

Delegated Report

Planning Application

Planning Application No: 20230454

Location: Brookers Farm, Luddesdown Road, Luddesdown DA13 0XE

Description: Application for retrospective temporary consent for the erection of 41 wine fermentation and storage tanks

Applicant: Mr Steve Chappell, Vineyard Farms Ltd

Site Visit Date: 14 June 2023

Submitted Documents/Plans

Application form
Planning Statement
Site Location Plan
External layout of tanks drawing
DIS.012-2020 Rev3_MPD.M8 (storage tank plan)
Drawing no. 059-2022-02 rev 0 (storage tank plan 4)
Drawing no. 059-2022-01 rev 0 (storage tank plan 3)
Drawing no. 059-2022-03 rev 0 (storage tank plan 2)

Relevant Planning History

20230181	Engineering works to construct a formal car parking area for Vineyard Farms Ltd office, and winery and vineyard workers.	Refused	24.05.2023
20210607	Retrospective application for erection of two storage/fermentation tanks.	Temporary consent	23.07.2021
19880177	Erection of two agricultural buildings to form grain store, workshop/general purposes building.	Permitted	23.05.1988
19500058	Alteration of existing and erection of new farm buildings	Permitted	08.05.1950

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 – Sustainable Development
- CS02 – Scale & Distribution of Development

- CS07 – Economy, Employment and Skills
- CS11 - Transport
- CS12 – Green Infrastructure
- CS18 – Climate Change
- CS19 - Development & Design Principles
- CS20 – Heritage and the Historic Environment

Gravesham Local Plan: First Review (1994)

- P3 – Vehicle Parking Standards
- T1 – Impact of Development on the Highway Network

Paragraph 33 of the NPPF (2021) 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 (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 – Achieving sustainable development
- Section 4 – Decision-making
- Section 6 – Building a strong, competitive economy
- Section 9 – Promoting sustainable transport
- Section 11 – Making effective use of land
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment
- Section 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

Consultees

Highway Development Management Officer

This is a difficult application as much depends on what may and may not have been possible if a different route had been taken to gain planning approval.

From my point of view the positioning of the tanks appears to restrict the route between the north and south gates to the farm yard. The applicant should therefore demonstrate that any and all vehicles that can/will access the farm can easily turn within the confines of the property at both the north and south gate, these areas should then be kept clear and protected for turning vehicles.

Appropriate swept path/tracked drawings should be submitted for a 12m rigid and a 15m articulated vehicle for both gates, (mistakes happen), which clearly demonstrates vehicles can enter and leave the farm in forward gear and the red line amended accordingly.

I also note looking at the Google images it is possible the chalk bank was cut back between May 2019 and Jan 2021.



May 2019



January 2021

Note some of the fence at the top of the bank appears to have been lost. Also the colour of the chalk suggests it could be a relatively fresh cut with no hint of vegetation.

GBC Environmental Protection

No comments to make.

Kent Downs AONB Unit

Thank you for consulting the AONB Unit on the above application.

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 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. Landscape proposals should reflect local character, using appropriate form, structure and species.

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 proposal introduces 41 stainless steel fermentation tanks located externally. The nature of the tanks is such that they have a rather industrialised appearance that fails to meet the key policy test of conserving and enhancing the landscape and scenic beauty of the Kent Downs AONB.

However, the tanks have been located within an existing farmyard and the AONB Unit agrees with the conclusions of the visual assessment in the Planning Statement that views into the site are relatively limited, apart from Cutter Ridge Road which is on higher ground and has a largely unscreened boundary.

It is noted that the application proposal is described as being for a temporary period. However, the application form does not refer to the application being temporary nor is there reference to this included in the Planning Statement. If the Council is minded to accept the principle of the proposal and this would be a permanent permission, it is considered that mitigation should be incorporated to help ameliorate the impacts on views from Cutter Ridge Road. This should take the form of planting along the boundary with Cutter Ridge Road appropriate to landscape character. This would be in accordance with Principles SD2 and SD3 of the Management Plan.

As a final point, we note various references to the 'Millington case' used as justification for a winery use being accepted as a considered to fall within the definition of an agricultural use. The judgement in the Supreme Court Case referred to was in connection with a scale of enterprise that was very different from that being

considered under the current application. The Judgement states ‘the making of wine or cider or apple juice on the scale with which we are concerned is a perfectly normal activity for a farmer engaged in growing wine grapes or apples’. The scale of the enterprise considered in this case related to the production of wine from grapes grown on a holding of just 3 ha so is of a clearly different scale to that which is being considered here.

Dickens’ Country Protection Society

With regards to the above application, the Society would wish to object on the grounds that the site is in an area within which Green Belt Policies apply and the North Downs Area of Outstanding Natural Beauty. In this area the maintenance of the quality of the landscape is of particular importance.

In the Society’s view the manufacturing plant requiring planning consent is not directly concerned with the growing and harvesting of grapes and the processes to be carried out do not have to be undertaken on this site. Large, polished stainless steel tanks and their associated pipework is alien to the rural environment in this area, and visually intrusive.

The reference to the *Millington v Secretary of State for the Environment, Transport and the Regions* appears misplaced. The Society understands this case relates to the retail sale of wine from a winery which had the benefit of planning consent. The Society is not aware of any planning application being made for a winery on this site.

Neighbouring properties

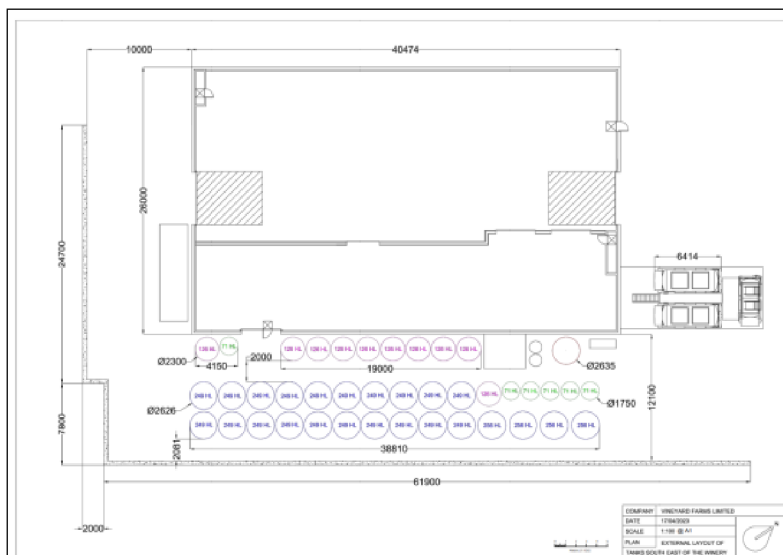
The application has been advertised by site notice, press notice and individual letters to five neighbouring properties.

- The winery has been taking over Luddesdown and the surrounding area
- The applicant’s keep undertaking work without planning permission
- A barn has been converted to a factory processing grapes off site requiring 60 spaces in another location, planning permission was not sought so KCC highways have not had the opportunity to object to the massive increase in traffic
- The tanks are an eyesore and, due to their silver colour, give glaring light in sunlight

Officer’s Analysis

Proposal

This application seeks planning permission for temporary consent for the erection of 41 wine fermentation and storage tanks. There are three different sizes of tanks and these are arranged behind the existing barn:



The applicant confirmed on site that temporary consent is being requested as the long term plan is to move the tanks to the Medway site if it is granted permission at appeal (APP/A2280/W/3307648). The appeal decision is imminent and, if successful, will take a couple of years to build. There was mention of retaining the tanks as overflow to the Medway site, if approved, but this would require a permanent permission if a temporary consent is granted now.

Principle Issues

Paragraphs 84 and 85 of the NPPF 2021 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.

This proposal is located in the countryside, outside any rural settlement, and in the Green Belt. The site relates to the business of Vineyard Farms Ltd, which is an organic vineyard with over 1600 acres of vineyards, woodland and pastureland. The company is seeking to become the UK's largest producer of English sparkling and still wines. The growing of grapes for wine is an agricultural use and the storage and processing of these is ancillary to this. The applicant has referred to the 'Millington' case which related to a site where the farmer was growing, processing, bottling and selling wine. Given that this application relates to the storage of wine only, it is not relevant, only to demonstrate that the growing and processing of grapes falls within the definition of agriculture.

National and local policy is 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.

The main issues for consideration in the determination of this application are as follows:

- Appropriateness of development in the Green Belt
- Impact on openness
- Character and appearance of the surrounding area
- Residential amenity
- Highways and parking
- Ecological impact.

Fall-Back Position

The applicants consider that they could have used the prior approval route for the tanks had they not already started work. It is not clear under which part of the General Permitted Development Order they are referring to as Part 6 refers to buildings or any excavation or engineering operations, of which fermentation tanks are neither. However, it may be that a building to house the tanks could have been built under this procedure. In terms of the current layout, planning permission would always have been required.

Design, Character and Appearance

The site is located in the Green Belt, within an Area of Outstanding Natural Beauty and in the Luddesdown Downs Landscape Character Area as defined in the adopted Gravesham Local Plan Core Strategy policies map and this must be the starting point for determining this application.

The tanks are not readily visible from Luddesdown Road to the west. The tanks were more visible from Cutter Ridge Road to the east however, due to their location close to the main agricultural building at a lower level than this road, and planting that has started to mature the majority of views are obscured:

View from Luddesdown Road (June 2023):



View from Cutter Ridge Road (June 2023):



Whether the proposal comprises inappropriate development in the Green Belt

The Government attaches great importance to Green Belts. 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 their permanence.

Paragraph 138 of NPPF (2021) sets out five purposes for including land within Green Belts.

Paragraph 147 of NPPF (2021) states inappropriate development, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, paragraph 148 of NPPF (2021) states that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations’.

Paragraph 149 of the NPPF (2021) states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this is buildings for agriculture and

forestry.

Whilst the application is not for a building or extension to the building, the tanks are located directly adjacent to the existing farm building and are associated with the existing agricultural use and therefore have been treated as an exception (in line with the previous application for two tanks – 20210607).

If they were not deemed an exception they would be considered inappropriate development and then the impact on openness and very special circumstances would need to be assessed. For completeness this is also assessed below.

Impact on the openness

The NPPF (2021) makes it clear that an essential characteristic of Green Belt is their openness. Open means the absence of development irrespective of the degree of visibility of the land in question or from public vantage points.

The 41no. storage / fermentation tanks are for the storing of wine in connection with the existing use of Brookers Farm. They are located directly adjacent to the side (south-eastern) elevation of the existing building. The applicant was asked why the tanks were not located within a building and they stated that the building height would need to be increased significantly to accommodate the tanks. There are already a number of tanks within the existing building on site and two outside that were granted temporary consent.

The existing building obscures the majority of the views of the tanks from the south and west. The tanks are located between this and the retaining walls bounding the site. The area they are located does not contribute greatly to the openness of the Green Belt and the infilling of this will not have a significant impact. There are views of the tanks from Cutter Ridge Road however these are becoming more obscured as vegetation is growing. If this vegetation dies back in winter then they will become more visible. A temporary consent will allow time to see how much the vegetation grows and, in the event that it is not sufficient, a condition could be imposed on any forthcoming permanent consent that a landscaping scheme is submitted.

It is therefore considered that the tanks do not result in an undesirable increased built form on the site which undermines the purposes of including the land within the Green Belt.

Very Special Circumstances

As indicated above, national planning advice states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, it states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The applicant does not include Very Special Circumstances within their planning statement however it is noted that the tanks could be deemed inappropriate as they are not technically buildings that fall within the NPPF's exceptions. However, given that the tanks are ancillary to the agricultural use of the land and are required in connection to the storing of the grapes, they are considered to amount to very special circumstances.

It is therefore concluded that the development does not undermine the openness of the site and would not conflict with the NPPF (2021).

Area of Outstanding Natural Beauty (AONB)

The site is located within the Kent Downs AONB and therefore account should be taken of paragraph 176 of the NPPF (para. 177 relates to major development) 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.

Para. 176 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection.

Policy CS12 of the Gravesham Core Strategy 2014 seeks to conserve protected and valued landscapes.

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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 proposal introduces 41 stainless steel fermentation tanks located externally. The nature of the tanks is such that they have a rather industrialised appearance that fails to meet the key policy test of conserving and enhancing the landscape and scenic beauty of the Kent Downs AONB.

However, the tanks have been located within an existing farmyard and the AONB Unit agrees with the conclusions of the visual assessment in the Planning Statement that views into the site are relatively limited, apart from Cutter Ridge Road which is on higher ground and has a largely unscreened boundary.

The AONB Unit does not raise any objection to a permanent permission providing that mitigation should be incorporated to help ameliorate the impacts on views from Cutter Ridge Road that should take the form of planting along the boundary with Cutter Ridge Road appropriate to landscape character. This would be in accordance with Principles SD2 and SD3 of the Management Plan.

The site is also located within the Luddesdown Downs Landscape Character Area where the key characteristics are a very undulating topography with farmland used as arable and pasture. The guidelines are to conserve, protect and maintain its character. The tanks are located close to the building between it and a retaining wall. Whilst they are visible, they do not impact on the wider landscape as they are located within the existing farmyard in a relatively small area close to existing built form.

The development therefore accords with policies CS12 and CS19 of Gravesham Core Strategy (LPCS) 2014 which requires new development to be fit for purpose, will conserve and enhance the character of the local built, historic and natural environment and integrate well with the surrounding local area.

Impact on adjacent properties.

Development should not cause demonstrable harm to the amenity of any existing residents or property such that it will materially harm their living conditions. Policy CS19 (LPCS) requires new development to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land and paragraph 130 of the NPPF (2021) which requires the amenity of existing residents to be protected.

The tanks are located behind a building close to a retaining wall. There are no properties within close proximity to the tanks, the nearest being over 48m away (with the building in between). The tanks will therefore have no detrimental impact on these neighbours in terms of loss of outlook, privacy, sunlight or daylight. Objections have been raised regarding the colour of the tanks and glare however, there are no properties close enough to experience a significant detrimental impact from the tanks. As such, the proposal would comply with Policy CS19 (LPCS) and the NPPF (2021).

Parking and Highways

There was a vehicular access around the rear of the existing agricultural building which is now lost to the tanks. There is no evidence that this was used as a one-way system. The majority of traffic enters and exits the yard at the northern entrance.

Swept path analysis have not been undertaken however, this is an existing use with existing accesses. Swept paths were not requested under the previous application for two tanks located in a more obstructive location (in terms of vehicular movement) and therefore it is not considered reasonable to ask for these for this application. No objections are therefore raised in terms of highway safety.

Conclusion

The storage tanks have no significant impact on the openness of the Green Belt, AONB or surrounding landscape character, neighbouring amenities, parking or highway safety and therefore accord with the above-mentioned policies and are recommended for approval.

Recommendation:

Permit

(For detailed conditions / reasons for refusal and informatives, see draft Decision)

Case Officer:	Mrs Alison Webster	Team Leader:	Richard Hart
Signed:		Signed:	
Dated:	21 June 2023	Dated:	21st June 2023