

Planning Appeal ref: APP/U2235/W/20/3259300

Site: Monk Lakes, Staplehurst Road, Marden

Comments on Statement of Common Ground Between Monk Lakes Limited (In Liquidation) & Maidstone Borough Council dated December 2024

Prepared on behalf of:

Mr David Padden and the Hertsfield Residents Association

The following comments are provided at the request of the inspector. Nothing said or omitted below should be read as conceding any of the matters set out in the Statement of Case submitted on behalf of the Mr Padden and the Hertsfield Residents Association.

Para 1.5

We would disagree with the characterisation of the validity issue as a “technicality”. The appeal determined by Inspector O S Woodwards on 5th October 2022 was dismissed because the appeal was not correctly made and was not therefore capable of being determined under Section 78 of the Town and Country Planning Act 1990. This we contend was a fundamental failing going to the validity of the appeal itself.

Para 1.6

The decision was conceded by PINS on certain limited grounds, some of which were rejected by the High Court.

Table 1 – Summary of main relevant planning history and enforcement history

The table omits the more recent history including the dismissed appeal from 5th October 2022 and the subsequent High Court Judgement *Taytime Ltd v Secretary of State for Levelling Up, Housing And Communities & Ors* [2024] EWHC 1053 (Admin) (07 May 2024).

Para 3.18 (Site Background)

Fails to mention the appeal and High Court Judgement referred to above.

Para 6.2 (National Planning Policy)

To note that the National Planning Policy Framework has been amended since the SOCG was signed (the latest version was published on 12th December 2024).

Para 6.13 (Legislation)

As referenced above, the National Planning Policy Framework has been updated.

Para 7.4 (Development Plan Designations)

It is not agreed that the site meets the requirements of Policy DM7 because extraction of minerals would have a potentially unacceptable impact on the River Beult SSSI.

See SOC at Paragraphs **4.60 – 4.76**.

Para 7.6 (Flooding, Groundwater & Drainage)

It is not agreed that all groundwater, flooding and drainage issues can be satisfactorily addressed and mitigated via planning conditions and/or a legal agreement.

See SOC paragraphs **4.31 - 4.41**.

Paragraph 7.7 (Landscape and Visual Impact Assessment)

It is not agreed that the proposed development would have no adverse impact with regard to Landscape and Visual Impacts subject to mitigation secured by planning conditions.

See SOC paragraphs **4.7 – 4.19**.

Paragraph 7.10 (Impact on Heritage Assets)

It is not agreed that the impact on heritage relates solely to the setting of Hertsfield Barn. The impact also relates to the fabric of this building.

See SOC paragraphs **4.20 – 4.30**.

Paragraph 7.13 (Application / Appeal Plans)

There is a typo the landscaping plan is drawing number P20-0831-02 Rev A (not P20-0183-02 Rev A as listed).

Paragraph 7.14 (Exceptional Circumstances)

It is not agreed that the exceptional circumstances exist to justify retrospective EIA development. It is not agreed that “the sites extensive and complex planning history” can form part of an exceptional circumstances case given that there can be no benefit gained from the retrospective nature of the proposals.

The precise meaning of “and subsequent development that has occurred which represent a unique and unusual situation” is unclear, but as above, it would suggest that the Council is attributing weight to the retrospective nature of the proposals which is impermissible.

See (amongst others) SOC Paragraphs **2.18 – 2.29**.

9.1 (Conditions)

It is noted that two suggested conditions are imposed over and above those agreed in the December 2021 Statement of Common Ground. Mr Padden and the Hertsfield Residents Association does not object to their imposition but notes that they are both labelled as Condition number 25 in error.