

**PROOF OF EVIDENCE OF EMILY HARRISON OF TAYTIME LIMITED ACTING AS APPOINTED
AGENT FOR THE APPELLANT MONK LAKES LIMITED (IN LIQUIDATION)**

PLANNING APPEAL REF: APP/U2235/W/20/3259300

LAND AT MONK LAKES, STAPLEHURST ROAD, MARDEN, MAIDSTONE, KENT, TN12 9BS

1. INTRODUCTION

1.1 This proof of evidence is submitted by Emily Harrison of Taytime Limited, acting as appointed agent on behalf of Monk Lakes Limited (in liquidation) for planning appeal APP/U2235/W/20/3259300. I have no planning qualifications, or professional experience in that regard, only a non-technical understanding of the history to the appeal site. The Appellant will therefore rely heavily on the information already provided by Pegasus Group and other specialist consultants during the original Appeal process.

1.2 The appeal seeks planning permission for:

"Part retrospective planning application for the retention of two lakes known as Bridges and Puma and works to create 3 additional lakes all for recreational fishing, erection of clubhouse building and associated works and landscaping"

1.3 Application 11/1948 was recommended for approval by Maidstone Borough Council but refused by their Councillors, led by Councillor D. Burton, on 12th March 2020. Councillor Burton is known to have regular communication with Mr. Padden personally and has a view of Monk Lakes from his home. The refusal was for:

- Impact on the setting of Grade II listed Hertsfield Barn
- Loss of residential amenity through overlooking

1.4 My evidence addresses:

- The two reasons for refusal
- Additional matters raised by the Rule 6 party including groundwater impacts, landscape character, reservoir safety, minerals safeguarding and waste management.

N.B Many of these additional matters raised by the Rule 6 party were not included in Mr. Padden's 2012 Judicial Review submissions.

1.5 The appeal site has been subject to various permissions and enforcement action since 2003. A previous appeal was dismissed in November 2022 and returned for redetermination following High Court proceedings in May 2024.

1.6 The Planning Inspectorate has requested, in their letter dated 6th January 2025, an update to the Environmental Statement to take account of any changes in the baseline since February 2022. This update is currently being prepared and will be submitted separately. The matters addressed in this proof of evidence reflect the current position and any material changes identified in the ES update will be addressed at the Inquiry

2. REASONS FOR REFUSAL

2.1 Heritage Impact

- 2.1.1 Impact on Hertsfield Barn Setting - The Grade II Listed Hertsfield Barn is a 15th or early 16th century timber-framed barn that forms part of the historic Hertsfield Farm complex. The barn was converted to residential use in 1986 under planning permission MA/86/1149. While this conversion has resulted in some changes to the building's fabric and character, it retains architectural and historic interest through its surviving timber frame, crown posts, and overall form which demonstrate its original agricultural function.
- 2.1.2 The contribution of setting to the barn's significance primarily derives from its historical and functional relationship with the other buildings of the former Hertsfield Farm complex, particularly the Grade II Listed Old Hertsfield Farmhouse, which has recently been sold, and the converted oasthouses. This relationship remains legible despite the conversion of these buildings to residential use. The wider agricultural setting has evolved considerably over time, as demonstrated by historic maps showing changes from arable fields to orchards and then to the more recent mixed character including agricultural use with polytunnels and fishing lakes.
- 2.1.3 The Appeal Site lies to the east of the barn and historically formed part of its wider agricultural setting. However, the functional and visual relationship between the barn and this land has been fundamentally altered by:
- The conversion of the barn to residential use in 1986, severing its agricultural function
 - The establishment of substantial boundary vegetation
 - The presence of authorised fishing lakes in the wider landscape
 - The natural evolution of the agricultural landscape over time
- 2.1.4 The proposed development would not affect the key aspects of setting that contribute to the barn's significance, namely its relationship with the historic farm complex. The proposed lakes would maintain the open, undeveloped character of the wider setting while introducing carefully designed landscaping that would help to integrate the development into the rural landscape.
- 2.1.5 Previous Conservation Officer Support - The proposals have been subject to detailed scrutiny by three different Conservation Officers at Maidstone Borough Council between 2016-2020, all of whom concluded that the development would not harm the significance of the Grade II Listed Hertsfield Barn:
- November 2019: "Having reviewed the submitted documents and visited the site, I concur with the conservation officer comments dated 22.12.16, and I am of the opinion that the development is not harmful to the setting and significance of the nearby Hertsfield Barn."
 - December 2016: "Although the bunding relating to the creation of one of the lakes lies close to the listed Hertsfield Barn the impact on its setting, which I have viewed from the property, is not damaging to its significance in my opinion."
 - 2011/2012: The Conservation Officer's original consultation response in 2011/2012 also raised no objections, stating: "The existing and proposed lakes have no adverse impact on the settings of listed buildings in the vicinity."

2.1.6 Response to Criticisms - The Committee's reason for refusal states that "The size, height and proximity of the raised lakes particularly the western boundary would cause less than substantial harm to the setting and significance of the Grade II listed Hertsfield Barn through loss of the open and level historic setting of the Barn which forms an important part of its significance and setting."

2.1.7 This criticism can be addressed through several key points:

Historic Setting:

- The site's historic character has not been static but has evolved substantially over time
- Historic maps show changes from arable land to orchards and polytunnels which would have restricted views
- The barn's primary relationship was always with the farmstead complex rather than the wider landscape

Design Response:

- The proposed ground levels have been carefully designed to minimise visual impact
- The 1:8 slope over 40m distance represents a gentle gradient that would appear natural
- Comprehensive landscaping would help integrate the development into the rural setting

Comparative Impact:

- The scheme represents an improvement over the 2003 permitted scheme in terms of visual impact
- The crests of banks would be lower and further from boundaries
- The landscaping strategy is more sophisticated and better integrated

2.1.8 Public Benefits - The proposed development would deliver several public benefits that should be weighed against any perceived harm to heritage significance:

Heritage Benefits:

- Enhanced understanding and interpretation of the historic landscape through careful design
- Improved legibility of the historic farm complex through sensitive landscaping
- Securing sustainable long-term use of the wider historic landscape

Economic Benefits:

- Creation of jobs in construction and operation
- Support for the rural economy
- Enhanced tourism potential

Environmental Benefits:

- Biodiversity enhancements through habitat creation
- Improved landscape character through high-quality design
- Sustainable drainage features

Social Benefits:

- Enhanced recreational facilities
- Improved public access to the countryside

- Educational opportunities

2.1.9 The public benefits demonstrably outweigh any limited impact on the setting of the Listed barn, satisfying the requirements of NPPF paragraph 202 regarding "less than substantial harm" to designated heritage assets.

2.2 Residential Amenity

2.2.1 The second reason for refusal states that "due to the height and proximity of the raised lakes along the western boundary of the site, their use for fishing would result in an unacceptable loss of privacy and perceived overlooking from anglers at an elevated position to the houses and gardens of Hertsfield Barn, and numbers 3, 4, 5, and 6 Hertsfield Farm Cottages."

2.2.2 Separation Distances and Design - The nearest residential properties are:

- Hertsfield Barn - approximately 30m from the site boundary at its closest point, with the eastern wing comprising garaging providing an additional 5m buffer to habitable rooms
- Hertsfield Farm Cottages (Nos 3-6) - approximately 28m from the site boundary

2.2.3 The lakes themselves are set back considerably further:

- The distance from the lakes, where anglers would be situated, to the curtilage of properties is approximately 80m to Hertsfield Barn and 55m to the cottages
- The relatively shallow gradient of the raised banks (around 1 in 8) ensures the flattened crest, which anglers walk along, is set back approximately 50m from Hertsfield Barn's curtilage and 38m from the cottages' curtilage
- This provides separation distances of approximately 70m and 64m respectively to the properties themselves

2.2.4 Operational Controls - The following measures will be secured by condition to protect residential amenity:

- No night fishing between 10pm-8am along the western boundary of Lakes 1, 2 and 3
- No parking in connection with angling within the areas closest to residential properties
- The site manager monitors behaviour and enforces site rules prohibiting anti-social behaviour
- Maximum capacity across the entire site is limited to approximately 320 anglers
- Dedicated swims ensure appropriate spacing between groups

2.2.5 Landscape Mitigation - A comprehensive landscape scheme will be implemented including:

- Native tree and shrub planting along the western boundary, screening the anglers from view of the residents and the houses from the view of the anglers
- Retention of existing mature vegetation
- Proposed planting will mature over time to provide enhanced screening

2.2.6 The combination of significant separation distances, operational controls and landscape mitigation ensures there will be no unacceptable impacts on residential amenity through overlooking or loss of privacy. The Council's Environmental Health Officer raised no objections regarding residential amenity impacts.

3. RULE 6 MATTERS

3.1 Groundwater Impacts

3.1.1 The Rule 6 party raises concerns regarding groundwater flooding, particularly in relation to neighbouring properties. A comprehensive groundwater monitoring program and mitigation strategy has been developed by Peter Brett Associates. This includes:

- A groundwater interceptor drain along the western boundary
- Surface water drainage system
- Regular monitoring

3.1.2 The detailed design of these measures will be secured by condition, as agreed in the Statement of Common Ground. Both the Environment Agency and Lead Local Flood Authority raise no objections subject to these controls.

3.2 Landscape Character

3.2.1 While concerns are raised regarding landscape impact, both the Council and statutory consultees agree that the development would not have an adverse impact on landscape character subject to appropriate mitigation secured by condition.

3.3 Reservoir Safety

3.3.1 A qualified Construction Engineer has been appointed under the Reservoirs Act and the site is fully compliant in terms of its obligations, with all certifications up to date. A maintenance plan and planting management scheme will ensure structural integrity and safety are maintained.

3.4 Minerals Safeguarding

3.4.1 The site falls within a Minerals Safeguarding Area. However, extraction would not be viable or practicable given:

- Proximity to sensitive receptors including residential properties
- Potential impacts on the River Beult SSSI
- Technical constraints of the site

3.5 Waste Management Policies

3.5.1 The Rule 6 party raises concerns regarding waste policies and the quantum of material involved. The development requires:

- Retention of existing material on site
- Importation of approximately 89,000m³ to complete Lake 1

3.5.2 The development complies with waste policies because:

- The material required is necessary for engineering purposes to create the fishing lakes
- Material will be strictly controlled through Environmental Permits
- A Construction Management Plan will manage importation
- The end use provides recreational and economic benefits

3.6 Technical Evidence Responses

3.6.1 The Rule 6 party has submitted technical evidence from:

- Dr Paul Ellis (Hydrogeology)
- Andrew Smith (Landscape)
- Chris Griffiths (Heritage)

3.6.2 These matters are addressed comprehensively through:

- Independent review by Mott MacDonald of groundwater issues confirming the proposed mitigation is appropriate
- Council's Landscape Officer confirming no adverse landscape impacts subject to conditions
- Previous Conservation Officer advice supporting the development

3.6.3 Where technical concerns are raised, these can be appropriately controlled through:

- Detailed design of groundwater mitigation
- Implementation of landscape proposals
- Construction and monitoring requirements
- Management and maintenance plans

4. ENFORCEMENT NOTICE COMPLIANCE

4.1 An independent report assessing Enforcement Notice compliance requirements indicates:

- Movement of 503,478m³ material requiring 134,260 HGV movements through local roads
- Generation of 6,135 tonnes carbon emissions
- Displacement of established protected habitats
- Limited landfill capacity availability
- Estimated compliance costs between £17-127 million depending on soil classification

5. PLANNING BALANCE

5.1 Policy Compliance

5.1.1 The statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to preserving listed buildings and their settings. The development preserves the setting of Hertsfield Barn through appropriate separation and mitigation.

5.1.2 The development accords with the recently adopted Maidstone Borough Local Plan Review (March 2024):

- LPRSP14(B) (Historic Environment) - Heritage assets are conserved through sensitive design and appropriate mitigation
- LPRSP15 (Principles of Good Design) - The development is accessible, respects local character and protects residential amenity
- LPRCD6 (Expansion of Rural Businesses) - Represents sustainable rural business expansion that is appropriate in scale
- LPRENV1 (Heritage Assets) - Heritage impacts have been fully assessed and appropriately mitigated

5.1.3 The proposal also complies with the NPPF (December 2023) objectives for:

- Supporting sustainable rural tourism and leisure (Para 88)
- Promoting social and mental wellbeing through recreational facilities (Para 96)
- Conserving heritage assets in proportion to their significance (Paras 205-208)

5.2 Public Benefits

5.2.1 The development delivers significant public benefits:

- Economic: Strengthens the local tourism economy with Monk Lakes being one of Maidstone's main visitor attractions
- Social: Provides extensive recreational facilities including the largest disabled access fishery in the country
- Health: Supports mental wellbeing through outdoor recreation and social interaction
- Environmental: Delivers biodiversity enhancements through habitat creation and landscaping
- Access: Improves recreational access to the countryside

5.2.2 These benefits include:

- Employment opportunities
- Enhanced sporting facilities
- Public access to high quality recreational space
- Ecological enhancements through the River Enhancement Scheme
- Economic contribution to the rural economy

5.3 Exceptional Circumstances

5.3.1 The site's extensive and complex planning history represents exceptional circumstances for this retrospective EIA development. The Council has previously accepted the principle of raised lakes in this location through permissions granted in 2000 and 2003, and works commenced under Environmental Agency licenses, and again in 2012.

5.3.2 While that later permission was quashed, the current application directly addresses the High Court's concerns through comprehensive environmental safeguards, robust mitigation measures, detailed assessment against a pre-2003 baseline, and an Environmental Statement which has been updated in 2019 and 2022. A further update to the Environmental Statement is currently being prepared in response to the Planning Inspectorate's request dated 6th January 2025 to ensure all baseline information is current. These measures, combined with the detailed conditions and Section 106 agreement requirements, provide a thorough framework for managing and mitigating the development's impacts.

5.3.3 The Appellant has consistently sought to address concerns raised throughout this process and is fully committed to implementing all planning conditions and obligations secured through the Section 106 agreement to ensure the development's long-term success and integration with its surroundings.

6. CONCLUSIONS

- 6.1 The development maintains the character and setting of the Grade II listed Hertsfield Barn by retaining the open, verdant qualities of the wider setting while preserving the barn's key historical relationship with the former Hertsfield Farm complex. The proposed landscaping scheme helps integrate the development into the rural landscape, ensuring the tranquil character of the area is preserved. With slopes of 1:8 gradient over 40m distance creating a gentle profile, the proposals represent an improvement over previously permitted schemes in terms of visual impact.
- 6.2 Residential amenity is protected through carefully considered separation distances ranging from 50m to 80m from nearby properties. The design orients anglers to face inward toward the lakes rather than neighbouring properties, while night fishing restrictions along the western boundary and comprehensive landscape screening provide additional protection for residents' privacy and amenity.
- 6.3 Technical concerns have been thoroughly addressed through detailed mitigation measures that will be secured through planning conditions and the Section 106 agreement. These include a groundwater interceptor drainage system, surface water management controls, and flood compensation works, all designed to protect neighbouring properties and the wider environment.
- 6.4 The development delivers substantial public benefits across multiple dimensions. It strengthens the local tourism economy, with Monk Lakes being one of Maidstone's main visitor attractions. The facility provides the largest disabled-access fishery in the country, supporting social inclusion and community wellbeing. The scheme promotes mental health through outdoor recreation while delivering environmental enhancements through habitat creation and the River Enhancement Scheme. These benefits collectively represent a significant contribution to the area's recreational, social and environmental infrastructure.
- 6.5 The site's history represents exceptional circumstances for retrospective EIA development, with the current scheme incorporating comprehensive environmental safeguards and mitigation measures following detailed assessment against a pre-2003 baseline. These measures, secured through conditions and legal agreement, ensure the development's impacts are appropriately managed and mitigated.
- 6.6 While the evidence from the Enforcement Notice Compliance Report demonstrates significant environmental and practical implications of enforcement, it's notable that planning permission for raised lakes on this site has been granted three times - in 2000, 2003 and 2012 - demonstrating the principle of raised lakes has been consistently accepted as appropriate development in this location.

APPENDICES

- A) Planning Permission MA/86/1149 (Barn conversion)
- B) Conservation Officer consultation responses:
 - November 2019
 - December 2016
 - 2011/2012
- C) Planning permissions for raised lakes:
 - 2000 permission
 - 2003 permission (03/0836)
 - 2012 permission (11/1948)
- D) Mott MacDonald review of groundwater issues
- E) Environment Agency and Lead Local Flood Authority consultations
- F) Peter Brett Associates groundwater monitoring program
- G) Statement of Common Ground & Addendum to Statement of Common Ground
- H) 2019 Environmental Statement and technical reports
- I) Section 106 agreement
- J) Enforcement Notice Compliance Report
- K) Maidstone Borough Local Plan Review (March 2024)
- L) NPPF (December 2023)

All documents referenced are already submitted as part of the appeal documentation.