

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 21 February 2024

Wrotham
Wrotham, Ightham and Stansted

TM/23/00681/OAEA

Land part of Wrotham Water Farm off London Road Wrotham Sevenoaks Kent

Outline Application (all matters reserved except access): Construction of a secure 24 hour truck stop facility for up to 200 HGVs incorporating fuel station; amenity building of up to 1100 sqm; creation of a new access to A20 via roundabout; landscaping and other associated works – Application supported by an Environmental Impact Assessment

National Highways: Additional response received to the comments of the Parish Partnership supporting the position National Highways took in their original comments and providing justification as to why they consider their position to be sound.

Private Reps: An additional 8 objections have been received reiterating the points already listed in the report.

DPHEH: The applicants have submitted a further letter in support of the application and raising issues regarding the weighting given to the guidance contained in the Department of Transport Circular 01/22. For Members information the letter is appended to this supplementary report. Whilst the applicants are entitled to their position regarding interpretation of policy I am satisfied that the correct weight has been given to all matters given the site specific issues given in the report.

With regard to the report itself it is noted that the second reason for refusal still refers to the Kent Downs Area of Outstanding Natural Beauty which have now been renamed National Landscapes. I therefore propose the following amendment to the recommendation:

Amend Recommendation to revise the wording of condition 2 as follows:-

- 2 The development would harmfully erode the rural character and appearance of the area, and cause significant harm to the landscape setting of the Kent Downs National Landscape Area through the introduction of substantial areas of built form, hardstanding and artificial lighting, in conflict with policy CP7 and CP24 of the Tonbridge and Malling Core Strategy, policy SQ1 of the Managing Development and the Environment Development Plan Document, paragraphs 182 and 135 of the National Planning Policy Framework, and policies SD1, SD2, SD8, and MMP2 of the Kent Downs AONB Management plan.**

East Malling and Larkfield (a) TM/23/01960/FL
East Malling, West Malling and Offham (b) TM/23/01961/FL
(c) TM/23/01962/FL
(d) TM/23/01974/FL

- (a) Garage Block Rear of 1 To 7 Morris Close East Malling West Malling Kent
- (b) Garage Block Rear of Blatchford Close East Malling West Malling Kent
- (c) Garage Block Rear of Addison Close East Malling West Malling Kent
- (d) Garage Block Rear of Tyler Close East Malling West Malling Kent

- (a) Demolition of existing garages and construction of 3 x 3 bed 5 person dwellings including car parking, cycle parking, refuse and landscaping (resubmission of 23/00860/FL)
- (b) Demolition of existing garages and construction of 3 x 3 bed 5 person dwellings including car parking, cycle parking, refuse and landscaping (resubmission of 23/00861/FL)
- (c) Demolition of existing garages and construction of 4 x 3 bed 5 person dwellings including car parking, cycle parking, refuse and landscaping (resubmission of 23/00862/FL)
- (d) Demolition of existing garages and construction of 3 x 2 bed 4 person dwellings including car parking, cycle parking, refuse and landscaping (resubmission of TM/23/00863/FL)

DPHEH:

Members have been emailed directly with information regarding parking by a resident of the Winterfield Lane estate. For clarity, this information has already been received as a representation with the planning applications and has been taken into consideration within the committee reports. These photos are already available to view on the website.

Since publication of the main agenda papers, members have been approached by the applicant's agent, Atkins, who have provided a Briefing Note. The Briefing Note sets-out the applicant's overview of the development proposals. This raises no new issues for consideration, with all matters already addressed within the committee reports. Members should be aware that there is a typo on page 2 of the Briefing Note, by way of stating that 24 parking spaces being proposed at Tyler Close – this should state 14 spaces. These spaces include on plot parking, parking within the parking bays and informal parking along the highway.

My recommendation remains unchanged

Appendix



London Office – Studio 11.2.1, The Leather Market, 11-13 Weston Street, London, SE1 3ER
Milton Keynes Office – 7 Canon Harnett Court, Wolverton Mill, Milton Keynes, MK12 5NF
T: 01908 410422 E: office@smithjenkins.co.uk

20 February 2024

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

Our Ref: 701

Dear Sir/Madam,

Planning application reference: TM/23/00681/OAEA

Site at: Land West of the A20 and North of M26 (Junction 2A), Wrotham

Description of development: Outline planning application (all matters reserved except access) for construction of a secure 24-hour truck stop facility for up to 200 HGVs incorporating fuel station; amenity building of up to 1100 sqm; creation of new access to A20 via roundabout; landscaping and other associated works.

We act for Moto Hospitality Ltd ('Moto') as their agent in respect of the above planning application.

The application is due to be considered at the Area 2 Planning Committee on Wednesday 21st February 2024 on the basis of an Officer's Report ('the Report') that recommends that the need for the development and the associated benefits that it would offer are not sufficient to overcome objections on Green Belt and landscape grounds and that planning permission should be refused on those grounds. Having had the opportunity to review the Report, we are concerned about some aspects of the analysis which it contains, particularly when considering relevant Government policy for the provision of service facilities on the Strategic Road Network ('SRN') and when reporting (or omitting to report) the views of statutory consultees including National Highways and Kent County Council, with implications for the assessment of the overall planning balance is assessed as a result.

Government Policy for Services on the SRN

Government policy for the provision of service facilities on the SRN is primarily contained in Department for Transport Circular 01/2022 which identifies their function and provides guidance about how the need for new facilities should be considered and assessed. The guidance in the circular is plainly a highly relevant and important material consideration in the determination of the Moto planning application. Whilst the Report mentions the guidance, it does not engage with the content sufficiently and presents analysis which in certain respects conflicts or is inconsistent with the Circular.

An earlier planning application by Moto for a similar development on the same site (TM/21/02648/OAEA) was refused by officers under delegated powers on 5th April 2022. The Circular was published later in the year and introduced new provisions specifically in respect of service facilities for heavy goods vehicles ('HGVs'). The policy and its focus upon the provision of suitable service facilities for is also reflected in the amended National Planning Policy Framework which likewise postdates the earlier application and thereby raises new considerations that were not taken into account when coming to the earlier decision (NPPF 2023, Paragraph 110 e) & 113).

Circular 01/2022 is clear that the primary function of roadside services is to support the safety and welfare of road users (Paragraph 71) and that to serve that function services should be located on or close to the SRN and signed from the SRN. The Circular identifies 'truckstops' as one form of roadside services which meet the primary function. However, for the purposes of the Circular 'truckstops' mean services signed from the SRN and which meet certain technical criteria concerning matters such as location (no more than 2 miles of a junction on the SRN), minimum number of parking spaces, and availability of facilities (including toilets, showers, access to hot foot etc.). Sites which do not comply with the criteria in the Circular do not qualify to be signed from the SRN. They are not sites which support the safety and welfare of road users as the policy in the Circular intends.

That is important when it comes to considering the need for new service facilities. In this case National Highways has confirmed that the Moto proposals comply with the guidance in the Circular and would qualify to be signed from the SRN if planning permission is granted. Therefore, National Highways is satisfied that the proposals comply with both the technical criteria in the Circular (e.g. concerning parking numbers, toilets, refuelling and catering facilities) and the spatial guidance (e.g. concerning the maximum distances between signed service facilities on the SRN). That is in the context of the acknowledged need for additional lorry parking and HGV services within Kent (and the wider region). Against that background Kent County Council as consultee have stated that it supports the proposals.

The spatial guidance is on the basis of the travelling time and consequent distance between services on the SRN. Paragraph 76 of the Circular states that the maximum distance between signed motorway service areas should be no more than 28 miles, or about 30 minutes driving time. Paragraph 78 states that in determining applications for new or improved roadside facilities, local planning authorities should not need to consider the merits of spacing between different facilities beyond that.

Gaps in excess of 28 miles indicate a need for additional facilities. This is confirmed in the most recent appeal on the matter of spacing and need at 'Land at Junction 11 of the M62 Motorway, Warrington' (PINS ref: APP/M0655/W/21/3288180). The appeal related to a proposed motorway service area, in a Green Belt location. The 'need' for the services formed the bedrock of the case for 'very special circumstances'.

In regard to spacing between services which provide HGV parking facilities, Circular 01/2022 reduces the spacing requirement to 14 miles where there is an identified need for such facilities. Need is identified in the National Lorry Parking Survey. Paragraph 81 of the Circular is clear: when there is an identified need for lorry parking, gaps between services which provide such parking should not exceed 14 miles apart. In this case, there is a need for lorry parking. It is longstanding, as has been demonstrated most recently in the National Survey of Lorry Parking 2022 and through Kent County Council's on-going data collection of instances of off-site lorry parking. Therefore Paragraph 81 of the Circular is engaged.

The spacing guidance applies regardless of route choice or traffic flows. There are existing gaps in excess of 14 miles which exist between Maidstone MSA, Clacket Lane MSA and Thurrock MSA utilising the M20/M26/M25 motorways. A high quality, purpose built truckstop at Wrotham would fill the gap and meet the need for lorry parking facilities. As was the case at Warrington, meeting the need for additional services provides the basis of Moto's case for very special circumstances. It is a significant benefit of the proposals which should be afforded significant weight in the planning balance.

The analysis presented in the Report suggests that the need for the development or alternatively the benefits of the development in meeting the needs of HGVs on the SRN is diminished because the need has not been shown to be site-specific or because the routes that it would serve are among alternatives catering for the same or similar journeys. The Report also argues that the need is diminished because it has not been shown to be "urgent." The Report is mistaken to do so. The need for new services has to be considered within the framework of the guidance in the Circular. The guidance in, inter alia, paragraph 81 of the Circular applies wherever there is an identified need. In those circumstances local planning authorities are directed to have regard to the modified spatial guidance which is that the distance between services providing lorry parking should not exceed 14 miles regardless of route choice.

Statutory Consultees

It is disappointing to see that the report does not fully report the Consultation responses from either National Highways or Kent County Council, who are both supportive of the provision of facilities in this location.

Kent County Council have signed a position statement with the Applicant that confirms the agreed position on highways, and expresses support for the provision of a truckstop in this location. It is clear from the position statement that Kent County Council accepts that there is a need for a lorry park in this location.

Alternative Sites

The Report considers the question of alternative sites at some length between Paragraphs 6.102 and 6.114. This begins with a consideration of *Secretary of State for the Environment v Edwards* [1995], a Court of Appeal case that considered how far competing alternative sites should be taken into account where only a single planning permission is likely to be granted to address a need. Moto accepts that any competing proposals to meet the same need would be a material consideration in the determination of the application. However, there are no competing proposals and their absence reinforces the case for the development.

A detailed alternative sites assessment accompanies the planning application. It has been prepared in the absence of any specific alternative proposals that are being promoted by either developers (through the development management process) or local authorities (through the local plan process) and having regard to the framework in the Circular, to try and identify whether there are any sites which might potentially be suitable and available for new services and, if so, whether they would offer any planning advantages by comparison with the application site. The Report criticises the assessment on the basis that it “appears to be based on size and distance from other services” but that is the essence of the framework in the Circular. The Report concludes that “there is a reasonable prospect of alternative sites existing where all the benefits of providing lorry parking would...be delivered” but does not identify any specific location let alone any specific site where that would be the case or indicate whether the author had in mind lorry parking in accordance with the criteria in the Circular or non-signed facilities that would not comply with the Circular. There is no factual basis to support the conclusion that there is a reasonable prospect or indeed any prospect of an alternative site for a Circular-compliant service area coming forward.

The Report does not cite them, but the consortium of Parish Councils has suggested a number of locations which might be suitable for lorry parking development. However, it has done so on the basis that it is not appropriate to plan on the basis of the Circular and unsurprisingly the locations which it has put forward would not meet the requirements in the Circular.

The absence of any realistic identified alternatives is a factor which weighs heavily in favour of the development.

Planning Balance

The Report concludes that the harm caused by the scheme is ‘substantial’ and that very special circumstances do not exist in this case that clearly outweigh the harm (Paragraph 6.123). As is stated in the NPPF, very special circumstances will exist where the Green Belt and other planning harm that a proposal would cause is clearly outweighed by other factors. Need is one such other factor, to which the Report attributes ‘significant’ weight at Paragraph 6.119. The Report states that this weight however should be tempered because it cannot be demonstrated that the need is ‘urgent’. The Report does not explain what is meant by urgent in this context. However, as already noted, the context is one in which paragraph 81 of the Circular is engaged because there is a particular need for lorry

parking as may be seen from both the National Lorry Parking Survey and Kent County Council data. For the situation to be one in which special policy considerations are triggered in order to address the need for lorry parking suggests strongly that it is one in which the need is urgent and certainly compelling.

The absence of any realistic alternative reinforces the need for/benefits of the application proposals. There is no factual basis for the Report to suggest that is a reasonable prospect of alternative sites existing: it is a statement made in hope rather than expectation. In *Edwards, Roch LJ* (with whom the other members of the court agreed) stated that it was critical in the circumstances of that case that the contending sites were not “merely alternative sites” but were the subject of planning applications and in certain cases planning appeals and so were material considerations on that basis. There are no comparable alternatives that are the subject of planning applications or appeals in this case.

Meeting the need for additional services will cater for the welfare and safety of highway users and thereby contribute to the safe and efficient operation of the SRN. In addition, the development will bring other economic and environmental benefits which are barely touched upon in the application. These benefits include a biodiversity net gain of 90.22% (or 21.42 habitat units) on the parcel of land to the south-west of the truckstop site and provision of jobs associated with the construction and operation phases of the development.

If the planning balance is correctly undertaken, the applicant acknowledges that the development would cause some harm but the harm is clearly and demonstrably outweighed by the range of other factors that apply.

Conclusion

Moto invite you to reconsider the assessment in the Report in the light of these comments .

If Officers wish to discuss this matter further, please contact Jennifer Smith or Chris Walton of this firm.

Yours faithfully

Smith Jenkins Planning & Heritage
For and on behalf of Moto Hospitality