adjacent occupiers.

Wildlife and biodiversity

86. There were representations from local people about the effects of the proposal on wildlife with the loss of the existing open field. However, the site is currently unimproved grassland and following multiple ecological surveys it has been concluded that the site has limited populations of protected species. On-site mitigation is proposed within the design including a side natural buffer to the on-site watercourse and retention of large amounts of existing vegetation. Fragmentation of existing habitats on the site will be addressed by introducing new linear connections. Further off-site biodiversity improvements are proposed on land in the appellant's control which will secure a biodiversity net gain of 21.42 units. Based on these measures, which would be secured by conditions and the UU, the Council was satisfied that there would be no harm to protected species and biodiversity would be improved. I have no reason to come to a different view.

Planning Balance

87. The most important policies in the determination of this appeal are Policies CP3, CP7 and CP24 of the Core Strategy and Policy SQ1 of the MD&E DPD. For reasons set out above, I have found them to be consistent with the 2024 Framework's approach to Green Belt and National Landscapes and they reflect the Framework's approach to design. I do not consider them to be out of date and consequently Paragraph 11 d) of the Framework does not apply in this case. It is therefore necessary to determine the appeal in accordance with the development plan unless material considerations indicate otherwise.

88. The proposal would not result in any direct harm to land within the area designated as the KDNL. I was satisfied that, subject to a carefully designed and effectively managed landscape scheme, there would be no adverse impact on the views out of the scarp of the North Downs and in this respect the natural beauty and quiet enjoyment of the KDNL would be conserved. Although I identified limited and localised harm to the setting of the KDNL which could not be avoided, I was satisfied that its adverse impacts on the Protected Landscape could be minimised through landscaping. The proposal would therefore comply with Policy CP7 of the Core Strategy.

89. I went on to find that the site meets the Framework's definition of grey belt. Having considered the relevant criteria in paragraph 155 of the Framework I concluded the proposal would not be inappropriate development. The proposal therefore complies with Policy CP3 of the Core Strategy, which seeks to protect the Green Belt in accordance with national policy.

90. Policies CP24 of the Core Strategy and SQ1 of the MD&E DPD are primarily concerned with detailed design, which cannot be fully addressed at the outline stage. However, there would be conflict with these policies arising from the localised and limited harm to the character and appearance of the area in the setting of the KDNL. In this respect the proposal would also fail to fully comply with principles SD2 and SD8 of the Management Plan, a material consideration of considerable importance. However, I found no specific harm or conflict with principles SD1 or MMP2 and consider that the proposal would accord with principle SD12 which seeks to mitigate the effects of unavoidable development.

91. There would, nevertheless, be conflict with the development plan as a whole.

Planning benefits

92. There is a national imperative to provide adequate facilities to address the shortfall of lorry parking facilities across the country. These are considered essential to support the freight and logistics sector which is critical to the economy and the well-being of society. Government policy on this matter is set out in the DfT's Circular 01/2022 which provides specific guidance on the provision of roadside facilities for freight and sits alongside the provisions of the 2024 Framework.

93. The strategic transport corridors through Kent provide vital links between the channel ports and the rest of the country. Their use by large numbers of HGVs generates a significant and essential need for suitable sites for lorry parking. Whilst a need for facilities has been apparent for many years the difficulty of finding sites has been compounded by the different roles and objectives of the

highway and planning authorities and the reliance on the private sector to fund them. However, in this case the need for a truck stop in Kent was supported by extensive, compelling evidence on the lack of sufficient lorry parking spaces in the county. It was presented by the appellant and actively supported by both highway authorities, namely National Highways and Kent County Council, who consider provision of suitable facilities to be a strategic priority. The evidence demonstrated that the need for facilities on the M20/M26 corridors is particularly acute.

94. The search for a site has been far from easy given the significant planning constraints in the area through which the motorways pass, and the absence of development plan policies to support their provision and guide the choice of location. However, the appeal site was found to meet all the necessary criteria, and I concluded that it is a highly suitable location for such a facility. The proposal would therefore make a significant contribution towards meeting the shortfall of about 1000 spaces across the county in a location where the need is clearly evident. All these matters demonstrate that there would be significant public benefits arising from the scheme. These are significant factors which weigh substantially and very strongly in favour of the proposal.

95. Furthermore, adequate lorry parking close to the SRN is required to ensure drivers adhere to requirements for mandatory breaks and rests. Fatigue is a known contributor to accidents on the SRN; the provision of facilities will assist NH's objective of improving the safe and efficient operation of the network. The appeal proposal would provide decent working conditions for lorry drivers, who currently find themselves without suitable places to meet their needs for toilets, showers, food, safety for themselves, and security for their vehicles and loads. In doing so it would reduce the problems for the highway authority and local people which arise from the use of laybys, industrial estates and residential areas for overnight parking. This in turn would contribute to the sector's ability to recruit and retain staff without which there will be serious long-term consequences for the economy. This combination of economic, social and environmental benefits are matters to which I also give very substantial weight.

Heritage balance

96. It was common ground that there would be less than substantial harm to the setting of Moat Restaurant and Mote Cottage, both Grade II listed buildings. However, it was also accepted that the public benefits of the proposal would outweigh this limited harm. Nevertheless, any harm to a heritage asset is a matter of considerable importance and weight.

The overall planning balance

97. The proposal would result in harm to the setting of the KDNL through the loss of an undeveloped field within the Kemsing Vale character area immediately adjacent to the KDNL boundary. My duty to 'seek to further' the purposes of the Protected Landscape, and the PPG's specific reference to the potential for harm in the setting of a designated area, means that this harm is a matter that carries great weight. However, whilst not all the harmful effects of the scheme can be avoided, I am satisfied that adverse effects on the Protected Landscape and its setting can be minimised through mitigation measures including comprehensive landscaping and carefully designed and managed lighting.

98. The character and appearance of the area in the immediate vicinity of the site would be harmed due to a loss of the rural outlook from the roadside and the introduction of incongruous features along the A20. There would also be minor to mid-range less than substantial harm to the setting of the Grade II listed buildings. Although all the harms I have identified would be limited and localised, they are nevertheless very important matters which taken together carry great weight in the balance.

99. On the other hand, for all the reasons set out above, the proposal would provide a range of important public benefits which would support the freight and logistics sector, improve safety on the SRN and provide essential welfare facilities for lorry drivers. I therefore conclude that the economic, social and environment benefits of the proposal, which together carry very substantial and significant weight, outweigh the great weight associated with the cumulative harms to the KDNL, heritage assets and the local area.

100. It therefore follows that the appeal should succeed.

Conditions

101. A draft list of conditions was discussed at the Hearing. A revised set subsequently agreed by the main parties was submitted after the event. I have considered these in the light of the tests set out in paragraph 57 of the 2024 Framework and made minor alterations to the wording for the sake of clarity and precision. I have made amendments to their order, dealing firstly with those which must be discharged before the development can begin and ensuring that the remainder are set out logically.

102. The only conditions that were initially in dispute were those relating to the timing for submission for the reserved matters. However, the Council accepted that it would be unreasonable to shorten the standard time limits given the complexities of the scheme.

103. A plans condition is required in the interests of certainty. It is appropriate that conditions relating to the discharge of the reserved matters should include details of ground levels and materials. Details of landscaping and boundary treatments should broadly accord with the submitted illustrative drawings and be accompanied by a Landscape and Ecological Management Plan (LEMP). These conditions are necessary in the interests of the appearance of the development, the living conditions of nearby occupants and to secure improvements in biodiversity.

104. Conditions requiring approval and implementation of a scheme for sustainable surface water drainage and to deal with foul water drainage are required to prevent flood risk and pollution. It is also necessary to ensure that drainage arrangements do not adversely affect the existing drainage system associated with Junction 2A on the M26, and that all drainage works are completed prior to the site being brought into use.

105. To provide adequate and satisfactory mitigation of the effects of the development on the setting of the KDNL, it is essential that a detailed lighting scheme is agreed and implemented. I have strengthened this condition to ensure that these details are agreed before the development begins and implemented before the site is brought into use.

106. A construction management plan is justified to minimise the disruption to traffic on the A20 and the occupiers of nearby residential and commercial premises during the construction period. It is essential that the petrol filling station is provided in a manner which reduces the risks of pollution and provides clear processes for addressing any pollution incidents in the future. Similarly, a condition to address potential contaminants found during the construction period is necessary to protect human health and prevent pollution.

107. In order to protect any archaeological remains it is necessary to undertake a written scheme of investigation (WSI) and carry out the development in accordance with its terms, including any required mitigation. To protect trees on and near the site it is essential to ensure that plans for providing the services required for the development are agreed and that trees are adequately protected during the construction period. Where vegetation and trees are to be removed this must be done outside the nesting season to prevent disturbance to birds.

108. A condition requiring the provision of a roundabout and other associated highway works through a S278 agreement with KCC is essential to provide safe and satisfactory access to the development. A travel plan is justified to promote and encourage the use of sustainable modes of travel by employees of the development, as is a requirement to provide secure and covered cycle parking (which the parties agreed to after the close of the Hearing).

109. After the Hearing I also sought the views of the main parties about the possibility of for a booking system for the truck stop to prevent overspill parking in the locality. However, the Council and appellant provided sound reasons as to why such a condition would not be appropriate in this case.

Planning Obligations

110. The UU with the Council secures a landscape and ecological management and monitoring plan (LEMMP) designed to implement habitat retention, enhancement and creation on land identified in the Biodiversity Net Gain Report set out in the Appendix 5.12 to the ES. The UU with KCC secures a travel plan monitoring fee. I am satisfied that the provisions of these planning obligations meet the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and tests set out in paragraph 58 of the 2024 Framework.

Conclusion

111. For the reasons set out above, the proposal would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it.

112. I therefore conclude that the appeal should be allowed.

S M Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Christopher Katkaowski CBE of Kings Counsel	Instructed by Jennifer Smith
Jennifer Smith BSc Hons DipTP MRTPI	Senior Director: Smith Jenkins Planning & Heritage
Andy Williams BA Hons DipLA DipUD CMLI	Director: Define
Phil Woolistcraft MSc HNC	Partner: Eddisons
Daniel Spreadborough BA Hons MSc	Senior Lighting Engineer: DFL
Jess Lockwood BSc Hons RICS	Property Director: Moto Hospitality

FOR THE LOCAL PLANNING AUTHORITY:

Asitha Ranaunga of Counsel	Instructed by Joy Ukadike, Head of Legal and Democratic Services at the Council
Robin Gilbert MRTPI	Major Projects Team Leader
Philip Russell-Vick DipLA CMLI	Director at Enplan
Katie Miller MRTPI	Planning and Place Manager Kent Downs National Landscape Team

FOR THE PARISH COUNCIL ALLIANCE

Dr Alex Williams of Counsel	Instructed by Peter Gillin of Wrotham Parish Council on behalf of the Parish Council Alliance
Adem Mehmet BA Hons PGDip MA MRTPI	Director: Highgate Planning & Development
Mark Topping MA Hons CMLI	Director of Design: Lanpro

FOR STATUTORY CONSULTEES

Freda Rashdi BSc Hons PGCert CEng MICE	Head of Customer Journeys: National Highways

INTERESTED PARTIES:

Ashton Cull BSc Hons	Senior Public Affairs Lead Road Haulage Association

DOCUMENTS SUBMITTED AFTER THE HEARING

ID1 Planning conditions agreed by the Council and appellant

ID2 Summary Statement from appellant

ID3 Summary Statement from Council

ID4 Summary Statement from PC Alliance

ID5 Unilateral undertaking agreed with Kent County Council

ID6 Unilateral undertaking agreed by Tonbridge and Malling Council

Schedule of Conditions

1. Details of appearance, landscaping, layout and scale of buildings (hereinafter referred to as the "reserved matters") shall be submitted to the local planning authority. No development shall commence until details of the reserved matters have been approved in writing by the local planning authority. The development shall be carried out in full in accordance with the approved details.

2. In the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of this outline planning permission.

3. The development to which this permission relates must be commenced not later than whichever is the later of the following dates:-

    a. The expiration of three years from the date of the grant of this outline planning permission.

    b. The expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

4. The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

    J9500 - 01 - Site Location Plan

    J9500 - 05A - Parameters Assessment Plan

    Potential Site Access Arrangement, Drawing No. 3136-F05, Rev G

5. The details submitted in pursuance to Condition 1 shall be accompanied by a contoured site plan and full details of the ground levels and ridge levels at which the buildings are to be constructed, and development shall be carried out in accordance with the approved details.

6. The details submitted in pursuance of Condition 1 shall be accompanied by a scheme of landscaping and boundary treatment. The scheme shall be in general conformity to the indicative Site Wide Illustrative Landscape Masterplan B22054 101A, Illustrative Landscape Masterplan B22054 102 and Arboricultural Implications Assessment J9500-02B. The scheme shall be approved in writing by the local planning authority and shall be implemented by the approved date.

    Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7. The details submitted in pursuance to Condition 1 shall provide details and samples of all materials to be used externally. These details shall be submitted to and approved by the local planning authority, and the development shall be carried out in accordance with the approved details

8. The details submitted in pursuance to Condition 1 shall be accompanied by a Landscape and Ecological Management Plan (LEMP). The content of the LEMP will be based on Defra Biodiversity Net-Gain metric calculations and include the following:

a. Full Defra biodiversity net-gain calculations;

b. Description and evaluation of features to be created and managed;

c. Ecological trends and constraints on site that might influence management;

d. Aims and objectives of management;

e. Appropriate management prescriptions for achieving aims and objectives;

f. Preparation of a work schedule;

g. Details of the body or organisation responsible for implementation of the plan, and;

h. Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The scheme shall be approved in writing by the local planning authority and shall be implemented by the approved date.

9. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Sustainable Drainage Report prepared by Pell Frischmann dated 05.01.2024 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths can be accommodated and disposed of without increase to flood risk on or off site.

   The drainage scheme shall also demonstrate (with reference to published guidance):

   a. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and

   b. appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

10. The development hereby permitted shall not be brought into use 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.

11. No development shall take place until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first use of the development hereby permitted.

12. No development shall take place until full details of drainage affecting Junction 2a of the M26 has been submitted to and approved in writing by the local planning authority. The development shall thereafter be undertaken in strict accordance with the approved details prior to the first use of the development hereby permitted and retained in accordance with the agreed specification.

    No surface water shall be permitted to run off from the development hereby permitted on to the Strategic Road Network or into any drainage system connected to the Strategic Road Network. No drainage connections from any part of development hereby permitted may be made to any Strategic Road Network drainage systems.

13. No development shall take place until a detailed lighting design has been submitted to and approved in writing to the local planning authority. The detailed lighting design should adopt the following principles, as outlined in GN01:2021:

    a. Fully shielded (full cut off flat glass LED lights);

    b. Direct light output downwards (mounted horizontally to the ground and not tilted upwards). Mount lights at appropriate heights for the area being lit so the tilting of lights is not required;

    c. Where applicable and in regard to safety, use smart/adaptive lighting so the levels of light relate to use; and

    d. Only use white light energy efficient LED lights.

    The lighting scheme shall be implemented in accordance with the agreed details before the site is brought into first use.

14. No development shall take place until details of a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not be limited to the following

    a. Details of construction access to the site;

    b. Any proposed construction traffic routes to the site, to be identified on a plan;

    c. Construction Traffic Management Plan (to include the coordination of any deliveries and plant and materials and the disposing of waste resulting from demolition and/or construction so as to avoid undue interference with the operation of the public highway, particularly during the Monday-Friday AM Peak (0800-0900) and PM Peak (1630-1800) periods, an estimate of the hourly and daily movement of the construction traffic, the hours of construction work and deliveries);

    d. Area(s) for the parking of any vehicles of site operatives and visitors;

    e. Area(s) for the loading and unloading of any plant and materials;

f. Area(s) for the storage of plant and materials to be used in constructing the development;

g. Details of waste management arrangements;

h. Management strategies for any emissions to air, water and land. Including noise & vibration, dust, general discharges and appropriate mitigation strategies; the storage of materials and construction waste, including waste recycling where possible; and

i. Risk Assessments and Method Statements for the works; and contact details of personnel responsible for the construction works.

15. No development shall take place until a scheme to manage the pollution risks associated with the operations of the proposed petrol filling station has been submitted to and approved, in writing, by the local planning authority. The scheme shall include and address the following components:

    a. Details of the double skin tanks and concrete base with lip and sump;

    b. Details of fuel delivery pipework;

    c. Drainage details for the forecourt and drainage within the tanker offloading area;

    d. A management plan detailing how traffic will be directed onto and offsite, including how fully laden delivery tankers will avoid fuel delivery pipework between pumps and tanks;

    e. Information relating to the proposed third-party leak detection system;

    f. A site-specific staff training manual that explains to site staff specific environmental risks associated with the petrol filling station, and actions to be taken in the event of an incident.

16. If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been agreed with the local planning authority, and it shall thereafter be implemented by the developer.

17. No development shall take place until an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the local planning authority. No development shall take place other than in accordance with the approved WSI and any addenda to that WSI covering subsequent phases of mitigation. The development shall not be put into first use until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the approved archaeological WSI.

18. No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the local planning authority.

19. The development hereby approved shall be carried out in such a manner that all trees are protected in accordance with the recommendations within BS 5837:Trees in relation to design, demolition and construction.

20. All areas of trees, hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest

21. The development shall not be brought into use until a Section 278 Agreement is in place between the applicant and KCC Highways to cover; highway mitigation associated with roundabout access junction; and any highway changes to lanes connecting into access junction and M26 Jct 2A.

22. The development shall not be brought into use until a Travel Plan, related solely to the employment staff associated with the development, has been submitted to and approved in writing by the local planning authority. The Travel Plan shall include objectives and modal-split targets, a programme of implementation and provision for monitoring, review and improvement. Thereafter, the Travel Plan shall be put into action and adhered to throughout the life of the development, or that of the Travel Plan itself, whichever is the shorter.

23. The development shall not be brought into use until secure, covered bicycle parking, details of which have previously been submitted to and approved in writing by the local planning authority, has been implemented. The approved scheme shall be retained on site thereafter.

End of Schedule of Conditions