

## **ADDENDUM TO STATEMENT OF CASE**

**Monk Lakes Limited (in liquidation)**

**Appeal Ref: APP/U2235/W/20/3259300**

**LPA Ref: MA/11/1948**

**Site: LAND AT MONK LAKES, STAPLEHURST ROAD, MARDEN, KENT**

**Date: December 2024**

### **1. INTRODUCTION**

1.1 This Addendum supplements the Statement of Case dated September 2020 and should be read in conjunction with it. The original Statement remains valid and relevant to the redetermination of this appeal. This redetermination follows the successful High Court challenge of the Planning Inspector's decision to dismiss the appeal on procedural grounds in October 2022.

1.2 That procedural matter is currently being reassessed by the Planning Inspectorate. The Appellant is addressing this procedural matter separately, as it does not affect the planning merits of the case as set out in this Addendum and the original Statement of Case.

### **2. POLICY UPDATES**

**2.1 The National Planning Policy Framework (NPPF)** was updated in December 2023, replacing the February 2019 version referenced in the appellant's original Statement of Case.

The relevant policies and paragraph numbers have changed as follows:

#### **2.1.1 Economic Growth and Tourism**

The previous paragraph 83 is now paragraph 88, strengthening support for sustainable rural tourism and leisure developments that "respect the character of the countryside" and provide accessible community facilities.

This enhanced policy support reinforces the appropriateness of the Monk Lakes facility as a sustainable rural leisure development

#### **2.1.2 Promoting Healthy Communities**

The previous paragraph 91 is now paragraph 96, with stronger emphasis on:

- Social and mental wellbeing benefits from recreational facilities
- Accessible community spaces that promote health
- Facilities that enable social interaction

These changes further support the public benefits of the proposed development, particularly its role in mental health therapy and provision of accessible angling facilities.

### 2.1.3 Heritage Assets

The previous paragraphs 193-196 are now paragraphs 205-208, maintaining core principles while providing clearer guidance on:

- The importance of heritage asset settings and their contribution to significance (Para 205)
- Requirements for clear and convincing justification for any harm (Para 206)
- The public benefits test for less than substantial harm (Para 208), which continues to support the appellant's position that the public benefits of the proposed scheme would outweigh any perceived harm

**2.2 The Maidstone Borough Local Plan Review 2021-2038** was adopted on 20 March 2024, replacing the Maidstone Borough Local Plan (2017).

#### 2.2.1 Heritage

The Local Plan Review's Policy **LPRENV1 (Development Affecting Heritage Asset)** provides an updated framework for assessing development affecting heritage assets, specifically requiring:

- Conservation and enhancement of heritage asset significance and setting
- Consideration of public benefits from development
- Proportionate heritage assessment considering:
  - affected assets and their settings
  - asset significance
  - scale of impact
- Application of NPPF tests for heritage harm

The proposed development complies with these requirements through:

A. The Heritage Assessment demonstrates:

- Understanding of Hertsfield Barn's significance
- Careful consideration of setting impacts
- Proportionate assessment of effects

B. The proposed scheme provides substantial public benefits including:

- Enhanced recreational facilities
- Accessibility improvements
- Environmental enhancements
- Economic benefits

C. Design measures protect heritage significance through:

- Significant setbacks
- Landscape integration
- Visual screening

This updated policy reinforces the position that any perceived harm would be outweighed by public benefits, and that appropriate assessment and mitigation has been undertaken.

The Local Plan Review's Policy **LPRSP14(B) (Historic Environment)** provides an updated approach to heritage protection, requiring development to:

- Conserve and where possible enhance heritage assets and their settings
- Consider potential public benefits from development affecting heritage assets
- Secure sensitive management and design of development impacting heritage assets
- Protect the characteristics, distinctiveness, diversity and quality of heritage assets

The proposed development aligns with these policy objectives as:

- The proposed scheme maintains the ability to appreciate the heritage significance of Hertsfield Barn
- Substantial public benefits are provided through recreation and accessibility
- The design incorporates sensitive landscaping to protect setting
- The proposed development preserves those elements of setting that contribute to the asset's significance

The policy's explicit recognition of public benefits in heritage considerations further supports the position that any perceived harm would be outweighed by the proposed scheme's benefits.

### **2.2.2 Rural Business & Tourism**

The Local Plan Review's Policy **LPRCD6 (Expansion of Existing Businesses in Rural Areas)** provides specific support for the expansion of existing rural businesses where they meet certain criteria. The proposed development aligns with these requirements:

- Scale and Integration
  - The proposed development is appropriately scaled for its rural location
  - Extensive landscaping ensures integration into the local landscape
- Transport Impact
  - The existing access arrangements are established and suitable
  - Traffic levels are appropriate for the rural location
- Amenity Protection
  - Significant setback distances and a comprehensive drainage scheme protect neighbouring properties
  - Landscaping provides screening from public views
  - The nature of the recreational use maintains rural character

The policy recognises the importance of supporting rural business growth while protecting amenity and character, further strengthening the case for completing and retaining this established rural leisure facility.

### **2.2.3 Design & Amenity**

The Local Plan Review's Policy **LPRSP9 (Development in the Countryside)** provides an updated framework for assessing countryside development. The policy maintains support for appropriate development while requiring proposals to:

- Avoid significant harm to rural character and appearance
- Support efficient use of land where impacts can be mitigated
- Conserve landscape character, particularly in identified landscape value areas
- Improve walking and cycling connections where possible

The proposed scheme accords with this policy as:

- The proposed development has been designed to minimise impact on rural character
- Extensive landscaping mitigation and comprehensive drainage is proposed
- The facility makes efficient use of the land for recreation
- The proposed development maintains settlement separation

The Local Plan Review's Policy **LPRQD4 (Design Principles in the Countryside)** requires high-quality design that maintains local distinctiveness. The proposed scheme includes:

- appropriate mitigation through landscaping
- Sensitive integration with its rural context

The Local Plan Review's Policy **LPRSP15 (Principles of Good Design)** sets out enhanced design requirements, with particular relevance to the proposed scheme:

- Protection of neighbouring amenities from overlooking and visual intrusion (Point 5)
- Integration with natural features and landscape character (Point 6)
- Response to local character through appropriate design (Point 2)
- Enhancement of biodiversity features (Point 9)

The proposed development aligns with these design principles through:

- Significant setback distances from neighbouring properties
- Extensive landscaping to protect amenity and integrate with local character
- Sensitive design that respects the rural context
- Enhancement of natural features through habitat creation

The distances between the lakes and neighbouring properties, combined with the proposed landscaping and restrictions on night fishing, ensure the proposed development meets these updated design requirements regarding amenity protection and landscape integration.

#### **2.2.4 Environment**

The Local Plan Review places increased emphasis on environmental protection and enhancement. Policy **LPRSP14 (The Environment)** supports development that:

- Contributes to green and blue infrastructure networks
- Delivers biodiversity net gain (minimum 10%)
- Provides recreational opportunities while protecting environmental assets

The proposed development aligns with these objectives through:

- Creation of water features that enhance blue infrastructure
- Provision of extensive landscaping and habitat creation
- Delivery of accessible recreation facilities
- Integration with the wider landscape through sensitive design

The Local Plan Review's Policy **LPRSP14(A) (Natural Environment)** introduces enhanced environmental requirements, particularly:

- A minimum 20% biodiversity net gain requirement for residential development (or statutory minimum where demonstrated not viable)

- Protection of landscape character and water resources
- Requirements for ecological impact assessment
- Integration of blue-green infrastructure
- Enhanced requirements for SuDS where surface water runoff is created

While the proposed development predates these specific requirements, the Appellant is willing to offer biodiversity net gain opportunities on all unused areas on the site. It also already aligns with many of the policy objectives through:

- Creation of water features that contribute to blue infrastructure networks
- Extensive landscaping and habitat creation
- Protection and enhancement of biodiversity
- Integration of sustainable drainage features
- Long-term management of natural assets

The evidence previously submitted, including ecological assessments and landscape impact assessments, demonstrates the proposed scheme's compatibility with these enhanced environmental objectives.

### **2.3 Policy Analysis**

The policy changes since the original appeal hearing reinforce and strengthen the case for allowing the appeal, particularly regarding:

- The proposed scheme's contribution to sustainable rural tourism
- The delivery of substantial public benefits through accessible recreation
- The appropriate balance between heritage protection and public benefits
- Support for appropriate rural business development
- High-quality design and environmental enhancement
- Clear compliance with updated policy criteria

## **3. ENFORCEMENT NOTICE COMPLIANCE**

3.1 An independent Enforcement Notice Compliance Report has been commissioned which, whilst still in draft form, concludes that compliance with the Notice requirements is not feasible. The report's findings support the case that the proposed development represents the most appropriate solution for the site.

3.2 Key conclusions from the report include:

- Compliance would require the movement of 503,478m<sup>3</sup> of material, comprising 320,765m<sup>3</sup> for off-site removal and 182,713m<sup>3</sup> for internal relocation, resulting in 134,260 heavy goods vehicle movements, 85,537 of which through the local highway network
- Compliance costs would range from £17 million to £127 million, depending on soil classification under the new classification system
- Implementation would result in:
  - the closure of an established recreational facility that attracts 30,000 annual visitors and 12,000 online followers
  - the generation of approximately 6,135 tonnes of carbon emissions
  - the displacement of protected habitats

- the loss of all current employment positions
- Landfill capacity falls significantly short of project requirements
- Resource availability constraints and complex permitting requirements create operational barriers that cannot be overcome within the prescribed timeline

#### **4. CONCLUSION**

4.1 The policy updates and additional evidence regarding enforcement compliance further support the conclusions reached in the original Statement of Case. The appeal should be allowed for the reasons previously stated.

Taytime Limited  
For Monk Lakes Limited (in liquidation)  
12<sup>th</sup> December 2024