

REPORT SUMMARY

REFERENCE NO - 13/0742		
APPLICATION PROPOSAL Proposal for formation of private syndicate fishing lake with 2 No. breeding ponds (for coarse fish), construction of "fishing pegs", access and parking areas with associated earthworks, new access, parking and pathways, the provision of an ecological pond, small scale pump chamber and associated works along with landscaping and to include the erection of a site maintenance building on land at Boughton Bottom Farm, Lower Farm Lane, Maidstone, Kent, ME17 4DD		
ADDRESS Fishing Lake, Boughton Bottom Farm, Lower Farm Road, Boughton Monchelsea		
RECOMMENDATION - Permission granted		
SUMMARY OF REASONS FOR RECOMMENDATION This is set out in the conclusions section of the report.		
REASON FOR REFERRAL TO COMMITTEE Recommendation contrary to views expressed by Boughton Monchelsea Parish Council		
WARD Boughton Monchelsea And Chart Sutton	PARISH/TOWN COUNCIL Boughton Monchelsea	APPLICANT Mr N Gough AGENT DHA Planning
DECISION DUE DATE 23/06/13	PUBLICITY EXPIRY DATE 23/06/13	OFFICER SITE VISIT DATE 18/9/13

RELEVANT PLANNING HISTORY:

Under ref: MA/12/0482 a screening opinion was sought on whether the proposal was of a scale and impact to trigger the need for a separate Environmental Impact Assessment in addition to the need to seek planning permission from the Local Planning Authority.

It was concluded that the scale and impact of the proposal was not such as to warrant the submission of an Environmental Impact Assessment.

Members are advised that this does not represent any form of predetermination and the application will continue to be dealt with on its merits in accordance with adopted local plan policies and Government Guidance.

MAIN REPORT

1.0 SITE DESCRIPTION

- 1.1 The site comprises a large, slightly undulating field of irregular shape with its boundaries defined by existing hedgerows, fronting the south of Lower Farm Road. There is an existing small pond in the south east corner of the site while close to the extreme south-east corner of the site is an SSSI running along the meandering route of the River Beult. A public footpath runs along part of the field boundary in this south east corner.
- 1.2 The application site falls within countryside having no particular landscape designation though with the River Beult SSSI to the south. To the north of Lower Farm Lane the countryside is designated as a Special Landscape Area (SLA).
- 1.3 In a wider context the application site falls within an open agricultural landscape defined by large fields of irregular sizes. The nearest dwelling to the site is Bocton Oast which adjoins the western boundary.

2.0 PROPOSAL

- 2.1 The current proposal has three main elements, as follows:
- 2.2 The main element is the creation of a lake as a mainly carp fishery which will also be stocked with bream and roach. The lake will occupy a central position within the site covering an area of approximately 1.48 ha. and varying in depth from approximately 1 metre to approximately 3 metres, providing shallower water for spawning fish with the deeper water providing shelter.
- 2.3 The lake will be constructed as part of a 'cut and fill' operation with spoil taken from excavations redistributed across the site so that no importation of material will be necessary. Cross sections within the site have been submitted showing alterations to the land contours with the applicants estimating that land raising of only between 300-500mm will be necessary from spoil arising from the excavations. The surface of the lake will generally be level with adjoining ground levels and enclosed by earth mounds composed of material excavated to form the lakes. Land raising will take place mainly around the perimeter of the proposed lake.
- 2.4 Top soil from the excavation will be stripped and stored on site for reuse. The underlying blue clay will also be removed and used to provide a natural lining to the proposed lake.
- 2.5 To ensure that the level of water in the lake will be maintained at all times a pump will be installed. The pump will be situated to the south of the site on the River Beult enabling water from the river to be pumped into the lakes and other ponds in times of drought. Given restrictions imposed on the abstraction licence

an ecology pond is to be provided in the north west corner of the site for topping up purposes as required.

- 2.6 With regard to landscaping, the intention is to provide ecological enhancement measures, including planting of woodland and copses taking between 5 and 7 years to mature. Planting will also take place on the bed of the lake to create a water habitat and to prevent bank erosion.
- 2.7 The enterprise will operate as a syndicate fishery offering a maximum of 11 'swims' intended to cater for people both new to fishing and carp specimen hunters. This number has been chosen in order to create the best conditions for a viable syndicate fishing lake. Each swim will have its own access and parking area from which a track will run down to a timber fishing platform abutting which will be a small grassed area. Each swim will be set amidst a wooded area abutting the proposed lake and be linked by a roadway running around the lake periphery.
- 2.8 The second main element is the provision of 2 rectangular breeding ponds (also to be cut and fill) to be constructed south of the main lake both to stock the main lake and to provide fish for sale to other fisheries. The intention is that this facility will minimise the possibility of disease while contributing to the finances of the operation.
- 2.9 The siting of the breeding ponds has been chosen to provide segregation from the main lake and to minimise disturbance. The area around the lakes will be extensively landscaped..
- 2.10 The third main element of the proposal is construction of a barn having a footprint 20x14 metres, an eaves height of just under 3 metres and a ridge height of just over 8 metres. As originally sited this building was just over 80 metres away from the boundary with Bocton Oast to the west but it has been re-sited so that the separation distance is now in excess of 120 metres to reduce its visual impact.
- 2.11 The building will be used to store maintenance equipment, the sale of agricultural plants and fish food, tackle shop, indoor hatchery, WC/shower facilities for anglers and an office/admin facility.
- 2.12 Other ancillary elements include the provision of a stone surface track between 2.5/3.5 metres wide around the lake which will be accessible via a gated entrance onto Lower Farm Lane. Not all 'fishing pegs' will have vehicle access with access on foot only to pegs close to the hatchery. Where car access is available this provision will also be made for disabled anglers.
- 2.13 A communal parking area for 20 vehicles will be provided to serve the development on the north side of the lake.
- 2.14 Fishing hours will normally be from dawn until dusk but night fishing will also be permitted by prior appointment with anglers allowed to use 'bivvy' type tents and umbrellas for shelter.

- 2.15 The application is also accompanied by an Ecological Survey, Reptile and Great Crested newt surveys and a landscape assessment.
- 2.16 In seeking to address the objections to the proposed development and clarify the impact of the proposal on the wider landscape the application has been amended/amplified by submission of the following details which have also been the subject of further consultation. The key elements of the revisions are summarised as follows:

- The development will continue to be served by a single access off Lower farm Lane but with minor amendments to the route of perimeter track around the proposed main fishing lake arising mainly due to the resiting of the proposed barn approximately 40 metres to the east of its current position.
- Provision of a 15 metre wide woodland buffer running down the whole length of the western site boundary.
- Long and cross sections of the site with the site layout plan accompanying this showing an alternative site access just to the north of Bocton Oast. It has since been confirmed that there will only be one site access onto Lower Farm Lane.
- Computer generated aerial views of the lake.

- 2.17 In addition to the above the applicants have also provided the following information:

- Once construction works are complete the size of vehicles needing to gain access to the site on a regular basis will be no more than the size of a transit van.
- Machinery brought onto site for maintenance purposes will be small items such as grass cutters and a tractor which will remain on site.
- In the course of construction the existing field access into the site at the corner of Butt Green Lane will be used for a short time as the main construction access.
- The excavation works will involve cut and fill operations with only the top 250/300mm of soil needing to be stripped and stored. The remaining subsoil would be continually moved and reprofiled.
- The exposed clay would be used to line the lakes.
- Top soil will be stored in 3 main areas - close to the western site boundary, close to the north east site boundary and one along the southern site boundary.
- Given the scale of the earthmoving operations it is estimated that the site remodelling works should take no longer than 4/5 weeks.

3.0 POLICY AND OTHER CONSIDERATIONS

Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV34, T13
Government Policy: NPPF 2012, NPPG 2014

4.0 LOCAL REPRESENTATIONS

4.1 The proposal represents 'major' development and has been advertised by way of press and site notices.

4.2 One objection was received to the proposal as originally submitted and is summarised below:

- Bocton Oast is a separate family dwelling occupied independent of the farm whose amenities must be taken into account in any decision.
- Does not accept that the proposal would support the diversification of Boughton Bottom Farm. The land, the subject of the current application, was bought by the applicant and questions whether it can be considered as falling within the definition of agricultural use.
- Proposal will have significant impacts not only upon the occupants of Bocton Oast but also the wider landscape.
- Proposal would harm long range views across the area from principal public vantage points to the north and give rise to unacceptable cumulative visual impacts with Monks Lakes and Riverfield Fish Farm on the A229 to the south.
- Given the amount of excavation not convinced that spoil levels would be only 1.5 metres above existing ground levels. In addition the height of the lake above surrounding land would appear intrusive while increasing flood risk to nearby properties.
- Construction and employee traffic will both have to use Lower Farm Road which is totally unsuitable for this purpose. In addition traffic generated by the proposed use has not been made clear.
- 24hr use of the lake will result in noise, activity and disturbance including light pollution to the residents of Bocton Oast while harming local wildlife and the River Beult SSSI.
- The proposed barn is too large and intrusive and should be single storey and sited closer to the breeding ponds.
- Does not accept that economic benefits of the proposal, which will not lead to farm diversification or improve employment opportunities in the area.
- Reference is made to a restrictive covenant preventing erection of buildings on land in front of Bocton Oast.

4.2 Despite the above objections, in the event planning permission being granted the objector considers the following should be secured by any consent:

- Native species tree belt to be provided along western site boundary with a minimum width of 15 metres
- Restrict use to between 0700- 1900hrs.
- Relocation of barn closer to breeding ponds.
- Construction management plan requiring use only of the proposed new access and removal of unnecessary emergency access to the site.

- Measures to prevent vehicles and activity coming close to the western site boundary.
- Not storage of spoil close to western site boundary where it might harm existing hedgerows
- Existing hedgerow along the western site boundary to be supplemented with additional planting to provide improved buffer zone between proposed development and Bocton Oast.

4.3 Following re-consultation on the revised details further representations were received from the same objector which are summarised below:

- The barn is still visually intrusive at 8 metres high and remains in the area covered by the covenant.
- The barn would be better placed in the south eastern part of the site and restricted to single storey.
- Any planning permission should be subject to a condition that the temporary access in the corner of the proposed site should only be used to facilitate the construction of the new vehicular access along Lower Farm Road. The new access should thereafter only be used by construction traffic associated with the development and the operation of the fishery.
- Highly unlikely that the largest vehicle necessary would be a 7 ton lorry considering the amount of materials necessary to construct the roadway around the lake.
- Machinery used to construct the lake should not be retained on site after the initial construction period.
- Though a considerable amount of top soil will need to be stored within the site but not necessarily near Bocton Oast.
- Storage of soil will give rise to flood risk - could be conditioned in the construction management plan which the applicant has agreed to.
- Western boundary does not need to be disturbed and should be prepared for the landscaping at the earliest possible time.
- A condition should be imposed requiring the 15 metre wide woodland buffer along the western boundary with Bocton Oast is provided in the first planting season following commencement of development.
- An alteration to the access for Bocton Oast, and also part of the proposed development is now being changed to part of the applicant's garden, a change from agricultural to residential. A condition should be imposed restricting the construction of a private residential driveway through a commercial area.
- The cut and fill drawings are too imprecise leaving situation open to interpretation.

4.4 It should be noted that the above representations were made by the former occupiers of Bocton Oast who have since moved away. The new occupants have been consulted on the proposal but to date no representations have been received from this source.

5.0 CONSULTATIONS

5.1 Boughton Monchelsea Parish Council:

When the proposal was originally submitted the Parish Council raised objection on the following grounds and wish to reiterate these concerns in connection with the amended proposal:

- There is already a fishing lake nearby and a further lake in open countryside would have an extremely detrimental impact on the landscape. The applicant already refers to negative impact of Monks Lake due to artificial landforms.
- Lake inlet to River Beult will have a detrimental effect on the river and is in direct conflict with the Council's policy to protect river. Already problems in maintaining river levels and abstracting water for use in the proposed lake will make the situation far worse.
- River Beult is a Site of Special Scientific Interest (SSSI) containing protected species. Proximity of lake and associated activity to this could adversely affect wildlife and damage SSSI.
- Excavations to raise land levels around the lake in the order of 1.5 metres will have a significant adverse visual impact on the character of the area while increasing the risk of flooding in the area.
- Overnight fishing will have a significant environmental impact along with noise, general disturbance and light intrusion while vehicle parking will also have a negative visual impact.
- Proposed lake will appear as an unnatural lagoon feature in the landscape adversely affecting views from St Peters Church and the Greensand Way and represent a significant visual intrusion in this open landscape.
- Will result in unacceptable loss of agricultural land to leisure use.
- Concerns that neighbouring properties directly affected by the proposal were not notified of the application.

The objector also raises the following additional concerns:

- The site is within the Beult Valley Landscape Character Area while MBC's Landscape Character Assessment states that the area should be conserved and restored and that further artificial earthworks should be resisted.
- Section 58.15 of the MBC assessment states that there are generally few visual detractors though the artificial lakes on the A229 are particularly incongruous while Section 58.11 states that nationally scarce invertebrates have been recorded in the River Beult.
- Some of the information sent is incapable of reasonable interpretation and should be resubmitted.
- The proposed orchard shown on drawing JEC/306/1 does not fit with the character of the surrounding area.
- Application should be referred to Natural England.
- Failure to notify nearby residents of application.

5.2 **Environment Agency:** (comments dated 11/6/13):

We have no objection to the development at this location however we request the following conditions be included in any permission granted:

Condition

“:If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect groundwater which may be present in the superficial deposits and to comply with NPPF.

Informatives

Foul Drainage

“The details for foul drainage have not been provided. In the first instance any sewage should be discharged to mains sewer. If you wish to discharge treated sewage effluent into surface water or to ground you may require an Environmental Permit from us.

Surface Water Drainage

“Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system.

Fuel, Oil and Chemical Storage

“Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.

The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental

damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

Waste on site

A waste exemption/permit may need to be applied for, depending on the specific type/amount of material that is to be imported onto site for construction/landscaping (stone, shingle and compost are mentioned at various points in the application).

The applicant is advised to contact Mr Jamie Hamilton in our Environment Management Team on 01732703065 for additional advice.

Please note the CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.
- Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.
- We recommend that developers should refer to the our Position statement on the Definition of Waste: Development Industry Code of Practice and; website at www.environment-agency.gov.uk for further guidance.

Fisheries and Biodiversity

We would be concerned if abstraction from the river Beult takes place without assessing the impact on the river especially as there are several sites near the proposed area that already abstract from the Beult. We are however aware that a licence to abstract (Licence serial no. S0/040/0006/003) has been issued to Mr Gough which allays our concerns.”

Further comments dated 11 May 2015:

The Environment Agency was re-consulted in March 2015 following the submission by the applicant of a groundwater assessment and the following additional comments have been received:

“We have reviewed the information submitted and have the following comments to make, in addition to our previous comments shared under our response reference: KT/2013/116401/01-L01. We still consider that planning permission could be granted to the proposed development as submitted if the following planning condition is included as set out below:

Condition: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To protect controlled waters and ensure compliance with NPPF as the site is close to controlled waters and contamination released could impact on the river and its ecology

Condition: No development, including any demolition, shall take place until a Construction Environment Management Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include:

- strict parameters for:
 - the types of suitable import materials,
 - chemical and geotechnical acceptance criteria and
 - materials handling methods and emissions monitoring and controls.
- a materials management plan of all excavated and imported soils/fill/clay and pollution prevention measures for all activities.

Reasons: To protect controlled waters and ensure compliance with NPPF as the site is close to controlled waters and contamination released could impact on the river and its ecology.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

Additional information

Groundwater quality

This site is set on the Weald Clay and the type of proposal would ordinarily not present a significant risk to groundwater quality, providing drainage was fully managed. However the site information and development scope proposed does raise some concerns about groundwater quality raised below.

The geology is made up of alluvial related deposits and underlying bedrock of Weald Clay. The Weald Clay can have seams or layers of sandstone or limestone comprising sandy, silty lenses and also contain clay ironstone. These lenses may be water

bearing and allow local transmission of water. This is borne out by the field work undertaken to date, which showed water seepages and collapse of trial pit sides. It is also evident that the ground is partly water bearing via artificial mechanisms, i.e. the land drains identified in a number of trial pits. Disruption of these natural and artificial flow paths by excavation, dam construction and surcharge could lead to localised groundwater impacts at the site, which may pose problems for adjacent controlled waters or habitat. The development needs to ensure that there are no impacts on receiving water quality from iron precipitates or turbidity. We have recommended the Construction Environmental Management Statement condition above to address these concerns.

Please note that our comments do not cover groundwater flooding locally and we recommend that you consult KCC and your drainage engineers accordingly.

Informatives

Pollution Prevention

It is an offence under Regulation 38 of The Environmental Permitting (England and Wales) Regulations 2010 to cause or knowingly permit a water discharge activity or ground water activity. Care must be taken to ensure that neither the watercourse nor groundwater becomes polluted, particularly by, for example diesel fuel, petrol and oil from machinery. All fuels, oils and chemicals must be stored securely and any large containers left on site must be bunded. Care should also be taken when filling machinery to ensure that diesel/petrol/oil is not spilt on the ground. Spillages must not be washed away, but absorbed by some medium and then removed from site to a suitable licensed waste facility. Any significant incidents must be reported to the Environment Agency immediately (Emergency Tel No 0800 807060).

Copies of the Environment Agency's Pollution Prevention Guidelines (PPG5) and (PPG6) are available upon request or from the [.gov.uk](http://www.gov.uk) website.

Any waste generated in the course of the works must be disposed of in accordance with the provision of the Environmental Protection Act 1990. Persons carrying waste are required by law to register with us as a Waste Carrier (subject to certain exceptions). The deposit, keeping, treating or disposal of waste should only take place at premises licensed by us to receive the waste (subject to certain exceptions and exemptions). When you give waste to someone else, details of the transfer of waste should be described on a document called a Duty of Care Transfer Note. If any waste is to be used on site, the developer will be required to obtain the appropriate waste exemption or permit from us. You can refer them to guidance at: <https://www.gov.uk/environmental-management/wastent/waste>

Advice to applicant

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the developer can contact us on 03708 506 506 or at enquiries@environment-agency.gov.uk for advice at an early stage to avoid any delays.

Abstraction licence

Please note that the applicant may need to apply for an abstraction licence in order to fill any new lakes. We are aware that a Licence has been listed as already in place (Licence serial no. S0/040/0006/003) but draw the applicant's attention to point 9.3 in the licence which indicates that if no abstraction has taken place since issue on 6 June 2011 then the licence is voided. If no construction and filling of lakes took place prior to 6 June 2014 then we believe the licence to be lapsed. This lapsing date takes precedence over the expiry date in 2018

- 5.3 **MBC Landscape:** There are no protected trees on this site but there are potentially 'important' hedgerows marking field boundaries. A SSSI covers the River Beult to the south.

The site lies on the northern edge of Landscape Character Area (LCA) 58, Beult Valley (2012 published version) which falls within the wider 'Valley' landscape type. The key features of this landscape type are expansive fields and a remote and tranquil character. The River Beult valley character is wet, low lying land with much Willow.

The key characteristics for LCA 58 are that the area is a low lying shallow valley of the meandering River Beult within the Low Weald. It contains many ponds and watercourses with important ecological interest, together with species rich native hedgerow field boundaries with mature oak trees as imposing hedgerow trees where boundaries have not been removed. There is mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture.

The analysis of the proposal in relation to LCA 58 states that, 'There are generally few visual detractors although the artificial fishing lakes on the A229 are particularly incongruous'.

Whilst the proposed landscaping does help fulfil a number of guidelines which will improve the landscape/habitat value of the site, the overriding concern is that development proposal does not comply with the recommended guideline action to resist further artificial earthworks (in the context of fishing ponds) and

intensifies the use of the land in a way which is uncharacteristic of the existing landscape character.

- 5.4 **Rural Advisor:** The proposal involves loss of some 6.6 ha of agricultural land in an area indicated as Grade 3 quality on the DEFRA classification map. The soils in this area are typically derived from underlying Weald Clay categorised as seasonally wet with impeded drainage in winter and with a tendency to set hard in summer restricting the potential for cultivation. As such does not consider that the proposal can be considered as a significant development of agricultural land. However raises concerns regarding the height, size and design of the proposed building to support the activity.
- 5.5 **MBC Heritage:** The nearest listed building is Charlton Farm which is some distance away to the east. This proposal will have no significant impact on its setting. As such NO OBJECTION is raised to the proposal on heritage grounds.
- 5.6 **MBC Environmental Health:** No objection subject to concerns relating to noise and health and safety being addressed.
- 5.7 **Kent Highways:** No objection subject to conditions to secure a construction management strategy and provision of visibility splays to the proposed access.
- 5.8 **Natural England:** No harm is identified to the River Beult SSSI subject to the development being carried out in strictly in accordance with the submitted details. Has not assessed the proposals impact on protected species which should be carried out independently by the Local Planning Authority by reference to Standing Advice.

The proposal appears to provide opportunities for biodiversity and landscape enhancements to the area.

- 5.9 **Kent Wildlife Trust:** The application site is located close to the Medway and Low Weald Biodiversity Opportunity Area (BOA) and landscaping accompanying the proposal suggests that the development can provide an enriched buffer to the BOA.

As such supports the proposal subject to an ongoing and fully funded environmental management scheme and the measures set out in the ecological survey report to mitigate the impact on protected species in the construction phase.

5.10 KCC Ecology

"Under the Natural Environment and Rural Communities Act (2006), "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity" . In order to comply with this 'Biodiversity Duty', planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.

The National Planning Policy Framework states that "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible. "

Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that,

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision."

Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.

The Extended Phase 1 Habitat Report. While much of the site is of limited potential ecological interest, there are habitats and features present (including ditches, ponds and tussocky grassland) that have potential to support reptiles, great crested newts and water voles. Trees with bat roosting potential were also identified. The extended phase 1 habitat survey was carried out over 2.5 years ago but we consider it likely that the results remain valid.

The Reptile Presence / Likely Absence Survey Report and Great Crested Newt Survey Report have also been submitted. These surveys are also over 2 years old, so the precise results should be treated with some caution as there may have been changes to the site since the surveys were carried out - see below.

The great crested newt survey recorded presence within ponds 3 and 5. The surveyors were not allowed access to pond 2, immediately west of the proposed development site. At the time of survey, the results indicated that a 'medium' size population of great crested newts was present in the area. Given the time that has elapsed since the survey was carried out, a resurvey will be required during 2015.

The proposed development will result in direct impacts to habitat with potential to support great crested newts. As such, a Natural England and European protected species mitigation licence (EPSML) will be required to derogate from the potential offences against great crested newts. To address the requirements of the EC Habitats Directive, Maidstone BC must therefore consider whether it is unlikely that a EPSML will be granted and must address its mind to the 'three tests':

- The development activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- Favourable conservation status of the species must be maintained.

We are only able to advise on the third point - whether the favourable conservation status of great crested newts will be maintained; the first and second points are considered to be planning matters outside of our expertise.

While the information submitted is limited in the detail of the mitigation measures that will be required, we consider that there is potential, post-development, for the site to provide more favourable habitat for great crested newts, both in terms of terrestrial habitat availability and in the creation of the proposed new wildlife pond, which should ensure that the favourable conservation status of great crested newts in the area is maintained. The details of the mitigation will be secured in the EPSML, which the applicant will be legally obliged to deliver. It is therefore not necessary for all of the details to be provided within this application.

We advise that Maidstone BC require by condition the submission of the EPSML licence authorising the activity to go ahead.

One grass snake was recorded during the reptile survey. The lack of other widespread reptile species is attributed in the report to the 'relatively recent' development of suitable reptile habitat. Given that over 2 years has passed since the survey, it is possible that other species will now be present. As mitigation is required in relation to the potential for impacts to great crested newts, and there will be more habitat available post-development we advise that at this time the submitted survey results are sufficient to inform the determination.

A detailed mitigation strategy, informed by an updated reptile survey, to avoid and mitigate for impacts to reptiles should be required by condition, if planning permission is granted.

We advise that the update survey for reptiles should be carried out during 2015. If the application is resubmitted, we would expect it to be accompanied by a new reptile survey.

The Extended Phase 1 Habitat Report also concludes that the waterbodies on the site have potential to support water voles. While it is stated in paragraph 1.5.7 of the Design and Access Statement that surveys for water voles have been carried out, we have not found this within the ecology reports that we have reviewed. We advise that this is sought to ensure that the potential impacts to water voles, if present, can be addressed by Maidstone BC in the determination.

One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged". It is proposed to provide native species hedgerow, tree and meadow planting within the site and we advise that this will provide ecological enhancements. Further details, incorporating the provision of additional habitat features such as log piles and hibernacula, should be required by condition, if planning permission is granted."

6.0 APPRAISAL

- 6.1 The key issues in relation to this proposal are considered to be:
- (a) the principle of development
 - (b) loss of land from agriculture to leisure use
 - (c) visual impact on the surrounding countryside and nearby SLA
 - (d) impact on the character and amenities of nearby development
 - (e) wildlife and habitat considerations and
 - (f) highway and parking considerations.

6.2 (a) Principle of Development

- 6.3 No specific justification has been submitted in support of the proposal which has been submitted in response to the demand for high quality carp angling facilities.
- 6.4 Policies ENV28 and ENV34 of the adopted local plan seek to resist development which causes harm to the character of the countryside and SLA.
- 6.5 Policy ENV28, as an exception, allows for the provision of open air recreational uses and ancillary buildings required for operational purposes while including measures for habitat restoration. However this form of development can only be located in the countryside.
- 6.6 The above policies also need to be considered against the NPPF. One of the 12 core planning principles set out in paragraph 17 of the NPPF states that Local Planning Authorities should:
take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- 6.7 In addition the NPPF also seeks to promote a prosperous rural economy and paragraph 28 states that:
- Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development by:
 - supporting sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and;
 - promote the development and diversification of agricultural and other land-based rural businesses.
 - support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the

character of the countryside

6.8 The site adjoins an SLA on the north side of Lower Farm Road. The NPPF makes clear at paragraph 115, that great weight should be given to conserving landscape and scenic beauty in, amongst other things, AONB's. No specific countryside protection is afforded to areas outside AONB's on landscape quality grounds apart from recognition of the intrinsic character and beauty of the countryside.

6.9 In the circumstances, given the general support contained in the NPPF for development in rural areas that can be seen to promote a prosperous rural economy and which includes support for sustainable tourism and leisure uses, it is considered that the development is acceptable in principle.

6.10 (b) Loss of land from agriculture:

6.11 The NPPF at paragraph 112 states that Local planning authorities should take into account the economic and other benefits of the 'best and most versatile' agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

6.12 In this case, the rural advisors assessment of the site is that it falls within an area classified as Grade 3 on the DEFRA classification map (which is not the best and most versatile land). It is derived from underlying Weald Clay and the characteristics of this type of material is that the site becomes waterlogged in winter while drying out hard in summer limiting the lands agricultural potential. The applicants advise that the site was ploughed and seeded over 5 years ago and is mown on a regular basis to provide a hay crop.

6.13 In the circumstances, it is considered that there are no sustainable objections to the loss of this land from agricultural use. It should also be taken into account that permanent built development proposed is small in relation to the total site area. As such, should circumstances change and with limited reprofiling of the site, there would appear to be no practical reason why agricultural use of the land could not be reinstated in the future.

6.14 (c) Impact on Rural Character

6.15 The site has no specific local plan designation and the proposal is therefore subject to the general provisions of policy ENV28 relating to development in rural areas.

6.16 The site lies on the northern edge of Landscape Character area (LCA) 58, Beult Valley (2012 published version) which falls within the wider 'Valley' landscape type.

6.17 The key characteristics identified for LCA 58 are that it comprises the low lying broad shallow valley of the meandering River Beult within the Low Weald. It contains many ponds and watercourses with important ecological interest, together with species rich native hedgerow field boundaries with mature oak

trees as imposing hedgerow trees where boundaries have not been removed. There is mixed agriculture with large fields supporting arable cultivation and small riverside fields with pasture.

- 6.18** The analysis of LCA 58 in the context of this application states that ‘There are generally few visual detractors although the artificial fishing lakes on the A229 are particularly incongruous’ and, whilst the proposed landscaping does help fulfil a number of guidelines which will improve the landscape/habitat value of the site, the overriding concern is that the development does not comply with the recommended guideline action to resist further artificial earthworks (in the context of fishing ponds) and intensifies the use of the land in a way that is uncharacteristic of the current landscape character.
- 6.19** It is acknowledged that the site comprises an expansive open area having a remote and tranquil character. However the area also contains many ponds and watercourses having important ecological interest.
- 6.20** Dealing first with the impact of the proposed water features being (a) the main fishing lake, (b) the two breeding ponds and (c) the wildlife pond also intended to provide water for the breeding ponds and main lake when it is not possible to abstract water from the River Beult.
- 6.21** The main fishing lake, which will be the main expanse of open water on the site, will vary between 1 metre deep at the margins and 3 metres in order to meet the needs of this type of fishery. The shape of the lake with its various bays and islands means that once extensive landscaping and recolonisation by native flora takes place it will appear not only as a natural feature but also have the appearance of a number of smaller interlocking ponds. This is consistent with the acknowledged character of the area as one containing many ponds and watercourses. The lakes will be level with the surface of the adjoining land but will be enclosed by low earth mounds which will be landscaped.
- 6.22** Turning to the impact of the wildlife pond, this is a comparatively small water feature to be located in the north-west corner of site. Its small size and natural shape is consistent with other nearby existing ponds in the locality.
- 6.23** The remaining proposed water features are the two rectangular breeding ponds required to ensure that the fishery maintains stocks while providing income from the sale of surplus fish to other fisheries. The shape of these ponds, though unnatural, is required for operational reasons given the nature of the fish breeding process. The relatively small size of these ponds and proposed boundary screening which will reinforce existing hedgerows, means the visual impact of these ponds will be contained within in the site and will not on their own, have any perceptible impact on the character of the wider area.
- 6.24** Taking into account the above it is considered that the individual and combined effect of the water features, notwithstanding their size and number will continue to reflect one of the characteristics of the wider area as one containing many ponds and watercourses.

- 6.25** Regarding proposed changes to the levels and site profiles, no imported material will be required to carry out the proposed development which will involve cut and fill excavations to construct the fishing lake, breeding and wildlife ponds. Long and cross sections plans showing post development site profiles illustrate level changes in the order of between 300 and 500mm over parts of the site. The resultant earthworks will have low, smooth profiles which once recolonised by local flora or proposed landscaping will make it difficult to distinguish them from naturally occurring landforms while having little material impact on the current undulating appearance of the site.
- 6.26** Furthermore, given the retention of much of the existing hedgerow along Lower Farm Lane along with proposed landscaping, it is considered that proposed earthworks will have little perceptible visual impact when viewed from this direction. Consequently while the intention to resist further artificial earthworks in the area is acknowledged, this can only be on the basis of there being clear demonstrable harm to such development. Given the above analysis it is not considered that the proposed earthworks will result in any material change to site levels or the appearance of the area. As such no objection is identified to the proposal on these grounds.
- 6.27** Turning to the remaining built aspects of the development being (a) provision of a new access onto Lower Farm Lane (b) construction of a perimeter access track around the fishing lake, (c) access track, parking spaces and platforms to serve each swim and (d) provision of the barn, the impact of each of these elements will be assessed separately.
- 6.28** The new access will be just over 7 metres wide and in order to ensure adequate sight lines visibility splays of 2.4x60 metres in either direction will be required. This will involve the loss of approx. 130 metres of existing hedgerow but the intention is that this will be replaced with a native species hedgerow planted behind the line of the visibility splays. This will effectively replace the length of existing hedgerow to be lost, in visual amenity and wildlife terms it considered that there is no objection to the proposed access. The temporary loss of the hedgerow may have a short term effect in terms of loss of habitat but this will be mitigated in the longer term by new planting.
- 6.29** The siting and design of any gate also needs to be considered as no details have been submitted while any signage and lighting to identify and to secure the site should also be controlled.
- 6.30** Subject to the perimeter track and parking area for 10 cars having a finished surface appropriate to a rural area, the visual impact is considered to be minor.
- 6.31** The length of track serving each swim branching off the main peripheral track along with the associated parking area for one car and the fishing platforms are all considered to be minor in their impact. Regarding the need for each swim to be served by its own track and parking space, carp fishing often requires significant amounts of equipment. The need for a convenient offloading point near to each swim is therefore considered to be justified.

- 6.32** The proposed barn has a footprint of 20x14 metres, an eaves height of just under 3 metres and a ridge height of just over 8 metres. It is a multi-function building that will be used to store maintenance equipment, agricultural plant and fish food. It will also serve as a tackle shop, in door hatchery, provide WC/shower facilities for anglers, and provide an office/admin facility. The building is not required in support of an agricultural use. The test is therefore whether it meets the requirements of Policy ENV28, which as an exception, allows for the provision of open air recreational uses and ancillary buildings required for operational purposes.
- 6.33** Angling is a recreational use normally carried out in a rural setting. Given the support set out in the NPPF for recreational activities in rural areas and the exceptions set out in policy ENV28 for ancillary building to support such uses, the test here is whether the building is proportionate in size and scale to the proposed use and whether it is acceptable in design terms.
- 6.34** A layout plan has been submitted showing the ground floor taken up by maintenance vehicle storage, two spawning farms, chemical stores, WC's and tool storage areas. At first floor level a mezzanine is shown covering approximately 50% of the roof space. The mezzanine will be used for open storage, mess room with additional storage under the eaves level.
- 6.35** It is considered that given the size and nature of the activity, including the need to accommodate ancillary plant and equipment for maintenance purposes, the accommodation sought is proportionate in scale to the likely needs of the proposed uses.
- 6.36** Turning to the profile, design and height of the building, it is sited in relatively close proximity to existing farm buildings. In recognition of this it has been designed to reflect the local rural vernacular. It therefore incorporates a gable ended steeply sloping pitched roof with low eaves along with wide barn doors at ground floor level. A pair of hoist doors are also proposed at 1st floor level in both eaves. Though materials have not been specified the design shows weatherboard gable ends and weatherboard sections to the front and rear of the building. Other detailing includes exposed rafter feet, an external hoist and low roof overhangs support by timber posts.
- 6.37** In size and design terms it is considered that the building reflects the appearance of a traditional Kentish timber barn. Subject to details of external materials it is considered that it represents an acceptable form of development in keeping with the agricultural/rural character of the locality, taking account of its size, height and design.
- 6.38** The final element of the proposals is the inlet and pump from the River Beult. These elements are subject to the terms of the abstraction licence, intended to enable the various water features on the site to be topped up. Apart from the inlet onto the River Beult which will be a small pipe, there will be no external evidence of the other elements.

- 6.39** Although the proposal will result in changes to the character of the area it does not follow that these changes will have a negative impact. The current open character of the field contributes to the remote tranquil character of the area and will be replaced by an equally tranquil use, it being acknowledged that by its very nature coarse fishing is a tranquil activity. It is considered that the shape and size of the various water areas will remain in character with an area already partly defined by existing ponds and small watercourses.
- 6.40** The proposals involve some re-contouring of the site but the low height of the final landforms will not appear significantly different from the current undulating nature of the site. It is acknowledged that the proposal involves significant areas of planting, both to ensure that individual swims are screened and separated from one another, to screen the perimeter track and parking areas and proposed barn and to provide a 15 metre wide screen along the whole length of the western site boundary.
- 6.41** Extensive landscaping is proposed around the proposed lake. No objections are raised to the proposed planting which can be viewed as bringing greater visual interest to an otherwise largely flat and open agricultural landscape while substantially improving wildlife opportunities in the area.
- 6.42** In summary no objections are raised to the proposed development regarding its impact on the rural character or specific identified landscape characteristics of the wider area. However to ensure that the proposal does not adversely affect the night-time rural environment restrictions on external lighting would be appropriate.
- 6.43** (d) **Impact on adjoining development:**
- 6.44** Abutting the site to the west is an existing farm complex with Bocton Oast being the nearest dwelling to the site.
- 6.45** Concern has been raised that the proposal will intensify the use of the land in a way that is uncharacteristic with the tranquil landscape character of the area. For the reasons already set out above it is considered that the scale of the proposal represents a proportionate response to the proposed development and in visual amenity terms the landscape character of the area will not be materially harmed. It will also bring greater landscape diversity to the area while substantially improving opportunities for wildlife compared to the current species poor open arable landscape.
- 6.46** However concerns have been raised regarding the potential for noise and disturbance arising from the use which it is contended will be materially in excess of the use of the land for agricultural purposes. Given however that angling is normally a tranquil pastime, it is not a use that is likely to result in harm in terms of noise disturbance to nearby dwellings abutting the site boundaries particularly given the wide separation to the swims and proposed screening.

- 6.47 Noise and disturbance is likely to arise from vehicles gaining access to and manoeuvring within the site. However as only 11 swims will be available for use at any one time noise and disturbance associated with anglers gaining access to these over an extended period is unlikely to cause material harm.
- 6.48 The applicants advise that night fishing would be arranged by prior appointment and subject to strict conditions relating to the use of such things as radios and the use of lights. When taking into account that the separation distance from the nearest swim to the nearest dwelling (Bocton Oast) is in excess of 60 metres with a 15 metre wide tree belt and perimeter planting to the fishing lake intervening, it is not considered that the aural or visual amenity of this property is likely to be adversely affected.
- 6.49 Regarding the visual impact of the barn and its use, originally this was to be sited just over 80 metres away from the western site boundary along with minimal boundary planting. The barn has since been resited so that it is now in excess of 120 metres from the western site boundary with a 15 metre wide boundary tree belt and other substantial planting belts intervening. It is considered that it is now sufficiently isolated and well screened from Bocton Oast to avoid any material impact on this property. However the use of the barn should be restricted to purposes ancillary to the use of the wider site and for no other purpose.
- 6.50 A further point raised relates to the construction process and the siting and storage of topsoil mounds. The applicants advise that site reprofiling operations will take about 5 weeks and involve on site storage of about 1500 cubic metres of topsoil in the western part of the site. This equates to an area of about 15 metres wide by 75 metres long and about 2 metres high which will be divided into 3 areas along the western, north eastern and southern site boundaries. Given the overall size of the site, these can be easily accommodated.
- 6.51 In the circumstances it is not considered that the proposal will give rise to any material harm to the outlook or amenity of dwellings or development abutting the site.

6.52 (e) Wildlife and habitat considerations:

- 6.53 The NPPF at paragraph 118 gives significant weight to conserving and enhancing biodiversity and amongst other things, states that harm to SSSI's should be avoided while opportunities to incorporate biodiversity in and around developments should be encouraged.
- 6.54 The site lies just to the north of the River Beult which is a Site of Special Scientific Interest (SSSI). The application site comprises an undulating open field surrounded by ditches and hedges with an existing pond on the site. Though the field itself has little wildlife potential the proximity of the River Beult and existence of ditches, hedges and ponds required a Phase 1 Habitat Survey to be carried out.

- 6.55 This report concluded that that the site contains no rare flora or fauna though the ponds had the potential as Great Crested Newt habitats. However a subsequent newt survey revealed newts in two ponds though both ponds were located off site while it was concluded that none of the water bodies on site were suitable newt habitats.
- 6.56 In addition a reptile survey was carried out. Apart from one grass snake this revealed no other species. The presence of the single grass snake was not considered significant given the mobile nature of this species. However a great crested newt population was identified off site.
- 6.57 In response to this and following licence approval from English Nature, it is intended to erect reptile/newt proof fencing around the site for the construction phase.
- 6.58 Concerns have also been raised regarding the impact of abstraction on the River Beult SSSI. However the need to maintain water levels in the River Beult means that this is only likely to be allowed to take place on 10-15 days per year. The proposed ecology pond in the north west corner of the site is intended to provide water for topping up the lakes in the summer months. Natural England identify no harm to the River Beult SSSI subject to the development being carried out in strictly in accordance with the submitted details while acknowledging that the proposal appears to provide opportunities for biodiversity and landscape enhancements to the area.
- 6.59 As such it is not considered that concerns relating to any adverse impact on the River Beult SSSI can be supported.
- 6.60 The Kent Wildlife Trust consider that that the proposed landscaping will provide an enriched buffer to the Medway and Low Weald Biodiversity Opportunity Area and support the proposal subject to an ongoing and fully funded environmental management scheme and measures set out in the ecological survey report to mitigate the impact on protected species in the construction phase.
- 6.61 In conclusion, though the site currently provides wildlife habitat this is restricted mainly to hedgerow corridors, ditches and ponds with the majority of the site having little wildlife potential. The short section of hedge next to the proposed access will be removed and replaced to provide adequate visibility. The proposal will therefore result in a substantial rebalancing of the sites character in favour of wildlife with significant new water features and substantial new planting. In the circumstances the proposal clearly meets the requirement set out in the NPPF to create opportunities to incorporate biodiversity in and around developments and represents a significant factor in favour of the proposal subject to the requirement to submit an Ecology Enhancement Plan.
- 6.62 (f) Highway and parking considerations:**

- 6.63 Once operational, traffic generated by the proposal on a day to day basis will be minimal with an estimated 20 or so people visiting the site on a daily basis. It is considered that traffic generated by this this number of people will have little material impact on the free flow of traffic or highway safety generally in the locality.
- 6.64 As such in the absence of objection from Kent Highways and subject to conditions to secure a construction management strategy and provision of visibility splays to the access onto Lower Farm Road no objection is raised to the proposal on highway and parking grounds.
- 6.65 Other matters:**
- 6.66 The majority of the Parish Councils and objectors concerns have been addressed above. However concerns been raised regarding the planting of what appears to be a proposed orchard to the south of the two fish breeding ponds as not fitting in with the character of the surrounding area.
- 6.67 As stated earlier the planting of trees is 'not development' controllable under planning. Nevertheless in recognition of the Parish Councils concerns, should planning permission be granted an informative should be imposed seeking a more informal native species landscaping scheme for this part of the site.
- 6.68 The southern tip of the application site adjoining the River Beult lies within an area of flood risk (zone 2/3). However given the very small extent of the area involved, the nature of the proposed development and in the absence of any adverse comments from the Environment Agency, no objections are raised. The EA have been re-consulted regarding the impact of the development on groundwater but have raised no further objection.

7.0 CONCLUSIONS

- 7.1 There is no objection to the principle of the proposed development given the strong support contained in the NPPF for development in rural areas that can be seen to (a) promote a prosperous rural economy (b) result in the development and diversification of agriculture while supporting sustainable rural tourism and (c) leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.
- The proposal will not result in loss of best and most versatile agricultural land contrary to the provisions of the NPPF and will not materially affect the remote and tranquil character of the wider area.
 - The proposal will reflect the character of the area as one partly defined by existing ponds and small watercourses. It will also bring greater landscape diversity to an area otherwise characterised by open fields.

- Site re-profiling works in connection with the various water features will appear as low level undulating earthworks and will not appear materially different from current site profiles.
- The proposed built development, including the proposed barn, is considered to be proportionate to and in scale with the proposed use while reflecting the landscape characteristics of the wider area.
- The proposals will not result in any material harm to the outlook or amenity of residents or uses overlooking or abutting the site and will result in a substantial increase in wildlife habitats in accordance with the provisions of the NPPF.
- No objections have been raised on highway or parking grounds

7.2 In the circumstances it is considered that the proposal will be in accordance with the adopted Local Plan and NPPF and will have wider benefits in terms of tourism, recreation, landscape and wildlife to this rural area. I therefore recommend permission subject to the following conditions.

8.0 RECOMMENDATION – GRANT permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The use of the site hereby approved shall be restricted to a recreational fishing lake and ancillary facilities and for no other purpose whatsoever.

Reason: In the interests of local amenity.

3. The use of the barn hereby approved shall be restricted to purposes ancillary to the use of the wider site as fishing lakes and for not for any other purpose. In addition the interior layout and uses of the barn shall be as shown on drawing no: 517.03.01 revA.

Reason: In the interests of local amenity.

4. The number of swims on the fishing lake hereby approved shall at no time exceed 11 and shall be sited and laid out as shown on drawing no: JEC/306/1 rev C.

Reason: In the interests of local amenity.

5. The engineering operations required for the construction of the fishing lake and associated development shall only be undertaken using materials excavated from within the site. No additional material shall be imported to the site in connection with the implementation of the permission hereby granted, except with the prior written consent of the LPA. No material related to the construction of the fishing lake and associated development shall be exported from the site.

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Reason: To safeguard visual amenity, and to safeguard the res amenities of the occupiers of nearby residential occupiers and in the interests of highway safety and the free flow of traffic. In accordance with policies ENV28, ENV34 and ENV43 of the adopted Local Plan.

6. Use of the development hereby approved shall not commence until the access and sightlines onto the Lower Farm Lane have first been provided in accordance with the approved details and shall be retained as such at all times thereafter. The area in the sight lines shall be maintained at all times thereafter free of any obstruction in excess of 600mm above the adjoining carriageway level.

Reason: In the interests of highway safety and the free flow of traffic.

8. The length of existing hedgerow lost to provide the access and sight lines onto Lower Farm Lane shall be replaced by a native species hedgerow of the same in the first available planting season following first use of the access in accordance with details to be submitted for prior approval in writing by the LPA before development commences..

The hedgerow shall be allowed to grow up to a height of 2 metres and shall be retained at no less than 2 metres at all times. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with trees of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity.

9. Before use of the development hereby approved commences details of the 15 metre wide tree belt shown running along the whole length of the western site boundary (which shall include long term management measures) shall be submitted for prior approval in writing by the Local Planning Authority. The trees shall be planted in the first available planting season following commencement of the use and shall be retained at all times thereafter. Any trees which die, are removed or become seriously damaged or diseased within 5 years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: In the interests of visual amenity.

10. Before use of the development hereby approved commences details of landscaping shown on drawing no: JEC/306/1 rev C. shall be submitted for prior approval in writing by the Local Planning Authority. The approved details of landscaping shall be planted in the first available planting season following commencement of the use and shall be retained at all times thereafter. Any trees which die, are removed or become seriously damaged or diseased within 5 years shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: In the interests of visual amenity.

11. Before development commences the size, design and siting of any gate/s serving the site access onto Lower Farm Lane shall be submitted for prior approval in writing by the Local Planning Authority. The approved details shall be in place before first use of the development hereby permitted and retained at all times thereafter in accordance with the approved details.

Reasons: In the interests of amenity and the free flow of traffic and highway safety.

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12. No advertisements shall be displayed on the site without first obtaining the prior approval in writing of the Local Planning Authority. Details of any signs shall be submitted to and approved by the LPA and the signs shall only be displayed in accordance with the approved details.

Reasons: In the interests of visual amenity and the free flow of traffic and highway safety

13. No external lighting whatsoever shall be installed without first obtaining the prior consent in writing of the Local Planning Authority. Submitted details shall show the, size, design and siting of any lamp columns or lighting fitments, details of the output of any luminaires including light spread diagrams. The lighting shall only be installed in accordance with the approved details and retained as such at all times thereafter.

Reason: To safeguard the nighttime rural environment.

14. The measures set out in paragraph 5.2 of the reptile survey report carried out by Hone Ecology dated the 12th June 2012 shall be in place before the construction phase commences and retained for the life of the construction phase of the development hereby approved.

Reason: In the interests of wildlife protection.

15. In the course of implementing the development hereby approved should any contamination be identified, construction works in connection with that part of the development affected by the contamination shall cease until the following to deal with the risks associated with the contamination have been submitted to and approved, in writing, by the local planning authority being:

(a) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

(b) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Any changes to the above shall require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: In the interests of public safety and pollution prevention.

16. Details of fencing and other means of enclosure shall be submitted to and approved by the Local Planning Authority before development commences. Work shall only be carried out in accordance with the approved details and retained as such at all times thereafter.

Reason: In the interests of visual amenity.

17. Before the development hereby approved commences details of waste/foul water disposal shall be submitted for the prior approval in writing of the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

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Reason: In the interests of pollution prevention.

18. The development hereby approved shall only be carried out in accordance with the following plans: drawing nos: DHA/7319/01, 101, SK01, JEC/306/1 rev C, 517.03.01 rev A and 11124/02 and there shall be no deviation from the approved plans with regard to the area and depths of the lake and ponds.

Reason: In the interests of amenity.

INFORMATIVES

In submitting landscape details for approval you are requested to consider a more informal layout for the proposed new orchard planting area.

The Greater Crested Newt fence cannot be erected as part of pre construction works until a licence has first been obtained from Natural England.

A potable water supply should be provided to the ground floor and to the staff welfare area of the new barn. Suitable and sufficient hand washing facilities should be provided in the fish spawning farms.

Attention is drawn to Sections 60 & 61 of the COPA 1974 and to the Associated British Standard COP BS 5228:2009 for noise control on construction sites. Statutory requirements are laid down for control of noise during works of construction and demolition and you are advised to contact the Environmental Health Manager regarding noise control requirements.

Clearance and burning of existing woodland or rubbish must be carried without nuisance from smoke etc. to nearby residential properties. Advice on minimising any potential nuisance is available from the Environmental Health Manager.

Plant and machinery used for demolition and construction shall only be operated within the application site between 0800 hours and 1900 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays and at no time on Sunday and Bank Holidays.

Vehicles may only arrive, depart, be loaded or unloaded within the general site between the hours of 0800 hours and 1900 Mondays to Fridays and 0800 to 1300 hours on Saturdays and at no time on Sundays and Bank Holidays.

Adequate and suitable provision in the form of water sprays should be used to reduce dust from the site. Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

Prior to use, Environmental Health should be contacted to ensure compliance with the Health and Safety at Work etc. Act 1974 and all relevant statutes.

A construction management strategy is required prior to the start of works details of which should first be agreed with KCC Highways.

Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web:

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www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

It is the responsibility of the applicant to ensure , before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation.

Pollution Prevention

It is an offence under Regulation 38 of The Environmental Permitting (England and Wales) Regulations 2010 to cause or knowingly permit a water discharge activity or ground water activity. Care must be taken to ensure that neither the watercourse nor groundwater becomes polluted, particularly by, for example diesel fuel, petrol and oil from machinery. All fuels, oils and chemicals must be stored securely and any large containers left on site must be bunded. Care should also be taken when filling machinery to ensure that diesel/petrol/oil is not spilt on the ground. Spillages must not be washed away, but absorbed by some medium and then removed from site to a suitable licensed waste facility. Any significant incidents must be reported to the Environment Agency immediately (Emergency Tel No 0800 807060).

Copies of the Environment Agency's Pollution Prevention Guidelines (PPG5) and (PPG6) are available upon request or from the [.gov.uk](http://www.gov.uk) website.

Any waste generated in the course of the works must be disposed of in accordance with the provision of the Environmental Protection Act 1990. Persons carrying waste are required by law to register with us as a Waste Carrier (subject to certain exceptions). The deposit, keeping, treating or disposal of waste should only take place at premises licensed by us to receive the waste (subject to certain exceptions and exemptions). When you give waste to someone else, details of the transfer of waste should be described on a document called a Duty of Care Transfer Note. If any waste is to be used on site, the developer will be required to obtain the appropriate waste exemption or permit from us. You can refer them to guidance at: <https://www.gov.uk/environmental-management/wastent/waste>

Advice to applicant

The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they are fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the developer can contact us on 03708 506 506 or at enquiries@environment-agency.gov.uk for advice at an early stage to avoid any delays.

Abstraction licence

Planning Committee Report

Please note that the applicant may need to apply for an abstraction licence in order to fill any new lakes. We are aware that a Licence has been listed as already in place (Licence serial no. S0/040/0006/003) but draw the applicant's attention to point 9.3 in the licence which indicates that if no abstraction has taken place since issue on 6 June 2011 then the licence is voided. If no construction and filling of lakes took place prior to 6 June 2014 then we believe the licence to be lapsed. This lapsing date takes precedence over the expiry date in 2018

Note:

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by:

Offering a pre-application advice and duty desk service.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

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

Case Officer: Graham Parkinson

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.