



Delegated Report

Full Planning Application

Planning Application No:	20231116
Location:	Land to the east of Brookers Farm, Luddesdown Road, Luddesdown
Description:	Retrospective application for the necessary engineering operational works to construct a track to service an associated compost/storage area.
Applicant:	Mr Steve Chappell
Site Visit Date:	Desktop assessment (site visit undertaken previously)

Submitted Documents/Plans

Application form
Applicant Statement
Planning Statement (dated 20/11/2023)
Drawing no. DHA/17381/01 (Site Location Plan)
Drawing no. DHA/17381/03 (Biodiversity Enhancement Plan)
Silverhand Estate Map of Track and Paths
Silverhand Estate Map of Building and Welfare Units
Silverhand Estate Map of Natural Environment and Vines
Silverhand Estate Map of Vine Blocks

The following document was superseded following comments raised by KCC Highways:
~~Planning Statement (dated 31/10/2023)~~

Relevant Planning History

Reference	Description	Decision	Decision Date
20230541	Retrospective application for the necessary engineering operational works to construct a track to service an associated storage area.	Refused	17.07.2023
20230181	Engineering works to construct a formal car parking area for Vineyard Farms Ltd office, and winery and vineyard workers.	Refused	24.05.2023
20230454	Application for retrospective temporary consent for the erection of 41 wine fermentation and storage tanks	Temporary permission	22.06.2023
20210607	Retrospective application for erection of two storage/fermentation tanks.	Temporary permission	23.07.2021
19880177	Erection of two agricultural buildings to form grain store, workshop/general purposes building.	Permission	23.05.1988
19500058	Alteration of existing and erection of new farm buildings	Permission	08.05.1950

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS01 – Sustainable Development
- CS02 – Scale and Distribution of Development
- CS07 – Economy, Employment and Skills
- CS11 – Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 – Development and Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- T1 – Impact of Development on the Highway Network
- T5 – Access to the identified Highway Network

Paragraph 33 of the NPPF (2023) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2023), the Council will also seek to replace these.

National Planning Policy Framework (2023)

- 2 – Achieving sustainable development
- 6 – Building a strong, competitive economy
- 9 – Promoting sustainable transport
- 12 – Achieving well-designed and beautiful places
- 13 – Protecting Green Belt Land
- 15 – Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic environment

Supplementary Planning Guidance

- SPG4 - KCC Parking Standards (2006)
- Gravesham Landscape Character Assessment (2009)
- Kent Downs AONB Management Plan 2021-2026
- Landscape Character Assessment Update 2020

Consultations, Publicity and Representations

External Consultees

Dickens' Country Protection Society

The Society notes the site is in an area within which Green Belt policies apply and in the North Downs Area of Outstanding Natural Beauty on the south side of Luddesdown Road north-east of the existing farm complex.

The Society notes that compared with application 20230541 further information has been provided and appreciates the conservation work that is being carried out by the applicant. The Society would like to make constructive suggestions but without more detail on the purpose and function of the laydown area this is difficult.

The Society has attempted to identify those elements that jar with the landscape and the openness of the Green Belt. A straight track across the field from the junction of Luddesdown Road and Buckland Road in this context is not a normal occurrence and it leads the eye to where material is stored. Unless there is an operational reason for its location, in the Society's view, it would be less intrusive if the track connected to Luddesdown Road further west (and the present track to the east were lifted and the land restored). The laydown area needs planting to provide screening from both Luddesdown Road and Buckland Road. In this context, the proposed Biodiversity Master Plan makes a positive contribution.

Once the purpose of the laydown area is established, conditions can be framed to manage its use. The Society would be concerned if it became a general dumping area but recognises there will be arisings from the management of the vines that may need to be removed to a central point. Furthermore, it occurs to the Society that in certain circumstances some waste from the vines may need to be burnt, and this needs to be carried out in a controlled manner possibly in a furnace rather than open fires. The Society would expect general waste to be taken off site to a licensed disposal facility.

Environment Agency

Due to the scale, nature and setting of this proposal and the supporting information submitted, we have assessed this proposal as low risk. We therefore do not have any specific comments to add.

KCC Archaeology

If the works have been completed there is little that could now be done to reverse any impacts to below-ground archaeological remains that might have occurred without risking further impacts. The area has general background archaeological potential and the topographic position and historic mapping indicates that the adjacent routeway is of some antiquity.

KCC Biodiversity

This application is retrospective and therefore we have reviewed the Google Earth photos to consider if we would have recommended that an ecological survey was carried out as part of this application.

We advise that it is unlikely that we would have recommended that an ecological survey was required as part of this application if the application had been submitted prior to works commencing as the majority of the works were carried out within an arable field. However, as the satellite photos indicate that there were some areas of suitable habitat (particular around the storage area) we would have recommended that a precautionary mitigation approach was implemented prior to works commencing. This would have ensured that, if present, the risk of impacting protected/notable species would have been minimised.

Under section 40 of the NERC Act 2006 and paragraphs 174 and 180 of the NPPF 2023, biodiversity should be maintained and enhanced through the planning system. The planning statement has detailed that the following enhancements will be implemented within the site:

A 130-metre-long mixed native species hedgerow will be planted across the site which in a few years will screen off the truck unloading area. The new hedge will be in effect a continuation of the hedgerow east of the site which connects with the SSSI woodland, increasing connectivity. The hedgerow will be interspersed with native tree planting. This new feature will be composed of native mixed species hedgerow with broadleaf tree standards (8-14cm girth) probably planted 4-5 meters apart. The trees are likely to be Field Maples as they are found in the vicinity.

The chalk used to construct the composting bays was locally sourced and will be left to naturally colonised by local plant species. This will increase visual screening when viewed from the track access.

Native tree planting along the track boundaries and between Luddesdown Road and the track to limit visibility.

Hedgerow gapping up of the existing hedgerow on Luddesdown Road The surrounding hedgerows will be cut on a three-year rotation and gapped up where necessary.

Locally sourced seeds will be used for creating a species rich grassland and managed through grazing.

The above measures are all detailed within the Biodiversity Enhancement Plan, and we are supportive of them. However, we advise that if the chalk bund must be seeded with a chalk grassland mix if it hasn't started to establish within 12 months of planning permission being granted.

We advise that the planning officer must be satisfied that the proposed measures will be implemented. From looking at the satellite photos it appears that the site is currently planted with vines – if this conclusion is correct, we are concerned the measures detailed above will not be carried out.

KCC Highways

Initial Comments 16.11.2023

It is noted from the submitted Planning Statement, that the agricultural track will be used to support the existing farm operations, to enable agricultural vehicles to transport compost throughout the site. The Planning Statement states that, when fully loaded, vehicles can weigh up to 70 tonnes. Further details should be provided to clarify how these vehicles, which would be classified as an abnormal load, will avoid using the local highway network. I would request that, should planning permission be granted, a highway condition survey is undertaken, with a commitment provided to fund the repair of any damage caused by any large vehicles related to the site.

As detailed in my response to the previous application for this site, I would advise that the gates should be set back at least 15 metres from the highway. All gates should open away from the carriageway and provide adequate room for the largest vehicles which will require access to the site, to wait off the highway, whilst the gates are opened or closed.

Further Comments 13.12.2023 (following initial comments raised with the agent)

A revised Planning Statement, dated 20/11/2023, has now been submitted. It is noted that point 1.6.9 on page 11 has been amended and heavy articulated lorries has been removed and it now states that vehicles can weigh up to 44 tonnes. This is now acceptable, however, I would still request that, should planning permission be granted, a highway condition survey should be undertaken.

As detailed in my previous response, I would advise that the gates should be set back at least 15 metres from the highway. All gates should open away from the carriageway and provide adequate room for the largest vehicles which will require access to the site, to wait off the highway, whilst the gates are opened or closed.

Subject to the above and provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:

- Gates to open away from the highway and to be set back a minimum of 15 metres from the edge of the carriageway.
- Before and after construction of the development, highway condition surveys for highway access routes should be undertaken and a commitment provided to fund the repair of any damage caused by vehicles related to the development.

Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the

public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in 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 the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website:

<https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181.

KCC PROW

I can confirm that I do not have any objections to the above retrospective planning application at Brookers Farm. Public Right of Way Footpath NS243 lays to the west of the site.

The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:

- The applicant pays for the administration costs.
- The duration of the closure is kept to a minimum.
- Alternative routes will be provided for the duration of the closure.
- A minimum of six weeks notice is required to process any applications for temporary closures.

This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

Kent Downs AONB Unit

The Kent Downs AONB Unit is currently experiencing unprecedented levels of major planning related work

and is therefore unable to provide a detailed response on the application. This does not indicate that the AONB Unit considers the proposal would not impact on the statutory purposes of AONB designation and it is the responsibility of the Council to decide whether the application meets legislative and policy requirements in respect of AONBs.

The local planning authority has a legal duty to take account of the purposes of AONB designation in determining the application i.e. the conservation and enhancement of the area's natural beauty. In addition to consideration of the proposal against the local authority's development plan, account should be taken of paragraphs 176 and 177 of the NPPF and the principles and objectives of the Kent Downs AONB Management Plan, Third Revision 2021 to 2026. The Management Plan is adopted by all the local authorities in Kent as their policy for the management of the AONB and for the carrying out of their functions in relation to it. The national PPG confirms that AONB Management Plans can be a material consideration in determining planning applications.

The AONB Unit provided a consultation response to a previous similar application (20230541) on the 21/06/2023. While additional background information has been submitted in support of the current application, the proposal remains essentially the same. The AONB Unit's view on the impacts of the proposal on the Kent Downs landscape remains unchanged from that previously provided and is repeated below:

The site is located within the West Kent Downs Landscape Character Area of the Kent Downs LCA Update 2020 and within the Luddesdown Sub Area. Summary characteristics of this Character Area include the dip-slop landform of dry valleys running north-south, interspersed with broad, undulating ridges and plateaux; extensive blocks of woodland, as well as strips on valley sides with the topography and woodland restricting views in much of the area, but with occasional long views along valleys. In respect of the Luddesdown sub area it is stated that 'this is a tranquil, complex and distinctive landscape, with a peaceful remote feel, strong sense of place and few detracting features. It has a strong sense of time-depth, and the structure of the landscape has remained largely unchanged since the late nineteenth century'.

Landscape Management Recommendations within the LCA include:

- Protect the deeply rural character of the area, resisting development which gives it a more urbanised character.
- Protect the enclosed landscapes of the dry valleys formed by the steep valley sides and numerous woodland blocks.
- Manage the extensive new vineyard areas to maximise the potential to enhance landscape and biodiversity.
- Ensure that any new development around historic villages respects the scale, layout, massing and materials of existing buildings, and also their relationship with the landform.

The site is located on the bottom of a dry valley and as such is in a particularly sensitive location, as dry valleys were one of the main targets of the AONB designation and are noted specifically as being one of the components of the 'dramatic landform and views' special qualities of the Kent Downs AONB.

The proposed works have taken place in a remote and rural location, away from any existing infrastructure and buildings associated with the farm. The engineering works have facilitated an approximately 325m length of access track, roughly parallel with the existing lane plus with a further spur track up the valley side and a large area of hard standing of 792m, sitting slightly elevated above the road which neither conserves nor enhances the AONB. The track is required to facilitate access to a compost and organic fertilizer storage area which includes open storage of large plastic bags, pale in colour with a shiny surface which contrast with the open rural surroundings and stands out as an unnatural additional that fails to conserve or enhance this part of the AONB. While ecological and landscape works are proposed, and the ecological benefits of these works is noted, the proposed mitigation will only have limited impacts in filtering or screening views of the works, particularly in winter months when the trees/hedgerow are not in leaf.

It is not considered that the proposal meets the key policy test of conserving and enhancing the landscape

and scenic beauty of the Kent Downs AONB, nor complies with the landscape management recommendations set out in the LCA above and as such the AONB Unit does not support the application. It is considered that a less sensitive part of the holding should be found to facilitate the storage area, preferably clustered with existing physical infrastructure where there would not be the same landscape and visual impacts and that the application should be refused and the land returned to its former state.

Internal Consultees

GBC Environmental Protection

No objection or comments to make.

GBC Highways

Looking at the Google Street View images, it appears this track has been created between January 2021 and March 2023. In January 2021, there was no northern access to the site.



The southern access has existed for many years and as such will not be considered further.



The March 2023 Google Street View image shows the access and the installation of a gate, this gate should be inset, to accommodate the largest vehicle liable to access the site so the highway is not obstructed whilst gates are opened or closed. Recent legislation changes now permit lorries up to 18.55 metres to operate on roads in England, so allowing pedestrian access to the gate would require the gate to be set back some 20 metres from the highway.

<https://www.legislation.gov.uk/uksi/2023/524/made>

It is however accepted that the access route may restrict the use of Longer Semi Trailers, but this would be subject to a route planning and risk assessment by the haulier and cannot be controlled.

With regards to the width of the track, it is noted Tractors can be up to 4.3 metres wide and as this an agricultural site I have no objections to the width.

<https://www.gov.uk/government/publications/tractors-regulations-on-use/tractors-and-regulatory-requirements-a-brief-guide-september-2017>

I do have concerns regarding paragraph 1.6.9 which suggests that vehicles can weigh up to 70 tonnes, which is considerably above the limits set by Statutory Instrument 1998 No 3111 Road Traffic, The Road Vehicles (Authorised Weight) Regulations 1998.

<https://www.legislation.gov.uk/uksi/1998/3111/made>

An explanation of where these vehicles are used and how they avoid the highway would be appreciated, as any highway running including simply crossing it could damage the highway.

No details appear to have been submitted showing the relocation of the northern gate to the site requested on the previous application which in my opinion is unacceptable.

I would suggest additional information is submitted to allow the proposal to be considered further.

Neighbouring properties

One neighbouring property has been notified and the application has been advertised on site. The overall consultation period expired on 19 December 2023.

One letter of representation has been received, with the following comments:

- It is nice to see a less misleading planning application filed this time.
- The previous farm track was little more than grass on top of some hardstanding and was used by farm vehicles and not articulated HGV's. It had been unused for 20 years or so.
- By allowing this development in the Greenbelt the Council would actively be encouraging excess HGV traffic on roads that are totally unsuitable.

Local Ward Councillors were also consulted, and no responses were received.

Officer's Analysis

Proposal

This application seeks full retrospective planning permission for the necessary engineering operational works to construct a track to service an associated compost/storage area.

The application is a resubmission of application 20230541, with revised and additional information including track surface and ecological/biodiversity amendments, and additional context about why the proposal has

been made and how the use is an important element to the overall operation of the farm.

The site comprises a field within the ownership of Vineyard Farms Ltd, a producer of English sparkling and still wines. The vineyard is based in Luddesdown and is the largest organic vineyard and largest single vineyard site in the country, with some 1600 acres of vineyards, woodland and pastureland. The estate is referred to as the 'Silverhand Estate'.

The submitted Planning Statement sets out that the vision of the business is to remain organic and to achieve carbon neutrality in operations. Part of this involves producing its own organic compost internally from discarded grape skins and woodchips. It is estimated that when the Estate operation is fully up to speed, it could produce 2000 to 3000 tonnes per year, making a significant contribution to reducing the Estate carbon footprint and processing as much as possible of the biodegradable waste on site.

The proposal involves a compost and organic fertilizer storage area ancillary to the viticultural and agricultural activities of Vineyard Farms Ltd. The compost/storage area has historically been used for storage and composting, as will be demonstrated further below.

At present, Vineyards Farm Ltd receive approximately 360 bags of compost per annum; each bag is approximately 500kg. These bags of compost are delivered on 15 tonne articulated lorries. In the short term at least, the amount of compost required to be brought in will increase as the vineyard business grows.

For this reason, an agricultural access track made of crushed stone finished with type 1 limestone was constructed through this field to access the compost/storage area. It is designed to cater for articulated lorries and tractors with heavy trailers, which fully loaded can weigh up to 44 tonnes (standard articulated lorry load) and require firm ground and large turning circle. Given the topography of the site, the track had to be constructed as straight as possible, so that vehicles can access the site in the wetter months and when exiting the site have the maximum visibility possible on to the road.

The location of the track was chosen as it is central to the wider farm estate and connected to existing farm/field tracks. The Planning Statement submits that this central location removes the need for vehicles to access Luddesdown village itself, avoiding disruption for local residents and highway users. The compost and organic fertilizer can be transported to adjacent fields by tractor and trailer utilising existing farm tracks which connect to this central area, reducing the need for farm vehicles to use the public highways. The main access way into the composting area is taken from the access to the north of the field, which has the most visibility onto Luddesdown Road, and enough room for an articulated lorry to pull into the road. The historic access point to the west was not used as the topography is steeper here and the corner is too tight to allow large vehicles/HGVs to turn right out of the field towards Cuxton. The track will enable safer access to and from the Cuxton end of the field.

As set out in the submitted Planning Statement, to minimise impact of the proposal on the landscape, the following enhancements are proposed:

- A 130-metre-long mixed native species hedgerow will be planted across the site, which in a few years will screen off the truck unloading area. The new hedge will be in effect a continuation of the hedgerow east of the site which connects with the SSSI woodland, increasing connectivity. The hedgerow will be interspersed with native tree planting. This new feature will be composed of native mixed species hedgerow with broadleaf tree standards (8-14cm girth) probably planted 4-5 meters apart. The trees are likely to be Field Maples as they are found in the vicinity.
- The chalk used to construct the composting bays was locally sourced and will be left to naturally colonised by local plant species. This will increase visual screening when viewed from the track access.
- Native tree planting along the track boundaries and between Luddesdown Road and the track to limit visibility.
- Hedgerow gapping up of the existing hedgerow on Luddesdown Road The surrounding hedgerows will be cut on a three-year rotation and gapped up where necessary.
- Locally sourced seeds will be used for creating a species rich grassland and managed through grazing.

It is anticipated that as the production of the vineyard's own compost increases, the number of lorries delivering bags of compost from outside will decrease. Notwithstanding this, the use of the track will continue as compost will continue to be stored at the site. The track will be fundamental to the distribution of the compost around the Estate.

Planning History

The previous similar proposal under application 20230541 was refused for the following reasons:

- 1. The proposal would result in inappropriate development that would adversely impact on the openness of this site in the Green Belt and would encroach into the countryside. There are no special circumstances that exist that would outweigh this harm. As such, the proposal would fail to comply with the requirements of Policies CS02, CS12 and CS19 of the Gravesham Local Plan Core Strategy 2014 and paragraphs 137, 138, 147, 148 and 150 of the National Planning Policy Framework 2021.*
- 2. By virtue of the introduction of unnatural, urbanising features in the countryside, the proposal would fail to conserve or enhance the rural landscape and scenic beauty of this site within the Kent Downs Area of Outstanding Natural Beauty and the Luddesdown Downs Landscape Character Area. As such, the proposal would fail to comply with the guidelines and principles of the Gravesham Landscape Character Assessment (2009), Kent Downs AONB Management Plan 2021-2026 and Landscape Character Assessment Update 2020, and the requirements of Policies CS02, CS12 and CS19 of the Gravesham Local Plan Core Strategy 2014 and paragraphs 130, 174 and 176 of the National Planning Policy Framework 2021.*
- 3. In the absence of sufficient detail to demonstrate that harm to biodiversity has been adequately compensated for, the proposal is contrary to the requirements of paragraph 174 of the National Planning Policy Framework 2021 and Policy CS12 of the Gravesham Local Plan Core Strategy 2014.*

The current application has been submitted in an attempt to overcome the above refusal grounds with the addition of amendments and further context.

Principle Issues

Paragraphs 88 and 89 of the NPPF 2023 relate to supporting a prosperous rural economy. The development and diversification of agricultural rural businesses should be enabled, and it should be recognised that proposals to meet local business needs may be required in such areas, in locations that are not well served by public transport. It will be important, however, to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).

Policy CS07 of the Core Strategy 2014 also supports proposals that promote the appropriate expansion and diversification of the rural area economy. Policy CS02 supports development outside rural settlements, including proposals to diversify and maintain the rural economy, where it is compatible with national policies for protecting the Green Belt and policies in this plan.

National and local policy is therefore generally supportive of such rural business development and expansion, subject to compatibility with policies for protecting the Green Belt and other policies in the development plan.

This proposal is located in the countryside, outside any rural settlement, in the Green Belt and in the Kent Downs Area of Outstanding Natural Beauty. It is also in a Biodiversity Opportunity Area. Taking into account these designations, and in line with the previous refusal grounds of application 20230541, the main issues for consideration in the determination of this application are as follows:

- Appropriateness of development in the Green Belt

- Impact on openness
- Landscape character
- Biodiversity

As before, as there are no residential properties in close proximity to the site, there are no amenity concerns in terms of light, privacy, or environmental impacts.

Whether the proposal is inappropriate development in the Green Belt

Paragraph 142 of the NPPF 2023 highlights the importance of the Green Belt and its role in preventing urban sprawl and keeping land permanently open. As the site lies in the Green Belt there is a need to establish whether the proposal amounts to inappropriate development.

The submitted Planning Statement asserts that the engineering operational works to construct a track to serve an associated storage area are necessary and ancillary to the operations of Vineyard Farms Ltd.

The Millington Court of Appeal Case (1999) is referred to in this regard, where it was established that work relating to the production of wine from grapes grown on a farm near Shrewsbury amounted to 'agriculture'. It is submitted that on the same basis, the use as intended does not amount to a material change of use such that it is only the engineering works for the track that require the submission of a planning application. Matters such as the use itself and impacts such as storage of fertilizer and compost do not therefore fall to be considered as part of this application, as they amount to agricultural operations.

It is recognised that the proposals would be for the farm and on farm land. Further to an appeal that was dismissed for a nearby new winery building and associated development on land south of Bush Road, near Cuxton, which falls under Medway Council's jurisdiction, it is noted that regardless of the scale of the development proposed, the appeal proposal was considered to fall within the definition of an agricultural use, and the proposed use therefore benefited from the agricultural exception under paragraph 155 of the NPPF 2023 (see Appendix 1 for Bush Road appeal decision).

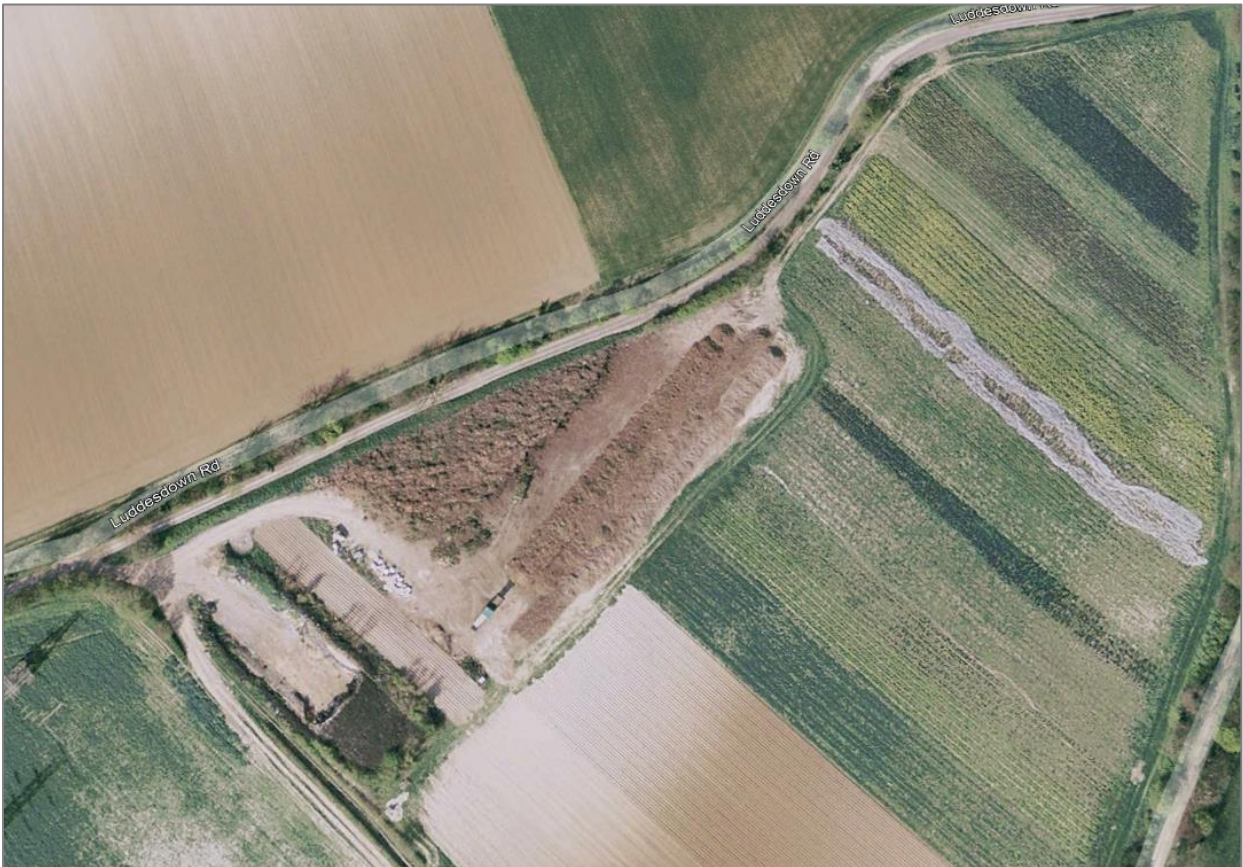
Under the previous application 20230541 the view was taken that the proposed track and storage area would be materially different from the current use as an agricultural field given the scale of the development involved.

The submitted Planning Statement has provided evidence of the field being in use as a compost and storage area since at least 2003. It is recognised that the intensity of the use has changed over the years but it is clear that the use has remained consistent throughout this time:

2003:



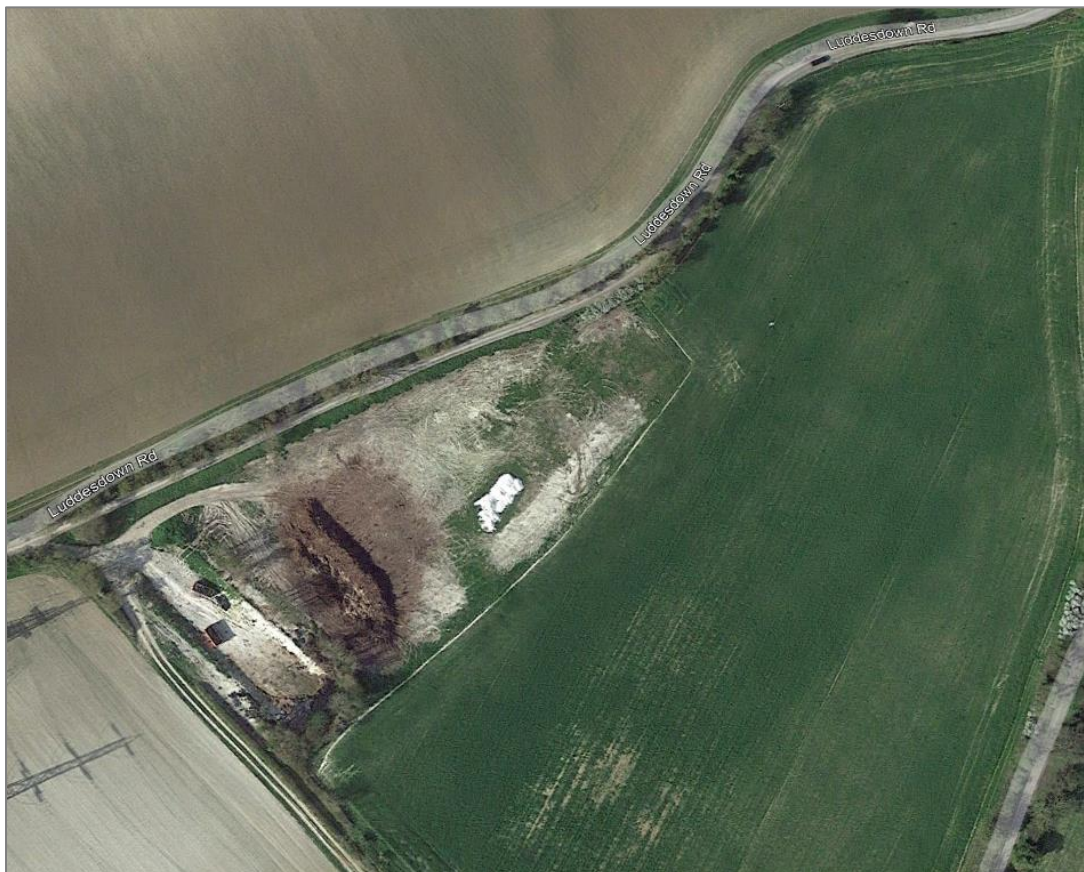
2007:



2011:



2015:



2018:



The Statement points out that the footprint of the current unloading area and compost bays is smaller than a previous green waste processing operation run at the site. It is also clear that farm tracks have followed a similar line across the field as the proposed track.

Taking the established nature of the use of the field into consideration, and also taking the recent Bush Road winery development appeal decision into account, it is accepted that regardless of its scale, the use of the field for the vineyard for composting and storage, together with the track, would be incidental and agricultural, and would not therefore fall to be considered under paragraph 155 (e) of the NPPF 2023, relating to material changes in the use of land.

The formal track is considered to involve an engineering operation, which falls to be considered under paragraph 155 (b) of the NPPF 2023. Engineering operations as a form of development in the Green Belt are not inappropriate provided the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. This will be assessed below.

Harm to openness and the purposes of including land within the Green Belt

As set out in paragraph 155 (b) of the NPPF 2023, it is necessary to consider the level of harm to openness from the proposal that would result from engineering operations for the construction of a track on this site. It needs to be borne in mind that the Courts have held that the impact on openness has both a spatial and visual dimension and it is a matter of planning judgement as to whether the proposal will result in (any) harm to openness.

As stated above, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence. Paragraph 001 of the Planning Practice Guidance 2019 on Green Belts looks to assess the impact of a

proposal on the openness of the Green Belt by taking into account the spatial and visual aspects of a development, its duration and remediability, and the activity levels generated.

The site comprises a field to the north-east of Luddesdown village. The track runs along the north-western boundary of the site, with accesses to Luddesdown Road at northern- and western-most points of the field. The western access serving a compost/storage area has been there for a long time.

Google Street View Images of Existing Western Access and Storage Area (February 2009):

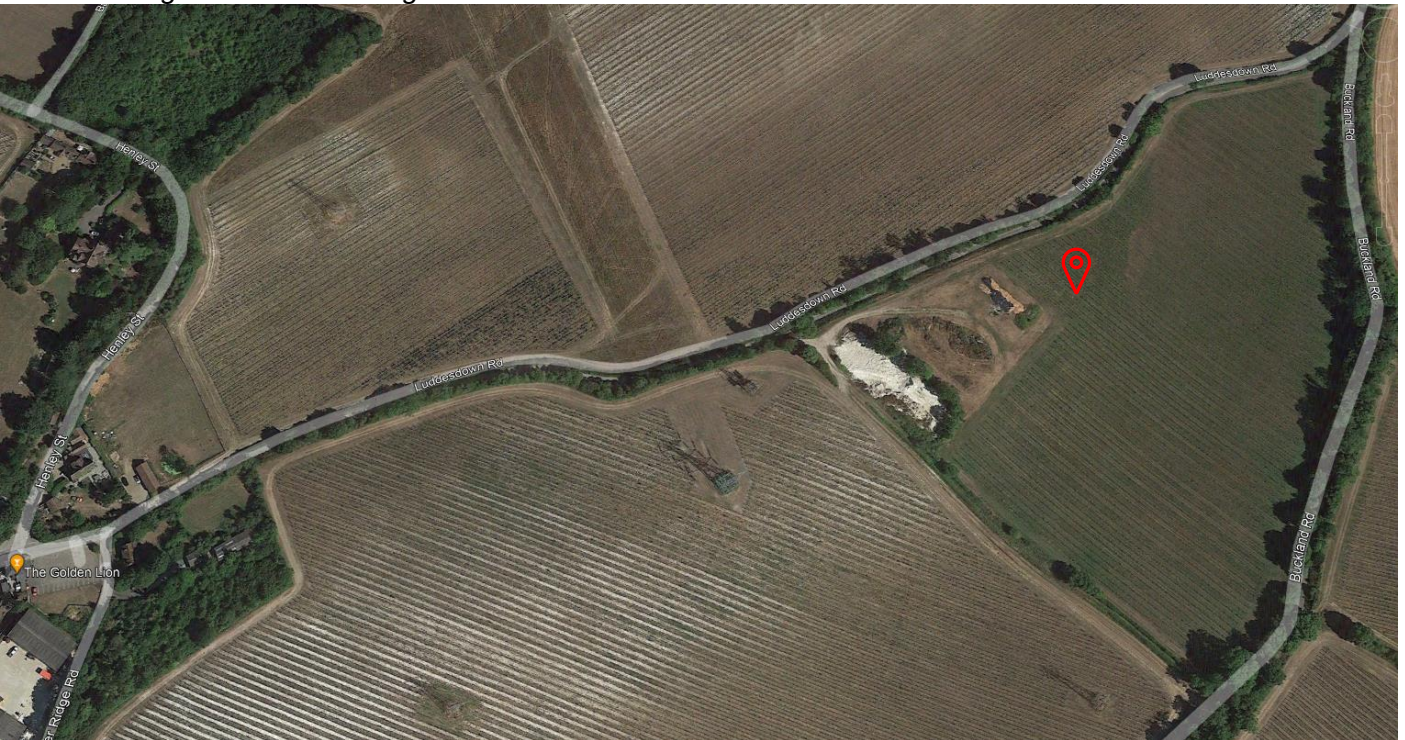


Google Street View Images of Existing Western Access and Storage Area (March 2023):





Current Google Earth Aerial Image:



However, the northern entrance and access are newly installed.

Google Earth Street View Image (south-west) January 2021:



Current Site Photographs (south-west): June 2023



(From Planning Statement) October 2023



In terms of the compost/storage area, this remains consistent with how this area has historically been used, and therefore any impact on openness is negligible.

The track represents a more formal arrangement, but is essentially a farm track for farm vehicles, nonetheless. It is not a permanent development in the strict sense and the field could be conditioned to be returned to its former appearance when no longer required. Whilst the activity with regards to the use of the track (and storage/compost area) may be more intensive, it will not be constant and will vary. The main issue with this proposal relates to its greater visual impact compared to the previous appearance of the field. However, the track has softened in appearance since it was first constructed, with weathering and with grass and wildflowers growing on either side, which have lessened its visual impact. In addition, the proposed amendments to the track surface from tarmac to limestone, and proposed enhancements including hedgerow planting/gapping up, copse/tree/wildflower planting, and landscaping an existing bund will all assist in further ameliorating the visual impact of the development.

The track is not out of place in this location and context and whilst the greatest impact on openness relates to the visual harm of the track, due to the proposed enhancements, overall it is not considered to have a

significant effect on the openness of the Green Belt. Therefore, the proposed engineering works are considered to preserve openness and are considered to be appropriate development in the Green Belt in line with paragraph 155 (b) of the NPPF 2023.

Landscape Impacts

Paragraph 135 of the NPPF 2023 seeks to ensure that development will add to the quality of an area, be visually attractive, and sympathetic to local character and history. Policy CS19 of the Core Strategy 2014 reflects these aims and requires that new development is well-designed and respects the character and appearance of the surrounding area.

Paragraph 180 of the NPPF 2023 aims for development to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. The site lies within the Kent Downs Area of Outstanding Natural Beauty (AONB). Reflective of paragraph 182 of the NPPF 2023, Policy SD2 of the Management Plan 2021-2026 recognises the need to conserve and enhance the local character, qualities, distinctiveness and natural resources of the AONB. Principle SD8 seeks to ensure that proposals do not negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB.

The site is located within the West Kent Downs Landscape Character Area of the Kent Downs Landscape Character Assessment (LCA) Update 2020 and within the Luddesdown Sub Area. Summary characteristics of this Character Area include the dip-sloped landform of dry valleys running north-south, interspersed with broad, undulating ridges and plateaux; extensive blocks of woodland, as well as strips on valley sides with the topography and woodland restricting views in much of the area, but with occasional long views along valleys. In respect of the Luddesdown sub area it is stated that 'this is a tranquil, complex and distinctive landscape, with a peaceful remote feel, strong sense of place and few detracting features. It has a strong sense of time-depth, and the structure of the landscape has remained largely unchanged since the late nineteenth century'.

One of the Landscape Management Recommendations within the LCA includes protecting the deeply rural character of the area, resisting development which gives it a more urbanised character.

The site is located at the bottom of a dry valley, and in their advice on the proposal, the Kent Downs AONB Unit has noted that the site is in a particularly sensitive location, as dry valleys were one of the main targets of the AONB designation and are noted specifically as being one of the components of the 'dramatic landform and views' special qualities of the Kent Downs AONB. The site is therefore particularly visible from the wider AONB landscape, including from Luddesdown Road, Buckland Road and from public footpath NS243 to the west.

The application site is also located in the Luddesdown Downs Landscape Character Area within the Gravesham Landscape Character Assessment (GLCA) 2009 and as such, Policy CS12 of the Core Strategy 2014 is also relevant. This policy states that the overall landscape character of the Borough will be conserved, restored and enhanced and that the GLCA will be taken into account in determining applications. The GLCA states that the character area is defined by very undulating topography with arable farmland and pasture, irregular field patterns, fields divided by native hedgerows and areas of native woodland that all contribute to the rural character of the area. The condition of the landscape is generally good, its sensitivity high. The guidelines for the area focus on conserving the distinctive features that are found in the area to protect and maintain its character and quality, including conserving hedgerows.

The Kent Downs AONB Unit have commented on the proposal (see comments above). They do not support the application. However, their main concerns relate to the compost/storage area and given the established historic use of this area for storage/composting, the landscape and visual impacts of the proposal are considered to be negligible. It is recognised that the track has a visual impact on the landscape, but as discussed above, the proposed ecological and landscape enhancements will improve these impacts. These should be conditioned to be carried out as approved. On this basis, the proposal would conserve and

enhance the landscape and scenic beauty of the Kent Downs AONB, LCA and GLCA.

The proposal would therefore comply with Principles SD2, SD3 and SD8 of the Management Plan, which generally seek to conserve and enhance the character and qualities of the Kent Downs AONB. The proposal would also meet the guidelines in the Kent Downs Landscape Character Assessment (LCA) Update 2020 and the Gravesham Landscape Character Assessment 2009. Overall, the proposal conserves and enhances the valued landscapes and complies with the aims of Policies CS12 and CS19 of the Core Strategy 2014, and paragraphs 135, 180 and 182 of the NPPF 2023.

Biodiversity

The NPPF 2023 in paragraph 186(a) states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort compensated for, then planning permission should be refused. Policy CS12 of the Core Strategy 2014 reflects this stance and states that sites designated for their biodiversity value, such as this one, will be protected. There will be no net loss of biodiversity in the Borough.

In an attempt to overcome the final refusal ground of application 20230541, additional biodiversity enhancements have been proposed under the current application, set out on the submitted Biodiversity Enhancement Plan and described above.

KCC Biodiversity would not have required an ecological survey for the application, as the works are within an arable field. They are now supportive of the submitted biodiversity enhancement plan proposals. They recommend that the chalk bund must be seeded with a chalk grassland mix if it has not started to establish within 12 months of planning permission being granted.

They also advise that there must be a satisfaction that the proposed measures will be implemented. These recommendations can be achieved by planning conditions.

On the basis of the additional biodiversity enhancements, the proposal is considered to have overcome the previous refusal ground and would comply with the relevant requirements of paragraph 186 of the NPPF 2023 and Policy CS12 of the Core Strategy 2014.

Any Other Material Planning Considerations

Highways

The access at the western end of the site has existed for many years and there are no changes proposed to this. However, the new access at the northern end of the site has been installed to support the existing farm operations, to enable agricultural vehicles to transport compost.

Gates have been installed at both accesses; these gates should be inset to accommodate the largest vehicle liable to access the site so that the highway is not obstructed whilst the gate is opened or closed. Recent legislation changes now permit lorries up to 18.55m to operate on roads in England, so allowing pedestrian access to the gate would require the gate to be set back at least 15m from the highway and open away from the carriageway. This would have to be amended by condition.

KCC Highways have also requested a highway condition survey be undertaken given the type of vehicles that will be using the roads and access. However, this request is not considered to meet the tests for conditions, as it is not reasonable given the established use of the site.

With regards to the width of the track, it is noted tractors can be up to 4.3m wide and as this is an agricultural site there are no objections to the width.

Subject to a condition requiring the repositioning of the gates, the proposal would be acceptable on highways grounds.

Archaeology

The site lies within an area of multi-period archaeological potential with a record of the site of possible later prehistoric or Romano-British activity in the form of crop marks c.80m to the east of the site. If the works have been completed, however, there is little that could now be done to reverse any impacts to below-ground archaeological remains that might have occurred without risking further impacts. The area has general background archaeological potential, and the topographic position and historic mapping indicates that the adjacent routeway is of some antiquity.

The proposal would therefore comply with Policy CS20 of the Core Strategy 2014 and paragraph 203 of the NPPF 2023.

Conclusion and Recommendation

Under this revised proposal, additional information has been submitted about the operation of the vineyard and the business requirement for the track leading to the compost/storage area, together with new surface, landscaping and ecological enhancements. On the basis of this information, the track is considered to be an appropriate development in the Green Belt and is not considered to harm openness, or the landscape qualities of the area. The proposal complies with the requirements of Policies CS02, CS07, CS12 and CS19 of the Gravesham Local Plan Core Strategy 2014, paragraphs 88, 89, 135, 152, 153, 155, 180, 182 and 186 of the National Planning Policy Framework 2023, and the Gravesham Landscape Character Assessment (2009) and Kent Downs AONB Management Plan 2021-2026 and Landscape Character Assessment Update 2020. The previous refusal grounds are considered to have been overcome and the application is accordingly recommended for permission, subject to conditions.

(For detailed conditions and informatives, see draft Decision.

NB: As the track itself has already been constructed a time limit condition for the development to be begun is not required.)

Case Officer:	Mrs Katherine Parkin	Team Leader:	Miss Faye Hobbs
Signed:	<i>K. Parkin</i>	Signed:	
Dated:	10 January 2024	Dated:	11 January 2024