



Appeal Decision

Inquiry opened on 8 February 2022 and closed on 25 February 2022

Site visit made on 24 February 2022

by Martin Whitehead LLB BSc(Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Appeal Ref: APP/E2205/W/21/3284479

Land between Woodchurch Road and Appledore Road, Tenterden, Kent, TN30 7AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Wates Developments Limited against the decision of Ashford Borough Council.
 - The application Ref 21/00790/AS, dated 27 April 2021, was refused by notice dated 27 September 2021.
 - The development proposed is described on the application as: *'Outline application for the development of up to 145 residential dwellings (50% affordable) including the creation of access points from Appledore Road (1 x all modes and 1 x emergency, pedestrian and cycle only), and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. Full planning permission for the change of land use from agricultural land to land to be used as a country park (8.66 ha), and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable urban drainage systems and associated landscaping.'*
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Decision

1. The appeal is allowed and planning permission is granted for:
 - a) Outline application for the development of up to 141 residential dwellings (50% affordable) including the creation of access points from Appledore Road (1 x all modes and 1 x emergency, pedestrian and cycle only), and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Save for access, matters of appearance, landscaping, layout & scale reserved for consideration).
 - b) Full planning permission for the change of land use from agricultural land to land to be used as a country park (8.66 ha), including community orchard and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable urban drainage systems and associated landscaping.

All on land between Woodchurch Road and Appledore Road, Tenterden, Kent, TN30 7AY in accordance with the terms of the application, Ref 21/00790/AS, dated 27 April 2021, subject to the conditions in the attached Schedule.

Procedural and Preliminary Matters

2. Part of the application was submitted in outline form with all matters of detail, except access, reserved for subsequent approval. The other part of the application was submitted for full planning approval. The appellant has submitted an illustrative plan Reference No '21037- RFT - 00 - 00 - DR - A - 0121 rev P08 - Site Plan', showing 141 units. I have used this plan to give an indication of the layout of the proposed development in my determination of the appeal.
3. At the Inquiry the appellant submitted a formal request that the description of the development be amended to read:

'a) Outline application for the development of up to 141 residential dwellings (50% affordable) including the creation of access points from Appledore Road (1 x all modes and 1 x emergency, pedestrian and cycle only), and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Save for access, matters of appearance, landscaping, layout & scale reserved for consideration). b) Full planning permission for the change of land use from agricultural land to land to be used as a country park (8.66 ha), including community orchard and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable urban drainage systems and associated landscaping.'

I consider that this description is a more accurate description than that given on the application, as it reflects the proposed development shown on the submitted plans, including the illustrative 'Site Plan'. I have therefore determined the appeal based on this amended description.

Main Issues

4. Prior to the Inquiry, the Council withdrew its 7th reason for refusal regarding flooding. The 9th reason for refusal regarding the effect of the development on infrastructure in the area has been addressed by the planning obligations in the engrossed planning agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended) (S106). Following the refusal of planning permission, the appellant has contested the Council's reported five-year Housing Land Supply (HLS). Consequently, the main issues are the Council's five-year HLS position in accordance with the National Planning Policy Framework (Framework); the effect of the proposal on the sustainable distribution of housing development in the Borough; its effect on the character and appearance of the surrounding area, including its effect on existing trees; its effect on ecology and biodiversity; its effect on community space and facilities in the area; and its effect on pedestrian access and safety in the area, with particular regard to an unconfirmed Public Right of Way (PRoW) AB70.

Reasons

5. The appeal site extends to an area of some 24.34 ha, of which 8.66 ha would be set aside for countryside open space that would include an orchard, 3.33 ha would be used for new sports facilities, including a sports pavilion, and 12.35 ha for proposed residential development that would be on the western side of the site.
6. The development plan includes the Ashford Borough Local Plan (ABLP), which was adopted on 21 February 2019. Tenterden Parish was designated as a Neighbourhood Area on 12 March 2019 and is currently progressing a Neighbourhood Plan. The Regulation 14 Neighbourhood Plan has been published and public consultation on it has now ended. The appellant has indicated that it made detailed representations on the plan.

Housing Land Supply (HLS)

7. ABLP Policy SP2 sets out the relevant housing requirement of 13,118 net additional dwellings between 2018 and 2030. The explanation identifies that this is made up of an annual Objectively Assessed Need (OAN) of 888 dwellings per annum (dpa) plus 352 dpa of past shortfall to be added to the annualised OAN requirement for the first seven years of the plan. Since the determination of the appeal proposal, the Council has updated its position regarding its five-year HLS. The latest published position in November 2021 for 2020 to 2026 states that the Council is able to demonstrate a HLS position of 4.54 years.
8. At the Inquiry, the Council confirmed that, although its monitoring report refers to the monitoring year being 1 April to 31 March, the relevant dates are 1 July 2021 to 30 June 2026. The appellant has claimed that this results in a supply period of 5.25 years against a target of 5 years and therefore does not accept the inclusion of those sites identified as under construction as at the 1 April 2021 survey. The Council has accepted that the resulting monitoring period has effectively been extended but has claimed that this would make very little difference to its calculated supply due to reduced construction because of the impact of covid. However, as I have limited evidence to support this claim, I have assumed that there would be a consequential reduction in the reported five-year supply.
9. The Framework defines a 'deliverable' site as being '*...available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years.*' In terms of those sites with full planning permission, paragraph a) indicates that to be excluded it is necessary for there to be clear evidence that the housing would not be delivered in the 5-year period. In paragraph b) of the definition, it covers, amongst other things, sites with outline planning permission or that have been allocated in a development plan. It states that such sites '*...should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*'
10. Many of the sites that are in the paragraph b) category of the definition are within or on the periphery of Ashford and are affected by the Stodmarsh nutrients issue, which was identified following advice Natural England issued to the Council in July 2020 and updated in November 2020. The main implication is that the Council is unable to grant planning permission for new housing development within the Stour Catchment unless the proposal can show it will

achieve 'nutrient neutrality' in respect of both phosphorus and nitrogen. The Council has published guidance on how it can be mitigated, including options on-site or off-site, such as the provision of wetlands, the provision of on-site wastewater treatment works and the removal of land from agricultural use to offset overall nutrients released from development.

11. The appellant has put forward two scenarios regarding the effect of the Stodmarsh nutrients issue on the delivery of housing to meet the five-year supply. The first scenario is based on relevant Stodmarsh sites not meeting the definition of 'deliverable'. This is where there is no clear evidence provided by the Council that they are both suitable locations for development now and that they are achievable with a realistic prospect that housing will be delivered on the site within five years, from which the appellant arrives at a five-year HLS position of 2.75 years. In the second scenario, where relevant Stodmarsh sites may meet the test of being 'deliverable' but the timescales for their delivery will be delayed, the appellant has reduced the number of homes that have a realistic prospect of delivery within the five-year period. In this scenario the appellant has arrived at a five-year HLS position of 3.57 years.
12. At the Inquiry, the Council accepted that the need to provide mitigation because of the Stodmarsh nutrients issue would delay new housing development on some of the sites, which are identified in the Statement of Common Ground (SoCG). However, it claimed that this had been factored in when calculating the projected delivery from these sites, most of which would be within the 4th and 5th years, and that work had been started on a Supplementary Planning Document (SPD) to deal with this matter, with some larger sites making provisions for their own mitigation. Whilst the Council's Cabinet Meeting of 29 July 2021 approved finances for the purchase of land, I have been given very little evidence regarding any progress on the acquisition of suitable wetland sites or on the SPD or individual site measures as mitigation.
13. At the Inquiry, the appellant accepted that the Boroughwide strategic solution that would be detailed in the proposed SPD, and individual site-specific mitigation strategies, could be delivered. However, it suggested that the Council has not yet provided clear evidence to demonstrate that it could realistically be delivered in the timescales envisaged, and with the phasing, to release homes for development within the five-year period. As such, I agree that there is uncertainty over the number of dwellings the affected sites would be able to deliver within the relevant five year period.
14. I am not convinced that the evidence presented by the Council is sufficient to clearly demonstrate that all the sites that would be likely to be delayed due to the Snodmarsh nutrients issue would be able to deliver the contributions that it has included within the five-year period. The Council gave updated positions at the Inquiry. It stated that Site S2 Conningbrook, which is expected to deliver 190 dwellings in the 5 years, would provide on-site mitigation and planning permission has been granted on 11 February 2022. As such, I am satisfied that this number of dwellings would be deliverable, as there is no clear evidence to show that it would not.
15. The Council has indicated that Site VC14 Elwick Road Phase 2, which is expected to contribute 200 dwellings, has a reserved matters application to be decided in March and is Council owned land, but would be relying upon the

- draft SPD for mitigation. Site S16 Waterbrook, with a 100-dwelling contribution, has a reserved matters application to provide its own wetlands. Site S55 Charing would make a 140-dwelling contribution, but the Council has suggested that it has a reserved matters application for 131 dwellings and is relying upon the Council's proposed SPD for mitigation. With regard to Site S1 Tannery Lane, which is expected to make a 244-dwelling contribution, the Council has not confirmed that planning permission has been granted and it would be relying upon the SPD for mitigation.
16. The Council has stated that sites S3 Court Lodge, contributing 130 dwellings, S4, 130 dwellings, and S5, 100 dwellings, would be providing on site mitigation or treatment works. Sites S13 former Ashford School, S19 Conningbrook Phase 2 and S20 Eureka Park, with contributions of 110 dwellings, 120 dwellings and 130 dwellings respectively, have not yet been granted planning permission and would be required to either provide on-site mitigation or rely upon the proposed SPD. The application for full planning permission for 216 dwellings on the former B&Q site has a resolution to grant subject to mitigation for the Stodmarsh nutrients issue and agreeing S106 obligations. There are also a significant number of smaller sites that would require mitigation that have not been granted full planning permission.
 17. Based on the evidence provided, including the update at the Inquiry, I find that the Council has failed to provide clear evidence that there is a realistic prospect that housing will be delivered on most of the sites affected by the Stodmarsh nutrients issue within five years. The impact of this would either be to remove all the supply that has been included in the five years or, where there is clear evidence, to reduce the number of dwellings due to the uncertainty over the time that it would take to provide the mitigation. Given that the Council has failed to provide evidence of the timescales to have its SPD in place, I find that all sites that would be relying upon it for mitigation should be discounted from the five-year supply. I would expect that some of the sites that would be providing their own mitigation, including the former B&Q site, would be capable of contributing in the five-years, albeit reduced from that relied upon by the Council.
 18. In terms of the delivery of the allocated S24 Tenterden Southern Extension Phase B, which would not be affected by the Stodmarsh nutrient issue, no planning application has been made. I find that the Council has been unable to provide clear evidence that the site would be able to deliver the 150 dwellings that have been included in the five-year supply, given the appellant's claims that there are issues with a covenant on the land and that it was allocated for development about 4 years ago.
 19. Regarding the delivery of windfall development, I am satisfied that the number of dwellings that have been included in the allowance by the Council is realistic, having regard to the historic windfall delivery rates and expected future trends. Therefore, I accept the inclusion by the Council as 'future expected windfalls' and 'unknown windfalls' of 300 homes applied within years four and five of the supply period as being realistic.
 20. Taking account of my findings given above on the likely effect of the Council's extended monitoring period and the inclusion of housing in its 2021 Monitoring Report that the most recent evidence fails to clearly demonstrate would be deliverable within five years, I consider that the resulting reduction in

deliverable supply would take it to about 5,000 dwellings or 3.5 years. Given that the latest monitoring report has failed to demonstrate a five-year HLS, this would make the need to address the Council's housing shortfall significantly more urgent. I conclude on this main issue that, for the purposes of this appeal, the Council cannot demonstrate a five-year HLS.

Distribution of Housing

21. The appeal site is not allocated for development and lies outside of the existing settlement area. Tenterden is the second largest settlement in Ashford Borough and is the Borough's only other town outside of Ashford. Paragraph 2.51 of the ABLP states that the high quality of Tenterden's landscape setting and its intrinsic historic character are factors that suggest that new development in the town should be limited, phased and very carefully planned. Therefore, no more major new development is planned in Tenterden itself, apart from the completion of the master planned southern extension to the town and the permitted extension to housing at Tilden Gill Road.
22. ABLP Policy SP1 'strategic objectives' seeks to deliver the vision and 'core principles' for the plan by, wherever possible, focusing development on accessible and sustainable locations. ABLP Policy SP2, which provides the strategic approach to housing delivery, states that the majority of new housing development will be at Ashford and its periphery, as the most sustainable location within the Borough. It restricts new development in rural areas to a scale that is consistent with the relevant settlement's accessibility, infrastructure provision, level of service available, suitability of sites and environmental sensitivity.
23. Paragraph 219 of the Framework indicates that weight must be given to a policy according to the degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). ABLP Policy SP2 is consistent with the policies in the Framework, including paragraph 69(c) which states that plans should support the development of windfall sites through policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes. Policy SP2 seeks to address the lack of a five-year HLS by allowing windfall development that meets the spatial strategy and other policies in the plan to be brought forward. Based on this, I have given this Policy significant weight.
24. The appeal site was promoted at the Local Plan examination in 2018. It was not allocated in that plan. The examining Inspector noted that Ashford is essentially a Borough of two halves: the largely urban area of Ashford, with its strong sustainability advantages, where the main focus of development is intended to be, and the remainder of the Borough which is rural in character and environmentally sensitive, where there will be more limited development. ABLP Table 1 and Appendix 5 shows about 76% of the housing in Ashford.
25. On the above basis, the ABLP strategy for housing distribution in the Borough splits it between Ashford, where the main growth is focussed, and the remainder of the Borough which is generally rural in character where development should be of a scale that reflects its character and environmental sensitivity but also provides a balance to ensure rural communities continue to prosper. This is the approach that is taken to windfall development in ABLP Policy SP2.

26. As the appeal site is not allocated in the plan, it would fall within the 'windfall' category of Policy SP2 which requires it to be '*consistent with the spatial strategy and consistent with other policies*' in the Local Plan. There is no objection to further windfall permissions in Ashford Borough, and the Council is relying on such development in its HLS. Under ABLP Policy HOU5, windfall development adjoining or close to the existing built-up settlement is permitted if all of the specified criteria are met. In this respect, I am satisfied that the site is in an accessible and sustainable location, adjacent to the settlement boundary of Tenterden with good pedestrian links to the town centre that provides a high level of facilities and services. Such a position has been accepted by the Council.
27. Tenterden is the second largest settlement in the Borough with nearly 9,000 residents and some 4,000 dwellings. The proposed number of dwellings would be of a similar scale to the earlier permitted residential development at Tilden Gill, which is listed in Appendix 5 of the ABLP as a major windfall of 100 dwellings. As such, I find that the scale of the proposed residential part of the development would be proportionate to the size of Tenterden. The proposed number of dwellings, if permitted, would not prevent the majority of new development being in Ashford because it would still result in about 75% of new housing from commitments/allocations and windfalls being in Ashford and its surrounds.
28. Based on the above, I am satisfied that the 141 dwellings proposed would be insufficient to cause any significant harm to the spatial strategy's approach to sustainable distribution of housing development in the Borough. The proposal would also accord with ABLP policies SP1 and SP2 in this respect, as it would be a windfall development that would be consistent with the accessibility, infrastructure provision, level of service available, suitability of sites and environmental sensitivity in and around Tenterden.

Character and Appearance

Existing Landscape

29. The appeal site is located to the northeast of Tenterden, with residential development adjoining its western and southern boundaries. To the south is Appledore Road and to the northwest is Woodchurch Road. On the opposite side of Woodchurch Road is the Knock Wood Local Wildlife Site comprising of broadleaved woodland, whilst to the east of the site is open countryside. The site itself lies just outside, but adjoins, the High Weald Area of Outstanding Natural Beauty (AONB) and is located within an area classified as National Character Area (NCA) 122, High Weald. In the Ashford Landscape Character Assessment (2009) it forms part of the 'Woodchurch Undulating Farmlands' character area (area 23).
30. The site is divided into 14 parcels of land, labelled as Fields F1 to F14. I understand that some of these fields are used for occasional grazing, and that one is a disused grass sports pitch, which has probably not been used since at least 2018. The field boundaries are generally enclosed by hedgerow and trees, some of which are the subject of Tree Preservation Orders (TPOs). The site displays many of the features that characterise the 'Woodchurch Undulating Farmlands' character area. These include an irregular shaped field pattern of small to medium sized fields with a moderate sense of enclosure. This is most apparent in the western parts of the site because of the mature

hedges and hedgerow trees within that part of the site and on its boundaries, and small groups of trees and scrub. Amongst these small copses and larger woodland blocks are ponds and hollows.

31. At my site visit, I observed that the site consists mainly of gently rolling grassland that rises from its lowest parts to the south and west to a shallow ridge in the central northern areas. Although the site has many areas on it where the public has gained access, the only official public access is on PRoW AB12 that roughly follows the ridge between Appledore Road and Woodchurch Road. From this ridge, the site falls away to the east. As such, the eastern part of the site is within the setting of the High Weald AONB. However, the western part is not, due to it having no intervisibility with the AONB as it is enclosed by settlement edges to the north and south and the ridge to the east.

Policy

32. Paragraph 174 of the Framework seeks to ensure that decisions contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside and of trees and woodland. Paragraph 180(c) states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
33. ABLP Policy HOU5 e) requires new residential windfall development in the countryside to conserve and enhance the natural environment. This reflects one of the strategic objectives established by ABLP Policy SP1. ABLP Policy SP6 promotes high quality design and lists design criteria that need to be responded to positively in order to achieve this objective.
34. ABLP Policy ENV3a seeks to ensure that new development demonstrates that it has had particular regard to landscape characteristics, proportionately, according to the landscape significance of the site. It refers to the Ashford Local Character Assessment SPD which specifies some of the key characteristics that are in the local published Landscape Character Assessments. The landscape characteristics include in b) the pattern and composition of trees and woodlands.
35. Policy TEN NP2 of the draft version of the Tenterden Neighbourhood Plan proposes to designate a large proportion of the appeal site as 'Local Green Space', stating that 'proposals for development at the sites identified as designated Local Green Spaces will be considered in line with national planning policy on Green Belts'. However, this carries very little weight due to the stage of the draft Plan and the outstanding objections to it.

Proposed Development

36. The appellant has claimed that the design of the proposed development is landscape-led to ensure that potential landscape and visual effects would be localised and would not significantly affect sensitive landscape and visual receptors outside of the site. The proposed residential area would slope south-westwards, towards the settlement edge, and the countryside open space, referred to as a 'country park', would slope eastwards, towards the High Weald AONB. The built development would be located between existing residential areas at Woodchurch Road, to the north, and Appledore Road, to the south and

would not extend any further east than existing housing on both roads. Apart from the proposed pavilion building, all the built development would be sited to the west of PRoW AB12.

37. The appellant has suggested that the design of the residential element of the site would be structured around four main 'greenways', as indicated on the illustrative plans. These 'greenways' would allow the hedgerows and mature trees to be protected and enhanced and would retain some of the views to the west that are currently available from PRoW AB12 of St Mildred's church tower. The proposal would also allow additional public access along the greenways and other green space that would provide the opportunity of other views. The proposed country park would form a landscape buffer to the High Weald AONB, with the point between the nearest part of the AONB and the closest proposed residential property being over 250 metres.
38. The proposed mitigation would include the new country park with an orchard, the creation of new ponds, and the establishment of damp grassland around the edges of existing and new ponds. In the proposed new area of housing, existing hedgerows would be gapped up, and new hedgerows and scrub would be established at the northern, southern and eastern edges of the site.
39. The proposed densities closest to Tenterden would be 40 to 45 dph, parcels further to the east would have densities of 30 to 35 dph, and these would drop further to 25 to 30 dph on the new settlement edge. Whilst these densities would be higher than the average housing densities along Appledore Road and Woodchurch Road, the built areas would be divided by the proposed 'greenways' and other open spaces, including hedgerows and ponds, that would reduce the impact of the higher density development and provide a more open character to the development. The appellant has indicated that about 5.48 ha, or 22% of the overall site area would be taken by the proposed pavilion, houses, roads and gardens, leaving a significant area of land that would be retained or improved as natural green space.
40. I have noted the Inspector's reasoning in the dismissed appeal for 124 homes on fields F1, F3 and F4 in the southwestern corner of the current appeal site. I accept that the site has changed very little since that decision in 1988 and that the description of its importance in landscape and visual terms would still stand, including the attractiveness of views from PRoW AB12. Whilst the Inspector considered that that development would be perceived as a major incursion into the countryside, it was significantly different from the current appeal proposal. Therefore, although I have considered the points made by that Inspector, I have determined this appeal on its own individual planning merits in the light of prevailing policies and guidance.

Landscape and Visual Effects

41. The Landscape and Visual Appraisal (LVA), prepared by SLR on behalf of the appellant, has established the most important viewpoints that the Council has since agreed. It describes the overall condition of the landscape as good with a medium sensitivity to the west of PRoW AB12 and medium to low sensitivity to the east. I agree with the conclusions that there would be moderate to major adverse landscape effects resulting from the proposed development on the western end and all other landscape effects would be moderate or less. Also, the more open 'Woodchurch Undulating Farmlands', to the east of PRoW AB12 would experience some positive effects, due to the creation of new habitats and

- the provision of new areas of informal recreation, but there would be moderate/minor adverse effects due to the pavilion, sports pitches and car park and more intense activity associated with these facilities.
42. The main negative landscape effects would therefore be localised upon the western part of the site, with the proposal also providing some positive effects for the eastern part of the site and the hedgerow network. I agree that the effects on landscape receptors around the site and further from the site would be minor or less, as to the west the character is influenced by the settlement edge and to the east most the area would be free from development.
43. In terms of the visual impact of the proposal, at my site visit, which I carried out when most of the trees had little foliage, I observed that the existing trees and hedgerows within the appeal site and on the boundary provide some screening of the buildings on the settlement edge. The effect of this screening is reduced in views nearer to the boundary. More expansive and distant views are available from the higher points of PRoW AB12, which is currently the only official public access to the site. However, in most of these views the buildings on the settlement edge are apparent. Therefore, whilst the appeal site itself has a strongly rural appearance, the views from it to the south and northwest are influenced by visible housing on the settlement edge.
44. The highest levels of visual effect due to the proposed development would be focused on walkers using PRoW AB12, who would experience sequential major/moderate negative effects. When examining the photomontages of the proposed development, it is apparent to me that views to the west would include new buildings that would be very noticeable. However, these views would improve over time when the new and replacement planting would mature and soften the impact of the buildings. The views to the east from this PRoW would be improved by new habitat creation, the provision of a new orchard and the gapping up of new hedgerows. However, the proposed pavilion would be sited close to the PRoW and there would be views of increased activity at the proposed car park and sports pitches.
45. Whilst the appeal site acts as a wedge of countryside that extends into the settlement of Tenterden, it is not remote from the settlement and the western part of the site lacks any landscape and visual connection with the AONB. Therefore, although the western part of the site appears to me to be well used and provides an attractive rural setting to Tenterden, it is very localised and the area of the site to the east of the ridge is of greater value to the wider landscape. As the proposed built development would be on the western part of the site, the proposal would result in minor and neutral effects on the landscape of the AONB.
46. I observed at my site visit that, when approaching Tenterden via Woodchurch Road and Appledore Road, the full extent of the site and its agricultural character are not visible or appreciable due to residential development lining the north side of Appledore Road and the south side of Woodchurch Road, and the mature trees, hedgerows, and other vegetation on the edges of the site. Therefore, as the proposed layout would allow for a significant landscape buffer between the pockets of built development at the rear of the properties on Appledore Road and Woodchurch Road, I am satisfied that the proposed development would have a very limited impact on views along these roads, other than from the proposed vehicular access.

Trees

47. The Council has agreed in the SoCG that, of the 46 trees to be removed to facilitate the development, none are ancient, veteran or category 'A' specimens and only two are mature. One of the mature trees that would need to be removed is a horse chestnut T43. Its removal is required to facilitate the construction of the proposed access to the site, and I am satisfied that this is the most appropriate location to provide an acceptable vehicular access to and from the proposed development.
48. Tree T43 is sited on the outside of a bend in Appledore Road. It is clearly visible along that road as part of an avenue of trees that line either side. The trees that form this avenue, including some that are immature, have recently been the subject of a TPO. I observed that, even though there are some gaps in it, it is largely intact as a landscape feature which defines the character of that road as it enters the settlement of Tenterden.
49. Whilst tree T43 has a clear presence when viewed close to the bend, its significance lessens further away due to other mature trees near to it providing additional coverage. The appellant has argued that it is not a major component of the avenue feature on Appledore Road, as only 49 of the original 84 trees remain and it is unlikely to achieve its maximum potential lifespan. However, there is nothing before me to show that it is not healthy, and I have insufficient evidence to ascertain its potential lifespan. I observed at my site visit that it does make an important contribution to the avenue of trees in that area.
50. The mitigation proposed would be secured through the S106 Agreement by way of a sum of money calculated using the CAVAT system, which the appellant has suggested would result in about 34 new semi-mature trees. Although it may not be possible to plant many new trees to enhance the avenue, due to the available space or the location of accesses or services, the money could be used elsewhere near to the site.
51. At my site visit I observed that the avenue of trees has already been altered and depleted from when it was originally planted with parts of it having significant gaps, some of which have been filled by less mature specimens, including on the opposite side of the road to T43. Although I have accepted that the loss of tree T43 would have an adverse impact on the avenue of trees along Appledore Road, most of the avenue would be retained and the effect of the loss would be localised. As such, the harm that its removal would cause to the overall character and appearance of Appledore Road would not be serious.
52. The other tree that the Council has expressed concern about is Field Maple T381, which the evidence indicates is a highly valuable specimen that should be given the protection that is afforded to an 'ancient tree' given in paragraph 180(c) of the Framework. The tree survey schedule of the SJA AIR describes it as an '*essential component of the group within which it stands; of ecological, cultural and historic value, of high quality and moderate landscape value; of long-term potential.*' The appellant stated at the Inquiry that a proposed sports pitch would be constructed about 5.95m away from the trunk of the tree.
53. The Council's concerns are that the construction of a sports pitch would not be a semi-natural habitat and that it would not help protect the tree. I accept that

the sports pitch would be of very limited habitat value to the wider ecology and any raising of soil levels as part of the construction could affect the rooting environment. Also, British Standard BS5837 recommends that *'no construction, including the installation of new hard surfacing, occurs within the root protection area of a veteran tree'*.

54. The Government and The Natural England/Forestry Commission Standing Advice – Ancient Woodland, Ancient Trees and Veteran Trees requires that buffer zones around ancient or veteran trees *'should be at least 15 times larger than the diameter of the tree'*. However, trial pits and a tree root investigation carried out by Tree Radar UK Ltd on the 23 December 2021 for the appellant have provided more details of the root structure. They show that the roots extend predominantly north and south, in the field bank on which the tree is growing. Although this root analysis does reveal that roots also extend out to at least 12m distance in the direction of the proposed sports pitch, the root density is shown to be relatively low in that area. The appellant has also suggested that soil test results demonstrate that no harm would come to the tree as there would be no need to excavate the soil other than to remove the turf layer.
55. At the Inquiry, the Council's expert witness accepted that the proposal would be unlikely to result in killing the tree but was concerned that it could cause a deterioration. The appellant has demonstrated through its expert analysis and surveys that, subject to an appropriate methodology for construction, the proposed sports pitch would not result in a deterioration or the loss of the tree. Although the proposal would not satisfy the recommended requirements in the guidance for root protection, I find that there is nothing before me to show that there would be a significant risk that the ancient tree would deteriorate as a result of the construction, maintenance and use of the sports pitch.
56. The Council has accepted that the veteran oak tree T312 would not be affected by the development and its concerns about this tree have been withdrawn as a reason for refusal. I am satisfied that this tree would not be harmed by the proposed development.
57. The appellant has accepted the representations from Kent Wildlife Trust that the large oak tree T315 growing on the south side of the pond would meet the criteria for designation as a 'veteran'. As such, the buffer zone around it should be calculated on the basis of 15 times the diameter of the trunk. I am satisfied that this would be able to be accommodated by minor alterations to the proposed illustrative building layout.
58. In terms of the TPO'd oak tree T313 in the garden of Marne House, 41a Appledore Road, the appellant has provided details which amend the drainage in that area to avoid any intrusion into the root protection area by the proposed swale shown on the illustrative plans. A proposed footpath which would encroach within the root protection areas of oak trees T302 and T303 could be constructed above the existing ground level to avoid root damage and minimise soil compaction. Appropriate planning conditions would secure the necessary measures to protect the retained trees.

Conclusions on Character and Appearance

59. I consider that the two most important functions that the appeal site performs are in contributing to the setting of the adjacent part of Tenterden and for

recreational purposes. In terms of the first of these, the site provides an attractive rural setting which would be replaced by a more urban setting, albeit broken up by the existing landscape features that would be retained and the 'greenway' corridors that would be kept open. The recreational function is fulfilled by giving the public the opportunity to walk through pleasant open countryside along PRow AB12, which is a much valued and well used route. This would be changed by the proposal in that built development would clearly be visible in most of the views from PRow AB12 towards Tenterden and some views towards the east would be dominated by the pavilion building and car parking.

60. The illustrative layout shows that the proposal would provide a sizeable landscape buffer between the built development and the rear of existing houses; it would retain and enhance many of the important landscape features, including most of the hedgerows and ponds; and would improve much of the landscape to the east where there are more extensive views, by the provision of a country park, orchard and other landscape enhancements. Furthermore, the impact of the harm to the setting would be localised and the harm due to views of the built development would be restricted to those from PRow AB12, as it would mainly be hidden in views from the adjacent roads by existing buildings. The only other significant harm that the proposal would cause to character and appearance would be to Appledore Road due to the loss of tree T43, which would be localised, and compensation would be provided.
61. For the above reasons, I find on this main issue that the proposal would result in an adverse effect on the character and appearance of the area. This harm would be contrary to ABLP policies SP1 b) and HOU5 e), as the proposal would fail to conserve or enhance the natural environment; and Policy HOU5 f) ii), as it would fail to preserve or enhance the setting of Tenterden. I am satisfied that the proposal would accord with ABLP Policy SP6, as the appellant has demonstrated that there has been a careful consideration of and positive response to character, distinctiveness, and sense of place; and ENV3a, as the appellant has demonstrated that regard has been given to the landscape characteristics, including the pattern and composition of trees and woodlands and the retention of important features, proportionately, according to the landscape significance of the site.

Ecology and Biodiversity

62. The Council has accepted that the site has no designation for ecology and that the appellant's survey information is comprehensive, appropriate and proportionate. Taking on board the results of the surveys from 2021, the appellant has submitted a revised Biodiversity Net Gain (BNG) using Defra's Metric V3.0. This indicates a BNG of 14.98% for habitats, a 52.26% gain for hedgerows and a 44.72% gain for ditches. I have not been provided with any other calculations based on this metric to show anything different.
63. The Council has not disputed that the proposal would deliver the benefits identified for watercourses and hedgerows. At the Inquiry, the Council conveyed its only concerns as being that the proposed ecological mitigation would not be delivered and that the identified BNG would not be realised. However, the Council has not backed this up with any examples of where ecological mitigation has not been delivered in the way proposed.

64. The appellant has explained at the Inquiry how it has taken a precautionary stance in relation to the baseline, including the classification of the grassland and the condition assessment. I am satisfied that the appellant's calculated 14.98% BNG in habitat is large enough to ensure that, even if the Council's concerns regarding the effect of public access such as straying off the footpaths happened, there would still be a significant net gain. The appellant's expert considered that it would only be reduced by a maximum of 2% should these concerns be realised. The Council has not provided any details or calculations to show otherwise.
65. The BNG metric does not take into account any of the proposed enhancements for protected species like the bats, great crested newts and dormice which have been noted as being present. The Council has agreed in the SoCG that the proposed mitigation and enhancements would be appropriate and proportionate and that the efficacy is well established. I am satisfied that the enhancements would be secured by appropriate planning conditions.
66. Taking account of the evidence before me, I conclude on this main issue that the proposal would have a beneficial effect on ecology and biodiversity. As such, it would accord with ABLP Policy HOU5 f) vi), as it would conserve biodiversity interests on the site or adjoining area and not adversely affect the integrity of international and national protected sites; and Policy ENV1, as it would incorporate and enhance biodiversity and safeguard features of nature conservation interest and include measures to retain, conserve and enhance habitats.

Community Space and Facilities

67. The appellant has specified that the appeal proposal would provide for about 8.66 ha of countryside open space as well as 3.33 ha of land to be used as formal sports pitches (1 x 11v11 Adult Football Pitch, 1 x 9v9 Junior Football Pitch, 1 x 7v7 Mini Soccer Pitch and 2 x 5v5 Mini Soccer Pitch), and 6.93 ha of incidental public open space/amenity space. The Council has agreed that this provision would significantly exceed the planning policy requirement for amenity space for a scheme of the scale of the appeal proposal and it has accepted that the proposed provision would be needed in Tenterden. I am satisfied that the appellant has demonstrated that the number of proposed pitches, their design, layout and configuration would be in accordance with the Council's Playing Pitch Strategy 2017 – 2030. Also, Sport England has confirmed that it does not object to them or to the proposed ancillary facilities, changing rooms and community space in terms of their structure, layout and configuration.
68. The Council has clarified that its reason for refusal in relation to this issue was based on its concerns that insufficient information had been provided as to how the proposed sports facilities would be managed, who would own them, who would use them and how the community would benefit from them. ABLP Policy IMP4 requires new substantial community space and facilities to be supported by a governance strategy to be agreed with the Council. For the Council to be satisfied that the ambitions of this Policy would be fully met, the Council has suggested that it requires clarity and certainty about who the owners, managers and operators would be along with details of their relevant agreements.

69. The terms of S106 planning obligations have been agreed between the Council, Kent County Council (KCC) and the appellant that would provide a mechanism to secure appropriate governance of the proposed public open space and sports facilities, together with provision for 10 years of maintenance. Based on this, the Council accepted at the Inquiry that it would not pursue its 6th reason for refusal, which is on these grounds.
70. Taking account of the evidence that has been provided, I am satisfied that the S106 planning obligations would ensure that the proposed community space and facilities would be operated, managed and maintained to an acceptable standard. Also, there is sufficient evidence to show that they are needed and would be likely to be used. Therefore, I conclude on this main issue that the proposal would have a positive effect on community space and facilities in the area and would accord with ABLP Policy IMP4.

Pedestrian Access and Safety

71. PRoW AB12 bisects the appeal site running from Appledore Road at the southern edge of the site to Woodchurch Road at the northern edge of the site. An application has been made by KCC for confirmation of a Definitive Map Modification Order which would provide for new footpaths to the east and west of this existing PRoW. The new footpaths have been referred to as AB70 and the confirmation of the Order is subject to a forthcoming public Inquiry, scheduled for April 2022. Whilst KCC indicated at the Inquiry that it has strong evidence to support the Order and at my site visit I observed that a route similar to that of the proposed AD70 is clearly visible, I am not in a position to accept that the Order would be confirmed, particularly given the appellant's opposition to it.
72. The Council's reason for refusal on these grounds is based on the route of AB70 passing through an area where housing is proposed. The appellant has provided plans which show how AB70 could be accommodated should it be confirmed. One plan shows amendments to the proposed outline scheme layout to allow the route to be retained; and a second plan shows a potential diversion of the footpath. The Council has suggested that neither of these alternatives would be acceptable due to the route having to go through proposed parking and built-up areas. However, at my site visit, I was shown other PRoWs in and around Tenterden that have been taken through similar recently built areas.
73. The Council has referred to ABLP Policy TRA5 in its 8th reason for refusal. However, the Policy relates to existing PRoWs and so is not relevant to an unconfirmed PRoW. This position was accepted by the Council at the Inquiry.
74. Based on the above reasons, I am satisfied that the appeal proposal would be capable of adequately and safely accommodating a route for the potential PRoW AB70 without it resulting in any unacceptable knock-on effects. Furthermore, the Council has not suggested that the route of any existing PRoWs would be harmed, and the appellant has demonstrated that the proposal would provide additional pedestrian routes that I am satisfied would be safe to use. Therefore, I conclude on this main issue that the proposal would not have an adverse effect on pedestrian access and safety and would accord with ABLP Policy TRA5.

Other Matters

75. The Council has agreed that there are no transport or highways reasons against the proposal. The evidence demonstrates to me that the local highway network would be able to safely accommodate the increase in traffic that would be generated by the development, background growth, and other potential developments in the area, with appropriate mitigation measures that have been agreed with KCC as the local highway authority and would be secured by planning conditions.
76. As to matters of sustainability and accessibility, the appellant has demonstrated that the appeal site is in a sustainable location within acceptable walking distances of the wide range of facilities provided in Tenterden town centre. The site accesses would be provided near to bus stops that would be improved to ensure that there would be opportunities to travel by public transport, even though there is no national rail station nearby. I have found that the proposal would accord with national and local planning policy on these issues and the Council has not cited them in its reasons for refusal.
77. In terms of concerns about flooding and drainage, the site is in Flood Zone 1 where land is assessed as having a less than 1 in 1000 annual probability of river flooding and is thus classified as low risk in accordance with the Framework. The risk of flooding at the site from surface water, groundwater and sewers has been considered as part of the Flood Risk Assessment and found to be low risk.
78. To ensure that the risk of surface water flooding would not be increased, the surface water drainage strategy has been designed to accommodate the 1 in 100 plus climate change (40%) flood event and a 10% allowance for urban creep. KCC, as the Lead Local Flood Authority, the Environment Agency and Southern Water did not raise any objections, subject to planning conditions that include limiting the number of houses to be occupied until improvements are made to the main sewer. The Council has withdrawn its objection on these grounds.
79. The proposal includes the retention of existing ditches crossing the site to ensure that the existing surface water and land drainage routes would be maintained and the enhancement of the ditches by removing obstructions and raising their banks to reduce the risk of bank overtopping. The flow capacity of the existing Appledore Road culvert and surface water sewers would be restored by removing blockages and repairing the pipes. The proposed on-site Sustainable Drainage System (SuDS) features, including storage basins, swales and permeable paving, should ensure that the proposal would not result in any unacceptable risks from flooding.
80. With regard to the concerns about the effect of the proposal on heritage assets, there are no listed buildings located within the boundaries of the appeal site. Although the red line area serving the western pedestrian and cycle only access partly overlaps with the eastern boundary of Tenterden Conservation Area (CA), there are no other known nationally or locally designated heritage assets located within the boundaries of the appeal site. The building referred to as Limes Land Farmhouse, 13–15 Appledore Road, is not locally or nationally listed and I am satisfied that its distance from, and relative orientation to, the appeal site would ensure that its setting would not be unacceptably harmed by the proposal.

81. The nearest listed buildings to the site are Stace House and Craythorne, which lie close to the western boundary, and the proposed development would possibly be visible from the listed Dovendon, but their heritage significance would not be harmed. The boundary of the Tenterden CA abuts the site to the southwest, with rear gardens of some properties within the CA adjoining the site and there are distant views to St Mildred's church from within the site, but I am satisfied that the site does not make any specific contribution to the heritage significance of these assets.
82. The appellant's expert showed by way of substantive evidence, including old maps, that Gallows Green is not part of the site, and this has been confirmed by a number of heritage experts. I am satisfied that the proposed development would not adversely affect the historic 'ridge and furrow' part of the site and that this feature would be adequately protected during construction by a suitable planning condition.
83. I find that the proposed development would preserve the character and appearance of the land within the CA and cause no harm to the heritage significance of listed buildings and the Tenterden CA through changes in setting. Furthermore, there are no objections from Historic England or from the Council on heritage grounds.
84. Concerns expressed about the effect of the potential release of carbon due to the loss of trees and other natural features on climate change have not been quantified. There are no development plan policies specifically addressing this matter and the appellant has indicated that the proposed scheme would be designed to be highly sustainable and energy efficient. I have imposed planning conditions and legal obligations to address some of the sustainability and energy issues and to secure compensation measures for the loss of trees and other features. Therefore, I have insufficient evidence to support these concerns.
85. The affordable housing provision would be provided in accordance with that defined in the Framework and the Council's requirements. As such, I find that the concerns expressed about the affordability of such housing are not founded on any local or national policy basis. I have tested the S106 planning obligations to ensure that they would be necessary to mitigate the effects of the additional residents on local services and facilities.
86. I am satisfied that the proposal would provide a wide enough buffer zone between the proposed dwellings and the rear of existing dwellings that would enable sufficient space for landscaping to be provided to ensure that the living conditions of existing residents would not be unacceptably compromised, given that the proposed details have not been finalised. The appellant has indicated that it has taken account of the existing electricity cables that enter the appeal site, and this would be able to be addressed. Therefore, I have no substantive evidence to show that this would unduly delay the proposed residential development.
87. I have considered all the concerns expressed by local residents and groups who have objected to the proposal and none of them add any significant weight to the harm that I have already identified.

Planning Obligations

88. After the close of the Inquiry, the appellant submitted an engrossed S106 Agreement between the appellant, owners of the land and the Council and Unilateral Undertakings to KCC, dated 9 March 2022, based on that discussed at the Inquiry. I have considered the information given in the Community Infrastructure Levy Regulations 2010 (CIL) compliance statements and appendices provided by the Council and KCC in support of the planning obligations.
89. The contribution towards adult social care would be directed towards specialist care accommodation, assistive technology systems, adapting community facilities, sensory facilities and changing places in Ashford Borough. KCC has provided details of how the sum has been calculated to show that it is reasonably related to the scale of the development, and I am satisfied that it is necessary to meet the demand created by the proposal generated by the estimated number of users.
90. Securing the provision of on-site affordable housing is necessary to make the development acceptable in terms of meeting an identified need for affordable housing in the area and to satisfy the requirements of ABLP Policy HOU1 and the Council's Affordable Housing SPD.
91. The local allotment provision would be directed towards allotments within Tenterden. As such, I find that it is directly and fairly related to the development in terms of the sum of the contribution per dwelling towards the costs and maintenance of allotment facilities in Tenterden in accordance with the requirements of ABLP policies COM1 and COM3 and the Council's Public Green Spaces and Water Environment SPD.
92. The contribution towards community learning would go towards new equipment and resources for new learners at Tenterden and Ashford Adult Education Centres. KCC has provided details of how the sum has been calculated to show that it is directly related to the development, as it would be used towards resources for the 'hub' service in Ashford and the 'spoke' service in Tenterden. I am satisfied that it is necessary to meet the demand created by the proposal that would be generated by the estimated number of potential users.
93. The health care contribution would go towards the refurbishment, reconfiguration and/or extension of primary care premises within the Ashford Rural Primary Care Network. The NHS has provided details to support the sum of money required and where it would be spent, as well as the need due to there being limited capacity at the local Ivy Court Surgery.
94. The libraries contribution would be directed towards the provision of additional services, resources and book stock for Tenterden Library. KCC has provided details of how the sum of money has been calculated and has justified the need for a contribution based on the number of potential additional users that would be generated by the residential development.
95. The strategic parks contribution would go towards Conningbrook Lakes Country Park or Discovery Park. I find that it is directly and fairly related to the development in terms of the sum of the contribution per dwelling towards the capital costs and maintenance of the identified strategic parks in accordance

- with the requirements of ABLP policies COM1 and COM2 and the Council's Public Green Spaces and Water Environment SPD.
96. The youth services contribution would be directed to additional resources for youth services in Ashford Borough. KCC has provided details of how the sum of money has been calculated and how it would be used. Based on this, I am satisfied that the contribution would be necessary, given the likely demand on youth services the proposed development would generate.
 97. The payment to KCC for the removal of tree T43 has been calculated using the CAVAT system to put a monetary value of £34,213. This is to be spent on replacement trees. I am satisfied that such a payment is necessary and fairly related as compensation for the loss of this tree.
 98. The traffic signals contribution would be necessary to meet the costs of changing the cycle times at the A28 High Street/East Cross traffic signal junction to cater for the additional traffic that would be generated by the proposal.
 99. The provisions for the management, maintenance and operation of the public open space and sports facilities that would be provided by the scheme are necessary to ensure that it would be properly maintained to continue to meet the demand that would be generated by the increase in residents from the development and to off-set the loss of rural countryside to built development. It would also be necessary to comply with ABLP policies COM1, COM2, IMP1 and IMP2 and the Council's Public Open Spaces and Water Environment SPD. As such, it would address the Council's 6th reason for refusal and satisfy the requirements of ABLP Policy IMP4.
 100. Enabling plots on the site to be used for custom/self-build housing is necessary to ensure compliance with ABLP Policy HOU6, which requires sites in villages and rural areas delivering more than 20 dwellings to supply no fewer than 5% of serviced dwelling plots for sale to self or custom builders. I am satisfied that this approach is supported by paragraphs 62 and 65 of the Framework, which highlight the need to provide for self and custom builders.
 101. The cemetery contribution would be invested in local provisions within Tenterden. Such a contribution is supported by ABLP Policy COM4 and the sums per dwelling that would be used for capital costs and maintenance are in accordance with the Council's Public Green Spaces and Water Environment SPD. As such, I am satisfied that the contribution would be necessary and directly related to the development.
 102. The public art contribution and voluntary sector contribution have not been justified as being necessary to make the development acceptable in planning terms or as being directly related to the development. The contributions would go towards St Mildred's church project which is an ongoing project that does not appear to me to be directly affected by the proposed development.
 103. I have examined the evidence provided by the Council, KCC and the NHS regarding the need for the above obligations and compliance with CIL Regulation 122. Based on this, and for the reasons given above, I am satisfied that the planning obligations in the Agreement, except for the public art contribution and voluntary sector contribution, would be necessary to mitigate the effects of the development and they meet the tests in CIL Regulation 122

and paragraph 56 of the Framework. I have therefore taken them into account in my determination of this appeal.

Planning Balance

104. In the absence of the Council being able to demonstrate a five-year supply of deliverable housing sites, the policies which are most important for determining the application are considered out of date, as specified in footnote 8 of the Framework. In such circumstances, paragraph 11d)(ii) of the Framework indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
105. In terms of the benefits, the provision of market housing carries substantial weight. In deciding upon the amount of weight that I have given it, I have considered the potential delays to the provision of the proposed residential development due to the necessary approvals and timings for the provision of public open space and sports facilities in accordance with the S106 obligations, as suggested by the Council. However, I am satisfied that the appellant has provided sufficient evidence to show that, even allowing for delays in the delivery of the housing, it would still be likely to make a significant contribution towards the five-year HLS.
106. The proposal would assist in achieving the Government's objective given in the Framework of significantly boosting the supply of homes. Although ABLP Policy SP2 seeks to address the historical shortfall in the first 7 years of the plan, over the past 4 years the Council's five-year HLS has steadily fallen from 5.3 years to 4.54 years on its own calculations and, based on the evidence provided to the Inquiry, the shortfall is probably considerably worse. This is a serious situation that needs to be addressed otherwise the shortfall is likely to increase still further.
107. The Council has agreed that there is a need for affordable housing in the Borough. The Strategic Housing Market Assessment 2014 (SHMA) identified a need for 368 affordable homes per annum in Ashford Borough over the period to 2030. Paragraph 6.2 of the ABLP reports that the Council's 2014 SHMA establishes that around 50% of all future houses delivered in the Borough should be affordable, but Policy HOU1 applies a lower requirement. The provision of affordable housing therefore carries substantial beneficial weight, especially as the appeal proposal would deliver more than the policy requirement of 40% for rural areas. The appeal proposal would provide a 50% provision, which would be up to 71 affordable units.
108. There would be benefits for the local economy from construction jobs created during the development and the increased population of the town which would support local businesses. In my opinion this should carry minor beneficial weight, given the recent Local Plan Inspector's comments that there is no evidence that the vitality and viability of shops and services have suffered, and the town appears to be thriving. Furthermore, the construction jobs would be for a limited period.
109. There would be a benefit to recreation and leisure activities by the creation of a formal country park, community orchard and the provision of sports pitches with a pavilion building. At my site visit, I observed that the site is well

used for recreational purposes, demonstrated by well-trodden routes crossing it. Whilst most of these routes are informal, AB12 is a PRoW, and if confirmed AB70 would also fall into this category. The appeal proposal would provide additional public access to that which is currently available, especially as there appears to me to be no established legal right to use the informal routes. I have therefore given the recreational benefit of the country park and community orchard moderate weight.

110. Whilst the sports pitches would not be lit and would be a grassed surface, which would limit their use in the winter months, the S106 obligations would provide an acceptable mechanism for securing the maintenance and governance of them and the pavilion. As the Council has accepted that there is a need for such facilities in the area, I give this moderate beneficial weight.
111. The provision of new areas of public open space as part of the development is a benefit to new and existing residents, to which I give minor beneficial weight, as some of this is necessary to make the development acceptable in planning terms. The new bus stop on Woodchurch Road and traffic calming measures along Appledore Road are benefits, but also requirements of the development to mitigate its impacts to which I therefore give limited weight. I also attach limited weight to the delivery of energy efficient homes, highlighted by the appellant as a benefit, as all new housing is expected to meet increased energy efficiency standards and sustainability credentials as set out in building regulations.
112. The benefits to ecology and biodiversity are partly a requirement as mitigation or compensation. However, the proposal would involve BNG, which has been shown would be likely to exceed the 10% indicated in the Environment Act 2021. As such, I have attached moderate weight to this benefit.
113. The appellant has shown that there would be a reduction in surface water leaving the site with the construction of a positive drainage strategy and the reduction of flood risk. As existing drainage and flooding concerns have been highlighted by objectors, I have given this benefit moderate weight even though most of the measures would be necessary as a result of the proposed development.
114. The proposed highway measures, including a speed reduction on Appledore Road and a safer crossing route of Woodchurch Road, would be necessary to make the proposal acceptable. However, they would also provide some benefit to existing users of these roads. Therefore, I have given them minor beneficial weight.
115. I have found that the main harm that the proposal would cause would be to the character and appearance of the area, including the loss of protected trees, to which I have attached substantial weight. In this respect, it would be contrary to important development plan policies that seek to preserve the natural environment and the setting of rural settlements, including Tenterden. In my opinion these policies carry sufficient weight to result in the proposal failing to accord with the development plan as a whole.
116. When the above considerations are taken together and weighed in the balance, I find that the adverse impacts would not significantly and demonstrably outweigh the benefits that I have identified, when assessed

against the policies in the Framework taken as a whole. I conclude that a presumption in favour of sustainable development has been established for the proposed development.

Planning Conditions

117. I have considered the suggested conditions should the appeal be allowed that formed the basis of discussions at the Inquiry. It is necessary to impose the conditions regarding the time scale for commencement of the development and the submission of reserved matters¹ to ensure that development would be carried out expediently. I have referred to the 'Detailed application identification plan' to clarify the areas that are covered by full planning permission and those covered by outline planning permission.
118. Conditions to control the external materials to be used on the pavilion building² and external lighting³ are necessary for visual amenity reasons. Conditions to secure and protect parking and turning space⁴ are necessary in the interests of highway safety and residential amenity. Conditions to secure electric charging points⁵, a condition to ensure the provision of adequate cycle facilities⁶ and conditions to secure a travel plan⁷ and welcome packs⁸ are to encourage the use of sustainable modes of transport. A condition to ensure that the pavilion building would be a sustainable design and construction⁹ and a condition regarding water efficiency¹⁰ are in the interests of the environment.
119. Conditions regarding landscaping¹¹ and the protection of trees¹², including tree T313¹³, are to prevent unacceptable harm to the character and appearance of the area. I have included the requirement for a strategy to protect veteran and ancient trees within the condition to protect trees for ecological reasons, given their importance, as discussed at the Inquiry. Conditions regarding the provision of sustainable means of drainage¹⁴ and a Verification Report¹⁵ are necessary to minimise the risks of flooding in a sustainable way. Conditions to secure appropriate refuse and recycling facilities¹⁶ are to protect the amenity of the area.
120. A condition specifying the maximum number of dwellings¹⁷ is for clarity and I have referred to the 'developable areas' identified on the illustrative Site Plan as this provides the greatest level of detail but have allowed flexibility to accommodate necessary changes at reserved matters approval stage. A condition to secure the completion of and control the use of the pedestrian/cycle access on Appledore Road¹⁸ and a crossing point on

¹ Conditions 1, 10, 11 & 12

² Condition 2

³ Condition 9

⁴ Conditions 3 & 17

⁵ Conditions 4 & 21

⁶ Condition 18

⁷ Condition 23

⁸ Condition 24

⁹ Condition 5

¹⁰ Condition 22

¹¹ Conditions 6, 29 & 44

¹² Condition 45

¹³ Condition 28

¹⁴ Conditions 7 & 25

¹⁵ Condition 43

¹⁶ Conditions 8 & 27

¹⁷ Condition 13

¹⁸ Condition 14

Woodchurch Road¹⁹ and conditions to control the layout and construction of roads, footways and associated drainage and other works²⁰ and the provision of a vehicular access²¹, visibility splays²², traffic calming²³, an acceptable access to PRow AB12²⁴, and repairs to damaged highways as a result of the construction²⁵ are all necessary in the interests of highway safety.

121. A condition to secure the provision of 2 new bus stops and safety measures²⁶ is necessary to encourage the use of sustainable means of transport. A condition to control the internal and external space²⁷ is necessary in the interests of the residential amenity of future occupants of the dwellings. A condition to control external lighting in the residential development²⁸ is necessary to safeguard protected species, including bats. Conditions to secure the implementation of archaeological recording and interpretation²⁹ are necessary for heritage interests, given the historical nature of the site.
122. A condition to secure broadband connections³⁰ is to ensure that the Government's initiative to widen the use of new technology is implemented. A condition to control the method of construction by an approved code³¹ is necessary for safety and amenity reasons. Conditions regarding the investigation of and measures to deal with contamination³² and unexpected contamination³³ are necessary to protect the environment and public health and safety. A condition to secure acceptable means of foul and surface water sewage disposal³⁴ is in the interests of public health.
123. A condition to secure and implement a Construction Ecological Management Plan³⁵ is necessary to safeguard habitats and species during construction in the interests of the ecology and biodiversity of the site. A condition to secure and implement a Landscape & Ecology Management Plan³⁶ and a condition to secure replacement habitats³⁷ are necessary to safeguard habitats and species after construction and ensure that the ecological enhancements and BNGs are delivered.
124. A condition to ensure that the potential PRow AB70 would be able to be accommodated within the development should the Secretary of State confirm the Order³⁸ is necessary in the interests of the safety and convenience of those that would use it. I have based it on the wording provided by the appellant as it is more precise. I have included a condition referring to the approved

¹⁹ Condition 15

²⁰ Conditions 19 & 20

²¹ Condition 35

²² Condition 36

²³ Condition 37

²⁴ Condition 38

²⁵ Condition 39

²⁶ Condition 16

²⁷ Condition 26

²⁸ Condition 30

²⁹ Conditions 31 & 32

³⁰ Condition 33

³¹ Condition 34

³² Condition 40

³³ Condition 41

³⁴ Condition 42

³⁵ Condition 46

³⁶ Condition 47

³⁷ Condition 48

³⁸ Condition 49

detailed and illustrative plans that I have considered in my determination of this appeal³⁹ to provide certainty.

125. I have considered suggested conditions by interested parties. I consider that a condition requiring the installation of heat pumps in the interests of climate change does not meet the test of necessity, particularly as there are no policy requirements. A condition to protect the ridge and furrow areas from vehicle movements and SuDS is not necessary as the illustrative plan referred to in a planning condition shows the area to not be developed and other conditions would be sufficient to ensure that these areas would be adequately protected during construction.
126. I have amended and/or combined some of the suggested conditions and am satisfied that all the conditions that I have included are reasonable and necessary, meet the tests given in the Framework and reflect the advice in the Planning Practice Guidance.

Overall Conclusions

127. In applying section 38(6) of the Planning and Compulsory Purchase Act (2004), I have found that the proposal would not accord with the development plan as a whole. However, in my opinion the presumption in favour of sustainable development is a material consideration that indicates that the decision should be taken otherwise than in accordance with the development plan. Therefore, for the reasons given and having regard to all relevant matters raised, I conclude that the appeal should succeed.

M J Whitehead

INSPECTOR

³⁹ Condition 50

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Craig Howell Williams QC Annabel Graham Paul, of Counsel	instructed by Ashford Borough Council
They called Phillip Cook BSc(Hons), MCIEEM David P Withycombe BSc MSc MPhil CMLI Kate Beswick	Tree Officer, Ashford Borough Council, at round table sessions on trees and conditions Director, Land Management Services Ltd Rights of Way Improvement Plan Officer, Kent County Council, at round table session on public rights of way
Len Mayatt	Cultural Projects Manager, Ashford Borough Council, at round table sessions on open space and sports facilities and planning obligations
Helen Forster BSc(Hons) MCIEEM Lindsay Goodyear BA(Hons) DipTP MRPTI Carissa Humphreys	Senior Biodiversity Officer, Ecological Advice Service, Kent County Council Associate, Bell Cornwell LLP Solicitor, Ashford Borough Council, at round table sessions on open space and sports facilities, conditions and planning obligations
Mark Davies	Planner, Ashford Borough Council, at round table sessions on public rights of way, conditions and planning obligations

FOR THE APPELLANT:

Sasha White QC Anjoli Foster, of Counsel	instructed by Judith Ashton of Judith Ashton Associates
They called Simon R M Jones DipArb(RFS) FARborA RCArborA Jeremy Smith BSc(Hons) DipLA CMLI Neil Marshall BSc(Hons) CMILT MIHT Richard Grady BA(Hons)	Managing Director, SJAtrees, at round table session on trees Director, Landscape Architecture SLR Partner, i-Transport LLP Director, Consult QRD Ltd, , at round table session on open space and sports facilities Managing Director, Ecology Solutions Group
Timothy J Goodwin BSc(Hons) MSc MIEnvSc MCIEEM Martin Taylor B.Sc. (Hons) MSc MRPTI MIED Asher Ross BSc(Hons) MA MRTPI Gail Stoten BA(Hons) MCIfA FSA	Planning Director, Lichfields, at round table session on housing land supply Director of Planning, Wates Developments Heritage Executive Director, Pegasus Group

C D Maynard BEng CEng
MICE DBA
Andrew Morgan

Director, RSK

Solicitor, DAC Solicitors, at round table sessions on open space and sports facilities, conditions and planning obligations

Judith Ashton

Planner, Judith Ashton Associates at round table session on conditions

INTERESTED PERSONS:

Richard Masefield

Local resident representing Tenterden Neighbourhood Plan Steering Committee

Councillor John Crawford
Councillor Callum Knowles

Tenterden Town Councillor
Ashford Borough Council Councillor and Tenterden Town Councillor representing Tenterden Town Council

Bruce Nepp

Local resident representing Tenterden and District Residents Association

Margaret Crawford
Albert Poole

Read statement from Ros Debling at the Inquiry
Local resident and representative of Limes Land Protection Group

Neil Coombs

Kent Wildlife Trust Consultancy Services representing Tenterden Town Council at round table session on trees

Sian Lazell

Local resident

DOCUMENTS SUBMITTED AFTER OPENING THE INQUIRY

- CD8.00 Updated Timetable
- CD8.10 The appellant's Opening Statement, submitted by the appellant on 8 February
- CD8.20 The Council's Opening Statement, submitted by the Council on 8 February
- CD8.30 The Council's List of Appearances, submitted by the Council on 8 February
- CD8.31 The appellant's List of Appearances, submitted by the appellant on 8 February
- CD8.32 Richard Masefield's Statement on behalf of Tenterden Town Council Neighbourhood Plan, submitted by Richard Masefield on 8 February
- CD8.33 Councillor Crawford's Statement, submitted by Councillor Crawford on 8 February
- CD8.34 Councillor Knowles' Statement on behalf of Tenterden Town Council, submitted by Councillor Knowles on 8 February
- CD8.35 Bruce Nepp's Statement on behalf of Tenterden & District Residents Association, submitted by Bruce Nepp on 8 February
- CD8.36 Tenterden Town Council Sub Committee Working Group Reports
- CD8.37 Sian Lazell's Statement, submitted by Sian Lazell on 11 February
- CD8.38 Richard Masefield's Supporting Evidence, submitted by Richard Masefield on 10 February
- CD8.39 Survey Ranked Results, submitted by Richard Masefield on 10 February
- CD8.40 NP Tenterden Grassland Summary Report (Kate Ryland, Dolphin Ecological Surveys) July 2019, submitted by Richard Masefield on 10 February
- CD8.41 Limes Land Habitat Survey 7 December 2019, submitted by Richard Masefield on 10 February
- CD8.42 Limes Land Species List, submitted by Richard Masefield on 10 February
- CD8.43 Homewood School Fields Habitat Surveys 27&29 December 2019 & 6 January 2020, submitted by Richard Masefield on 10 February
- CD8.44 Habitat Classification Habitat Definitions – Grassland (Title Page 4-32)
- CD8.45 Biodiversity Metric 3.0 - habitat condition assessment sheets - Other Neutral Grassland Ponds
- CD8.46 Questions from Richard Masefield regarding Ecology, submitted by Richard Masefield on 15 February
- CD8.47 Proposed Wetland Area Non -Technical Summary received 15 February
- CD8.48 S2 Constructed Wetland Design and Specification received 15 February
- CD8.49 Lindsay Goodyear Rebuttal Planning with Appendices Tabs received 15 February
- CD8.50 Albert Poole Drainage Questions, received 15 February
- CD8.51 Albert Poole Heritage Questions, received 15 February
- CD8.52 Email from Len Mayatt regarding Playing Pitch Strategy received 11 February
- CD8.53 Email from Councillor Crawford regarding Football Pitches received 11 February
- CD8.54 Copy of Conningbrook S106, January 2022, submitted by the appellant

- CD8.55 Copy of Conningbrook Committee Report, 18 March 2020, submitted by the appellant
- CD8.56 Albert Poole's Closing Statement, received 18 February
- CD8.57 Samantha Reed Questions for Asher Ross (on behalf of Limes Land Protection Group), received 18 February
- CD8.58 The Council's CIL Compliance Statement and Appendices, dated 21 February
- CD8.59 The Council's Note to the Inquiry regarding the 5 Year Housing Land Supply, dated 21 February
- CD8.60 Appellant's response to the Council's Note to the Inquiry re 5 Year Housing Land Supply, received on 22 February
- CD8.61 Draft conditions, received on 22 February
- CD8.62 Title Plan- North Side of Appledore Road
- CD8.63 Title Plan- North & East Sides of Rose Cottage Appledore Road
- CD8.64 Register of Title- North Side of Appledore Road
- CD8.65 Register of Title- North & East Sides of Rose Cottage Appledore Road
- CD8.66 Copy of Plan No 21037-RFT-00-XX-DR-A-0101-P05_Detailed application Identification Plan
- CD8.67 Samantha Reed's Additional Questions & Comments received on 21 February
- CD8.68 Asher Ross's Response to Samantha Reed's Additional Questions & Comments, received on 23 February
- CD8.69 The Council's Note on Delivery, received on 24 February
- CD8.70 The appellant's Response to the Council's Note on Delivery, received on 24 February
- CD8.71 The Council and Kent County Council Addendum to the CIL compliance statement, received on 25 February
- CD8.72 Document from Albert Poole regarding Inspector's Site Visit, received on 25 February
- CD8.73 Draft s106 Agreement, received on 24 February
- CD8.74 Compare Result S106 Document, received on 25 February
- CD8.75 Closing Statement on behalf of the Council, received on 25 February
- CD8.76 Closing Statement on behalf of the appellant, received on 25 February
- CD8.77 Certified copy of an engrossed S106 Agreement, received on 9 March

SCHEDULE OF CONDITIONS

Full Planning Permission

- 1) The development hereby permitted shown as 'Detailed application areas' on the 'Detailed application identification plan' No 21037 - RFT- 00 -XX- DR - A - 101 Rev P05 shall begin not later than 3 years from the date of this decision.
- 2) No development shall take place until written details, including source/ manufacturer, and samples of bricks, tiles and cladding materials to be used externally for the pavilion building hereby permitted have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 3) The vehicle parking spaces, turning space and cycle parking spaces shall be provided in accordance with the details given on approved plan No 7657 03 01 Rev E prior to the country park, sports pitches and pavilion hereby permitted being brought into use and shall be retained thereafter for these purposes in connection with the use of the country park, sports pitches and pavilion.
- 4) No development shall commence until details of the approved car parking area showing 10% active and 10% passive electric vehicle charging points have been submitted to and approved in writing by the local planning authority. The car parking area shall be constructed and retained thereafter in accordance with the approved details.
- 5) The construction of the pavilion building hereby permitted shall not commence until:
 - (i) details of the proposed sustainable design and construction measures to be incorporated as part of the design approach to the building to enable a minimum BREEAM 'very good' standard and at least the 40% improvement in water consumption to be reached have been submitted to and approved in writing by the local planning authority; or
 - (ii) if the sustainable design and construction requirements at (i) above are not able to be achieved, a written justification has been submitted to and approved in writing by the local planning authority setting out the reasons why to include:
 - an assessment as to what will be able to be achieved through the measures that are proposed;
 - the likely BREEAM-based score as a result of those proposed measures; and
 - how far that score would be below that which is required to achieve a BREEAM 'very good' standard' and the required improvement in water consumption.

The pavilion building shall be constructed in accordance with the sustainable design and construction measures approved pursuant to either (i) or (ii) above and shall not be brought into use until a BREEAM 'Post Construction Stage' assessment and related certification confirming achievement of the approved BREEAM standard has been submitted to and approved in writing by the local planning authority.

- 6) Development shall not begin in any phase until a landscaping scheme for the site has been submitted to and approved in writing by the local planning authority.
- 7) Development shall not begin in any phase until details of a sustainable surface water drainage scheme for the site have been submitted to and approved in writing by the local planning authority. The drainage scheme shall be based upon the Flood Risk and Drainage Strategy detailed on the Proposed Surface Water General Arrangement plans Nos RSK-C-ALL-05-03-01 Rev P07 and RSK-C-ALL-05-03-02 Rev P07 and shall demonstrate that the surface water generated by the development for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm can be accommodated and disposed of without an increase to flood risk on or off-site.

The drainage scheme shall also demonstrate with reference to published guidance that:

- silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and
- appropriate operational, maintenance and access requirements for each drainage feature or sustainable drainage system component are considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

- 8) Full details of facilities to accommodate the storage of refuse and material for recycling for the pavilion, sports pitches, and country park, and its collection by refuse vehicles shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development of these areas. The facilities shall be implemented in accordance with the approved details before the use of the pavilion, sports pitches, or country park to which they relate and the facilities and access to them shall thereafter be retained as approved.
- 9) No external lighting, including floodlights, public announcement system, fencing or means of enclosure shall be provided on or around the site to serve the sports pitches hereby permitted or in the country park hereby permitted.

Outline Planning Permission

- 10) Details of the layout, scale, appearance and landscaping (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before development on the 'Outline application areas' shown on the 'Detailed application identification plan' No 21037 - RFT- 00 - XX- DR - A - 101 Rev P05 commences, and the development shall be carried out as approved.
- 11) Application for approval of reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 12) The development approved on the 'Outline application areas' shown on the 'Detailed application identification plan' No 21037 - RFT- 00 - XX- DR - A - 101 Rev P05 shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

- 13) The number of dwellings for which reserved matters approval is sought shall not exceed a total of 141 and the layout and developable areas shall be generally in accordance with the illustrative Site Plan No 21037 - RFT - 00 - 00 - DR - A - 0121 S2 Rev P08.
- 14) Prior to the occupation of any dwelling hereby permitted, the western emergency/pedestrian/cycle access onto Appledore Road detailed on approved plan No ITL9289-GA-100 shall be completed and thereafter retained in accordance with the approved details. The access shall not be used for vehicular traffic other than in an emergency.
- 15) Prior to the occupation of any dwelling hereby permitted, the informal pedestrian crossing point on Woodchurch Road detailed on approved plan No ITL9289-GA-113 shall be provided and thereafter retained in accordance with the approved details.
- 16) Prior to the occupation of any dwelling hereby permitted, the 2 new bus stops on Woodchurch Road with 31 metre long clearways, raised kerbs and footways linking with the proposed site access/pedestrian crossing and bus poles with flags shall be provided and thereafter retained in accordance with the details shown on approved plan No ITL9289-GA-113.
- 17) Any application for reserved matters submitted pursuant to Condition 10 shall show land, reserved for parking to meet the needs of the development and in accordance with policy TRA3(a) of the Ashford Local Plan 2030 and design layout and accessibility guidance contained in Ashford Borough Council's adopted Residential Parking and Design Guidance Supplementary Planning Document or any adopted guidance or policy which may have superseded it. The approved area shall be provided, surfaced and drained in accordance with details that shall have been submitted to and approved in writing by the local planning authority before the dwellings to which it relates are occupied and shall thereafter be retained for parking.
- 18) Any application for reserved matters submitted pursuant to Condition 10 shall show space laid out within the site for bicycles to be parked securely and undercover for residential uses in accordance with policy TRA6 of the Ashford Local Plan 2030 or any adopted guidance or policy which may have superseded it. The approved cycle parking facilities shall thereafter be retained available for use for residents of the dwellings hereby permitted.
- 19) Any application for reserved matters submitted pursuant to Condition 10 shall include details of the proposed roads, footways, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfalls, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients and street furniture. The development shall be laid out and constructed in accordance with the approved details.
- 20) The following works shall be completed between a dwelling and the adopted highway prior to first occupation of the dwelling:
 - (a) footways except for the wearing course; and
 - (b) carriageways, except for the wearing course but including a turning facility.
- 21) Any application for reserved matters submitted pursuant to Condition 10 shall include the following:

- A) Each dwelling with a designated off-road car parking space to include provision for a minimum of 1 electric vehicle charging point. Any unallocated communal parking such as serving apartments to include provision of 10% active and the rest passive electric vehicle charging points. All electric vehicle charging points shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection).
- B) Each charging point to be installed prior to the occupation of the dwelling unit it relates to in accordance with the approved details and thereafter retained in a working order for the charging of electric vehicles.
- 22) The dwellings hereby permitted shall achieve the minimum optional requirement set out in the Building Regulations for water efficiency that requires an estimated water use of no more than 110 litres per person per day.
- 23) No dwelling hereby permitted shall be occupied until a detailed travel plan has been submitted to and approved in writing by the local planning authority. The travel plan shall include details of required outcomes, modal share targets, measures to ensure the modal share targets are met, future monitoring and management arrangements, sanctions in the event outcomes/targets/processes are not adhered to or met and a timetable for implementation. The travel plan shall be implemented in accordance with the approved details and timetable.
- 24) Prior to the occupation of any dwelling hereby permitted a welcome pack promoting sustainable transport and containing details and maps of local walking and cycle routes, including to local amenities such as doctor's surgeries, the town centre, and supermarkets shall be provided to each of the occupants of the dwellings.
- 25) Any application for reserved matters submitted pursuant to Condition 10 shall include details of a sustainable surface water drainage scheme for the site. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Strategy detailed on the Proposed Surface Water General Arrangement plans Nos RSK-C-ALL-05-03-01 Rev P07 and RSK-C-ALL-05-03-02 Rev P07 and shall demonstrate that the surface water generated by this development for all rainfall durations and intensities up to and including the climate change adjusted critical 100-year storm can be accommodated and disposed of without an increase to flood risk on or off-site.
- The drainage scheme shall also demonstrate with reference to published guidance that:
- silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
 - appropriate operational, maintenance and access requirements for each drainage feature or sustainable drainage system component are considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.
- The drainage scheme shall be implemented in accordance with the approved details.
- 26) The reserved matters details submitted pursuant to Condition 10 shall show how each unit accords with:

- a) National described space standards set out under Policy HOU12 (internal space) of the Ashford Local Plan 2030 or any subsequent amended national described space standards in force at the time of the reserved matters submission.
 - b) Private usable external open space set out under Policy HOU15 of the Ashford Local Plan 2030 or any other or any subsequent amended standard/policy in force at the time of the reserved matters submission.
- 27) The reserved matters details submitted pursuant to Condition 10 shall include full details of facilities to accommodate the storage of refuse and material for recycling for each dwelling and its collection by refuse vehicles. The approved details shall be implemented before the occupancy of the dwellings to which they relate and the facilities and access to them shall thereafter be retained as approved.
- 28) The reserved matters details submitted pursuant to Condition 10 shall include details of any sustainable drainage schemes and other physical features as part of the development in the vicinity of Tree Preservation Order tree no 313 (SJA air April 2021). The detailed drawings shall show the area and depth of all excavations and their method of construction in relation to the tree's root protection area and any method of protection to ensure that no adverse impact will occur through construction of the development. The development shall be carried out in accordance with the details that will have been approved under reserved matters.
- 29) The reserved matters details for landscaping submitted pursuant to Condition 10 shall include hard and soft landscaping including planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.
- 30) Any application for reserved matters submitted pursuant to Condition 10 shall include details of street lighting or other external lighting within the development. The lighting scheme supported by an ecological report shall be designed to avoid, or if not possible, mitigate any adverse impact on protected species in line with Policy ENV4 of the Ashford Local Plan 2030 or any other or any subsequent amended standard/policy in force at the time of the reserved matters submission. The development shall be carried out in accordance with the approved details.

Full and Outline Planning Permission

- 31) No development within any phase shall take place until there has been secured the implementation of archaeological field evaluation works in accordance with a specification and written timetable which shall have been submitted to and approved in writing by the local planning authority; and following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a written specification and timetable which shall have been submitted to and approved in writing by the local planning authority.
- 32) No development within any phase shall take place until there has been secured the implementation of a programme of archaeological and historic landscape interpretation work in accordance with a written specification and

timetable which shall have been submitted to and approved in writing by the local planning authority.

- 33) No building hereby permitted shall be occupied or brought into use until the following details have been submitted to and approved in writing by the local planning authority:
- a) The provision of Fibre to the Premises (FTTP) (minimal internal speed of 100mb); or
 - b) if FTTP can be evidenced as not being practical, viable or feasible the provision of non-Next Generation Access Technologies that can provide speeds of more than 24Mbps.

The development shall be carried out and thereafter retained in accordance with the approved details.

- 34) Prior to the commencement of the development a Code of Construction Practice (COCP) shall be submitted to and approved in writing by the local planning authority. The construction of the development shall then be carried out in accordance with the approved COCP and British Standard BS5228 Noise Vibration and Control on Construction and Open Sites and IAQM guidance on controlling dust on construction sites. The COCP shall include:
- an indicative programme for carrying out the works;
 - measures to minimise the production of dust on the site;
 - measures to minimise the noise and vibration generated by the construction process to include details of plant and machinery and use of noise mitigation barriers;
 - maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site;
 - design and provision of site hoardings;
 - routing of construction and delivery vehicles to and from the site;
 - parking and turning areas for construction and delivery vehicles and site personnel;
 - timing of deliveries;
 - provision of wheel washing facilities;
 - temporary traffic management/signage; and
 - arrangements for public consultation and liaison during the construction works.
- 35) The eastern access onto Appledore Road and internal link to the pavilion and car park detailed on approved plan No ITL9289-GA-114 shall be completed in accordance with the approved details prior to the country park, sports pitches and pavilion or any dwellings hereby permitted being brought into use (whichever is earliest) and thereafter retained in accordance with the approved details.
- 36) The visibility splays for the eastern access onto Appledore Road detailed on approved plan No ITL9289-GA-102 shall be provided with no obstructions over 0.6 metres above carriageway level within the splays prior to the access

being brought into use and thereafter retained in accordance with the approved details.

- 37) The traffic calming scheme on Appledore Road detailed on approved plans Nos ITL9289-GA-105, 106, 107 and 108 shall be implemented prior to the occupation of any dwelling hereby permitted or the country park, sports pitches or pavilion hereby permitted being brought into use (whichever is earliest) in accordance with the approved details. The scheme shall include a traffic regulation order to reduce the speed limit on Appledore Road from 40mph to 30mph. The traffic calming scheme and traffic regulation order shall thereafter be retained as approved.
- 38) Prior to the commencement of works details of the access of Public Right of Way AB12 onto Appledore Road shall be submitted to and approved in writing by the local planning authority and shall be implemented in accordance with the approved details and therefore retained.
- 39) Prior to commencement of the development and then after its substantial completion, highway condition surveys for the highway access route along Appledore Road from the junction of the A28/Beacon Oak Road (B2080) to the proposed site access junction on Appledore Road as shown on approved plan No ITL9289-GA-114 shall be submitted to for approval in writing by the local planning authority. The substantial completion survey shall identify damage caused by vehicles related to the development and measures for the repair of this damage and a timetable for carrying out these measures. The approved measures shall be implemented in accordance with the approved timetable.
- 40) Prior to the commencement of the development, a scheme to deal with contamination of land and/or groundwater shall be submitted to and approved in writing by the local planning authority and no development shall commence until the measures approved in that scheme have been implemented. The investigation report shall be conducted and presented in accordance with the guidance in CLR11 'Model Procedures for the Management of contaminated land' published by the Environment Agency. The scheme shall include all the following measures unless the local planning authority dispenses with any such requirement specifically and in writing:
- A site investigation that shall be carried out by a competent person to characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not commence until a desk-top study has been completed, the requirements of the local planning authority for site investigations have been fully established, and the extent and methodology have been submitted to and approved in writing by the local planning authority.
 - A full copy of a report on the completed site investigation that shall be submitted to and approved in writing by the local planning authority.
 - A written method statement for the remediation of land and/or groundwater contamination affecting the site.
 - A full copy of a completion report confirming the objectives, methods, results and conclusions of all remediation works that shall be submitted to and approved in writing by the local planning authority.

No deviation shall be made from the approved scheme.

- 41) If unexpected contamination is found at any time when carrying out the development, it shall be reported in writing to the local planning authority and an investigation and risk assessment shall be undertaken. Where remediation is found to be necessary a remediation scheme, to include a verification report that demonstrates the effectiveness of the remediation carried out and timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The remediation scheme shall be implemented as approved, and a verification report shall be submitted for approval in writing by the local planning authority in accordance with the approved timetable.
- 42) No development shall commence until details of means of foul and surface water sewage disposal, including its phasing in relation to occupation of the development, have been submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter retained in accordance with the approved details.
- 43) No building on any phase of the development hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence, including photographs, of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the surface water drainage scheme as constructed.
- 44) All hard and soft landscape works shall be carried out in accordance with the approved details, including those approved under conditions 6 and 29. The works shall be carried out prior to the occupation or use of that phase of the development to which it relates or in accordance with a programme that has been submitted to and approved in writing by the local planning authority; and any trees or plants whether new or retained which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 45) Prior to the commencement of any site clearance, ground preparation or construction works on any phase of the development, a detailed Arboricultural Method Statement (AMS) for that phase shall be submitted to and approved in writing by the local planning authority. The AMS shall be prepared in accordance with British Standard BS5837:2012 and include tree protection plans and measures and a detailed veteran and ancient tree mitigation strategy. The strategy shall apply to all ancient, veteran and mature trees in transition to the veteran stage and shall include details and timings of all tree and soil management works and all protection measures proposed to maintain and enhance these trees' arboricultural and ecological value and to maintain their condition and life expectancy for a period of 10 years from the commencement of development and thereafter refreshed at 5 year intervals. All existing trees and hedgerows shall be retained, unless shown on the approved drawings as being removed, or if their removal is otherwise approved in writing by the local planning authority. No trenches

for underground services or foundations shall be commenced within the BS5837:2012 root protection areas of trees identified as being retained or within 5 metres of any hedgerows without the prior written consent of the local planning authority. The development shall be carried out in accordance with the approved AMS and the tree protection measures shall be retained in place until the completion of the relevant phase of development.

- 46) Notwithstanding the submitted details and approved plans, no development other than 'Ecological Enabling Works' shall take place until a site specific Construction Ecological Management Plan (CEMP) has been submitted to and approved in writing by the local authority. The CEMP shall include a mitigation and enhancement plan for species identified in submitted ecological surveys and informed by an updated preliminary appraisal and where required updated specific species surveys. The CEMP shall demonstrate the adoption and use of the best practicable means. The development shall be carried out in accordance with the approved CEMP.
- 47) Prior to the commencement of development on any phase a Landscape & Ecology Management Plan (LEMP) based upon that produced by SLR (Ref No: 403.06269.00058) shall be submitted to and approved in writing by the local planning authority. The LEMP shall include detailed specifications for the creation, enhancement, monitoring and management of species rich grassland, ponds, and hedgerows to secure biodiversity gains in line with the completed Biodiversity Net Gain metric; and ecological monitoring to inform updates to the LEMP that shall detail what habitat and species monitoring shall be carried out, when it shall commence and a timetable for the submission of the results. The LEMP shall be reviewed and updated under the reserved matters application submitted pursuant to Condition 10 and implemented as approved and the results of the monitoring shall be submitted to the local planning authority in accordance with the approved timetable.
- 48) Notwithstanding the submitted details and approved plans, prior to the commencement of 'Above Ground Works' on any phase of the development a scheme showing the specific locations of bird, dormouse and bat boxes on the site of that phase of the development, together with a timetable for installation, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall take account of any protected species that have been identified on the site and shall have regard to the enhancement measures and biodiversity gains set out in the LEMP under Condition 47. The scheme shall be fully implemented and retained as approved.
- 49) Notwithstanding the details provided on the illustrative Site Plan No 21037 - RFT - 00 - 00 - DR - A - 0121 S2 Rev P08, in the event that the Secretary of State confirms Public Right of Way (PRoW) AB70 on the current proposed alignment, no development shall take place until revised plans showing how the PRoW can be accommodated have been submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained in accordance with the approved details.
- 50) The development hereby permitted shall be carried out in accordance with the following approved plans Nos: .
21037- RFT - 00 - 00 - DR - A - 0100 Rev P02 - Location Plan;

21037 - RFT- 00 -XX- DR - A - 0101 Rev P05 - Detailed application identification plan;
403.06269.00058.landscape1 REV 1 - Illustrative Landscape Masterplan (Illustrative only);
403.06269.00058.landscape 2 REV 1 - Country Park Masterplan (Illustrative only);
403.06269.00058.landscape 3 - Detailed Design - Pavilion Area (Illustrative only);
403.06269.00058.landscape 4 - Detailed Design - Orchard and Cobnut Platts (Illustrative only);
TGMS1044.18-1 Rev 8 - Appledore Road Grass Pitches - F10 and F14 - Proposed and Existing Levels;
7657 03 01 Rev E - Block Plan - Proposed Clubhouse Building - Land at Appledore Road Tenterden;
7657 03 02 Rev F - Floor Plan - Proposed Clubhouse Building - Land at Appledore Road Tenterden;
7657 03 03 Rev G - Elevations - Proposed Clubhouse Building - Land at Appledore Road Tenterden;
ITL9289-GA-100 - Proposed site access arrangement, pedestrian, cycle and emergency access at land adjacent to number 13 Appledore Road;
ITL9289-GA-102 - Proposed site access arrangement, school land;
ITL9289-GA-105 - Appledore Road, proposed extension of 30mph speed limit & location of traffic calming measures;
ITL9289-GA-106 - Appledore Road, proposed extension of 30mph speed limit & location of traffic calming measures (Detail 1 of 3);
ITL9289-GA-107 - Appledore Road, proposed extension of 30mph speed limit & location of traffic calming measures (Detail 2 of 3);
ITL9289-GA-108 - Appledore Road, proposed extension of 30mph speed limit and location of traffic calming measures (Detail 3 of 3);
ITL9289-GA-113 - Proposed site access arrangement, pedestrian, and cycle access from Woodchurch Road;
ITL9289-GA-114 - Proposed internal street design towards sport pitches;
RSK-C-ALL-05-03-01 Rev P07 - Proposed Surface Water General Arrangement (Sheet 1 of 2) (Illustrative only);
RSK-C-ALL-05-03-02 Rev P07 - Proposed Surface Water General Arrangement (Sheet 2 of 2) (Illustrative only);
RSK-C-ALL-05-05-01 Rev P06 - Proposed SuDS Feature and Overland Flow Routes (Illustrative only);
RSK-C-ALL-05-07-01 Rev P07 - Critical Hydrological Drainage Features (Illustrative only);
RSK-C-ALL-01-02-01 Rev P06 - Existing Ditch, Ponds & Surface Water Drainage Features; and
RSK-C-ALL-01-03-01 Rev P05 - Existing Overland Flow Routes and Catchment Areas.