

HILDENBOROUGH PARISH COUNCIL

Pavilion and Recreation Ground – Riding Lane – Hildenborough – TN11 9HY

telephone: 07818 329029

Email: clerk@hildenboroughparishcouncil.gov.uk

Website : www.hildenboroughparishcouncil.gov.uk

MINUTES

PLANNING COMMITTEE

Held on 1st September 2026

Present

Cllrs – Wills, Sklavenitis, Leeson, Haugh and Batchelor

Stephanie Dill (Parish Admin), Cllr Rhodes, Cllr Haslem, and members of the public

1. Apologies for Absence

Cllr Gorman (work commitments)

2. Disclosable Pecuniary and Other Interests

Cllr Jonathan Leeson – Aysgarth, Mill Lane

3. Public Open Session

Members of the public may speak under this item as long as notice has been provided to the Clerk.

Approximately 20 members of the public present at which 4 speakers. All members of the public spoke on the application at Great Hollenden Farm. Members of the public raised a number of points, mostly surrounding the safety and suitability of Mill lane for the application and outlined their concerns that the application, if approved, would have serious consequences on the highway network.

4. Minutes of the Previous Meeting – 17th August 2026

The minutes of the previous meeting were approved and signed.

5. Applications

5.1 [TM/26/01442/CNA](#)

Consultation by Sevenoaks District Council: Change of use of existing agricultural building to flexible commercial use within E(g)(ii), with associated changes to elevations, access, parking, landscaping and associated infrastructure. Great Hollenden Farm Mill Lane. Deadline date 15th September 2026.

The Planning Committee discussed this application at length and approved an objection representation as attached Appendix 1

5.2 [TM/26/01534/FL](#)

Single storey 3 bay garage. The Tannery, Nizels Lane. Deadline date 10th September 2026.

Left to the discretion of the Planning Officer

5.3 [TM/26/01541/LDP](#)

Lawful development Certificate proposed: Conversion of loft to habitable room incorporating hip to gable, rear dormer with Juliet balcony, 2 rooflights to front elevation. Installation of an air conditioning unit to the side elevation. 5 Woodfield Avenue.

Left to the discretion of the Planning Officer

5.4 [TM/26/01551/FL](#)

Construction of a spa garden. Nizels Golf Club. Nizels Lane. Deadline date 12th September 2026.

Left to the discretion of the Planning Officer.

5.5 [TM/26/01552/LB](#)

Listed Building Application: Construction of a spa garden. Nizels Golf Club, Nizels Lane. Deadline Date 12th September 2026.

Left to the discretion of the Planning Officer.

5.6 [TM/26/01554/FL](#)

Erection of two storey rear extension. Orchard House, London Road. Deadline date 14th September 2026.

Parish Council has no objection in principle subject to a Natural England Licence for the bat roost

5.7 [TM/26/01509/FL](#)

Demolition of garage, sheds and Tennis court and erection of a dwelling with associated access and parking. Aysgarth, Mill Lane. Deadline date 09th September 2026.

The Planning Committee discussed this application at length and approved an objection representation as attached Appendix 2

6. Local Plan

The Regulation 19 Local Plan was briefly discussed by the committee. Upon prior request from Cllr Rhodes (TMBC) the committee discussed how it would steer him to vote at the upcoming meeting of Full Council with regard to the progression of Regulation 19. A motion was put forward to request Cllr Rhodes vote against the progression of the Regulation 19 Local Plan. The committee voted as follows:

3 Votes For, 2 Abstentions, 0 Against

The following would be forwarded to Cllr Rhodes;

The committee's steer is that you should not support adoption of the plan, on the grounds that Hildenborough is carrying a disproportionate and inconsistently-attributed share of the borough's growth, that the largest site secures no school or healthcare provision despite its scale, and that South East Water's own response finds the plan insufficiently ambitious to address water scarcity, with the housing numbers well beyond what the company has planned capacity for. The Parish Council intends to submit a substantive Regulation 19 representation once the consultation period opens, regardless of tomorrow's outcome.

7. WWA – Support Required for Any Planning Applications

Due to time constraints this item is to be carried forward to the next Planning meeting

8. Conservation Area – Review of Document and Framework

The Parish Council has delegated authority to the Planning Committee to review the conservation area document and framework, to consider the document and framework, and to agree a report or recommendation to the Parish Council on how it should proceed.

Due to time constraints this item is to be carried forward to the next Planning meeting

9. Neighbourhood Plan – Feasibility Report

To consider the feasibility of a Neighbourhood Plan, taking into account the emerging Local Plan and Local Government Reorganisation, and to agree a feasibility report to be brought back to Full Council.

Due to time constraints this item is to be carried forward to the next Planning meeting

10. Date of Next Meeting

Tuesday 14th September 2026.

The Chair closed the meeting at 20.40pm

Appendix 1

Ms Samantha Yates
Case Officer, Development Management
Sevenoaks District Council
Council Offices
Argyle Road
Sevenoaks
Kent
TN13 1HG

By email: planning.comments@sevenoaks.gov.uk

1 September 2026

RE: Planning Application 26/00899/FUL – Change of use of existing agricultural building to flexible commercial use within E(g)(ii), or B8, with associated changes to elevations, access, parking, landscaping and associated infrastructure – Great Hollenden Farm, Mill Lane, Underriver, Kent TN15 0SG

Executive Summary

Hildenborough Parish Council **OBJECTS** to application 26/00899/FUL and requests that it be **REFUSED**. The grounds on which it does so, each supported by the evidence of a statutory or internal consultee or by the applicant's own documents, are set out at Section 6.

The Parish Council does not oppose the principle of the commercial re-use of redundant rural buildings. Its objection is to the grant of a flexible, unhoured, uncapped and unrestricted commercial permission, in the Green Belt, on an incomplete evidence base, served solely by a single-track lane. In summary:

- **The Highway Authority has a live holding objection.** The access gate is shown 7 metres from the highway boundary against a required minimum of 15 metres; no visibility splays have been demonstrated on any plan; and there is no evidence that the land needed to deliver them is within the applicant's control.
- **Mill Lane is physically too narrow for the vehicles proposed.** The Parish Council has measured it at 3.9 metres at the bridge, 4.2 metres opposite Asturias Cottage and 4.5 metres at two blind bends. An articulated lorry of the maximum permitted width passing a single car needs 4.35 metres before any allowance for mirrors or clearance; two lorries need 5.10 metres. At three of the four points they cannot pass at all.
- **The applicant has answered the wrong test.** The Transport Statement quotes the national highways test with a clause missing, and then answers only whether the impact is "severe". Under Policy TR6 an unacceptable impact on highway safety is a free-standing ground to which no severity threshold applies. It has never been addressed.
- **No assessment exists of the building as a whole.** This is one building of some 1,894 square metres consented in three parts by three different routes, all sharing two accesses onto the same lane. On the applicant's own trip rates the whole building generates around 102 movements a day — one every seven minutes, not the one every thirty minutes presented.

- **Mill Lane closes, and the diversion runs through Hildenborough.** The Highway Authority's own orders record four closures between November 2025 and August 2026, with signed diversions along Riding Lane and the B245 past the primary school, recreation ground, library and village hall. The Transport Statement does not mention this.
- **The permission sought could not be controlled.** No hours are proposed — the application form states that hours of opening are not relevant — and there is no cap on lorry movements and no restriction on open storage. The Council's own Environmental Protection officer finds an adverse noise impact and advises mitigation; none has been provided. No night-time assessment has been carried out against a measured background of 22 to 25 dB.
- **Dormice are confirmed present and no mitigation strategy exists.** Some 36 metres of hedgerow would be removed and a Natural England licence is required. The ecological desk study omitted a local records search and so missed a confirmed bat roost nearby; the survey data are 26 months old. Natural England has directed the Council to its County Ecologist, who has not yet responded.
- **The Green Belt effects of the works have never been assessed.** The proposal converts grass verge to hardstanding, removes established hedgerow, adds fencing and relocates gates, and leaves a lorry yard unrestricted as to open storage. The Planning Statement asserts there would be "no demonstrable impact" on openness. That is an assertion, not an assessment.
- **Two adopted documents have been overlooked entirely.** Neither the section 85(A1) duty in respect of the Kent Downs National Landscape, 150 metres to the north, nor the Underriver Village Design Statement — whose Recommendation R12 states that new business development should not add significantly to local traffic — is mentioned anywhere in the application.
- **The benefit relied upon is unevidenced.** The application form states that there will be no change in employee numbers. No occupier, business or employment figure is identified.

The Parish Council asks the Council to weigh one overarching point. At no stage has any authority assessed what this building will do to Mill Lane, to the diversion route through Hildenborough, or to the amenity of its neighbours when all three of its parts operate at once. This application is the last opportunity to carry out that assessment.

1. Introduction

Hildenborough Parish Council submits this response in the spirit of constructive engagement with the planning process. Although the Parish Council lies within the Borough of Tonbridge and Malling and is not a statutory consultee to Sevenoaks District Council for this application, it is directly affected by the proposal: the site's sole vehicular access to the primary road network is by way of the southern section of Mill Lane and its junction with the B245 London Road, virtually all of which lies within the parish of Hildenborough. The Parish Council gives its evidence as to the operation of that part of the highway network in its capacity as the elected body for the area concerned.

The Parish Council wishes to raise a number of material planning considerations which it respectfully requests the determining authority carefully weigh before reaching a decision. This response is confined throughout to material planning considerations, and is founded on the National Planning Policy Framework published on 17 August 2026, which is the Framework in force at the date of decision.

The Parish Council notes that the consultation expiry recorded on the Council's portal was 21 August 2026, whereas the date notified to the Parish Council through Tonbridge and Malling Borough Council was 31 August 2026. The target determination date recorded on the Council's own consultation status document

of 31 July 2026 is 24 September 2026, and, at the date of this response, Kent County Council's holding objection remains live. The expiry of a consultation period does not relieve the local planning authority of its obligation to have regard to material representations received before the decision is taken, and the Parish Council asks that this response be taken into account accordingly. It would be grateful for written confirmation both of the correct consultation expiry date and that representations received before determination will be taken into account.

For the avoidance of doubt, the Parish Council **OBJECTS** to this application and requests that it be refused. Its reasons are set out at Section 6.

2. Description of the Site and Proposal

The application site is Building B at Great Hollenden Farm, on the eastern side of Mill Lane, Underriver. Building B is one part of a single conjoined range of agricultural buildings which the applicant has divided into three parts. The application form states the site area to be 0.21 hectares; the submitted Preliminary Ecological Appraisal states it to be approximately 0.63 hectares.

The proposal is a change of use of the building from agricultural use to a flexible commercial use within either Class E(g)(ii) (research and development of products or processes) or Class B8 (storage and distribution), with associated changes to elevations, access, parking, landscaping and associated infrastructure. The building has a gross internal area of 487 square metres. Ten parking spaces are proposed, comprising eight car spaces and two van spaces (application form; drawing DHA/32679/14 Rev B). No demolition is proposed. Access would be by way of two existing accesses onto Mill Lane, with the northern access accommodating heavy goods vehicles of up to 16.5 metres.

The remaining two parts of the same building have each been consented separately and recently:

- Part A, of approximately 450 square metres, is the subject of a lawful development certificate (25/00371/LDCEX, approved 22 May 2025) confirming its existing use for the storage of builders' materials and related items within Class B8.
- Part C, of approximately 957 square metres, is the subject of a prior approval under Class R of Part 3 of Schedule 2 to the General Permitted Development Order 2015 (25/00391/PAC, approved 22 May 2025) for change of use to flexible commercial use within Class B8. That permission has not yet been implemented.

The three parts together comprise approximately 1,894 square metres, served by the same two accesses onto the same lane. The floor areas given for Parts A and C are those associated with the 2025 decisions rather than figures stated in the documents now before the Council, and the Parish Council invites the Council to confirm them against its own records; nothing in this response turns on small variations in them.

Class R is subject to a cumulative floorspace cap of 1,000 square metres across an established agricultural unit, raised from 500 square metres with effect from 21 May 2024. The prior approval on Part C consumed all but approximately 43 square metres of that allowance, and Building B could not therefore have proceeded under Class R. That has an important consequence. On the Part C prior approval the Council's discretion was confined by statute to transport and highways impacts, noise, contamination, flooding and design. On this application no such constraint applies: this is a full application, falling to be determined under section 38(6) of the Planning and Compulsory Purchase Act 2004 against the whole of the development plan and all material considerations. This is the first, and will be the only, occasion on which any part of this building is assessed on that full basis.

The site lies within the Metropolitan Green Belt. The Kent Downs National Landscape lies approximately 150 metres to the north. Ancient and Semi-Natural Woodland adjoins the site to the east, and a Grade II listed building lies approximately 55 metres to the south. Mill Lane is described in the applicant's own Transport Statement as "generally 4m wide and is unlit with no footways and few road markings"; Kent County Council confirms it is a classified minor road subject to the national speed limit of 60mph, and Tonbridge and Malling Borough Council refers to it as the C63. The nearest bus stops are an eleven-minute walk away and are served by a school bus running once per day, the nearest all-purpose service running twice per day (Transport Statement, paragraph 2.4.1 and Table 2-1).

3. Policy Framework

The Parish Council has had regard to the following national and local planning policies, statutory duties and guidance in formulating this response:

- **The National Planning Policy Framework published on 17 August 2026**, which replaced the December 2024 Framework in its entirety and applies to decisions with immediate effect. The Framework is now structured by policy code and separates plan-making policies from national decision-making policies. The Framework is structured by policy code and separates plan-making from national decision-making policies; paragraph 8 provides that plan-making policies should not be used when making decisions, and paragraph 9 that the annexes are themselves national planning policy. The decision-making policies principally engaged are the general decision-making policies at Chapter 3 (DM1 to DM10), in particular DM3 (determining development proposals) and DM6 (use of planning conditions); Policy S3 (the presumption in favour of sustainable development); Policies E2 and E4 (Chapter 7); Chapter 13 (Protecting Green Belt land, Policies GB1 to GB8, in particular GB7); Chapter 15 (Promoting sustainable transport, Policies TR1 to TR8, in particular TR6); Chapter 17 (Pollution, public protection and security, Policies P1 to P6); Chapter 18 (Managing flood risk and coastal change, Policies F1 to F9, in particular F8 on sustainable drainage); and Chapter 19 (Conserving and enhancing the natural environment, Policies N1 to N6, in particular N4 on Protected Landscapes and N6 on areas of particular importance for biodiversity and geodiversity).
- **The policy which governs the principle of this development.** The site lies in the Green Belt. Policy S5, which sets out the forms of development which may be approved outside settlements, expressly does not apply: policy S5(5) provides that the policy does not apply to development proposals in the Green Belt, which should instead be determined in accordance with policies GB6, GB7 and/or GB8 as appropriate. The principle of this development therefore falls to be determined under Policy GB7. Policy S5(5) goes on to provide that, where development would not be inappropriate through the application of Policy GB7, proposals should be approved unless the benefits of doing so would be substantially outweighed by any adverse effects when assessed against the national decision-making policies in the Framework; and that the circumstances in which that is likely include where a proposal would fail to comply with a national decision-making policy which states that development proposals should be refused in specific circumstances. It is on that basis, and not on the principle of re-use, that the Parish Council puts its case.
- **Policy E2, at paragraph 1(a).** Substantial weight should be given to the economic benefits of proposals for commercial development which allow businesses to invest, expand and/or adapt. Policy E4 supports the sustainable growth of rural businesses, including through the conversion of existing buildings, and Policy E4(2) recognises that such development may need to be located outside settlements and in locations not well served by public transport. The Parish Council accepts

these policies; its point at section 5.12 is that no economic benefit has been evidenced for Policy E2 to weigh.

- **The grounds for refusal on transport matters, at Policy TR6.** The Framework provides that refusal is justified where a development would have a severe adverse impact on the transport network, or an unacceptable impact on highway safety. Two features of that policy matter here. First, it sets out **two independent grounds**. The severity threshold attaches to the transport network ground. It does not attach to highway safety, where the question is whether the impact would be **unacceptable**. A proposal may properly be refused on highway safety grounds without any finding that its network impacts are severe. Secondly, the transport network ground is directed at the effect of the development on the network as a whole, which cannot be understood unless the whole of the development served by the access has been assessed.
- The Sevenoaks Core Strategy (February 2011), particularly Policies LO1, LO7, LO8 (the countryside and rural economy), SP1 (design of new development and conservation), SP2 (sustainable development and transport), SP8 (economic development and land for business) and SP11 (biodiversity).
- **The Underriver Village Design Statement (2012)**, adopted by Sevenoaks District Council as a Supplementary Planning Document. Policy SP1 of the Core Strategy provides that account should be taken of guidance adopted by the Council in the form of, among other things, Village Design Statements. The Statement defines the area to which it applies at paragraph 6 as running “south, encompassing Underriver House and on to the edge of Great Hollenden Farm”.
- The Sevenoaks Allocations and Development Management Plan (February 2015), particularly Policies SC1, EN1 (design principles), GB7 (re-use of a building within the Green Belt) and T2 (vehicle parking).
- The Sevenoaks Regulation 18 Draft Local Plan 2040, which carries limited weight at Issues and Options stage but indicates the direction of travel, particularly draft Policies EMP5, W2 and HW2.
- The Sevenoaks Landscape Character Assessment, the site lying within the Sevenoaks Low Weald Landscape Character Area.
- **Section 85 of the Countryside and Rights of Way Act 2000**, as amended by section 245 of the Levelling-up and Regeneration Act 2023 with effect from 26 December 2023. Section 85(A1) now provides that “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”. This replaced the former duty merely to have regard to that purpose. The words “or so as to affect” are of direct relevance here, because on the face of the statute the duty is not confined to functions exercised in relation to land within the designated area; it extends to functions exercised so as to affect such land. The Framework itself records, at footnote 2 to its introduction, that it does not displace the statutory obligations placed on decision-makers by virtue of, among other things, section 85(A1) of the 2000 Act. The Parish Council has also had regard to the DEFRA Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes, issued on 21 December 2024.
- **The limits of that duty.** The Parish Council does not put the duty higher than the courts have. The amended duty has now been considered by the High Court on several occasions, and the contention that it obliges a decision-maker to refuse permission wherever harm to a protected landscape is found has been rejected: *R (Campaign for the Protection of Rural England, Kent*

Branch) v *Secretary of State for Housing, Communities and Local Government* [2025] EWHC 1781 (Admin) and *Wadhurst Parish Council v Secretary of State for Housing, Communities and Local Government* [2025] EWHC 1735 (Admin), both decisions of Mould J concerning the High Weald National Landscape. The Parish Council's case is accordingly not that harm to the Kent Downs National Landscape would compel refusal. It is the narrower point made at section 5.8: that the duty has not been addressed at all in any document before the Council, so that the Council is presently in no position to demonstrate that it has discharged it.

- **The Conservation of Habitats and Species Regulations 2017 (as amended)**, in particular Regulations 9, 55 and 63, and the principles in *R (Woolley) v Cheshire East Borough Council* [2009] EWHC 1227 (Admin) and *Morge v Hampshire County Council* [2011] UKSC 2.
- **The weight to be given to the advice of a statutory consultee.** In *Shadwell Estates Ltd v Breckland District Council* [2013] EWHC 12 (Admin) at [72], Beatson J held that a decision-maker should give the views of statutory consultees, and in that context the appropriate nature conservation bodies in particular, "great" or "considerable" weight, and that a departure from those views requires "cogent and compelling reasons", citing *R (Hart DC) v Secretary of State* [2008] EWHC 1204 (Admin) at [49] and *R (Akester) v DEFRA* [2010] EWHC 232 (Admin) at [112].
- **The meaning of openness in the Green Belt.** In *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466 the Court of Appeal held that the concept of openness "is not narrowly limited to the volumetric approach", that the word is "open-textured", and that the factors capable of being relevant include how built up the Green Belt is now and would be after development, and the visual impact on the aspect of openness which the Green Belt presents. In *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3 the Supreme Court confirmed that what is relevant to openness in any particular case is a matter of planning judgement rather than of law.
- Section 40 of the Natural Environment and Rural Communities Act 2006 (the biodiversity duty), the Environment Act 2021 and Schedule 7A of the Town and Country Planning Act 1990 (the biodiversity gain condition).
- Paragraph 99 of ODPM Circular 06/2005, confirming that the presence of a protected species is a material consideration and that the need for ecological surveys should be met by condition only in exceptional circumstances.
- Kent County Council Parking Standards (adopted 6 February 2025); Kent Local Transport Plan 5: Striking the Balance (2024–2037); the Design Manual for Roads and Bridges; BS 4142:2014+A1:2019; BS 5837:2012; BS 42020:2013; ILP Guidance Note 01/21 and BCT/ILP Guidance Note 08/18; and the CIEEM Advice Note on the Lifespan of Ecological Reports and Surveys.
- The Hildenborough Parish Plan and any emerging Neighbourhood Plan material considerations.

The Parish Council notes, without advancing it as a reason for refusal in its own right, that the applicant's Planning Statement (April 2026) and Transport Statement (March 2026) are addressed exclusively to the December 2024 Framework, and that the Preliminary Ecological Appraisal cites the 2023 Framework. A decision-maker applies the Framework in force at the date of decision whatever the applicant has cited. The practical consequence, however, is that the Council has before it no assessment of this proposal against the policies it is now required to apply — in particular Policies GB7 and TR1 to TR8, and the vision-led approach.

4. Areas of Support

The Parish Council acknowledges a number of positive aspects of the application and of the responses to it:

- The Parish Council does not object to the principle of the commercial re-use of redundant rural buildings. It accepts that Policy E4 of the Framework supports the sustainable growth of rural businesses, including through the conversion of existing buildings, and that Policy GB7 identifies the re-use of buildings of permanent and substantial construction as development which is not inappropriate in the Green Belt.
- The building is of permanent and substantial construction, is not proposed to be enlarged, and the change of use would not of itself introduce additional built form into the Green Belt.
- Electric vehicle charging infrastructure is proposed in accordance with Approved Document S of the Building Regulations, and Kent County Council raises no objection on that point.
- The proposed biodiversity enhancements — two tree-mounted bird boxes, two tree-mounted bat boxes, a wildlife-friendly planting scheme and six log piles at the base of retained vegetation — are welcomed as a matter of principle.
- The Council's Senior Arboricultural and Landscape Officer raises no objection in principle and confirms that the majority of the existing tree resource, including the woodland adjoining the eastern boundary, appears to be retained. The Parish Council supports his recommendation that a Construction Environmental Management Plan be secured by pre-commencement condition.
- The Environment Agency raises no objection, and Southern Water's requirements are capable of being met by condition.
- The Parish Council welcomes and endorses the advice of Tonbridge and Malling Borough Council that consideration be given to restricting operating and delivery hours, and the advice of the Council's Environmental Protection officer that conditions be imposed in respect of contaminated land and external lighting.

5. Material Planning Concerns

Notwithstanding the above, the Parish Council wishes to draw the following concerns to the attention of Sevenoaks District Council as the determining authority.

The Parish Council distinguishes between two categories. The matters at sections 5.1 to 5.9 are, in its view, matters which on the present evidence justify refusal and which the Council would be in a position to defend on appeal. The matters at sections 5.10 to 5.13 are deficiencies in the evidence base which are capable of being cured by further information, or which are properly dealt with by condition. The Parish Council is conscious that an authority which refuses permission without evidence exposes itself to an award of costs on appeal. Each of the matters in the first category is supported either by the written evidence of a statutory or internal consultee, or by an admission or figure within the applicant's own submitted documents. None rests on the Parish Council's assertion alone.

5.1 Highway Safety and the Adequacy of the Access

Kent County Council, as Highway Authority, lodged a holding objection on 18 August 2026. The Parish Council asks the officer to note carefully what that response does, and does not, say.

The Highway Authority's consideration of highway safety was directed to the collision record. It records that two incidents occurred near the site and that, on review of their details, "there is not believed to be an existing safety issue in the vicinity of the site, nor are the proposals anticipated to create a highway safety issue". The Parish Council does not adopt that conclusion, and it does not invite the Council to refuse this application on the basis of the collision record. Its position is that the collision record answers a narrower question than the one the Framework poses.

An absence of recorded collisions on a lane which at present carries almost no regular commercial traffic is evidence of the conditions which exist before the development. It is not evidence that the lane can safely accommodate what the development would introduce. The assessment was also directed to Building B in isolation, and to the vicinity of the site rather than to the length of Mill Lane between the site and the B245 along which the vehicles would actually travel. The Parish Council notes in that connection that one of the two recorded incidents occurred at the junction of Mill Lane with Underriver House Road, approximately 145 metres from the site, and was a serious injury collision. That junction is the one which a substantial number of objectors identify as the point at which large goods vehicles cannot turn.

The Parish Council's case rests instead on the part of the Highway Authority's response which the collision record does not answer. Having reached its conclusion on collisions, KCC goes on to express "some level of concern regarding the suitability of the surrounding rural lane network for large HGVs", to note that the surrounding road network "offers limited opportunities for opposing vehicles to pass", and to record that the potential for HGV movements associated with the flexible use "remains a consideration given the nature of the surrounding road network". That concern is the Highway Authority's own. It has not been resolved, and it cannot be resolved on the information presently before the Council, because the information which would resolve it has never been provided.

The specific matters on which the Highway Authority has withheld its position are these:

- **Gate set-back.** The northern access gate is shown approximately 7 metres from the highway boundary. Kent County Council requires a minimum of 15 metres so that a 16.5-metre articulated vehicle can be accommodated wholly within the site and does not obstruct Mill Lane while the gate is opened. On a 4-metre unlit lane with no footway and no passing places, a stationary articulated vehicle projecting into the carriageway is a highway safety hazard of an obvious kind. This is not a matter capable of resolution by condition: it requires a revised layout, which would itself require re-consultation.
- **Visibility splays.** Mill Lane being a classified minor road subject to a 60mph limit, the Design Manual for Roads and Bridges requires a stopping sight distance of 203 metres in each direction with no obstruction exceeding 1.05 metres in height. No visibility splays are shown on any submitted drawing, and no plan has been provided showing the site boundary so as to demonstrate that the splays do not cross third-party land.
- **Control of the splay land.** Drawing DHA/32679/14 Rev B states twice that the existing hedgerow is to be "removed & relocated *if possible*". The qualification is the applicant's own. It indicates that the applicant may not be in a position to deliver the vegetation management on which the visibility splays depend. If that is so, a safe and suitable access cannot be secured.
- **Surfacing.** Kent County Council requires the first 10 metres of the access to be bound-surfaced to prevent the transfer of mud and debris onto the highway. The submitted layout proposes Type 1 roadstone, an unbound material.

- **Disabled parking.** Kent County Council requires two marked and designated bays with hatching to three sides in accordance with the Department for Transport's Inclusive Mobility guidance. None is proposed, the Transport Statement stating at paragraph 4.7.2 only that "there are two standalone spaces with sufficient clear space to allow for disabled access".

The Parish Council must also draw the officer's attention to a material error in the way the applicant has stated the national highways test. At paragraph 4.2.2 the Transport Statement quotes it as follows:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, following mitigation, would be severe, taking into account all reasonable future scenarios."

That is a defective quotation of the test in the Framework the applicant was citing. The words **"or the residual cumulative impacts on the road network"** have been omitted, which is why the resulting sentence is not grammatical: a clause has dropped out of it. The effect of the omission is twofold. It removes the network limb of the test altogether — which is precisely the limb engaged by section 5.2 below — and it appears to subject the highway safety limb to the "severe" threshold, which was not the test then and is not the test now.

Under the Framework now in force the error is more consequential still. Policy TR6 provides that refusal is justified where a development would have a severe adverse impact on the transport network, or an unacceptable impact on highway safety. The two grounds are free-standing, and the severity threshold attaches only to the first. The question the Council must answer on highway safety is whether the impact would be unacceptable. It is not whether it would be severe.

That error is then carried through the document. At paragraph 4.7.4 the Transport Statement concludes that the proposals will not result in "severe" residual transport impacts; at paragraph 5.2.7 that the trip levels are not "significant or 'severe'"; and at paragraph 6.1.4 it repeats the same formulation. Nowhere does the Transport Statement address whether there would be an unacceptable impact on highway safety. That is the test which this application principally engages, and it has not been answered.

As to the conditions on the lane itself, a 4-metre carriageway cannot accommodate the simultaneous passage of a 16.5-metre articulated vehicle and any other road user. Mill Lane is used daily by pedestrians with no footway to retreat to, by cyclists, by horse riders, by children accessing school transport, and by residents of Underriver and users of the preparatory schools at Godden Green. Policy TR3 of the Framework sets out the transport principles which development proposals should reflect, including safety, servicing and parking. The Parish Council does not consider that a proposal introducing regular articulated vehicle movements onto a lane of this character reflects them.

The Parish Council has also examined what the Transport Statement actually contains by way of evidence about the lane itself. It has three appendices: the proposed site layout plan, the vehicle swept path analysis and the TRICS reports. There is no carriageway width survey, no measurement of pinch points and no survey of passing places anywhere in the submission. The sole statement about the width of Mill Lane in the entire application is the single sentence at paragraph 2.2.1 that it is "generally 4m wide". For a proposal predicated on the regular use of 16.5-metre articulated vehicles, on a lane which the Highway Authority says offers limited opportunities for opposing vehicles to pass, that is not an adequate evidence base on which to conclude that the impact on highway safety would be acceptable.

In the absence of any such survey, the Parish Council has taken measurements on site. The carriageway width of Mill Lane at four locations between the site and the B245 is as follows:

- The small bridge approximately 20 metres north-east of Limes Farm Competition Yard: 3.9 metres.
- The carriageway opposite Asturias Cottage: 4.2 metres.
- The blind bend at Meadow House, to the south-west of the farm and closer to the B245: 4.5 metres.
- The blind bend to the south of Great Hollanden Business Centre: 4.5 metres.

The significance of those figures can be tested against the dimensions of the vehicles this application would introduce. Under regulation 8 of the Road Vehicles (Construction and Use) Regulations 1986 the maximum permitted width of a goods vehicle is 2.55 metres, or 2.6 metres for a refrigerated vehicle. Mirrors are excluded from that measurement, so the width a vehicle actually occupies on the carriageway is greater. A typical private car is approximately 1.8 metres wide, again excluding mirrors.

It follows that an articulated goods vehicle of the kind for which the applicant's own swept path analysis has been prepared requires, together with a single passing car, a minimum of 4.35 metres of carriageway before any allowance whatever is made for mirrors, for clearance between the two vehicles, or for clearance from the verge or hedge on either side. Measured against that figure:

- **At the bridge, at 3.9 metres, the carriageway is 0.45 metres too narrow.** A heavy goods vehicle and a car cannot pass there at all, at any speed and in any circumstances.
- **Opposite Asturias Cottage, at 4.2 metres, the carriageway is 0.15 metres too narrow.** Again, they cannot pass.
- **At each of the two blind bends, at 4.5 metres, there is 0.15 metres in total** to be shared between the nearside clearance, the gap between the two vehicles and the offside clearance, before mirrors are taken into account at all. As a practical matter they cannot pass there either.
- **Two goods vehicles require 5.10 metres** before mirrors and clearance. That exceeds every one of the four measured widths by between 0.6 and 1.2 metres.

Three further matters aggravate this. First, a vehicle negotiating a bend sweeps a wider path than its static width, so the two locations measured at 4.5 metres require more width than the arithmetic above allows, not less. Secondly, both of those locations are blind bends, so a driver meeting an articulated vehicle there has no advance warning and no opportunity to wait at a wider point. Thirdly, the narrowest of the four is a bridge, where there is no verge, no hedge line to be pushed into and no possibility of taking refuge; there is a parapet. At the movement figures set out at section 5.2 below, encounters of this kind would not be occasional events.

The Parish Council notes that the Transport Statement itself records at paragraph 2.2.1 that Mill Lane is "generally 4m wide", and then proceeds to conclude that the proposal, which depends on 16.5-metre articulated vehicles, is acceptable. Those two statements are never reconciled anywhere in the document. The applicant's swept path analysis at Appendix B addresses manoeuvring within the site. No swept path analysis of the lane itself has been undertaken.

The Parish Council does not put these measurements forward as a substitute for the survey which the Highway Authority requires and which the applicant should have provided. They are point measurements taken at four locations. They are, however, sufficient to demonstrate that the question of whether this lane can accommodate the vehicles proposed is a real one, that it has not been answered, and that on the material presently before the Council it cannot be answered in the applicant's favour.

The Parish Council further notes that the Transport Statement contains no vision-led assessment of the kind Policy TR1 now requires. It applies historic TRICS trip rates to a floor area and asks whether the result is “severe”. It identifies no vision for the site, tests no scenarios, and proposes no measures directed at the safety of other road users. It records at paragraph 2.5.1 that access to local services on foot is limited, at Table 2-1 that the bus service comprises two departures per day, and at paragraph 3.3.2 that cycle parking will be met by storing bicycles inside the building. The proposal is, on the applicant’s own evidence, wholly car- and lorry-dependent.

Finally on this point, the Parish Council draws attention to the parking position under a flexible permission. Kent County Council records that a standalone Class B8 use would require five car spaces and one goods vehicle space, whereas a Class E(g)(ii) light industrial use would require fourteen. Ten are proposed. Kent County Council concludes that this “sits exactly between the requirements for the two use classes and is considered acceptable on balance”. That reasoning holds only if the two uses are equally likely and cannot both be implemented. They are not equally likely, and the applicant has sought the flexibility precisely in order to choose. If the permission is implemented as E(g)(ii) there is a shortfall of four spaces, and the overspill has nowhere to go but a 4-metre unlit lane with no footway. The Parish Council also notes that the schedule on drawing DHA/32679/14 Rev B derives the parking provision by applying a “standard 1 vehicle per 50 sqm”, which is not a Kent County Council parking standard and whose provenance is unexplained.

5.2 Failure to Assess the Cumulative Impact of the Building as a Whole

This is, in the Parish Council’s submission, the most serious deficiency in the application. The Transport Statement assesses Building B alone, in isolation from Parts A and C, notwithstanding that it acknowledges at paragraph 2.1.4 that “the proposed access and parking arrangements are shared by all three proposed buildings”.

The transport network ground under Policy TR6 is directed precisely at this. Whether a development would have a severe adverse impact on the transport network cannot be answered by assessing a third of a building in isolation from the two thirds which share its accesses. Nor is the omission cured by the Highway Authority’s acceptance of the trip rates, since the Highway Authority was asked about Building B alone.

The Parish Council adds that the applicant’s own quotation of the test invokes “all reasonable future scenarios”. Even judged against the Framework the applicant itself cites, no scenario has been identified, agreed with the District Council or the Highway Authority, or tested anywhere in the Transport Statement. The implementation of an extant prior approval on Part C is not a speculative scenario: it is a committed development which the applicant may bring forward at any time, and which the applicant’s own agent indicated in the Part C Planning Statement formed part of a wider programme for the building.

The Parish Council recognises that the Highway Authority has reviewed the applicant’s TRICS assessment and is satisfied that the proposals are unlikely to generate a materially greater level of traffic than that presented in the Transport Statement. It does not dispute that finding, and it does not ask the Council to substitute different trip rates. The point is a different one: that finding was made about Building B, because Building B is all that was put to the Highway Authority. The cumulative position across Parts A, B and C has never been assessed by the Highway Authority, by the applicant, or by anyone else. The Parish Council notes in passing that KCC also recorded that the TRICS sample spans survey sites from 1988 to 2025, some of which may not be directly representative of this site, and that the resulting trip generation is accordingly subject to some uncertainty.

Applying the very rates which the Highway Authority has accepted (Transport Statement, Table 5-1: 5.399 two-way trips per 100 square metres daily, 0.428 in the AM peak and 0.452 in the PM peak) to the floor areas of the building as a whole produces the following:

- **As assessed — Building B alone (487 sqm):** 26 two-way movements daily; 2 in the AM peak; 2 in the PM peak.
- **Committed but unimplemented — Parts B and C together (1,444 sqm):** 78 two-way movements daily; 6 in the AM peak; 7 in the PM peak.
- **The building as a whole — Parts A, B and C (1,894 sqm):** 102 two-way movements daily; 8 in the AM peak; 9 in the PM peak.

The Parish Council anticipates the objection that Part A is an existing lawful use whose trips already form part of the baseline. The answer is that the Transport Statement itself expressly declines to take existing trips into account. At paragraph 5.2.1 it states that “in the interests of robustness, the trip attraction of the existing development has not been taken into account, and all trips are assumed to be new and impacting the network”. Applying that same methodology consistently across the whole building is not an inflated approach; it is the applicant’s own approach, applied to the correct unit of assessment.

The practical consequence is stark. The Transport Statement invites the Council to conclude that the proposal will generate “approximately two trips per hour across the 12-hour day, or approximately one trip every 30 minutes on average”. On the whole-building figures, using the applicant’s own rates, the correct figure is approximately **8.5 movements per hour, or one movement every seven minutes**, on a 4-metre unlit single-track lane with no footways. The Transport Statement nowhere disaggregates heavy goods vehicle movements from the total, notwithstanding that the swept-path analysis is predicated on 16.5-metre articulated vehicles and that Kent County Council has identified heavy goods vehicle suitability as its residual concern.

There is a further dimension to this which the Transport Statement does not address at all. It assesses Mill Lane in isolation and assumes it to be permanently available. It is not. The Highway Authority’s own published temporary traffic orders record the following closures of Mill Lane, Hildenborough, within a period of ten months:

- A closure on or after 10 November 2025.
- A closure of up to five days on or after 2 February 2026, to allow gas disconnection works, in the vicinity of the property named Sevenacre. The signed alternative route was via Mill Lane, Underriver House Road, Shipbourne Road, Riding Lane and Vines Lane.
- A closure of up to three days on or after 10 August 2026, to allow stopcock replacement works, in the vicinity of Limes Farm Bungalow. The signed alternative route was via Mill Lane, Vines Lane, Riding Lane, B245 Tonbridge Road, B245 London Road and Mill Lane.
- A closure on or after 18 August 2026, to allow frame and cover replacement works, from just after the drive to the property named Negril’s to the end of the drain channel. The signed alternative route was via Vines Lane, Riding Lane, Shipbourne Road, Underriver House Road and Mill Lane.

Every one of those diversions is signed onto Riding Lane, and the diversion of August 2026 is signed onto the B245 Tonbridge Road and London Road through the centre of Hildenborough. Riding Lane carries the primary school, the village hall, the library, the public car park and the recreation ground. The B245 route passes through the Hildenborough Conservation Area, the church and the village shop. The effect of granting a Class B8 permission is therefore not confined to Mill Lane: it imports heavy and light goods

vehicle movements onto diversion routes running past a village's principal pedestrian generators, for days at a time, several times a year.

Recurrent closure of the site's sole vehicular access is not a hypothetical scenario. It is a documented and recurrent feature of this lane, recorded in the Highway Authority's own orders, and it is plainly a realistic scenario which any competent assessment of the effect of this development on the transport network would have had to address. It has not been tested, and it is not mentioned anywhere in the submitted evidence.

The same criticism applies to the Noise Impact Assessment. At paragraph 7.5.1 it states that it has considered the context of the pre-existing use and the retained storage and agricultural uses of other parts of the building. It has considered them as masking — as a reason why the proposed noise will not be distinguishable — rather than as additional sources contributing to a cumulative specific sound level. Using the commercialisation of the remainder of the building to justify the commercialisation of this part of it is circular, and it means no assessment exists of what the building will sound like when all three parts operate simultaneously.

5.3 The Flexible Permission Sought Could Not Be Controlled

The application seeks a single permission for either Class E(g)(ii) or Class B8 use, with the applicant free to select between them. Three features make that permission, as sought, impossible to control.

First, no hours of operation are proposed. Under the heading “Hours of Opening” on the application form, in answer to the question “Are Hours of Opening relevant to this proposal?”, the applicant has answered **No**. No hours therefore form part of the application, and a permission granted on it would, absent condition, permit operation 24 hours a day, seven days a week.

That has a direct and serious consequence for the noise evidence. The Noise Impact Assessment measured a night-time (23:00–07:00) background sound level of 22 to 25 dB LA90 at Table 6.1, but carried out no night-time BS 4142 assessment at all; Table 7.2 is expressly labelled a daytime assessment. On the assessment's own calculated rating level of 40 to 41 dB, night-time operation would produce an exceedance of the background level in the order of **+15 to +19 dB**. BS 4142:2014+A1:2019 indicates that a difference of around +10 dB or more is likely to be an indication of a significant adverse impact, depending on context. Early-morning and late-evening vehicle movements are a routine feature of storage and distribution operations. The Council is being asked to grant a permission which would permit them, on the basis of an assessment which does not consider them.

The Parish Council draws attention to the fact that the Council's own Environmental Protection officer has proceeded on the footing that hours were proposed. Her response of 18 August 2026 records that “the proposed opening hours of 07:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturdays and no activity Sundays or public holidays are acceptable and in line with the prior approval application granted previously”.

Those are not proposed hours. Their only source in the submitted material is paragraph 4.1 of the Noise Impact Assessment, which appears under the heading “Site Description” and records that Building B “is part of a larger building currently used for storage and agricultural purposes” whose “typical operating hours are advised to be” those times. They describe the existing use of the wider building. They are not an element of the application, they contradict the application form, and nothing in the application would prevent operation outside them.

The officer's further observation, that those hours are in line with the prior approval granted previously, is significant in a way which may not have been intended. It indicates that the operation of Part C of this building is subject to an hours restriction. If Part B is now permitted without one, the Council will have brought about the position in which one part of a single conjoined building is controlled as to its hours and the adjoining part, sharing the same accesses onto the same lane and the same nearest receptor, is not. No condition restricting hours has been recommended by the Environmental Protection officer, and none has been offered by the applicant. The same difficulty attends Tonbridge and Malling Borough Council's helpful suggestion that operating and delivery hours be restricted: that suggestion presupposes hours which have not been offered.

Secondly, no restriction on external storage is proposed. A Class B8 use is a use for storage or distribution, and nothing in the application restricts storage to the interior of the building. The submitted layout shows a substantial extent of hardstanding to the north and east, including a yard sized for the manoeuvring of 16.5-metre articulated vehicles. Absent a condition, that area could lawfully be used for the open storage of goods, containers, plant or vehicles. In Green Belt terms that is a materially different proposition from the re-use of a building, and it has not been assessed.

Thirdly, the permission would be susceptible to subsequent change of use. If permission is granted for use within Class E(g)(ii) then, subject to the terms of any condition, the use could subsequently change to any other use within Class E without a further grant of planning permission. The Parish Council does not overstate this point: the Council may lawfully impose a condition restricting the use to E(g)(ii) and removing that flexibility where the restriction is justified. The point is that no such condition has been offered, and that in a Green Belt and countryside location served by a single-track lane the justification for imposing one is compelling. Without it, the Council will have granted a commercial permission over which it retains no meaningful control of the intensity or character of the use.

5.4 Noise and Residential Amenity

The Council's own Environmental Protection officer does not accept the conclusion of the Noise Impact Assessment. The response of 18 August 2026 records that the rating level is placed at +4 to +8 dB above existing background levels, which is an adverse impact; that the report's reliance on existing agricultural activity to argue that the noise "will not be noticeable/distinguishable" is "not necessarily agreed with"; and that "activity levels with a flexible commercial use are likely to be significantly higher". Mitigation is advised, and the absence of any acoustic barrier along the boundary is specifically noted.

No mitigation has been proposed in response. The Parish Council submits that the appropriate course is not to defer the design of mitigation to a condition. Where the Council's own officer has concluded that an adverse impact arises and that mitigation is required, the mitigation scheme forms part of what must be assessed before permission is granted — not least because paragraph 7.3.3 of the Noise Impact Assessment expressly assumes that "there will be no solid barrier or fence between the site and receptor, so no allowance has been made for acoustic screening". Introducing a barrier changes the assessment, and the changed assessment has not been carried out.

The Parish Council also invites the officer to scrutinise the acoustic feature correction. Paragraph 7.3.4 of the Noise Impact Assessment applies a character correction of **0 dB**. The sources assessed include, on the Council's own officer's summary, "forklifts manoeuvring and loading, HGV movements, van movements and **reversing alarms**". Reversing alarms are tonal and intermittent by design; they exist in order to be distinctive against background sound. Section 11 of BS 4142:2014+A1:2019 provides for an acoustic feature correction where the specific sound has tonal, impulsive or otherwise distinctive characteristics. The

justification offered for applying none — that the sound will be indistinguishable from the existing agricultural use — is the same reasoning the Council’s officer has declined to accept. A correction of even +3 dB would raise the rating level to 43 to 44 dB and the exceedance to +7 to +11 dB.

On external lighting, the Council’s officer advises design in accordance with Institution of Lighting Professionals Guidance Note 01/21. No external lighting scheme has been submitted. In a location which is unlit, adjoins ancient woodland, lies 150 metres from the Kent Downs National Landscape and supports commuting and foraging bats, that is a significant omission. The Preliminary Ecological Appraisal itself recommends adherence to Bat Conservation Trust and ILP Guidance Note 08/18 and the use of dimming or part-night lighting.

5.5 Protected Species and the Adequacy of the Ecological Evidence Base

Hazel dormice, a European protected species, are confirmed present. The Dormouse Survey Report records that “Dormice have been confirmed present at the site, with a peak of two dormice being recorded and evidence of nests”. It confirms that two hedgerows, H1 and H2, of approximately 36 metres in length, are proposed for removal, and that prior to the start of works affecting suitable dormouse habitat a European Protected Species Mitigation Licence would need to be sought and approved from Natural England.

No mitigation strategy has been submitted. The Dormouse Survey Report states only that “Suitable mitigation will need to be incorporated into the Site. In this instance, there is scope to plant replacement species-rich hedgerows... The mitigation strategy would need to be approved by Natural England”. A statement that there is “scope” to provide mitigation is not a mitigation strategy, and Natural England drew attention to precisely this deficiency in its response of 19 August 2026.

The Council must therefore consider, before granting permission, whether the derogation tests under Regulation 55 of the Conservation of Habitats and Species Regulations 2017 are capable of being satisfied — that there is an imperative reason of overriding public interest, that there is no satisfactory alternative, and that favourable conservation status will be maintained. It cannot undertake that assessment on the material before it, because the mitigation and compensation on which the third test depends has not been designed, let alone submitted. A further difficulty arises from the layout drawing: both the dormouse mitigation and the biodiversity net gain calculation depend on hedgerow being retained, relocated or replaced, yet drawing DHA/32679/14 Rev B states that the hedgerow will be “removed & relocated if possible”. The applicant has expressly reserved the possibility that relocation will not occur. Mitigation for a European protected species cannot rest on a qualified intention.

As to bats, the Preliminary Ecological Appraisal records at paragraph 4.2.2 that the desk study consulted three sources only: Google Earth Pro for aerial imagery, Magic Map for statutory designated sites, and Ordnance Survey mapping for ponds. No search of the Kent and Medway Biological Records Centre, or of any other local environmental records centre, was undertaken. Natural England’s response records the consequence: a confirmed bat roost at the Oast House at Great Hollenden Farm was not identified. The Oast House is shown on the applicant’s own site layout drawing, immediately to the west of the site across Mill Lane. A desk study which omits a local records centre search does not meet the standard set by BS 42020:2013 or by CIEEM guidance, and the appraisal’s conclusion that “no further surveys will be required in relation to bats” is founded on a records search which did not take place.

The Parish Council also notes that the habitat survey was undertaken on 10 July 2024 and the desk study in July 2024. At the target determination date of 24 September 2026 those data will be approximately 26 months old, whereas CIEEM guidance indicates that survey data of this kind will generally require updating after 18 to 24 months. The appraisal further records that hay bales within buildings B2 and B3 offer

potential roosting habitat for barn owl, a species listed on Schedule 1 to the Wildlife and Countryside Act 1981, and recommends an updating pre-commencement survey which has not been carried out.

The Parish Council asks the Council to have regard to the status of the body which has raised these matters. Natural England is the appropriate nature conservation body and a statutory consultee. In *Shadwell Estates Ltd v Breckland District Council* [2013] EWHC 12 (Admin) at [72] Beatson J held that a decision-maker should give the views of such a consultee great or considerable weight, and that departure from them requires cogent and compelling reasons. Natural England has identified a gap in the ecological evidence base and has directed the Council to its County Ecologist. If the Council is minded to grant permission without that gap being filled, it will need cogent and compelling reasons for doing so, and it will need to record them.

Conditions are not the answer to these deficiencies. Natural England's response sets out its standing advice in terms: "You should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the development proposal on protected species before you can grant planning permission". That advice is reinforced by paragraph 99 of ODPM Circular 06/2005. The Parish Council notes that neither Kent County Council Ecology nor Kent Wildlife Trust appears to have responded, notwithstanding that Natural England has expressly directed the Council to its County Ecologist on precisely these matters, and respectfully asks that the application not be determined before that advice is received.

5.6 Biodiversity Net Gain

The Parish Council notes that the Framework confirms that authorities should not generally require biodiversity net gain above the statutory level, and it seeks no more than the statutory minimum. Its concern is whether the statutory minimum has been demonstrated at all. The two documents before the Council report the same absolute gains but express them as materially different percentages:

- The Planning Statement, at paragraph 5.5.15, reports a net gain of 0.08 habitat units, which it expresses as +10.22%, and 0.15 hedgerow units, which it expresses as +18.01%. It makes no reference to watercourse units.
- The Biodiversity Net Gain Plan, at paragraph 2.6, reports the same 0.08 habitat units and the same 0.15 hedgerow units, but expresses them as +12.78% and +23.80% respectively, and additionally reports a net gain of 0.09 watercourse units, expressed as +15.60%.

Identical unit gains expressed as materially different percentages can only mean that the two documents have been calculated against different baselines. That is not a presentational matter. The percentage, not the unit figure, is what the statutory test is measured against, and the Council cannot be satisfied that the biodiversity gain condition under Schedule 7A of the Town and Country Planning Act 1990 is capable of being discharged until it knows which baseline is the correct one.

The lower of the two figures, 10.22%, exceeds the statutory minimum by 0.22 of a percentage point — a margin of the order of rounding. Any error in the baseline, or any failure to deliver the hedgerow relocation which the layout describes as conditional, would take the scheme below 10%.

The difference in baseline also has an obvious candidate explanation. The Biodiversity Net Gain Plan reports watercourse units and refers to a River Condition Assessment. The application form states the site area to be 0.21 hectares; the Preliminary Ecological Appraisal states it to be approximately 0.63 hectares; and no watercourse lies within the application red line shown on drawing DHA/32679/01. It appears that the biodiversity net gain assessment has been carried out over a different and larger area than the application site, and that the Planning Statement has then reported percentages derived from a baseline different

again. If that is so, the metric output cannot be relied upon for this application at all, and the Parish Council requests that this be clarified before determination.

5.7 Green Belt — the Associated Operational Development Has Not Been Assessed

As noted at Section 4, the Parish Council accepts that the re-use of a building of permanent and substantial construction falls within Policy GB7 as development which is not inappropriate in the Green Belt, subject to the qualifications that policy imposes. Its concern is that the application is not confined to a change of use. Its description expressly includes “associated changes to elevations, access, parking, landscaping and associated infrastructure”, and the submitted layout proposes:

- The release of an area of existing grass verge for additional parking, to be surfaced in Type 1 roadstone.
- The removal and relocation of lengths of established roadside and boundary hedgerow, described on the drawing as 2.0 to 3.0 metres in height.
- New 0.9-metre post and rail fencing along the Mill Lane frontage.
- The relocation of security gates, which Kent County Council requires to be set back a further eight metres or more from the highway boundary than currently shown.
- A yard and manoeuvring area sized for 16.5-metre articulated vehicles, unrestricted as to external storage.

These are operational works and engineering operations, and they fall to be assessed on their own merits. The Planning Statement does not assess them. It asserts at paragraph 5.3.4 that “the existing building is of substantial construction. It will not be enlarged. As such, there would be no demonstrable impact upon the open character of the Green Belt”, and then relies on the proposition that “the access and parking/loading/unloading area has already received Prior Approval as part of the earlier application”.

The Parish Council invites the officer to examine that proposition. Class R of Part 3 of Schedule 2 to the General Permitted Development Order 2015 is a change of use right. It does not grant permission for building or engineering operations, which require express permission. The prior approval granted under reference 25/00391/PAC cannot therefore have authorised the creation of new hardstanding, new fencing or relocated gates. The applicant has not identified the permission on which it relies. If none exists, the operational works fall to be assessed here for the first time, and the Planning Statement provides no assessment of them.

The Parish Council anticipates the response that, because no building is enlarged, openness is necessarily preserved. That is not the law. In *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466 the Court of Appeal held that openness is “not narrowly limited to the volumetric approach”, that the word is “open-textured”, and that the relevant factors include how built up the Green Belt is now and would be after development, and the visual impact on the aspect of openness which the Green Belt presents. In *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3 the Supreme Court confirmed that what is relevant to openness in a given case is a matter of planning judgement. It is worth noting that the development at issue in *Turner* was itself the replacement of a mobile home and storage yard, and that the refusal was upheld.

The conversion of grass verge to hardstanding, the loss of established hedgerow, the introduction of fencing along a currently open frontage, and the potential for open storage in a yard sized for articulated vehicles are each capable of harming the openness of the Green Belt in spatial and visual terms. Substantial

weight is to be given to any harm to the Green Belt. That weight cannot be applied unless the harm is first assessed, and the exercise of planning judgement which Samuel Smith requires cannot be undertaken on an assertion that there would be “no demonstrable impact”. The Parish Council notes that Policy S5 does not assist the applicant here, because policy S5(5) provides that S5 does not apply to development proposals in the Green Belt. The question is governed by Policy GB7, and the re-use exception in GB7 does not extend to associated operational development whose effect on openness has not been assessed.

5.8 Landscape and the Kent Downs National Landscape

The Kent Downs National Landscape lies approximately 150 metres north of the site on the applicant’s own evidence. Section 85(A1) of the Countryside and Rights of Way Act 2000, as amended, requires a relevant authority, in exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, to seek to further the purpose of conserving and enhancing its natural beauty. On the face of the statute the duty is not confined to functions exercised in relation to land inside the designated boundary: the words “or so as to affect” extend it to functions exercised so as to affect such land. The Framework itself records, at footnote 2 to its introduction, that it does not displace the statutory obligations placed on decision-makers by virtue of, among other things, section 85(A1). Policy N4 of the Framework deals with Protected Landscapes.

The Parish Council is careful not to put that duty higher than the courts have. It does not contend that a finding of harm to the Kent Downs National Landscape would of itself compel refusal; the High Court has rejected that construction of the amended duty. Nor does it contend that the duty requires every permission to deliver a positive enhancement. Its point is a different and more modest one, and it is this: the duty is a statutory obligation which the Council must discharge and must be able to show it has discharged, and there is nothing before the Council on which it could do so.

The Planning Statement does not mention the duty. Its entire treatment of landscape impact occupies four short paragraphs, 5.4.1 to 5.4.4, and concludes that “there will be no impact on the existing visual impact of the site or on the National Landscape” and that the proposed green cladding “will also ensure that the outlook on the existing buildings is enhanced”. That is an assertion of no harm. It is not an assessment. No Landscape and Visual Impact Assessment has been submitted, no assessment of the effect of the proposal on the setting of the National Landscape has been carried out, and the section 85(A1) duty is not mentioned in any document before the Council. Where a decision-maker concludes that a proposal conflicts with the statutory purpose or would undermine its fulfilment, it should consider and explain why permission may nonetheless justifiably be granted. On the present material the Council could not undertake that exercise, because the anterior question of what effect the proposal would have on the National Landscape has never been asked.

The Parish Council also notes that the Kent Downs National Landscape Unit does not appear on the Council’s consultation schedule of 31 July 2026, and asks that the Unit be consulted before determination, having regard to the strengthened duty and to the advice which the Unit issued to local planning authorities in January 2026.

There is, finally, a contradiction within the applicant’s own case which the Parish Council invites the officer to note. The Planning Statement sets out at paragraphs 4.3.16 to 4.3.18 the key characteristics and valued attributes of the Sevenoaks Low Weald Landscape Character Area, taken from the Council’s own Landscape Character Assessment. Among the key characteristics it lists “narrow, hedge-lined rural lanes with wide verges”; among the key sensitivities and valued attributes it lists “the narrow rural lanes, ancient highways and former Roman roads”; and it records that the most pertinent local objective is “maintaining the rural

character of the area". The proposal then removes hedgerow from a hedge-lined rural lane, surfaces a wide verge in Type 1 roadstone, introduces post and rail fencing along the frontage, and intensifies the use of the lane by articulated goods vehicles. The applicant has identified the sensitivities of the character area accurately and has proposed a development which erodes each of them, without acknowledging the conflict.

5.9 Conflict with the Underriver Village Design Statement

The Underriver Village Design Statement was adopted by Sevenoaks District Council as a Supplementary Planning Document in 2012. Policy SP1 of the Core Strategy provides that all new development should respond to the distinctive local character of the area in which it is situated, and that account should be taken of guidance adopted by the Council in the form of, among other things, Village Design Statements. The Statement defines the area to which it applies at paragraph 6 as running "south, encompassing Underriver House and on to the edge of Great Hollenden Farm". The application site therefore lies at the edge of the area the Statement covers, and its access lane runs through it.

Neither the Planning Statement nor the Transport Statement mentions the Village Design Statement. Neither cites Policy SP1. The Parish Council raises this not as a technicality but because the Statement addresses, in adopted terms, the very matters on which this application turns.

On the lanes, paragraph 35 of the Statement records that Underriver's roads "are all in the 'C' and 'D' categories and **most are very narrow**", that some "have high banks high hedges or deep ditches", that "excessive traffic, travelling too fast, is an increasing danger to local road-users, including walkers, cyclists and horse riders", and that "passing vehicles drive on to the verges, causing damage and unnatural road widening, which encourages further speeding". That is a description of the existing conditions on these lanes which the District Council has itself adopted as guidance, and it is materially different from the picture presented in the Transport Statement.

The recommendations of the Statement engaged by this proposal are these:

- **R12** provides that new business developments should be designed so as not to harm the character of the area and that "**they should not add significantly to local traffic**", and should not cause a nuisance to other properties through excessive noise, vibration, visual intrusion, clutter in the countryside or excessively bright artificial lighting. On the applicant's own trip rates the building as a whole would generate in the order of 102 two-way movements a day. The Parish Council does not see how that can be reconciled with R12.
- **R8** provides that road access to new agricultural buildings "should have good sightlines". No visibility splays have been demonstrated on any submitted drawing.
- **R4** provides that mature trees and hedges "should not be felled without good reason". The proposal removes lengths of established roadside hedgerow, on a drawing which qualifies their relocation with the words "if possible".
- **R19** addresses the management of road verges in the interests of road safety. The proposal releases a length of verge and surfaces it in Type 1 roadstone.
- **R14** provides that adequate provision should be made for off-road vehicle parking, screened with native species where appropriate. Under an E(g)(ii) implementation the proposal falls four spaces short of the Highway Authority's standard.

- **R25** provides that any impacts by development on ancient woodland within the area “are to be fully mitigated”. No Arboricultural Impact Assessment or Tree Protection Plan has been submitted.
- **R2**, together with paragraph 44, addresses the darkness of the night sky and the harm caused by over-bright and poorly aimed lighting to bats, birds, moths and other species. No external lighting scheme has been submitted.

The Parish Council also notes that paragraph 36 of the Statement records that there are “buses twice a day between Underriver and Tonbridge on Mondays to Saturdays” and that there is “no direct service to Sevenoaks or to Hildenborough Station for commuters”. That is the same position which the Transport Statement records at Table 2-1 some fourteen years later. The accessibility of this location has not improved, and the proposal is wholly dependent on private vehicles and goods vehicles.

The Parish Council asks that the proposal be assessed against the Underriver Village Design Statement, and against Policy SP1 of the Core Strategy which requires account to be taken of it.

5.10 Ancient Woodland and Trees

Ancient woodland is an irreplaceable habitat, and is among the assets of particular importance which the Framework identifies as capable of providing a strong reason for restricting development. The Framework provides that development proposals which would entail the loss or deterioration of irreplaceable habitats, such as ancient woodland and ancient or veteran trees, should be refused, and Policy N6 deals with areas of particular importance for biodiversity and geodiversity. The Council must therefore be able to establish with confidence where the ancient woodland lies in relation to the works proposed. It cannot presently do so. The Council’s Senior Arboricultural and Landscape Officer records that the ancient woodland is “immediately adjoining part of the eastern boundary”, whereas the Planning Statement, at paragraph 2.1.3, places it “approximately 45m east of the site”. These statements cannot both be correct, and the difference determines whether the standard 15-metre ancient woodland buffer falls within or outside the application site.

The Tree Officer further records that no Arboricultural Impact Assessment to BS 5837:2012, no Tree Protection Plan and no Arboricultural Method Statement has been submitted, notwithstanding that hedgerow removal and ground disturbance for access and parking works are proposed. The Parish Council supports his recommendation that a Construction Environmental Management Plan be secured by pre-commencement condition, and requests in addition that a BS 5837 Arboricultural Impact Assessment and Tree Protection Plan be provided before determination, so that the extent of the buffer and the effect of the works upon it can be properly understood.

5.11 Surface Water, Flood Risk, Foul Drainage and Contamination

No body has assessed the surface water drainage of this proposal. The Lead Local Flood Authority has confirmed that the application falls outside the definition of major development and therefore outside its remit as statutory consultee. The Environment Agency has expressly identified the “provision of an adequate means of surface water disposal such that flood risk on and off-site isn’t increased” as a matter outside its direct remit which the Council should nevertheless consider.

The Flood Risk Assessment records at paragraph 1.1.4 that Environment Agency maps show the areas to the north, east and west of the building to be at high to medium risk of surface water flooding, and states that “there will be no changes to the existing surface water drainage strategy”. That is difficult to reconcile with a proposal which converts grass verge to hardstanding surfaced in Type 1 roadstone and formalises parking and heavy goods vehicle manoeuvring areas, since additional surfacing increases run-off. No

sustainable drainage scheme has been proposed, notwithstanding Policy F8 of the Framework on sustainable drainage systems. The Parish Council also notes that, under the heading “Assessment of Flood Risk” on the application form, the applicant has answered “No” to the question whether the site is within an area at risk of flooding, notwithstanding the surface water risk identified in the applicant’s own Flood Risk Assessment and the fact that land on the west side of Mill Lane lies within Flood Zone 3. The Environment Agency asks the Council to consider the adequacy of rescue and evacuation arrangements; Mill Lane is the sole vehicular access, and neither the Flood Risk Assessment nor the Transport Statement addresses access and egress in flood conditions.

As to foul drainage, the strategy consists of an email of 18 June 2026 proposing a Klargestor BioTec+ 6 sewage treatment plant for twenty persons, to be connected to “the drainage line shown to the south within the highway”. No connection point is shown on any plan; no evidence of Southern Water’s agreement to a connection is provided; and no consideration is given to the drainage hierarchy which the Environment Agency has set out, under which connection to the public sewer must be considered and discounted first. If the proposed discharge is to a highway drain or to a watercourse, an environmental permit or compliance with the General Binding Rules will be required, and the Council should satisfy itself that this is achievable before granting permission.

On contaminated land, the Parish Council supports the advice of the Council’s Environmental Protection officer that, given the potential for asbestos in soils from previously demolished structures and for contaminants associated with the agricultural use, conditions should be imposed requiring a Phase 2 intrusive investigation, a remediation strategy where required, and a verification report on completion. It asks that the Council satisfy itself that South East Water and South East Water (SPZ) have been consulted and have responded.

5.12 The Economic Benefit Relied Upon Has Not Been Evidenced

Policy E2 of the Framework places significant weight on economic benefits and on creating the conditions in which businesses can invest, expand and adapt. The Parish Council accepts that policy and the weight it carries. Its point is simply that there must be an economic benefit for the policy to weigh.

Under the heading “Employment” on the application form, in answer to the question “Are there any existing employees on the site or will the proposed development increase or decrease the number of employees?”, the applicant has answered **No**. That is difficult to reconcile with the Planning Statement, which asserts at paragraph 5.2.7 that the proposal “will therefore provide jobs for local people as well as benefits to other local services and suppliers”, and at paragraph 5.2.6 that it “can provide opportunities and support for local businesses to deliver jobs”. It is also difficult to reconcile with the foul drainage information, which proposes a sewage treatment plant sized for twenty persons.

The Parish Council anticipates reliance on the support which the Framework gives to rural business. Policy E4(2) recognises that development to meet business needs in rural areas may need to be located outside settlements and in locations not well served by public transport, and where that applies it requires that opportunities be taken to use previously developed land and sites physically well-related to existing development, and that siting and design be appropriate having regard to the character of the surroundings. Policy E2(2) provides that, where a proposal is required to demonstrate an unmet need, consideration should be given to whether market signals indicate an undersupply of the relevant type of business land or premises, and whether the specific locational requirements of the proposal are met by existing allocations in the development plan.

No such demonstration has been attempted. No occupier has been identified, no business has been identified, no market evidence has been produced, and no explanation has been offered as to why a storage and distribution or light industrial use of 487 square metres requires this location rather than one of the employment allocations within the District which are served by roads built for goods vehicles. The support which these policies give to rural business is real, but it is not a substitute for the evidence they contemplate.

No occupier is identified, no business is identified, and no employment figure is provided. The Parish Council suggests no impropriety whatever. It submits only that the Council cannot attribute significant weight under Policy E2 to an employment benefit which the applicant has not quantified, has not evidenced, and has expressly disclaimed on the application form, and that on the material before the Council the economic benefit of this proposal should attract limited weight.

5.13 Inconsistencies in the Submitted Information

Individually some of the following are minor. Cumulatively they mean that the Council does not have before it a coherent and internally consistent description of what is proposed, and the Parish Council requests that they be reconciled and the application re-consulted upon before determination:

- Site area: the application form states 0.21 hectares; the Preliminary Ecological Appraisal, at paragraph 3.3.1, states approximately 0.63 hectares.
- Biodiversity net gain: the Planning Statement records +10.22% habitat and +18.01% hedgerow units; the Biodiversity Net Gain Plan records +12.78% habitat, +23.80% hedgerow and +15.60% watercourse units.
- Employment: the application form records no existing employees and no change proposed; the Planning Statement asserts that the proposal will provide jobs for local people; the foul drainage information proposes a plant sized for twenty persons.
- Distance to ancient woodland: the Planning Statement states approximately 45 metres east; the Council's Tree Officer states immediately adjoining part of the eastern boundary.
- Access allocation: the Planning Statement at paragraph 3.3.2 and the Transport Statement at paragraph 3.2.2 state that the northern access serves cars, LGVs and HGVs and the southern access cars and LGVs; drawing DHA/32679/14 Rev B annotates the northern access as "out only for LGVs & cars & in and out for HGVs".
- Hedgerow: drawing DHA/32679/14 Rev B states that the existing hedgerow is to be "removed & relocated if possible"; the Dormouse Survey Report states that hedgerows H1 and H2, of approximately 36 metres, are proposed for removal and that a European Protected Species Mitigation Licence is required.
- Flood risk: the application form states that the site is not within an area at risk of flooding; the Flood Risk Assessment identifies high to medium surface water risk to the north, east and west of the building.
- Hours of operation: the application form states that hours of opening are not relevant to the proposal; the Council's Environmental Protection response refers to "the proposed opening hours of 07:00 to 19:00 Monday to Friday".
- Drawing date: the title block of drawing DHA/32679/14 records MAR 2024, while revision B is recorded as 02.07.2026.

The Parish Council further draws attention, with no criticism of Tonbridge and Malling Borough Council intended, to the fact that the Borough Council's consultation response of 13 August 2026 (Borough reference 26/01442/CNA) describes the proposal as a change of use "to flexible commercial use within E(g)(ii)". The words "or B8" do not appear. The Borough Council appears therefore to have responded to a narrower proposal than the one before the District Council. Since its substantive advice concerns the impact of Light Goods Vehicle and Heavy Goods Vehicle movements on Mill Lane — a consequence principally of the B8 element — the Parish Council respectfully asks that Tonbridge and Malling Borough Council be re-consulted on the full and correct description of development.

6. Summary and Recommendation

In summary, Hildenborough Parish Council does not oppose the principle of the commercial re-use of redundant rural buildings, and it recognises the support which Policies E2 and E4 of the Framework give to the rural economy. It acknowledges that the applicant has submitted a substantial suite of technical documents and that a number of aspects of the scheme, set out at Section 4, are positive.

However, the Parish Council **OBJECTS** to this application and requests that it be **REFUSED**. The Parish Council considers that the following grounds, each supported by the evidence of a statutory or internal consultee or by the applicant's own submitted documents, would justify refusal and would be capable of being defended on appeal:

- The proposal fails to demonstrate that a safe and suitable access can be achieved. The northern access gate is positioned approximately 7 metres from the highway boundary rather than the minimum of 15 metres required to accommodate a 16.5-metre articulated vehicle wholly within the site; no vehicular visibility splays have been demonstrated on any submitted plan; and no evidence has been provided that the land required to deliver a stopping sight distance of 203 metres in each direction is within the control of the applicant or of the highway authority. In the absence of that information the local planning authority is unable to conclude that a safe and suitable access can be achieved, or that the development would not give rise to an unacceptable impact on highway safety on Mill Lane, a 4 metre wide unlit classified minor road without footways. Mill Lane has been measured at 3.9 metres at the bridge north-east of Limes Farm Competition Yard, 4.2 metres opposite Asturias Cottage and 4.5 metres at each of two blind bends, whereas an articulated goods vehicle of the maximum permitted width passing a single car requires not less than 4.35 metres before any allowance for mirrors or clearance. The Highway Authority has itself recorded an unresolved residual concern as to the suitability of the surrounding rural lane network for large heavy goods vehicles. The proposal is contrary to the decision-making transport policies of the National Planning Policy Framework 2026, including Policies TR3 and TR6, and to Policy SP2 of the Sevenoaks Core Strategy 2011.
- The application is not supported by any assessment of the residual cumulative impacts of the development on the road network. No transport scenarios have been identified or tested. In particular, no assessment has been made of the combined effect of the proposed use with the committed development at Part C of the same building and the lawful use of Part A, all of which share the same accesses onto Mill Lane, nor of the effect of the proposal during periods when Mill Lane is closed and traffic is diverted through Hildenborough village, notwithstanding that the Highway Authority's own temporary traffic orders record four such closures between November 2025 and August 2026. The local planning authority is therefore unable to conclude that the development would not have a severe adverse impact on the transport network. The proposal is

contrary to Policies TR1, TR3 and TR6 of the National Planning Policy Framework 2026 and to Policy SP2 of the Sevenoaks Core Strategy 2011.

- The application proposes no hours of operation, no limit on heavy goods vehicle movements and no restriction on the external storage of goods or vehicles. The Noise Impact Assessment considers the daytime period only and does not assess the night-time period against the measured background sound level of 22 to 25 dB LA90. The Council's Environmental Protection officer has concluded that the proposal would give rise to an adverse noise impact and has advised that mitigation is required, and no such mitigation has been provided. The proposal would result in unacceptable harm to the living conditions of neighbouring occupiers, contrary to Policy EN1 of the Allocations and Development Management Plan 2015 and to the decision-making policies on pollution and public protection at Chapter 17 of the National Planning Policy Framework 2026.
- The application is not supported by sufficient information to enable the Council to assess the impact of the development on protected species. Hazel dormice have been confirmed present and the proposal involves the removal of approximately 36 metres of hedgerow constituting suitable habitat, yet no mitigation or compensation strategy has been submitted. The ecological desk study did not include a search of the local biological records centre and consequently failed to identify a confirmed bat roost in the immediate vicinity, and the survey data are over two years old. The Council is therefore unable to conclude that the derogation tests under the Conservation of Habitats and Species Regulations 2017 are capable of being met. The proposal is contrary to Policy SP11 of the Core Strategy, to the natural environment policies at Chapter 19 of the National Planning Policy Framework 2026, and to paragraph 99 of ODPM Circular 06/2005. The concerns raised are those of the appropriate nature conservation body, whose views attract considerable weight and departure from which requires cogent and compelling reasons (*Shadwell Estates Ltd v Breckland District Council* [2013] EWHC 12 (Admin)).
- The application includes operational development comprising the loss of grass verge to hardstanding, the removal of established roadside hedgerow, new boundary fencing and the relocation of security gates, together with a yard and manoeuvring area for articulated vehicles which is unrestricted as to external storage. No assessment of the effect of that development on the openness of the Metropolitan Green Belt has been provided, and the Council is therefore unable to conclude that the proposal preserves openness or does not conflict with the purposes of including land within the Green Belt, or to apply the substantial weight required to be given to any harm to it. Openness is not limited to the volumetric question of whether a building is enlarged, and extends to how built up the Green Belt would be and to visual impact (*Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466; *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3). The proposal is contrary to Chapter 13 of the Framework, including Policy GB7, and to Policy LO8 of the Core Strategy.
- The site lies approximately 150 metres from the Kent Downs National Landscape. The application is not accompanied by any landscape and visual impact assessment and does not address the duty under section 85(A1) of the Countryside and Rights of Way Act 2000, as amended by section 245 of the Levelling-up and Regeneration Act 2023, to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape when exercising functions in relation to, or so as to affect, land within it. The local planning authority is therefore unable to demonstrate that it has discharged that duty. The proposal would erode the narrow hedge-lined rural lanes and wide verges identified as key sensitivities and valued attributes of the Sevenoaks Low Weald Landscape Character Area, contrary to Policy N4 of the National Planning Policy Framework 2026, to Policy

LO8 of the Core Strategy and to Policy EN1 of the Allocations and Development Management Plan. The proposal further conflicts with Policy SP1 of the Core Strategy and with the Underriver Village Design Statement 2012, adopted as a Supplementary Planning Document, and in particular with Recommendation R12, which provides that new business developments should not add significantly to local traffic.

If, contrary to the above, the Council is minded to approve the application, the Parish Council requests that it not be determined until the following have been provided and consultees re-consulted upon them:

- Resolution of Kent County Council's holding objection, including a revised access layout showing a gate set back not less than 15 metres, visibility splays of 203 metres demonstrated on a plan showing the site boundary, and confirmation that the splay land is within the control of the applicant or the highway authority.
- A transport assessment addressing the residual cumulative impacts of Parts A, B and C, disaggregating heavy goods vehicle movements, and testing scenarios agreed with the District Council and the Highway Authority, including the position during closure of Mill Lane.
- A cumulative noise assessment covering all three parts of the building operating simultaneously, including a night-time BS 4142 assessment, appropriate acoustic feature corrections for reversing alarms, and a designed mitigation scheme.
- A dormouse mitigation and compensation strategy of sufficient detail to permit the Council to conclude that the derogation tests are capable of being met; an updated ecological desk study including a search of the Kent and Medway Biological Records Centre; updated habitat survey data; and a bat survey informed by the confirmed roost identified by Natural England.
- The substantive advice of Kent County Council Ecology and Kent Wildlife Trust. Policy DM3(1)(d) of the Framework provides that decisions should not be delayed to secure consultee advice beyond statutory deadlines unless there is insufficient information to make the decision, there are public safety risks in proceeding without advice, or more detailed advice may enable an approval rather than a refusal. The Parish Council submits that each of those exceptions is engaged here.
- Consultation with the Kent Downs National Landscape Unit, and a Landscape and Visual Impact Assessment addressing the section 85 duty.
- An Arboricultural Impact Assessment and Tree Protection Plan to BS 5837:2012, and resolution of the distance between the works and the ancient woodland.
- A surface water drainage strategy for the additional hardstanding, and a resolved foul drainage strategy demonstrating compliance with the drainage hierarchy.
- An updated Planning Statement and Transport Statement assessing the proposal against the National Planning Policy Framework published on 17 August 2026.
- A carriageway width and pinch point survey of Mill Lane between the site and the B245 London Road, identifying the location and dimensions of each constraint, of the bridge, and of any passing places, together with swept path analysis of the lane itself demonstrating whether a 16.5-metre articulated vehicle can negotiate each constraint, can pass other road users along that length, and can turn into and out of the B245. The four measurements set out at section 5.1 indicate what such a survey is likely to establish, but they are point measurements and the full survey remains necessary.

- Confirmation of whether the local planning authority or the Highway Authority holds any existing survey or plan identifying pinch points and passing places on Mill Lane and the adjoining lanes, and if so its disclosure, so that it may be taken into account.
- An assessment of the proposal against the Underriver Village Design Statement 2012 and against Policy SP1 of the Sevenoaks Core Strategy.
- Reconciliation of the inconsistencies listed at section 5.13, and re-consultation of Tonbridge and Malling Borough Council on the full and correct description of development.

Should permission nevertheless be granted, the Parish Council requests that the following conditions be imposed. Each is drafted to meet the four tests at Policy DM6(1) of the Framework, namely that a condition be necessary to make the development acceptable in planning terms, relevant to the development and to planning considerations generally, sufficiently precise to be capable of being complied with and enforced, and reasonable in all other respects.

The Parish Council notes two further requirements of Policy DM6. Policy DM6(2)(c) provides that conditions should not restrict national permitted development rights unless there is clear justification. The justification here is clear: the site lies in the Green Belt, adjoins ancient woodland and a confirmed European protected species population, and is served by a single 4 metre unlit lane without footways, so that an unrestricted ability to move between uses would place the intensity and character of the use beyond the Council's control. Policy DM6(3) provides that pre-commencement conditions should be avoided unless there is clear justification. The pre-commencement conditions sought below are confined to matters which by their nature must be resolved before works begin — protected species licensing, ecological survey, tree and woodland protection, and drainage — and which could not be secured at any later stage.

- A condition restricting the use to Class B8 only, or alternatively to Class E(g)(ii) only, as specified in writing and agreed prior to first occupation, and to no other purpose including any other purpose within Class E, notwithstanding the provisions of the Use Classes Order or the General Permitted Development Order.
- A condition restricting hours of operation and all vehicle movements to and from the site to 07:00 to 19:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays, with no activity on Sundays, Bank Holidays or Public Holidays.
- A condition limiting heavy goods vehicle movements to no more than six (three arrivals and three departures) in any one day, with a written log maintained and made available to the Council on request. The Parish Council proposes this figure because the Transport Statement forecasts 26 two-way movements per day for Building B and does not disaggregate heavy goods vehicles; in the absence of evidence from the applicant as to the anticipated number, a cap is necessary to ensure the permission does not authorise a level of heavy goods vehicle activity which has not been assessed.
- A condition prohibiting the storage of goods, materials, plant, containers, skips or vehicles in the open anywhere within the site outside the building, other than vehicles parked within the marked bays shown on the approved plans.
- A condition requiring the access to be laid out prior to first use in accordance with approved details, including a gate set back not less than 15 metres from the highway boundary, the first 10 metres surfaced in a bound material, and visibility splays of 203 metres in each direction with no obstruction exceeding 1.05 metres in height, thereafter maintained free of obstruction in perpetuity.

- A condition requiring the parking, turning and servicing areas, including two designated and hatched disabled bays laid out in accordance with the Department for Transport's Inclusive Mobility guidance, to be provided prior to first use and thereafter retained.
- A pre-commencement condition requiring a European Protected Species Mitigation Licence for dormice to have been granted by Natural England and a copy provided to the Council, together with an approved Ecological Mitigation and Enhancement Strategy including replacement species-rich hedgerow planting.
- A pre-commencement condition requiring an updated bat activity and roost survey, informed by a search of the Kent and Medway Biological Records Centre, together with any mitigation it identifies.
- A pre-commencement condition requiring a Construction Environmental Management Plan incorporating the matters identified by the Council's Senior Arboricultural and Landscape Officer in his response of 20 August 2026, including the ancient woodland buffer, protective fencing and exclusion zones.
- A condition requiring a scheme of noise mitigation, including acoustic screening to the western boundary, to be approved and implemented before the use commences and thereafter retained.
- A condition requiring all vehicles and plant operating on the site to be fitted with broadband, non-tonal reversing warning devices.
- A condition requiring any external lighting to accord with an approved scheme designed in accordance with ILP Guidance Note 01/21 and BCT/ILP Guidance Note 08/18, incorporating part-night or dimmed operation.
- Conditions requiring a Phase 2 intrusive investigation, a remediation strategy where required, and a verification report, in accordance with the advice of the Council's Environmental Protection officer of 18 August 2026.
- A pre-commencement condition requiring a surface water drainage scheme for the additional hardstanding and a foul drainage scheme demonstrating compliance with the drainage hierarchy, to be implemented prior to first use.
- A pre-commencement condition requiring a detailed landscaping and hedgerow scheme providing for the retention or relocation of the roadside hedgerow without qualification, including species, sizes, planting standards and a five-year maintenance and replacement programme.
- A condition requiring the development to be carried out in accordance with the approved plans, which should be listed in full on the decision notice.

The Parish Council requests that, if the Council is minded to approve the application, it be referred to the Planning Committee for determination rather than dealt with under delegated authority, having regard to the volume and consistency of public objection, the live objection of the Highway Authority and the cross-boundary effects of the proposal. The Parish Council asks to be notified of the officer's recommendation and of the date of any committee meeting, and requests the opportunity to address the Committee.

The Parish Council would finally ask the Council to weigh one overarching point. This is a single building of approximately 1,894 square metres, served by two accesses onto a single-track lane. It has been consented in three pieces by three different routes, and at no stage has any authority assessed what it will do to Mill Lane, to the diversion route through Hildenborough village, or to the amenity of its neighbours when all

three pieces operate at once. The Framework now requires that assessment in terms. This application is the last opportunity to carry it out.

The Parish Council reserves the right to make further representations should additional information be submitted in support of this application. The Parish Council would welcome the opportunity to discuss any of the above points with the case officer.

Yours sincerely

Cllr Martyn Wills
Chairman, Planning Committee
For and on behalf of Hildenborough Parish Council

Appendix 2

Mr Scott Fisher
Case Officer, Development Management
Tonbridge and Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent
ME19 4LZ

By email: planning.applications@tmbsc.gov.uk

1 September 2026

RE: Planning Application 26/01509/FL – Demolition of garage, sheds and tennis court and erection of a dwelling with associated access and parking – Aysgarth, Mill Lane, Hildenborough, Tonbridge, Kent TN11 9LX

Executive Summary

Hildenborough Parish Council **OBJECTS** to this application and requests that it be **REFUSED**. This summary is provided for convenience; the evidence for each point is set out in the body of the response.

The application seeks a new dwelling on garden land in the Metropolitan Green Belt, justified on the basis that a tennis court makes the land previously developed. The Parish Council does not oppose new homes in Hildenborough and accepts that several aspects of the scheme are well handled. Its objection rests on five points, each drawn from the applicant's own documents rather than from assertion:

- **The definition relied upon has been quoted only in part.** The Planning Statement quotes the Framework definition of previously developed land but stops immediately before the exclusions, which exclude residential gardens in built-up areas. Whether this site is in a built-up area is therefore the determinative question, and it is nowhere addressed — while the applicant argues elsewhere that the site sits within a cluster of existing residential development. (Section 5.1)
- **It has not been shown that the whole site is previously developed land.** The structures stand near the road frontage; the dwelling would go at the rear. A bare conclusion that a whole site is previously developed land, without analysis of its constituent parts, was held unlawful in *Ribble Valley* [2025], applying *Broxbourne* [2015]. (Section 5.2)
- **Harm to openness has been asserted, not assessed.** No comparative schedule of footprint, volume or hardstanding appears anywhere in the application. Without one the Council cannot determine whether harm is substantial, nor apply the substantial weight the Framework requires. (Section 5.3)
- **The housing land supply argument no longer works as pleaded.** The applicant relies on the tilted balance at paragraph 11(d) of the December 2024 Framework. That Framework was replaced on 17 August 2026, and Policy S5(5) of its successor expressly disapplies the presumption route in the Green Belt. (Section 5.4)

- **Eight of the ten trees would be felled to make a lawn.** On the applicant's own arboricultural evidence, only two of the ten trees are removed to enable construction; the remaining eight are removed "to allow space for a garden". (Section 5.5)

Beyond those grounds, the Parish Council asks the Council to verify the claimed exemption from Biodiversity Net Gain, which depends on a red line of 0.16 hectares — 0.04 hectares below the threshold — on a site whose area is stated four different ways across the submission, and on there being no effect on priority habitat although two hedgerows on site are Habitats of Principal Importance. It also asks that the application not be determined before Kent County Council has commented on visibility at the Mill Lane access, and that the setting of the Grade II listed windmill remains be properly assessed.

The submitted documents are not internally consistent. The number of trees to be felled, the site area, the roof form, the side of Mill Lane the site sits on and the building to be demolished are each described differently in different documents, and the Arboricultural Impact Assessment identifies a different site altogether on its project overview page. The Parish Council asks that these be corrected and the application re-advertised.

1. Introduction

Hildenborough Parish Council submits this response in the spirit of constructive engagement with the planning process. The application site lies within the parish of Hildenborough, and the Parish Council responds in its capacity as the elected body for the area concerned and as a consultee on the application.

The Parish Council wishes to raise a number of material planning considerations which it respectfully requests the determining authority carefully weigh before reaching a decision. This response is confined throughout to material planning considerations, and is founded on the National Planning Policy Framework published on 17 August 2026, which is the Framework in force at the date of decision.

The consultation expiry recorded on the Council's portal is 9 September 2026, and this response is submitted within that period. The Parish Council notes for completeness that the expiry of a consultation period does not in any event relieve the local planning authority of its obligation to have regard to material representations received before the decision is taken. At the date of this response, Kent County Council as Highway Authority does not appear to have responded, and the Parish Council asks that the application not be determined before that response is received.

For the avoidance of doubt, the Parish Council **OBJECTS** to this application and requests that it be refused. Its reasons are set out at Section 6.

2. Description of the Site and Proposal

The application site is a parcel of land within the rear garden of Aysgarth, a two-storey house on the eastern side of Mill Lane. The site comprises a tarmac tennis court, garden land, a single garage and garden sheds. It lies outside the confines of Hildenborough and within the Metropolitan Green Belt. It is bounded by residential properties to the north and west, including Aysgarth itself, and by agricultural fields to the south and east (Ecological Assessment, paragraph 3.3.2; Arboricultural Impact Assessment, paragraph 2.3.2). Grade II listed windmill remains (list entry number 1070401) stand within the garden of the neighbouring property Old Mill House.

The proposal is the demolition of the garage and garden sheds, the clearance of the tennis court, and the erection of a single-storey four-bedroom dwelling with a new internal access drive, parking and

landscaping. The dwelling would contain four bedrooms, a bathroom, an ensuite, a utility room and open plan living accommodation (Planning Statement, paragraph 3.1.2). No schedule of floorspace or volume has been provided in the submission. Access would be by way of the existing Aysgarth entrance onto Mill Lane, with a new 3.5 metre wide sustainable drainage private drive running through the site to serve the new dwelling. Three car parking spaces and three electric vehicle charging points are proposed, the application form recording no existing spaces. No new access onto the public highway is proposed.

The site area is stated inconsistently across the submission. The application form gives 0.16 hectares; the Design and Access Statement gives 0.166 hectares at paragraph 1.3; the Ecological Assessment gives approximately 0.42 hectares at paragraph 2.2; and the Arboricultural Impact Assessment gives approximately 0.65 hectares at paragraph 2.3.1. The Parish Council returns to this at Sections 5.7 and 5.12.

The planning history recorded at Table 2 of the Planning Statement includes application 02/00005/FL (change of use of agricultural land to residential land), which was withdrawn, and application 04/01999/FL (change of use from agricultural land to garden), which was approved in 2004.

3. Policy Framework

The Parish Council has had regard to the following national and local planning policies, statutory duties and guidance in formulating this response:

- **The National Planning Policy Framework published on 17 August 2026**, which replaced the December 2024 Framework in its entirety and applies to decisions with immediate effect. The Framework is now structured by policy code and separates plan-making policies from national decision-making policies. The decision-making policies principally engaged are Policies S3 to S5 (the presumption in favour of sustainable development, and the circumstances in which development outside settlements may be acceptable in principle), Chapter 13 and in particular Policy GB7 (Green Belt, including the redevelopment of previously developed land), Policy DM4 (weight to be given to emerging plans, and prematurity), Policy HO7 (substantial weight to the benefits of homes meeting evidenced needs), Policies TR1 to TR6 (the vision-led approach to transport and the transport principles), and the design, natural environment and historic environment policies of the Framework.
- **Policy S5(5) of the Framework in particular**, which provides that Policy S5 does not apply to development proposals in the Green Belt, and that such proposals are instead to be determined in accordance with Policies GB6, GB7 and GB8 as appropriate. Only where development is found not to be inappropriate through the application of Policy GB7 does the positive balance in Policy S5 apply at all.
- **The Framework glossary at Annex B**, in particular the definition of previously developed land, which excludes, among other things, land in built-up areas such as residential gardens, parks, recreation grounds and allotments.
- The Tonbridge and Malling Core Strategy (September 2007), particularly Policies CP1 (sustainable development), CP2 (sustainable transport), CP3 (Metropolitan Green Belt), CP6 (rural service centres), CP14 (housing) and CP24 (achieving a high quality environment).
- The Tonbridge and Malling Managing Development and the Environment Development Plan Document (April 2010), particularly Policies SQ1 (landscape and townscape protection and enhancement), SQ5 (water supply and sewerage infrastructure), SQ7 (healthy living), SQ8 (parking and highway impact), NE3 (biodiversity) and NE4 (trees and woodland).

- **The Character Area Appraisals Supplementary Planning Document, Volume 1 (Tonbridge, Hildenborough and Hadlow), adopted February 2011**, which supplements Policy SQ1 of the Managing Development and the Environment Development Plan Document and provides detailed guidance on the character of Hildenborough. The Parish Council can find no reference to this document anywhere in the submission.
- **The emerging Tonbridge and Malling Local Plan 2024–2042.** A second Regulation 18 consultation ran from 10 November 2025 to 2 January 2026, to which this Parish Council submitted detailed representations supported by a resident survey. The Regulation 19 Plan is before Full Council on 3 September 2026, two days after the date of this response, and the Council is required to submit the Plan to the Planning Inspectorate by December 2026. The weight to be given to an emerging plan falls to be assessed under Policy DM4(1) of the Framework by reference to its stage of preparation, the extent of unresolved objections and the degree of consistency with the Framework. The Parish Council addresses the position at Section 5.11 below.
- Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special regard to be had to the desirability of preserving the setting of a listed building.
- **The following authorities, which the Parish Council respectfully invites the officer to consider:**
- *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13, on the principle that the interpretation of a planning policy is a question of law for the court, and not a matter to be determined by the decision-maker at large.
- *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017] EWCA Civ 141, on whether a residential garden falls within the definition of previously developed land.
- *R (Lee Valley Regional Park Authority) v Broxbourne Borough Council* [2015] EWHC 185 (Admin), on the extent to which a site containing some previously developed land is previously developed land as a whole.
- *R (Ribble Valley Borough Council) v Secretary of State for Housing, Communities and Local Government and Hussain* [2025] EWHC 2363 (Admin), in which an inspector's grant of permission for a dwelling in the Green Belt was quashed for failure to carry out the *Broxbourne* exercise.
- *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466 and *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3, on the spatial and visual dimensions of openness.
- *East Northamptonshire District Council v Secretary of State for Communities and Local Government (Barnwell Manor)* [2014] EWCA Civ 137 and *R (Forge Field Society) v Sevenoaks District Council* [2014] EWHC 1895 (Admin), on the weight to be given to harm to the setting of a listed building under section 66(1).
- Section 40 of the Natural Environment and Rural Communities Act 2006 (the biodiversity duty), the Environment Act 2021, Schedule 7A of the Town and Country Planning Act 1990 (the biodiversity gain condition), and the Biodiversity Gain (Town and Country Planning) (Amendments and Transitional Provisions) (England) Regulations 2026, which came into force on 6 August 2026.
- The Conservation of Habitats and Species Regulations 2017 (as amended); the Wildlife and Countryside Act 1981 (as amended); the Hedgerows Regulations 1997; and paragraph 99 of ODPM Circular 06/2005.

- Kent County Council Parking Standards (adopted 6 February 2025); the Kent Design Guide (2005); the Design Manual for Roads and Bridges; the Nationally Described Space Standards; BS 5837:2012; and BCT/ILP Guidance Note 08/23.

The Parish Council notes, without advancing it as a reason for refusal in its own right, that the applicant's Planning Statement is addressed exclusively to the December 2024 Framework, and that the Ecological Assessment cites "NPPF 2024". A decision-maker applies the Framework in force at the date of decision whatever the applicant has cited. The practical consequence, however, is that the Council has before it **no assessment of this proposal against the policies it is now required to apply** — in particular Policies S5 and GB7, and the restructured presumption. That consequence is not academic, for the reasons given at Section 5.4.

4. Areas of Support

The Parish Council acknowledges a number of positive aspects of the application:

- The Parish Council does not oppose the principle of new homes in Hildenborough. It recognises that the Borough Council is under considerable pressure to increase housing delivery, that it is presently unable to demonstrate a five year supply of deliverable housing sites, and that Policy HO7 of the Framework requires substantial weight to be given to the benefits of providing homes which meet evidenced needs.
- The decision to design the dwelling as a single-storey building with a low profile, rather than as a two-storey house, is a genuine attempt to limit its presence in the landscape, and the Parish Council recognises it as such.
- The demolition of the existing garage and garden sheds would remove some built form from the Green Belt, and that is a benefit which falls to be weighed.
- The Ecological Assessment is a proportionate and competently executed piece of work. It comprises a Preliminary Ecological Appraisal undertaken on 13 April 2026, two dusk emergence surveys on 26 May and 16 June 2026 of the one building of the four on site assessed as having 'Moderate' bat roost suitability, a ground-level tree assessment of each of the trees proposed for removal, and a great crested newt rapid risk assessment using Natural England's rapid risk assessment tool. No bats were recorded emerging, and bat activity was assessed as 'Low'. The Parish Council has no criticism of its methodology.
- The retention of hedgerows H1, H2 and H3 and of the majority of the vegetated garden habitat is welcomed, as are the precautionary working methods recommended for nesting birds, dormice, reptiles and hedgehogs.
- The ecological enhancements recommended at Section 7 of the Ecological Assessment — integrated bird and bat boxes, a hedgehog box, an invertebrate hotel and a native wildlife-friendly planting scheme — are welcomed as a matter of principle, and the Parish Council asks that they be secured by condition.
- The proposed drive and forecourt are to be 100 per cent permeable, incorporating a sustainable drainage system, and the new hard surfacing within root protection areas is to be constructed on no-dig principles using a cellular confinement system. Both are appropriate responses to the site's constraints.

- Three electric vehicle charging points are proposed, and the parking provision accords with Kent County Council's Parking Standards. The dwelling would exceed the Nationally Described Space Standards.
- The site lies within Flood Zone 1 and the Parish Council raises no objection on fluvial flood risk grounds.
- The Parish Council accepts that the site is not remote. The Planning Statement records at paragraph 2.1.5 that the site lies approximately 200 metres from two bus stops served by a number of routes, and Hildenborough is a Rural Service Centre with a medical centre, primary school, convenience store and public house. The Parish Council does not suggest that this is an isolated location.
- The Parish Council notes and commends the candour of the applicant's acknowledgement, at paragraph 6.10.2 of the Planning Statement, that South East Water has advised it cannot accommodate growth beyond the assumptions in its Water Resources Management Plan 2024, and that water availability is accordingly a material consideration.

5. Material Planning Concerns

Notwithstanding the above, the Parish Council wishes to draw the following concerns to the attention of the Borough Council as the determining authority.

The Parish Council distinguishes between two categories. The matters at Sections 5.1 to 5.6 are, in its view, matters which on the present evidence justify refusal and which the Council would be in a position to defend on appeal. The matters at Sections 5.7 to 5.12 are deficiencies in the evidence base which are capable of being cured by further information, or which are properly dealt with by condition. The Parish Council is conscious that an authority which refuses permission without evidence exposes itself to an award of costs on appeal. Each of the matters in the first category rests on an admission, an omission or a figure within the applicant's own submitted documents. None rests on the Parish Council's assertion alone.

5.1 Green Belt — Whether the Site Is Previously Developed Land

The site lies within the Metropolitan Green Belt, where Policy CP3 of the Core Strategy applies national Green Belt policy. Inappropriate development remains by definition harmful to the Green Belt and should not be approved except in very special circumstances, and substantial weight is to be given to any harm to the Green Belt including harm to its openness. Policy GB7 of the Framework identifies the categories of development which are not inappropriate, including the redevelopment of previously developed land where it would not cause substantial harm to openness.

The applicant relies solely on that limb. **No case of very special circumstances is advanced in the alternative, and no case is expressly advanced that the land is grey belt** — although the Planning Statement does assert, at paragraph 2.2.1, that the site “contributes relatively little to the purposes of including land within the Green Belt”. That assertion is unsupported by any assessment against those purposes, and the Parish Council does not accept it. If the previously developed land argument fails, or if substantial harm to openness is found, the application falls to be refused.

At paragraph 6.2.3 of the Planning Statement the applicant quotes the Framework definition of previously developed land. The quotation is accurate as far as it goes, and it correctly includes the sentence added in December 2024 by which the definition extends to land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. The quotation then stops, immediately before the exclusions. The definition continues:

“Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

The Parish Council observes in passing that the hardstanding limb of the definition, on which the tennis court might otherwise be thought to rely, is expressly confined to large areas of fixed surface infrastructure such as large areas of hardstanding. A single domestic tennis court within a private garden is not, in the Parish Council’s submission, a large area of hardstanding of the kind that limb was introduced to capture.

Having omitted those words, the Planning Statement concludes at paragraph 6.2.4 that the site “falls comfortably within the definition of previously developed land”. The Parish Council does not suggest that the omission was deliberate. It submits that it is nevertheless material, because **the words omitted are the words which raise the only difficult question in the case**: whether this land is in a built-up area.

The Parish Council accepts, and states plainly, that the authority on this point is against a simple reading in its favour. In *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017] EWCA Civ 141 the Court of Appeal held that a residential garden which is not in a built-up area is not caught by the exclusion. Lewison LJ reasoned that the words “such as” introduce examples of the general expression preceding them, namely “land in built-up areas”, and that as a matter of ordinary English no other meaning could be given to the sentence. The site in that case, Shirehall Farm, was within the Green Belt and was not in a built-up area, and the inspector’s conclusion that it was previously developed land was upheld.

The Parish Council draws the authority to the officer’s attention because it considers it right to do so, and it does not invite the Council to depart from it. Its point is a different one. *Dartford* establishes that the built-up area question is determinative and must be answered. The interpretation of the definition is a question of law (*Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13); its application to the facts of this site is a matter of planning judgment. That judgment has to be exercised. Here it has not been, because the words which raise the question were omitted from the quotation on which the conclusion rests.

The applicant’s own case cuts both ways. The Planning Statement describes the site as located “within a cluster of existing residential development” (paragraph 6.1.5), as “well contained by existing boundary vegetation and neighbouring residential properties”, and as land which “does not have an open character which is typical of land within the Green Belt” (paragraph 6.2.5). The Design and Access Statement describes the properties along Mill Lane as “typical of later post war ribbon development” (paragraph 4.4). Those descriptions are advanced in support of the openness and sustainability arguments. They tend, however, towards the conclusion that the site is within a built-up area — in which case the garden exclusion is engaged and the land is not previously developed land at all.

The Parish Council’s own position is that the site is not in a built-up area: it is garden land on the edge of the village, outside the settlement confines, adjoining working agricultural fields. But it cannot be both. The Borough Council should reach an express finding on the point, and should note that whichever finding it reaches removes one plank of the applicant’s case.

5.2 Green Belt — Whether the Whole of the Site Is Previously Developed Land

If, contrary to Section 5.1, the Council concludes that the site is not in a built-up area, a second and distinct question arises which the submission does not address at all. It is not whether the site contains previously developed land. It is how much of it is previously developed land, and whether the part on which the dwelling would stand is within that part.

At paragraph 6.2.4 the Planning Statement concludes that the site “falls comfortably within the definition of previously developed land”. That is a bare conclusion about the site as a whole. It contains no analysis of the constituent parts of the site, notwithstanding that the site plainly comprises land of differing characteristics: a garage and sheds near the frontage, a tarmac tennis court at the rear, and open garden land between and around them.

The law does not permit that approach. In *R (Lee Valley Regional Park Authority) v Broxbourne Borough Council* [2015] EWHC 185 (Admin), Ouseley J held that while the flexibility in the Framework for previously developed land may not require every part of an application site to have been previously developed, **“the presence of some previously developed land within an application site does not make the whole site previously developed land either”**. He added that the Framework itself draws a limit on whether a site is previously developed land by reference to the curtilage of the buildings.

That principle was applied, and a decision quashed on it, less than a year ago. In *R (Ribble Valley Borough Council) v Secretary of State for Housing, Communities and Local Government and Hussain* [2025] EWHC 2363 (Admin), an inspector had allowed an appeal for a new dwelling in the Green Belt on the footing that the site was previously developed land. Karen Ridge, sitting as a Deputy High Court Judge, quashed the decision. Her reasoning is directly applicable here:

“His bare conclusion that the site was PDL gives no indication that he has taken into account the different elements and parcels of the site and their differing characteristics as against the glossary definition... A more detailed analysis as to the constituent parts of PDL was needed to support a lawful conclusion that the whole site was PDL... The Inspector has not undertaken the Broxbourne exercise which this site requires due to the piecemeal spread of development... These factors called for some analysis as to the relative proportions of PDL. His analysis of the PDL question was therefore flawed.”

The Parish Council submits that this site requires the *Broxbourne* exercise for precisely the reason identified in *Ribble Valley*: there is a piecemeal spread of development across it, with the permanent structures concentrated at one end. The Council should not accept the applicant’s conclusion that the whole site is previously developed land without an analysis of its constituent parts and their relative proportions. If it does, and if permission is granted, that grant would be vulnerable on the same ground on which the *Ribble Valley* decision was quashed.

The exercise matters here because of where the dwelling is to be built. The Framework is explicit that “it should not be assumed that the whole of the curtilage should be developed”. The buildings to be demolished — a single garage and sheds — stand near the Mill Lane frontage, adjacent to the existing access. The new dwelling is to be built at the rear of the plot. The Design and Access Statement records at paragraph 5.3 that the footprint can be positioned “mostly on the footprint of the tennis court with a south-eastern wing extending towards the site boundary”. The Parish Council accepts that the greater part of the building would stand on the tennis court. It notes, however, that the wing which extends beyond it would stand on open garden land, towards the boundary with the agricultural fields, and that no part of the applicant’s case addresses the status of that land. **The scheme does not redevelop the developed part of the site. It clears the developed part to form a driveway, and places a permanent dwelling deeper into**

the countryside. That is encroachment, and it engages directly the Green Belt purpose of assisting in safeguarding the countryside from encroachment.

The Parish Council invites the Council to ask a specific question of the applicant: on which parts of the red line does the applicant contend that a permanent structure or fixed surface infrastructure exists or existed, and what proportion of the red line do those parts represent? That question has not been asked and has not been answered.

5.3 Green Belt — Harm to Openness Has Not Been Assessed

The planning history is relevant here and has not, in the Parish Council's view, been given the weight it deserves. Application 02/00005/FL sought the change of use of agricultural land to residential land and was withdrawn. Application 04/01999/FL achieved the change of use of agricultural land to garden in 2004. The Borough Council should establish precisely how much of the current red line was agricultural land until 2004, and whether the tennis court and the footprint of the proposed dwelling stand upon it. Land which was open farmland two decades ago, brought into garden use by a change of use permission, should not now be used to bootstrap a permanent dwelling in the Green Belt. If that argument succeeds here it is available to every large garden along Mill Lane and throughout the parish.

As to openness itself, the Parish Council draws attention to *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466. That case is a close analogue of this one: it concerned previously developed land in the Green Belt, and a proposal to replace a mobile home and storage yard with a residential bungalow. The inspector refused permission, and the Court of Appeal upheld him. At paragraphs 14 to 16 Sales LJ held that the concept of openness **"is not narrowly limited to the volumetric approach"**, that the word is open-textured, and that prominent among the relevant factors will be "factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs", together with factors relevant to visual impact.

That is the question this application does not answer. How built up is this parcel now, and how built up would it be if the proposal were carried out? The applicant's case proceeds instead by asserting that a hard surface already exists, which is the volumetric approach *Turner* rejects, and by relying on containment.

In *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire County Council* [2020] UKSC 3 the Supreme Court confirmed that the matters relevant to openness in any particular case are a matter of planning judgment rather than of law, and that visual impact may be a relevant consideration although it is not in every case legally required to be taken into account. The Parish Council does not overstate the case: it does not contend that the Council is obliged as a matter of law to assess visual impact. It contends that openness is concerned with the absence of built development rather than with whether that development can be seen, and that the applicant's repeated reliance on containment by boundary vegetation and on "very restricted views towards the Green Belt" (Design and Access Statement, paragraphs 3.3 and 3.4) conflates the two. **Screening does not make a building open.**

On the spatial dimension, the comparison is stark. What exists is a flat, unroofed tarmac tennis court, a single garage and two sheds. What is proposed is:

- a permanent four-bedroom dwelling, occupying a footprint mostly but not wholly coincident with the tennis court;
- a new 3.5 metre wide private drive running the depth of the plot;
- three parking bays of 5 metres by 2.5 metres and three electric vehicle charging points;

- a bin store enclosed by 1.8 metre high hit-and-miss fencing, and a separate bin collection point at the Mill Lane frontage;
- a new five-bar gated entrance;
- new 1.8 metre hawthorn hedging along the full extent of a newly created plot boundary; and
- a new domestic garden, with the permanent residential paraphernalia that accompanies it, across the remainder of the parcel.

The applicant asserts at paragraph 6.2.6 that the dwelling “will be sited on a similar footprint to the existing tennis court, limiting the introduction of new built form on undeveloped land in the Green Belt”. Similarity of footprint is not, however, the test, and it does not address volume. A tennis court is an unroofed surface. A dwelling is a building, and it brings with it a permanent residential use and the domestic paraphernalia that accompanies it. **No comparative schedule of existing and proposed footprint, volume or hardstanding has been submitted anywhere in the application.** In its absence, the conclusion at paragraph 6.2.7 that “there would be no substantial impact on the openness of the Green Belt compared with the existing situation” is **an assertion, not an assessment**. The Parish Council asks that such a schedule be required before determination, and submits that when it is produced it will show a very substantial net increase in built volume on this parcel. The Council cannot apply the substantial weight which the Framework requires to be given to Green Belt harm unless that harm has first been quantified.

The Parish Council adds a point which the submission does not address at all. The proposal subdivides a single open garden, creating a separately gated and hedged residential plot where none existed and a new permanent boundary through the middle of it. That change is itself spatially and visually harmful in Green Belt terms, and it is nowhere assessed.

5.4 The Presumption Relied Upon by the Applicant Does Not Operate in the Green Belt

Section 7 of the Planning Statement sets out the applicant’s planning balance. It rests on the proposition that, because the Borough Council can demonstrate only 2.89 years of housing land supply, the “tilted balance” at paragraph 11(d) of the December 2024 Framework is engaged, such that permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits.

That structure no longer exists. The August 2026 Framework replaces it with Policies S3 to S5. Policy S5 governs the principle of development outside settlements, and Policy S5(1)(j) is the route by which an evidenced unmet need — including, expressly, an inability to demonstrate a five year housing land supply — may support development in such locations.

Policy S5(5), however, provides that Policy S5 **does not apply to development proposals in the Green Belt**. Such proposals are to be determined under Policies GB6, GB7 and GB8. Only where a proposal is found not to be inappropriate through the application of Policy GB7 does the positive balance apply, and even then the test is whether the benefits are substantially outweighed by adverse effects.

The consequence is straightforward and, the Parish Council submits, decisive. **In the Green Belt, the housing land supply position is not a gateway.** It does not disapply Green Belt policy, and it cannot convert inappropriate development into appropriate development. The gateway is Policy GB7, and Policy GB7 alone. If the proposal is inappropriate development, the shortfall in supply falls to be weighed as a benefit in the very special circumstances balance — a balance the applicant has not attempted, because the applicant has not advanced a very special circumstances case.

The Parish Council does not say that the housing land supply position is irrelevant. It says that the applicant has built its planning balance on a policy mechanism which was withdrawn eight days before the date of this response, and that the Council has before it no assessment of the proposal against the mechanism which replaced it.

5.5 Loss of Trees Not Required by the Development

Policy NE4 of the Managing Development and the Environment Development Plan Document requires the extent of tree cover to be maintained and enhanced. The Arboricultural Impact Assessment concludes at paragraph 7.3 that a total of ten individual trees and part of one group will be removed. The Parish Council has examined the reasons given for each removal, which are set out at paragraph 5.2.2 of that assessment:

- T26 and T27 (sycamore) — to enable the construction of a dwelling.
- T24, T28, T29, T30, T31, T32, T34 and T35 — to allow space for a garden.

Eight of the ten trees are therefore to be felled for no reason connected with the building at all. **They are to be removed to create lawn.** That is not a necessary consequence of the development, it is not required in order to deliver the housing benefit relied upon, and it is directly contrary to Policy NE4. The Parish Council asks that these eight trees be retained and the layout amended accordingly.

Five of the eight are coppiced hazel (T28 to T32). Their removal has required the applicant's ecologist to devise a precautionary dormouse working methodology, set out at paragraph 6.4.19 of the Ecological Assessment, involving hand-cutting worked directionally from east to west, a Toolbox Talk, and a fingertip search of the coppice stools under the supervision of an Ecological Clerk of Works. That is an entirely avoidable ecological risk, taken in order to enlarge a garden.

The Parish Council anticipates the response that these are low-category trees. The Planning Statement characterises them at paragraph 6.6.2 as category C trees "which are small and have limited amenity value". That addresses individual specimen quality. It does not address their collective contribution to the wooded character of Mill Lane, to the setting of the Green Belt, or to habitat connectivity, which is what Policy NE4 and the natural environment policies of the Framework are concerned with. The Parish Council also notes that a category C classification is a statement about a tree's condition and life expectancy; it is not a licence to fell.

There is a further and more serious difficulty, and it goes wider than the site plan. The Proposed Site Plan (drawing 2537-03, dated 21 July 2026) annotates only "3 No. trees shown thus removed, 1 No. Hazel, and 2 small fruit". The Design and Access Statement states at paragraph 5.7 that there will be "very little disturbance to the existing foliage with only 3 poor quality trees requiring their removal". The Planning Statement states at paragraph 3.2.3 that "3 poor-quality trees will be removed" — and then, at paragraph 6.6.2 of the same document, that the development "will result in the removal of 10 individual trees and 1 tree group". The Planning Statement therefore contradicts itself, and the site plan and the Design and Access Statement both understate the loss by seven trees.

Consultees, neighbouring residents and this Parish Council have accordingly been consulted on a site plan, and on a design statement, which materially understate the tree loss. The Parish Council requests a corrected plan and re-advertisement of the application.

5.6 Character, Design and Appearance

Policies CP24 of the Core Strategy and SQ1 of the Managing Development and the Environment Development Plan Document require development to be designed to a high quality and to respond to the

distinctive local character of the area. Policy SQ1 is supplemented by the Character Area Appraisals Supplementary Planning Document, Volume 1 (Tonbridge, Hildenborough and Hadlow), adopted in February 2011. The Parish Council can find no reference to that document anywhere in the submission, and asks that the proposal be assessed against it.

The Parish Council approaches this issue with some care, because the applicant's design analysis is in several respects a good one. The Design and Access Statement identifies at paragraph 4.7 the materials prevailing among the houses in the immediate vicinity, and at paragraph 4.8 the materials of the agricultural buildings further along Mill Lane, which it describes as having lower elongated bulk and massing using Kentish ragstone with elements of black stained horizontal boarding, brick features around openings and quoins, and slate or local tiled roofs. It then explains at paragraphs 4.5, 4.6 and 4.9 why it takes the agricultural buildings rather than the neighbouring houses as its reference point.

The Parish Council does not object to that reasoning in principle, and it accepts that the material palette on the Materials Schedule (drawing 2537-10) substantially follows it: square split faced Kentish ragstone slips, black composite horizontal boarding and tight grained natural oak vertical boarding are all recognisably drawn from the vernacular the Statement identifies. A low, long form in ragstone and timber can sit well in a Wealden landscape, and the Parish Council says so plainly.

Its concerns are narrower, and are three.

- The roof. The Design and Access Statement identifies the agricultural precedent as having "slate or local tiled roofs". The proposal is for a grey metal standing seam roof. That is the single most visible element of a single-storey building seen across open fields, and it is the one element of the palette which departs from the precedent the applicant has itself selected. No explanation for the departure is offered.
- The white uPVC fascias and soffits. These are difficult to reconcile with a scheme whose justification rests on sensitivity to a rural setting, and they appear nowhere in either of the material analyses at paragraphs 4.7 and 4.8.
- The absence of any assessment against the adopted Character Area Appraisal. The applicant has assessed the proposal against reference points of its own selection. Policy SQ1 requires it to be assessed against the character of the area as the Borough Council has itself defined it.

The Parish Council notes that a number of residents have described the proposal as suburban and out of keeping with Mill Lane. It records that view, which it shares in relation to the roof and the parking court, but it does not adopt the wider criticism of the material palette, which in its judgement is defensible.

5.7 Biodiversity Net Gain — the Claimed Exemption Has Not Been Demonstrated

The application form and paragraph 6.5.7 of the Planning Statement claim exemption from mandatory Biodiversity Net Gain on the basis that the red line boundary is less than 0.2 hectares, relying on the exemption introduced by the Biodiversity Gain (Town and Country Planning) (Amendments and Transitional Provisions) (England) Regulations 2026, which came into force on 6 August 2026. The Parish Council does not dispute that the exemption exists or that it may in principle be available. It raises two matters.

First, the exemption is subject to an express qualification: **it does not apply where the development would negatively affect an on-site priority habitat**. Paragraph 6.3.1 of the Ecological Assessment identifies two native hedgerows within the site, H1 and H2, which meet the criteria for the Habitat of Principal Importance "Hedgerow" listed under section 41 of the Natural Environment and Rural Communities Act

2006. The application form itself answers “Yes” to the question whether priority habitats are present on or within 500 metres of the site.

The applicant’s position is that the hedgerows are retained. The Parish Council asks the Council to test that rather than accept it, because the Proposed Site Plan annotates a “red broken line” denoting “the edge of extg. mixed shrubs and planting to be cut back”; because new hardstanding is to be constructed within root protection areas, the Planning Statement recording at paragraph 6.6.3 that a cellular confinement system will be used for that reason; and because the Ecological Assessment itself considers a suite of protective measures necessary to prevent root compaction, collision damage and sediment ingress, which implies a real risk of adverse effect if they are not secured. If any priority hedgerow is negatively affected, the exemption is not available, mandatory Biodiversity Net Gain applies, and no Biodiversity Gain Statement has been submitted.

Secondly, and because the exemption turns entirely on the red line area, the Parish Council asks the Council to verify that area by measurement from the submitted plans rather than accept the figure stated on the form. The figure relied upon sits only 0.04 hectares below the threshold, and the submission gives four different site areas, as set out at Section 2 above. The Council should satisfy itself in particular that the red line encloses all land required to carry out the development, including the full length of the new access drive from Mill Lane, the parking bays, the bin store and the bin collection point at the frontage, all of which are shown on drawing 2537-03. If the correctly drawn red line exceeds 0.2 hectares, the exemption falls away.

The Parish Council makes no allegation whatever as to how the red line came to be drawn. It observes only that where a statutory exemption turns on a single measurement, and that measurement is stated four different ways across the submission, the determining authority should satisfy itself of the correct figure before relying on it.

5.8 Highway Safety and the Adequacy of the Access

Policy SQ8 provides that development will only be permitted where it would not significantly harm highway safety and where the traffic generated can adequately be served by the highway network. The Framework provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe.

The Parish Council is conscious that, for a single dwelling, **a severe residual cumulative impact on the network is unlikely to be demonstrable, and it does not press that limb**. Its concern is with the first limb, which is a separate and lower threshold, and which is directed at safety rather than capacity.

A number of residents have drawn attention to the recorded collision history on Mill Lane and at its junction with the B245, and to the difficulty of walking, cycling and riding on the lane. The Parish Council endorses those concerns and adopts them. Mill Lane is a rural lane with no continuous footway. The applicant’s own Design and Access Statement describes it at paragraph 2.6 as “flanked by high hedges, and mature trees”, with houses “generally set back from the road frontage with concealed access points”, and at paragraph 2.9 records that properties are set behind high hedges with mature trees prevalent on boundaries.

Against that background the Parish Council notes the following:

- The Planning Statement asserts at paragraph 6.7.3 that the existing access has “sufficient visibility splays east and west”. No visibility splay is shown on any submitted drawing, no measured speed

survey has been provided to establish the appropriate splay dimensions, and no plan has been provided demonstrating that the splays fall within land in the applicant's control or that of the highway authority.

- The proposal intensifies the use of a single existing access, adding three further parking spaces and a second household to it.
- The sustainability case rests in part on walking and cycling to the village and to Hildenborough station, yet no assessment has been provided of whether a safe pedestrian route exists along Mill Lane, and the Framework now requires a vision-led approach under Policy TR1 rather than an assertion of proximity.

The Parish Council asks that the application not be determined until Kent County Council as local highway authority has been consulted and has confirmed that visibility at the access can be achieved and maintained to current standards, having regard to recorded vehicle speeds on Mill Lane; and that, if any hedgerow cutting back is required in order to achieve those splays, it be shown on the plans and assessed for its ecological and Green Belt effect.

5.9 The Setting of the Listed Building

Grade II listed windmill remains stand within the grounds of Old Mill House. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council, in considering whether to grant permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving that setting. The Framework requires great weight to be given to the conservation of a designated heritage asset.

That duty is not discharged by treating the setting of a listed building as one material consideration among others. In *East Northamptonshire District Council v Secretary of State for Communities and Local Government (Barnwell Manor)* [2014] EWCA Civ 137 the Court of Appeal held that a decision-maker must give considerable importance and weight to harm to the setting of a listed building. In *R (Forge Field Society) v Sevenoaks District Council* [2014] EWHC 1895 (Admin) — a case concerning Penshurst, a few miles from this site — Lindblom J (as he then was) put it in these terms at paragraphs 48 to 49:

“...sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell it has now been firmly dispelled... When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.”

In that case the permission was quashed because the officer's report had treated acknowledged harm as a limited objection to be balanced against benefits, without reflecting the strong statutory presumption against harmful development. The Parish Council raises the point not because it contends that harm to the windmill's setting is necessarily substantial, but because the duty is engaged whenever setting is affected, and the Council can only discharge it if it has first been told what the significance of the asset is and what the setting contributes to it.

The applicant's treatment of this issue occupies four short paragraphs, 6.8.1 to 6.8.4, and consists of a Google Earth image together with the proposition, at paragraph 6.8.2, that the windmill remains are “already viewed and experienced within the context of existing modern residential properties”, and the

conclusion at paragraph 6.8.3 that the dwelling would remain “subservient within the surrounding landscape”. In the planning balance the case is put differently again, paragraph 7.1.7 asserting that the remains are “sited within a heavily wooded area, providing natural screening”.

That is not a heritage assessment. It does not identify the significance of the asset, it does not identify the contribution which setting makes to that significance, and it does not assess the effect of the proposal upon that contribution. It is also, once again, an argument from screening rather than from setting. The Parish Council asks that the Council’s conservation adviser be consulted and that, if that adviser considers it necessary, a proportionate heritage statement be required before determination.

5.10 Water Supply, Drainage and Residential Amenity

On water supply, the Parish Council endorses the applicant’s own acknowledgement at paragraph 6.10.2 that the water undertaker has advised, in response to the Regulation 18 Local Plan consultation, that it cannot accommodate growth beyond that assumed in its Water Resources Management Plan 2024, being 6,318 new houses to 2042, and that adequate water availability is accordingly a material planning consideration. It accepts that a single dwelling will not of itself exhaust that capacity, and it does not object on this ground. It asks that the tighter optional Building Regulations water efficiency standard of 110 litres per person per day be secured by condition, this being an area of serious water stress.

On drainage, the proposed permeable drive and forecourt are welcomed. The Parish Council asks that the drainage details, including infiltration testing, be secured by condition, and that surface water arising from the increased roof area be demonstrated not to discharge towards the agricultural land to the south and east.

On residential amenity, residents have raised concerns about overlooking of neighbouring properties and of private agricultural land. The Parish Council asks that window positions and finished floor levels be checked against the sections and contextual elevations, having regard to the fall across the site recorded on the Existing Site Plan, and that obscure glazing be required to any flank window where necessary.

5.11 The Emerging Local Plan and the Plan-Led Approach

The Framework opens, at paragraph 2 of its Introduction, with the statement that the planning system “should be genuinely plan-led”. Tonbridge and Malling is at an advanced stage of plan preparation. The Regulation 19 Local Plan is before Full Council on 3 September 2026, and the Plan must be submitted for examination by December 2026.

The Parish Council is careful about the weight it invites the Council to give this. At the date of this response the Regulation 19 Plan has not been approved and has not been published for consultation. It is a committee paper awaiting a member decision. Its weight under Policy DM4(1) is accordingly limited today, and the Parish Council does not suggest otherwise. That position will change, and may change materially, within days of this response being submitted. If Members resolve on 3 September to publish the Plan, the Borough Council will be determining this application against a published, near-final development plan in a borough required to submit for examination within three months.

The Parish Council also recognises that Policy DM4(2) sets a high threshold for refusal on grounds of prematurity, that the threshold requires the Plan to have reached at least submission stage, and that a single dwelling is unlikely on its own to meet it. It does not ask that the application be refused on that basis, and it would not invite the Council to take a position it could not defend on appeal.

Its submission is narrower, and does not depend on the Plan's weight at all. Decisions about where Green Belt boundaries around Hildenborough should be altered are properly taken through the plan process, where the Council's Green Belt assessment, its transport and infrastructure evidence and the views of the community are brought together and tested by an independent Inspector. This parcel of garden land off Mill Lane was not identified for release at Regulation 18. The Parish Council asks the Council to have regard to the emerging Plan's treatment of Green Belt land in this location, and to be alert to the cumulative effect of granting permission on garden land in the Green Belt in the weeks immediately before a Plan is published and submitted for examination.

The Parish Council would be glad to assist the case officer by identifying the relevant Regulation 19 policies and the Hildenborough policies map position once the Plan is published, and asks to be given the opportunity to make a short supplementary representation on that point should the application remain undetermined at that date.

5.12 Inconsistencies in the Submitted Information

Individually some of the following are minor. Cumulatively they mean that the Council does not have before it a coherent and internally consistent description of what is proposed, and the Parish Council requests that they be reconciled and the application re-consulted upon before determination:

- Site area: the application form states 0.16 hectares; the Design and Access Statement, at paragraph 1.3, states 0.166 hectares; the Ecological Assessment, at paragraphs 2.2 and 3.3.1, states approximately 0.42 hectares; and the Arboricultural Impact Assessment, at paragraph 2.3.1, states approximately 0.65 hectares.
- Tree removal: the Proposed Site Plan (drawing 2537-03) annotates three trees for removal; the Design and Access Statement states three at paragraph 5.7; the Planning Statement states three at paragraph 3.2.3 and ten individual trees and one tree group at paragraph 6.6.2; the Arboricultural Impact Assessment states ten individual trees and part of one group at paragraph 7.3; and the Ecological Assessment states ten trees at paragraph 2.7.
- Location of the site: the Design and Access Statement states at paragraph 2.1 that the site is on the southern side of Mill Lane; the Planning Statement states at paragraph 2.1.1 that Aysgarth is located to the east of Mill Lane.
- Roof form: the Design and Access Statement describes at paragraphs 5.10 and 5.15 a mono-pitched standing seam roof with gable ends; the Planning Statement describes at paragraph 3.2.1 a flat roof with sloping elements, and at paragraph 6.3.4 states that the majority of the roof is flat.
- The building to be demolished: the Proposed Site Plan annotates an existing "large single garage and adjoining shed"; the Design and Access Statement refers at paragraph 5.4 to the "current double garage"; and the planning history at Table 2 of the Planning Statement records permission 82/10982/FUL for the erection of a double garage.
- Green Belt policy reference: the Planning Statement cites the previously developed land exception as paragraph 154(g) at paragraph 6.2.2, and as paragraph 154(h) at paragraph 4.4.15.
- The Arboricultural Impact Assessment: the project overview page at section 1 of that report records the client as Hollaway Studio, the site address as Bossenden Farm, Dunkirk, Kent ME13 9LL, a survey date of 6 February 2025, a site area of 0.95 hectares and a site plan prepared by Hollaway. Those particulars relate to an entirely different site. The tree survey schedule bound into the same report is correctly headed Aysgarth, Mill Lane, Hildenborough and dated 20 April 2026. The report

also carries the job reference J25-000090 on its running heads while the associated Ecological Assessment carries J26-000090. The Parish Council raises this without any criticism of the surveyor's fieldwork, which appears to have been properly carried out, but a report which identifies the wrong site on its face should be corrected before it is relied upon.

- The swimming pool: two neighbour representations state that the proposal would remove an existing swimming pool, and a swimming pool is shown on both the Existing and Proposed Site Plans and photographed at Photo 11 of the Ecological Assessment. The description of development refers only to the garage, sheds and tennis court. The Parish Council asks the Council to confirm whether the swimming pool lies within the red line, since that bears both on the site area and on the analysis at Sections 5.1 and 5.2.
- Survey areas: the Ecological Assessment and the Arboricultural Impact Assessment were each carried out over an area materially larger than the application site, and the Council should satisfy itself that their conclusions are transferable to the red line as drawn.

The Parish Council accepts that survey areas may properly be drawn more widely than an application site, and it makes no criticism of the consultants on that account. Its point is that where four different figures appear for the same site, and where one of them determines the availability of a statutory exemption, the Council should establish which is correct.

6. Summary and Recommendation

In summary, Hildenborough Parish Council does not oppose the principle of new homes in Hildenborough, recognises the Borough Council's housing land supply position and the substantial weight which Policy HO7 of the Framework attaches to the delivery of homes, and acknowledges that a number of aspects of this scheme, set out at Section 4, are positive. It has been careful to identify those aspects fairly.

However, the Parish Council **OBJECTS** to this application and requests that it be **REFUSED**. The Parish Council considers that the following grounds, each supported by an admission, an omission or a figure within the applicant's own submitted documents, would justify refusal and would be capable of being defended on appeal:

- The proposal constitutes inappropriate development in the Metropolitan Green Belt. It has not been demonstrated that the land relied upon falls within the definition of previously developed land at Annex B to the Framework, the applicant having omitted from its quotation of that definition the exclusion of land in built-up areas such as residential gardens, and having advanced elsewhere in its own submission a case that the site lies within a cluster of existing residential development. No case of very special circumstances and no case that the land is grey belt has been advanced in the alternative. The proposal is contrary to Chapter 13 of the National Planning Policy Framework 2026, including Policy GB7, and to Policy CP3 of the Tonbridge and Malling Core Strategy 2007.
- In the alternative, it has not been demonstrated that the whole of the application site is previously developed land, nor that the land on which the dwelling would be constructed forms part of any previously developed land within it. The site comprises a piecemeal spread of development, with the permanent structures concentrated near the Mill Lane frontage and the proposed dwelling located at the rear of the plot adjoining open agricultural land. No analysis has been provided of the constituent parts of the site or of the relative proportions of previously developed land within it, as required by *R (Lee Valley Regional Park Authority) v Broxbourne Borough Council* [2015] EWHC 185 (Admin) and *R (Ribble Valley Borough Council) v Secretary of State for Housing, Communities*

and Local Government and Hussain [2025] EWHC 2363 (Admin). The proposal is contrary to Chapter 13 of the Framework, including Policy GB7, and to Policy CP3 of the Core Strategy.

- In the further alternative, the proposal would cause substantial harm to the openness of the Metropolitan Green Belt. It would site a permanent four-bedroom dwelling, together with a new access drive, parking court, bin store, gated entrance, new plot boundary and domestic garden, at the rear of the plot adjoining open agricultural fields, in place of an unroofed tennis court and ancillary garden buildings situated elsewhere on the site. No comparative schedule of existing and proposed footprint, volume or hardstanding has been provided, and the Council is therefore unable to assess the degree of harm or to apply the substantial weight required to be given to it. The proposal would also result in encroachment into the countryside contrary to the purposes of including land within the Green Belt. The proposal is contrary to Chapter 13 of the Framework, including Policy GB7, and to Policy CP3 of the Core Strategy.
- The proposal would result in the loss of ten trees and one tree group, of which eight trees are to be removed, on the applicant's own arboricultural evidence, for the purpose of creating garden space and not in order to enable the construction of the dwelling. That loss is not necessary to deliver the development or the housing benefit relied upon, and would harm the wooded character of Mill Lane and the setting of the Green Belt. The proposal is contrary to Policy NE4 of the Managing Development and the Environment Development Plan Document 2010 and to the natural environment policies of the Framework.
- The proposal has not been assessed against the Character Area Appraisals Supplementary Planning Document, Volume 1 (2011), which supplements Policy SQ1, and the grey metal standing seam roof departs without explanation from the slate or local tiled roofs which the applicant's own Design and Access Statement identifies at paragraph 4.8 as characteristic of the agricultural buildings it has adopted as its design precedent. The proposal is contrary to Policies CP24 of the Core Strategy and SQ1 of the Managing Development and the Environment Development Plan Document, and to the design policies of the Framework.
- The application is not supported by sufficient information to enable the Council to determine whether the development is exempt from the biodiversity gain condition under Schedule 7A of the Town and Country Planning Act 1990. The claimed exemption depends upon a red line area which is stated four different ways across the submission, and upon there being no negative effect on an on-site priority habitat, notwithstanding that two hedgerows within the site are identified as Habitats of Principal Importance. No Biodiversity Gain Statement has been submitted.

If, contrary to the above, the Council is minded to approve the application, the Parish Council requests that it not be determined until the following have been provided and consultees re-consulted upon them:

- An addendum to the Planning Statement assessing the proposal against the National Planning Policy Framework published on 17 August 2026, and in particular against Policies S5 and GB7.
- An express assessment of whether the application site lies within a built-up area for the purposes of the definition of previously developed land at Annex B to the Framework, together with confirmation of the extent of land within the red line which was in agricultural use prior to application 04/01999/FL.
- A plan and written analysis identifying which parts of the red line the applicant contends comprise a permanent structure, the curtilage of the developed land, or fixed surface infrastructure, and the relative proportions of the site which those parts represent, so that the Council may carry out the

exercise required by *Broxbourne* and *Ribble Valley* before reaching any conclusion that the site is previously developed land.

- A comparative schedule of existing and proposed footprint, volume and hardstanding, so that the effect of the proposal on the openness of the Green Belt may be assessed and weighted.
- A corrected Proposed Site Plan accurately showing all trees to be removed, and re-advertisement of the application on the corrected plan.
- An amended layout retaining the eight trees identified for removal to allow space for a garden, or a reasoned justification for their loss assessed against Policy NE4.
- Verification by measurement of the red line site area, and confirmation that it encloses all land required to carry out the development; and, if the area exceeds 0.2 hectares or any priority hedgerow would be negatively affected, a Biodiversity Gain Statement and metric.
- The substantive response of Kent County Council as Highway Authority, together with a plan showing visibility splays at the Mill Lane access, evidence of recorded vehicle speeds, and confirmation that the splay land is within the control of the applicant or the highway authority.
- The advice of the Council's conservation adviser on the setting of the Grade II listed windmill remains, and a proportionate heritage statement if that adviser considers one necessary.
- An assessment of the proposal against the Character Area Appraisals Supplementary Planning Document, Volume 1.
- Reconciliation of the inconsistencies listed at Section 5.12.

Should permission nevertheless be granted, the Parish Council requests that the following conditions be imposed:

- A condition removing permitted development rights under Classes A to E of Part 1 and Class A of Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. The Parish Council attaches particular importance to this condition. The case for the scheme rests entirely on the dwelling being modest, single-storey and low in profile; incremental extension, outbuildings, hardstanding and boundary treatment would erode the very basis on which permission would have been granted, and would do so without any further assessment of Green Belt harm.
- A condition preventing any further subdivision or extension of the residential curtilage beyond the area shown on the approved plans.
- A condition requiring the retention of all trees other than those for which removal is expressly approved, and requiring tree protection in accordance with an approved Arboricultural Method Statement, including the no-dig cellular confinement construction of the drive and the top-down demolition methodology described in the Arboricultural Impact Assessment.
- A pre-commencement condition requiring full implementation of the mitigation, precautionary working methods and enhancement measures set out in the Ecological Assessment, including the sensitive hand-clearance methodology for dormice and reptiles under the supervision of an Ecological Clerk of Works, and an updating badger survey if more than twelve months elapse before commencement.
- A condition requiring the ecological enhancements recommended at Section 7 of the Ecological Assessment — integrated bird and bat boxes, a tree-mounted bird box and bat box, a hedgehog

box, an invertebrate hotel and a native wildlife-friendly planting scheme — to be installed prior to first occupation and thereafter retained.

- A condition requiring any external lighting to accord with an approved scheme designed in accordance with BCT/ILP Guidance Note 08/23, incorporating part-night or dimmed operation, and permitting no external lighting other than as approved, several bat species, including soprano and common pipistrelle, serotine, noctule and brown long-eared bat, having been recorded commuting and foraging across the site.
- A condition requiring the retention and protection of hedgerows H1, H2 and H3, together with a hard and soft landscaping scheme including species, sizes, planting standards and a five-year maintenance and replacement programme.
- A condition requiring samples of all external materials to be approved in writing before the relevant works commence.
- A condition requiring water efficiency at 110 litres per person per day.
- A pre-commencement condition requiring a surface water drainage scheme, including infiltration testing and maintenance arrangements, demonstrating no increase in discharge towards adjoining agricultural land.
- A pre-commencement condition requiring a Construction Management Plan addressing hours of work, wheel washing, contractor parking and delivery routing, having regard to the width and character of Mill Lane and the absence of a footway.
- A condition requiring the parking, turning and electric vehicle charging provision shown on the approved plans to be provided prior to first occupation and thereafter retained.
- A condition requiring obscure glazing to any window identified as giving rise to overlooking of a neighbouring property or of adjoining private land.
- A condition requiring the development to be carried out in accordance with the approved plans, which should be listed in full on the decision notice.

The Parish Council requests that, if the Council is minded to approve the application, it be referred to the Planning Committee for determination rather than dealt with under delegated authority, having regard to the volume of public objection, to the Green Belt issues raised and to the changes in national planning policy which have occurred since the application was submitted. The Parish Council asks to be notified of the officer's recommendation and of the date of any committee meeting, and requests the opportunity to address the Committee.

The Parish Council would finally ask the Council to weigh one overarching point. This is an application to build a house on garden land in the Metropolitan Green Belt, on the strength of a tennis court. If the reasoning advanced in support of it is accepted — that a hard surface and some garden buildings render the whole of a large rear garden previously developed land, that containment by boundary vegetation answers the question of openness, and that a shortfall in housing land supply tilts the balance in favour of granting permission — then that reasoning is available to a very large number of properties along Mill Lane and throughout this parish. The Parish Council asks the Council to consider not only the effect of this proposal, but the effect of the principle upon which it rests, at a moment when the Green Belt boundary around Hildenborough is about to be settled through the Local Plan.

The Parish Council reserves the right to make further representations should additional information be submitted in support of this application. The Parish Council would welcome the opportunity to discuss any of the above points with the case officer.

Yours sincerely

Cllr Martyn Wills
Chairman, Planning Committee
For and on behalf of Hildenborough Parish Council
