HILDENBOROUGH PARISH COUNCIL

Pavilion and Recreation Ground – Riding Lane – Hildenborough – TN11 9HY
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MINUTES
PLANNING COMMITTEE
Held on 28th September 2026

PRESENT
CLLRS – Sklavenitis, Wills, Leeson, Batchelor, Gorman and Haugh.
Louise Jenner RFO & Parish Clerk

1. APOLOGIES FOR ABSENCE

2. DISCLOSABLE PECUNIARY AND OTHER INTERESTS

None declared

3. PUBLIC OPEN SESSION

Members of the public may speak under this item as long as notice has been provided to the Clerk.
None present

4. MINUTES OF THE PREVIOUS MEETINGS. – 14th September 2026.

The minutes of the previous meeting where approved and signed.

5. APPLICATIONS

5.1 TM/26/01637/FL - Agricultural barn (12m x 6m) to store equipment and produce. Remove existing containers standing existing slab from previous barn/shed - Merrybrook Estate Land East of Riding Lane Hildenborough. Deadline Date 5th October 2026.

Councillors agreed to the circulated draft response – Annex 1

5.2 26/01701/FL - Conversion of two flats to single dwellinghouse. 13 Byrneside Hildenborough. Deadline Date 7th October 2026.

The Council has considered this application and leaves the decision to the discretion of the Planning Officer.
The Council wishes the Officer to note that the proposal would result in a net loss of one dwelling. It would also remove two smaller properties that are suited to first-time buyers, for which the Council believes there is a greater local need than for larger family housing.

5.3 26/01661/FL - Demolition of existing conservatory; erection of two-storey side extension and single-storey rear extension. 24 Bramble Close Hildenborough. Deadline Date 6th October 2026.

We leave to the discretion of the Planning Officer.

5.4 TM/26/01690/FL Erection of garage with storage over. Lodge Oast Horns Lodge Shipbourne Road. Deadline Date 12th October 2026.

The Council leaves the decision to the discretion of the Planning Officer. If the Officer is minded to approve the application, the Council requests a condition restricting the future use of the building, so that the storage space over the garage cannot later be converted into residential accommodation.

5.5 TM/26/01703/LRD Details of condition 3 (existing wall construction details) pursuant to Listed Building consent reference: TM/26/00415/LB (Listed Building Application: Installation of internal perimeter walling to room with ceiling over) Latters Barn 1A Hill View Road Hildenborough. Deadline Date 12th October 2026.

We leave to the discretion of the Listed Building Officer.

6. Local Plan.

Councillors discussed the Regulation 19 stage of the Tonbridge and Malling Local Plan.
Councillors noted the collaboration with the Hildenborough Preservation Village Association (HPVA) and the forthcoming information evening, which Cllr Matt Boughton of Tonbridge and Malling Borough Council (TMBC) is expected to attend.
Councillors reviewed the wider site proposals that haven't been brought forward at this part of the local plan.
Cllr Batchelor provided an example of the Regulation 19 plan of Basingstoke and Deane Borough Council has been withdrawn.
Councillors reviewed the main grounds on which they believe the Regulation 19 plan to be legally unsound.

7. WWA to discuss if their support is required for any planning applications. – None required.

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.

Cllrs reviewed the draft version and agreed to add the item to the next planning meeting agenda.

9. To consider and approve the commission of a new CAD map of the Hildenborough Conservation Area, and to authorise the associated expenditure under the Planning Committee's delegated authority (Terms of Reference 3a(i))

The Committee considered a proposal to commission a new CAD map drawing of the Conservation Area within Hildenborough.

It was noted that the specialism required was not covered by the Council's approved contractor list. Accordingly, and in line with the Committee's Terms of Reference (paragraph 3a(i), Committee Route) and Financial Regulation 5.22, the Clerk had sought indicative pricing before any commission was agreed. The indicative price obtained was up to £500 (net of VAT) from Joanna James.

The Committee noted that the proposed expenditure (under £500, net of VAT):

- fell within the Planning Committee's delegated authority to commission professional planning advice up to £3,000 (net of VAT) in aggregate per authorisation period (ToR 3a);
- fell within the annual agreed budget Planning / Local Plan budget line.

RESOLVED: That the Planning Committee approve, under its delegated authority (ToR 3a(i), Committee Route), the commission of a new CAD map drawing of the Hildenborough Conservation Area from Joanna James at an indicative cost of £500 (net of VAT), and that the Clerk be authorised to place the commission.

Proposed by Cllr Leeson, All in agreement.

The Committee further noted that, in accordance with ToR 3a, this use of the delegated authority would be reported to the next ordinary meeting of Full Council — recording the advice sought, the adviser instructed, the cost incurred and the rationale — and that the £3,000 aggregate delegated limit would then fall to be re-authorised by Full Council.

Cllr Gorman left the meeting at 8pm due to family commitments.

10. To consider the report by Cllr Leeson on the Planning Committee's approach to responding to planning applications, and to agree what, if any, recommendation to make to Full Council.

Councillors reviewed the report submitted by Cllr Leeson. Cllr Wills summarised the approach the Committee would take with future planning representations. Where possible, the Committee will submit a one-page summary. It will not reproduce policy text but will reference the policies the Committee believes an application fails to comply with, and will provide local knowledge and evidence. If the planning committee believes an application requires a more detailed response, supporting information will be provided as an annex.

11. DATE OF NEXT MEETING –Monday 12th October 2026.

The Chair to move that the press and public to be excluded from the remainder of the meeting.

Meeting End 20.21.

Annex 1

Planning Department
Tonbridge and Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
Kent
ME19 4LZ

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

28 September 2026

RE: Planning Application 26/01637/FL – Agricultural barn (12m x 6m) to store equipment and produce. Remove existing containers standing existing slab from previous barn/shed – Merrybrook Estate, Land East of Riding Lane, Hildenborough, Tonbridge, Kent

Executive Summary

Hildenborough Parish Council **OBJECTS** to this application and requests that it be **REFUSED**.

The site lies within the Metropolitan Green Belt. No submitted document mentions the Green Belt. There is no Green Belt assessment, no consideration of openness, and no reference to Policy GB6, GB7 or CP3 in any of the five documents on the register. The only designation the design and access statement identifies is the High Weald National Landscape, which does not apply to this site.

The Parish Council has confined this response to five grounds which carry substantial weight and which the Council could defend on appeal. Each rests on an admission, an omission or a figure within the applicant's own documents.

- **Ground 1 — Inappropriate development in the Green Belt.** Question 18 declares the whole floorspace as **Class B8, storage or distribution** — a commercial use class, not agriculture. A limitation stated in an application but not imposed by condition does not restrict the permission granted (*I'm Your Man Ltd* (1998) 77 P&CR 251). No limb of Policy GB7 is available, and **no very special circumstances are advanced anywhere**.
- **Ground 2 — No agricultural need evidenced.** The applicant's own statement records that the *intention* is to establish an agricultural operation. Nothing supports 144 sq m over two storeys on a 2.6 hectare holding.
- **Ground 3 — Openness asserted, not assessed.** No schedule of footprint, volume or hardstanding, and no levels or sections. Screening is not openness (*Turner* [2016] EWCA Civ 466).
- **Ground 4 — Encroachment.** The building is proposed on open grassland rather than on the existing slab, without explanation, creating a second developed area on the site.
- **Ground 5 — Protected species.** No ecological survey of any kind, despite a pond within the red line and an amber great crested newt risk zone on this lane.

Requested conditions, should permission nonetheless be granted, are at Section 5.

1. Introduction and the Proposal

The Parish Council responds as the elected body for the area and as a consultee. It has not pressed the lesser points arising on these documents, confining itself to grounds the Council could defend on appeal.

The application was received on 3 September and validated on 8 September 2026. The site is open agricultural land east of Riding Lane, outside the settlement confines, **within the Metropolitan Green Belt**.

The description of development is a "12m x 6m agricultural barn". The drawings show materially more: a four-bay full-height oak frame; a **ridge height of 5,545mm**; a **full first floor**, giving approximately **144 sq m** gross internal over two storeys against a 72 sq m footprint; and an **external staircase** serving a first-floor door. The form states the site area as **2.6 hectares** and declares the floorspace at Question 18 as approximately **130 sq m within Class B8**.

The design and access statement records that on 3 July 2024 the owner met the Borough Council's officer, that on site "are a couple of shipping containers **and a caravan**", and that a barn was advised instead. The description proposes removing the containers but does not mention the caravan.

The supporting evidence comprises a two-page design and access statement, a hand-annotated Ordnance Survey extract at 1:2500, and two manufacturer's product drawings dated 20 June 2022 which carry no drawing number, revision, client or location, and state on their face that they are not construction drawings and should not be scaled. That is the whole of the submission.

2. Areas of Support

- The Parish Council does not oppose agriculture or horticulture here and would welcome a genuine food-producing enterprise. It recognises that Policy E4 supports agricultural diversification, that **Policy E2(1)(b)** requires substantial weight for demonstrated food production benefits, and that **Policy GB7(1)(a) treats agricultural development in the Green Belt as not inappropriate**. **Its objection is not to the idea of a barn on this land.**
- **The removal of shipping containers and a caravan from the Green Belt would be a real benefit**, and the Parish Council says so plainly. The applicant sought pre-application advice and followed the route advised, which the Parish Council commends.
- An oak frame with a plain gabled roof and dark-stained boarding is an appropriate Wealden vernacular, and turning the gable to the road is a genuine attempt to limit the building's presence. The 72 sq m footprint is modest: the concern is the height and the first floor, not the footprint.

3. Grounds of Objection

3.1 Ground 1: Inappropriate development, and no very special circumstances

Policy S5(5) provides that Policy S5 does not apply in the Green Belt, where proposals fall to be determined in accordance with Policies HC8, GB6, GB7 and/or GB8 as appropriate. **Policy GB6** provides that inappropriate development is by definition harmful and should not be approved except in very special circumstances, with **substantial weight** given to any Green Belt harm. The gateway, and the only gateway, is **Policy GB7**.

Question 18 declares the whole of the proposed floorspace — approximately 130 sq m — as **Class B8, storage or distribution**; no other class is ticked. B8 is a commercial use class under the Use Classes Order 1987 and **agriculture is not within it**: a building used for agriculture falls within no use class at all.

This is not a technicality. A limitation appearing in an application but not imposed by condition **does not limit the permission**: *I'm Your Man Ltd v Secretary of State for the Environment* (1998) 77 P&CR 251. Granted as applied for, the Council would permit a 130 sq m commercial storage and distribution building in the Green Belt, usable as such from the day it is built, with no control over goods stored, vehicles attending or hours — Question 20 records hours as "not known".

Route under Policy GB7	Why it is unavailable
GB7(1)(a) agriculture, horticulture and forestry	The declared use is Class B8, not agriculture; and no agricultural need is evidenced (Ground 2)
GB7(1)(b) re-use, extension, alteration or replacement of an existing building	No existing building is re-used or altered; the containers go and a new building is erected elsewhere on the site

Route under Policy GB7	Why it is unavailable
Redevelopment of previously developed land	The **Annex B** definition expressly excludes land last occupied by agricultural or forestry buildings, and the applicant states the slab was a previous barn or shed
Grey belt, GB7(1)(g)	No grey belt case is advanced and no assessment against Policy GB2(a), (b) and (d) using **Annex E** has been carried out
Limited infilling in a village	Open agricultural land outside the settlement confines, not a gap in a village frontage

On previously developed land, the presence of some such land within an application site does not make the whole site previously developed land: *R (Lee Valley Regional Park Authority) v Broxbourne BC* [2015] EWHC 185 (Admin) per Ouseley J, applied in *R (Ribble Valley BC) v SSHCLG* [2025] EWHC 2363 (Admin).

No case of very special circumstances is advanced anywhere in the submission. There is accordingly nothing for the Council to weigh against the harm. Contrary to Chapter 13 of the Framework, including Policies GB6 and GB7, and to Policy CP3 of the Core Strategy 2007.

3.2 Ground 2: No agricultural functional need has been evidenced

Even if Question 18 is corrected, GB7(1)(a) requires the development genuinely to be agricultural development. The design and access statement states that "the intention is to establish an agricultural operation that produces sustainable fruit and vegetable crops". The tense is the applicant's own: **no agricultural enterprise presently operates on this land**. That sits ill with Question 14, which describes the existing use as agricultural and the site as not vacant.

Nothing establishes functional need: no business plan, no cropping or planting schedule, no indication of what proportion of the 2.6 hectares would be brought into production or when, no schedule of machinery or produce related to the floor area sought, no labour assessment beyond the single part-time employee at Question 19, and no explanation of why first-floor storage reached by an external staircase is necessary rather than convenient. The whole treatment of scale is one sentence: the ridge height "is required for dry storage at first floor level".

At **2.6 hectares** the holding falls below the 5 hectare threshold at which Class A of Part 6 of Schedule 2 to the GPDO 2015 makes agricultural buildings permitted development — a threshold Parliament has set as a proxy for the size of unit on which a reasonable requirement for a building may be presumed. Need must therefore be evidenced, not assumed.

The Parish Council welcomes the Framework's support for agriculture, including the substantial weight Policy E2(1)(b) requires for demonstrated food production benefits. That support presupposes a farm, and **a benefit which has not been evidenced cannot be given weight**. Contrary to Chapter 13, including Policies GB6 and GB7, and to Policies CP3 and CP14.

3.3 Ground 3: Harm to openness has been asserted, not assessed

The design and access statement disposes of impact in one sentence: the barn "has been positioned with the end facing the road and near to the trees and boundary so as reduce the visual impact". That is an assertion of no harm, not an assessment of it.

Openness **"is not narrowly limited to the volumetric approach"**; prominent factors include how built up the Green Belt is now and would be, together with visual impact (*Turner v SSCLG* [2016] EWCA Civ 466 at [14]–[16]; *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire CC* [2020] UKSC 3). Openness concerns the absence of built development, not whether it can be seen. **Screening does not make a building open**, and it does not make it disappear in winter.

The spatial comparison cannot be made, because the figures are not there. The parcel carries no built form; proposed is 72 sq m of footprint, approximately 144 sq m gross, a 5.545m ridge, an external staircase, hard-standing of unstated extent and external lighting. **No comparative schedule of footprint, volume or hardstanding has been submitted**, and none can be derived from a hand-annotated 1:2500 extract with no dimensioned position, no boundary distances and **no levels, finished floor level or sections**. The Council has not been told the ground level at the proposed position, or the ridge height relative to Riding Lane — the figures which determine whether this reads as a low agricultural form or a two-storey building on a skyline.

The Council cannot apply the substantial weight Policy GB6 requires to harm it has not quantified. Contrary to Chapter 13, including Policy GB6, and to Policies CP3 and CP24.

3.4 Ground 4: Encroachment into the countryside

The design and access statement identifies an existing slab of 16m x 9m — some 144 sq m — believed to be the base of a previous barn or shed. The location plan places the new barn in a **separate position to the south of it**, closer to the road boundary. No explanation is given.

Siting the building on the slab would place new built form on ground which has previously carried a building, consolidate development in one place and avoid fresh hard-standing. There may be a good answer — the slab may be unsound, or the adjacent pond may make the position unsuitable — but it has not been given.

The proposal does not redevelop the developed part of the site. **It leaves that part where it is and places a permanent building on open grassland elsewhere.** Unless the slab is removed the site would contain two developed areas where it now contains one. That is encroachment, engaging the Green Belt purpose of safeguarding the countryside from encroachment, and it is nowhere assessed. Contrary to Chapter 13 and Policies CP3 and CP14.

3.5 Ground 5: Insufficient information on protected species

Question 13 is answered **"No"** to protected species, designated sites and important habitats, on the site and adjacent land. Yet the applicant's own

location plan marks a feature annotated **"dry pond"** within the red line, and the Parish Council understands KCC's Ecological Advice Service has identified land in the Riding Lane area as within an **amber risk zone for great crested newts**. A dry or seasonal pond remains capable of supporting them.

No ecological survey of any kind has been submitted — no preliminary ecological appraisal, no habitat survey, no newt risk assessment and no records search.

Under Regulation 9 of the Conservation of Habitats and Species Regulations 2017 the Council must have regard to the Habitats Directive and, where a European protected species may be affected, consider the Regulation 55 derogation tests before granting permission: *R (Woolley) v Cheshire East BC* [2009] EWHC 1227 (Admin); *Morge v Hampshire CC* [2011] UKSC 2. Paragraph 99 of Circular 06/2005 confirms surveys should be conditioned only exceptionally, impact being a matter to understand before permission is granted. Contrary to Policy NE3 of the MDE DPD, Chapter 19 and section 40 of the NERC Act 2006.

The Parish Council asks that the application not be determined before KCC's Ecological Advice Service has responded.

4. The Green Belt Balance

The first question is whether the proposal is inappropriate; that is answered by Policy GB7 alone, and the merits of the scheme do not enter into it. Only if it is found **not** inappropriate does the positive balance in Policy S5(5) apply; if it **is**, it may be approved only where the harm is clearly outweighed so as to amount to very special circumstances.

The harm attracts **substantial weight** on three counts: inappropriateness, which arises by definition; harm to openness, which the Council cannot presently quantify; and conflict with the purpose of safeguarding the countryside from encroachment. The loss of control entailed by the declared B8 use and unrestricted hours attracts **significant weight**, affecting everything the permission would authorise thereafter.

Against that stands one benefit capable of real weight: removal of the containers and the caravan. Secured by condition it would genuinely improve openness. As matters stand it is **unsecured** — the caravan is not mentioned in the description at all. **An unsecured benefit cannot carry weight, because the Council could not enforce it.**

At its highest, and assuming it were secured, that benefit amounts to a modest tidying of an untidy site. It cannot clearly outweigh substantial harm on three counts, and in any event **no very special circumstances case has been advanced**.

5. Recommendation, Information Requested and Conditions

The Parish Council **OBJECTS** and requests **REFUSAL** for the reasons at Section 3, each of which it considers defensible on appeal.

If the Council is minded to approve, the Parish Council asks that the application not be determined, and consultees be re-consulted, until the applicant has provided: a Green Belt assessment identifying the GB7 limb relied upon and any very special circumstances; a corrected Question 18 and an amended description stating the two-storey form, ridge height, external staircase and hard-standing, with re-advertisement; a statement of agricultural functional need supported by a business plan; a schedule of footprint, volume and hardstanding with levels and sections, a site plan at 1:200 or 1:500 and site-specific drawings capable of being listed on a decision notice; an explanation of why the building is not on the existing slab; and a preliminary ecological appraisal, together with KCC Ecology's response.

Should permission nevertheless be granted, the Parish Council requests the following conditions, each drafted to meet the tests in *Newbury DC v Secretary of State* [1981] AC 578 and Policy DM6(1). Policy DM6(2)(c) permits restricting permitted development rights where justified: the justification here is a new two-storey building in the Green Belt, with external stair and first-floor door, on a holding where no agricultural enterprise operates.

The first four are those on which the Parish Council places the greatest weight. Its position is that permission should not be granted in the absence of all four.

1. **Use.** Used only for agriculture as defined by section 336(1) of the Town and Country Planning Act 1990, in connection with the holding of which the site forms part, and for no other purpose, including no purpose within Class B8.
2. **Permitted development rights.** Notwithstanding the GPDO 2015, no change of use, including under Class Q or Class R of Part 3 of Schedule 2, and no extension, alteration or additional building, without express planning permission.
3. **Removal of existing development.** The containers, the caravan and the existing concrete slab to be removed in their entirety and the land restored to agricultural use, in accordance with a scheme first approved in writing, before the building is first brought into use.
4. **Removal if agricultural use ceases.** If the building is not brought into agricultural use within a specified period, or that use ceases for a continuous period of twelve months, the building to be removed and the land restored.
5. **No residential use.** The first floor to be used only for storage ancillary to the holding; no part of the building to be used for residential purposes, permanent, temporary or seasonal.
6. **Siting and levels.** A revised site plan at 1:200 or 1:500 showing dimensioned siting, boundary distances, existing and proposed levels and finished floor level, to be approved in writing before development commences.
7. **Hard-standing.** Extent, surfacing and drainage of any hard-standing to be approved in writing before it is laid out.
8. **Ecology.** Development in accordance with an approved preliminary ecological appraisal and precautionary working method statement,

including in respect of the pond, hedgerow and tree belt, with the enhancements identified installed before first use and thereafter retained.

9. **Trees and landscape.** Tree protection in accordance with BS 5837:2012 and an approved tree protection plan; boundary hedgerow and tree belt retained and reinforced under an approved landscape scheme.
10. **External lighting and materials.** No external lighting except in accordance with a scheme first approved in writing; external walls in dark-stained horizontal timber boarding and roof in grey tiles as stated on the application form.
11. **Approved plans.** Development in accordance with the approved plans, which should be listed in full and by reference number on the decision notice.

If the Council is minded to approve, the Parish Council asks that the application be referred to the Planning Committee rather than determined under delegated authority, having regard to the Green Belt issues, the declared B8 use class and the unresolved position on the caravan and containers. It asks to be notified of the officer's recommendation and of any committee date, and to address the Committee. A fuller representation, evidencing each ground in detail, is available on request.

This application would place a two-storey building, declared on its own form as commercial storage floorspace, on open Green Belt land, on the strength of an intention to begin farming at some future date. If that reasoning is accepted it is available to many holdings in this parish, at the very moment the Green Belt boundary is being settled through the Local Plan.

Yours sincerely

Cllr Martyn Wills

Chairman, Planning Committee, for and on behalf of Hildenborough Parish Council