Statement of Case

APP/A2280/W/22/3307648

Cuxton Parish Council & Cuxton Against the Winery
8 DECEMBER 2022; MODIFIED 22 FEBRUARY 2023

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Statement of Case by: Cuxton Against the Winery and Cuxton Parish Council

Appeal by Vineyard Farms Ltd: APP/A2280/W/22/3307648

Town and Country Planning Act 1990

Appeal by: Vineyard Farms Ltd
Site Address: Land South of Bush Road, Near Cuxton, Medway

Proposal: Construction of a winery building including café/restaurant and visitor centre with energy centre, car park, access road and landscaping.

PROPOSITION

We are against the appeal proposal.
We support the decision of Medway Council's Planning Committee to reject Planning Application ref: MC/21/2128 and provide further evidence below, partially in response to the appellant's claims in their statement of case. We urge the refusal of this appeal.

The following content builds in certain areas on the document compiled by Cuxton residents, dated February 2022: *The Kentish Wine Vault: A community's insight for Medway Planning Committee.*

Note also that it has proved unhelpful that Medway's online Appeal Planning Site has removed all the statutory replies to the appellant's application. Whilst they may have been relegated to 'Comments', that section is no longer visible to the public, leaving only the appellant's documents. So, for instance, comments from the Kent Downs AONB or the Kent County Council Senior Archaeological Officer can no longer be seen or referenced.

SECTION 1: THE APPEAL PROPOSAL IS NOT 'COMPELLING'

1.1 Not compelling

The introductory section 1.3 of the appellant's statement of case sets out reasons for deferring any decision at Medway Planning Committee meeting on 8th December 2021:

> *'to allow for a site visit on 15 January 2022 and a Q&A session on 22 February to allow Committee members to ask questions of the appellant for clarification of issues raised during the planning meeting'*

Representatives of the Cuxton community were excluded from this site visit and yet, following the visit, and the additional Q&A session with the appellant, a majority of Medway Planning Committee members voted to refuse the application. The site visit and additional Q&A session in the most part validated issues raised by the community and some planning committee members. This indicates that the application and the appeal are not compelling.

1.2 Alternative locations

Neither is there a compelling need for a processing and bottling plant in the Kent Downs Area of Outstanding National Beauty (AONB) and Green Belt when grapes can successfully be transported off site for processing, as with other local vineyards such as Chapel Down. There is no substantiating data to show that a detailed study of an alternative location, with better infrastructure, was thoroughly considered before submitting the original planning application.[1] This can be considered a flaw in the appellant's business plan given the ambition to become the largest winery in the UK.

1.3 Tourism facilities

There is no compelling need for a restaurant, café, visitor centre or car park in the proposed location.

[1] *Medway Council Planning Committee Papers,* 9 March 2022, p 46

SECTION 2: THE APPEAL PROPOSAL IS AN INAPPROPRIATE DEVELOPMENT IN THE METROPOLITAN GREEN BELT

2.1 The specific local situation in the national context

2.1.1 The National Planning Policy Framework (NPPF) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open i.e., Green Belt equates to openness and permanence. The first two of the Green Belt national purposes:

- *to check the unrestricted sprawl of large built-up areas*
- *to prevent neighbouring towns merging into one another*

transmit locally, in this instance, to -

- *prevent the eastward sprawl of London and the merging of towns along the southern fringe of the Thames Estuary*
- *maintain the break in development between the Medway Towns and Gravesend*

2.1.2 The Metropolitan Green Belt is the only check to unrestricted sprawl.



Figure 1: The narrow Green Belt between Medway and Gravesham

2.2 The narrowest section of the entire Green Belt

2.2.1 When considered in relation to the whole Metropolitan Green Belt, the gap between the towns of Gravesend and Medway is extremely narrow (Figs 1[2] and 2[3]), being just 4km between the nearest two points. Removing Gravesend from the equation defines this as the narrowest section of the entire Metropolitan Green Belt. The map (Fig 1) illustrates a clear risk that the Green Belt could fail.

2.2.2 The appellant's proposed site is less than 4.5 kilometres from the outskirts of Gravesend, so lies within this narrowest section of Green Belt. The remainder of the appellant's estate at Luddesdown and Cobham is even closer to Gravesend.

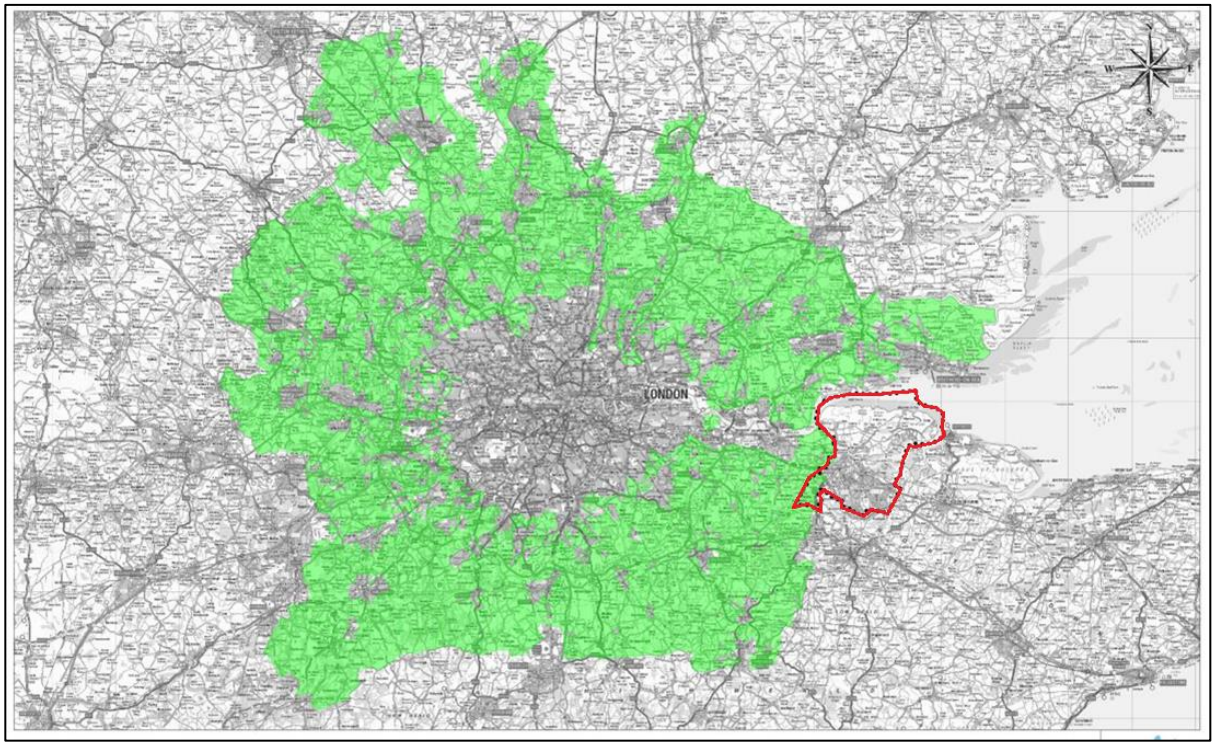

Figure 2: The Metropolitan Green Belt. Medway Council area is highlighted red, revealing its tiny allocation

2.3 The need for cross-boundary consultation

2.3.1 Medway contains the site of the proposed £30 million building site, the Kentish Wine Vault (KWV), plus a small area of vineyard. However, most of the vineyard, the appellant's company's offices, the original agricultural base, and the application's guaranteed £30 million of additional development all fall within that area of the Metropolitan Green Belt in the authority of Gravesham Council.

2.3.2 While guaranteed further development would not normally carry weight in a planning application, this is such an integrated part of the appellant's stated aim to become the largest vineyard in the UK, on 'a scale, quality and ambition not hitherto seen in this country,' that it would be negligent to omit consideration of the overall effect on the Green Belt of any ensuing

[2] Map taken from *Gravesham Green Belt Background Paper*, October 2020, p 13
[3] Map taken from *Medway Green Belt Review*, December 2018, p 5 fig 1

development, when it would affect a neighbouring planning authority that had not been consulted.

The Medway Green Belt Review noted that the:

'*Green Belt has been identified as a significant cross border matter between Medway and Gravesham councils and raised in representations to consultations on the authorities' respective development plans.*'[4]

If the Green Belt is to be upheld in its NPPF role, this major application concerns both local authorities, and requires cross-boundary consultation.

2.3.3 The construction of the proposed KWV in Medway will form the leverage for planning applications for further tourism expansion across the entire vineyard, in Gravesham, in Green Belt land (the £30 million additional so promised).

2.3.4 Gravesham has already rejected a winery application in Meopham[5] and is working hard to maintain Green Belt land in the face of government housing quotas. There is only a narrow strip of unspoilt, undeveloped green space between the proposed KWV development site and the hard-surfaced paths of Jeskyns Park near Cobham, just across the A2 from Gravesend.

2.3.5 The current UK Prime Minister, Rishi Sunak, has pledged to protect the Green Belt.[6] Only by looking at the wider picture can the Metropolitan Green Belt be safeguarded, its national and local planning purposes be maintained, and gradual**,** subtle development prevented from filling the narrow green band of countryside between conurbations.

2.4 Safeguarding the countryside from encroachment (the 3rd national purpose of the Green Belt)

2.4.1 The appellant might argue that the proposed KWV will maintain the ethos of the Green Belt with its vineyard tourism. However, at the present time, Cuxton's clearly defined western edge helps stop the encroachment of development into the countryside. It is the outer boundary of the Metropolitan Green Belt and forms a boundary between semi-rural areas and unspoilt countryside. Introducing this winery would blur the edges of the built-up area and open the way for the spread of built activities in the rest of the vineyard estate and into Gravesham.

2.4.2 The scale of the proposed encroachment is large. Permitted development for an agricultural building is 1,000m². The floor space of the proposed KWV building is close to 16 times that, a gargantuan 15,912m², the size of two football pitches, out of all proportion to the nearby listed buildings. Add to this the footprint of the Energy Centre, loading bays, 107 bays in the visitors' car park, bus parking spaces, cold water break tank with pressure pump, foul water attenuation tanks, new access road and areas of hard standing required for the construction work, entirely new utilities, and this emerges as a truly huge *built* incursion into the Green Belt.

[4] *Medway Council Green Belt Review*, December 2018, p 9 item 2.4
[5] https://www.oss.org.uk/vineyard-development-rejected-in-kent-beauty-spot/
[6] environmentanalyst uk, 26 October 2022

Then add an additional £30 million of investment. And all this on an undeveloped green field site in open countryside, in an AONB, located outside any settlement boundary, and accessed by no road or track. The site was not allocated for any redevelopment within the Medway Local Plan and was not identified as a site with development potential as part of the Medway Strategic Land Availability Assessment.[7]

2.4.3 Some 65,000 visitors (a probable under-estimation) are predicted per year, funnelling into valleys nationally designated in the AONB and Medway's Landscape Character Assessment for their remote, undeveloped, and tranquil qualities enjoyed by walkers along the North Downs Way. The area already suffers other pressures: fly-tippers, takeaway litter, and off-roading vehicles. Further noise from tractors, lorries, people and cars – between 6.00am until midnight as the restaurant staff finally leave – will be a constant devaluation of its tranquillity.

2.4.4 What will the additional £30 million investment, as proposed by the appellant, introduce into the Green Belt between Medway and Gravesham?

2.4.5 Denbies Wine Estate (formerly the UK's largest vineyard, but now with only a third of the appellant's current vineyard acreage) attracts over five times the number quoted per year for visitors to the appellant's winery, with additional tourist elements including hotel, restaurant, wedding venue, corporate and team-building events, charity events, exhibitions, product launches, camping pods and animal experiences.[8] The appellant's sister vineyard in Provence, 'a Monaco billionaire's wine and hospitality empire' (and from where the appellant states to have amassed knowledge) includes a castle filled with luxury suites (£68,970 a week), a Michelin-starred bistro, two swimming pools, a private spa and cinema, together with private villas and a culinary school, all just a 20-minute helicopter ride from Monte Carlo, setting 'the gold standard in vinotourism.' [9]

2.4.6 It could be argued that such elements are a diversification of rural industry, to be encouraged, and that Medway's Tourism Officer welcomes it - indeed so persuasive was the appellant's publicity that the arrival of the much vaunted 'World Class Winery' appeared in both the national press and Medway's City Status Bid prior to the application reaching the Planning Committee.[10] However, any built elements of the additional £30 million investment will involve substantial erosion of the Green Belt, an encroachment into not just Medway's section of Green Belt, but Gravesham's Green Belt.

2.4.7 The NPPF paragraphs 147 and 148's *'very special circumstances'* for allowing inappropriate development refer to potential harm to the Green Belt and *'any other harm resulting from the proposal'.*

2.4.8 Only by weighing up the total aggrandisement of these plans, can one assess the damage to the structure of the Green Belt in both authorities and thereby the risk of breaching it.

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[7] *Medway Council Planning Committee Papers*, 9 March 2022, p 39

[8] www.denbies.co.uk

[9] Maxim.com, 23 November 2021, 'Inside a Monaco Billionaire's Wine and Hospitality Empire.'

[10] This appeared in Medway's City Status bid on Medway's website in January 2022 but seems now to have been taken down: '*Medway will soon be home to a world-class winery, with the Kentish Wine Vault, nestled at the foot of one of our Green Flag award-winning country parks.'*

2.5 Agricultural exception

2.5.1 Throughout the planning process, aside from the significant ignoring of the Kent Downs AONB Officer's overall objection to the proposal which Natural England advised listening to[11], there have been two anomalies that Cuxton residents felt should have been investigated: the size of the proposed KWV development; and the claim made that it was an agricultural building and so qualified as an exempted new building within the Green Belt.

2.5.2 The first anomaly – size – was remarkably belatedly dealt with, appearing only on the last but one page of the background papers to Medway Council's March 2022 planning meeting:

'*Following the Planning Committee Meeting on 8 December 2021, further legal advice was provided as to whether the proposed development would constitute inappropriate development in the Green Belt. It was considered balanced,* however *due to the provision of the visitor centre and café/restaurant which would measure more than 1,000m² it was considered that the proposed development would constitute inappropriate development in the Green Belt'*

In summary, permitted development = 1,000m²; Kentish Wine Vault = almost 16,000m².

Several examples were proposed as precedents for the size of the building in the planning officer's notes to Medway Planning Committee:[12]

Rathfinny Wine Estate in the South Downs National Park Authority (SDNPA) (a comparable landscape designation) was given planning permission in 2012 for a contemporary new winery building of only 1,800m², built next to an existing grain store, the pressing equipment sunk in an old silage clamp.[13] The Phase 2 building (in 2016) of 2808m² was also on an existing built footprint – the cattle shed. Permission was granted for a third building (2340m²) because:

'*it has now become apparent that the existing buildings are still required by the arable farm operation on site'*

with the Parish Council wanting:

'*assurance that the SDNPA has taken reasonable steps to satisfy themselves that buildings of such significant size are really necessary to the Rathfinny Estate*.'[14]

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[11] Letter from Natural England, no longer visible in the planning application documents: '*Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty of AONBs and National Parks... We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision*.'

[12] *Medway Council Planning Committee papers,* 9 March 2022, p 43

[13] *South Downs National Park Authority Planning Committee Report,* 19 January 2012

[14] *SDNP Planning Committee Report,* 10 March 2016, item 7. 3

A C Goatham and Son's fruit processing and storage facility (two buildings), approved under MC/08/1121 within the Deangate Ridge Area of Local Landscape Importance, was only a 5285m² footprint, less than a third of the footprint of the proposed KWV single winery building, and falls neither within the Green Belt nor an Area of Outstanding Natural Beauty.

The much-quoted Millington V Secretary of State case (CA 25 June 1999) did not concern the construction of a new building for the purposes of selling wine, merely change of use. The background papers to Medway's March 2022 planning meeting put forward the premise that, though the scale of winemaking in the Millington Court of Appeal case was small, this justified the scale of the appellant's proposal:

'*.... given that this proposed winery would serve a total landholding of approximately 1,200 acres, of which approximately 700 acres have been planted with vines and another approximately 200 acres planned for the next two/three years, it is considered that that scale of the proposal (15,912m²) is entirely appropriate for the requirements of the agricultural enterprise.*' [15]

On this premise, a landholding twice the size of that would justify a building of 32,000m² - clearly non-sensical. At what point does common sense consider the actual size of the building in relation to its surroundings, and the protection of a nationally designated area?

2.5.3 The second anomaly - agricultural or touristic classification - was never formally resolved but was used to justify the proposal's avoidance of Green Belt rules. This ambitious company, without considering its landscape setting of narrow winding rural lanes, poor visibility, and limited access, intent on its widely publicized aspiration to be the largest vineyard in the UK, has accrued more and more land. It is now three times the size of the previously largest UK vineyard and is still growing. The ambition has simply become the justification for demanding an outsize wine-making and bottling facility.

2.5.4 It should be noted that Rathfinny Wine Estate (who have been used as an example in the background papers) did not plant any vines until after they had sorted out where their production facilities would be and received planning permission for them from the local authority and the SDNPA.

'*We did look at another spot in Hampshire, but there was no building space, and we needed that for the bottling and the winery infrastructure*.'[16]

2.5.5 The appellant clearly has two distinct aims: the first to deal with the harvested grapes; the second, to gain additional revenue attracting visitors with a building of status which attempts to avoid those elements of national designation designed to protect the area. The agricultural part of the process is the wine processing. This situation is becoming urgent in that the appellant has planted vines before sorting out the infrastructure. Mark Driver from Rathfinny Wines explained:

[15] *Medway Council Planning Committee Papers,* 9 March 2022, p 43
[16] Mark Driver 'Rathfinny Wine Estate' *Huffington Post* 26 November 2012

'*We had to source the vines 18 months ahead of planting, and then it's another four years before we can start the production process*.'[17]

2.5.6 The appellant did not do the same. The appellant possesses existing farm buildings at Court and Brookers Farm in nearby Luddesdown with two vats, where grapes are currently processed (retrospective planning permission was required from Gravesham Borough Council for these).[18]

2.5.7 The appellant has farm buildings (Upper Bush Farm) within the Upper Bush Conservation Area where large intrusive amounts of work are currently taking place to extend the site as a depot and farm vehicle parking lot, with little care for its historic remains and tranquil rural character, or for the residents, and absolutely no concept of the 'special attention' needed to:

'*be paid to the desirability of preserving or enhancing the character or appearance of that area*'.[19]

2.5.8 The appellant argues that the proposed restaurant, café, and visitor centre would not exist without the presence of winemaking on the site and that the hospitality element is essential. In fact, winemaking facilities can and do exist quite happily without tourism. There are 85 vineyards in the Kent Downs AONB.[20] Of the more than 800 vineyards in the UK[21] fewer than a quarter possess a winery and there were 197 wineries in 2020-21[22]. Based on this, there is certainly no national need, as the appellant claims, for this vineyard to possess a winery.

2.5.9 It is important to note that, as far as Green Belt planning is concerned, the area of the non-agricultural part of the operation has a floor space of 15,912m² and therefore emphasis on it being only 15% (or less) of the entire structure is irrelevant. Though the restaurant/café/visitor centre area is the nominal hospitality area, visitors will doubtless be touring the processing part of the building too.

2.5.10 The visitor and associated facilities form a significant element of the proposed development both in terms of the floor area they occupy and the nature of the proposed use, and, over and above the total size of the development, it is the tourism element that conflicts with both the significance of the designated land assets of the site (AONB, Green Belt, Special Area of Conservation, Special Landscape Area, adjacent Ancient Woods and SSSI), with the nearby Conservation Area, and with the residents of the village of Cuxton.

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[17] *Ibid*.
[18] Gravesham Borough Council planning application 20210607, 12th May 2021, Brookers Farm, Luddesdown Road, Luddesdown, Gravesend, Kent DA13 0XE; *Description: Retrospective application for erection of two storage/fermentation tanks*.
[19] *Planning (Listed buildings and Conservation Areas) Act 1990*; see section 5 of this document on Upper Bush Conservation Area
[20] *Kent Downs AONB Management Plan 2021-2026*, Section 6, Fig 6.2 Vineyards in the Kent Downs AONB
[21] https://phys-org/news/2022-07
[22] www.statista.com/statistics/302991/number-of-wineries-united-kingdom-uk

2.6 Doubtful economic, social, and environmental benefits

2.6.1 Although we have an escalating food, energy and climate crisis, and viticulture is the fastest growing sector of the agriculture industry (a rewarding financial investment), it does not provide an essential foodstuff. There are also some concerns about the sustainability of growth:

'*…despite English sparkling wine in particular receiving significant acclaim and winning international recognition for its exceptional quality, doubts have recently been raised about the viability of immediate and sustained rapid sector growth, particularly in light of global reductions in alcohol consumption. Therefore, despite the predictions of expansion, it should be noted that the precise growth trajectory for viticulture in England and Wales remains uncertain*.[23]

2.6.2 From an economic viewpoint, no significant weight can be placed on offers of jobs. The reality is that offering jobs is no longer an asset, particularly in the specific areas the appellant offers.

'*Economic experts and Kent council chiefs have warned that local businesses are facing a 'real challenge' as there are 'more vacancies than people' in industries facing shortfalls, such as hospitality, agriculture and lorry drivers.'* [24]

'*Nearly 40% of UK hospitality businesses are facing a skilled worker shortage.'* [25]

2.6.3 Latest ONS figures show that the hospitality sector currently has 158,000 jobs available. In August 2022, the National Farmers' Union estimated that up to £60 million worth of produce was thrown away because of a lack of fruit and vegetable pickers.

2.6.4 Dermot Sugrue, a winemaker from West Sussex, wrote last year '*We simply cannot get the volume of people here to do the work. It's an absolute nightmare*.' [26] He now uses volunteers to help pick his grapes.

2.6.5 The employment problem needs to be acknowledged - as a problem; and many of the employment opportunities one would hope would be filled by workers already working among the vines at Luddesdown and Cuxton.

2.6.6 From an economic viewpoint, even without a hospitality element, the vineyard will secure itself a substantial income, and contribute to business rates. This is not a struggling business requiring support to emerge from Covid. The appellant has a desire for a hospitality element to match their largest UK vineyard status.

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[23] *SDNP Viticulture Growth Impact Assessment*, p 18 (*Wine GB, Business and Marketing Conference* 2020b)
[24] *Kent Live* 10 October 2022
[25] https://www.worldcoffeeportal.com *› 2022 › September*
[26] *Euronews* 29 December 2021 'A year since Brexit: English winemakers get creative to beat 'nightmare' labour shortages'

2.6.7 The winery offers nothing in economic terms to the local village. There are no benefits to local shops or pub: the pub will lose custom, the trail of cars and electric buses will not stop at local shops to pick up something before a wine-tasting, late-night drinkers will appear at both ends of the village, and the actuality is, visitors from outside the village are unlikely to wander back from a wine-tasting, clutching bottles to take with them on public transport.

2.6.8 We are already suffering from vineyard employees travelling at speed through the village. The concept that access for the 300 plus daily visitors to and from this area, in addition to the 100 staff, can be restricted to electric buses in place of cars, is not supported by any villager's experience. The three main line stations are in opposite directions all along congested roads. Bikes are not adapted for carrying wine. There is no realistic chance of access by a range of transport modes.

2.6.9 The SDNPA Viticulture Growth Impact Assessment April 2021 lists the risks presented by viticulture and wine production in protected landscapes: vineyards are more intensively managed than the land they often replace; they can impart reduction in tranquillity; additional noise from plant and machinery, vehicles, events, maintenance operations and visitor centre operations, lighting negatively destroying dark skies, all impact in terms of this tranquillity. While the Rathfinny Tasting Room is open from 12 noon – 3pm Wednesday to Sunday and from 6:30-8:30pm Friday to Saturday, and Chapel Down is open 12:00 noon-3pm Wednesday- Saturday (4pm on Sunday), and from 6pm-9pm Thursday to Saturday, here, in Bush Valley, the agricultural element of the development will start at 6am and the restaurant and hospitality element will add its noise and light, until 12 midnight, long past traditional agricultural hours, both for those at Upper Bush and those in Bush Road opposite the access road, for whom there will be a constant braking, turning, and accelerating of vehicles. Noise carries across the valleys: a party at Upper Bush on the Bush Valley side of the slope can clearly be heard in the village.

2.6.10 In the summer we had impinging water restrictions. Demand for water in the Southeast broke all records. Over and above the fact that this region is already classified as an area of water distress, Kent has significant pressures from its substantial growth trajectory and high levels of water usage. The chalk aquifer is stressed. The huge water footprint of wine is disturbing. Equally disturbing is the inability of the water authority to dispose of its wastewater correctly, even before it receives vast amounts of additional wastewater from a winery. In drought, will individual public use have priority over business use?

2.6.11 In environmental terms, 'improvements to biodiversity', whilst appearing as a benefit on the tick sheet of the Biodiversity Metric, take no account of:

- the loss of landscape quality of the grazed downland grass that the appellant has already destroyed at Luddesdown.
- the overall reduction in biodiversity switching from mixed arable farming to viticulture.
- the meadow on a par with Ranscombe Farm Reserve, which was deeply dug destroying the chalk structure, the orchids, the lark nesting habitat (on the Red list of conservation concern).

- the trees, which, planted blanket-fashion along lane verges, will present a safety risk for road-users round blind bends.
- the long-established badgers' sett on the access routes to the site, which cannot be avoided by the 'mitigation' of a 30-metre exclusion zone around it, and which the appellant has never acknowledged will need removing.
- the 'plantation' trees where the 'mitigation' offered is to all intents to cut them in half.

This does not bode well for guardianship of a nationally important landscape area. Planting might, in fifteen years, soften the development, but it is unlikely that much of the wildlife will survive the two, or more, years of destructive 'construction' work excavating 11 metres down into the chalk hill over an area the size of two football pitches.

None of this is of economic, social, or environmental benefit.

2.7 Medway's green spaces; Gravesham's green spaces

2.7.1 In Lockdown, there was a realisation of why this area's quietness and sense of tranquillity are so important. Particularly on the edge of a large conurbation. With more stress over food and energy bills to come, and with people affording to travel less far, the countryside will remain a vital asset for health and well-being. Yet the only way the appellant can obtain economic benefits through tourism is by eroding the area's unexploited characteristics, its remoteness, and its tranquillity.

2.7.2 Just because, in a world focussed on economic values, an immediate financial worth is not evident, does not mean that an open stretch of countryside retained permanently for all of us, and for others to come, has no value.

2.7.3 There is such a huge disparity between the numbers of families with children struggling in Medway and the provision of upmarket wine-tasting facilities, that the opulence of this new build will highlight the gaping divide between poor and rich.

2.7.4 The purpose of the Green Belt to assist in focusing development on underused, derelict, and previously developed land is seemingly overlooked. The first public reference to the appellant:

'*exploring the possibility of locating the wine production and storage functions at an off-site location outside of the immediate area of the AONB and most likely in an existing industrial area, for example, Medway City Estate or Kingsnorth Industrial Estate*,'

appears to come in Medway Planning Department's notes at the final planning decision,[27] yet, in taking account of this Green Belt national purpose, the first focus in this application, now more so than ever, should have been on underused, derelict, and previously developed land.

[27] *Medway Council Planning Committee papers,* 9 March 2022, p 46

2.7.5 This mentioned 'exploration' of brownfield sites lacks evidence, lacks any substantiating data of any kind, most noticeably in comparison to the persuasive media operation of the planning application. There has certainly been no focus on feasible brownfield sites prior to consideration of development within the Green Belt, nothing that was visible in the public domain. However, the phrase regarding business parks/industrial estates that,

'*...the required scale of the buildings means that there are few locations where such provision would be achievable in principle*' [28]

firmly evidences the truly massive scale of the development: too large apparently for Medway's Innovation Park, or industrial estates, but not for the nationally protected AONB and Green Belt. Would a requisite processing and bottling plant fit in one of these sites? There is no data to show.

2.7.6 Chapel Down, in its planning application for a new production hub, has chosen a business park as the '*most suitable*' location, where expansion is already allocated in the district's draft Local Plan. In its bid to become the UK's leading centre of wine production, Chapel Down found its current winery:

'*not equipped for the expansion proposed*. *It is poorly located in terms of the wider highways network and is not expandable for increased capacity winemaking or for ancillary processes such as bottling, storage and disgorging*.' [29]

All these features could also apply to the appellant's siting of this proposal.

2.8 Transport of grapes

2.8.1 The appellant cites problems in the transportation of grapes to an offsite location, but there has been no local consultation on this. A road jam at harvest time in Cuxton - a brief part of the year - would be preferable to suffering a daily flow of visitors' cars, restaurant deliveries and electric buses throughout the year. School children would only require to be extra vigilant at harvest time, rather than all year round. Visitor movements and restaurant supply and staff movements would clearly outnumber any movement of harvested grapes or wine.

2.8.2 With three-quarters of UK vineyards being without wineries, three-quarters of the vineyards must also transport their grapes for processing. Chapel Down, on their home page, say that they:

'*source high quality fruit from long-term partner vineyards across Kent, Sussex and Essex, resulting in balanced wines with unique flavour profiles*.' [30]

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[28] *Ibid*.
[29] www.kentonline.co.uk/canterbury/news/bid-for-huge-winery-to-make-chapel-down-bigger-than-moet-277212, 17 November 2022
[30] https://www.chapeldown.com/pages/about-us - our viticulture

Patently, if Chapel Down gets permission for its planned wine making facilities at the Canterbury Business Park, grapes will be sourced and transported from all over the south-east.

2.8.3 Nyetimber has nine different vineyards, spread across several sites, and the grapes are transported from them for pressing at a state-of-the-art pressing centre, before being moved for the next stage of the winemaking process.[31]

2.8.4 Wine has been transported around the world for 8,000 years. Though trickier to transport than the 15 billion litres of milk transported annually in the UK, it is catered for by specialist bulk wine transporters such as Treasure:

'*We work with major English wine producers, offering on-site technical expertise on delivery options. We transport grape must and finished wines in state-of-the-art tankers at constant, ideal temperatures, excluding air and all other contaminants. Often, we are asked to transport an entire harvest in a short period of time – time being of the essence. No problem for (our) extensive fleet and highly experienced drivers.' [32]*

2.8.5 A standard flexi-tank or ISOtank holds the bulk equivalent of more than 30,000 bottles, as opposed to only 12,000 actual bottles carried in a standard container: two-and-a-half times the amount of product in the same space, without risk of glass breakage.[33]

2.8.6 Beflexi says[34]:

'*Transportation in bulk brings other benefits … By some estimates, bulk shipment has reduced the carbon footprint of wine transportation by 42%*.'

2.8.7 With Tesco, DHL, and Amazon all starting to provide electric heavy goods vehicles (Tesco already have 400 in use), electric vehicles for transporting grapes or liquid, to make transportation more environmentally friendly, are on the horizon.

2.8.8 The appellant mentions that transporting the grapes would add a significant additional financial cost, which by implication means that they do not intend to transport wine off site and that bottles will be bought by visitors at the winery. This clearly does not make numerical sense with a projected five million bottles.

2.8.9 The SDNPA Viticulture Growth Impact Assessment (which the appellant quotes from) advises:

'For wineries, associated buildings, yards, access tracks, operational movements and infrastructure, which all fall within the remit of planning and planning policy, scale is again key to landscape impact, but so too is the expectation to see these as parts of traditional farmyard groupings, settled into their landscape and not encroaching on open countryside.' [35]

[31] https://nyetimber.com/our-story/
[32] https://www.treasuregroup.co.uk/bulk-liquid/
[33] https://beflexi.com/2016/06/09/10-of-bulk-wine-is-transported-in-flexitanks/
[34] *Ibid*.
[35] *South Downs National Park Viticulture Growth Impact Assessment* Final Report, V1.6 p 109

The technical advice note adds:

'*Wherever possible, development should reuse or be on the footprint of existing agricultural buildings, otherwise it should be related physically or functionally to existing buildings associated with the enterprise*.' [36]

2.8.10 Such a large, ambitious company could follow Green Belt guidance in using brownfield sites to bring some custom into Medway's defined tourist area, using their resources to genuinely support Medway and help combat deprivation, rather than destroy the tranquillity of the AONB and extend the built environment, which will threaten the integrity of the Metropolitan Green Belt between Medway and Gravesend. That would indeed be a vision worth aiming for.

2.9 Outsized ambition

2.9.1 This application is presented with superlatives: a world-class winery; the largest single vineyard; a sparkling wine accessible to all; and now subtly adapted to 'A world-class winery building[37] and associated wine tasting and hospitality serving the largest vineyard in the UK.'

2.9.2 Chapel Down's competing application to construct 'the UK's leading centre of wine production,' with plans to have over 900 acres under vine by next spring, is two years ahead of the appellant's aim in vineyard size. Chapel Down's projected output is 9 million bottles to become the UK's biggest selling premium sparkling wine brand; the appellant claims his projected output is only 1-5 million bottles. In this race to the top, how will the numbers be adjusted? Where in the Green Belt and AONB will Vineyard Farms Ltd expand?

2.9.3 From a freedom of information request for the pre-application advice of Medway Council, it is apparent that:

'*The applicants advised that it would be possible to alter the shift pattern for a working day to facilitate double shifts to increase production to 10 million bottles, negating the need for additional facilities on the site in the future*'.[38]

If this is the possibility, what effect would this have both on social working hours, noise disturbance, light disturbance and traffic? That truly would be an industrial production line within the Green Belt.

2.9.4 Care needs to be taken that the aim to be largest, and to corner the market, does not blind us to the need to retain long-term planning structures and landscape designations that represent the backbone of the British Isles.

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[36] *South Downs National Park Local Plan Viticulture Technical Advice Note* (TAN) 5.33
[37] Appellant's Statement of Case, 7.1
[38] Medway Council ref PRE/21/0098

2.9.5 Whilst Norman Foster's buildings are recognised as status symbols around the world, the plans for the KWV development have expanded to a scale that respects neither the intimacy of the Kentish landscape, the cross-boundary implications affecting Gravesham Borough (perhaps intentionally), nor the national designation of AONB and the Green Belt's integrity. The state-of-the-art design with its excessive excavation work, quarrying out 175,032m³ of chalk, has taken account of the downland shape but on such a scale, that it equates to landing Concorde in a small jungle clearing – spectacular but inappropriate. This is strategically a fragile section of Green Belt between Medway and Gravesend, that blocks the eastward spread of London, an area still free from major disturbance, not just visual intrusion but noise intrusion.

SECTION 3: SUPPORT FOR THE AONB

3.1 Please see the AONB's submissions to Medway Council's Planning Portal of 23rd September 2021 and 17 November 2021, which we fully support.

SECTION 4: HERITAGE - PREHISTORIC ARCHAEOLOGY SE OF UPPER BUSH, ON THE PROPOSED DEVELOPMENT SITE

4.1 This section concerns a prehistoric monument initially identified as a cropmark on aerial photographs at NGR: 569663 166533, centred on a locally prominent chalk spur about 300m SE of the centre of Upper Bush. The spur had the field names 'Great Burrows' and 'Little Burrows' in 1839[39], which could be taken to indicate the former presence of a mound or 'barrow'. The cropmark occupies the location proposed for the Kentish Wine Vault building.

4.2 An archaeological evaluation commissioned by the appellant[40] comprised the excavation of several trial trenches, and the completion of a report on the Cuxton cropmark site. This report concluded that:

> *'The evaluation has demonstrated that the cropmark feature is not a Neolithic long barrow, with the remains unlikely to be of national significance or of equivalent significance to scheduled monuments (NPPF paragraph 194 and footnote 63) and instead is a non-designated heritage asset (which is to be assessed in accordance with NPPF paragraph 197, with particular regard to the advice in paragraph 190).'* [41]

4.3 Two of the specific objectives of the archaeological evaluation were as follows:

- To understand the nature of the visible remains, and, whether the cropmark is the site of a Neolithic long barrow
- To identify the function and nature of the cropmark feature if it is not a long barrow

The archaeologists' conclusion that the cropmark is not the site of a Neolithic long barrow was the justification for stating that site is, therefore, not worthy of a national designation.[42]

4.4 We contest that conclusion because:

- It is not accompanied by a definitive view of what the site is and as such cannot properly define significance
- There are grounds for considering the site unusual, and this perception of the unusual nature of the remains emerges in several places later in the archaeological report
- Had the site not been under threat from development, it may have been a clear candidate for national designation.

4.5 The cropmark is formed by two inter-cutting ditch features, the earlier one (some 25m across) penannular and the later one U-shaped, situated prominently on the ridgeline of a natural chalk spur. The penannular ditch contained some late Neolithic pottery and evidence of flint tool manufacture, while its U-shaped successor had been cut into by a grave containing an inhumation burial, thought possibly but not demonstrated to be of the early Bronze Age.

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[39] The National Archives IR 30/17/103 *Cuxton Tithe Map, 1839*
[40] Canterbury Archaeological Trust. *Kentish Wine Vault: Land south of Bush Road near Cuxton, Kent. Phase 1 Archaeological evaluation report*
[41] *Ibid*., Summary section, p 3
[42] *Ibid*., see especially Interpretation section 5.2.1, p 20

4.6 In assessing the findings, the archaeological report stated further (note: our bold text below):

'The ridgeway position of the monuments and probable late Neolithic to early Bronze Age date would place the findings into a wider prehistoric landscape that includes several funerary monuments within the Medway area. However, ***the nature of the features identified on this site is unusual****, largely this is because of their respective penannular/U-shaped form. Funerary monuments of the late Neolithic and early Bronze Age are usually formed by round barrows.'*[43]

4.6.1 The archaeological report also cites possible parallels with penannular Bronze Age barrows, on the Thanet Earth site and at Folkestone.[44] However, these two examples are not comparable in that they do not show a clear relationship, in contrast to Cuxton, where the monument builders deliberately linked the two sites, possibly closing one through the action of building another, or perhaps extending one to form a new monument. Such unambiguous evidence of past human action, probably representing the evolution of ceremonial practice, is rare. This marks out Cuxton as unusual.

4.7 Other parts of the archaeological report provide more detail on discoveries during the excavation of the trial trenches (note: our bold text below):

4.7.1 '*The unambiguous evidence for in situ flint knapping on the site, as demonstrated by the conjoining flakes …. and the very fresh nature of much of the other material,* ***is of some considerable interest****. The recovery of a larger sample of such manufacturing debris would provide further useful information concerning prehistoric activities that occurred at the site. Closer dating evidence for any knapping episodes would be especially helpful. At present it is thought that the flintwork is of a broad late Neolithic to early Bronze Age date.'* [45]

4.7.2 *'The primary infill comprised a pre-abandonment deposit with rare cultural material comprised of struck flint indicative of tool manufacture at least to a primary (roughing-out) stage. Insufficient material was recovered conclusively to date the flint by tool type, which has presently been assigned a broad late Neolithic to early Bronze Age date. However, given the presence of refitting flintwork suggests that this activity must have been taking place close by.'* [46]

4.7.3 '*Two grog tempered flat-bottomed base sherds were recovered. They could belong to either an early Bronze Age Beaker vessel or represent additional Grooved Ware sherds. Based on firing, the latter is more likely. A date range of 2900–2200 cal BC is suggested.* ***Grooved Ware finds within the Kent area are quite scarce*** *(see Garwood 2011, 118), and therefore this assemblage of pottery despite its apparent residual nature* ***is considered to be significant***.' [47]

4.7.4 '*The presence of a probable crouched burial would indicate successive additions to the monuments. It is possible that further burials might be located close to and/or within the monuments themselves.'* [48]

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[43] *Ibid*., Summary section pp 3-4; Conclusion section 7.4, pp 22-3
[44] *Ibid*., Conclusion section 7.5 and 7.6, pp 22
[45] *Ibid*., Finds assessment section 3.1.5, p 18
[46] *Ibid*., Interpretation section 5.2.2, p 20
[47] *Ibid*., Finds assessment section 3.2.2, p 19
[48] *Ibid*., Conclusion section 7.8, p 23

4.8 A principal purpose of the archaeological evaluation was to examine the remains and define their character, extent, quality and preservation, reports on them, and enables an assessment of their significance in a local, regional, national or international context as appropriate.[49] This is partially explored in the conclusions of the report, as follows (note: our bold text below):

> ***4.8.1*** *'The ridgeway location of the monuments and the potential late Neolithic to early Bronze Age date of the ditch features would place the findings within a tradition of monuments that are well recorded across north-east Kent (Garwood 2011; 2012**), though the nature of the features identified on this site is unusual**. This is because of their respective penannular/U-shaped form, with funerary monuments of the late Neolithic and early Bronze Age usually formed by round barrows.'* [50]
>
> **4.8.2** *The Cuxton monuments form part of a wider prehistoric landscape that includes several funerary monuments within the Medway area. Most notable within this landscape are early Neolithic long barrows and megaliths, such as those at Coldrum or Kit's Coty. The Cuxton monuments would seem later and are more reminiscent of late Neolithic and early Bronze Age round barrows such as those identified as cropmarks at Upper Halling (Kent HER TQ 66 SE 29) Wouldham (TQ 76 NW 790), Frindsbury Extra (TQ 77 SW 44*) and *excavated at Cobham Golf Course (Garwood 2011, 127). Further afield, excavations at Castle Hill, Folkestone, produced evidence similar in nature to that at Cuxton but consisting of a complete circular ring-ditch, later respected by a smaller penannular ring-ditch (Rady 1992, 26).'* [51]

4.9 From previous sections, it should be clear that we consider the Cuxton site worthy of designation at national level. To be clear, this is because:

- It has not been conclusively demonstrated what type of site it is but:
- It is acknowledged as being an unusual form as either a late Neolithic or early Bronze Age monument
- There is evidence for the apparent closing of one monument and the creation of another, revealing meaningful cultural or ceremonial activity. The penannular ditch only just describes more than 180 degrees, something not observed in the ditches of penannular round barrows (generally being far more complete parts of a circle) and the U-shaped ditch linked to it is truly unusual.
- There is no evidence that these ditches surrounded burial mounds and they may be also considered small enclosures associated with other contemporary beliefs and practices. Notably, the interiors of both features have not been explored. Even if these *were* round barrows intended for burial, Historic England guidance states that (note: our bold text): *'Where it can be demonstrated that a barrow is of a less common type**, the presumption should be in favour of designation** if its form is readily legible, or it retains some archaeological potential.'*[52]
  Despite evidence of plough damage at Cuxton and the truncation of some deposits, we

[49] *Ibid*., Aims and Objectives section 1.5, p 8
[50] *Ibid*., Conclusion section 7.4, p 22
[51] *Ibid*., Conclusion section 7.5 and 7.6, p 22
[52] Historic England *Commemorative and Funerary Scheduling Selection Guide*, p 22

consider the site meets those criteria. Furthermore, it is not unusual to designate plough-level archaeological sites.

- The occurrence of at least one burial in the later stages of the use of the monument.
- The survival of intact and promising deposits in the ditch fills which could throw light on the dates and purposes of the monuments, and their wider place in the Medway Valley's rich prehistoric legacy.

4.10 The appellant also undertook an Archaeological Desk-Based Assessment that sets out that:

4.10.1 *'It is understood that the scope of this initial research is of necessity limited by the context of and funding available for its production. The research undertaken, verbally agreed with the client and in accordance with the National Planning Policy Framework (NPPF 2021), has treated only with readily available circumstantial evidence to provide an initial assessment of the extent and nature of any extant heritage assets and archaeological evidence within and near the PDA.'* [53]

4.10.2 Given the scale and impact of the proposed development, it is surprising that no further non-destructive archaeological survey or research has been undertaken, no systematic analysis of aerial photographs and Lidar data, no field walking of ploughed areas and no more detailed landscape survey. This limits the confidence to be drawn from any conclusion about the place and significance of the prehistoric site in Cuxton.

4.11 The position of the site on the ridge top is significant and would have related to the visibility it afforded to people viewing it from below, in the valley of Cuxton, and further afield, when it was in existence. Such sites are seen as important markers and centres of past communities. The spur continues north eastwards through the plantation woodland before beginning to drop gradually into the valley of Cuxton. It is possible that other monuments of similar type and date stood on this spur.

4.12 Bush Valley does retain evidence of its changing historic landscape. Air photographs and Lidar images show Bush Valley with plough-level and earthwork linear features representing field boundaries and trackways (of uncertain age) (Fig 3, no 3), others close to the Neolithic/Early Bronze Age site (Fig 3, no 2, adjacent to the Neolithic/Early Bronze Age site which is no 1). There are also huge extant earthworks in adjacent woodland Fig 3, no 4, and Fig 3, no 5, both of which may mark long-standing boundaries marking edges of past cultivation. No mapping or evaluation of these has taken place to set the proposed development in the context of the wider historic landscape.

4.13 The alternative to designation of this site is destruction. In this context, the appellant's Heritage Statement it is stated that:

'By definition, the historic environment includes all surviving physical remains of past human activity. Heritage assets include extant structures and features, sites, places, and landscapes.

[53] Canterbury Archaeological Trust. *Kentish Wine Vault: Land south of Bush Road, Near Cuxton, Medway, Kent Archaeological Desk-based Assessment*, July 2021, para 2.1, p 3

Furthermore, the historic landscape encompasses visible, buried, or submerged remains, which include the buried archaeological resource.' [54]



Figure 3: Aerial photograph of the proposed Kentish Wine Vault site. Archaeological features numbered are referenced in the text. North is at the bottom of the image. Courtesy of Historic England ref 26025_005

4.14 The National Planning Policy Framework (paras 68, 69 and 205) states:

'Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible'

4.15 Importantly, however,

'…. the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.'

4.16 It is our belief that the required balancing of harm and benefit in determining the future of this monument has not been properly addressed nor met, and that the huge scale of the proposed

[54] Canterbury Archaeological Trust. *Land south of Bush Road, Near Cuxton, Medway, Kent Heritage Statement*, August 2021, section 2.3, p 3

development obscured clear assessment of the importance of the monument. This echoes a comment in Medway Council's pre-application advice which states:

'…. *Concerns regarding the progress of the proposal before archaeology has been fully considered, particularly given the potentially important issues that have arisen*.' [55]

[55] Medway Council ref PRE/21/0098

SECTION 5: UPPER BUSH CONSERVATION AREA

5.1 Introduction

5.1.1 Conservation Areas are places of special character, which is apparent not only in the quality, architecture and antiquity of their buildings, but also from the historic layout of roads, paths, greens and boundaries, the nature of their building and paving materials, and the elements of their landscapes including ponds, hedges and trees. These individual features coalesce into a unique whole, creating places of charm, character and history that are the product of countless past decisions made by people who possessed and understood the power of place. Local authorities, residents and owners have a duty to play their parts in honouring and maintaining that legacy.

5.1.2 Upper Bush is a lovely place, and an unusual one. It is a tiny hamlet perched on the end of a bluff at the junction of Bush Valley, a broad alley clawing its way up through the dry chalk of the North Downs, and its wider parent valley that glides gently down to the River Medway in Cuxton. The marriage between Upper Bush and these valleys has resulted from a long historical association. Today's hamlet is the remains of a larger village whose antiquity is certain, yet relatively lightly researched and explored, while its unusual topographical position hints at a special origin at the junction of useable agricultural land and the resources of extensive hilltop woodland.

5.1.3 Medway residents use and benefit from this peaceful place both physically and mentally: indeed, that is why people have chosen to live there and why others come to walk through it into the surrounding countryside.

5.2 The proposed development's Impact on the conservation area

5.2.1 Conservation areas enjoy statutory protection in recognition of their importance in the English landscape, a significance that should ensure that planning decisions respect their unique characters. In this regard, it is not credible to accept that the Kentish Wine Vault, a development aimed at bringing 65,000 visitors into Cuxton and Bush Valley, would have little or no impact on the Upper Bush Conservation Area.

5.2.2 Throughout the NPPF emphasis is placed upon the importance of protecting and enhancing local character and distinctiveness. Designated and non-designated heritage assets help form and reinforce this character. The NPPF[56] defines 'significance' in terms of heritage as:

'*The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. The NPPF also defines heritage assets as 'a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)*.'

[56] Annex 2



Figure 4: The Upper Bush Conservation Area (red line)

5.2.3 The assessment of impact on the heritage assets of the Upper Bush Conservation Area embodied in the appellant's documents is weak, being centred purely on visibility i.e., how views to and from Upper Bush will be affected by a huge new building proposed to be dropped into the valley with which the hamlet has so long been associated. Indeed, that long association will effectively be broken as the valley is appropriated for tourism.

5.2.4 There is a greater impact here than visibility alone. The Kentish Wine Vault would be a stone's throw from the houses and gardens of Upper Bush which would thereby be subjected to the intrusive sound and light of the building, its visitors and its operations, from early in the morning – around 6am – to late at night – around 11-12pm.

5.2.5 Furthermore, some adverse effects on the Conservation Area are already apparent in the wider and inextricably linked operations of Vineyard Farms Ltd in the vineyard – operations that will continue to grow in a business model that is vastly out of scale with the locality and its infrastructure. The use of the buildings, yards and environs of Upper Bush Farm, wholly within the Upper Bush Conservation Area and closely bordering residents' houses, is already taking a toll and creating impact over and above the proposed Kentish Wine Vault itself.



Figure 5: Excavation inside the Upper Bush Conservation Area, including the removal of a strip of woodland

5.2.6 In living memory, Upper Bush Farm has always been a low-key farmyard, serving as a grain store, with intermittent use in the farming year. Since refusal of planning permission for the Kentish Wine Vault in March 2022, Vineyard Farms Ltd have been developing Upper Bush Farm as a large central depot for their agricultural machinery, equipment and supplies used throughout their vineyard, apparently transferring these from another site at Court and Brookers Farm in Luddesdown. While people accept that a farm is a farm, the use of Upper Bush Farm as a depot is of a scale far exceeding its previous use, impacting Upper Bush Conservation Area in several ways:

5.2.7 Tree clearance, excavation and spoil dumping has recently taken place around the 19th-century timber-framed barn and modern farm buildings within and along the eastern border of the Conservation Area. Several trees were ripped out and large quantities of soil and building debris (brick, concrete, tile etc) excavated to create space for storage of machinery. The spoil was not removed to a registered disposal site but deposited in various locations nearby, including immediately adjacent to the Conservation Area. This has introduced new, ugly and inappropriate barriers along existing boundaries and pathways that are alien to the landscape and its history



Figure 6: Deposition of spoil alongside boundaries in the countryside locally

and inconsistent with good landscape stewardship. It is not community-friendly, is inconsiderate of local flora and fauna, environmentally insensitive, and detrimental to the enjoyment of the otherwise unspoilt countryside. No consultation about these digging and dumping works took place with residents nor, it seems, with the local authority. It is possible that some form of agricultural exemption might be claimed, though that seems odd in the light of the company's green claims. The work was noisy, extended over many weeks, and frequently extended into socially unacceptable hours early in the morning, late into evenings and at weekends. Persistent lorry reversal noises were clearly audible as far as Cuxton Village.

5.2.8 Given the history of Upper Bush, it is surprising that there was no archaeological monitoring of the digging work within the Conservation Area.

5.2.9 It may have been of benefit to the Conservation Area had Medway Council considered an Article 4 Direction to control any permitted development rights relating to the use of the farmyard within it (and in the future, should e.g., any proper drainage works be considered).

5.2.10 The cleaning of farm vehicles and chemical sprayers by Jet washing and the frequent passage of farm vehicles in Upper Bush farmyard has created muddy and chemical (copper sulphate, to judge by the colour?) run-off along down Upper Bush Road, which causes residents' vehicles to be dirtier than usual and in winter may contribute to dangerous, icy and conditions. There is no surface to underground drainage. Mud and silt are accumulating all down the road. In

the dry conditions of the summer, this results in clouds of dust being created by farm vehicles, especially on the corner of Upper Bush Road on the windows and walls of Borrow Hill House.



Figure 7: Water run-off from cleaning agricultural equipment in Upper Bush Farm

5.2.11 This followed the digging of a large sump in the farmyard – possibly for taking run off – which was quickly filled in, creating an impression that plans for farmyard drainage are imperfect.



Figure 8: Upper Bush Road, a rural lane, with huge vehicles using the farmyard

5.2.12 Upper Bush Road is a designated Rural Lane because of '*the distinctive character of the access road*'[57]

5.2.13 Despite this, noise, dust and mud from Vineyard Farms Ltd diesel-powered vehicles have become a regular feature on the once tranquil Upper Bush Road, going to and from the farmyard. It has impacted the houses and quality of life of residents in Upper Bush in a way that previous non-intensive farming did not. Vineyard Farms Ltd vehicles have been driven at dangerous speeds along Upper Bush Road, as well as the linking Bush Road and Warren Road. These vehicles are reluctant to give way and have caused residents to pull over their vehicles almost into the hedgerows. On several occasions, overly large articulated vehicles have clumsily made their way along Upper Bush Road, where negotiating the corner near the beginning of the hamlet is particularly tight. The narrow verges along Upper Bush Road are starting to erode.

5.2.14 The North Downs Way uses Upper Bush Road for part of its route and this increased, speeding traffic puts pedestrians and cyclists at risk.

5.2.15 The 'beep, beep, beep' of reversing vehicles in the farmyard has been commonplace and has impacted on the tranquillity of the location.

5.2.16 The paddock on the right side at the top of the Upper Bush Road has been left to overgrow and its perimeter fence is falling apart, impacting the appearance of the Conservation Area. The maintenance and upkeep of the boundaries is being neglected, with new fences and gates crude and not really fit for purpose, with several of the posts already giving way.

5.2.17 A long tradition of barn owls living and nesting at Upper Bush Farm seems to have ended, and no birds have been seen in the past 18 months.

5.3 Resentment and dismissive attitude

Since the refusal of planning permission, there has emerged a tangible feeling of resentment towards residents both at Upper Bush and to people on local footpaths. Refusal should have been a point where Vineyard Farms Ltd thought carefully and reached out to the residents to find out why opposition to their plans was strong – and perhaps look for an alternative site. This, it seems, has not happened. The rapid appearance of company re-branding on signs placed at every path and gate is a deliberate marking of territory. These signs are clad with a faux-medieval coat of arms and motto that has created the impression that the parishes of Cuxton and Luddesdown now have latter-day feudal landlords. That impression is carried further at every polite request or mild complaint to Vineyard Farms Ltd staff, which is met by '*it's our land, we'll do what we want*,' a surly attitude that is utterly dismissive of local people and that clearly comes from the top of the organisation. People are now actively stopped from walking on the unofficial paths that have been walked for ages. Everything is now guarded, a testament to the driving corporate ambitions that truly underlie Vineyard Farms Ltd, careless of the effects on the Conservation Area, Bush Valley and Cuxton.

[57] *Upper Bush Conservation Area Appraisal*, appendix 3, p 3

5.4 Potential excess visitor numbers

Over and above the projected number of visitors to the planned official car park for the Kentish Wine Vault, there would be those extras who would come simply to see the building from public footpaths, notably the North Downs Way long distance footpath. These visitors are likely to park wherever they can, most probably in Cuxton, along unsuitable road edges on Bush Road, in Lower Bush, on the narrow lane that is Upper Bush Road, and the small triangular green in the hamlet itself. Such activity has potential to further erode quality of life for residents and the setting of the Conservation Area. Mitigation measures would require intrusive signage, further degrading character.

5.5 Cumulative effect

It is self-evident from all the current and potential disruptions, great and small, that the calm and tranquil nature of the Upper Bush Conservation Area is already changing and would be shattered both during the projected two-year construction phase for the KWV, and during its associated operations in the future. All the qualities for which Upper Bush is designated as a Conservation Area would be placed at risk by this development. It is simply too large and in the wrong place.

SECTION 6: TRAFFIC AND SAFETY IN THE CUXTON COMMUNITY

6.1 Traffic and safety risk

6.1.1 We do not agree with the appellant's claim that the proposed development will not cause harm by way of highways traffic or safety.

In the appellant's statement of case, it states there was a single reason for refusal of planning for Vineyards Farms Ltd application.[58] It then goes on to state that the key issues are whether the Appeal Proposal would:[59]

- *Firstly, have an unacceptable severe impact on the AONB and there are acceptable circumstances that justify the development.*
- *Secondly, whether it would cause harm to the community of Upper Bush Conservation Area.*

No reference is made in these statements to the impact on '*the wider Parish of Cuxton'* which forms part of the last sentence of Medway Council's refusal statement. This ignores those issues that impact on the rural nature of the village of Cuxton as outlined in the appellant's statement of case[60] and attempts to dismiss the high number of objections submitted to Medway Council's Planning Portal that included or were solely concerned with traffic and safety.

Concern over traffic issues, especially at the A228/Bush Road junction were raised and discussed at both planning meetings and yet this issue did not appear as a reason for objection.

6.2 Community Engagement

6.2.1 We consider that consultation with the community over the proposed development has been inadequate.

> '*Consultation is technically any activity that gives local people a voice and an opportunity to influence important decisions. It involves listening to and learning from local people before decisions are made or priorities are set*' [61]

6.2.2 The pre-planning public consultation for this huge development was undertaken online during the Covid pandemic. Cuxton Parish Council was provided with an online presentation which led to several questions being generated and sent to the CEO of Vineyard Farms Ltd, expecting a response.[62]

6.2.3 Two further consultations were available to the public via Zoom, however, following these events Cuxton Parish Council received numerous comments from residents stating their questions were not adequately addressed at the consultations. A letter containing a summary of the residents comments was sent to the appellant along with an appended spreadsheet containing all the comments received by the Parish Council.[63]

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[58] Shrimplin Planning and Development September 2022, section 1.3
[59] *Ibid*., section 1.4
[60] *Ibid*., sections 4.3-4.8
[61] https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/resident
[62] Letter CPCtoKWV06-21
[63] Letter CPCtoKWV08-21

6.2.4 The NPPF[64] refers to '*taking account of the views of the community*' and states that '*applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot*.'

6.2.5 The applicant's interaction with Cuxton community and Cuxton Parish Council has been restricted to on-line means, or by leaflets. There has been no face-to-face contact, despite having had ample opportunity to do so outside of the pandemic lockdowns. It was only in the first week of November 2022, with the present appeal in prospect, that the Parish Council have been offered a face-to-face presentation from Vineyard Farms Ltd.

6.2.6 In addition to Cuxton Parish Council and individual objections submitted through the Medway Council Planning Portal, the community concerns relating to the A228, the junction with Bush Road, and Bush Road itself are clearly recorded in two supplementary documents:

- '*The Kentish Wine Vault: A community's insight for Medway Planning Committee*'
- '*Bush Valley: the proposed route for a Medway Council site visit*'.

These documents were delivered directly to all members of the Medway Council Planning Committee to ensure that evidence underpinning the concerns of the community were heard and not dismissed.

6.3 The A228

6.3.1 The A228 is a very heavily used arterial road linking the M2 junction 2 with the M20 junction 4 to the south. It is very busy between circa 6:30am and 7pm which makes turning into Bush Road from the direction of Strood and turning out of Bush Road to the south extremely difficult during these hours.

6.3.2 There is no dual carriageway between junction 2 (at the top of Sundridge Hill) and Halling (4.8 miles) on a section of road that regularly generates complaints about traffic queues and delays from residents of Cuxton and Halling. Most recently this involved the use of temporary traffic lights that interrupted traffic flow on the A228 between Cuxton and Halling 186 times over the last 4 years [65]. The Ward Councillor for Cuxton and Halling received over 200 email complaints about the disruption to journey times this summer.

6.4 The A228/Bush Road Junction.

6.4.1 The junction between the A228 and Bush Road is an uncontrolled junction which has a turn-right lane, demarked by white lines. This facilitates turning right for traffic approaching from Strood/M2 direction and wishing to enter Bush Road. Due to the location of the junction, in a valley between the hill in Rochester Road to the south and Sundridge Hill to the north, many HGVs maintain their speed to conserve sufficient momentum to help climb the upcoming steep inclines. The sight lines to the right for drivers turning out of Bush Road towards Halling are severely restricted due to hedges and other vegetation which limits visibility of traffic approaching the junction from the south. When HGVs are trying to exit to the right, cars are unable to exit to the left due to lack of visibility to their right. This issue makes exiting Bush Road to the right, extremely hazardous.

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[64] NPPF

[65] Hunter (2022) https://www.kentonline.co.uk/medway/news/roadworks-hell-to-continue-on-major-link-route-272492/



Figure 9: Google Maps image of A228/Bush Road/Station Road junction layout

6.4.2 After the Medway Council site visit, some members of Medway Planning Committee went with Cllr Fearn, Ward Councillor for Cuxton & Halling, to observe the A228/Bush Road junction. They experienced the challenges faced by vehicles trying to turn right out of Bush Road. Cllr Fearn had to resort to pressing the pedestrian crossing button to assist them in negotiating the junction, cross the A228 and park in Station Road. Perhaps this experience went some way towards convincing Medway Planning Committee members of safety issues at the junction. It is surprising that this experience did not translate into a reason for refusing the application.

6.4.3 Traffic wishing to turn right out of Bush Road towards Halling cannot safely seek refuge in the turn-right lane as it is not wide enough to accept the length a standard saloon car. However, due to the high volume of traffic in both directions along the A228, many drivers wishing to turn right attempt to use the turn-right lane as a central reserve by stopping their car at an acute angle while waiting for a space to enter the south bound lane. This is extremely dangerous as the rear of their cars often do not clear the Strood/M2 lane. Once into the reserve, their cars are then at such an acute angle that it is very difficult to see past any newly arrived cars that are queueing in the turn-right lane. This makes checking for traffic from the Strood/M2 direction extremely difficult. This manoeuvre can only be attempted if the turn-right lane is initially empty, which is very infrequent during peak times.

6.4.4 There is also the Pelican crossing across the A228, some 25m to the south of the Bush Road junction as outlined in black in Figure 9. The crossing has a raised central island to provide a refuge for pedestrians using the crossing. The Pelican crossing lights operate independently on the two lanes of the A228.

6.4.5 On the far side of the Pelican Crossing, immediately to the south is a junction with Station Road that provides access to Cuxton Railway Station, Hillcrest Drive, Cuxton Marina and several light commercial units. On immediately turning into Station Road there is the entrance to the White Hart public house carpark, this can cause the traffic to suddenly stop causing a queue to back up onto the main A228 carriageway.

6.4.6 To facilitate turning into Station Road there is a central turn-right lane for traffic approaching the junction downhill along Rochester Road from the Halling and M20 direction. The turn-right lane is demarked by white lines. It also offers some refuge for vehicles turning right out of Station Road onto the A228 towards Strood and the M2. However, it is dangerous to use in this manner as the lane is not wide enough to take the entire length of a family saloon car. It is also difficult to use it like this due to the high volume of traffic in both directions along the A228, and the vehicles already waiting to turn right into Station Road from the A228.

6.4.7 The reality of these safety issues was unfortunately confirmed by the first fatality at the junction of the A228 with Station Road following a collision on January 18th, 2022.[66]

6.4.8 The A228 junction with Bush Road has been a source of concern for Cuxton residents for many years. The creation of a Pelican crossing, with a central island, at the junction has made it safer for pedestrians to cross the A228, however, plans for full traffic lights to facilitate safe access and egress for vehicles to and from Bush Road onto the A228 have not materialised. Currently the Pelican lights are being used to assist traffic to access and exit Bush Road. The pedestrian lights briefly stopping the north bound traffic when traffic is queueing to turn right into Bush Road or waiting to enter the junction. This adaptation of the pedestrian lights has proved to be unreliable and does not necessarily reduce safety issues at the junction.



Figure 10: Afternoon/evening traffic queueing in Bush Road at A228/Bush Road junction (4:13pm, 5 December 2022)

[66] Police Appeal 24 February 2022

6.4.9 Initially, traffic modelling by Highways England indicated that the installation of traffic lights at the A228/Bush Road junction would result in vehicle queues back up Sundridge Hill to the M2 junction 2 slip road. In consequence, they opposed the installation of traffic lights at the junction. Several trials of traffic lights at the location have been undertaken by Medway Council to model the impact of installing permanent traffic lights. On each occasion they have swiftly been abandoned because of the resulting traffic chaos.

6.4.10 A recent meeting between Cuxton Parish Council and a Medway Council Officer (Head of Transport and Parking), confirmed that improvement options for the A228/Bush Road junction have been exhausted and that an existing £95,000 Section 106 contribution towards junction improvement (from a previous local development), is likely to remain unspent. Commissioning a feasibility study for a roundabout at the junction was discussed but was considered by the officer as unlikely to provide a feasible option.

6.4.11 We believe it is reasonable to suggest that traffic volumes on the A228 between the M2 junction 2 and M20 junction 4 and at the A228/Bush Road junction at Cuxton, will be impacted by the initial 65,000 predicted winery visitors per year. Given the ambitions of the appellant to become the largest winery in UK it is not unreasonable to anticipate this could rapidly increase.

6.5 Bush Road traffic

6.5.1 There are several pinch points to traffic flow along the length of Bush Road that inhibit traffic flow. These are clearly identified in a community led document. [67]

6.5.2 The A228 and Bush Road will be (and is stated by the appellant as) the preferred route for all visitors and service traffic to and from the proposed KWV. It is surprising, therefore, that the appellant's traffic survey was undertaken at the western end of the village, beyond the village centre and thereby taking no account of the traffic moving in and out through the village at peak times.

6.5.3 To address the deficiency indicated in 6.5.1 above, Cuxton Parish Council commissioned its own traffic and speed survey on Bush Road, located at the eastern end of the village close to the junction with the A228. Data indicated that on weekdays between 7am and 7pm a minimum of 300 vehicle movements were recorded each hour, with 2 peaks of 550 and 490 vehicle movements at 8am and 3pm respectively.[68] It could be suggested that the Kentish Wine Vault will make little impact on these numbers: however, that is challenged in sections 6.8 and 6.9 of this document, below.

6.6 Residents Lived Experience

6.6.1 The reality today is that Cuxton residents, if they can, avoid driving through the village at school drop off and pick up times. Like many roads near schools, traffic congestion, cars mounting the pavements and inconsiderate parking is a feature of Bush Road at these times. At least 70% of children attending Cuxton Academy of Schools come from outside the village, and the vast majority arrive by car.

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[67] *Bush Valley: the proposed route for a Medway Council site visit*
[68] Cuxton Parish Council Traffic Survey

6.6.2 The traffic reports submitted by the appellant and Medway Council Traffic Officer's suggests that there are no traffic or safety concerns that relate to the appellants planning application. This statement is contrary to the 'lived experience' of Cuxton residents.

6.6.3 When reading the transport report the photographs included create an image of a quiet village location. However, the experience of residents is very different. It is difficult to see how cars and lorries mounting pavements to pass each other cannot be considered a safety issue.

6.6.4 The 'rat run.' It is not just the school run and deliveries that cause disruption along Bush Road. When an accident or other incident causes queuing on the A2/M2, and/or the M20, drivers seek an alternative route to their destination. This regularly results in Cobhambury Road, Warren Road and Bush Road being used by drivers trying to continue their journeys – causing chaos in Cuxton which effectively blocks the junction for users of both Bush Road and Station Road.



Figure 11: The rat-run. Traffic on Bush Road, in Lower Bush, during a blockage of the M2. This was queuing all the way to Cobham and junction 1. It is an increasing occurrence.

A228/BUSH ROAD JUNCTION RE-CAP and SUMMARY

- The A228/Bush Road junction is part of a dangerous high speed junction complex on a major arterial link road between the M2 and M20.
- The junction often has long queues of traffic waiting to turn out of Bush Road in both directions.
- There has recently been a fatality at this complex junction.
- Increasing traffic flow into and out of Bush Road will exacerbate these problems and will also greatly impact on conditions at the pinch points along Bush Road.
- Virtually all the Development Trips identified in the MB Transport Assessment Section 5 would arise from a non-agricultural, commercial hospitality business and therefore this appeal should be turned down.













Figure 12: The reality of Cuxton village centre traffic: HGVs trying to negotiate Bush Road, pavement parking and a fire engine, hopelessly stuck

6.8 Increased Traffic Flow along Bush Road due to the KWV development

6.8.1. The Outline Deliveries and Servicing Management Plan (DSMP) July 2021[69] states that it was prepared in respect of the proposed development of land south of Bush Road, near Cuxton, Medway, Kent for a new winery building including café/restaurant and visitor centre with energy centre, car park, access road and landscaping – the KWV.

6.8.2 The Mayer Brown report states:[70]

'*It is intended that Bush Road will be the main point of access for the proposed development, for both staff and visitors, as well as for deliveries to and from the site*.

6.8.3 The Mayer Brown DSMP predicts the following delivery schedule[71]:

- Import (bottling materials etc) – 1 per day
- Export (wine delivery) – 2 per day
- Small delivery (parcel) – 1 per day

These deliveries will all generate two trips each as there is little likelihood of arranging backloads.

6.8.4 The Mayer Brown DSMP[72] clarifies that all the KWV vehicles are intended to arrive from and depart to the A288 junction which will take them right through the centre of Cuxton with its many pinch points[73]. It also claims that the A228/Bush Road junction is 'signalised' giving the impression that the junction is under traffic light control, but this is not the case.

6.8.5 The Mayer Brown DSMP[74] states that to avoid network peak hours, it is proposed to time deliveries to only occur during the hours of 6-7am and 4-5pm. However, Bush Road runs straight through the residential area of Cuxton with all its pinch points, which makes the 6am-7am timeslot totally unacceptable. The proposed 4-5pm time slot would coincide with the tail of the afternoon school rush and the beginning of rush hour on the A228.

6.9 Calculation of numbers of HGVs resulting from KWV development

6.9.1 The Mayer Brown Transport Assessment (TA) July 2021[75], derives figures for the anticipated number of production/delivery trips by large vehicles per year. These are summarised in Table 4.2 in that report.

[69] By Mayer Brown for the appellant
[70] *Ibid*., 1.5
[71] *Ibid*., 1.11
[72] *Ibid*., 1.12
[73] Bush Valley: The proposed route for Medway Council Site Visit
[74] Mayer Brown, 1.13
[75] Carried out for the appellant. Section 4.21 – 4.22

6.9.2 The number of HGVs required to export the bottled wine will depend on the HGV type. Mayer Brown's TA states that the HGVs will be OGV1 class rigid body, which means that they would have a maximum of three axles with a permitted maximum gross weight of 26 tonnes. The number of bottles that could be transported per shipment would be limited by weight for full bottles, and by volume for empty bottles. This will be specific to lorry design (tarre weight of chassis and bodywork) and the volumetric size and design of the cargo compartment. It is assumed that curtain-siders will be used to facilitate the loading of palletised full wine bottles. Mayer Brown has calculated that each lorry will be able to carry 7,500 full bottles, giving rise to a total of 600 outbound HGVs. This figure only accounts for the outbound trips but there will also be a matching 600 inbound empty HGV trips.

6.9.3 Mayer Brown's TA table 4.2 shows a total of 250 inbound lorries with supplies of empty bottles. Why this figure is so much lower is questionable as no calculations were presented on how this number was derived. If it is assumed that an average full 70cl bottle of wine weighs approximately 1.1kg, of which approximately 0.7kg is wine, then the average empty wine bottle weighs about 0.45kg (or 0.41 times the weight of a full bottle). This is very close to the factoring down of the number of HGVs required for the delivery of empty bottles (0.42) shown in Mayer Brown's TA table 4.2.

6.9.4 With an average weight of circa 0.45 kg per empty bottle it is highly likely that each HGV load of empty bottles would be volume limited rather than weight limited. Therefore, it can be assumed that more HGV movements would be required for bottle imports than shown in Mayer Brown's TA table 4.2. The exact number would depend on the size and shape of the cargo area on the model of curtain-sider, the size of pallet and the stacking height used. Therefore, it is considered that the most likely figure will be somewhat higher than shown in Mayer Brown's TA table 4.2 with an upper limit of 600 per annum, the same as that required for the full bottles exported.

6.10 KWV Operational days per year

6.10.1 Mayer Brown's TA table 4.2 shows the predicted number of large vehicles on a daily, weekly and monthly basis. These figures are misleading as they are supposed to be production/delivery trips so need to be doubled as each delivery will require the return of an empty HGV.

6.10.2 Analysis of the weekly figures show that a minimum 5.5 working day week is being assumed which would result in Bush Road being subjected to KWV generated HGVs during the weekend as well as during the week.

6.10.3 HGV trips have been underestimated**.** The total number of bottles per annum shown in Mayer Brown's TA table 4.2 equates to only 4.5m per year whereas it is reported that:

'Mark Dixon, the billionaire owner of MDCV UK (and its sister company, Vineyard Farms Ltd,) ……. now wants to make five million bottles of English wine at KENTISH WINE VAULT by 2025' [76]

Therefore, all the data presented in Mayer Brown's TA table 4.2 requires scaling up by a factor of 11%.

6.10.4 As previously noted, both the number of HGVs required for export of finished wine and import of empty bottles would generate two HGV trips along Bush Road as there is little likelihood of KWV being able to arrange backloads.

6.11 No seasonality of deliveries has been assumed

6.11.1 The Mayer Brown TA table 5.1 shows no anticipated seasonality in the number of HGV (winery building export) and bottling (HGV) deliveries, or any variation of production staff required. This would appear to be highly unusual as the growing of grapes, harvesting and fermenting will be very seasonal.

6.11.2 Bush Road is a residential area not a commercial/industrial area so a 6am–7am timeslot is totally unacceptable for HGVs and simply underlines the impracticality and unacceptable nature of the Kentish Wine Vault transport proposal. The proposed 4pm-5pm timeslot will coincide with the end of the After School Clubs pickup time and will also get caught up in the start of the rush hour on the A228. This will lead to further delays at the A228 junction, especially if a Kentish Wine Vault delivery lorry is required to turn right out of Bush Road towards Halling to access the M20.

6.12 Predicted Kentish Wine Vault development trips along Bush Road

6.12.1 Mayer Brown's TA table 5.1 sets out the predicted total number of trips along Bush Road generated by the Kentish Wine Vault development during operation in four different seasons: see table 1, below.

- Off-Peak : (Nov – June)
- Summer (July & Aug)
- Harvest: (Sept & Oct)
- Other: (Easter etc.)

6.12.2 Table 5.1 of the Mayer Brown Transport Assessment July 2021 has been analysed into Eastbound (departure) and Westbound (arrival) trips on an hourly basis. The data has then been compared to the Cuxton Parish Council count on an hourly basis. Table 2, below, shows the increase in overall traffic flows along Bush Road in both directions to show the increase in total traffic flow. This will impact on residents in terms of noise, congestion and pollution.

[76] https://www.wine-searcher.com/m/2021/12/locals-block-english-billionaires-winery-plans

Activity	Off-Peak (Nov to June)		Summer (July & Aug)	Harvest (Sep to Oct)	Other (Easter etc.)
Staff (Production)	16		16	16	16
Staff (Visitor exp)	66		66	66	66
Bottling supplies	2		2	2	2
HGV Deliveries (exported wine)	4		4	4	4
Small deliveries (DHL)	2		2	2	2
Waste/ Collection	2 pw		2 pw	2 pw	2 pw
Visitors to winery building	64		124	82	124
Visitors to restaurant	57		57	57	57
Total Trips per day	**211**		**271**	**229**	**271**

Table 1: Total Kentish Wine Vault Trips Along Bush Road Through A228 Junction per day

6.12.3 There are numerous times of day when the KWV bidirectional trips are predicted to increase the traffic flow along Bush Road substantially including:

07:00 hrs 12.2%
13:00 up to 19.4%
17:00 up to 12.4%
18:00 11.6%
22:00 20.2%
23:00 33.7%

Table 2:Bidirectional analysis of KWV predicted development trips against CPC Traffic Count (Mon-Sun)

Time Bin	CPC Avg Daily Traffic Flow (bidirectional)			KWV Trips (Off-Season)				KWV Trips (Summer)				KWV Trips (Harvest)				KWV Trips (Other/Easter etc.)			
Hours	Mon-Fri	Sat-Sun	Mon-Sun	East	West	Total Bidir	Total Bidir %	East	West	Total Bidir	Total Bidir %	East	West	Total Bidir	Total Bidir %	East	West	Total Bidir	Total Bidir %
00:00	13.6	46.5	23.0	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
01:00	5.2	26.5	11.3	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
02:00	4	12.5	6.4	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
03:00	5.4	14	7.9	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
04:00	17.6	13.5	16.4	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
05:00	58.4	21.5	47.9	0	2	2	4.2%	0	2	2	4.2%	0	2	2	4.2%	0	2	2	4.2%
06:00	123.2	35.5	98.1	2	2	4	4.1%	2	2	4	4.1%	2	2	4	4.1%	2	2	4	4.1%
07:00	298.2	88	238.1	0	29	29	12.2%	0	29	29	12.2%	0	29	29	12.2%	0	29	29	12.2%
08:00	553.8	152	439.0	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
09:00	327	273.5	311.7	0	16	16	5.1%	0	30	30	9.6%	0	20	20	6.4%	0	30	30	9.6%
10:00	310.6	331.5	316.6	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
11:00	319.6	376.5	335.9	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
12:00	319.8	400	342.7	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
13:00	323.2	310.5	319.6	16	16	32	10.0%	30	32	62	19.4%	20	21	41	12.8%	30	32	62	19.4%
14:00	379	300.5	356.6	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
15:00	491	311	439.6	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%	0	0	0	0.0%
16:00	421.2	298.5	386.1	2	2	4	1.0%	2	2	4	1.0%	2	2	4	1.0%	2	2	4	1.0%
17:00	369.2	258.5	337.6	16	10	26	7.7%	32	10	42	12.4%	21	10	31	9.2%	32	10	42	12.4%
18:00	313.8	238.5	292.3	31	3	34	11.6%	31	3	34	11.6%	31	3	34	11.6%	31	3	34	11.6%
19:00	247.2	192.5	231.6	2	12	14	6.0%	2	12	14	6.0%	2	12	14	6.0%	2	12	14	6.0%
20:00	166	116.5	151.9	5	10	15	9.9%	5	10	15	9.9%	5	10	15	9.9%	5	10	15	9.9%
21:00	126.6	86	115.0	5	0	5	4.3%	5	0	5	4.3%	5	0	5	4.3%	5	0	5	4.3%
22:00	78.4	64.5	74.4	12	3	15	20.2%	12	3	15	20.2%	12	3	15	20.2%	12	3	15	20.2%
23:00	43.4	47.5	44.6	15	0	15	33.7%	15	0	15	33.7%	15	0	15	33.7%	15	0	15	33.7%

Table 2 - Bidirectional Daily Averages entire week (Mon-Sun)

This includes substantial increases in the late evening. These are the hours when increased flows will be most unacceptable due to noise created while the ambient noise level is low.

Time Bin	CPC Traffic Survey Total Flows				CPC Traffic Survey		KWV Trips (Off-Season)					KWV Trips (Summer)					KWV Trips (Harvest)					KWV Trips (Other/Easter etc.)				
Hours	East (Mon-Fri)	West (Mon-Fri)	East (Sat-Sun)	West (Sat-Sun)	Avg East Mon-Fri	Avg West Mon-Fri	East	West	Total	East %	West %	East	West	Total	East %	West %	East	West	Total	East %	West %	East	West	Total	East %	West %
00:00	29	39	39	54	5.8	7.8	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
01:00	12	14	18	35	2.4	2.8	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
02:00	12	8	15	10	2.4	1.6	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
03:00	19	8	15	13	3.8	1.6	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
04:00	68	20	17	10	13.6	4.0	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
05:00	253	39	29	14	50.6	7.8	0	2	2	0.0%	25.6%	0	2	2	0.0%	25.6%	0	2	2	0.0%	25.6%	0	2	2	0.0%	25.6%
06:00	440	176	44	27	88.0	35.2	2	2	4	2.3%	5.7%	2	2	4	2.3%	5.7%	2	2	4	2.3%	5.7%	2	2	4	2.3%	5.7%
07:00	978	513	108	68	195.6	102.6	0	29	29	0.0%	28.3%	0	29	29	0.0%	28.3%	0	29	29	0.0%	28.3%	0	29	29	0.0%	28.3%
08:00	1441	1328	177	127	288.2	265.6	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
09:00	1023	612	312	235	204.6	122.4	0	16	16	0.0%	13.1%	0	30	30	0.0%	24.5%	0	20	20	0.0%	16.3%	0	30	30	0.0%	24.5%
10:00	887	666	347	316	177.4	133.2	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
11:00	799	799	394	359	159.8	159.8	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
12:00	794	805	402	398	158.8	161.0	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
13:00	787	829	301	320	157.4	165.8	16	16	32	10.2%	9.7%	30	32	62	19.1%	19.3%	20	21	41	12.7%	12.7%	30	32	62	19.1%	19.3%
14:00	729	1166	299	302	145.8	233.2	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
15:00	1270	1185	308	314	254.0	237.0	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
16:00	914	1192	286	311	182.8	238.4	2	2	4	1.1%	0.8%	2	2	4	1.1%	0.8%	2	2	4	1.1%	0.8%	2	2	4	1.1%	0.8%
17:00	745	1101	226	291	149.0	220.2	16	10	26	10.7%	4.5%	32	10	42	21.5%	4.5%	21	10	31	14.1%	4.5%	32	10	42	21.5%	4.5%
18:00	700	869	210	267	140.0	173.8	31	3	34	22.1%	1.7%	31	3	34	22.1%	1.7%	31	3	34	22.1%	1.7%	31	3	34	22.1%	1.7%
19:00	593	643	185	200	118.6	128.6	2	12	14	1.7%	9.3%	2	12	14	1.7%	9.3%	2	12	14	1.7%	9.3%	2	12	14	1.7%	9.3%
20:00	369	461	109	124	73.8	92.2	5	10	15	6.8%	10.8%	5	10	15	6.8%	10.8%	5	10	15	6.8%	10.8%	5	10	15	6.8%	10.8%
21:00	270	363	72	100	54.0	72.6	5	0	5	9.3%	0.0%	5	0	5	9.3%	0.0%	5	0	5	9.3%	0.0%	5	0	5	9.3%	0.0%
22:00	146	246	62	67	29.2	49.2	12	3	15	41.1%	6.1%	12	3	15	41.1%	6.1%	12	3	15	41.1%	6.1%	12	3	15	41.1%	6.1%
23:00	98	119	42	53	19.6	23.8	15	0	15	76.5%	0.0%	15	0	15	76.5%	0.0%	15	0	15	76.5%	0.0%	15	0	15	76.5%	0.0%
Table 3 - East + West (Mon - Fri)																										

Table 3: Analysis of KWV East & West bound trips against CPC Traffic Count East & West (Mon-Fri)

6.12.4 A similar analysis has been undertaken on the same data sets to determine the impacts on Bush Road and the A228 junction on the eastbound and westbound traffic flows separately. The results are shown in tables 3 & 4 above.

6.12.5 Table 3 demonstrates the size of the increased traffic flows on Bush Road with the additional KWV Development as a function of time and in each direction. The average Cuxton Parish Council (CPC) survey daily data for Monday – Friday has been used as it would appear daily in KWV delivery trip data shown in Table 4.1 and Table 5.1 of the Mayer Brown's TA which has been calculated over 5.5 days (presumably Monday – Saturday). The CPC traffic survey daily data has therefore been averaged over Monday – Friday but it is not apparent whether the estimated KWV trips would be on a 5.5 days per week or 7 days per week basis.

6.12.6 Table 3 clearly shows the impact that the KWV development traffic will have on the A228/Bush Road junction and the route from the proposed development all along Bush Road, at various times of day. Significant increases of traffic flows can be seen around 7am, 9am, 1pm, 5pm and 6pm and then again later in the evening as the hospitality staff and visitors leave site.

Time Bin	CPC Traffic Survey Total Flows				CPC Traffic Survey		KWV Trips (Off-Season)					KWV Trips (Summer)					KWV Trips (Harvest)					KWV Trips (Other/Easter etc.)				
Hours	East (Mon-Fri)	West (Mon-Fri)	East (Sat-Sun)	West (Sat-Sun)	Avg East (Mon-Sun)	Avg West (Mon-Sun)	East	West	Total	East %	West %	East	West	Total	East %	West %	East	West	Total	East %	West %	East	West	Total	East %	West %
00:00	29	39	39	54	9.7	13.3	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
01:00	12	14	18	35	4.3	7.0	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
02:00	12	8	15	10	3.9	2.6	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
03:00	19	8	15	13	4.9	3.0	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
04:00	68	20	17	10	12.1	4.3	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
05:00	253	39	29	14	40.3	7.6	0	2	2	0.0%	26.4%	0	2	2	0.0%	26.4%	0	2	2	0.0%	26.4%	0	2	2	0.0%	26.4%
06:00	440	176	44	27	69.1	29.0	2	2	4	2.9%	6.9%	2	2	4	2.9%	6.9%	2	2	4	2.9%	6.9%	2	2	4	2.9%	6.9%
07:00	978	513	108	68	155.1	83.0	0	29	29	0.0%	34.9%	0	29	29	0.0%	34.9%	0	29	29	0.0%	34.9%	0	29	29	0.0%	34.9%
08:00	1441	1328	177	127	231.1	207.9	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
09:00	1023	612	312	235	190.7	121.0	0	16	16	0.0%	13.2%	0	30	30	0.0%	24.8%	0	20	20	0.0%	16.5%	0	30	30	0.0%	24.8%
10:00	887	666	347	316	176.3	140.3	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
11:00	799	799	394	359	170.4	165.4	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
12:00	794	805	402	398	170.9	171.9	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
13:00	787	829	301	320	155.4	164.1	16	16	32	10.3%	9.7%	30	32	62	19.3%	19.5%	20	21	41	12.9%	12.8%	30	32	62	19.3%	19.5%
14:00	729	1166	299	302	146.9	209.7	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
15:00	1270	1185	308	314	225.4	214.1	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%	0	0	0	0.0%	0.0%
16:00	914	1192	286	311	171.4	214.7	2	2	4	1.2%	0.9%	2	2	4	1.2%	0.9%	2	2	4	1.2%	0.9%	2	2	4	1.2%	0.9%
17:00	745	1101	226	291	138.7	198.9	16	10	26	11.5%	5.0%	32	10	42	23.1%	5.0%	21	10	31	15.1%	5.0%	32	10	42	23.1%	5.0%
18:00	700	869	210	267	130.0	162.3	31	3	34	23.8%	1.8%	31	3	34	23.8%	1.8%	31	3	34	23.8%	1.8%	31	3	34	23.8%	1.8%
19:00	593	643	185	200	111.1	120.4	2	12	14	1.8%	10.0%	2	12	14	1.8%	10.0%	2	12	14	1.8%	10.0%	2	12	14	1.8%	10.0%
20:00	369	461	109	124	68.3	83.6	5	10	15	7.3%	12.0%	5	10	15	7.3%	12.0%	5	10	15	7.3%	12.0%	5	10	15	7.3%	12.0%
21:00	270	363	72	100	48.9	66.1	5	0	5	10.2%	0.0%	5	0	5	10.2%	0.0%	5	0	5	10.2%	0.0%	5	0	5	10.2%	0.0%
22:00	146	246	62	67	29.7	44.7	12	3	15	40.4%	6.7%	12	3	15	40.4%	6.7%	12	3	15	40.4%	6.7%	12	3	15	40.4%	6.7%
23:00	98	119	42	53	20.0	24.6	15	0	15	75.0%	0.0%	15	0	15	75.0%	0.0%	15	0	15	75.0%	0.0%	15	0	15	75.0%	0.0%
Table 4 - East + West (All Week)																										

Table 4: Analysis of KWV East & West trips against CPC Traffic Count East & West (Mon-Sun)

6.12.7 Table 4 demonstrates the size of the increased traffic flows on Bush Road due to the KWV Development trips over the entire week. The CPC traffic survey daily data has been assumed constant over the entire week as it is not apparent whether the estimated KWV trips would be on a 7 days per week basis. All the above KWV trips will end up passing right through the centre of Cuxton, through all the Bush Road pinch-points and through the A228 junction.

6.12.8 As can be seen from tables 3 and 4, it makes very little difference which scenario is assumed, there are still many periods of the day when the additional KWV development trips along Bush Road and through the A228/Bush Road junction substantially increase the traffic flow.

6.12.9 All the above KWV trips will end up passing right through the centre of Cuxton, through all the Bush Road pinch-points and through the A228 junction.

6.12.10 Table 1 shows that the busiest period of the year, as predicted by Mayer Brown, is July-August and yet the Mayer Brown TA[77] states that the Classified Turning Counts were undertaken in March 2021, outside the predicted peak period and cannot be considered representative.

INCREASED TRAFFIC DATA RE-CAP and SUMMARY

- The additional traffic created by the proposed KWV will cause irreparable harm to the rural tranquillity of Cuxton village
- The substantial percentage change in traffic flows, especially at night, will have a huge impact on the wellbeing of Cuxton residents along the Bush Road and those visiting the village centre for shopping and the library. It will also impact on those picking their children up from school.
- Virtually all the predicted KWV trips are as a result of the intended operation of a commercial hospitality business based around a winery building. The running of a café/restaurant and visitor centre and car park has nothing to do with the agricultural business of growing grapes and producing wine but is responsible for virtually all the increased traffic flows.
- The car park and access road required to handle all the extra staff and visitors will also be much larger and therefore take more land in an area of unspoilt natural beauty.

[77] Section 6.4



Figure13: Google Maps image showing location of diffusion tube DT48

6.13 National Air Quality Strategy Objective for Nitrogen Dioxide

6.13.1 Medway Council maintains Non-Automatic nitrogen dioxide (NO_2) monitoring stations along the A228 to monitor and compare Nitrogen Dioxide levels at several locations along the A228, these stations use diffusion tube technology. The closest to the A228/Bush Road junction is DT48 which is located at *Sign post adjacent 2 Pilgrims Way, Cuxton'* OS Easting 571255, OS Northing 166993, 262m to the north-east, up Sundridge Hill.

6.13.2 Figure 13 shows the location of DT48 in relation to the A228/Bush Road junction. According to the Medway Council LAQM Annual Status Report 2022, during 2021 the DT48 sampling station registered 6 monthly exceedances of the 40 µg/m^3 Nitrogen Dioxide National Air Quality Objective (NAQO) for England with an annualised mean of 41.6 µg/m^3 (32.5 µg/m^3 distance corrected). The first half of 2021 included the COVID-19 3rd National Lockdown Period with resultant reduced traffic levels. With traffic levels now re-established the NO_2 concentrations can be expected to be higher.

6.13.3 Due to the dispersion of NO_2, which is heavier than air, and the fact that the A228/Bush Road junction lies at the bottom of a valley at a lower elevation than the DT48 sampling station, it is highly likely that the actual concentration of NO_2 at the A228/Bush Road junction is consistently above the NAQO level.

6.13.4 Some vehicles arriving at the A228/Bush Road junction from Bush Road will not turn left and pass the DT48 location. Similarly, some of the vehicles approaching from the Halling direction will turn into Bush Road and therefore not pass DT48. The NO_2 emissions from these vehicles will therefore be under recorded if at all but will add to the levels at the A228/Bush Road junction.

6.13.5 It is most likely that the levels of NO_2 in and around the Bush Road junction will already be exceeding the NAQO levels for NO_2 and therefore Appeal No. APP/A2280/W/22/3307648 should be rejected.

6.14 Increasing traffic flow through the A228/Bush Road Junction due to LTC.

6.14.1 Medway Council's sampling stations DT47 & DT48 were deployed due to concerns raised by traffic flow modelling carried out for the Lower Thames Crossing (LTC).

6.14.2 The LTC has now been accepted by the Planning Inspectorate for inspection so the predicted increase in traffic volumes on the A228 should be considered when assessing this appeal. No account has been taken by Mayer Brown of the increases predicted from the LTC.

6.14.3 Highways England modelling[78] shows a predicted increase in traffic flows across the A228/Bush Road junction of between +251 to +500 during the AM peak period 7am-8am, +101 to +250 inter-peak and +101 to +250 during the 5pm-6pm peak hour once the LTC is operational in 2027. It also shows a predicted increase of +101 to +250 along Bush Road during the PM peak hour.

6.14.4 National Highways modelling presents estimates of the traffic flow impacts on the A228 once the LTC becomes operational.[79] It notes that there will be a 40% increase of traffic flows northbound from the A228/Bush Road junction during the morning peak hour and in the interpeak period. There would also be a 20% increase in the southbound interpeak period.[80] These increased traffic flows will all flow through the A228/Bush Road junction, which does not appear to have been taken into consideration in the MB Transport Assessment.

POLLUTION AND INCREASED TRAFFIC FLOW FRON LTC RE-CAP and SUMMARY

- The National Highways Lower Thames Crossing plans were accepted by the Planning Inspectorate for detailed examination on 28 November 2022. The LTC modelled traffic impacts on the A228/Bush Road junction, as well as Bush Road, should be considered when determining this appeal.
- Paragraph 7.1.44 of the LTC report notes that there are five NO_2 receptors adjacent to the A228 which are predicted to exceed the annual mean NO_2 AQS objective once the LTC is operational.
- Any increase in NO_2 levels that are already in excess of NO_2 Air Quality Strategy (AQS) objectives are unacceptable. The KWV traffic flows above, will further increase the NO_2 levels especially due to the higher traffic flows on the A228 increasing the queuing times for all traffic entering and exiting Bush Road at the A228/Bush Road junction.
- Other traffic related pollutants, e.g., PM_{10} and $PM_{2.5}$ will be increased along the whole length of Bush Road due to the increased KWV traffic above. This pollution will be trapped in the valley, including the area of the two Cuxton Schools and Beehive playgroup.
- Any increase in pollution levels and the consequent increase in health risks, especially in young children, are totally unacceptable and therefore the KWV planning appeal should be refused.

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[78] *Lower Thames Crossing (LTC) Traffic Modelling Update*, 2020
[79] *National Highways Lower Thames Crossing 7.1.6 Community Impact Report* Version 1, dated October 2022
[80] *Ibid*., section 7.1.35

SECTION 7 TOO MANY UNANSWERED QUESTIONS

There has been an inconclusiveness to some of the appellant's investigations, which does not inspire confidence, or which requires clarification.

7.1 Inner Groundwater Source Protection Zone

7.1.1 In Southern Britain up to 80% of our drinking water comes from groundwater sources. The Inner Groundwater Source Protection Zone, SPZ1, is the most vulnerable to pollutants. The appellant's Flood Risk Assessment and Outline Drainage Strategy Part 1 clearly shows that part of the car park and most of the access road to the development lie within an SPZ1, shaded in red.

According to the DEFRA's online Magic Map for Source Protection Zones, the Site is located within a Source Protection Zone 1,2 and 3 due to potable water abstraction boreholes being located at areas around the site. The EA specify that if infiltration is to be used, a SuDS treatment train is to be incorporated to treat runoff prior to discharge to ground.

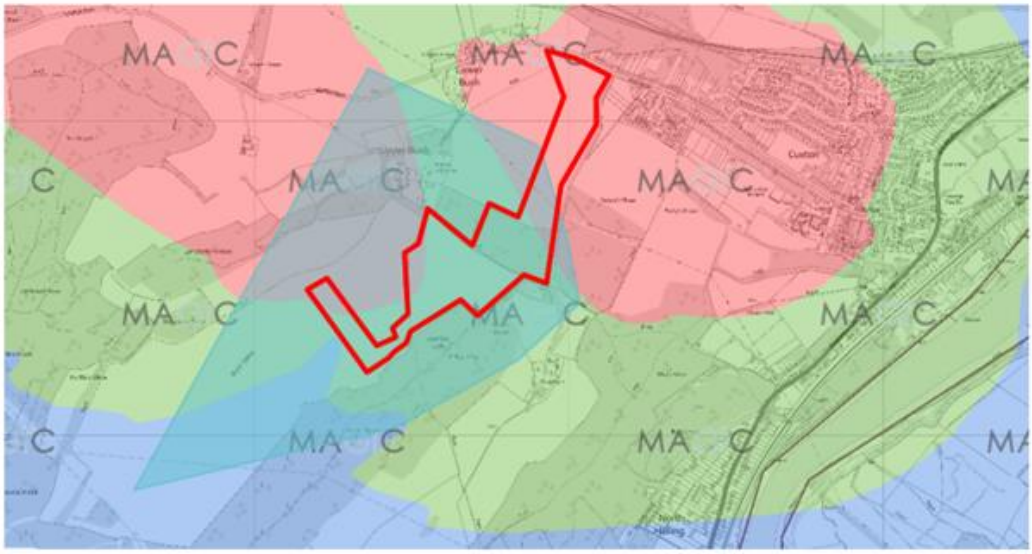

Figure 14: Extract from DEFRA Ground Source Protection Zone Mapping

7.1.2 The Environment Agency's Approach to Groundwater Protection, dealing with sustainable drainage systems (G13) states:

'Where infiltration SuDS are proposed for anything other than clean roof drainage in a SPZ1, a hydrogeological risk assessment should be undertaken, to ensure that the system does not pose an unacceptable risk to the source of supply.

Unless the supporting risk assessments show that SuDS schemes in SPZ1 will not pose an unacceptable risk to the drinking water abstraction, the Environment Agency will object to the use of infiltration SuDS under position statement G10.' [81]

7.1.3 The WSP report clearly states in July 2021 at 7.3.8 that:

81 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/692989/Envirnment-Agency-approach-to-groundwater-protection.pdf, p 29

'the Access Road (an asphalt surface) *will have a cross fall towards a planted swale, which will collect and convey surface water to a proposed infiltration basin for disposal'. 'The basin will act as a disposal location for all surface water collected within the proposed swale which runs adjacent to the access road.'*

'To the east of the building, any exceedance flows would follow the footpath and access road, discharging into the proposed infiltration basin for disposal.' [82]

7.1.4 This means that a hydrogeological risk assessment for the length of the access road, the swale, and the infiltration basin within the SPZ1 area is required. Leaky vehicles/petrol could mean pollution seeping into the aquifer. The preliminary geo-environmental risk assessment only assessed existing potential sources of contamination, not those that might be introduced by the development.

7.1.5 If the appellant did not tell the EA that they were planning on discharging surface water to an SPZ1, the EA would have responded with 'no objections' without knowing the full details of the scheme**.** It clearly needs to be confirmed from the start, that this swale and infiltration basin are an acceptable solution to disposing of surface water within the SPZ1.

7.1.6 It should be noted that residents in the Upper Bush Conservation Area have suffered from the regular jet washing of a considerable number of vineyard vehicles, with water and pollutants running down the rural lane leading from the conservation area. Since the lane also lies within the SPZ1, should the appellant be considering an alternative method of dealing with this discharge?

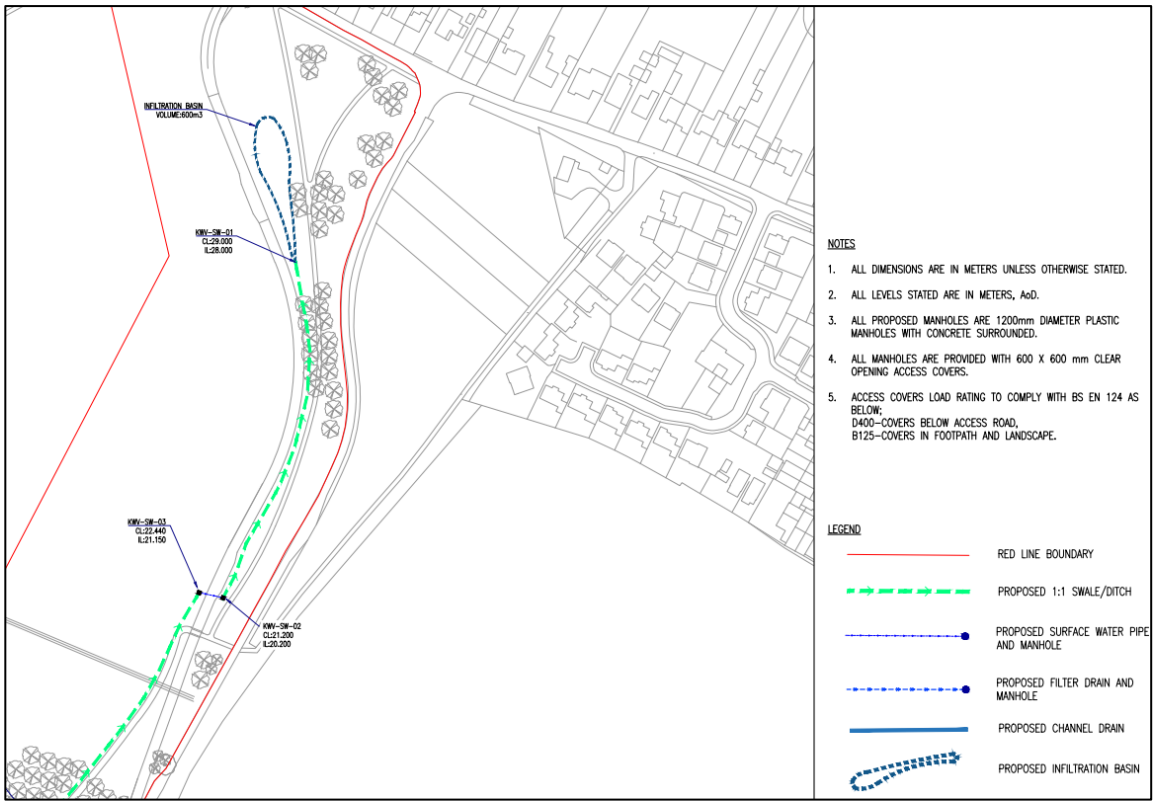

Figure 15:This extract from the WSP Flood Risk Assessment and Outline Drainage Strategy Part 2 Appendix G, when compared with Fig X, clearly shows the proposed location of the infiltration basin within the SPZ1.

[82] *WSP Kentish Wine Vault, Flood Risk Assessment and Outline Drainage Strategy* Part 1, 7.3.8



Figure 16: Bush Road, 20 October 2022, between the Dean Farm access road and the proposed new access to the Kentish Wine Vault. If run-off from the proposed road is not contained by the swale or infiltration basin, or if either becomes blocked with debris, it will compound what is an ever worsening flooding problem in Bush Road

7.2 The Foul Water Strategy

7.2.1 This is another area that does not seem to have been adequately clarified. Southern Water are only able to accept a peak flow from the site of 1.5 litres per second to discharge into the foul sewer in Bush Road. The wine processing and other onsite activities require a peak discharge flow of 3 litres per second, which Southern Water cannot provide.

7.2.2 It is not clear if this flow, that the appellant quotes, is to produce 1 million bottles, 5 million bottles, or the 10 million that the company could reach if they doubled their shifts (as per the pre-application meeting with Medway Council [83]). If it is for the smallest amount, is it at all realistic to expect that Southern Water could support a winery aiming to be the largest single vineyard in the UK?

7.2.3 The appellant's strategy is that foul flows will be attenuated within the building and pumped externally at two locations; peak foul flows will be pumped into an external break chamber before being discharged into a proposed gravity foul sewer which will need to be connected to the main sewer. Half the flow will go into sewers and half into a holding tank. The mathematics of a holding tank to contain a foul flow of 1.5 litres per second appears dubious to a layperson. This seems an entirely unsatisfactory unresolved situation.

7.3 Water Pressure

7.3.1 Whilst it is already recognised that the water pressure at 1 bar is insufficient for supplying the proposed development and that a pressure tank is required, looking into the future, one should ask if this is compatible with an expansion of production from 1 million bottles to 10 million bottles.

7.4 Proposed Lake

7.4.1 The Council's Flood Drainage and Special Projects Officer advised in the pre-application meeting that high level investigations should be carried out regarding the proposed lake and whether, realistically, it can fill. If it is to be dry for prolonged periods, how would this work from a landscape perspective? There is a risk of this type of water management scheme appearing overengineered; additionally, the proposed green roof would reduce much of the surface runoff that is expected to fill the lake. [84]

Have these high-level investigations been carried out? What account has been taken of increasing summer drought conditions? What arrangements are in place to deal with the chemicals used to treat the grey water from the building?

7.5 Sizeable areas of meadow habitat

7.5.1 The appellant, with the help of grant aid from the AONB and the Old Chalk New Downs project which:

'*aims to restore and connect remaining fragments of precious chalk downland for the benefit of the rare species and people who love them*'[85]

[83] *Medway Council* ref PRE/21/0098 5934002
[84] *Ibid*. ref PRE/21/0098 5934005
[85] www.oldchalknewdowns.org.uk

has planted a vast number of trees around their vineyard field boundaries. Whilst trees are accepted for the moment as a carbon offset, the KCC Biodiversity Officer stated that it is the provision of wildflower grassland that is crucial to ensure this development achieves no net-loss of biodiversity and advised that the landscape scheme is revised to show that sizeable areas will be meadow habitat.

'*However, there are no details regarding how the meadow will be established, what the seed mix will be and how it will be managed*'.[86]

7.5.2 The implication is that however many hedgerows and trees are planted, they will not overrule the biodiversity need for a sizeable area of meadow. Diversity is the key word.

7.5.3 The appellant intends additional hedgerows and chalk grassland zones between the buildings and woodlands, and chalk grassland between the rows of grape vines. While having grass left in between every other row of vines is beneficial, this does not satisfy the requirement for a sizeable area of wildflower grassland. It remains unclear whether, despite the DEFRA metric's tabulated results, this vital part of achieving no net-loss of biodiversity as required by the KCC Biodiversity Officer is in place.

7.5.4 Section 4.34 of the appellant's statement of case quotes from the 'combined landscape, layout & architecture comments' that:

'*The AONB landscape setting provides conditions that elevate the commercial aspects and bond them tightly with the responsibility for the highest levels of landscape design, care and management.*'

7.5.5 This has not been evident in the company's care of wildflower meadows in the AONB, nor does it tie in with taking money from an organisation whose aim is to restore and connect remaining fragments of precious chalk downland for the benefit of the rare species and people who love them.

The meadow above Warren House, in Luddesdown parish, had been cultivated land in the past but Fig 17 shows how it looked in June 2018 before being taken over by the appellant, and how it looked by 2022 after deep ploughing by the appellant. Lark-nesting habitat and orchid habitat were destroyed.

7.5.6 Nor has the appellant shown the highest levels of landscape care and management regarding the Conservation Area.

7.6 Tree Mitigation?

7.6.1 There are inaccuracies in the appellant's surveying and assessing the Plantation Wood[87] that occupies part of the proposed development site. This wood is an important biodiversity link between the three Ancient Woodlands, North Wood, Mays Wood, and Longbottom Wood, as it prevents the deterioration of the ancient woodland through fragmentation. Within it, trees will need to be felled to a total width of 11 metres for the access road and 9 metres for the buggy route, for which the proposed mitigations are totally inadequate. Medway's Tree Officer's contribution to the Planning Papers for the March 2022 meetings reads:

[86] *Medway Council Planning Committee Papers,* 9 March 2021, p 53
[87] For which, see *The Kentish Wine Vault: A Community's insight for Medway Planning Committee*, p 19-23



Figure 17: Meadow above Warren House: before (2018) and after deep ploughing (2022)

'It is not considered that the proposed mitigation would adequately address the impacts of creating the proposed accesses. The works outlined above and in the revised tree report would not be compliant with best practice. The trees are unlikely to recover from such harsh pruning. New tree planting...wouldn't have an effect either in terms of sheltering existing retained trees or replacing lost tree canopy cover for a considerable number of years, particularly if additional tall trees progressively fail due to exposure. Monitoring retained trees for a period of two years isn't a form of mitigation.' [88]

So, as the plantation woodland is recognised as a significant link between surrounding pockets of ancient woodland, in what way is this being allowed as mitigation?

7.7 Lorry stacking

7.7.1 The management of HGV vehicles to the proposed development is stated as follows:

'*managed to arrive and depart outside of the network peak hours and school drop-off/pick-up times. As a result, the following timeslots for deliveries are proposed: 6-7am, 4-5pm*.' [89]

7.7.2 The presumption is that construction lorries will be similarly managed. 6-7am would not be social hours for the residents of Upper Bush in the silence of Bush Valley, or those opposite the access road; 4-5pm is still collection time from school with after-school clubs and the Beehive and Buzz Childcare facility.

7.7.3 When asked what would happen about lorries arriving outside the scheduled times, the appellant said they would be held until a suitable time. There has not been an answer as to where on the A228 these lorries would be held and whether the highways authorities are happy with this proposition.

[88] *Medway Council Planning Committee Papers, 9 March 2022,* p 55
[89] *Medway Council Planning Committee Papers,* 9 March 2022, p 74

SECTION 8 ECONOMIC BENEFIT

8.1 The significant economic beneficiaries from this development would seem to be for the appellant. Cuxton has below average levels of unemployment (1.7%)[90] and so the 50-100 employment opportunities offered by the appellant are unlikely to have any significant economic benefit for village residents.

8.2 The nature of the employment is likely to be agricultural and hospitality with few jobs that might offer full time employment over the minimum wage. It is, therefore, difficult to estimate the true value of these jobs to the community without some idea of the current jobs available, those planned, and their pay scales.

8.2 It is clear a proportion of the job opportunities are likely to be in hospitality. Nationally the hospitality industry has struggled to find sufficient staff to meet their need [91] and

'*Nearly 40% of UK hospitality businesses are facing a skilled worker shortage*'[92].

Therefore, the appellant's 'employment opportunities' could have a negative impact on the economic viability of local pubs and restaurants by attracting their staff to work at the winery, restaurant and visitor centre.

8.3 Alternatively, the appellant may become reliant on migrant workers[93] or use evolving viticulture technology[94] to fill the gaps in their workforce. Either way there will be little benefit to the local economy or businesses.

8.4 Wine is not an essential foodstuff, but a growing economic investment; income from the vineyard can stand alone without income from the hospitality element, wherever the wine-processing takes place.

8.5 The frantic race by vineyards to be the largest or to produce the most sparkling wine should not be allowed to dominate the planning structure.

8.6 The appellant will, one hopes, use some of his workers currently being instructed in the fields around Luddesdown and Cuxton to fill the jobs on offer.

[90] https://www.kent.gov.uk/__data/assets/pdf_file/0011/8201/Ward-level-unemployment-bulletin.pdf p 28
[91] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/hospitalitybusinessesaremostlikelytobestrugglingtofillvacancies/2021-09-16
[92] https://www.bighospitality.co.uk/Article/2022/09/06/mind-the-gap-40-of-hospitality-businesses-face-skilled-worker-shortages
[93] https://publications.parliament.uk/pa/cm5802/cmselect/cmenvfru/713/summary.html
[94] https://www.agricultural-robotics.com/news/the-right-robot-for-every-vineyard-job

SECTION 9: TOURISM

9.1 The benefit to Medway tourism will be marginal and needs to be measured against the following:

'*Sustainable tourism can be defined as a kind of tourism that has more benefits than negative impacts, especially relating to the environment, the economy and communities. Truly sustainable and responsible tourism should make destinations better for people to live in as well as visit*' [95].

'*The application site lies in the Bush Valley, adjacent to the tiny hamlet of Upper Bush. Despite the site's proximity to the urban settlements of Cuxton and North Halling, the site of the proposed building within an open field, largely enclosed by woodland on a gently sloping dry valley side, comprises a deeply rural, tranquil and unspoilt part of the Kent Downs, the remoteness of the site of the proposed building accentuated by its lack of accessibility by road*.'[96]

9.2 The siting of the KWV, a building open from 6am until midnight with accompanying noise, light, and traffic movement, the influx of 65,000 visitors per year and increasing, together with the associated tourism, will destroy this valued, undeveloped peaceful place and will not make Upper Bush and the wider Cuxton village a better place to live.

9.3 The tourism part of this application will destroy the reason for its national designations. The more this application benefits tourism, the more it will impinge on the tranquillity and dark skies of the AONB, the integrity of the Green Belt, and the roads through the village of Cuxton.

[95] https://www.futurelearn.com/info/blog/what-is-sustainable-tourism

[96] Kent Downs AONB Unit submission to Medway Council Planning Portal, 23 September 2021 (Landscape Character)

SECTION 10: SECTION 106 PROVISION

It seems non-sensical that something that is not appropriate can be offered, and accepted, as a Section 106 agreement.

The proposed Section 106 agreements:

10.1 A contribution of £4200 towards new Public Right of Way (PROW) signage and waymarking and replacement kissing gate on path RS203. The swing gate at RS203 does not require replacing as it has only recently been replaced; existing PROW signage needs no replacement, is all in order, and is checked regularly by the Cuxton Countryside Group; replacing these items would be environmentally wasteful.

10.2 A contribution of £80,000 towards a Traffic Study once the development is operational and any subsequent highway improvements to Bush Road that may arise from the conclusions of the Traffic Study. The Parish Council already has £95,000 in traffic mitigation money, which they have not been allowed to spend. How can a traffic survey help when it would be implemented after the winery is in operation: if it should be shown that tourist traffic movement is far greater than forecast, the horse has already bolted. Cuxton Parish Council is concerned that this will remain another untouched pot of money.

10.3 A contribution of £30,000 towards improvements to the Tomlins Lane PROW. Tomlins Lane is a PROW created by the village with the help of David Light (Dean Farm), connecting with existing footpaths to form a circular route. It is a rural footpath; to surface the footpath as suggested by the appellant would make it more of an alleyway at the backs of the houses, therefore more open to litter, motorbikes, and other urban pressures; there is a strong feeling amongst those who look after the footpaths in Cuxton against the urbanisation of this footpath.

10.4 The Appeal Proposal (5.3) also includes new and improved public rights of way to enable access to the winery building and to improve local access to the countryside around Cuxton Fig 18).

10.4.1 The new public right of way (solid green line on Fig 18) alongside Bush Road (wrongly named Warren Road), which will take the North Downs Way off the road is welcomed; in Lockdown and afterwards, this route was regularly walked by many to keep families and groups safely off the road, but the appellant reinstated fencing, then barbed wire, patrolled the fence line by vehicle, and challenged people walking along this route.

10.4.2 The new footpath (solid magenta line on Fig 18) is part of what the appellant acknowledges is a long-walked unofficial route which follows the field edge round to join up with the footpath RS201 from Upper Bush to Mays Wood (a circular route); the new path consists of only the section leading to the proposed winery; locals using this long-standing unofficial path have also been verbally challenged and told to get off the land.

10.4.3 The new public right of way along the north-western flank of Bush Valley (solid yellow line on Fig 18) is a useful footpath connection following an existing track for part of the way and will presumably form part of a vineyard tour.

10.4.4 The new public right of way (solid red on Fig 18) around the south-western edge of the Upper Bush Conservation Area appears to be simply a continuation of the path in 10.4.3, split to join both to the path to Warren House RS199 and the North Downs Way. One presumes that the existing right of way from the North Downs Way turning west at the Upper Bush Conservation

Area village green to join up with the Warren House path and, as traditional, partially bisecting the farm, will not be diverted, as this has not been mentioned.

10.4.5 The new access footpath from Bush Road to the winery site (blue), within the 'Plantation Wood' that forms a wildlife corridor between all three Ancient Woodlands (Mays Wood, North Wood, and Longbottom Wood), appears to bisect or enter the buffer zone of two large, established badger setts.

10.4.6 A Skills and Employment Plan – to secure the use of local labour, educational training courses and apprenticeships. In the current employment situation, in what will be a lengthy recession, and with a huge shortage of workers to fill jobs in agriculture, hospitality and lorry driving, any employment plan will be very uncertain; much of the current field workforce are of foreign origin, with little English spoken, and one would presume a relatively high turnover of local labour, having seen workers out in the fields for hours in pouring rain. It is now usual for the larger wineries to have apprenticeships.

Apart from the footpath heading towards Luddesdown (12.4.3) and the very short section along Bush Road (12.4.1), it feels as though these S106 agreements have ticked boxes but have little worth for those most affected by this huge development.

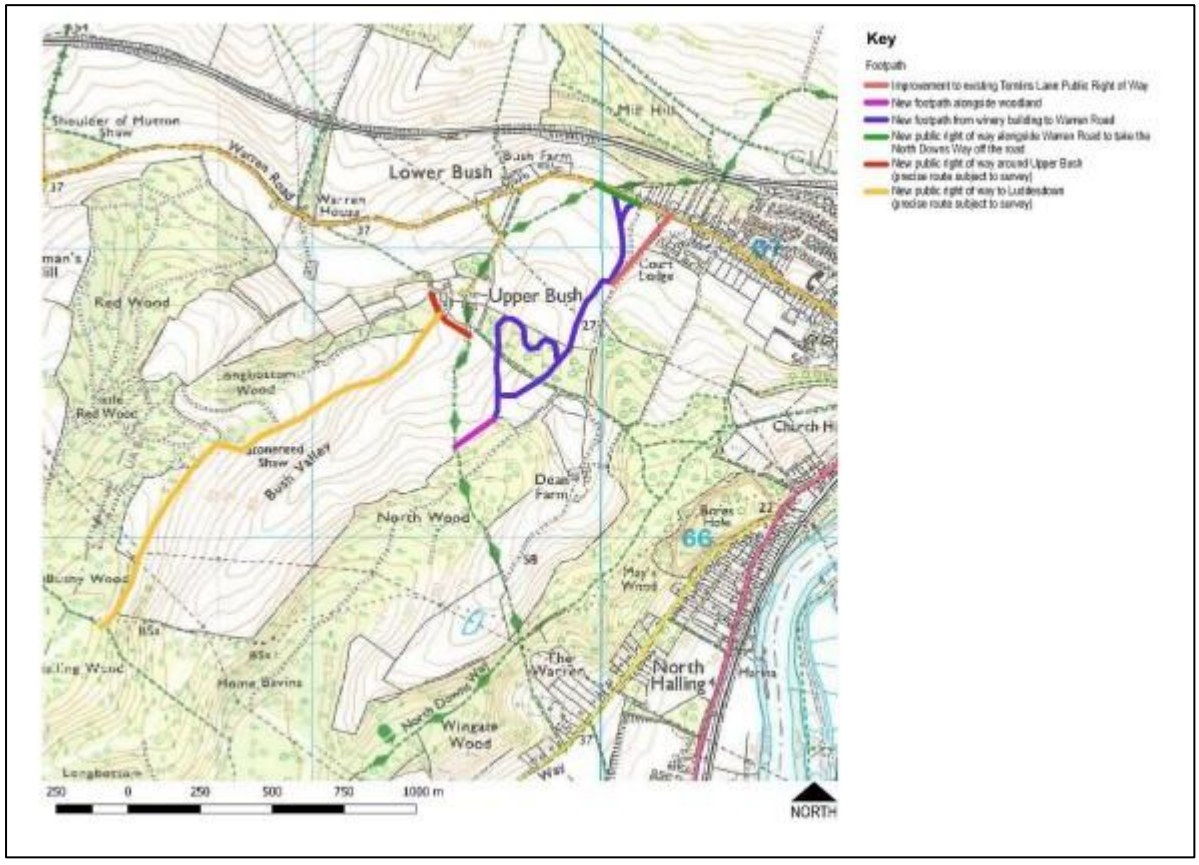

Figure 18: existing and proposed pathways around the KWV

SECTION 11: CONCLUDING SUMMARY

11.1 This proposal is for the largest single winery building in the UK - for a vineyard competing to be the largest vineyard in the UK. The building's size is three times that of any other UK winery, without the addition of workers' accommodation, overnight tourist accommodation, or additional tourist facilities. It is in the narrowest section of the Metropolitan Green Belt between Gravesend and Medway, in an area of winding rural lanes narrower than that required for the access road, and within the Kent Downs Area of Outstanding Natural Beauty. We consider that the public benefits of a development of this vast scale do not outweigh the irreversible damage that will be done to the Green Belt, to the AONB, to Bush Valley, or to the 2080 residents of the village of Cuxton, who will be swamped by an influx of anything from 65,000 to 300,000 visitors.

11.2 The appellant's proposal was not sufficiently compelling to persuade the majority of Medway Council's Planning Committee.

11.3 The appellant's £30 million development and additional £30 million investment will form an incursion into Green Belt land that should be given cross-boundary consultation between local authorities. This area of Green Belt between Medway and Gravesham, more than anywhere else, is in danger of failing in its primary aim.

11.4 We fully support the AONB's views on the inappropriateness of the development and consider that intrusion into Bush valley on such a large scale, on the edge of urbanisation, will totally destroy the undeveloped and tranquil character for which it has been nationally designated. We consider that the massive excavation of chalk and spreading it out over Bush Valley is not demonstrably enhancing the character or appearance of the area.

11.5 We maintain that the archaeological investigation has not identified the nature of the unusual prehistoric remains that lie beneath the development site and as such cannot properly define the significance of the remains. It is agreed by all that the development will result in their destruction.

11.6 Visitor numbers from the vineyard are certain to affect the current openness of the house frontages and the characteristics of the Upper Bush Conservation Area. Light and sound from the development will have a lasting effect, not just on wildlife, but on the residents of Conservation Area; a resident has described this as having a permanent late-night party at the end of your garden. There has been a lack of understanding and care shown for the conservation and enhancement of the Upper Bush Conservation Area, with uncharted excavation taking place within the designated area and unacceptable noise levels.

11.7 Concerns about traffic associated with the development ranked highest amongst Cuxton villagers. Lorries and cars frequently mount the pavement to pass, and there are major issues with turning right out of Bush Road and Station Road on to the A228. The 65,000 vineyard visitors will only exacerbate these problems. There are no easy forms of public transport. It should be plainly stated that the easiest means of accessing the development site is by car, as evidenced by the convoys of Vineyard vehicles.

11.8 Offering jobs in the agricultural, hospitality and transport sector cannot be put forward as an economic asset: it is a major problem, with huge shortages of workers in all these fields, and for the foreseeable future. There are no economic benefits for the local village shops or pubs.

11.9 Vineyard tourism would create some additional revenue, but little in comparison to Medway's overall tourist revenue: the appellant expects approximately 65,000 visitors a year to the KWV,

whereas Medway receives an estimated 4.6 million visitors a year.[97] The KWV would therefore only increase tourism to Medway by a mere 1.4%, surely insufficient to constitute the very special circumstances that would warrant development in the Green Belt/AONB land.

11.10 There is no substantiated evidence in the public domain of any serious exploration by the appellant of the use of underused, derelict, or previously developed land for this development, as required by Green Belt guidance. Other large vineyards are actively seeking imaginative solutions to use business parks.

11.11 Although a winery may be said to be an ancillary part of a vineyard, three-quarters of vineyards in the Kent Downs AONB do not possess a winery; three-quarters of vineyards in the UK do not possess a winery. It cannot therefore be said to be a requirement.

11.12 Arguments regarding the necessity of wine being processed in situ are negated by major award-winning vineyards in the Southeast who transport wine. Bulk transportation of wine has a substantial reduction in its carbon footprint over transportation of bottles. Harvest traffic jams would be infinitely preferable in the village than all-the-year-round tourist traffic.

11.13 Questions remain unanswered: lack of a hydrogeological risk assessment required for infiltration basins within the SPZ1; only half the site's foul water able to be accepted into Southern Water's sewer; lack of water pressure; doubts about the lake; destruction of chalk grassland, orchid sites and lark nesting ground by the appellant; inaccurate surveying of Plantation Wood and unacceptable tree mitigation; the stacking of lorries on the A228 outside of delivery times, particularly during the two years' construction.

11.14 Care needs to be taken that the aim to be largest, to corner the market, does not blind us to the need to retain long-term planning structures and landscape designations that represent the backbone of the British Isles.

11.15 This is one of the few areas in Medway free from major disturbance, not just visual intrusion but noise intrusion. Areas of undisturbed land need protecting for future generations. The Green Belt between Medway and Gravesham needs to be upheld.

[97] https://www.wearemedway.co.uk/visit/