

fluid planning

**The Barn and Stables
Comb Bank Farm
TN14 6AH**

**Planning Statement
0287**

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1.0 Introduction

- 1.1 This application is for permission for conversion of an existing barn and stable building to four residential units, with associated works to the land surrounding the proposal to provide for vehicular parking.
- 1.2 The application site address is Coombe Bank Farm, Ovenden Road, Sundridge TN14 6AH. The site is comprised of a large barn and one stable building formally utilised in connection with Combe Bank Farm.
- 1.3 The large barn is an Atcost-style barn with cladding and this structure was considered structurally sound previously by the Council when permitting application 18/01720 26 July 2018. Concrete hard-standing lies around the barn. Located to the south west is a masonry built stable building.
- 1.4 The site is bounded by trees and vegetation and a wider collection of residential and agricultural buildings. The site is located in the Green Belt and the Kent Downs Area of Outstanding Natural Beauty ("the AONB"). Access to the site is via private driveway from Overdene Drive.
- 1.5 Planning application (ref: SE/18/01720) was made to Sevenoaks District Council for Conversion of existing barn to provide a 4 bedroom dwelling with integral double garage utilising existing vehicular access and hardstanding and associated landscaping. This was permitted on 26 July 2018.
- 1.6 Specifically, within the Officer Report to application SE/18/01720, it was stated in conclusion that:
- "The proposal would not represent appropriate development that would not impact upon the openness of the Green Belt. The proposal would conserve and enhance the AONB with an appropriate design, would not have a detrimental impact upon local amenities, ecology, parking or the adjacent public rights of way."*
- 1.7 The OR at page 3 explains that the proposal is considered inappropriate development within the Green Belt under Paragraph 144 (paragraph references to the NPPF are now out of date given the 2021 update, but referenced as per the OR):

“...

Paragraph 144 of the NPPF advises we should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Therefore, the harm in principal to the Green Belt remains even if there is no further harm to openness because of the development.”

- 1.8 However, the OR then goes on to explain that local policy allows for re-use of buildings within the Green Belt:

“Policy GB7 of the Allocations and Development Management Plan (ADMP) and the Council’s Development in the Green Belt SPD is also relevant. Policy GB7 states that proposals for the re-use of a building in the Green Belt which would meet the following criteria will be permitted:

a) The proposed new use, along with any associated use of land surrounding the building, will not have a materially greater impact than the present use on the openness of the Green Belt or harm the existing character of the area;

b) The applicant can demonstrate through a detailed structural survey and method statement that the buildings are of permanent and substantial construction and are capable of conversion without major or complete re-construction that would detract from their original character.”

- 1.9 With recourse to advice within a structural survey, the officer then goes on to reason that:

“In consequence the proposal would meet the requirements of the NPPF and policy GB7 of the ADMP.”

- 1.10 The approach taken is for policy GB7 to be applied pragmatically to the re-use of buildings within the Green Belt where it would not have a materially greater impact than the present use. This proposal is for more dwellings than was proposed through planning application (ref: SE/18/01720) and now incorporates a small solid stable building to provide one additional unit. However, the transferable principle is that, reuse of structures in agricultural or other uses is policy compliant.

2.0 Planning considerations

2.1 The planning considerations are discussed below.

Impact on openness of the Green Belt

- 2.2 Policy L08 of the Sevenoaks Core Strategy states that the Green Belt will be maintained, and that the countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. The distinctive character of the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings, will be conserved and enhanced.
- 2.3 Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
- 2.4 Paragraph 138 goes on to state that the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 2.5 Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 2.6 The site is not previously developed land (PDL) as it was previously used for agricultural purposes. It does not fall under any of the exceptions in paragraph 149 of the NPPF. But policy GB7 of the ADMP is clear at part a) that re-use of sound structures is permissible.

General approach to openness/harm to Green Belt

- 2.7 The courts have provided some legal guidance on the nature of how planning judgment should be exercised in this context. In John Turner v SoS CLG [2016] EWCA Civ 466, the Court of Appeal stated (albeit in the context of the sixth exception at paragraph 89 of the 2012 version of the NPPF, but still relevant here):

“14 The concept of “openness of the Green Belt” is not narrowly limited to the volumetric approach suggested by Mr Rudd. The word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.

15 The question of visual impact is implicitly part of the concept of “openness of the Green Belt” as a matter of the natural meaning of the language used in para.89 of the NPPF. I consider that this interpretation is also reinforced by the general guidance in paras 79-81 of the NPPF, which introduce section 9 on the protection of Green Belt Land. There is an important visual dimension to checking “the unrestricted sprawl of large built-up areas” and the merging of neighbouring towns, as indeed the name “Green Belt” itself implies. Greenness is a visual quality: part of the idea of the Green Belt is that the eye and the spirit should be relieved from the prospect of unrelenting urban sprawl. Openness of aspect is a characteristic quality of the countryside, and “safeguarding the countryside from encroachment” includes preservation of that quality of openness. Again, the reference in para.81 to planning positively “to retain and enhance landscapes, visual amenity and biodiversity” in the Green Belt makes it clear that the visual dimension of the Green Belt is an important part of the point of designating land as Green Belt.” (emphasis added)

- 2.8 The Supreme Court recently ruled authoritatively on the issue of “openness” within the Green Belt, in R (Samuel Smith Old Brewery) v North Yorkshire County Council [2020] UKSC 3, having reviewed the case law. It noted that:

- Although it may be a relevant factor, the visual quality of the landscape is not in itself an essential part of the openness for which the Green Belt is protected (paragraph 5).
- Rather, openness is the counterpart of urban sprawl, linked to the purposes of the Green Belt, and not necessarily a statement about the about the visual qualities of the land,

though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept (paragraph 22).

- Nor does openness imply freedom from any form of development (paragraph 22).
- The concept of openness means the state of being free from buildings. It is open textured and a number of factors are capable of being relevant (paragraph 25).

2.9 Drawing on the case law just mentioned, a number of points should be borne in mind when carrying out the assessment under paragraph 149(g):

- The assessment of impact on the openness of the Green Belt is a multi-textured exercise, and factors (such as visual and spatial qualities) will be interlinked.
- As recently confirmed by the Supreme Court, the key point is that openness, as conceptualised in the NPPF, is the counterpart of urban sprawl.
- It is not necessarily a statement about the visual quality of the land, although that may well be a relevant factor.
- Likewise, openness does not necessarily imply freedom from any form of development (and in the context of a proposed development on a site with existing buildings openness clearly cannot involve complete freedom from buildings).
- The task is to consider the openness of the Green Belt, and not of the site, as such.

Impact of the proposed development on openness/Green Belt

2.10 The proposed development will, of necessity, have an impact on the openness of the Green Belt. However, the level of harm will be minimal and is not considered materially greater than the approved scheme at , for a number of reasons:

- The proposed development is not of the nature of urban sprawl. It is a conversion of buildings to four dwellings, designed to sit comfortably within the context.
- The proposed development will not make the Green Belt in this area less free from buildings. It will not make the site or the Green Belt in this area entirely free from any development whatsoever, but that is not its current state, and that is not what is required to protect the Green Belt.
- The proposed development does not conflict with the purpose of the Green Belt as set out in paragraph 138. It will not compromise the ability of the Green Belt in this area to check unrestricted urban sprawl, or to prevent neighbouring towns merging into each other, or to assist in safeguarding the countryside for encroachment.
- The site, while not previously developed land for the purposes of the exception under paragraph 149(g) of the NPPF (which is defined to exclude agricultural buildings) is nonetheless already occupied by farm buildings and has an extant permission (Ref. SE/18/01720/FUL).
- These buildings already have an impact on the openness of the Green Belt

- The level of harm presented by the proposed development should be assessed as against the existing level of harm emanating from the existing buildings, not against a hypothetical non-existent level of harm and also against extant planning permission at the Site (Ref. SE/18/01720/FUL).
- Further, the proposed development is screened by the hedgerows and trees and the perimeter of the site. Further extensive landscaping can be secured by way of condition.

2.11 Planning Inspectors have made similar assessments of openness in a number of appeals with comparable facts. In Millbank Homes (Chalfont) Ltd v Chiltern DC [2020] PAD 36, which also concerned residential development on a farm site, the Planning Inspector allowed an appeal and granted planning permission for the demolition of existing buildings and erection of three attached houses with an associated car barn and alterations to existing site access at Hentucks Farm Deadhearn Lane, Chalfont St Giles, HP8 4HG. The Planning Inspector considered the issue of openness as follows:

“4 The site is a former agricultural complex, comprising of numerous buildings arranged throughout. I observed many of these buildings to be substantial, whilst there were also a variety of more modest structures present. At the time of the submission of the application, the buildings provided a total of 4,748 cubic metres (m³) of built form with a further 375m³ provided by other miscellaneous structures. It was agreed that since the planning application was submitted that a number of the buildings have been removed from the site. Following this, the remaining existing buildings provide 4,401m³ of built form, with 271m³ of miscellaneous structures.

5 The proposed scheme would provide four buildings, comprising three dwellings and a garage barn, which would have a combined volume of 2,576.6m³ This would result in an approximately 45% reduction in the built form, compared to that which currently exists. The council, in its officer’s report, acknowledges that the reduced footprint of the proposed development would have a positive impact on the openness of the Green Belt. There would also be an approximately 40% reduction in the amount of hardstanding in the site. Whilst the hardstanding would have a limited effect on openness, the reduction would nonetheless diminish the developed appearance of the site.

6 Based on the above, I find that there would be a substantial reduction in the quantum of built form at the site which would result in a significant improvement to the openness of the Green Belt at this location.”

- 2.12 In Roberts v Wychavon DC [2020] PAD 24, a Planning Inspector allowed an appeal and granted planning permission for the use of land for the siting of a mobile home and touring caravan, on a site which already housed a stable and hard standing. The Planning Inspector considered the openness of the Green Belt as follows:

“8 Although the Framework sets out five reasons for the existence and protection of the Green Belt, the only reason relevant here is to safeguard the countryside from encroachment. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. This can have a spatial or visual aspect, as found by the courts.

9 The locality of the appeal site is an area of narrow country lanes and tall hedgerows which afford occasional glimpsed views of dwellings, agricultural and commercial premises, as well as large open fields. The site is well-screened from the road by a mature hedge and I noticed that the mobile caravan is screened by vegetation from the adjacent fields to the rear.

10 Insofar as openness is generally taken to mean freedom from operational development, there is encroachment into the countryside and a loss of openness. However, the caravans take up a very small proportion of what was a site with previous hardstanding and stable blocks. Consequently, the loss of openness is limited to a small area. The existing boundary treatments lead me to conclude that the visual impact of the development is limited. My reasoning in this regard is reinforced by the conclusions of the previous appeals and the council’s statements.

11 Nonetheless, although the development represents minor harm to the Green Belt in respect of openness and the purposes of including harm in the Green Belt, even this minor harm carries substantial weight.”

- 2.13 In Luke v Tonbridge & Malling BC [2020] PAD 20, very special circumstances justified granting outline planning permission for the erection of a detached dwelling on property in the green belt where there was an existing mobile home. The Planning Inspector assessed openness as follows:

“14 The essential characteristics of the Green Belt are its openness and permanence. It has been established that openness has both a spatial and visual aspect, the former being taken to mean the absence of built form.

15 In terms of the effect of the proposed development on the spatial aspect, there would be an unavoidable reduction in the openness of the Green Belt albeit purely by virtue of the proposed dwelling being larger than the existing mobile home. It would be taller, longer and wider. That said, the site of the proposed dwelling would be somewhat obscured from the public realm by boundary vegetation on the road edge. It would also be well within the wider site, against and amongst other buildings of a not insignificant scale in themselves. There are other mature trees in the site and a substantial timber fence separating the it from the agricultural fields beyond. There would therefore be a limited to negligible effect on the visual aspect of the Green Belt's openness. Whilst the context of the appeal site in built form terms would accordingly allow some of the spatial reduction in the Green Belt's openness to be absorbed there would remain some limited harm in this respect. This would be as well as the harm arising out of the inappropriateness of the appeal scheme."

- 2.14 In conclusion, the assessment of openness is a broad-textured exercise, and should be looked at in the round. The impact of the existing agricultural and equestrian buildings on openness can be taken into consideration. The proposed development will, both visually, and spatially, no more intrusive than the existing buildings, and the impact on openness will therefore be minor. This revised application is materially different from the last one, but adds no additional development to the Site. This exercise has correctly defined the parameters of the VSC in respect of openness and in this context the position outlined is robust.

Other considerations

- 2.15 In Millbank v Chiltern DC (already referred to above) the Planning Inspector, having considered the impact of the development on the openness of the Green Belt, then went on to assess the other considerations that might comprise very special circumstances:

"11 The appellant contends that the proposal would represent an innovative design solution. The Framework advises at para.131, that great weight should be given to innovative designs which promote high levels of sustainability, so long as they fit in with the overall form and layout of their surroundings. The proposed scheme seeks to reflect the character of the buildings that currently occupy the site and has been designed in such a way as to replicate their siting. As the existing structures have been present on site for a considerable time and are part of the pattern of

development in the area, which also includes nearby dwellings, the proposal would fit in with the form and layout of the surroundings. The design idiom of replicating the form of the existing agricultural buildings, including silos, that are within the site currently is, in my view, an innovative approach to the design of the development.

12 It is also highlighted by the appellant that the units have been designed to meet or exceed standards in respect of the reduction in carbon dioxide emissions through sustainable design, construction and renewable energy technologies. This includes high performing insulation, the use of air source heat pumps and improved air tightness over Building Regulation standards. This demonstrates that the scheme would also promote high levels of sustainability. Consequently, great weight should be attached to this, as advised by the Framework.

13 As discussed above, in respect of openness, the proposal would result in a reduction in built form and hardstanding present within the site. The layout of the development would also improve visual permeability through the site, although the benefit in this particular respect would be tempered, due to the restricted public views into and through the site currently. Nonetheless, I accord this improvement to openness, moderate weight.

14 A number of environmental improvements have been put forward as part of the scheme, including the removal of soil contamination within the site, as well as an improvement to biodiversity. It is acknowledged that the contamination is the result of previous agricultural use of the land, rather than from any of the unauthorised uses that have taken place at the site in the past. The remediation of such contamination would likely be necessary in order to accommodate a future use of the site. The improvements to biodiversity would also be a benefit of the proposed scheme. These matters are therefore accorded moderate weight. The removal of Japanese Knotweed as well as the removal of existing structures, some of which contain asbestos, whilst preferable, could be achieved by other means and as such attract only minimal weight in favour of the scheme.

15 The site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). The appellant emphasises that para.172 of the Framework indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in, inter alia, Areas of Outstanding Natural Beauty. The parties agree that the proposed development would have a positive impact on the appearance of the locality and views within the AONB. This would partly be brought about by the

implementation of a comprehensive landscaping scheme within the proposed development. I concur that there would be a positive effect in this regard and thus, this matter attracts great weight in favour of the proposal.

16 The scheme does not include the provision of fences between the residential plots and any residential paraphernalia that may be present would be screened to some degree by the inclusion of earth mounds, landscaping and rockery berms together with woodland planting. Whilst this is acknowledged, this would only mitigate the appearance of the development and would not be necessary in the absence of the proposed scheme for dwellings. As such, I consider these matters to be neutral factors in consideration of the appeal. It has also been contended that the scheme would not set a precedent for other, similar development. I agree that each case should be considered on its merits, in light of the specific circumstances of that case. However, this is also a neutral factor and does not lend weight to the proposal.

17 The council state that the circumstances of this site could be replicated on other sites and are not unique. However, whilst rarity can be a factor, other considerations are not required to be unique in order to be special. That the circumstance could, in theory, be found in relation to other sites is not a negative factor.

[...]

20 The council have raised concern that the re-use of the site for agricultural purposes has not been demonstrated, nor that the current agricultural use is defunct. I observed that the majority of buildings within the site were in a poor state of repair and consider it unlikely that any future agricultural use would come forward without significant financial investment. In any event, there is no policy requirement to demonstrate that the existing use is no longer continuing. As such, this matter has little bearing on my decision.

[...]

25 I have identified above that there are numerous factors which weigh in favour of the proposal and I have attributed weight to each. Whilst the matters individually carry minimal, limited, moderate or great weight, when considered together I find these considerations persuasive. Collectively, I accord substantial and decisive weight to the other considerations which support the proposal. There would also

be an improvement to openness. Overall, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.”

- 2.16 This application raises a number of similar considerations to be weighed against the impact on the openness of the Green Belt resulting from the proposed development:
- The proposed development would not result in harm to the five purposes of the Green Belt and would arguably enhance them, and the level of harm to openness if minimal, and an improvement on the current level of openness.
 - The existing farm building is no longer required by the farm for agricultural purposes and has become redundant (due to their age, the purpose for which they were constructed, and changes in farming practices).
 - Class R Part 3 Schedule 2 of the GPDO permits change of use of agricultural buildings to a “flexible commercial use”. Conversion to a residential building would be preferable to conversion to a commercial use (which would involve increased traffic, visitors, car parking, and generally more extensive redevelopment on site).
 - Instead, the four new dwellings will contribute towards tackling the current shortfall in housing land supply in the District and this carries weight given the lack of a five year housing land supply.
 - The proposed development will utilise up-to-date technology/techniques to create a dwelling that is sustainable (for example by meeting/exceeding carbon dioxide emissions standards, high-performing insulation and use of renewable technologies in the conversion of the building).
 - In accordance with the NPPF, substantial weight should be attached to the sustainable and high-quality nature of the design that is being proposed.
- 2.17 It is submitted that when these considerations are taken together, and also with the considerations as to the AONB and its setting, they clearly outweigh the minimal harm that will be caused to the Green Belt.

Impact on the AONB and light spill

- 2.18 The site lies within the AONB. The Sevenoaks Countryside Assessment SPD identifies the key characteristics of the area as being densely wooded farmland with small to medium scale irregular fields of pasture, narrow lanes enclosed by hedgerows and settlements including isolated farmsteads, small nucleated villages and isolated groups of large houses.

- 2.19 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development. The proposed development must therefore both conserve and enhance the AONB.
- 2.20 The Kent Downs AONB Management Plan provides some further comment on development within the AONB. It states:
- “To conserve and enhance the natural and scenic beauty of the Kent Downs, the scale and design of new development, re-development and restoration is critical. The NPPF focuses on the importance of design, stating that ‘permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.’” (p24)
- “The choice of design and materials in restoration, new development and landscape management are recognised as critical when seeking to conserve and enhance the landscape of the Kent Downs AONB.” (p27)
- “The character and distinctiveness of villages, farmsteads and individual buildings are conserved and enhanced by combining the best traditions of the past with the best technologies of the present to create environmentally sustainable and locally enhancing development.” (p28)
- “New developments respect and reinforce the traditions of the past, whilst integrating sustainable technologies and sensitive new design.” (p28)
- 2.21 The AONB Management Plan therefore acknowledges that well-designed and sustainable development can play an important role in conserving and enhancing the AONB, and does of necessity entail a negative impact. It also emphasises the importance of a dialogue between traditions of the past and the use of modern technology and design to ensure sustainable development. In other words, conserving and enhancing the AONB does not mean that it must simply remain static, in line with the fact that human settlement and development is considered part of (and not necessarily opposed to) the character and beauty of the AONB.
- 2.22 Likewise, Policy EN5 (Landscape) of the ADMP states that proposals within the AONB will be permitted where the form, scale, materials and design would conserve

and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance. Proposals that affect the landscape throughout the District will be permitted where they would: (a) conserve the character of the landscape, including areas of tranquillity, and (b) where feasible help secure enhancements in accordance with landscape actions in accordance with the Sevenoaks Countryside Assessment SPD.

2.23 The proposed development will, firstly, conserve the AONB:

- The proposed development involves the conversion of existing buildings. However, these building are functional agricultural and equestrian buildings, with little architectural merit, which sit uncomfortably with their immediate neighbours and are redundant.
- Residential development of the site with dwellinghouses will preserve this area in a manner that converting it to flexible commercial use would not.
- There will be no loss of open spaces and green infrastructure, and indeed, the proposed development will open up the site (as discussed above).
- The proposed development is of a sensitive scale.

2.24 The proposed development, secondly, will also enhance the AONB:

- The fact that the proposed development will reinvigorate the site is a relevant factor to take into account.
- The sympathetic planting of the site in a manner which will allow it to sit much more comfortably within its surroundings.
- The form, scale, materials and design of the proposal would conserve and enhance the character of the landscape and would preserve the character and appearance of the area generally. This is in accordance with the NPPF, policies SP1 and LO8 of the Core Strategy and policies EN1 and EN5 of the ADMP.

2.25 Conditions could be specified in order to ensure that the development has a satisfactory external appearance and to protect the appearance of the AONB. For example, a materials condition could be imposed to include details of roofing materials, hard landscaping, means of enclosure and so on. A condition could also be imposed in respect of landscaping and the delivery of biodiversity features.

2.26 Outdoor lighting will be designed to meet the criteria set out in Policy EN6 (Outdoor lighting) and a scheme can be secured by condition. The proposal will be well integrated within the overall development scheme, and any impact on the night sky will be minimised through time-limited and user-activated lighting, as well as through the alignment of lamps, provision of shielding and selection of appropriate lighting

type and intensity. The proposed development will not directly affect any heritage assets. Only lighting that is essential for safety and security reasons will be installed, and any potential impact on wildlife will be adequately mitigated. Low energy lighting will be used. There will be no harmful impact of privacy or amenity for nearby residential properties.

- 2.27 Policy LO1 states that although development will be focussed within the built confines of existing settlements, and in other locations priority will be given to protecting the rural character of the District, development may take place where it is compatible with policies for protecting the Green Belt and Kent Downs Areas of Outstanding Natural Beauty, where relevant (as it is here).
- 2.28 In Robert Hitchins Ltd v Cheltenham BC [2020] PAD 30, the Planning Inspector allowed an appeal and granted outline planning permission for residential development of up to 25 dwellings and demolition of existing buildings, near to, although not actually within, the Cotswolds AONB, stating as follows in relation to character and appearance:

“Character and appearance

25 The site predominately comprises rough grassland, and there are remnants of hard standings and former horticultural nursery structures on the site and adjoining land. It cannot be classified as previously developed land, as defined in Annex 2 of the Framework, given that it was last occupied by agricultural buildings. Nonetheless the presence of these disused structures gives the site a distinctly different appearance to the undeveloped fields around it.

26 The site otherwise has an open appearance with mature vegetation mostly confined to its boundaries with Lotts Meadow. It is largely screened from the highway network, other than where the existing access drive leads onto Kidnappers Lane. This access is shared with two dwellings and other horticultural nursery structures immediately adjacent to the site. The remaining boundaries of the site adjoin open fields. Whilst the site is partly degraded, it has a pleasant semi-rural character which reflect its proximity to the edge of the town and nearby hills, and together with the adjacent fields its openness makes a positive contribution to the surrounding area.

27 Whilst there is no public access to the site itself, there is a public right of way

network close to the site. Evidence from interested parties indicates that the public rights of way are well used and valued for recreational purposes. Such users are sensitive receptors to change in the character of this area...

28 The appeal site and its immediate surroundings do not have any statutory landscape designation, but it is near to the Cotswolds Area of Outstanding Natural Beauty (AONB). Interested parties directed me towards viewpoints high up Leckhampton Hill which is a key feature within the AONB. From there I noted the “patchwork” of small fields in the area and saw that the urban edge of Cheltenham is clearly evident from those high viewpoints.

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Impact on the setting of a listed building

- 2.29 There are three Grade II listed buildings, at Overy Green to the north of the site, next to the site. Previously, this was not raised as an issue when determining application 18/01720/FUL.
- 2.30 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Planning Listed Buildings Act”) provides that in considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, a local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.31 The NPPF also contains provisions in relation to listed buildings. Paragraph 194 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed

using appropriate expertise where necessary.

- 2.32 Paragraph 195 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 2.33 Paragraph 197 states that in determining applications, local planning authorities should take account of (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 2.34 The proposed development will not have any impact on structure of the listed building and will not therefore impact on the conservation of the building itself or any of the features mentioned in the list entry for each of the three structures. Nor will the proposal have any impact on their immediate setting by reason of separation distance and the established fall back position achieved through permission SE/18/01720/FUL
- 2.35 For the reasons set out above, the proposed development would preserve the significance of nearby Listed Buildings. The proposed scheme will therefore comply with policy SP1 of the Core Strategy (protection and enhancement of heritage assets) and with the NPPF.

Design

- 2.36 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated. Account should be taken of guidance adopted by the Council in the form of Kent Design, local Character Area Assessments, Conservation Area Appraisals and Management Plans, Village Design Statements and Parish Plans. In rural areas account should be taken of guidance in the Countryside

Assessment and AONB Management Plans.

- 2.37 The AONB management plan has been discussed above already. The area is not subject to a specific architectural style. The residential dwellings in the centre of farm do tend to conform to traditionally proportioned farm structures. The materiality is varied but brick work is common to the area. The proposed development is a high-quality modern design. Many design issues and features have already been described and evaluated in the Green Belt and AONB assessments above and do not require repeating here.

Ecology

- 2.38 A Preliminary Ecological Appraisal was undertaken. No additional surveys are required and the proposal will be carried out in accordance with the recommendations of the report and can be conditioned to any permission.
- 2.39 The proposed development will therefore comply with Policy SP 11 (the biodiversity of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity).

3.0 Summary

- 3.1 Very Special Circumstances have been explained and against precedent set out in case law. The proposal is materially different to the approved planning fallback position, but still policy compliant. For the reasons explained, the proposal is considered to now be policy compliant. Planning permission should therefore be granted.

