

## REPORT SUMMARY

<b>REFERENCE NO:</b> - 23/503889/FULL		
<b>APPLICATION PROPOSAL:</b> Replacement lighting scheme to winery site, resurfacing of car park and hardstanding and associated drainage.		
<b>ADDRESS:</b> Balfour Winery Five Oak Lane Staplehurst Kent TN12 0HT		
<b>RECOMMENDATION:</b> Grant Permission subject to conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b>  The replacement lighting scheme includes more lighting units but ones that are much more sensitively designed for the location in terms of visual impact and biodiversity due to minimising light spill, lower wattages and colour temperature. The replacement floodlights to the car park storage building will be movement triggered (PIR).  A condition is suggested to secure removal of floodlights that face north towards Five Oak Lane and to prevent additional lights being added in the future without planning permission.  Conditions limit the hours of use to when staff or visitor are on site and will be manually turned off with automated fail safe cut off at set times.  The time of lighting for each part of the site are commensurate with evidenced health and safety issues for that part of the site.  There are not considered to be any concerns in terms of harm to residential amenity or flood risk.  On balance, the overall change is considered to be at least neutral and would comply with Policy DM8.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Called in by Staplehurst PC		
<b>WARD:</b> Staplehurst	<b>PARISH/TOWN COUNCIL:</b> Staplehurst	<b>APPLICANT:</b> Mrs Leslie Balfour-Lynn <b>AGENT:</b> Greenhayes Planning
<b>CASE OFFICER:</b> Marion Geary	<b>VALIDATION DATE:</b> 30/08/23	<b>DECISION DUE DATE:</b> 29/11/23
<b>ADVERTISED AS A DEPARTURE:</b> NO		

### Relevant Planning History

17/502611/FULL

Proposed new processing hall, including visitor tasting room and administration offices.  
Extension to existing barn for the storage of bottles.  
Approved 05.09.2017

17/504986/FULL

Erection of a single storey extension to provide new equipment store for agricultural machinery  
Approved 02.05.2018

19/501653/FULL

Bollard lighting scheme for decking and pathway in connection with winery.  
Approved 10.01.2020

22/500158/AGRIC

Prior notification for erection of 1no. agricultural steel portal frame shed/barn. For its prior approval to: - Siting, design and external appearance.  
Prior Approval Granted 16.02.2022

22/501047/FULL

Retention of marquee to be sited for a period of 3 years for continued use for ancillary purposes to the existing winery site.  
Refused 11.05.2022  
Appeal Allowed and Notice Quashed 20.03.2023

23/502076/FULL

Retrospective planning application for the addition of timber cladding to the agricultural winery shed/barn approved under 22/500158/AGRIC.  
Approved 25.07.2023

**Enforcement**

23/500048/BOC

Operation of external lighting in Breach of Conditions for permission 19/501653/FULL.

**MAIN REPORT**

**1. DESCRIPTION OF SITE**

- 1.01 The site area is 1.5ha and it forms part of the open countryside to the south-west of the Staplehurst village settlement.
- 1.02 The site is predominantly a winery (was Hush Heath but is now known as Balfour Winery) which consists of processing and bottling areas, a shop and tasting area, bottle storage and other ancillary facilities, including parking. Associated with the application site are some 50 acres of vineyards and 10 acres for apple growing which are harvested to provide wines and ciders to the market including several major supermarket chains and export.
- 1.03 The nearest residential properties are to the NE of the site at Plain Cottages.
- 1.04 Widehurst Wood Local Wildlife Site is in the vicinity of the application site. There are no PROW near to the application site. It lies in Flood Zone 1.

**2. PROPOSAL**

- 2.01 Planning permission was granted in 2017 under ref 17/502611/FULL for the erection of a new processing hall extension to the existing winery building, including visitor tasting room and administration offices. The permission also included an extension to an existing barn for the storage of bottles. No lighting scheme was provided with that application or required by condition.
- 2.02 Bollard lighting was installed by the site owner and a retrospective application was approved under ref 19/501653/FULL. It included 2 conditions on hours of lighting as follows:

*2) The 14 bollard lights to the walkway/car park (drawing no.689/SK/BOLLARD) shall only be used between 1st October and 31 March and shall not be used before sunset or after 19.15 each evening unless required for health and safety purposes for an evening event in accordance with the Premises Licence or a Temporary Events Notice in which case the lights shall be turned off by 23.00.*

*Reason: In the interest of rural visual amenity.*

*3) The 10 bollards to the terrace decking (drawing no.689/SK/BOLLARD) shall only be used for an evening event in accordance with the Premises Licence or a Temporary Events Notice and shall not be used before sunset and shall be turned off by 23.00.*

*Reason: In the interest of rural visual amenity.*

- 2.03 The conditions were phrased based on the information given by the applicant at the time which was:

*Lighting will be largely limited to the winter months. The car park lights being on a timer and in winter months are activated at dusk and then turned off at 7pm when the last member of staff leaves.*

*Lighting will not be employed in the summer months or after the clock changes at the end of March.*

*The lighting around the decked area will only be employed on very limited occasions when an event is held in connection with the site's temporary events licence and would not be used at other times and so has an even lesser use than the car park and access route lighting.*

- 2.04 The floodlights on the existing storage building north of the car park were not considered to need planning permission.

- 2.05 It is now proposed to replace and expand that lighting scheme approved in 2019 as follows:

	<b>Proposed</b>	<b>Approved</b>
main winery to car park	13 x 450mm high 8W bollard lights	14 x 500mm high 14W bollard lights (timer controlled)
terrace decking	8 x 450mm 8W bollard lights	10x 500mm high 14W bollard lights (manual controlled)
new agricultural shed/barn	5 x 450mm 8W bollard lights	n/a
pergola	12 x 1W downlights	n/a
building north of car park	6 x 20W floodlights	6 x 50 W floodlights

- 2.06 Hours of lighting are sought until staff or visitors leave on a daily basis. The system will be fitted with failsafe which means lighting turns off automatically at 21:00hrs except when there are evening events or late night working due to harvesting which will have a automatic failsafe of 23:30hrs.

- 2.07 It is also proposed to resurface the tarmac/Type 1 car park with tarmac and drain via 4 drains leading to existing soakaway crates to the west of the car park.

- 2.08 The agent advises that the site owner has re- assessed existing lighting in respect of how the business operates and whether it meet the needs of visitors and staff.

- 2.09 They advise that:

- the existing hardstanding and car parking area is type 1 material with ruts and other imperfections

- Some staff work late especially during harvest so need the car park to be lit for safety.
- All new lighting will have consistent colour temperature of 3000K (warm white).
- The revised lighting design will minimise light spill and has lower Wattages and is more energy efficient
- the 12 recessed spotlights on the pergola will provide a discreet soft light
- Existing light fittings facing the road will be completely removed

### **3. POLICY AND OTHER CONSIDERATIONS**

Maidstone Borough Local Plan (2011-2031):

Neighbourhood Plan: Staplehurst

Kent Waste and Minerals Plan (amended 2020):

The National Planning Policy Framework (NPPF):

National Planning Practice Guidance (NPPG):

### **4. LOCAL REPRESENTATIONS**

#### **Staplehurst PC:**

- Upgrade of lighting is against MBC Local Plan DM8
- Car park is not permeable
- Needs an Ecological Survey
- Needs a drainage design scheme
- Previous planning conditions on 19/501653/FULL should be adhered to

**Local Residents:** 7 objections received from local residents raising the following (summarised) issues

- Introduces unnecessary flood lighting to the car park and downlights to pergola
- Highly obtrusive to dark landscape
- Lighting will be on longer than necessary as most occasions it is closed by around 1800hrs during weekdays
- Do not accept that all the car park building floodlights are historically installed as some postdate 2018.
- Lighting Design document only contains technical information and demonstration of compliance with the ILP Guidance Note for an intrinsically dark landscape (Environmental Zone – E1).
- There is no lighting assessment to support hours of use past 23:00hrs.
- The health and safety case should distinguish between visitors and staff including where both groups would park their vehicles.
- 2017 planning permission for a substantial extension at the winery did not refer to any need for lighting.
- The Premises Licence was varied in September 2020 and the Licencing Sub-Committee was satisfied there was already adequate lighting and no public safety risk in relation to people moving round the site after dark.
- Harm to wildlife including bats, badgers, turtle doves, rare moths, amphibians and reptiles Ecological survey needed as site is close to woodland and

surrounded by farmland being cultivated under DEFRA environmental stewardship schemes designed to increase local biodiversity

- Lighting puts Turtle Dove population at greater risk of predation.
- Tarmac will increase surface water flood risk as land is on heavy Wealden clay
- Needs upgraded drainage system

## 5. CONSULTATIONS

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

### KCC Drainage

- 5.01 Kent County Council as Lead Local Flood Authority have reviewed the application and regard the development as low risk and are satisfied that the resurfacing plans do not change the site drainage scheme currently in place and the impermeable surface is changing in a marginal way.

### KCC Biodiversity

- 5.02 Object- need clear information be provided to show whether there will be a net increase in light spill from the site affecting animals and bats. The applicant should confirm/demonstrate no light spill upon the nearby woodland and no increased lighting to the nearby ponds/hedgerows. The maintenance factor will need to be set to 1 to show the likely light spill on day 1 of operation.

### Kent Wildlife Trust

- 5.03 Object: The application site is situated in close proximity to land designated as part of the Widehurst Wood, Marden Thorn Local Wildlife Site (LWS) and as ancient woodland. The LWS is known to provide habitat for priority and protected species including birds, bats, moths, and butterflies which would be impacted by inappropriate lighting schemes. The application site is also situated near to a turtle dove feeding strip which is part of a national threatened species recovery programme. Turtle dove have been recorded close to the application site and within the LWS.
- 5.04 In the absence of an ecological assessment, it is considered that the proposed development will likely have a detrimental impact on those protected and priority species.

## 6. APPRAISAL

The key issues are:

- Visual Impact
- Biodiversity
- Residential Amenity
- Flood Risk

### **Visual Impact**

- 6.01 Policy DM8 of the MBLP details that proposals for external lighting should demonstrate that the minimum amount of lighting necessary to achieve its purpose is proposed and would not be visually detrimental to its immediate or wider setting,

particularly intrinsically dark landscapes. This reflects the NPPF which seeks to limit light pollution in locations which are intrinsically dark landscapes.

- 6.02 The policy recognises that external lighting can have benefits but that inappropriate and excessive external lighting can be both visually obtrusive and damage rural character. The use of PIR motion sensor lighting is encouraged as it would provide energy efficiency savings.
- 6.03 The visual impact of the bollards and lighting units themselves is not of concern as they are small scale and screened from public vantage points. The lighting itself will be low in height, lower wattages than existing and specifically designed to minimise light spillage. The colour will be 3000K which is a warm white.
- 6.04 The applicant was made aware that a health and safety justification would be needed for extending the hours of lighting into the dark hours of the evening beyond what was previously asked for and approved. To comply with policy DM8, conditions are suggested to limit the hours to those commensurate with evidenced health and safety issues for that part of the site. Essentially staff will turn off the lights when they leave the premises and failsafe automated mechanisms will be in place to turn off the lights should they staff not turn out the lights manually.
- 6.05 A condition is suggested that the new car park floodlights be PIR movement sensitive and the applicant has agreed to remove floodlights on the north facing side of the car park storage building that face Five Oak Lane.

### **Biodiversity**

- 6.06 Policy DM8 of the MBLP states that lighting proposals that are within or are near enough to significantly affect areas of nature conservation importance will only be permitted in exceptional circumstances. Protected species, such as bats, tend to avoid well-lit areas and lighting schemes should ensure that ecological issues are fully considered in their design.
- 6.07 At its nearest, the site is SW of Widehurst Wood LWS but is separated by buildings within the winery site and intervening dwellings at Plain Cottages and it is not considered that there would be a significant effect on it from the new lighting and it should benefit from the permanent removal of existing floodlights on the front of the car park storage building that faces Five Oak Lane.
- 6.08 Compared to the lightning scheme in situ, the colour tone of the lighting is more appropriate for ecology and the application is accompanied by lighting contour plans that indicate no light spillage outside the site. The new lighting is lower wattage and specifically designed to minimise light spillage compared to the lighting bollards in situ that will be replaced. Submitted lighting contour plans demonstrate that there will be no light spill upon the nearby woodland and no increased lighting to the nearby ponds/hedgerows.
- 6.09 It is accepted that there will be more lighting units to reflect the need to light an additional walkway to the newly erected building within the winery but, on balance, the overall change is considered to be at least neutral.
- 6.10 Notwithstanding, as mentioned above, conditions are suggested to control the times of lighting to minimise unnecessary lighting late at night.

### **Residential Amenity**

- 6.11 Policy DM1 of the MBLP refers to respecting the amenities of occupiers of neighbouring properties and uses. In this case, the dwellings in the vicinity are

screened from the lighting by existing buildings in the winery and there is not considered to be any breach of policy.

### **Flood Risk**

- 6.12 The site is in Flood Zone 1 but there are issues of surface water flooding from the geology of the area.
- 6.13 Technically the tarmac proposed to be added to the car park is less permeable than the Type 1 aggregate existing. However, in this case, compacted Type 1 material is largely impermeable due to the underlying clay. KCC Drainage initially had concerns but are now satisfied that the additional area to be surfaced with tarmac is relatively limited and will drain within the site to adequate existing soakaway crates.

### **PUBLIC SECTOR EQUALITY DUTY**

- 6.14 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

## **7. CONCLUSION**

- 7.01 The replacement lighting scheme includes more lighting units but ones that are much more sensitively designed for the location in terms of visual impact and biodiversity due to minimising light spill, lower wattages and colour temperature. The replacement floodlights to the car park storage building will be movement triggered (PIR).
- 7.02 A condition is suggested to secure removal of floodlights that face north towards Five Oak Lane and to prevent additional lights being added in the future without planning permission.
- 7.03 Conditions limit the hours of use to when staff or visitor are on site and will be manually turned off with automated fail safe cut off at set times.
- 7.04 The time of lighting for each part of the site are commensurate with evidenced health and safety issues for that part of the site.
- 7.05 There are not considered to be any concerns in terms of harm to residential amenity or flood risk
- 7.06 On balance, the overall change is considered to be at least neutral and would comply with Policy DM8.

## **8. RECOMMENDATION**

### **GRANT planning permission subject to the following conditions**

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

### **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 development shall be carried out in accordance with the following:
- 2045/L/01 Proposed Block Plan - External Works Layout received 04.10.23
  - 2045/PL/02 Lighting Assessment by KSR P2023-0474A
  - Lighting Specification Floodlight FL02
  - Lighting Specification Recess Lights GL019
  - Lighting Specification Calanda Bollard 450mm

Reason: For the avoidance of doubt.

- 3) Within 1 month of first use of the lighting scheme hereby approved, the floodlights facing north towards Five Oak Lane on the building north of the car park will be permanently removed. Other than hereby approved, no further floodlights shall be installed to that building except in accordance with details hereby approved or that have been submitted to and approved by the Local Planning Authority beforehand.

Reason: In the interest of rural visual amenity and ecology.

- 4) The existing lights approved under 19/501653/FULL shall be disconnected and use ceased within 1 month of the first use of the lighting scheme hereby approved (if not disconnected beforehand).

Reason: In the interest of rural visual amenity.

- 5) The access lighting (zone 1) shall be switched off manually by the last member of staff leaving and shall be fitted with a failsafe/cut off to ensure all access lights are off by 21:00hrs (except for grape harvest periods, Friday and Saturday evenings or evening events in accordance with the Premises Licence or a Temporary Events Notice, when the failsafe/cut off will ensure lights are off by 23:30hrs instead).

Reason: In the interest of rural visual amenity.

- 6) The decking lights (zone 2) shall only be on for Friday and Saturday evenings (as permitted by the alcohol licence) or for an evening event in accordance with the Premises Licence or a Temporary Events Notice. These lights shall be manually switched off by the last staff member and shall have a 23:30 failsafe/cut off to ensure all lights are switched off by this time.

Reason: In the interest of rural visual amenity.

- 7) The lighting to the car park storage building (zone 3) will be fitted with PIR sensors during hours of operation. The lighting shall be manually turned off by the last staff to leave the site and shall be fitted with a failsafe/cutoff to ensure all lights are off by 23:30hrs.

Reason: In the interest of rural visual amenity.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.