

Application Number	15/01550/AS	
Location	Highmead House, Hythe Road, Willesborough, Ashford, Kent, TN24 0NE	
Grid Reference	04265/41498	
Parish Council	None	
Ward	North Willesborough (Ashford)	
Application	Outline planning permission with some matters reserved (layout, appearance, landscaping, scale and part access) for residential development for the retention of Highmead House and the construction of 28 residential units with vehicular access from the A20 (to be either the provision of a priority junction or only an internal access link to a signalised junction if and when constructed on adjoining land to the west, with the closure/removal of the priority junction if constructed).	
Applicant	Mr Andrew Higgins, Highmead House Hythe Road, Willesborough, Ashford TN24 0NE	
Agent	Mr Willam Hall, Broadlands Planning, 21 Grecian Road, Tunbridge Wells Kent TN1 1TG	
Site Area	1.6 hectares (Highmead site) 2.1 hectares (redline including highway)	
	(a) 113/5R	(b) -
		(c) KHS X, POL X, KCC (drainage) X, EA X, SW X, EHM X, SE X, NE X, KCC (heritage), KCC (DCU), HM X , KCC (PROW) X, IDB X, PO (drainage) R
	<u>Amends</u>	
	113/2R	KHS X, EA X, KCC (PROW) X, NE X, PO (drainage) X, KCC (drainage) X, KWT X

Introduction

1. This application is reported to the Planning Committee because it involves the erection of more than 10 dwellings and therefore is classified as a “major” development that requires determination by the Planning Committee under the Council’s scheme of delegation.
2. This is an outline planning application for 28 dwellings with all matters reserved apart from some parts of the access. The entrance accesses from/via the Hythe Road for both phases of development are proposed to be agreed at this stage. The remaining internal access arrangements will be reserved as with the other details. A number of illustrative plans have been provided. The site is a small part of the wider policy U14 site allocation in the adopted Urban Sites and Infrastructure Development Plan Document which is identified for residential development (indicative capacity 200 dwellings) and enables a secondary access for the William Harvey Hospital.
3. The Highmead site is in a different ownership to the rest of the allocated U14 site. Bellway Homes have an option to develop the wider site and recently submitted an application(s) for 207 dwellings that at present is undetermined. No joint scheme combining both sites in one application is therefore proposed at present and each site will be dealt with under separate applications. This planning application at Highmead for 28 dwellings was submitted as a resubmission of a previous planning application 14/00255/AS made in 2014. This included a priority “phase 1” highway junction with the A20 and signal-controlled “phase 2” highway junction with the A20 on adjoining land to serve the wider U14 site. The reference to phase 1 and phase 2 accesses is a description used by the applicant on the basis that the Highmead site could be developed first with a priority “phase 1” junction before the wider U14 site comes forward with the “phase 2” signal-controlled junction. The Highmead development would then use the signal-controlled junction when it became available. The priority junction would be removed/land reinstated as the U14 policy only allows one vehicular access to the A20. This phasing sequence may not necessarily occur if the wider site comes forward first and the signal - controlled junction is available for use at the time of the development of the Highmead site.
4. The previous application ref 14/00255/AS was refused planning permission by the Planning Committee in November 2014 on the following grounds:
 - (i) The proposals would result in overdevelopment of the site and would in particular result in an unacceptable density of buildings around Highmead House to the detriment of the setting of that building, and result in a cramped form of development, which would impact adversely upon the character of the area.

- (ii) The proposals would result in additional surface water run-off, and no detailed SUDs strategy has been put forward to demonstrate how this will be attenuated in accordance with policy requirements for this site and the wider site U14.
 - (iii) The proposals do not conform with the outcome of the design workshop held prior to the application being submitted which concluded that Highmead House and its grounds should be redeveloped as an elderly care facility which is a more appropriate use for this large and attractive building, and which would adversely impact to a lesser extent on the landscape and trees on the site.
 - (iv) The proposals fail to demonstrate how the rest of site U14 will be brought forward and there is concern that developing this site in isolation may prejudice bringing forward those proposals in a viable way and in particular the timely provision of an appropriate road through site U14 to act as a secondary access to the William Harvey Hospital in accordance with policy requirements, for which no agreed phasing programme has been submitted.
 - (v) The proposals do not identify that a range of types and tenures of affordable homes will be provided consistent with adopted policies including the housing needs survey.
 - (vi) No Planning Obligation has been entered into to address the infrastructure impacts of the development, such that the proposal is unacceptable by virtue of failing to secure the provision of affordable housing and the access road and to compensate for and/or mitigate its impact in respect of the following matters: Adult social care, allotments, securing land for phase 2 junction and replacement site access, carbon off-setting contribution, children and young people's play space, community learning, health care, Informal/natural green space, libraries, monitoring fee, controlled parking zone within the site, outdoor sports pitches, primary schools, secondary schools, South of Ashford transport study, strategic parks, youth services, voluntary sector, public art and maintenance of public art, notices
5. An appeal against the refusal was made and dismissed in October 2015. A copy of the appeal decision is attached as Annex 1. The inspector concluded that the principle of the appeal proposal would be acceptable in planning terms and that it could acceptably come forward independently of the wider allocation at site U14 of the adopted Urban Sites and Infrastructure DPD, that it would not harm the character and appearance of the appeal site, and that adequate surface water drainage and an appropriate mix of affordable housing could be secured by condition. In this way the appeal proposal would represent many attributes which are encompassed in the presumption in

favour of sustainable development as set out in Policy U0 of the Urban Sites and Infrastructure DPD and the National Planning Policy Framework (NPPF).

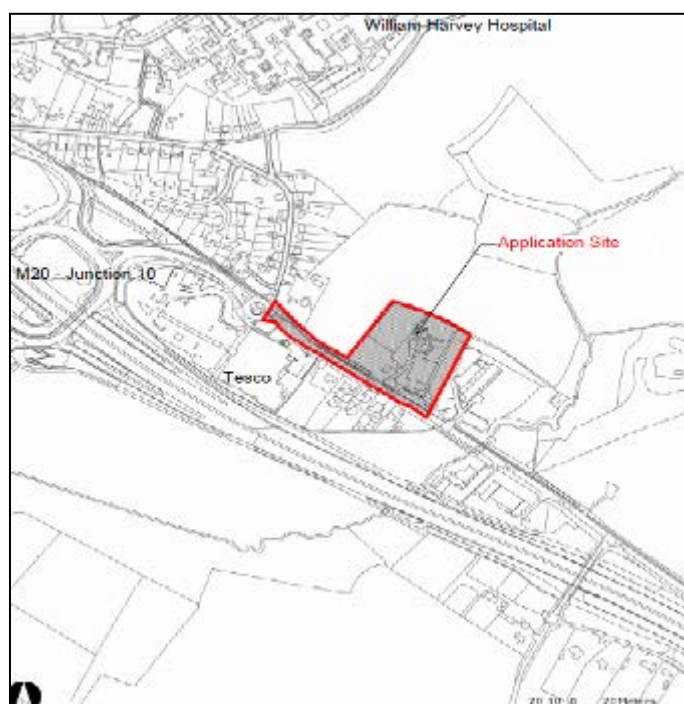
6. The inspector however dismissed the appeal on a single ground of refusal that there was no completed planning obligation/unilateral undertaking under s106 to secure identifiable and necessary local infrastructure aimed at mitigating the impact of the scheme. There were no exceptional circumstances to justify the use of a negatively worded condition (as suggested by the appellant). He found that the appeal proposal would place a harmful burden on local infrastructure. This would be contrary to the holistic approach of the adopted development plan and NPPF which seek to ensure that the additional infrastructure demands arising from new development are met. As such the appeal proposal would not constitute sustainable development in that the harm arising from the lack of contributions towards local infrastructure outweighs the benefits that have been identified and accordingly it should not succeed.
7. The inspector made an award of costs against the Council on 4 of the 6 grounds i.e. grounds (ii) surface water drainage (iii) outcome of design workshop (iv) phasing of the development and (v) affordable housing. He considered the Council had behaved unreasonably in refusing the scheme on these grounds in terms of what is set out in planning policy guidance on costs awards.
8. Costs were not awarded on ground (i) overdevelopments of the site and ground (iv) lack of planning obligation agreement. The inspector did not agree with the Council's refusal on ground (i) – overdevelopment, but decided it had not behaved unreasonably.
9. The current application was formally amended with the removal of the signal-controlled “phase 2” proposals from the scheme for two reasons:
 - The signal-controlled junction “phase 2” access was located mostly on adjoining land in different ownership and the owner of the land will not agree to enter into any section 106 planning obligation agreement with the applicant. A planning permission therefore could not be issued for the scheme in its original form.
 - Bellway Homes have separate proposals for a differently designed signal-controlled junction all within the wider site's land ownership or on highway land.
10. The scheme therefore shows a priority junction to serve the Highmead site and an internal access link from its western boundary to the wider U14 site. I will describe this and its implications in more detail later on in the report. The amended proposals were put out for full reconsideration. The applicant is also

seeking reduced section 106 planning obligation contributions. A viability appraisal has been submitted and assessed by viability (Bespoke Ltd) consultants on behalf of the Council. The proposed reduced section 106 contributions and requirements are described later on in the report.

Site and Surroundings

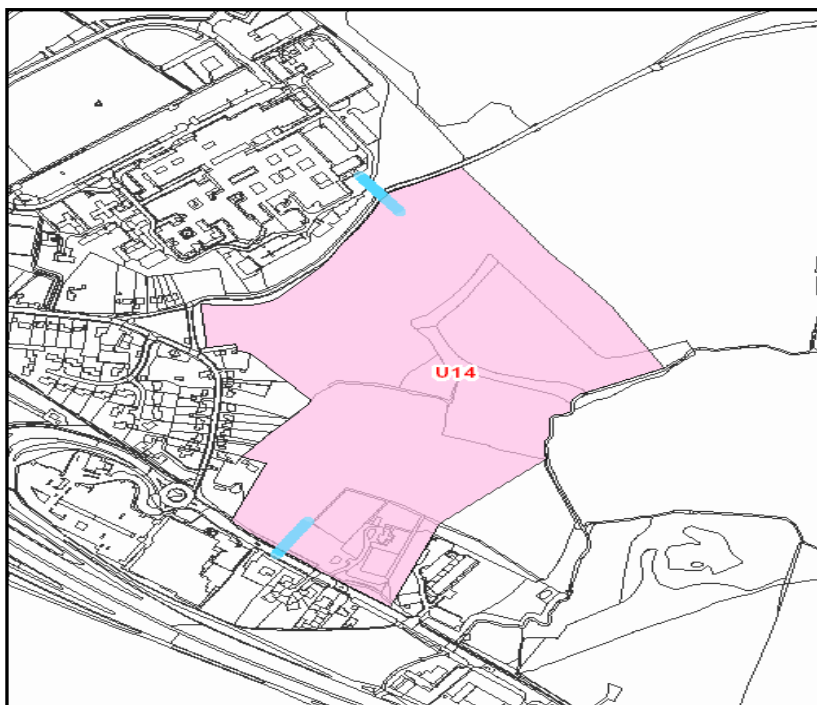
11. The application site relates to Highmead House and its residential grounds located off the A20 Hythe Road approximately 70 metres to the south-east of the mainly residential built-up Willesborough Lees Conservation Area on the outskirts of Ashford. Highmead House is a detached 2.5 storey Edwardian House. Its residential grounds are approximately 1.6 hectares in area and include Warren Lodge, a single storey building in ancillary residential use. Otherwise it is a mainly grassed curtilage area containing a walled garden, established mature vegetation and a number of substantial trees. 8 individual trees, 6 trees within two groups and a further group of woodland trees are subject to a Tree Preservation Order (TPO). The site is currently served by an existing driveway access direct to the A20 Hythe Road. There is a substantial change in levels on the southern boundary of the site resulting in a steep embankment area up to 3 metres high along the A20 boundary. The southern boundary contains substantial mature vegetation. The actual red line application site extends further beyond the Highmead curtilage including highway land along the A20 extending from the western end of the Highmead curtilage to the Tesco's roundabout. This totals approximately 2.1 hectares in area. The site plan is below and attached as Annex 2.

Figure 1 site plan



12. To the south on the opposite side of the A20 are detached dwelling houses and further to the south-west the Tesco's Crooksfoot supermarket. To the east is the Pilgrims Hospice, a substantial 2 storey building set in grounds. To the north is open countryside and immediately to the west a field and then the rear garden areas of houses at Willesborough Lees some of which are Listed and are located within the Lacton Green Conservation Area. The William Harvey hospital boundary with Hinxhill Road lies approximately 350m to the north-west. The site itself has no special landscape designation but is within the area described in the council's Landscape Character SPD as "Brabourne Lees mixed Farmlands".
13. The proposed new Junction 10a subject to the current nationally significant infrastructure project application would be located approximately 350m to the south east off the A20 Hythe Road. The NSIP application site area extends to part of the A20 frontage of the Highmead site (including some works to the frontage of the adjoining Pilgrims Hospice) but does not appear to directly affect this site. The application site and wider U14 policy allocation is shown in figure 2 below:

Figure 2



Proposal

14. The application is for outline planning permission for the erection of 28 dwellings while retaining Highmead House, and the provision of a new priority access to the A20 and/or an internal access link to the wider U14 site on the

western boundary of the site. This part of the access detail is proposed to be approved at this stage. The matters of layout, scale, landscaping appearance and the remaining access arrangements are reserved for future consideration. Some illustrative plans have been provided including illustrative layout and typologies.

15. The access details proposed to be determined at this stage are the entrance accesses into the site for both potential phases of the development as follows:

- (a) A priority junction access that serves just the Highmead House site if this site is developed before the rest of the U14 site and the main signalised junction comes forward and is available. This access would then be closed up and an internal access link from the western boundary would be provided. The priority access detail to be approved is shown in pink on the plan attached as figure 3 .

Figure 3



- (b) The internal access road link on the western boundary to enable access with the adjoining wider U14 site allocation. This would be utilised once the signal controlled junction of the main site is available for use. If the main site comes forward first and the signal-controlled junction is available then this would be installed without

the need for the priority junction. The approved area of access is shown in pink in figure 4 below.

Figure 4



16. These arrangements are a result of the U14 site being in two different ownerships and the requirements of policy U14. The policy only allows one signal-controlled junction to the A20. It also states up to 100 dwellings could be assessed from a more simple priority junction prior to completing the link road and the Highmead site can be redeveloped as a separate scheme. This is unlikely to occur and it is likely that only the Highmead site will be accessed from this initial junction arrangement.
17. The remaining illustrative plans show the provision of 28 dwellings in the form of 22 houses and 6 flats. The typologies as previously stated are illustrative only and are not being agreed at this outline stage including the number of bedrooms - hence the description refers to 28 residential units. The final mix of typologies will be determined at the reserved matters stage so may be altered from what is shown depending on the acceptability of the details. This includes the scale and appearance which are illustratively shown as either 2

storeys or 2 storeys with roof space accommodation. It should be noted that the Inspector in the appeal decision changed the description from that which was originally refused by the Council to include the typologies and number of bedrooms of the residential units. The Council had not agreed to any change in description and raised this with the Planning Inspectorate who acknowledged it should not have been stated and apologised for the mistake. The current proposals are being determined under the original application description (with the access amendments) and therefore typologies and the number of bedrooms are not being agreed at this stage only the number of units. This has been confirmed with the applicant.

18. The dwellings are illustratively shown laid out around Highmead House in the form of two cul-de sacs and a central 'green corridor' that contains major mature TPO trees. The existing single storey Warren Lodge building is proposed to be removed but a garage block to the north-west of main house retained due to the presence of bats. The indicative flats are shown by the proposed new priority access to the site. The access road travels north-east into the site with detached dwellings to the west. It then branches into two cul-de-sac areas to the north and south of Highmead House. The southern cul-de-sac comprises of detached/semi-detached units and is linked by an access which includes a special cellweb structure in the root protection areas of the nearby mature TPO trees. The northern cul-de-sac contains detached dwellings and it is proposed to retain and extend part of the existing brick garden wall. The existing access to the A20 would be retained but for pedestrian use only. A clear version of the illustrative layout with priority access details is shown in figure 5 below.

Figure 5



19. To facilitate the development based on the access details and illustrative layout around 52 or half the trees on the site would be removed, including 4 B grade trees of moderate quality and value, 41 C grade trees of low quality, 7 U grade (unsuitable for retention), 3 C grade hedges and half of a C grade hedge. This includes 4 individual TPO trees (1B and 3 C) grade quality, a group of 3 TPO trees (2 C grade and 1 B grade) and 6 trees in the woodland area (5C 1B) in the south-east corner.
20. A new priority junction vehicular access in the south-west corner of the site is proposed from the A20. The proposed new access would be cut into the existing embankment which is around 3 metres in height. In order to provide an acceptable gradient the access road would be graded into the site resulting in 50% (1 in 2) embankments either side of the entrance for approximately the first 60 metres of the access road. This would involve the removal of trees and mature boundary vegetation in this area.
21. The signal-controlled junction is no longer part of the scheme but such a junction would be positioned in very close proximity to the western boundary of the site in the indicative location shown on the U14 proposals map. (see blue line figure 2) The proposals therefore show an east to west internal access connection from the Highmead site to the U14 wider site to allow connection with the signal –controlled junction if or when this comes forward. A clear version of the illustrative layout with access link detail and current proposed signalled access for the rest of the U14 site is shown in figure 6 below..

Figure 6



22 The applicant's agent has submitted the following documents in support of the application which are mainly resubmissions of the previous documents submitted with the 14/00255/AS application. The agent also provided a lengthy covering statement on the previous refusal and appeal decision which I have not summarised as the appeal decision is attached as Annex 1. I have dealt with the issues and inspector's comments in the assessment section.

Arboricultural Impact Assessment

- A total of 104 individual trees, 1 group of trees and 5 hedges are subject to the report
- To facilitate the development 4 B grade trees, 41 C grade trees, & 7 U trees, 3 C grade hedges and half of H2 (a C grade hedge) will be removed.
- To mitigate against the loss of trees, replacement planting will be undertaken throughout the site including supplementary planting to extend the roadside tree belt.
- Hard surfacing for paths, parking areas and the access road is required within the RPAs of T32, T47, T49, T56 and T103. This will be achieved using no-dig construction methods such as a cellular confinement system.

Ecological appraisal/ Bat and reptile survey

- It is considered that the possible presence of bats, great crested newts, reptiles, nesting birds, invertebrates, hedgehog and common toad should be taken into account before and during development works on land at Highmead House.
- Great crested newts- their presence within water-bodies within 250m of the site cannot be ruled out. It is recommended that a Habitat Suitability Index (HSI) survey is carried out on all ponds within 250m of the site.
- Birds - It is likely that birds may nest within the scrub, shrubs, trees and buildings on site during the spring and summer months. In order to avoid disturbance to nesting birds it is recommended that: a) any works involving removal of vegetation on site is timed to avoid the bird breeding season (late March – early August), b) if this is not possible, then the vegetation to be impacted upon should be checked for the presence of nesting birds by a suitably qualified ecologist prior to the start of works.
- Hedgehog and common toad - the site contains suitable habitat for hedgehogs and common toad, which may therefore be present in order to prevent harm to these Priority Biodiversity Action Plan species it is recommended that: a) works to the wooded boundaries and hedgerows on site are undertaken with care and any hedgehogs or common toads that are discovered are relocated to a safe area which is not under development.

- Invertebrates -on the basis of the site survey, it is evident that there is potential for rare and protected invertebrate.
- Biodiversity enhancement - it is considered that the proposed development offers opportunities to retain and enhance the biodiversity of the site.

Bat and reptile survey

- The upper floor of the garage building is a feeding roost used irregularly through time by a small number of itinerant brown long-eared bats. It may also provide opportunities for day roosting bats. Therefore, it will be necessary to obtain a European Protected Species Mitigation (EPSM) licence prior to the start of works on site.
- The results show that reptiles are likely to be absent from the site. No survey work is required with regard to reptiles prior to the commencement of the proposed.

Invertebrate report

- Two invertebrate surveys were undertaken.
- 153 species were obtained from active collecting/recording during two visits.
- Mitigation and enhancement measures are recommended including create log piles, or pyramids made up and opportunities for habitat off-setting are investigated.

Noise Impact Assessment

- The results of the noise survey indicate that the development site is affected by traffic noise from the A20 during both the daytime and the night-time periods.
- An appropriate noise mitigation scheme has been recommended which should provide sufficient noise attenuation to meet the internal acoustic criteria and fully protect the amenity of future residents in accordance with the standards outlined in BS 8233: 1999.
- Mitigation should include upgraded acoustic double glazing as minimum. For any rear garden areas, we would recommend that 2m high acoustic fencing or closeboarded good quality perimeter timber fencing is provided.

Design and access statement (this has not been amended to remove the signal-controlled junction but otherwise the proposals are as before).

- Site access: A primary consideration for any development on the wider U14 site and Highmead House curtilage has therefore been to evaluate and agree a scheme with Kent Highways and your officers to provide an initial access to

Highmead House from the A20, which can be later linked in with the primary access through the wider site to the hospital, such that there will be only one access point from the A20 to the hospital and serving the whole site development.

- The Transport Planning Practice has negotiated that access arrangement closely with the officers of Kent Highways, and the proposed access arrangement is supported by the officers of Kent County Council Highways.
- A Planning Obligation will ensure that there will be no 'ransom' on any party as a result of this access arrangement, as agreed with the County Highways Authority
- A Stakeholder Workshop, with 35 attendees in the Borough Council's Council Chamber, on 8th November 2013 (see section below for details)

Wider U14 Site conceptual masterplan

- Following the terms of the above appraisals, the applicant prepared a wider contextual and conceptual master plan for the whole of the Allocated U14 site. This shows the manner in which the development of Highmead House can be carried but with due consideration to its wider context, particularly relative to the whole site access between the A20 and the Hospital, the relationships with the wider urban area and the countryside, woodland protection and enhancement, open spaces, potential development compartments, and pedestrian and cycle linkages.

Highmead House development

- The development will be focused on the retained Highmead House at its core, which itself will provide the confluence for a strongly defined central green corridor accommodating pedestrian and cycle ways linking the site with the wider U14 land and the A20. The access drives through the site will lead into development zones of distinct character and sense of place, with a variation in house types and densities, garden and amenity spaces, all of which will be enclosed with retained and new planting.
- Whilst design will be a reserved matter, the new buildings will take their cue from Highmead House and will respect the local vernacular in design, form and use of materials, as was suggested in the Stakeholder meeting

Transport statement (this mentions the signal controlled access no longer part of the scheme)

- This was provided in support of an application for 37 residential units (which was the original scheme submitted with the previous application) .

- The link road, its possible alignments and the signal controlled junction on A20 Hythe Road have been designed and assessed to demonstrate that the Highmead House site can be developed without prejudicing the development of the wider site.
- However, this transport statement has been prepared to support the planning application of the Highmead House site only.
- The site had good access to bus services and rail services are nearby.
- The proposed development will generate 40 two way multi-modal trips during the weekday AM peak hour. In the weekday PM peak hour the development will generate 32 multi-modal two way trips. The two-way vehicle movements for the proposed development in the weekday AM peak hour account for only 2.3% of the vehicle movements in the same period on the A20 Hythe Road. During the weekday PM peak hour, the two-way vehicle movements for the proposed developments account for only 2.0% of the vehicle movements in the same period on the A20 Hythe Road. This is likely to fall well within the daily local variation in traffic flow and as such would be indiscernible. Therefore, the proposed development will not have a detrimental effect on the local highway network or the local public transport network.
- • A Speed Survey along A20 Hythe Road has been undertaken

Flood Risk and Drainage Assessment

- The Environment Agency flood mapping shows the site to lie within Flood Zone 1 (low risk of flooding). The site elevation and topography suggests a very low risk of flooding from other sources. There are no significant flood related risks likely to adversely impact on the proposed future residents within the site.
- The principal concern will be the risk of exacerbated surface water flooding downstream of the site due to the proposed increase in impermeable area. There is also a requirement from the Ashford Strategic Flood Risk Assessment that the surface water flow from the developed site should not exceed the Greenfield flow rate of 4l/s/ha. This may be addressed by either: (i). draining the site to soakaway (infiltration) or (ii). draining the site to attenuation storage with discharge controlled to a maximum of the Greenfield discharge rate
- A site investigation with soakage testing should be carried out to investigate the practicality of the infiltration drainage option.
- • The proposed development may be enhanced in hydrological terms by adopting additional SUDS measures. At a minimum, these should comprise harvesting rainwater from roofs for garden irrigation using water butts on downpipes

- The preferred foul sewage disposal option would be connection to the existing public foul sewer in Hythe Road

Soakage Testing Report

- The Flood Risk and Drainage Assessment for the site of March 2014 recommended infiltration (soakaway) as the sustainable surface water drainage option for the site. The alternative, attenuation storage and controlled discharge, appeared problematic as there was no watercourse or surface water sewer available within easy reach of the site in which to discharge the attenuated flow. The geology at the site indicated that soakaways would probably work, but this would require soakage testing to confirm that this option would be practicable.
- Soakaway testing carried out at the site indicated that suitable percolation rates were available over most of the site and that soakaways would be practicable. Large shallow rectangular soakaways placed under the car parking areas have been recommended. The use of permeable paving for driveways and other hardstanding areas plus draining to soakaways via filter drains would also be recommended

Phase 1 Contamination Risk Assessment

- A site walkover was undertaken on 17 March 2014. During the site walkover only one potential source of contamination was identified. This was potential asbestos cement sheeting used as roofing material on a garage in the southern part of the site.
- With the exception of the removal of the asbestos cement roofing, no remedial measures are considered necessary prior to commencement of site development.
- Based on the available information the site would not be considered to be 'contaminated land' based on its proposed development for a residential end use which includes areas of soft landscaping and private gardens.

Landscape Character and Design Statement

- Highmead House site and the wider policy allocation is located within the Brabourne Lees Mixed Farmlands as defined by the November 2005 Ashford Local Development Framework Landscape Character Study (Studio Engleback).
- These are described as gently undulating mixed farmlands extending eastwards from the outskirts of the town at Willesborough Lees, and bounded to the south by the M20 motorway.
- The Highmead House site itself supports a number of mature and attractive specimen trees, as well as a dense wooded southern boundary. A number of these trees are protected by TPO. The House itself is not listed, but nevertheless

is of some notable character, and is to be retained as a focal point in the redevelopment of the site.

- The 2005 landscape assessment carries a policy recommendation to 'conserve and restore,' which implies a low capacity of the landscape to accommodate change. Nevertheless, the site has been allocated as part of the LDF process, and as part of the consultation and engagement process undertaken by the applicant in bringing forward the Highmead House site for development

Planning History

23. March 2011: Tree Preservation Order ref TPO/10/00004 was made on some existing trees on the site. They include a number of exotic specimen conifers which are contemporary with the house and the woodland belts and groups of trees which were planted as screening.

- Planning application ref 14/00255/AS: Outline planning permission with some matters reserved (layout, appearance, landscaping & scale) for residential development for the retention of Highmead House and the construction of 28 residential units with vehicular access in 2 x phases from the A20 refused November 2014. Appeal dismissed October 2015. Cost awards against the council of 4 of 6 grounds of refusal to the issues concerning the principle and phasing of the appeal proposal, surface water drainage and affordable housing range..
- Planning application ref 15/01679/AS: Proposed construction of new vehicular access and roadway from A20 (Hythe Road) including associated earthworks and drainage. Application submitted on adjoining land by Bellway homes undermined.
- Planning application ref 16/01512/AS: 207 dwellings submitted by Bellway Homes on the wider U14 site. This is an outline application which the Council has requested further details to determine this. No decision at present,
- Planning application 16/01722/AS 207 dwellings submitted by Bellway Homes on the wider U14 site. This is a full application with no decision at present.
- Highmead House Workshop November 2013

24. A workshop was held at Ashford Borough Council attended by 38 stakeholders at a one day event at the Civic Centre. The event consisted of a series of presentations and interactive workshops and included opportunities for all attendees to contribute ideas and observations.

- A report was produced summarising the key points made at the workshops and considers how these can usefully be incorporated into future

developments proposed on the allocated site U14 in the Urban Sites and Infrastructure Development Plan Document

Key conclusions Master plan parameters (U14 whole site)

- Architecture; scale and density. The site demands high quality housing. Higher densities towards the Hospital, and lower densities towards Highmead House.
- Landscape, topography and connectivity. New development must enhance and integrate with the existing landscape and woodlands.
- Access road; pedestrian and cycle routes and public transport. The new access road must be informed by the landscape, and by the quality of the housing and the overall environment.
- Ecology. here should be a green buffer between the existing and new settlements
- Sustainable infrastructure should be provided within the development

Master-planning the Highmead House site.

- Thoughtful boundary treatments are required, ensuring this site responds and relates to the surrounding sites.
- Architecture and design. The architectural design must respond to Highmead House, and new houses on this site should be larger, and of good quality. There should be an entrance feature.
- Land uses. The new housing development should face inwards towards Highmead House in order to ensure the protected trees are preserved. Possibly there should be a cluster of houses within the existing walled garden? There is a possibly an opportunity for a care village or a sheltered housing scheme to be developed on the Highmead House site, which could be used by elderly residents and/or by hospital staff.
- Topography, landscaping and ecology. The spaces between and around the existing trees should be enhanced, and there should be a good access route through the site. The topography and long distant views (both public and private) need careful consideration. Additional planting should be provided which responds to the topography of the site, and ensures Highmead House itself is a focal point.
- There should be a meaningful landscaped barrier between Highmead House and the remainder of site U14, and the landscape along the A20 should also be enhanced.

Consultations

Initial scheme with superseded (signalised access) proposals

Ward Members: No comments received.

Kent Police: comment in summary

- We would be grateful if you could draw the applicant/agent attention to the Kent Design Initiative (KDI), Design for Crime Prevention document dated April 2013 which will also assist them when Designing out of Crime. We would welcome a meeting with them to discuss crime prevention and any notes from a meeting would then be forwarded to you
- If planning approval is given for this application and should no further contact be made to us by the applicant/agent we recommend that a condition be added to ensure that this development has the appropriate crime prevention measures

River Stour internal drainage board; comment:

“The site of the above development proposal drains to the Aylesford Stream and therefore has a potential to affect IDB interests, in particular downstream flood risk. I note that the applicant proposes to dispose of surface water by means of soakaways. Provided these are designed to accommodate the 1 in 100 year rainfall event +30% for CC, supported by ground percolation tests, and in direct consultation with KCC’s drainage and flood risk team, IDB interests should not be affected. However, should the use of soakaways prove to be impracticable I would be grateful to receive details of any alternative drainage proposal”.

KCC PROW: comment:

“As the proposal does not affect any recorded Public Rights of Way I have no comments to make”.

Street Scene and Open space Manager: comment in summary:

- For a development of this size we would not normally require any on-site provision although a case can be made for allowing the informal/natural element to be delivered on site.
- In this latest layout it would be hard to justify allowing any of the on-site green space to count towards the developer’s contribution if informal space as it is too small and not genuinely useable.

- If this site is ultimately developed in conjunction with U14 then there can be meaningful continuous areas of open space across the existing boundaries then this could be reviewed
- The site constraints make it difficult to avoid awkward arrangements around the public realm
- Request developer contributions towards sports, informal/natural, play, allotments, strategic parks, cemeteries.
- In the absence of details it is unclear whether these points will be sufficient size or design for the number of proposed properties designated to them with each placing up to 3 containers out per week (2 wheelie bins and 1 smaller 23 litre food bin) (ii). Vehicle Tracking Plan Required: There is no vehicle tracking plan supplied to demonstrate that the ABC standard refuse collection vehicle (an access and service the proposed collection points. (iii) Need to also demonstrate that any pulling distances to vehicle parking point does not exceed 25m (iv). Confirmation that any vehicle access routes will be to full highway standards

Kent County Council Sustainable Drainage Engineer: comment

“Thank you for consulting us regarding the above planning application. We have no objections to the proposed drainage in principle however we would emphasize that additional ground investigation will be required to support the use of infiltration. It is recommended that soakage tests be compliant with BRE 365, notably the requirement to fill the test pit several times. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain Accordingly, should your Authority be minded to grant permission to this development, we would request that the following Conditions are attached:

(i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water runoff rate and volume disposed off-site is restricted to that of the existing site without any increase to the on/offsite flood risk).

(ii) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include: i) a timetable for its implementation, and ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

(iii) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy

Project office (drainage):

“I would like to put a holding objection on the above application as I require further information before I can comment. Therefore, please can the applicant provide the layout of the surface water management in relation to the site layout.

Having reviewed the information attached it is possible that the applicant may be seeking to use soakaways to discharge surface water as per the previous application for the site. Caution should be used when selecting a soakaway location due to some areas of the site not being appropriate for soakaways. Consideration should be given to alternative methods of managing surface water at the site such as permeable / porous paving and open ponds / swales as suggested by the ABC SUDS SPD. Water butts should also be provided on all roof gutter downpipes with overflows to the surface water drains.

The applicant should consider the overland routes that exceedance flows would take in the event that the soakaways failed or a rain event in excess of the design standard was encountered”.

Environment Agency: comment

“I’ve looked into this and it looks like we had no comments on this one. Previously we would have commented because we used to cover surface water drainage on large flood zone 1 sites, but now that this responsibility has gone to KCC it would be for them to comment”.

Southern Water.: stated should the LPA be minded to approve the application request a condition to be attached that development shall not commence until a drainage strategy is submitted detailing the means of proposed foul and surface water disposal. The applicant will need to ensure that arrangements exist for the long term management of SUDS facilities .

Kent Highways and Transportation: comment:

I have no objections to the application subject to the following conditions being attached to any planning permission granted:

- 1) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- 2) Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
- 3) Provision of measures to prevent the discharge of surface water from the private drives onto the public highway.
- 4) Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- 5) Provision and permanent retention of parking spaces (in accordance with the Residential Parking SPD) prior to the occupation of any of the dwellings hereby permitted in accordance with details to be submitted to and approved by the Local Planning Authority.
- 6) Provision and permanent retention of secure, covered cycle parking facilities (in accordance with the Residential Parking SPD) prior to the occupation of any of the dwellings hereby permitted in accordance with details to be submitted to and approved by the Local Planning Authority.
- 7) Completion and maintenance of the access details shown on the submitted plans (30583/AC/026 REV B) prior to the occupation of any of the dwellings hereby permitted.
- 8) The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street
- 9) Completion of the following works between a dwelling and the adopted highway prior to first occupation of the dwelling:
 - (a) Footways, with the exception of the wearing course;
 - (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).
- 10) Closure of the existing vehicular access serving Highmead House prior to the occupation of any of the dwellings hereby permitted in accordance with details to be submitted to and approved by the Local Planning Authority.

11) Provision and maintenance of the visibility splays shown on the submitted plans (Figure 8 - Transport Statement) with no obstructions over 1.05 metres above carriageway level within the splays, prior to the access hereby permitted being brought into use.

Notes:

A SPG6 Contribution is required for the proposed development due to the development being within a 5 minute isochrome of M20 Junction 10. The required contribution is 0.28 DU. This should be secured in the form of Section 278 between the applicant and Highways England.

Please advise the applicant that the Phase 1 works in the form of the bellmouth junction, a right hand turn lane and a 2 metre wide footway along the A20 will be subject to a Section 278 Highway Agreement with Kent County Council Highways and Transportation.

The land required for the Phase 2 signalised junction will need to be subject to a Section 106 Agreement in order to secure the land for the Phase 2 signalised junction. A Section 38 pink adoption plan has been supplied with this application showing the proposed extent of adoption of the roads in this land parcel by Kent County Council Highways. The blue hatched land required for the Phase 2 junction as set out in plan number 15644/A1/S38-02B should therefore be secured through a Section 106 Agreement to ensure that the final junction can be delivered in the long term and that no ransom issues arise as a result of land ownership issues. A bi-lateral agreement will be required between the applicant and Bellway Homes to secure the land required for the junction that is required for the Phase 2 site access junction onto the A20 that is not under the ownership of the applicant. KCC Highways should also be party to this bi-lateral agreement.

The Phase 2 signalised junction should be approved as part of this outline planning permission as approval for access. The junction has been subject to a LINSIG junction capacity assessment as set out in the Transport Statement accompanying the planning application and is based on a worst case scenario in that M20 junction 10A has not been constructed. The LINSIG assessment shows that the junction together with 200 dwellings and a link road to the hospital will operate within capacity with the highest degree of saturation of 82.8% in the weekday AM peak and 77.1% in the weekday PM peak. The junction proposals are therefore acceptable”.

Environmental services: No objection subject to conditions on

- (i) a scheme for protecting the dwellings / development hereby approved from noise
- (ii) reporting any unexpected contamination that is found at the site

Natural England: comment main points as follows:

Statutory nature conservation sites – no objection

Natural England has assessed this application using the Impact Risk Zones data (IRZs) and is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Hatch Park Site of Special Scientific Interest (SSSI) has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(I) of the Wildlife and Countryside Act 1981 (as amended).

Protected species. We have not assessed this application and associated documents for impacts

Biodiversity enhancements -This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. protected species. amended), requiring your authority to re-consult Natural England

Kent County Council Heritage comment: "...In view of this general potential, some archaeological work would be appropriate and I recommend the following condition is placed on any forthcoming consent"

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority".

KCC developer contributions: Request primary education new build construction, secondary education, community learning, youth service, libraries, Adult Social Care and broadband condition .

Housing Manager : comment

" Housing Services would seek a tenure split of 60:40 ratio in terms of Affordable Rent and Shared Ownership respectively . The mix subject to discussions with the appropriate Housing Association would be 1 x 1 bed flat for rent , 2 x 2 bed flats for rent , 1 x 3 bed house for rent and 1 x 4 bed house for rent . 3 x 2 bed flats for shared ownership"

Kent Wildlife Trust: No comments made

Highways England: offer no objection.

Sport England; "The proposed development is not considered to fall either within our "statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance Par. 003 Ref. ID: 37-003-20140306) upon which we would wish to comment, therefore Sport England has not provided a detailed response. .

Neighbours:

4 letters of objection commenting

1. It will involve the erosion of the countryside which has remained intact this side of the A20
2. ABC Planning Committee previously turned down the above application as too many dwellings on the site
3. It is too near Pilgrims Hospice and patients would want to die in peace and not have a housing estate on their doorstep . Better Highmead House became part of the Hospice.
4. The hospital access road must for several reasons come directly off Jct10a.
5. Traffic light entry to U14 unsuitable. 3 roundabouts and set of traffic lights all within 800yds is madness.
6. Highways have taken no account of additional traffic from U14 mixing with traffic from the proposed Amazon/KWG site.
7. Jct10 capacity already overloaded prior to its rebuild-proof that Highways figures inaccurate and outdated.
8. The A20 Willsborough/Sellindge road will become a "ratrun" with trucks from Canterbury/Premier Foods/Givaudan.
9. Please, please back to drawing board if only for the next generation
10. There are bats and great crested newts.
11. Concern about impact of scheme on water level of pond on adjoining site.
12. Highways Dept. figures are very out of date even now (2015) with rush hour tailbacks past the garden centre. It will only be worse when the Sevington development is complete.
13. It would adversely effect the character and appearance of the conservation area

Bellway homes (who are looking to develop the wider site) have also objected making the following comments:

- The scheme fails to address the concerns over the deliverability of the proposed access arrangement.
- The phase 2 access principally lies within the land controlled by Bellway homes or land within the control by Kent Highways by also some land into the Highmead site.
- .Land required to deliver the phase 2 access will be secured under a section 38 agreement with KCC highways.
- We have reservations concerns securing the works through a section 38 agreement.
- In order to secure access to the wider site access a number of section 106 provisions must be secured in a bi-lateral agreement for this application.
- The resubmitted scheme is not accompanied by a suitable draft bi-lateral agreement. It therefore fails to address the inspector's specific concerns regarding the provision of the phase 2 access and is contrary to planning polices and the NPPF.

Amended plans (removal of signalised access)

Ward Members: no comment

KCC Highways and Transportation

“The applicant has now provided long-sections and cross-sections to demonstrate that the vertical alignment of the proposed development could be designed to adequately tie into the adjacent development site that is being promoted by Bellway Homes. In order to do this, the road levels have been taken from the current Bellway Homes application, 16/01722/AS, which is a Full planning application for the signalised junction onto the A20, and the construction of 207 new dwellings. The information now presented does indicate that the road alignments can be satisfactorily provided at levels and gradients that are within the appropriate technical specifications required. This provides sufficient comfort that the combination of the two schemes can be delivered, with either development site in advance of the other.

Furthermore, the sections provided show that the indicative plots that are proposed to take access directly off the connecting link road can be designed to fit in with these proposed road levels. As discussed in previous responses, if the current application at Highmead House were to be constructed before the adjacent site and

its associated new signalised junction, it will take access directly off the A20 through a sacrificial road alignment and junction, which will have to be removed as part of the provision of the permanent signalised junction alongside, and the link road completed to tie the Highmead House development into this latter junction arrangement. This should be done at no cost to the Highway Authority, and conditions or legal agreements will need to be put in place to secure that obligation

.Consequently, I have no objection to the proposals in respect of highway matters, provided the following requirements previously identified are secured by condition:

- 1) Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
- 2) Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction
- 3) Provision of measures to prevent the discharge of surface water from the private drives onto the public highway.
- 4) Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.
- 5) Provision and permanent retention of parking spaces (in accordance with the Residential Parking SPD) prior to the occupation of any of the dwellings hereby permitted in accordance with details to be submitted to and approved by the Local Planning Authority.
- 6) Provision and permanent retention of secure, covered cycle parking facilities (in accordance with the Residential Parking SPD) prior to the occupation of any of the dwellings hereby permitted in accordance with details to be submitted to and approved by the Local Planning Authority
- 7) Completion and maintenance of the access details shown on the submitted plans (30583/AC/026 REV B) prior to the occupation of any of the dwellings hereby permitted, in the event that the site is developed in advance of the provision of the signalised junction to serve the Policy U14 allocation area.

8) The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins embankments, visibility splays, accesses, carriageway gradients, driveway gradients car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the Local Planning Authority

9) Completion of the following works between a dwelling and the adopted highway prior to first occupation of the dwelling

(a) Footways, with the exception of the wearing course;

(b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

10) Closure of the existing vehicular access serving Highmead House prior to the occupation of any of the dwellings hereby permitted in accordance with details to be submitted to and approved by the Local Planning Authority.

11) Provision and maintenance of the visibility splays shown on the submitted plans (Figure8 - Transport Statement) with no obstructions over 1.05 metres above carriageway level within the splays, prior to the access hereby permitted being brought into use.

A SPG6 Contribution is required for the proposed development due to the development being within a 5 minute isochrome of M20 Junction 10. The required contribution is 0.28 DU. This should be secured in the form of Section 278 between the applicant and Highways England.

Please advise the applicant that the Phase 1 works in the form of the bellmouth junction, a right hand turn lane and a 2 metre wide footway along the A20 will be subject to a Section 278 Highway Agreement with Kent County Council Highways and Transportation.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site

Environment Agency: comment: "We have no comments to make on this planning application as we believe it falls outside our remit as a statutory planning consultee.

Environmental Services: My earlier comments remain applicable to the amended application.

Housing Services: Have no objection to the revised highways junction submission drawings 13/23/101/D & 13/23/101/G

KCC (PROW): No comments as the development does not impact on any Public Rights of Way

Kent Wildlife Trust: No comments made

Southern Water: comments remain unchanged from before.

Natural England: comment:

“The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us”.

Project office (drainage)

“There is no objection to the above application based on supporting the comments made by KCC role as LLFA & Statutory Consultee, in this instance I was satisfied in supporting their comments and dealing with the details of the application via their recommended conditions. This is based on the philosophy undertaken by KCC as explained below.

The “holding objection” response initially provided focussed on the lack of information in relation to surface water management in relation to the modified design. Based on limited design information being available it was unable to be sufficiently assessed as to whether soakaways could be used with sufficient spacing (Including spacing away from buildings in line with building regulation requirements) across the site without a plan showing a more conclusive sizing requirements being provided. As such, it was unable to be determined how the required attenuation would be achieved on the site. Whilst it was acknowledged this was an outline application, without a more definitive plan showing this information, determining as to whether an SPD compliant surface water design is achievable based on the proposed layout is inconclusive.

It is my understanding that the planning inspectorate may have considered that on the “balance of probability” there was a solution to managing surface water appropriately at this site, it would appear to be the case that a similar approach was taken from KCC. From my perspective, with the limited information provided, it was unable to be sufficiently proven that a soakaway and infiltration based surface water drainage design could be incorporated into the site, meeting the requirements of the SPD, based on the site constraints, layout and housing density. However, based on the “balance of probability” theory that appears to have been applied my objection has been removed”.

Kent County Council Sustainable Drainage Engineer: comment;

“We have no further comment to make on this proposal and would refer you to our previous response provided on 26 January 2016”.

Neighbours: two letters of objection received making the following comments:

- The development will cause too much noise and is too close to the hospice
- The proposed number of dwellings(28) is too many for such a small area and would detract from Highmead House itself. You need to consider the number of cars on site which could be over 40.
- The access to A20 will be very dangerous as it will be in the brow of Summerhill and opposite the Tesco’s Loading bay and is too near to the Tesco roundabout.
- Several traffic surveys have been done regarding the number of vehicles using the A20, which to our knowledge has trebled in the last 5 years.
- The land should be left as agricultural and a green belt for Ashford on this side of the A20
- Until it can be guaranteed that these houses will not cause disruption to the (Pilgrims) hospice service users I must object. My concerns are around dignity and well being of our service users.
- Hedging or high fencing must be guaranteed to protect the hospice and the service users being overlooked.
- Plots 13, 14 and 15 back on to our reflection garden and is currently an open space. Trees T103 and 104 were pruned heavily this year with the council’s permission and the hedging we have along the boundary is not mature. This leaves the space very open.

- Our service users dignity must be protected, we cannot have people overlooking the hospice, having access to the grounds or family life in any way being inflicted onto our users.
- An 8 – 10 foot boundary of mature hedge or fencing needs to be provided. The roof spaces on these plots or any adjacent to the hospice grounds must not allow visual line of sight to us. I am concerned about additional noise and traffic that may impact on what is currently a tranquil place for our users and their families

Bellway Homes have objected to the amended scheme making the following comments:

- The application is invalid as the red line on the site location plan is not in accordance with the requirements as set out in the PPG.
- The plans need to be clear that if access is being determined at this stage that proposals will not prejudice the wider site U14 allocation from coming forward and further consultation carried out on these plans.
- It would not be possible to construct the phase 2 access with the phase 1 access in place due to the encroachment of the phase 1 access on the area for earthworks for phase 2 access.
- There is no certainty that the land to be transferred would secure sufficient land to ensure the delivery of the phase 2 access or that the wider development site is not prejudice from forward. It is considered that a much larger area would need to be transferred to allow sufficient space for construction. It is critical that adequate section 106 provisions are secured to ensure the stopping up of the phase 1 access and the creation of the new road within the Highmead House application site on its western boundary. It must be the responsibility of KCC or the owners of Highmead House to secure and deliver those works to make the proposals acceptable to accord with policy U14.
- The land shown on the adoption plan to be transferred to Kent County Council Highways. If this is the case following construction of the phase 2 access it will be the responsibility of KCC highways to make good the landscaping to provide the road to the western boundary which must be secured as part of any section 106.
- No details of the landscaping works to fill the phase 1 access have been submitted which require substantial works and require planning permission . Details of these earthworks must be provided at this stage in order that the Borough Council is able to consider the acceptability of these proposals and a suitable landscaping scheme can be delivered without the delivery of the phase 2 access. . . .

- The amended proposals are contrary to policy U14 of the Urban Sites and Infrastructure DPD as the phase 1 access would prejudice the delivery of the phase 2 access which is a policy requirement for the wider allocated site and will fetter the delivery of the housing allocation and should be refused.,

Bellway were also consulted on later plans showing the actual level details of the access and what parts of the access will be agreed at this stage. The connections between phase 1 and phase 2 is of relevance to the access detailed shown in current proposals for the wider site. The comments/objections from Bellway are follows:

- The area in front of plot 1 needs to be safeguarded
- Redline added to drawings to ensure road detail taken to site boundary
- we are able to confirm that the proposed arrangement and levels for the proposed Phase 2 access, align with the connecting road on the adjacent site, controlled by Bellway Homes.
- .The Borough Council can therefore not proceed with the determination of this application until it has satisfied itself that it is in agreement with the proposed access design on the connecting Bellway land.
- As set out in previous representations, Bellway Homes remain concerned as to how the Phase 2 access arrangements will be secured and of paramount importance that measures will be put in place to ensure the closure of the Phase 1 access, once development on the adjacent Bellway site commences. We therefore repeat previous representations that the following must be secured through a S106:
 - A S38 plan to be secured that ensures that all the land necessary to deliver the accesses, which is under the Applicant's control (to be secured in the S106) is included within the land identified as being made over to KCC Highways;
 - A requirement that all the land necessary (shown on the drawings or any other land that might otherwise be needed) to deliver the Phase 2 access is to be made over to KCC Highways through a S38 Agreement to ensure that no ransom strips are retained. The trigger for entering into the S38 Agreement and transferring the land should be prior to commencement of development, to ensure against a ransom position and to ensure that the Phase 2 access is actually deliverable;
 - A requirement that the Phase 2 access is designed to an adoptable standard to ensure that KCC Highways will take on the access;

- A requirement that the Phase 1 access is designed to an adoptable standard to ensure that KCC Highways will take on the access and that it can be eventually stopped up to facilitate the delivery of the Phase 2 access, since the two junctions cannot function together. It is proposed that the landowner is made responsible for the stopping up of the access or if the access has been transferred to KCC Highways that the landowner provides KCC Highways with the necessary funds for this to take place;
- Provision that requires that on any Outline and/or detailed application being consented on any part of the adjacent land to the west, that the Phase 1 access shall be stopped up as soon as the Phase 2 access linking into the development from the Bellway land has been delivered up to the Site boundary. This is paramount because the Phase 1 access cannot work in conjunction with the signal controlled junction to be delivered by the Bellway development and is required to facilitate the delivery of the whole allocated site. As above, it is proposed that the landowner is made responsible for the stopping up of the access or if the access has been transferred to KCC Highways that the landowner provides KCC Highways with the necessary funds for this to take place;
- A requirement for the Applicant to deliver the Phase 2 access connection to the edge of their land ownership, linking the Highmead site with the adjacent Bellway development. This will ensure that access to the proposed scheme can be delivered and no land is retained preventing the wider site allocation coming forward;
- A sum of money to be agreed as part of the S106, to be paid to KCC Highways on transfer of the Phase 1 access to KCC Highways, to cover the cost of stopping up, removing and filling in the Phase 1 access once this is no longer required. It is proposed that the sum is paid prior to the transfer of the Phase 1 access to KCC Highways;
- It is a requirement that any subsequent reserved matter applications demonstrate that the proposed housing layout will not prejudice the delivery of the Phase 2 access to an adoptable standard; and the S106 should protect the proposals from any future attempt by the landowner to vary the approved access drawings, where such changes would prejudice the delivery of the Phase 2 access and/or opening of the new A20 signal controlled junction, on the adjacent Bellway land.
- We understand from separate conversations with Officers at KCC Highways, that it has been suggested that the delivery and phasing of the phased accesses can be secured through S278/S38 Agreements. We strongly object to any such proposal on the basis that such highway agreements principally address technical matters of design and do not deal with issues of planning in

ensuring proposals do not prejudice the wider allocated site coming forward including protecting against any potential ransom situations.

- . It is a fundamental planning requirement of Policy U14 of the Urban Sites and Infrastructure DPD (USIDPD) that the allocated site (which includes Highmead) is to provide a new signal controlled junction on to the A20. It would therefore be wholly inappropriate for the delivery of this access not to be safeguarded through the planning process via S106.
- Without the above provisions, or confirmation of what elements of the submitted amended plans are to be approved, the development proposal will fail to ensure that the wider allocated site can be delivered, contrary to Policy U14 of the USIDPD. Bellway Homes therefore continue to object to the development proposals and reiterate previous requests that it must be party to the S106 to ensure the deliverability of the wider allocated site is not prejudiced.

All three letters from Bellway Homes are attached as annex 3.

Planning Policy

25. The Development Plan comprises the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the adopted Ashford Town Centre Action Area Plan 2010, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012 and the Chilmington Green AAP 2013. On 9 June 2016 the Council approved a consultation version of the Local Plan to 2030. Consultation commenced on 15 June 2016 and has now closed. At present the policies in this emerging plan can be accorded little or no weight.
.
26. The relevant policies from the Development Plan relating to this application are as follows:-

Ashford Borough Local Plan 2000

EN32 - Important trees and woodland.

TP6 - Provision of cycle parking

Local Development Framework Core Strategy 2008

CS1 - Guiding principles for sustainable development.

CS8 - Infrastructure contributions.

CS9 - Design quality

CS10 - Sustainable design and construction.

CS11 – Biodiversity

CS12 - Affordable housing.

CS15 - Transport

CS18 - Meeting the community's needs.

CS19 - Development and Flood risk.

CS20 - Sustainable drainage

CS21 - Water supply and treatment

Urban Sites and Infrastructure DPD 2012

U0 - Presumption in Favour of Sustainable Development

U23 - Landscape Character and Design

Policy U14 - Land at Willesborough Lees (site specific policy) "The site to the south east of the William Harvey Hospital is proposed for residential development with an indicative capacity of 200 dwellings. Development proposals for this site shall:

a) provide a new signal-controlled junction, including a pedestrian crossing on the A20 at the point shown on the Policies Map;

b) provide a road through the site to act as a secondary link to the hospital at the point shown on the Policies Map;

c) make improvements to the existing emergency access to the Hospital, and Hinxhill Lane, to accommodate a new link road and junction, and close Hinxhill Lane to traffic south of the hospital access. A restricted access shall remain on Hinxhill Lane for emergency vehicles, pedestrians and cyclists only;

d) include a phasing programme to be agreed with the Borough Council, local Highway Authority and Highways Agency that will include the construction and opening of the access road from the A20 to the hospital and the closure of Hinxhill Lane;

e) provide new pedestrian and cycle routes throughout the development and connections to existing urban and rural routes and local services;

f) Fund the implementation of suitable on-street parking restrictions via a new traffic order, restricting non-residents parking on the roads of the new development;

g) be designed and laid out in such a way as to protect the character and setting of the adjoining Conservation Area and neighbouring listed buildings;

h) retain the woodland (Breeches Wood) in the north east of the site and extend the tree boundary between the woodland and the hospital, to screen the development of the site from the north;

i) include a full flood risk assessment prepared in consultation with the Environment Agency;

j) ensure that any land contamination issues are satisfactorily resolved or mitigated.

k) contribute towards the monitoring of the traffic situation on The Street to enable an assessment to be made of the need to secure amendments to the existing access arrangements and to deliver those amendments if required; and,

l) provide a connection to the sewerage system at the nearest point of adequate capacity, as advised by Southern Water, and ensure future access to the existing sewerage system for maintenance and upsizing purpose

27. The following are also material to the determination of this application:-

Consultation Draft Local Plan to 2030

SP1 – Strategic Objectives

SP2 – The Strategic Approach to Housing Delivery

SP6 – Promoting High Quality Design

HOU1 – Affordable Housing

TRA3b – Parking Standards for Non Residential Development

TRA6 – Provision for Cycling

TRA7 – The Road Network and Development

ENV1 – Biodiversity

ENV3 – Landscape Character and Design

ENV4 – Light pollution and promoting dark skies

ENV5 – Protecting important rural features

ENV6 – Flood Risk

ENV7 – Water Efficiency

ENV8 – Water Quality, Supply and Treatment

ENV9 – Sustainable Drainage

ENV10 – Renewable and Low Carbon Energy

COM1 – Meeting the Community's Needs

COM2 – Recreation, Sport, Play and Open Space

IMP1 – Infrastructure Provision

S17 – Land at Willesborough Lees

(S17 brings forward the current site policy U14 Urban Sites and Infrastructure
DPD)

Supplementary Planning Guidance/Documents

Affordable Housing SPD 2009

Residential Parking and Design Guidance SPD 2010

Sustainable Drainage SPD 2010

Landscape Character SPD 2011

Residential Space and Layout SPD 2011

Sustainable Design and Construction SPD April 2012

Public Green Spaces & Water Environment SPD 2012

Dark Skies SPD 2014

SPG6 - Providing for transport needs arising from South Ashford Study

Other Guidance

Informal Design Guidance Notes 1- 4 (2015)

Government Advice

National Planning Policy Framework 2012

28. Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. Of particular relevance in the NPPF is the presumption in favour of sustainable development (para14), delivering a wide choice of high quality homes (para 47 - 53) requiring good design (para 56), promoting healthy communities (para 69), meeting the challenge of climate change, flooding and coastal change (93 – 108), conserving and enhancing the historic environment (para 126 -141)

Assessment

29. The main issues for consideration taking into account the Inspector's conclusions in the appeal decision on the previous application ref 14/0255/AS are as follows:
- a. The principle of the separate development of the Highmead site from the rest of the U14 site with the removal of the "phase 2" signal-controlled access from the proposals and compliance with the U14 policy objective to enable a secondary access point for the William Harvey Hospital.
 - b. The design quality of the scheme and the impact on the visual character of the surrounding area.
 - c. Compliance with the Highmead House workshop objectives.
 - d. The impact on the surrounding highway network, highway safety and car parking provision.
 - e. The impact on the amenity of the residential occupiers of the site and neighbouring properties.
 - f. Issues raised by neighbours and Bellway Homes.

- g. The provision of planning obligations and the strategic delivery of local infrastructure.
- h. Development viability issues
- i. Other planning issues such as residential space standards, sustainable design and construction, ecology, contamination and drainage

(a) The principle of the separate development of the Highmead site from the rest of the U14 site with the removal of the “phase 2” signal-controlled access from the proposals and compliance with the U14 policy objective to enable a secondary access point for the William Harvey Hospital

- 30. The National Planning Policy Framework recognises the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved. The site forms part of the wider allocation identified under site U14 of the adopted Urban Sites and Infrastructure DPD 2012 for residential development (indicative 200 dwellings) to enable a secondary access point for the William Harvey Hospital to accommodate its growing sub regional role.
- 31. The proposed residential development at Highmead House site has come forward separately as it is in different ownership from the rest of the U14 site allocation and no joint scheme to develop whole U14 site holistically has come forward. Bellway Homes have submitted proposals for 207 dwellings on the wider site. This has not been determined but shows the signalised junction detail to the A20.
- 32. The U14 policy states in paragraph 6.114 that up to 100 dwellings could be accessed from a more simple priority junction prior to completing the link road to the hospital and the resulting closure of Hinxhill Road. Paragraph 6.119 of the supporting text outlines that the Highmead section of the site could be redeveloped as a separate scheme although it must be accessed through a new A20 junction as the existing residential access (at Highmead) would not be suitable. In either circumstance, development should not prejudice the delivery of the main site signal-controlled access and the associated development as only one access to A20 is allowed.
- 33. To ensure that the main signal-controlled access and associated development was not prejudiced, the scheme originally showed detailed proposes for an initial signal-controlled junction on adjoining land to the west of Highmead as shown on figure 7 below



34. This was in the indicative location for the access shown on the U14 proposals map. It would serve the wider development when this came forward and deliver the secondary access link to the William Harvey Hospital. If the Highmead site was developed first the scheme would allow the initial priority junction from within the Highmead site to be constructed. This would be removed once the main signal-controlled access was in place. An internal access link would be provided on the western boundary of Highmead to the larger site to allow usage of the signal -controlled access. The priority junction if installed would be removed and land reinstated. Although it is described as a “phase 2” signal-controlled junction if this was constructed first then there would be no need for the priority junction for the Highmead site which would only use the internal road link to access the signal-controlled junction. The section 106 agreement would ensure the required internal link from the Highmead site is provided.
35. The planning inspector accepted this arrangement would be a convoluted approach but subject to safeguards identified would not unduly fetter or prejudice the phased delivery of the strategic link road or implementation of the signal-controlled junction to the A20. He concluded that in the absence of a timeframe for implementation of the wider allocation the applicant has not been unreasonable in seeking to bring forward a small part of the U14

allocation which is clearly identified in the adopted Urban Sites and Infrastructure DPD.

36. The original proposals which were subject to the planning appeal have been amended with the removal of the signal-controlled "phase 2" junction. As previously stated there are no joint proposals with the wider site and the owner of this land on which the signal-controlled access was shown is not prepared to enter into a section 106 planning obligation. Consequently, a planning permission could not be issued for the scheme in its original form. In addition, it is clear that the wider scheme is proposing a differently designed signal-controlled access. The signal-controlled junction is in the same general location and in the indicative location shown on the U14 proposals map. It is on land all within the ownership of the adjoining site and the highway authority. Although no planning permission has been issued for this proposal, it is clear that the wider site will not be taking forward the details of the signal-controlled access design originally shown on this application and the planning application 14/00255/AS subject to appeal.

37. The Highmead scheme now only shows a priority junction to the A20 but also includes the western boundary access road link to the wider U14 site. The applicant has also provided long-sections and cross-sections to demonstrate that the vertical alignment of the proposed development could be designed adequately to tie into the adjacent development site proposed by Bellway Homes taking the road levels from the current application for 207 dwellings. All of the access works including visibility spays are within land in the control of the applicant or highway authority. The agreement of the adjoining land owner to enter into a section 106 agreement will not be required. Kent Highways have no objection to the access proposals. Neither development on the U14 land should prejudice the other. I consider this can be achieved with the following safeguards:

(i) The internal western boundary access link to the wider side is secured

(ii) The priority junction if installed is removed and land reinstated once the signal -controlled junction is constructed and available for use.

(iii) The wider U14 scheme when this comes forward includes a signalised junction and a complimentary internal access link to the Highmead western boundary to ensure the Highmead proposals can access that junction. 37. I am mindful that a number of scenarios could occur under these proposals. If the Highmead site is developed first and the wider site's junction comes forward later it will involve major restoration works with the infilling of a highly engineered access cut into a 3m high embankment. The internal access road link to the wider site will also need to be installed all of which would occur with housing being established and occupied on the site. In addition, if for some reason proposals for the wider scheme do not come forward it does allow the

scenario of just the Highmead scheme being developed and the access road link to the William Harvey Hospital via a signal controlled junction not being provided. The wording of the U14 policy however does not require the holistic masterplanning or development of the site as whole with the secondary access road link to the William Harvey Hospital provided. These scenarios are no different to what could have occurred under the previous application that went to appeal. I agree that the costs of reinstatement of the phase 1 priority junction should be borne by the Highmead developer/site. To secure this any issuing of planning permission and section obligation should be subject to a bond requiring this to be provided prior to commencement of the development based on the cost of reinstatement.

38. The NPPF emphasises the importance of a plan led system and that approving development proposals that accord with the development plan. I am therefore of the opinion taking into account the wording of the U14 policy and the inspector's comments on the previous appealed scheme, that the residential development and method of implementation subject safeguards would in principle be an acceptable use of the site in planning terms. The proposals would in my opinion be in accordance with policy U14 of the adopted Urban Sites and Infrastructure DPD and would be sustainable development under the definition of the NPPF. I therefore have no objection in principle to the scheme.

b)The design quality of the scheme and the impact on the visual character of the surrounding area.

39. The proposals would involve a significant change in character of the site from a single house in large landscaped grounds to one with 28 new dwellings resulting in the loss of a number trees within the site which will be described in more detail below. The site is not within any special landscape designation or in a conservation area which is located 70m to the west. The application is only approving part of the details of the entrance access at this stage with the remaining details of internal access, scale, layout, landscaping and appearance reserved for future consideration. Notwithstanding this, illustrative plans are provided showing how 28 dwellings could be developed on the site with the proposed access arrangements including the internal link access to the signal -controlled junction when this becomes available for use.
40. The illustrative plans with access detail are the same as those submitted with the previous planning application and subject to the appeal (but without the signal-controlled "phase 2" access arrangement on land to the west). The inspector in his appeal decision concluded that the scheme would not have a harmful effect on the character and appearance of Highmead House and its surroundings with particular reference to the effect on trees on the site. It would not compromise adopted development plan policies insofar as they relate to character and appearance, securing design quality and protecting

important trees and woodland. It would also accord with the objectives of the NPPF to secure high quality design.

Access details.

41. As stated above the entrance access detail shown in figures 3 and 4 are the the only detailed matters being approved at this stage with a priority junction to the A20 and internal access link to the larger U14 site. The priority junction is shown in the south-west corner of the site close to the main access point indicated on the U14 proposals map. This would involve some significant engineering works through a 3m high embankment on the A20 boundary. Due to the level changes the road would have to be graded into the site to ensure an acceptable road gradient resulting in steep embankments on either side. This would partly 'open up' the site removing existing trees and boundary vegetation. The 13 trees (mainly on the western field boundary) to go are low quality apart from one moderate quality tree. The overall impact of the access cannot be avoided but can be mitigated to a small extent by new landscaping. The nearby TPO trees and established remaining landscaping on the southern boundary would remain.
42. The priority junction may not need to be implemented if a signal -controlled junction is in place beforehand on adjoining land. The planning inspector had no objection to the impact of the access detail (including the signal -controlled junction previously shown as part of this application). He observed that this would involve the removal of a length of hedging and smaller tree specimens along the boundary to the south-west corner of the site and at the road frontage onto Hythe Road. This area is indicated on the allocations map for U14 as the point of access for the link road through to the William Harvey hospital site. Consequently, it was foreseen in preparing the allocation that the present verdant character of this location would change. Given the superstore delivery area opposite and the urbanised approach to the roundabout on this part of Hythe Road including street lighting, bus stops and signage, the inspector did not consider the loss of this low quality and value vegetation to be especially harmful.
43. The signal -controlled junction will now need to come forward under the separate scheme with the larger site proposals. If the priority junction is constructed first, then its removal and the reinstatement of the land must be secured once a signal -controlled junction is in place and available for use. The other part of the access detail being approved at this stage is the internal access link on the western boundary with the larger U14 site allocation. This will only involve the part removal of a boundary hedgerow and will therefore have little visual impact.

Illustrative layout (remaining access) and landscaping (impact on trees)

44. The illustrative layout shows flats and houses being developed around the retained Highmead House and central green corridor area with two cul-de sacs. The retention of Highmead House is not a requirement of the U14 policy and the building is not listed. However, it is a substantial Edwardian property that would provide a visual focal point for the development and I consider should be retained as a requirement of a planning condition. Some existing outbuildings would be retained for ancillary uses like garages. Warren Lodge would be demolished but is a small single storey building of no particular merit.
45. The green corridor would provide informal green space and allow the retention of some substantial TPO trees in the centre of the site which would not be suitable to incorporate in the rear gardens of properties due to their size. Nonetheless the submitted layout and details of the access arrangement show approximately half of the trees on the site would need to be removed to facilitate the proposed scale of development. Additionally, access would be required across the root protection areas of several trees, notably to south-west of Highmead House. This was acknowledged by the Planning Inspector in his appeal decision. He noted this would include the removal of scots pines and apple trees to the north-west of the house and some specimens (mainly Leyland Cypress) within the small Group G2 of the 2010 Tree Protection Order (TPO) to the west of the house. There would also be the removal of a number of lower grade Scots Pines and a Sycamore within the woodland area of the TPO to enable the construction of Plot 16. The inspector from his observations on site concluded he was satisfied that the removal of these lower quality specimens would not harm the character and appearance of the site. They are not especially established specimens, a number have defects and they have a particularly low public amenity value given their position within the site.
46. The proposals would also involve a small number of B category trees (moderate quality and value) including 4 TPO trees. The inspector noted that there were no sound arboricultural reasons for their removal, but nonetheless found that the proposed removal of these specimens would not significantly harm the character and appearance of the site by virtue of their relatively modest individual and cumulative contribution to the verdant qualities of the site. Their removal would not significantly denude any part of the site such that the dense tree coverage to the Hythe Road frontage would remain, as would the wider amenity value of the site.
47. The Inspector acknowledged that the layout would require access across the root protection areas (RPAs) of trees shown to be retained to the immediate south-west of Highmead House including two of the visually important TPO wellingtonias. He was satisfied that the proposed incursion into the RPA

would be acceptable in principle subject to incorporating and renewing the existing hard surfacing of these parts of the driveway already in situ and careful construction methods including a cellular confinement system to speared the surface pressure and that these could be secured by condition.

Density and overdevelopment issue

48. The inspector did not consider the proposal to be overdevelopment of the site. The density of development on the Highmead site will be approximately 18 dph (including the green space area). The U14 policy does not give a figure for the Highmead site apart from stating it should have lower densities and states overall the U14 site is suitable only for lower net residential densities (i.e. below an average net 30 dph). In summary the inspector concluded:
- He noted the refusal on grounds of overdevelopment. The indicative layout demonstrates that this quantum of development could be accommodated on site and considered the impact acceptable given the layout retains those tree specimens of highest arboricultural and amenity value.
 - The proposed layout would retain sufficient separation to provide an appropriate spacious setting such that the scale and architecture of Highmead house would not be oppressively enclosed by the surrounding residential development.
 - The proposed green corridor to the south of the house would make a very positive and significant contribution to retaining the verdant context to the southern approach to Highmead House.
 - The proposed layout would secure the high quality development sought by the design workshop

illustrative scale and appearance

49. These matters are not being determined at this stage and there is no requirement due to legislation changes to provide scale parameters. The typologies are not being agreed at this stage – the description refers to 28 dwellings so the final mix in terms of flats and houses and number of bedrooms for each dwelling will also be approved at the reserved matters stage. However, I outline my views below on the scale of development likely to be acceptable on this site.
50. The illustrative plans show a scheme consisting of 2 storey houses and flats. Some of the houses are two storeys with roofspace accommodation which are indicated by dormer windows. Highmead House itself is a more substantial two storey house with roof space accommodation but is the existing primary dwelling and focal point of the site. The site in my opinion lends itself to two

storey development in particular on the more exposed northern half of the site but also at the entrance to the site currently indicatively shown for flats. The land levels here are only marginally lower than those at the northern boundary and when viewed from the A20 any building would be on top of a 3 metre embankment. I do not consider that 3 storey development to be acceptable on this site and is not in character with the area which consists of two storey housing.

51. Two storey houses with roof space accommodation can vary in size from those effectively no higher than a conventional 2 storey house with small dormers to more substantial dwellings/town houses with higher roofs and eaves. For the former I would need to see the details and siting to be convinced such a typology would be acceptable on this site. The later in my opinion is not appropriate on the site along with 3 storey buildings. However, this detail and final typology mix will be a matter for the reserved matters to determine. I have added an informative that the site lends itself to 2 storey development and that 3 storey development will not be acceptable on the site.

Impact on the character of the Lacton Green Conservation Area.

52. The Lacton Green conservation area lies 70m to the north-west of the site and that contains some listed buildings. Policy U14 (g) states that proposals should be designed and laid out in such a way as to protect the character and setting of the adjoining conservation area and neighbouring listed buildings. There is a requirement under the planning acts to pay special regard to the desirability of preserving a listed building or its setting and the desirability of preserving or enhancing the character and appearance of a conservation area.
53. The proposals would be viewed within the wider setting of the conservation area and nearest listed buildings – notably 154 The Street located at the corner between The Street and Tesco's Crooksfoot roundabout. The final impacts will not be known until the reserved matters stage when the details of scale etc are provided. However, taking into account my views on scale and the distance from the conservation area/listed buildings I consider the visual impacts would likely be very limited.
54. The inspector applied the conservation area and listed building setting tests in his analysis. He concluded that given the urbanised character to the west of the appeal site on the A20 approach into Ashford, dominated by the superstore and associated infrastructure and the degree of separation of the appeal proposals to these heritage assets he was satisfied that there would be no harm to the respective settings. It needs to be borne in mind that this is part of an allocated site for residential development so the principle of residential development in this location has been accepted. The impacts of the wider U14 scheme would be far greater as the allocated site directly abuts

the conservation area and setting of some listed buildings and this would be between the conservation area/listed building settings and the Highmead site if built.

Overall summary of the design quality of the scheme and the impact on the visual character of the surrounding area

55. The final impact of the scheme would be dependent on the reserved matters detail but based on the access detail and illustrative layout the proposals for 28 dwellings showing the loss of half the trees on site would inevitable involve a substantial change to the character and appearance of the site.
56. It is accepted that the site and in particular the wider U14 site allocation is a sensitive location adjacent to the Willesborough Lees conservation area. However, it has been allocated for residential development under policy U14 for a substantial number of dwellings (indicative 200) so the principle of this amount of development and consequential change to its character has been accepted by the Council at the development plan stage.
57. The character of the area when viewed from the south along the A20 is already quite urbanised with development on the opposite side of the site and adjoining with the Pilgrims Hospice. It already gives the impression of entering into the outskirts of the built up area of Ashford. Although half the trees are shown removed on the access detail and illustrative layout, the southern boundary vegetation beyond the new access is shown to be retained which is a feature of the site. This will provide some degree of boundary landscaping but overall the proposals will give a much more intensive built up character in this location.
58. The setting of the site is significantly different when viewed from the north notably when travelling along Hinxhill Road being that of open undeveloped countryside before entering into Willesborough Lees which gives the impression of entering into a 'village type' environment. This character would be changed forever with this scheme and in particular the wider U14 proposals. Highmead House is visible from the north along Hinxhill Road over open countryside but has little prominence as it is integrated in well landscaped grounds. The proposals even at two storeys would result in a more prominent intensive built form of development when viewed from this direction in particular as the site is elevated. The scale of development at the reserved matters stage therefore will be important and I consider that 3 storey and larger 2.5 storey development would not be appropriate on this site or likely to be on the wider U14 allocation.
59. The inspector concluded that the proposal would not have a harmful effect on the character and appearance of the site. I do consider there are grounds to object to the resubmitted proposals.

c) Compliance with the Highmead House workshop objectives.

60. The previous application was refused on grounds that the proposals did not conform with the outcome of the design workshop held in November 2013, which concluded that Highmead House and its grounds could be redeveloped as an elderly care facility which is a more appropriate use for this large and attractive building, and which would adversely impact to a lesser extent on the landscape and trees on the site.
61. The Inspector noted that the recommendation for a care home and/or sheltered housing was only one of the outcomes of the workshop which refer principally to new housing on site. Accordingly, the design workshop did not provide a consensually conclusive alternative to housing on the appeal site. He understood that there may well be practical planning reasons for seeking such a use on the appeal site given the adjoining Pilgrims Hospice and the potential to integrate such a use around the grand Edwardian House and within its sylvan setting. However, the U14 site is not allocated in the adopted Urban Sites and Infrastructure DPD for a C2 residential institution use. The principle of housing on the appeal site has been established and the NPPF emphasises the importance of a plan-led system and such an approach provides certainty to local communities and to those making investment decisions in development and infrastructure. He appreciated the design workshop process was intended to assist the preparation of detailed plans for the development of the appeal site, however he did not consider the outcomes of workshop sufficiently indicate otherwise than the principle of the site for housing would be acceptable as set out in the adopted development plan. The appeal proposals would accord with adopted development policies and the core planning principles at paragraph 17 of the NPPF insofar as they relate to the objectives that planning should be genuinely plan-led and that sufficient land should be allocated to meet the housing needs in the area.
62. I agree with the inspector's conclusion on this matter. Although I would have no objection in principle to a C2 care home type use and such a development I consider could be successfully integrated into the site (with potentially much less impact than the current housing), this is not being proposed by the applicant. If the workshop had been held during the local plan preparation and such a conclusion for the use of the site as a care home was integrated into the wording of the final Adopted development planning policy then the Council could give this great weight in the determination of application. Instead, as the inspector correctly pointed out, the principle of housing on the Highmead site has been accepted by the Council through the allocation of the site in an adopted development plan policy.

d) The impact on the surrounding highway network, highway safety and car parking provision.

63. The proposals no longer include the detailed signal-controlled junction. Kent Highways and Transportation have no objection to this amended arrangement subject to appropriate conditions and obligations explained further below. The scheme will also not provide the secondary access road link to the William Harvey Hospital but as previously stated this is no different to the previous application that went to appeal. The inspector accepted the U14 policy allowed for a compartmentalised approach and separate development of the Highmead site as long as it does not prejudice the main signal-controlled access point and is accessed through this junction when it becomes available.
64. The details of the priority junction to the A28 to serve 28 new dwellings and the existing Highmead House are being approved at this time. The transport statement submitted is as the previous application ref 14/00255/AS and considers proposals for 37 dwellings on the site which was the scheme originally applied for before the scheme was reduced to 28 dwellings. It shows that the two-way vehicle movements for the proposed development in the weekday AM peak hour would account for only 2.3% of the vehicle movements in the same period on the A20 Hythe Road and 2.0 % for the vehicle movement in the weekday PM peak hour. The proposals would not have a detrimental effect on the local highway network. The land required for the internal connection to the signalised junction would be subject to a section 106 agreement in order to secure its implementation
65. The signal-controlled junction will now come forward as a separate scheme with the wider site and therefore the impact of traffic from wider scheme and Highmead will be dealt with under this application. Kent Highways and Transportation have advised that the same principles would apply to this application requiring the scheme to show the east-west access connection to the Highmead site to allow Highmead to access through the signal-controlled junction when available. Details have been provided showing the linkage between the two sites based on the signalised junction shown with wider U14 proposals by Bellway. Kent Highways are satisfied that the detail works and raise no objection. Although the wider scheme has not obtained planning permission there is a degree of certainty that the access connections will work with details provided of accesses to both sites.
66. The Highways Agency's National Significant Infrastructure Project application for the new junction 10a has recently been formally submitted to the Planning Inspectorate. That junction would be located off the A20 Hythe Road approximately 300m to the east of the site. The proposals do not appear to show any works that directly affect this site and the Highways Agency raise no objection to this application. A contribution towards construction of Junction

10A will be paid through an agreement with Highways England under section 278 of the Highways Act 1980

Car parking

67. This is not a detail being determined at this stage but notwithstanding this the illustrative layout shows dwellings with mainly on-plot parking with at least 2 allocated spaces for the dwellings and 1/1.5 spaces for the flats in accordance with the 'suburban' standards outlined in the Residential Parking and Design Guidance SPD. The emerging Ashford Local Plan to 2030 is currently out for consultation. Policy TRA3(a) provides parking standards for "suburban locations" requiring a higher parking requirement of 3 spaces for 4 bed homes or more. The policy has very little weight at this stage although some units show 3 spaces. The typologies including the number of bedrooms as previously stated are not being approved at this stage. The level of the parking and its design into the scheme (which could better designed in places than shown on the illustrative plans) will ultimately be dependent on what typologies and details come forward at the reserved matters stage and the status of the new Local Plan at that time.
68. A condition is proposed to secure parking for cars and bicycle storage in accordance with the adopted standards. Kent Highways and Transportation have requested that the proposed adopted highway is subject to a controlled parking zone in view of the proximity of the William Harvey Hospital in order to deal with the issue of overspill parking that has been occurring in the vicinity. This can be secured via the section 106 agreement. I do not agree with the inspectors view that these are not necessary given the distance from the William Harvey Hospital as overflow hospital parking has affected a wide area in the locality. A controlled parking zone would also be a requirement for the rest of the U14 site.

e)The impact on the amenity of the residential occupiers of the site and neighbouring properties

69. The layout plans and typologies are indicative so precise relationships are not agreed at this stage and would be dealt with at the reserved matters stage. The Inspector did not raise any objection to the quantum of housing on site and considered it would retain sufficient separation to provide an appropriately spacious setting such that the scale and architecture of Highmead House would not be oppressively enclosed by the surrounding residential development. I have already mentioned there would be temporary disruption to some existing residents at the Highmead House site if it is developed and occupied first, through the closure of the priority junction and installation of the internal access link to the signal- controlled junction. This is not an ideal situation in my opinion but is unavoidable when the U14 policy allows the separate development of the site and only one access to the A20.

70. The nearest neighbouring residential dwellings are located on the opposite side of the A20 and would not be adversely affected by dwellings on this site due to the distance. The new access would be visible but the level of traffic would not detrimentally affect any surrounding dwellings on what is already a busy road. The Pilgrims Hospice lies adjacent to the eastern part of the site. The building is set away from the boundary separated by a car park. The boundary has existing established planting that is proposed to be retained and enhanced. The site is close to the busy A20 and a noise survey was undertaken which indicates the site is affected by traffic noise during the day and night time. Mitigation through a combination of internal acoustics such as double glazing and 2m fencing for any rear garden is recommended and can be secured through a planning condition as agreed by the environmental protection officer

(f) Issues raised by neighbours and Bellway Homes

71. Some specific issues were raised by neighbours and Bellway Homes.

(i) The hospital access road must for several reasons come directly off Jct10a. Jct10 capacity already overloaded.

HDSSD Response

The DCO NSIP Junction 10a application does not include direct access to the hospital. This would involve a new road link further to the east of the site. The U14 policy aims to facilitate the secondary hospital access link within the U14 allocated site. The site is not dependent of Junction 10a capacity coming forward. An SPG6 contribution will be required. Highway England raise no objection

(ii) The proposed number of dwellings (28) is too many for such a small area and would detract from Highmead House

HDSSD Reponse

The planning inspector raised no objection to this level of development on its impact on Highmead. I have no objection to the proposal on this ground.

(iii) The access to A20 will be very dangerous and no account of additional traffic from U14 mixing with traffic from the proposed Amazon/KWG site. There will be rat running..

HDSSD Response

Kent Highways have considered traffic impacts and raise no objection on these grounds. The proposals will not involve the delivery of the access road link to the hospital as this is part of the wider site allocation

(iv)The impact on Pilgrims Hospice

HDSSD Response

The site is allocated for housing through adopted development plan so the principle of housing here has been accepted through the development plan process. The final relationship will be dealt with at the reserved matters however I consider proposal could be design to ensure acceptable relationship between the dwellings on this site the Hospice

(v) Drainage and ecology issues

HDSSD Response

The ecological and drainage issues have been considered and no objection is raised on these matters by the technical consultees

Bellway Homes comments.

72. Bellway homes are proposing to develop the wider U14 site so have been consulted in particular on the access detail to ensure the two sites are coordinated to ensure both can be delivered.
73. On the original submitted proposal, they objected on grounds of the deliverability of the phase 2 access proposals (The signalised junction) and that there was a suitable bi-lateral agreement with the U14 site. This is no longer required as the original signalised phase 2 junction was removed from scheme and the owner of the wider U14 would not enter into section 106 planning obligation agreement.
74. On the amended scheme subject to determination they continue to object on grounds without provisions, or confirmation of what elements of the submitted amended plans are to be approved, the development proposal will fail to ensure that the wider allocated site can be delivered, contrary to Policy U14 of the USIDPD. Bellway Homes and reiterate previous requests that it must be party to the S106 to ensure the deliverability of the wider allocated site is not prejudiced.
75. In reply to this point It is essential that the two sites access arrangement are coordinated and the proposals allow the delivery of both sites hence why I

have been liaising between both. The access detail being approved is indicated on the submitted plans marked pink and Kent Highways confirm that the details of the access connection between the Highmead and U14 site are acceptable. The section 106 would ensure provision of the connection between the two sites. The wider U14 signalised junction is subject to a separate application which has not been determined. However, the signalised junction location is effectively fixed in the location shown in the U14 policy and I consider there is sufficient certainty that the access detail of the proposals will come forward in a way that is acceptable in highway terms.

(g)The provision of planning obligations and the strategic delivery of local infrastructure.

76. Policy CS18 requires that infrastructure and facilities to meet the needs generated by new development should be provided, and that these should normally be provided on-site. The previous application ref 14/00255/AS was refused on grounds that no planning obligation had been entered into to address the infrastructure impacts of the development, such that the proposals were unacceptable by virtue of failing to secure these contributions/obligations. If planning permission had been resolved to be granted for the application it would have subject to the completion of a section 106 planning obligation agreement which is the normal procedure
77. The inspector in the appeal decision accepted there was nothing unreasonable in seeking to determine a planning application subject to the provision of a planning obligation through a section 106 agreement. The applicant however was unable to provide a signed unilateral agreement during the course of the appeal. The inspector would not accept a negative (Grampian) condition. In view of this without provision of such an agreement the scheme would not provide the required infrastructure and other contributions and therefore would be contrary to the development plan policy and the objectives of the NPPF to deliver sufficient community and cultural facilities and services to meet local needs. The appeal was dismissed for this reason.
78. The inspector acknowledged the rationale for allocating site U14 is the delivery of a link road connecting the A20 to the William Harvey but he did not accept the release of the Highmead site would leave a prescribed reduced balance on the rest of the U14 site upon which to fund and deliver the link road. He did not agree with the submission from Bellway Home that the appeal proposals should make a proportional contribution to the link road as he did not think the link road is necessary or directly related to the appeal proposal. Policy U14 and the supporting text at paragraph 6.119 do not frustrate the Highmead site coming forward in isolation of the wider allocation and without the strategic requirement to complete the link road to the William Harvey Hospital.

79. The inspector in his report was not persuaded that contributions for adult social care, community learning, local health care and voluntary sector would meet the legal tests especially being directly related. He was also not persuaded that on-site parking controls and monitoring are necessary given distance of the site from the William Harvey hospital complex, nor is a monitoring fee necessary given the Council's role as a local planning authority is to administer, monitor and enforce obligations. I do not agree with some of these conclusions, in particular the on-site parking controls through the CPZ will be required due to the proximity of the William Harvey Hospital. This would apply to proposals for the whole U14 site. KCC developer contributions have also justified the contributions toward adult social care and community learning through the relevant regulation 122 tests.
80. A section 106 agreement for the current application in its original form as a resubmission of the appeal proposals could not be completed as the owner of the wider site has refused to enter into any planning obligation agreement. The amendment removing the signal-controlled junction means that all the development proposals are now within the control of the applicant and Highway authority and so there is no reason at present to suggest that a planning obligation could not be completed to secure the necessary contributions. Notwithstanding this, any planning permission issued must be subject to its completion. It would not be reasonable to refuse planning permission on grounds that there is no completed section 106 agreement at this planning committee stage as it is normal practice to resolve to grant planning permission subject to the completion of such agreements. In addition, there are viability issues that will affect the contributions as set out further below.

(h) Development viability issues

81. The previous application 14/00255/AS was not subject to any financial appraisal at the time of the determination of the application and this was not considered at the appeal stage either due to the lack of a unilateral undertaking. Since the submission of the proposals the applicant has provided a financial viability appraisal for the 28 residential dwellings. This is based on the indicative typologies of 22 houses and 6 flats. As previously stated the final mix of typologies including the number of bedrooms are not being agreed at this outline stage and will be a matter to be determined under the reserved matters details to be submitted. However, for financial viability appraisal a mix needs to be provided for an assessment.
82. The financial assessment provided by "sustainable property consultants" outlined that the scheme could not provide the full planning obligation package which the Council has had reviewed by an independent viability consultant. The conclusion of the council's viability consultant is that it is considered that an offer can be made of 6 affordable (20%) units and a further

£383,762 of section 106 costs based on the current indicative typologies. As the £383,762 is less than the policy requirements and sales proceeds may be greater than anticipated a deferred contribution mechanism will be used to capture 40% of any sale proceeds which are above those estimated in the viability report. Although the proposal would result in the underpayment and under provision of affordable housing this harm needs to be balanced against the benefit of providing housing on an allocated site particularly given the lack of a 5 year housing land supply. The allocation of 106 contributions should be delegated to officers to decide once payments are received,

83. The Highmead scheme could potentially be developed separately first with a priority junction which would be closed and reinstated with the introduction of the signal controlled access. These costs will be borne by the owner/developer of the site and are not part of the reduction in contributions.

Residential space standards

84. The details of the proposed dwellings will be approved at the reserved matters stage and would need to comply with national residential space standards. The applicant has given some indicative floor areas for the dwellings but the typologies are not been agreed at this stage only the number of units. This would apply to rear garden areas of dwellings that would need to comply with the council's residential space standards. The illustrative layout shows rear garden areas that could comply with the required area.

Sustainable Design and Construction

85. The original planning application ref14/00255/AS was proposed to be built to a Code for Sustainable Homes Level 4, lower than required under policy CS10 of the Core Strategy. The Code for Sustainable Homes is no longer in force. The proposals will need to comply with the water and energy requirements of policy CS10 of the Core Strategy and Sustainable Design and Construction SPD. This will be subject to a condition.

Ecology

86. An ecology appraisal and surveys were undertaken. The main findings were the presence of bats within the existing garage serving Highmead House. A protected species licence is required so it is proposed at present to retain the building. Reptiles are not likely to be present on the site. Great crested newts within water-bodies within 250m of the site cannot be ruled out so a survey of these water bodies is required which can be dealt with by a planning condition. Mitigation measures for birds, hedgehog and common toad present on site can be dealt with by an appropriate planning condition. The Hatch Park Site of Special Scientific Interest (SSSI) lies 450m to the north-west of the site. Natural England has raised no objection to the scheme..

Contamination

87. The previous application ref14/00255/As was subject to a phase 1 contamination risk assessment found no contamination beyond asbestos cement sheeting on a garage in the southern part of the site. Beyond dealing with this no remedial measures are required to facilitate residential development on the site. The Environmental Health Manager has raised no objection subject to a condition to deal with any unexpected contamination on the site.

Drainage issues

88. The site lies within flood zone 1 which is a low risk of flooding. The application is supported by a detailed flood risk and drainage assessment. The previous application was refused on grounds that it would result in additional surface water run-off, and no detailed SUDs strategy had been put forward to demonstrate how water will be attenuated in accordance with policy requirements for this site and the wider U14 site.
89. The inspector concluded that subject to conditions adequate arrangements could be made for the disposal of surface water from the site. Accordingly, the appeal proposals would not compromise the objective of policy CS20 of the Core Strategy and the Sustainable Drainage SPD for all development to include appropriate SUDS for the disposal of surface water, so as to avoid any increase in flood risk or adverse impact on water quality.
90. The inspector noted and attached significant weight that the Environment Agency removed its objection to the scheme subject to a condition requiring a surface water drainage scheme for the site to be approved by the Agency and the LPA. He acknowledged that the opportunity to use soakaways are low on the level of appropriateness for SUDS at the appeal location. He understood the submission from the council's drainage engineer that a more strategic SUDS solution would allow for attenuation and discharge into the Aylesford Stream, mimicking natural behaviours. Although the council considers that this would be a more practicable solution for the wider U14 site allocation there is no policy requirement in the Urban Sites and Infrastructure DPD for strategic SUDS for the larger allocation
91. The inspector saw no reason why flood risk should be assessed beyond the red line of the appeal site given the soakage assessment has demonstrated that the geology underlying the site can allow for a contained soakaway solution for the appeal proposals. He acknowledged that there are matters of detail which remain of concern to the Council and although the layout is indicative and had changed from that considered in the soakage report he considered there to be reasonable opportunities for the construction of the sizeable soakaways within the appeal proposal. As such details of the precise

size and location of soakaways could be conditioned and the reserved matters and conditions to be appropriate mechanisms for parties to explore other forms of surface water attenuation for the appeal proposals such as porous paving and water butts. In view of the inspector's decision, KCC and Ashford Borough Council's drainage engineers have not objected to the proposals subject to conditions.

92. In terms of foul water, Southern Water confirm that it appears that the pumped raising main is not crossing the site. There is currently inadequate capacity in the local network to provide sewage disposal that would require additional sewers or improvement to existing sewers which can be dealt with under the Water Industry Act 1991. Southern Water requests an informative to be added requiring the developer to enter into a formal agreement to provide the necessary infrastructure enhancement.

Planning Obligations

93. Regulation 122 of the Community Infrastructure Regulations 2010 says that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) necessary to make the development acceptable in planning terms,
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development
94. I recommend the planning obligations in Table 1 be required should the Committee resolve to grant permission. I have assessed them against Regulation 122 and for the reasons given consider they are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, they may be a reason to grant planning permission in this case. The maximum number of contributions which can be pooled has not been reached for the contributions either.

Table 1

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
1.	<p>Access arrangements</p> <p>Provide access to the site from the A20 either via the priority junction or to the boundary of the site leading to the signalised junction on the neighbouring land.</p> <p>If access is first via the priority junction and construction of the signalised junction subsequently starts, to provide the route to the boundary of the site in preparation for the signalised junction being opened. When that junction is opened, to immediately cease use of the priority junction, landscape it in accordance with details to be approved and only access the site via the signalised junction.</p>	<p>Landscaping details and estimated costs to be submitted by the developer and approved by the Council</p>	<p>Access to the site to be provided before the occupation of any dwellings.</p> <p>Landscaping to be carried out within 12 months of the signalised junction opening or the route to the boundary being provided (as the case may be).</p> <p>Landscaping details and estimated costs to be submitted immediately. Permission will not be granted until the details and costs have been approved by the Council</p>	<p>Necessary in order to ensure (i) there is access to the site from the A20 in the interests of future occupiers, (ii) there is only ever one access in use for this site and the neighbouring site pursuant to DPD policy U14, (iii) the visual amenity of the site is protected and (iv) the landscaping works are actually carried out given that the developer may cease to have an interest in the site when the works fall due</p> <p>Directly related as the access is to serve the site and the area to be landscaped is either part of the site or will have been developed as part of this development</p> <p>Fairly and reasonably related in scale and kind as it allows this</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
	<p>If access is first via the signalised junction, not to construct the priority junction and instead to landscape it in accordance with details to be approved.</p> <p>To pay to the Council the estimated cost of landscaping which the Council would be able to use should the developer not carry out the landscaping when due</p>		<p>Payment to be made should the landscaping not have been carried out by the occupation of 75% of the dwellings</p>	<p>site to be developed in advance of the signalised junction to serve the entire U14 site having been provided and the site must be landscaped as part of the development in any event</p>
2.	<p>Adult Social Care</p> <p>Contribution towards providing extra capacity at the Age UK provision for the elderly at Farrow Court in Ashford.</p>	£47.06 per dwelling	<p>Deferred (but potentially allocated from the pay regardless contribution)</p>	<p>Necessary as additional social care facilities required to meet the demand that would be generated pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24, KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				<p>Directly related as occupiers will use adult care facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings</p>
3.	<p>Affordable Housing</p> <p>Provide not less than 20% of the units as affordable housing, comprising 60% affordable rent units and 40% shared ownership units in the locations and with the floorspace, number of bedrooms and size of bedrooms as specified. The</p>	<p>4 affordable rent units</p> <p>2 shared ownership units</p>	<p>Affordable units to be constructed and transferred to a registered provider upon occupation of 75% of the open market dwellings</p>	<p>Necessary as would provide housing for those who are not able to rent or buy on the open market pursuant to Core Strategy policy CS12, the Affordable Housing SPD and guidance in the NPPF.</p> <p>Directly related as the affordable housing would be provided on-site in conjunction with open market housing.</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
	affordable housing shall be managed by a registered provider of social housing approved by the Council. Shared ownership units to be leased in the terms specified. Affordable rent units to be let at no more than 80% market rent and in accordance with the registered provider's nominations agreement.			Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.
4.	Allotments Contribution towards complete restoration as working allotments of unused ground at Lower Vicarage Road Ashford	£258 per dwelling for capital costs £66 per dwelling for future maintenance	Deferred (but potentially allocated from the pay regardless contribution)	Necessary as allotments are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF. Directly related as occupiers will use allotments and the facilities to

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				<p>be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
5.	<p>Children’s and Young People’s Play Space Contribution towards provision of new play area at Hythe Road Recreation Ground</p>	<p>£649 per dwelling for capital costs</p> <p>£663 per dwelling for future maintenance</p>	<p>Deferred (but potentially allocated from the pay regardless contribution)</p>	<p>Necessary as children’s and young people’s play space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 , Public Green Spaces and Water Environment SPD and guidance in the NPPF</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				<p>Directly related as occupiers will use children's and young people's play space and the play space to be provided would be available to them</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years</p>
6.	<p>Community Learning</p> <p>Contribution towards additional equipment, specifically identified by the Ashford centre as IT dongles, mobile projector and tablets to support the</p>	£34.45 per dwelling	Deferred (but potentially allocated from the pay regardless contribution)	<p>Necessary as additional community learning resources required to meet the demand that would be generated and pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24), KCC Guide to</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
	additional new learners from this development in classes locally.			<p>Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF</p> <p>Directly related as occupiers will use community learning facilities and the resources to be funded will be available to them</p> <p>Fairly and reasonably related scale and kind considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings</p>
7.	<p>Controlled parking zone</p> <ul style="list-style-type: none"> Contribution towards the making and implementation of a traffic regulation order for the site. 	TBC	Deferred (but potentially allocated from the pay regardless contribution)	<p>Necessary pursuant to policy U14 of the Urban Sites and Infrastructure DPD in order to protect residential amenity and in the interests of highway safety as visitors to and staff at William Harvey Hospital would park on the</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				<p>site</p> <p>Directly related as William Harvey Hospital is only a short distance away</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development</p>
8.	<p>Deferred contributions</p> <p>Mechanism to monitor sales/rental values to ensure that 40% of any rise in sales values is paid to the council towards the unfunded contributions in this table</p>	<p>Up to the value of the outstanding contributions</p>	<p>To be paid if the circumstances prevail</p>	<p>Necessary in order to ensure the above planning obligations are complied with to the fullest extent the housing market allows.</p> <p>Directly related for the reasons set out above.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations required.</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
9.	<p>Informal/Natural Green Space Contribution towards provision of public access project in Hythe Road Recreation ground – to comprise installation of all weather routes across the site and to play area with associated landscape improvements including planted and paved resting and picnic area for the disabled.</p>	<p>£434 per dwelling for capital costs £325 per dwelling for maintenance</p>	<p>Deferred (but potentially allocated from the pay regardless contribution)</p>	<p>Necessary as informal/natural green space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), Public Green Spaces and Water Environment SPD and guidance in the NPPF</p> <p>Directly related as occupiers will use informal/natural green space and the space to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10</p>

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
			years.
10.	<p>Libraries</p> <p>Contribution for improving Bookstock in Ashford District</p>	£48.02 per dwelling	<p>Deferred (but potentially allocated from the pay regardless contribution)</p> <p>Necessary as Bookstock in Ashford District is below the County average of 1134 per 1000 population at 734 items per 1000 population; this is below both the England and total UK at 1399 & 1492 and pursuant to Core Strategy policies CS8 and CS18, Urban Sites and Infrastructure DPD policy U24 (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as occupiers will use library facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				because amount calculated based on the number of dwellings
11.	<p>Outdoor Sports Pitches Contribution towards provision of new all-weather MUGA at Hythe Road</p>	<p>£1,589 per dwelling for capital costs £326 per dwelling for future maintenance</p>	<p>Deferred (but potentially allocated from the pay regardless contribution)</p>	<p>Necessary as outdoor sports pitches are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 Public Green Spaces and Water Environment SPD and guidance in the NPPF</p> <p>Directly related as occupiers will use sports pitches and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				provided and maintained and the maintenance period is limited to 10 years
12.	<p>Pay regardless contribution</p> <p>Lump sum payment towards the unfunded contributions in this table. The Head of Development, Strategic Sites and Design to decide on the apportionment of all monies received. Instalments to be index linked using the General Building Cost Index from the date of the resolution to grant</p>	<p>£383,762 less the monitoring fee and junction 10A contribution</p>	<p>Half upon occupation of 50% of the dwellings and balance upon occupation of 75% of the dwellings</p>	<p>Necessary in order to ensure the above planning obligations are complied with to at least a limited extent</p> <p>Directly related for the reasons set out</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations required</p>
13.	<p>Primary Schools</p> <p>Contribution towards additional primary school places at the new North Willesborough/Kennington Primary School</p>	<p>£831per flat</p> <p>£ £3,324per house</p> <p>£0 for any 1-bed dwelling with less than 56 m2 gross</p>	<p>Deferred (but potentially allocated from the pay regardless contribution)</p>	<p>Necessary as no spare capacity at any primary school in the vicinity and pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 saved Local Plan policy CF21, Developer</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
		internal area		<p>Contributions/Planning Obligations SPG, Education Contributions Arising from Affordable Housing SPG, KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as children of occupiers will attend primary school and the facilities to be funded would be available to them .</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of primary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings</p>
14.	Secondary Schools Contribution towards the	£590per flat	Deferred (but potentially allocated	Necessary as no spare capacity at any secondary school in the

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
	Highworth Phase 2 expansion Ashford	£2,360 per house £0 for any 1-bed dwelling with less than 56 m2 gross internal area	from the pay regardless contribution)	<p>vicinity and pursuant to Core Strategy policies CS1, CS2 and CS18, Urban Sites and Infrastructure DPD policy U24 saved Local Plan policy CF21, Developer Contributions/Planning Obligations SPG, Education Contributions Arising from Affordable Housing SPG (if applicable), KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF</p> <p>Directly related as children of occupiers will attend secondary school and the facilities to be funded would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
				of secondary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings
15.	<p>Junction 10A</p> <p>Contribution towards construction of junction 10A of the M20</p> <p>To be paid through an agreement with Highways England under section 278 of the Highways Act 1980</p>	£101,126.48 index-linked from the first quarter of 2004	<p>Section 278 agreement to be completed before the grant of planning permission.</p> <p>Payment of the contribution as per the section 278 agreement</p>	<p>Necessary in order to meet the demand generated by the development and in the interests of highway safety pursuant to Core Strategy policies CS1, CS2, CS15 and CS18, Urban Sites and Infrastructure DPD policy U24, and guidance in the NPPF</p> <p>Directly related as occupiers will travel and the new junction will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the estimated number of relevant trips.</p>
16.	Strategic Parks	£146 per dwelling for capital costs	Deferred (but potentially allocated	Necessary as strategic parks are required to meet the demand that

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
	Contribution towards the provision of pathways fencing, signage and the construction of a bridge over the dyke to enable controlled public access(and associated works) through the ecologically sensitive area of Conningbrook Country Park and Stour Valley Walk	£47 per dwelling for future maintenance	from the pay regardless contribution)	<p>would be generated and must be maintained in order to continue to meet that demand pursuant to Core Strategy policies CS1, CS2, CS18 and CS18a, Urban Sites and Infrastructure DPD policy U24 , Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p>Directly related as occupiers will use strategic parks and the facilities to be provided would be available to them</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
17.	Youth Services	£26.89 per dwelling	Deferred (but potentially allocated	Necessary for youth service space available to meet the

Planning Obligation			Regulation 122 Assessment
Detail	Amount(s)	Trigger Point(s)	
Contribution towards the conversion works at the North youth centre to provide additional space for sessions		from the pay regardless contribution)	<p>demand that would be generated and pursuant to Core Strategy policy CS18, Urban Sites and Infrastructure DPD policy U24, KCC Guide to Development Contributions and the Provision of Community Infrastructure and guidance in the NPPF.</p> <p>Directly related as occupiers will use youth service facilities and the facilities to be funded will be available to them</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly</p>

	Planning Obligation			Regulation 122 Assessment
	Detail	Amount(s)	Trigger Point(s)	
18.	<p>Monitoring Fee</p> <p>Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking</p>	£1000 per annum until development is completed	First payment upon commencement of development and on the anniversary thereof in subsequent years	<p>Necessary in order to ensure the planning obligations are complied with.</p> <p>Directly related as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations to be monitored.</p>
<p><u>Notices</u> must be given to the Council at various stages in order to aid monitoring. All contributions are <u>index linked</u> in order to maintain their value. The Council's legal costs in connection with the deed must be paid.</p> <p>If an acceptable deed is not completed within 3 months of the committee's resolution, the application may be refused.</p>				

Human Rights Issues

95. I have also taken into account the human rights issues relevant to this application. In my view the "Assessment" section above and the Recommendations below represent an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties).

Working with the applicant

96. In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner as explained in the note to the applicant included in the recommendation below.

Conclusion

97. The site is identified for residential development under policy U14 of the Urban Sites and Infrastructure DPD to enable a secondary access point for the William Harvey Hospital to accommodate its growing sub-regional role. Although U14 covers a much larger site the policy recognises that the Highmead House section of the allocated site could be redeveloped as a separate scheme. It must be accessed through the new A20 junction and not prejudice the delivery of the main access and associated development.
98. The original application has been amended showing just a priority junction access for Highmead House and removing the signal-controlled junction for the whole U14 site. The owner of the adjoining site will not enter into any section 106 planning obligation agreement and are proposing a differently design signalised junction the wider site proposal. The scheme shows an internal access link between the Highmead and wider site allowing connection to the signal-controlled junction if and when available for use. This would be secured though a section 106 planning obligation agreement and is acceptable to Kent Highways and Transportation. I therefore do not objection to the principle of the site coming forward as a separate scheme and I consider it complies with the requirements of policy U14.
99. All matters are reserved apart from entrance access detail. Indicative plans are provided showing how 28 dwellings along with the retention of Highmead House can be provided on the site. The impact of the proposals including the loss of around half the trees on site (including subject to TPO's) were considered in the previous appeal which the inspector considered acceptable. The proposal would have a prominent visual impact on the surrounding area in particular when viewed from open countryside to the north. However the

site is part of a wider policy allocation for 200 dwellings (indicative) stretching to the north to Hinxhill Road and close to the boundary of the William Harvey Hospital that would permanently change the open countryside setting of this area. The final details and typologies would be dealt with and assessed at the reserved matters stage however I consider the scheme lends itself more to a 2 storey development.

100. The scheme would have no adverse impact on the surrounding highway network and Kent Highways and Transportation and the Highways Agency have no objection to the proposals. There would be some disruption if the priority junction had to be removed and the link installed to the wider site signal –controlled junction if the Highmead site was built and occupied first. This would be only for a temporary period
101. There are no contamination, ecology or drainage issues on the site to prevent development. A financial appraisal has been assessed by the council's financial consultant and a reduced planning obligation contributions are justified
102. I consider it would have been more far advantageous for the U14 site policy to have required the holistic development and masterplanning of the whole U14 site, in particular when only one access is allowed onto the A20. This would have avoided some of the unnecessary complexities of time-consuming problems at the development control stage of satisfactorily integrating two sites dealt with separately. The NPPF however highlights the importance of a plan lead system and the Planning Inspector accepted for the previous appeal scheme that the U14 site policy allowed the separate development of the Highmead site. The scheme showed the same illustrative layout and number of dwellings and he was satisfied it would not have a harmful effect on the character and appearance of the area with particular reference to the loss of around half the trees including some TPO trees on the site The appeal was only dismissed on grounds of lack of a planning obligation agreement. This can be entered with the removal of the signal-controlled junction and of land outside the applicants or highway authority's control.
103. **(A) Subject to the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations related to**
- a. The issue listed in table 1**
- as detailed in table 1, in terms agreeable to the Head of Development Strategic Sites and Design or the Development Control Managers in consultation with the Director of Law and Governance, with delegated authority to either the Head of Development Strategic Sites and Design or the Development Control Managers to make or approve minor changes to the planning obligations and planning conditions, as they see fit.**

(B) Grant Outline Consent

Subject to the following conditions and notes:

1. Approval of the details of the layout, scale, landscaping and access other than the details coloured pink on drawings * appearance (hereafter called "the Reserved Matters") shall be obtained from the Local Planning Authority in writing before development commences and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Ashford Borough Council

2. (A) Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission.

(B) The development hereby permitted shall be begun no later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.

Reason: To comply with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Materials & Visual amenity

3. Written details including source/ manufacturer, and samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the development shall be carried out using the approved external materials.

Reason: In the interests of visual amenity.

4. Details of walls and fences to be erected within the development shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The walls and fences shall then be erected before the adjoining part of the development or dwelling is occupied in accordance with the approved details unless previously agreed in writing by the Local Planning Authority. Reason: In the interests of the visual amenity of the surrounding area

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any Order or any subsequent Order revoking or re-enacting that Order, Highmead House shall

not be demolished and no part of the existing wall surrounding Highmead House shall be demolished unless approved through a reserved matters approval.

Reason: In the interests of sustainable development and the visual character of the area.

Highways and Parking

6. The details submitted in pursuance of Condition 1 shall show adequate land, reserved for parking or garaging to meet the needs of the development and in accordance with the Council's adopted Residential Parking and Design guidance SPD or any adopted guidance or policy which may have superseded it. The approved area shall be provided, surfaced and drained in accordance with the approved details before the buildings are occupied and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and reenacting that Order), shall be carried out on the land so shown as to preclude vehicular access to this reserved parking area

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to parking inconvenience to other road users, be detrimental to amenity and in order to compensate for the loss of existing on-road parking.

7. Before the development is occupied or brought into use vehicle turning area(s) to allow for vehicles to exit the site in a forward gear, shall be provided in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority and the area(s) shall be permanently retained available for this purpose in accordance with the approved details.

Reason: So that vehicles may enter and leave the site in a forward gear in the interests of highway safety.

8. Before the first occupation of a dwelling the following works between that dwelling and the adopted highway shall be completed as follows in accordance with the details hereby approved and the details to be approved under conditions 7, 8 and 13:

(A) Footways and/or footpaths shall be completed, with the exception of the wearing course;

(B) Carriageways completed, with the exception of the wearing course, including the provision of a turning facility beyond the dwelling together with related:

- (i) highway drainage, including off-site works,
- (ii) junction visibility splays,
- (ii) street lighting, street nameplates and highway structures if any.

Reason: In the interests of highway safety.

9. A scheme for the provision of the disposal of surface water so as to prevent its discharge onto the highway shall be submitted to and approved in writing by the Local Planning Authority prior to the Commencement of Development. Such scheme shall be implemented in accordance with the approved details prior to the occupation of the last dwelling on the site

Reason: In the interests of highway safety

10. Full details of facilities to accommodate the storage of refuse and material for recycling for each dwelling and its collection by refuse vehicles shall be submitted at the same time as details required to be submitted pursuant to Condition 1 and approved by the Local Planning Authority in writing. The approved details shall be implemented before the occupancy of dwellings to which they relate. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any other Order or any subsequent Order revoking or re-enacting that Order, such approved facilities shall be retained in perpetuity and access thereto shall not be precluded.

Reason: To ensure satisfactory arrangements are put in place and retained in perpetuity for the collection and storage of refuse and recycling

11. No development shall take place until details of the bicycle storage facilities showing a covered and secure space have been submitted to an approved in writing by the Local Planning Authority. The approved bicycle storage shall be completed prior to occupation of the development and shall thereafter be retained.

Reason: To ensure the provision and retention of adequate off-street parking facilities for bicycles in the interests of highway safety.

12. Only one vehicular access between the site and Hythe Road shall be in use at any one time. Immediately upon the new vehicular access between the site and Hythe Road (known as the phase 1 access) being brought into use, the existing vehicular access to Highmead House shall immediately cease to be used by vehicles and shall be landscaped and made available for pedestrian use in accordance with the details approved under condition 1 within 12 months of the new vehicular access opening.

Reason: In the interests of Highway.

13. The provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05 metres above carriageway level within the splays, shall be provided prior to the access hereby permitted being brought into use.

Reason: In the interests of Highway safety

Landscaping

14. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include [proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc indicating lines, manholes, supports etc); retained historic landscape features and proposals for restoration, where relevant].

Reason: In order to protect and enhance the amenity of the area.

15. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with 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.

Reason: In the interests of the amenity of the area

16. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved unless previously agreed otherwise in writing by the Local Planning Authority

Reason: To ensure the new landscaped areas are properly maintained in the interest of the amenity of the area

17. The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:
- (a) all trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with BS5837:2012, (Trees in relation to design, demolition and construction - recommendations) and in accordance with the approved Tree Protection Plan and any approved Arboricultural Method Statement, to the satisfaction of the Local Planning Authority. Such tree protection measures shall remain throughout the period of construction
 - (b) No fires shall be lit within the spread of branches or downwind of the trees and other vegetation;
 - (c) No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
 - (d) No roots over 50mm diameter shall be cut, and no buildings, roads, or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation;
 - (e) Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.
 - (f) No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan

18. The drive within the root protection areas of the protected trees shall be constructed to a no dig design following the recommendations in BS 5837:2012 (Trees in relation to design, demolition and construction – recommendations) and APN 12 – Through the trees to Development (Arboricultural Advisory and Information Service).

Reason: In the interests of preventing damage to tree roots.

19. No work on site shall begin until such design has been submitted to and

approved in writing by the Local Planning Authority. The construction of the drive approved shall then only be carried out in accordance with the approved specification unless previously agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of preventing damage to tree roots

20. Replacement tree(s) shall be planted within 12 months of the removal of the original tree(s) covered by the Order. Full details of the number, size and species of the replacement tree(s) shall be submitted to, and approved by, the Local Planning Authority before replanting occurs. All new planting shall be of suitable stock, adequately staked and tied. If within a period of two years from the date of planting, a tree (or any replacement) is removed, uprooted, destroyed or dies, another tree of the same size and species shall be planted at the same place, or in accordance with any variation for which the Local Planning Authority has given their prior written consent

Reason: In the interests of protecting the visual amenities and character of the site and locality

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any other Order or any subsequent Order revoking or re-enacting that Order, the dwellings hereby approved on Site A shall only be occupied as single dwelling houses as described by Use Class C3 of the Town and Country Planning Use Classes Order 1987 as amended.

Reason: To ensure that car parking provided within the development remains adequate to meet the needs of the occupiers of the development and to protect the amenities of future occupiers of the development

Environmental Protection

22. Prior to the commencement of the development a Code of Construction Practice shall be submitted to and approval in writing by the Local Planning Authority. The construction of the development shall then be carried out in accordance with the approved Code of Construction Practice and BS5228 Noise Vibration and Control on Construction and Open Sites and the Control of dust from construction sites (BRE DTi Feb 2003).unless previously agreed in writing by the Local Planning Authority

The code shall include:

- An indicative programme for carrying out the works
- Measures to minimise the production of dust on the site(s)
- Measures to minimise the noise (including vibration) generated by the

construction process to include the careful selection of plant and machinery and use of noise mitigation barrier(s)

- Maximum noise levels expected 1 metre from the affected façade of any residential unit adjacent to the site(s)
- Design and provision of site hoardings
- Provision of off road parking for all site operatives
- Measures to prevent the transfer of mud and extraneous material onto the public highway
- Measures to manage the production of waste and to maximise the re-use of materials
- Measures to minimise the potential for pollution of groundwater and surface water
- The location and design of site office(s) and storage compounds
- The location of temporary vehicle access points to the site(s) during the construction works
- The arrangements for public consultation and liaison during the construction works

Reason: To protect the amenity of local residents

23. Prior to the commencement of development, a scheme for protecting the dwellings/development hereby approved from noise from (the A20) shall be submitted to and approved in the Local Planning Authority. The approved protection measures shall thereafter be completed before the approved dwellings/development are occupied, and thereafter shall be retained as effective protection.

Reason: In order to protect the occupiers of the dwellings from undue disturbance by noise

24. If unexpected contamination is found at any time when carrying out the approved development it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2. Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. (LDF Core Strategy Policy CS1 and CS4)

Sustainable design and construction

25. The development shall be carbon neutral. Each dwelling hereby approved shall be constructed and fitted out so that:

a) the potential consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day as measured in accordance with a methodology approved by the Secretary of State;

b) carbon emissions are reduced by 15% through Low and Zero Carbon Technologies once energy efficiencies have been applied.

Unless otherwise agreed in writing by the Local Planning Authority, no work on each dwelling shall commence until the following details for those dwellings have been submitted to and approved in writing by the Local Planning Authority:

a) Standard Assessment Procedure ("SAP") calculations from a competent person stating the estimated amount of carbon emissions from energy demand with and without LZC technologies installed.

b) Details of the LZC technologies to be used to achieve the 15% reduction in carbon emissions.

The development shall be carried out in accordance with the approved details. The approved LZC technologies shall thereafter be retained in working order unless otherwise agreed in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, no dwelling shall be occupied until SAP calculations from a competent person have been submitted to and approved in writing by the Local Planning Authority for that dwelling stating (i) the actual amount of carbon emissions from energy demand with the LZC technologies that have been installed and what the emissions would have been without them and (ii) the actual amount of residual carbon emissions. No dwelling shall be occupied unless the notice for that dwelling required by the Building Regulations 2010 (as amended) of the potential consumption of wholesome water per person per day has been given to the Local Planning Authority

Reason: In order to (i) ensure the construction of sustainable buildings and a reduction in the consumption of natural resources, (ii) seek to achieve sustainable design features and on-site low and/or zero carbon technologies

and (iii) confirm the sustainability of the development and a reduction in the consumption of natural resources all pursuant to Core Strategy policy CS10, the Sustainable Design and Construction SPD and advice in the NPPF.

26. The development shall be made available for inspection, at a reasonable time, by the local planning authority to ascertain whether a breach of planning control may have occurred on the site (e.g. as a result of departure from the plans hereby approved and/or the terms of this permission).

Reason: In the interests of ensuring the proper planning of the locality and the protection of amenity and the environment, securing high-quality development through adherence to the terms of planning approvals, and ensuring community confidence in the planning system

Drainage

27. (i) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water runoff rate and volume disposed off-site is restricted to that of the existing site without any increase to the on/offsite flood risk).

(ii) No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

i) a timetable for its implementation, and

ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

28. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

29. Construction of the development shall not commence until details of the proposed means of foul water sewage disposal have been submitted to, and approved in writing by the Local Planning Authority in consultation with Southern Water.

Reason: In the interests of providing proper foul water sewage disposal

Archaeology

30. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded

Ecology

31. A mitigation strategy for hedgehog, common toad invertebrates on the site shall be submitted to and approved by the local planning authority prior to the commencement of works and shall be implemented in accordance with the approved details.

Reason: In the interest of protecting the ecology of the area and Core Strategy Policy CS11

32. A survey of water-bodies within 250m of the site to determine the presence of great crested newts shall be carried out prior to the commencement of works. The survey results shall include details of any mitigation measures that shall be submitted to and agreed with the Local Planning Authority and implemented in accordance with the approved details.

Reason: In the interests of the ecology of the area.

33. Any existing trees and hedgerows to be removed shall be undertaken outside the main breeding season from March to August inclusive. If vegetation cannot be removed outside the main bird breeding season, an inspection by a qualified ecologist must be first be completed a maximum of 48 hours before works commence. If during inspection a nest considered to be in use is discovered works must be delayed until the young have fled unless with the prior consent of the local planning authority. Reason: In the interest of protecting breeding birds on the site and Core Strategy Policy CS11

34. Details of the measures to enhance biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works and shall be implemented prior to occupation of the development and thereafter maintained.

Reason: In order to enhance biodiversity of the site in accordance with the NPFF and Core Strategy Policy CS11.

35. The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason: In the interest of Security, Crime Prevention and Community Safety in accord with Policies of Ashford Borough Council Core Strategy Plan 2008

36. Before development commences details shall be submitted (or as part of reserved matters) for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community. This shall provide sufficient capacity, including duct sizing to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction

Reason: in the interests of providing good broadband connections

Notes to Applicant

1. This development is also the subject of an Obligation under Section 106 of the Town and Country Planning Act 1990 which affects the way in which the property may be used. Notes to Applicant
2. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (tel 0330 303 0119) or www.southernwater.co.uk
3. Notwithstanding what is shown on any indicative plans the reserved matters should attempt to retain the existing TPO trees on the site as part the scheme if possible apart from those required to facilitate the access link to the south east by Highmead House

4. The approval is for 28 dwellings and is not agreeing the typologies and floor areas that may have been indicatively shown. The site is considered more appropriate for two storey development in particular on the more exposed northern parts of the site.
5. The BT GPON system is currently being rolled out in Kent by BDUK. This is a laid fibre optical network offering a single optical fibre to multi point destinations i.e. fibre direct to premises

1. Working with the applicant

In accordance with paragraphs 186 and 187 of the NPPF Ashford Borough Council (ABC) takes a positive and proactive approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application
- where possible suggesting solutions to secure a successful outcome,
- informing applicants/agents of any likely recommendation of refusal prior to a decision and,
- by adhering to the requirements of the Development Management Customer Charter.

In this instance:

- was provided with pre-application advice,
- . "...the applicant/ agent responded by submitting amended plans, which were found to be acceptable and permission was granted/ the amended plans did not address all the outstanding issues, and permission was refused..."
- The applicant was provided the opportunity to submit a viability case and then amendments to the scheme removing the phase 2 signalised access proposals and details of access link between the two phases. . .
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background Papers

All papers referred to in this report are currently published on the Ashford Borough Council web site (www.ashford.gov.uk) . Those papers relating specifically to this application may be found on the [View applications on line](#) pages under planning application reference15/01550/AS.

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Annex 1



Appeal Decision

Site visit made on 13 October 2015

by David Spencer BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27/10/2015

Appeal Ref: APP/E2205/W/15/3067543

Highmead House, Hythe Road, Willesborough, Ashford, Kent TN24 ONE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew Higgins against the decision of Ashford Borough Council.
 - The application Ref 14/00255/AS, dated 28 February 2014, was refused by notice dated 10 December 2014.
 - The development proposed is a residential development for the retention of Highmead House and the construction of 28 residential units comprising 1x1 bed, 6x2 bed, 1x3 bed, 13 x 4 bed, 7 x 5 bed, with vehicular access in 2 x phases from A20.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Higgins against Ashford Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was originally submitted in outline with all matters reserved except for access and layout. The original description for the proposal was for 37 dwellings and I have noted the formal request from the appellant dated 8 October 2014 that the description is amended to that given above. From the Council's committee report and decision notice I am satisfied that they have considered the appeal proposal on the basis of the amended description and so shall I.
4. The appellant has also requested in correspondence dated 7 November 2014 that layout should be a reserved matter. Again, I am satisfied that the Council's consideration of the appeal proposal was on this basis, including the submitted plans which clearly state an 'indicative layout'. Accordingly, I too have dealt with the appeal proposal on the basis it is in outline with all matters reserved except for access.
5. The appellant has submitted a draft and unsigned legal agreement under the auspices of Section 106 of the Town and Country Planning Act 1990 (the Act) which would provide for various planning obligations. There are a number of intricate matters relating to the planning obligations which I deal with in detail in my decision, having regard to the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.

Appeal Decision APP/E2205/W/15/3067543

Main Issues

6. The main issues in this appeal are as follows:
- i. Whether or not residential development would represent, in principle, an acceptable use for the site in planning terms;
 - ii. The effect of the appeal proposal on the character and appearance of Highmead House and its surroundings, with particular reference to the effect on the trees on the site;
 - iii. Whether or not adequate arrangements are made for the disposal of surface water from the site;
 - iv. Whether or not the appeal proposal would provide for an appropriate mix of affordable housing; and
 - v. The effect of the proposal on the provision of infrastructure and facilities as part of the planned expansion of Ashford, including whether the proposal would make adequate provision for any additional need for infrastructure, services and facilities arising from the development.

Reasons

Principle of residential development

7. The appeal site forms part of a wider allocation identified as Site U14 'Land at Willesborough Lees' as set out in the Ashford Local Development Framework Urban Sites and Infrastructure Development Plan Document 2012 (the USIDPD). The USIDPD has been adopted in accordance with the National Planning Policy Framework (NPPF) and encompasses the presumption in favour of sustainable development at Policy U0. Accordingly, I attach significant weight to the contents of the USIDPD.
8. The accompanying policy for Site U14 is unambiguous that the allocation is for residential development with an indicative capacity of 200 dwellings. The policy sets out criteria to manage how the allocation will come forward but neither the proposals map nor the wording of the policy or the supporting text indicate that the appeal site is to be differentiated in any way in terms of land use from the wider residential allocation. Accordingly, the appeal site is explicitly allocated for housing in a development plan prepared and adopted by the Local Planning Authority (LPA).
9. I note that the appeal site was subject to a lengthy pre-application process including a design workshop with local councillors, residents and other stakeholders in November 2013, the outputs of which were reported in January 2014. The design workshop forum involved group working and I am mindful of the appellant's submission that the recommendation for a care home and/or sheltered housing was not a universally shared vision for this site. This is reflected in the main outcomes¹ which refer principally to new housing on site with only one the outcomes referring to the possibility of an opportunity for a care home and/or sheltered accommodation. Accordingly, the design workshop did not provide a consensually conclusive alternative to housing on the appeal site.

¹ Section 7.4, pages 29-30 Design Council/CABE Highmead House Workshop report 28 January 2014

Appeal Decision APP/E2205/W/15/3067543

10. I understand that there may well be practical planning reasons for seeking such a use on the appeal site given the adjoining Pilgrim's Hospice and the potential to integrate such a use around the grand Edwardian house and within its sylvan setting. However, the site is not allocated in the USIDPD for a C2 residential institution use². The principle of housing on the appeal site has been established and the NPPF emphasises the importance of a plan-led system³. Such an approach provides certainty to local communities and to those making investment decisions in development and infrastructure. I appreciate the design workshop process was intended to assist the preparation of detailed plans for the development of the appeal site, however, I do not consider the outcomes of workshop sufficiently indicate otherwise than the principle of the appeal site for housing would be acceptable as set out in the adopted development plan.
11. I therefore conclude that the proposed residential development would represent, in principle, an acceptable use for the site in planning terms. The proposed land use would be in accordance with Policy U14 of the USIDPD. The appeal proposal would also accord with the core planning principles at paragraph 17 of the NPPF insofar as they relate to the objectives that planning should be genuinely plan-led and that sufficient land should be allocated to meet the housing needs in the area.

Character and Appearance

12. Highmead House is an imposing 2½ storey Edwardian residence of principally red brick and tile construction and generous vertical proportions. It is approached from the A20 Hythe Road through a gateway entrance with a small lodge dwelling to the west of this entrance. The appeal site is not in a conservation area or covered by any special landscape designations. Highmead House is generally not visible from the A20 or in long distance views from Hinxhill Road or Bockham Lane due to its broadly central position within its sizeable 2.32 hectare plot and surrounding maturing vegetation. The grounds to the house include formal lawn areas, a lawn tennis court, a walled kitchen garden, areas of grassland and a notable number of trees and hedges.
13. The appellant has submitted a detailed arboricultural assessment of the site identifying approximately 100 individual trees. An appreciable number of these trees are protected⁴ including 3 impressively tall Wellingtonia specimens along the driveway approach, a small group and individual trees to the north-west of the house, a group near the lodge and a notable woodland group to the south-east of the site adjacent to the A20. A number of trees on the site, which is slightly elevated above the A20 and the undulating farmland to the north, are conspicuous in the wider landscape and skyline, including the 3 Wellingtonias⁵, a Turkey Oak on the northern boundary⁶, and specimens within the woodland group in the south-east corner of the site.
14. The submitted indicative layout and details of the access arrangements show that approximately half of the trees on the site would need to be removed to facilitate the proposed scale of development. Additionally, access would be required across the root protection areas of several trees, notably to the south-

² As defined in The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015

³ Paragraphs 2, 11 and 12, NPPF

⁴ Tree Preservation Order No.4 2010

⁵ Trees T47, T49, T56 on Tree Survey Plan;

⁶ Tree T32 on Tree Survey Plan

Appeal Decision APP/E2205/W/15/3067543

west of Highmead House. I have little evidence to dispute that the arboricultural assessment has not correctly applied the relevant standards⁷ in categorising the quality of the trees on the site. Accordingly, a significant number of the trees and hedges proposed for removal would be of low quality and value. I noted this would include the removal of scots pines and apple trees to the north-west of the house and some specimens (mainly Leyland Cypress) within the small Group G2 of the 2010 Tree Protection Order (TPO) to the west of the house. There would also be the removal of a number of lower grade Scots Pines and a Sycamore within the woodland area of the TPO to enable the construction of Plot 16. However, from my observations on site I am satisfied that the removal of these lower quality specimens would not harm the character and appearance of the appeal site. They are not especially established specimens, a number have defects⁸, and they have a particularly low public amenity value given their position within the site.

15. I also noted that the proposed access would result in the removal of a notable length of hedging and smaller tree specimens along the boundary to the south-west corner of the site and at the road frontage onto Hythe Road. This area is indicated on the allocations map for U14 as the point of access for the link road through the allocation to the William Harvey hospital site. Consequently, it was foreseen in preparing the allocation that the present verdant character of this location would change. Given the superstore delivery area opposite and the urbanised approach to the roundabout on this part of Hythe Road including streetlighting, bus stops and signage, I do not consider the loss of this low quality and value vegetation to be especially harmful.
16. Of more significance is the evidence that to facilitate the proposed development it would be necessary to remove a small number of B category trees (moderate quality and value) including individually protected specimens⁹. I have considered carefully the appellant's evidence and whilst I note there are no sound arboricultural reasons for their removal, I nonetheless find that the proposed removal of these specimens would not significantly harm the character and appearance of the site by virtue of their relatively modest individual and cumulative contribution to the verdant qualities of the site. Their removal would not significantly denude any part of the site such that the dense tree coverage to the Hythe Road frontage would remain, as would the wider wooded amenity value of the site.
17. Importantly, the proposed layout would retain those trees of a high quality and value on the site, as well as a notable of other trees, with potential for further landscaping. These are positive factors in favour of the appeal proposal. A number of these trees would be retained in a proposed 'green corridor' through the centre of the site. I note the Council has reservations that this would be the visual result, however I find the proposed retention of the Wellingtonias within an open space with a footpath connecting the former driveway entrance to Highmead House would be a positive feature to the scheme and would make a notable contribution to retaining the context of the original approach to Highmead House, thus, in some small way preserving a part of its setting.

⁷ BS5837:2012

⁸ As detailed at Appendix 2 to Arboricultural Impact Assessment 2786_RP_005 Rev A

⁹ TPO tree T7 (Tree Survey T30), Scots Pine in TPO G2 (Tree Survey T41); Scots Pine in Woodland Area (Tree Survey T102)

Appeal Decision APP/E2205/W/15/3067543

18. The proposed layout would require access across the root protection areas (RPA) of those trees shown to be retained to the immediate south-west of Highmead House including two of the visually important protected Wellingtonias. From the evidence before me I am satisfied that the proposed incursion into the RPA would be acceptable in principle subject to incorporating and renewing the existing hard surfacing of those parts of the driveway already in situ and careful construction methods including a cellular confinement system to spread the surface pressure. I note the LPA's concerns regarding whether refuse and other heavy vehicles can be accommodated on cellular systems but I accept the appellant's submission that technical details could be provided prior to any commencement. As such I am satisfied that these necessary measures could be precisely secured by condition.
19. I also note the submissions that 28 dwellings would represent an overdevelopment of the site. The indicative layout demonstrates that this quantum of housing could be accommodated on the site and I consider the impact acceptable given the layout retains those tree specimens of highest arboricultural and amenity value. I also find the proposed layout would retain sufficient separation to provide an appropriately spacious setting such that the scale and architecture of Highmead House would not be oppressively enclosed by the surrounding residential development. In particular the retention of the outbuildings to Highmead House and open garden areas to the east would assist in preserving the immediate setting of the house. Furthermore, as I have set out above, the proposed green corridor to the south of the house would make a very positive and significant contribution to retaining the verdant context to the southern approach to Highmead House.
20. I find the proposed scale and density would reflect the outcomes of the design workshop¹⁰ for generally low density development around Highmead House with higher density adjacent to the A20. I am satisfied the proposed layout would secure the high quality of development sought by the design workshop and would successfully integrate with those landscape features on the site which merit retention, as espoused at paragraph 6.119 of the USIDPD. Matters of layout and design would be reserved and in this way the LPA would retain control on the detailed design response to the qualities of Highmead House.
21. Overall, the residential allocation of the site in the USIDPD would inevitably result in a change of the verdant character of the appeal site. I note neither the supporting text nor Policy U14 of the USIDPD contain specific provisions for new development to retain Highmead House. In my view the proposed indicative layout reflects an appropriate net developable area and would secure a suitable density of development. It would strike the correct balance of delivering new housing in a sustainable location whilst allowing for the design and construction quality of Highmead House and its landscaped grounds as an example of grander Edwardian domestic architecture to be more widely appreciated.
22. I have noted the proximity of the Lacton Green Conservation Area and the nearby Grade II listed building at Summerhill on Hythe Road. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special regard to the desirability of preserving a listed building or its setting. Similarly Section 72(1) of the Act requires me to pay

¹⁰ Land at Willesborough Lees Highmead House Workshop CABE 28 January 2014

Appeal Decision APP/E2205/W/15/3067543

special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. These are stern tests which go beyond material planning considerations. However, given the urbanised character to the west of the appeal site on the A20 approach into Ashford, dominated by the superstore and associated infrastructure and the degree of separation of the appeal proposal to these heritage assets I am satisfied that there would be no harm to their respective settings.

23. I therefore conclude that the appeal proposal would not have a harmful effect on the character and appearance of Highmead House and its surroundings, with particular reference to the effect on the trees on the site. As such the objectives of Policies CS1 and CS9 of the Ashford Local Development Framework Core Strategy 2008 (the CS) Policy EN32 of the Ashford Borough Local Plan 2000 (the saved LP) and Policy U14 of the USIDPD would not be compromised insofar as they relate to character and appearance, securing design quality and protecting important trees and woodlands. The appeal proposal would also accord with the objectives of the NPPF to secure high quality design and to take account of the different roles and character of different areas.

Surface Water Disposal

24. The appeal proposal is supported by a detailed Flood Risk & Drainage Assessment (FRDA) and a Soakage Testing Report. The FRDA assessed that infiltration (soakaway) would be the most practicable solution for surface water drainage at the appeal site. This has confirmed by the soakage testing report which identifies that suitable percolation rates could be achieved over most of the site. I note the Environment Agency removed its objection to the scheme subject to a condition requiring a surface water drainage scheme for the site to be approved by the Agency and the LPA.
25. The Council's Sustainable Drainage Supplementary Planning Document (SPD) states that soakaways are low on the level of appropriateness for Sustainable Drainage Systems (SUDS) at the appeal location. I understand the submissions from the Council's engineer that a more strategic SUDS solution, would allow for attenuation and discharge into the Aylesford Stream, mimicking natural behaviours. The Council considers that this would be a more practicable solution for the wider Site U14 allocation, however, there is no policy requirement in USIDPD for strategic SUDS for the larger allocation although criterion i) requires a full flood risk assessment prepared in consultation with the Environment Agency.
26. The appellant's FRDA seeks to meet flood risk assessment requirements for the appeal site and I see no reason why flood risk should be assessed beyond the red line of the appeal site given that the soakage assessment has demonstrated that the geology underlying the site can allow for a contained soakaway solution for the appeal proposal. The Environment Agency has considered the appellant's evidence and I attach significant weight to the removal of the Agency's objection. There are matters of detail which remain of concern to the Council and although the layout is indicative at stage and has changed from that considered in the soakage testing report, I nonetheless consider there to be reasonable opportunities for the construction of the sizeable soakaways within the appeal proposal. As such details of the precise size and location of the soakaways could be reasonably conditioned as part of

Appeal Decision APP/E2205/W/15/3067543

the surface water drainage details to be approved by the Environment Agency and LPA. I also consider reserved matters and conditions to be appropriate mechanisms for the parties to explore other forms of surface water attenuation for the appeal proposal such as porous paving and water butts.

27. I therefore conclude that subject to conditions adequate arrangements could be made for the disposal of surface water from the site. Accordingly, the appeal proposal would not compromise the objective of Core Strategy Policy CS20 and the supporting Sustainable Drainage SPD for all development to include appropriate SUDS for the dispersal of surface water, so as to avoid any increase in flood risk or adverse impact on water quality. In this way the appeal proposal would also accord with the principles of the NPPF to take full account of flood risk and the requirement at paragraph 103 of the NPPF to ensure that flood risk is not increased elsewhere.

Affordable Housing Mix

28. The submitted indicative layout includes a schedule of accommodation which identifies plots 21-28 as affordable units, which is approximately 28.5% of total provision compared to 30% required by Core Strategy Policy CS12. At this outline stage the final mix of typologies would be a matter that can be dealt with at the reserved matters stage including the proportions of rent and shared ownership. I note the Council's enabling officer sought a mix of 5 smaller units (<2 bedrooms) and 3 medium/large units (>3 bedrooms). The appellant's indicative mix is 6 smaller units and 2 medium/large units. On this basis the appeal site would deliver a mix of affordable housing which would not be at significant variance to the findings of the most recent Strategic Housing Market Assessment 2014 at tables 43 and 60.
29. I am cognisant that the appellant has submitted a draft planning obligation in the form of a Unilateral Undertaking (UU) which reduces the affordable housing provision to 4 units (approximately 15%). Such an approach would be clearly contrary to Core Strategy CS12 and Council's Affordable Housing SPD 2009 and the appellant's late viability evidence is not before me. In any event I cannot attach weight to a legal document which is not signed or executed. The submitted plans that were before the Council and are now before me show an appropriate mix of affordable housing. I see no reason why details either as part of any planning obligation or through a condition requiring the submission of an affordable housing scheme would not secure an appropriate mix of affordable housing.
30. I therefore conclude that the appeal proposal would provide for an appropriate mix of affordable housing. Accordingly, the objective of Core Strategy Policy CS12 and the supporting Affordable Housing SPD 2009 in relation to the range of affordable dwelling types and sizes would remain uncompromised. The appeal proposal would also accord with the NPPF in terms of delivering a wide choice of high quality homes and creating inclusive and mixed communities.

Strategic Delivery and Local Infrastructure

31. The appeal site is only a small proportion of the wider allocation at Site U14 and I understand that the majority of the balance of the allocation is under option to a national house builder, Bellway Homes. One of the rationales for allocating site U14 is the delivery of a link road connecting the A20 to the William Harvey hospital site and thus helping to remove traffic from junction 10

Appeal Decision APP/E2205/W/15/3067543

of the M20. The allocation has an indicative capacity of 200 units which suggests some limited flexibility on the ultimate number of dwellings that may be yielded on Site U14. As such I do not accept submissions that the release of the appeal site would leave a prescribed reduced balance on the rest of the site upon which to fund and deliver the link road. Furthermore, I have very little firm evidence before me that the release of the appeal site as a separate scheme would fundamentally compromise the viability of the wider allocation to deliver the link road. In this regard I note the LPA has not sought at Table 1 of the Planning Committee report or in its comments on the appellant's draft UU in September 2015 a proportional financial contribution to the link road.

32. Paragraph 6.119 of the USIDPD states that the appeal site "...could be redeveloped as a separate scheme..." provided it is accessed through the new A20 junction and does not prejudice the main site access and the associated development. The policies map shows the access point for the new link road through Site U14 connecting to the A20 to the west of the Highmead House boundary. Access is not a reserved matter and the appellant has submitted detailed drawings of what would be a phased approach securing an initial self-contained access to the appeal proposal which could be reconfigured to enable the wider signalled controlled junction. This dual phase approach has been accepted by the Local Highway Authority, subject to conditions and provisions in terms of respective Section 106 and Section 38 mechanisms.
33. I have noted the concerns of Bellway Homes in respect of land controls and future highway infrastructure delivery. In response the appellant has submitted a revised draft Unilateral Undertaking (UU) which provides me with sufficient assurance that the appellant is willing to put in place those measures which Bellway Homes seeks in order to preclude the scenario of land ownerships frustrating future delivery at Site U14. Such an approach requires as a minimum a bi-lateral agreement given the land titles affected by the proposed two phase access arrangement and I accept the submissions of the LPA that it may well be necessary for the local highway authority to be a signatory to any such agreement.
34. I accept that this arrangement would be a convoluted approach but subject to the safeguards identified, I am not persuaded that the appeal proposal would unduly fetter or prejudice the phased delivery of the strategic link road or the implementation of an upgraded point of access onto the A20. In the absence of details as to the timeframe for the implementation of the wider allocation I do not find the appellant has been unreasonable, in principle, in seeking to bring forward at an earlier stage a small part of the allocation which is clearly identified in USIDPD as a separate land unit. I share the appellant's submission that the USIDPD allows for a compartmentalised approach and I find the appellant's Contextual Schematic Development Plan shows how the appeal proposal would successfully integrate with the wider allocation. As such, the appeal proposal, in isolation, would not conflict with the wider requirements identified in Policy U14.
35. The LPA has sought contributions towards a comprehensive list of local infrastructure as detailed in its reasons for refusal. The LPA position has been amplified in expansive schedules of comments which reference, amongst other things the various development plan policies and supplementary planning

Appeal Decision APP/E2205/W/15/3067543

documents which underpin the LPA's approach on local infrastructure projects. This evidence is augmented by further submissions from Kent County Council¹¹.

36. Paragraph 204 of the Framework states that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. These tests are repeated in law at Regulation 122 of the CIL Regulations 2010.
37. I am not persuaded that contributions for adult social care, community learning, local health care and voluntary sector would meet the legal tests, especially in terms of being directly related. These would appear to be wider societal infrastructure for which other funding streams would contribute towards, including council tax revenue from the appeal proposal. I am also not persuaded that on-site parking controls and monitoring are necessary given distance of the site from the William Harvey hospital complex. Nor is a monitoring fee necessary given the Council's role as a local planning authority is to administer, monitor and enforce obligations.
38. I also note the submission of Bellway Homes that the appeal proposal should make a proportional contribution to the link road, irrespective of its omission from the LPA's reason for refusal. For the reasons set out above I am not persuaded that the link road is necessary or directly related to the appeal proposal. I also attach appreciable weight to the in-principle agreement of the local highway authority that the site can be safely and adequately served by the proposed access arrangement.
39. However, from the evidence before me I am satisfied that those contributions relating to allotments, the safeguarding of land for phase 2 junction for the wider allocation, carbon off-setting; capital costs for youth services, children's and young people's play space, natural green space, library books, outdoor sports pitches, primary and secondary education, strategic parks, public art and a proportional contribution towards M20 junction improvements would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
40. Accordingly, I find a number of local infrastructure provisions would be necessary to make the development acceptable in planning terms and as such the absence of a completed planning obligation to secure their delivery is a short coming that requires further consideration given that conditions cannot be used to secure the positive payment of monies. In examining the required contributions it seems reasonable to me that there is a likely prospect that one or more other developments in the Borough would have made financial contributions to what are generically defined local infrastructure projects. This is of concern given CIL Regulation 123(3)(b) as amended places a limitation on the extent to which planning obligations under Section 106 of the Act in respect of CIL liable infrastructure may constitute a reason for granting planning permission. I have very little evidence from either the LPA, the County Council, the appellant or third parties on whether pooling thresholds have been exceeded. Nevertheless, because the UU as drafted is incomplete and unsigned by the parties, I have not considered this matter further having

¹¹ Statement of 25 August 2015

Appeal Decision APP/E2205/W/15/3067543

regard to my findings below on whether a condition securing a planning obligation would be acceptable or not.

41. I accept there was nothing unreasonable in seeking to determine a planning application subject to the provision of a planning obligation through a Section 106 mechanism. However, there is particular guidance on planning obligations in respect of planning appeals as set out in procedural guidance¹² which is relevant to this appeal. The appeal proposal was formally determined by the Council on 10 December 2014 following its Planning Committee meeting on 19 November 2014. The appeal was submitted on 4 June 2015. The appellant subsequently informed the appeal process on 29 July 2015 that the appellant's mortgage provider does not, as a matter of principle, sign planning obligations. Against this context, and unable to secure an alternative mortgage provider, the appellant has submitted the draft and unsigned UU which does not specify the mortgage provider. The draft UU has however been further revised to take account of the submissions on behalf of the adjoining developer regarding wider highway infrastructure at the allocated site U14.
42. The amendments to the UU in respect of a second phase of site access to the wider allocation necessitate obligations that would need to be imposed on land beyond the control of the appellant. I accept this could be secured by way of a bi-lateral undertaking but this additional intricacy has come at a relatively late stage in the appeal process and has engendered detailed concerns from both the developer and the local highway authority¹³.
43. Given the practical issues around completing a mechanism under Section 106 of the Act the appellant requested that the matter of the planning obligation could be secured by way of a negatively worded (Grampian) condition. I am mindful that paragraph 203 of the NPPF encourages the use of conditions to enable development to come forward. However, the Planning Practice Guidance (PPG) elucidates that a negatively worded condition limiting that the development cannot take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases¹⁴.
44. The PPG does not exclude the use of such a condition and the approach submitted by the appellant is addressed more specifically in the PPG at what I will refer to in this decision as paragraph 10 of that guidance¹⁵. Paragraph 10 states that in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk.
45. The appellant's circumstances are not exceptional. In advancing with the appeal, the procedural guidance is clear at Annexe N, paragraph N.2.1 that executed and certified copies of planning obligations must be received no later than 7 weeks from the state date of the appeal in written representation cases¹⁶. The appellant could have been under no doubt during the planning application process and in the Council's reasons for refusal that a planning obligation would be required were an appeal to be pursued. Given this clarity

¹² Procedural Guide: Planning appeals – England. Planning Inspectorate 31 July 2015

¹³ Documents 2 and 3 appended to LPA final comments on Draft UU

¹⁴ Planning Practice Guidance ID 21a-005-20140306 and 21a-010-20140306

¹⁵ Planning Practice Guidance ID 21a-0010-20140306

¹⁶ The method sought by both parties in this appeal.

Appeal Decision APP/E2205/W/15/3067543

- and the intervening 6 months between the Council's decision and appeal start I find the relatively late discovery that the appellant's mortgage provider would not sign a planning obligation is a far from an exceptional occurrence and one which could have been managed with timely preparation.
46. Admittedly, the additional complexity arising from a second land ownership in respect of the twin phase access arrangement represents a more involved scenario. However, I am not persuaded it means that the appeal proposal constitutes a "complex and strategically important development" as envisaged by paragraph 10 and therefore exceptional circumstances for a negatively worded condition. As I have set out above Policy U14 of USIDPD and the supporting text at paragraph 6.119 do not frustrate the appeal site coming forward in isolation of the wider allocation. The proposed 28 dwellings on the appeal site could be delivered without a strategic requirement to complete the link road to the hospital and the appeal proposal is not contingent on delivering the link road.
47. It would appear to be the environmental constraints along the site frontage of the appeal site to the A20 Hythe Road that have necessitated a phase 1 access point proximate to the position where a more strategic junction would be later required for the link road. Any complexity in terms of the appellant's access details stems from these locational constraints and matters of timing in terms of seeking to deliver a smaller, independent scheme on the Highmead House site in advance of the wider allocation coming forward. I have little evidence that a strategic junction to the wider site onto the A20 would require land on the appeal site or that the scale of the appeal proposal would significantly deduct from the 200 dwelling indicative capacity such that it would make a strategic contribution towards the delivery of the allocation or housing numbers more generally in the Borough. Accordingly, the appeal site and the appeal proposal would not represent the more complex and strategically important development envisaged by paragraph 10 of the PPG and I am therefore not persuaded a negatively worded condition would meet the tests at paragraph 206 of the NPPF.
48. As such I place weight on the general guidance in the PPG that it is typically better to finalise a planning obligation before planning permission is granted. Such an approach provides certainty that development would be deliverable. Whilst I accept the appellant is willing to resolve the planning obligation matter, the late uncertainties over viability indicated by the appellant and the notable degree of ambiguity in how the UU as currently drafted would be executed¹⁷, including the vital involvement of third parties, leads me to be significantly concerned that were a condition imposed it would not be resolved and discharged within a reasonable timeframe.
49. Similarly, I have very little evidence that the appellant has proactively taken steps, again, at a very late stage in the process, to secure an alternative mortgage provider. I also have serious concerns, given the submissions on behalf of the adjoining developer interest and lack of detailed engagement with the local highway authority¹⁸, that a bi-lateral agreement could be completed, particularly given the submissions on equitable contributions to the wider link road. This adds to my concerns that a negatively worded condition, along the

¹⁷ Summarised in Blake Morgan letter dated 7 September 2015, Document 2 to LPA final comments on draft UU
¹⁸ Correspondence from KCC Legal Services 18 September 2015 at Appendix 4 to LPA response to draft UU.

Appeal Decision APP/E2205/W/15/3067543

lines suggested by the appellant, would not be reasonable in all other respects as required at paragraph 206 of the NPPF.

50. I therefore conclude that the appeal proposal can acceptably come forward in independently of the wider allocation and that the appellant has satisfactorily demonstrated how the appeal proposal would integrate to adjoining development. I am also satisfied that the appeal proposal would not prejudice the phased delivery of the link road in terms of viability or for other reasons. However, the appeal proposal would result in demands on local infrastructure where measures including financial contributions would be necessary and would meet the various requirements of paragraph 204 of the Framework and CIL Regulation 122.
51. I have concluded that the appeal proposal does not constitute exceptional circumstances as defined in paragraph 10 of the PPG such that a condition should be imposed requiring a planning obligation. Accordingly, without provisions in place I conclude that the effects of the proposal on local infrastructure, including open spaces, youth services, education facilities, libraries, public art and local transport infrastructure would be harmfully unacceptable. The proposal would therefore fail to comply with Core Strategy Policies CS1, CS2, CS8, CS9, CS10, CS18, UISDPD Policy U24 and saved LP Policy CF21 as well as the provisions of the Public Green Spaces and Water Environment and Affordable Housing SPDs which seek the provision or payment for all services, facilities and other improvements directly related to the development. It would also fail to accord with the objective of the NPPF to deliver sufficient community and cultural facilities and services to meet local needs.

Conclusions

52. I have found that the principle of the appeal proposal would be acceptable in planning terms and that it could acceptably come forward independently of the wider allocation at Site U14 of the USIDPD, that it would not harm the character and appearance of the appeal site, and that adequate surface water drainage and an appropriate mix of affordable housing could be secured by condition. In this way the appeal proposal would represent many attributes which are encompassed in the presumption in favour of sustainable development as set out in Policy U0 of the USIDPD and the NPPF.
53. However, the NPPF states that sustainable development is not narrowly defined and that its characteristics must be secured jointly and simultaneously. The economic dimension of sustainability refers to the identifying and coordinating development requirements, including the provision of infrastructure. The social dimension of sustainability includes communities having access to local services. This is further reflected in the 12 core planning principles of the NPPF including that planning should deliver sufficient community and cultural facilities and services to meet local needs.
54. In the absence of a completed planning obligation to secure identifiable and necessary local infrastructure, and my conclusions that there are not exceptional circumstances to justify the use of a negatively worded condition, the appeal proposal would place a harmful burden on local infrastructure. This would be contrary to the holistic approach of the adopted development plan and NPPF which seek to ensure that the additional infrastructure demands arising from new development are met. As such the appeal proposal would not

Appeal Decision APP/E2205/W/15/3067543

constitute sustainable development in that the harm arising from the lack of contributions towards local infrastructure outweighs the benefits that have been identified and accordingly it should not succeed.

55. I have had regard to all other matters raised, but have found nothing to change my conclusion that this appeal should be dismissed.

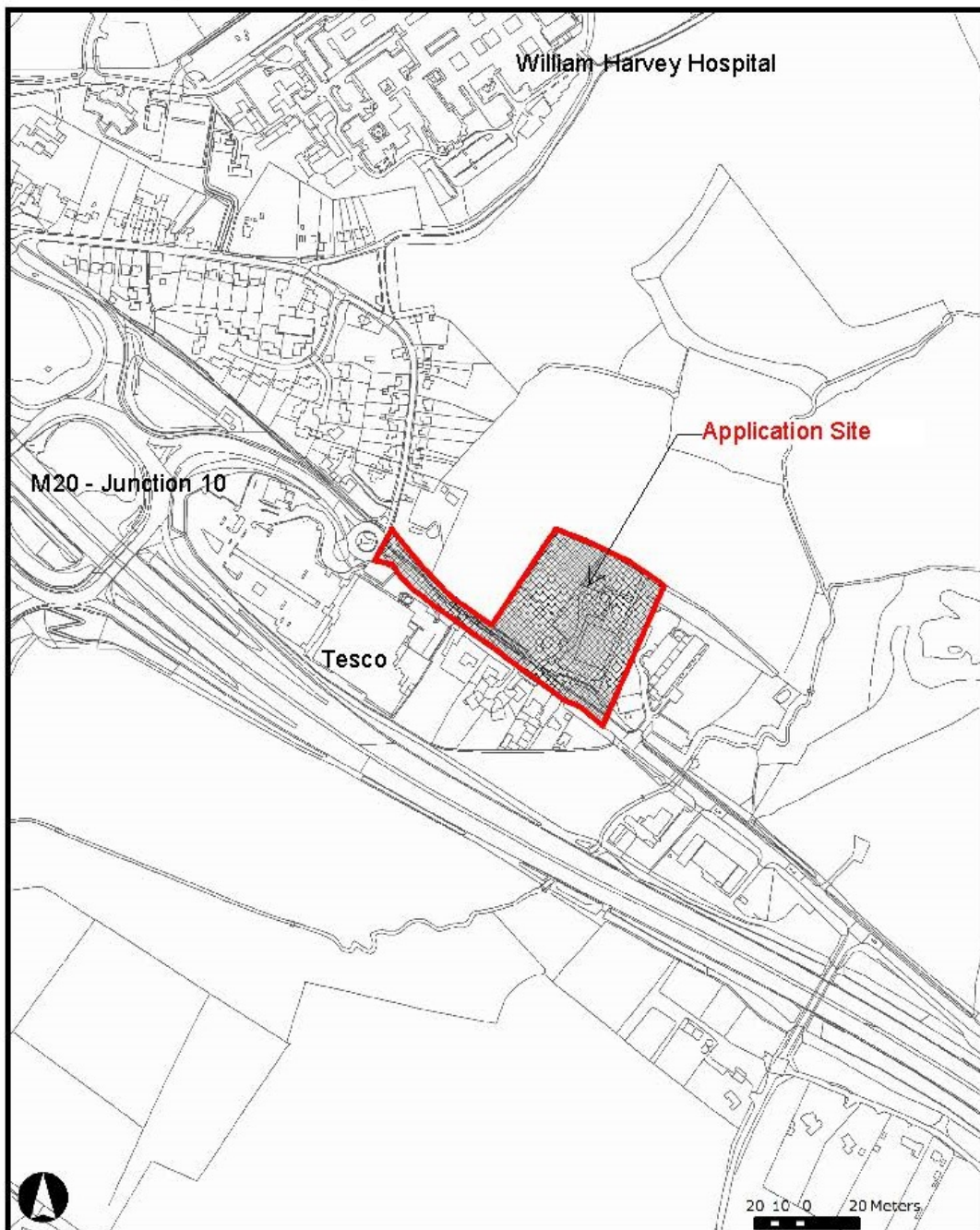
David Spencer

INSPECTOR.

Annex 2



Planning Committee Site Plan - 15/01550/AS



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Annex 3

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25235/A3/LW/djg/rw

23 December 2015

Dear Mark

HIGHMEAD HOUSE, HYTHE ROAD, WILLESBOROUGH, ASHFORD
PLANNING APPLICATION REFERENCE 15/01550/AS

I am writing to you on behalf of Bellway Homes in objection to the above Outline application which has been submitted by Broadlands Planning Ltd on behalf of Highmead House, for 28 dwellings. All matters are reserved except access.

The application is a duplicate of that which was refused at Planning Committee (application ref 14/00255/AS) on 10 December 2014 and subsequently dismissed at Appeal on 27 October 2015 (Appeal Ref APP/E2205/W/15/306754). Barton Willmore submitted representations on behalf of Bellway Homes to the Appealed scheme earlier in the year. The objections raised significant concerns over the deliverability of the proposed access arrangements to serve the wider allocated site (Policy U14 – Land at Willesborough Lees) which is largely controlled by Bellway Homes. The re-submitted scheme fails to address these concerns, which were endorsed by the recent Appeal decision, as set out further in this letter. As such it is our opinion that the Borough Council cannot support the re-submitted scheme and the application should be refused.

Overview

The application site (Highmead House) forms part of a wider allocated site, known as 'Land at Willesborough Lees' and is allocated under Policy U14 of the Adopted Urban Sites and Infrastructure DPD (USIDPD) 2012. This development proposes to come forward ahead of the wider site allocation and is proposed to be served off a temporary access from the Hythe Road (A20). When the balance of the allocated site comes forward a further access arrangement is intended (Phase 2 access) and the temporary access blocked up with new reinstated landscaping.

The Phase 2 access, which the application also seeks consent for, principally lies within the land controlled by Bellway Homes or within land controlled by Kent Highways (the off-site highway works). However, it is evident from submitted drawing 30583/AC/027 Rev A that due to the levels difference between the site and the Hythe Road, that significant retaining earthworks are required to the east and west of the junction. The earthworks to the east of the junction extend some considerable distance into the Highmead site area and the Phase 2 access would not be deliverable without these works i.e. the road could not be retained.



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25235/A3/LW/djg/rw

2

23 December 2015

As set out in the Transport Assessment submitted in support of the application (see para 3.13) it is proposed that the land required on the Highmead site to deliver the Phase 2 access will be secured under a Section 38 (S38) Agreement with KCC Highways, which a S106 will require is entered into. The area to be made over to KCC Highways is identified on the 'Section 38 Adoptable Areas Plan' (Dwg 15644/S38-02 Rev B). The submitted Planning, Design and Access Statement (para 27.a) refers to this drawing being submitted with the proposals, but no such plan can be found accompanying this application. We have therefore relied on the plan of the same title and dwg number, as submitted with the refused scheme (ref 14/00255/AS).

As set out in our representations to the Appeal, we have a number of fundamental concerns regarding securing the works through a S38 Agreement and the area proposed to be conveyed to KCC Highways. These concerns are unchanged in view of this submission, which are identical to the refused scheme and are as follows:

- 1) A S38 Agreement provides no security and places no obligation on the developer to hand over the land unlike a S106 Agreement. As such the land that is required to deliver Phase 2 must be secured through an appropriately worded S106 Obligation. If this is not secured this will give rise to a ransom position which could jeopardise the deliverability of the wider allocated site.
- 2) The S38 plan clearly excludes the necessary earthworks on its land required to facilitate the Phase 2 junction. Enough land must be identified to carry out all the works (including the earthworks) and sufficient space to carry out the works, which should be secured through a S106 and not S38 as stated above. If not enough land is secured this will give rise to a further ransom situation undermining the delivery of the wider allocated site.
- 3) KCC Highways do not usually take earthworks cut slopes under public maintenance. The current mechanism proposed by the Appellant to secure the works through a S38 Agreement is therefore inadequate since it would fail to secure sufficient land to deliver the Phase 2 access.
- 4) In a separate exchange of emails with KCC Highways as part of the Appeal proposals (see attached), it has been confirmed that the S106 Agreement needs to provide for such other land as may be necessary to form the earthworks and/or the roadworks for the Phase 2 access following the completion of the S278 detailed design and associated road safety audits.

In order to satisfactorily achieve the Applicant's stated objective (as set out in the supporting Planning, Design and Access Statement) to allow access to the wider site, whilst not giving rise to a ransom situation, we have identified that the following S106 provisions must be secured in a bi-lateral agreement for this application to be supported:

- a) A S38 plan to be secured that ensures that all the land necessary to deliver the access, which is under the Applicant's control (to be secured in the S106) is included within the land identified as being made over to KCC Highways;
- b) A requirement that all the land necessary to deliver the Phase 2 access is to be made over to KCC Highways through a S38 Agreement to ensure that no ransom strips are retained. The S106 Agreement must also protect against any future adjustments to the junction design that might be necessary to pass Stage 1 and Stage 2 safety audits. The trigger for entering into the S38 Agreement and transferring the land should be prior to commencement of development (of these development proposals), to ensure against a ransom position and to ensure that the Phase 2 access is actually deliverable;

25235/A3/LW/djg/rw

3

- c) A requirement that the Phase 2 access is designed to an adoptable standard to ensure that KCC Highways will take on the access;
- d) A requirement that the Phase 1 access is designed to an adoptable standards to ensure that KCC Highways will take on the access and that it can be eventually stopped up to facilitate the delivery of the Phase 2 access, since the two junctions cannot function together;
- e) Provision that requires that on any Outline and/or detailed application being consented on any part of the adjacent land to the west that requires the Phase 2 access (as identified in this application or any similar access approved), that the Phase 1 access shall be stopped up as soon as the Phase 2 access linking into the development has been delivered up to the Appeal Site boundary. This is paramount because a second access along this boundary is not workable whilst the Phase 1 access is operational. For the purpose of the S106 Agreement, the Phase 2 access should be described as the 'Phase 2 access or similar', in the event the design of the access needs to change or be repositioned to work with the eventual design for the balance of the allocated site;
- f) A requirement for the Applicant to deliver the access connection to the edge of their land ownership, linking the Highmead site with the adjacent development to serve as the new main access route to the proposed scheme (shown indicatively on the layout plan to the front of plots 1 & 2). The connection should be delivered as soon as works commence on constructing the Phase 2 access. This will ensure that access to the proposed scheme can be delivered and no land is retained preventing the wider site allocation coming forward;
- g) A sum of money to be agreed as part of the S106, to be paid to KCC Highways on transfer of the Phase 1 access to KCC Highways, to cover the cost of removing and filling in the Phase 1 access once this is no longer required. It is proposed that the sum is paid prior to the transfer of the Phase 1 access to KCC Highways; and
- h) The owners of the land, on which the Phase 2 access principally lies must be signatories to the S106 as a controlling land owner.

Without the above provisions, this development proposal will fail to ensure that the wider allocated site can be delivered which includes the provision of the essential link road required to serve the Hospital, a key requirement of Policy U14.

At the time the Appealed application was being determined, an updated Unilateral Undertaking (UU) was submitted to the Planning Inspectorate in support of the Appeal by the Appellant (now the applicant). No such UU has been submitted with this application. However, I attach with this letter our comments on the UU submitted with the Appealed scheme should a similar draft agreement be submitted in support of this application.

The enclosed letter sets out in detail our concerns as to the adequacy of the drafting of the UU in that it fails to set out an acceptable level of mitigation and assurance in respect of the necessary highway works. Additionally, we remain of the firm view that a bi-lateral S106 must be entered into, which includes the landowners that control the balance of the allocated Site (Site U14), which the red line for this application extends into. This opinion was endorsed by the Planning Inspector in his decision in respect of the Highmead Appeal, as detailed further below.

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25235/A3/LW/djg/rw

4

23 December 2015

The Appeal Decision

The recent Appeal decision which dismissed the proposals for the same development (Appeal Ref APP/E2205/W/15/306754) on 27 October 2015 is less than 8 weeks old. In reaching his decision the Inspector came to a number of key conclusions regarding the provision of infrastructure, especially with regard to the Phase 2 access and the adequacy of the submitted UU. The findings of the Inspector on these matters is fully endorsed by Bellway Homes as detailed below.

The Inspector specifically concluded that the land necessary to deliver the Phase 2 access is essential to make the development acceptable and that this should be secured through a completed S106 (see para 39 & 40).

However, from the evidence before me I am satisfied that....., the safeguarding, of the land for the phase 2 junction for the wider allocation..... would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development (para 39).

Accordingly, I find a number of local infrastructure provisions would be necessary to make the development acceptable in planning terms and as such the absence of a completed planning obligation to secure their delivery is a short coming.....(para 40).

Furthermore, the Inspector acknowledged that to secure the Phase 2 access this necessitates entering into planning obligations which effect land outside the Appellant's control. Consequently the Inspector is in agreement that at the very minimum a bi-lateral agreement must be entered into, including the other landowners, which could also include Kent Highways. See paragraphs 33 and 42 below.

The amendments to the UU in respect of the second phase of the site access to the wider allocation necessitate obligations that would need to be imposed on land beyond the control of the appellant. (para 42)

Para 33 – As such the approach requires at a minimum a bi-lateral agreement given the land titles affected by the proposed two phase access arrangement and I accept the submissions of the LPA that it may well be necessary for the local highway authority to be a signatory to any such agreement.' (para 33 – authors emphasis).

Critically, the Inspector further concluded that this application does not constitute an exceptional case, as defined in the PPG (Reference ID: 21a-010-20140306), where the imposition of a negatively worded condition, prohibiting development until a S106 can be entered into, would be appropriate. We concur with this conclusion and the Inspector's findings (para 45-46) that the proposals are neither strategically important nor very complex and therefore do not meet the tests where the imposition of such a condition could be supported.

Additionally, the Planning, Design and Access Statement submitted in support of these re-submitted proposals acknowledges at para 62 that the Appellant's mortgage at the time of the Appeal *'does not, as a matter of principle sign planning obligations.'* No information has been submitted in support of this application which sets out that this position has changed. It is therefore very unlikely that any S106 agreement of any kind could be completed as purported in the submitted Planning, Design and Access Statement. Bellway Homes would not be willing to enter into any agreement if it does not secure the provisions that have been already outlined.

25235/A3/LW/djg/rw

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Conclusions

The re-submitted scheme is not accompanied by a suitable draft bi-lateral agreement. It, therefore fails to address the Inspector's specific concerns (identified above) regarding the provision of the Phase 2 access, which is essential infrastructure, to ensure the delivery of the balance of the allocated site which Bellway control. The unfettered delivery of the Phase 2 access is necessary to make the development acceptable in planning terms.

In light of the above, this application is contrary to Policy CS8 of the Adopted Core Strategy 2008 which requires that on-site infrastructure requirements are addressed through appropriate S106 Agreements. It is further contrary to USIDPD Policies U14 and U24 in that the application will prejudice the delivery of the A20 access required to serve the wider allocated site and will fetter the delivery of the housing allocation (circa 200 units).

Consequently the proposals fail to comply with paras 203-206 of the NPPF in respect of securing appropriate planning obligations with regards to making a development acceptable, as further expanded upon in the NPPG (Reference ID: 23b-002-20140306). It is also contrary to the fundamental principle of a plan led system.

The proposals can therefore not be supported by the Borough Council and should be refused.

If you have any questions regarding the above then please do not hesitate to contact me. In the meantime I would be grateful if you could confirm receipt of this letter.

Yours sincerely

LUCY WILFORD
Associate

enc. As listed

cc. Julian Goodban – Bellway Homes

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25235/A3/KH/kf

19 August 2016

Dear Mark

HIGHMEAD HOUSE, HYTHE ROAD, WILLESBOROUGH, ASHFORD
PLANNING APPLICATION REFERENCE 15/01550/AS

I am writing to you on behalf of Bellway Homes in objection to the amendments to the proposed Outline application at Highmead House, for 28 dwellings (application reference 15/01550/AS).

The proposed amendments seek to alter the red line on the Site location plan to remove the Phase 2 signalised junction proposal to the A20. As a consequence the description of the development has also been amended to remove reference to the provision of a Phase 1 and a Phase 2 access from the Highmead site to the A20 and the inclusion of an option for the provision of a Phase 1 or a Phase 2 access. The new description of development is the following:

'Outline planning permission with some matters reserved (layout, appearance, landscaping & scale) for residential development for the retention of Highmead House and the construction of 28 residential units with vehicular access from the A20 (to be either the provision of a priority junction or only an internal access link to a signalised junction if and when constructed on adjoining land to the west, with the closure / removal of the priority junction if constructed).'

The Red Line

Firstly, the amended layout plans are both marked as being 'indicative' (discussed further below). Notwithstanding this, the submitted plans indicate a Phase 1 access from the Site directly onto the A20 and an access road which links to the site in the control of Bellway to the west and the Phase 2 access.

The Planning Practice Guidance (PPG) (para 024 reference ID: 14-024-20140306) sets the national validation requirements for applications and requires Site Location Plans to include the following:

'The application site should be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development (e.g. land required for access to the site from a public highway,...'



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As the description of development allows for the construction of the Phase 1 or the Phase 2 access and not necessarily both, in accordance with the PPG, the red line on the Site location plan for the Phase 2 access needs to extend to the public highway as this land would be required to carry out the proposed development as detailed within the application description. At present the red line does not extend to the public highway from the Phase 2 access into the Highmead House site, and does not reflect the application description in allowing for either the Phase 1 or Phase 2 access from the A20 to be delivered. The application is therefore invalid as the red line on the Site Location Plan is not in accordance with the requirements as set out in the PPG.

Access Plans

The submitted planning application forms set out that all matters are reserved with the exception of 'Access' which is a matter for determination.

The letter from Broadlands Planning dated 12 August 2016 (the covering letter) sets out drawings that are superseded by new iterations of the indicative site layout with the different access arrangements shown. Both these plans prepared by Taylor Roberts (13/23/100 Rev E & 13/23/101 Rev G) are labelled indicative. It is further noted in the covering letter that it states that the drawings listed below (which includes the highway plans) and all other documentation submitted with the application is provided for illustrative purposes.

Since the submitted layout plans (13/23/100 Rev E & 13/23/101 Rev G) are both labelled 'Indicative' and all documents appear to only be illustrative, it is not clear what exactly the Borough Council is being asked to approve in terms of the access arrangements (no detailed plans are actually submitted for approval). This must be clarified, if 'Access' is a matter for determination to ensure the proposals will not prejudice the wider site U14 allocation from coming forward and further consultation carried out on these plans.

Phase 1 & Phase 2 Accesses

Policy U14 a) of the Urban Sites and Infrastructure DPD (USIDPD) sets the requirement for the development on land at Willeborough Lees to provide a new signal controlled junction including a pedestrian crossing at a point indicatively identified on the Policy map. Paragraph 6.114 of the preamble to the policy identifies the ability of up to 100 dwellings to be accessed from a more simple priority junction prior to completing the link road to the hospital.

The proposed Phase 1 access has been designed to serve the Highmead House development only. The supporting letter from Broadlands Planning of 12 August 2016 states that this Phase 1 access would be stopped up once the Phase 2 access is constructed, in accordance with paragraph 6.114 of the USIDPD. Submitted drawing number 15644/A1/S38-02 Rev C illustrates the relationship of the Phase 1 and Phase 2 accesses and from this the following issues are identified:

- It would not be possible to construct the Phase 2 access with the Phase 1 access in place due to the encroachment of the Phase 1 access on the area required for earthworks for the Phase 2 access;
- The area proposed to be transferred to KCC Highways is tightly drawn round the access points, which are only drawn illustratively. There is therefore no certainty that the land to be transferred would secure sufficient land to ensure the delivery of the Phase 2 access or that the wider development site is not prejudiced from coming forward. Indeed it is considered that a much larger area would need to be transferred to allow for sufficient space for construction.

As Officers are aware, both the Phase 1 and Phase 2 junctions cannot operate together for reasons of highway safety. Therefore it is critical that adequate S106 provisions are secured to ensure the stopping up of the Phase 1 access and the creation of the new road within the Highmead House application site on its western boundary. It is concerning that no detailed wording or provisions have been thus far suggested which secure this. It must be the responsibility of KCC or the owners of Highmead House to secure and deliver these works to make the proposals acceptable to accord with Policy U14.

Stopping up of the Phase 1 Access

As detailed above, the letter from Broadlands Planning of 12 August 2016 states that when the Phase 2 access is delivered, the priority junction at Highmead House would be stopped up and the Highmead House Site would be joined to the Phase 2 access through an access road to the northern boundary. The land for the northern access road along with land adjacent to the Phase 1 access are shown on drawing number 15644/A1/S38-02 Rev C as being transferred to Kent County Council Highways (KCC Highways). If this is the case, following construction of the Phase 2 access it will be the responsibility of KCC Highways to make good the landscaping and provide the road to the western boundary which must be secured as part of any S106.

No details of the landscaping works to fill the Phase 1 access have been submitted. This would require substantial earthworks to remove the road and allow for the Phase 2 access to be built. These works would also require the benefit of planning permission as they would constitute development. Details of these earthworks must be provided at this stage in order that the Borough Council is able to consider the acceptability of these proposals and that a suitable landscape scheme can be delivered without prejudicing the delivery of the Phase 2 access. It would not be reasonable to require these details by way of planning condition.

Conclusions


In light of the above, this application is currently invalid as the red line on the site location plan does not reflect all of the land necessary to carry out the proposed development, including the land for the Phase 2 access.

Further, the amended proposals are contrary to Policy U14 a) of the USIDPD as the Phase 1 access would prejudice the delivery of the Phase 2 access which is a policy requirement for the wider allocated site and will fetter the delivery of the housing allocation of circa 200 units.

The proposals can therefore not be supported by the Borough Council and should be refused.

If you have any questions regarding the above then please do not hesitate to contact me. In the meantime I would be grateful if you could confirm receipt of this letter.

Yours sincerely



LUCY WILFORD
Associate

cc. Julian Goodban – Bellway Homes
James Hammond – KCC Highways

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14 February 2017

Dear Mark

HIGHMEAD HOUSE, HYTHE ROAD, WILLESBOROUGH, ASHFORD
PLANNING APPLICATION REFERENCE 15/01550/AS

On behalf of Bellway Homes, you have invited us to make comment on the drawings listed below, which have been submitted by the Applicant in respect of the above mentioned application.

We have been advised that the drawings have been submitted for approval and as such our comments are made on this basis. Should the drawings be amended further or the status of the drawings change, we reserve the right to make further representations.

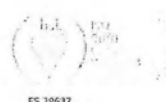
At this time Bellway Homes continue to object to the application and the comments below should be read alongside those previously provided on its behalf under the cover of letters dated 23/12/2015 and 19/08/2016.

Plans provided for comment and form the basis of this letter are as follows:

1. Proposed Plan, Road Layout 1 – Dwg 13/23/100 Rev L;
2. Proposed Plan, Road Layout 2 – Dwg 13/23/101 Rev P;
3. Proposed Site Sections, Road Layout 1 13/23/103 Rev D;
4. Proposed Site Sections, Road Layout 2 13/23/104 Rev F;
5. Proposed Site Sections – Dwg 13/23/105 Rev E;
6. Possible Vertical Alignment for Access Road and Junction with Link Road (Phase 2, Road Layout 2) – Dwg 30583/AC/045 Rev D; and
7. Sections on Internal Site Access Road (Phase 2, Road Layout 2) – Dwg 30583/AC/046 Rev D

Amended Plans

All the above listed plans identify the extent of the proposed access roads to be approved which are highlighted in pink. We note that drawings 3 and 5, as listed above, have not had the drawing revision numbers changed since the previous iteration of the plans. These should be amended accordingly to ensure there is no ambiguity about which version of the drawings comments are being provided on or potentially approved.



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Additionally, whilst plans 1 to 5 have been amended to include an additional annotation identifying the layout is illustrative, 'Apart from the Access Detail Shown in Pink', this same annotation must be added to plans 6 & 7, which critically also set the road levels and it must be clear that this detail is also to be approved now. As with the proposed road layout plans (plans 1 & 2), all plans must include a key clarifying the area coloured pink is to be approved in detail.

The extent of the area coloured pink on plan 1, must be extended to cover the forecourt area to the front of plot 1. Extract picture below. This area must be safeguarded to ensure that the Phase 2 access is deliverable and any future layout (to be secured under reserved matters) does not prejudice this.



Red lines should be added to all the drawings to ensure that the road details for the phase 2 access are taken to the site boundary. This must be in addition to securing the construction of the road to the boundary through a S106 as set out in detail below.

Interrelationship of Phase 2 Access with Bellway Site

Following analysis of the plans provided, we are able to confirm that the proposed arrangement and levels for the proposed Phase 2 access, align with the connecting road on the adjacent site, controlled by Bellway Homes. The Bellway Homes access to the Highmead boundary is as detailed on the drawings currently submitted for approval pursuant to Full application 16/01722/AS. CCE Drawing L571/211 – Proposed Access to Highmead House Application Site, presents the alignment of the access arrangement in both a horizontal and vertical arrangement and demonstrates that the Highmead House Phase 2 access can be delivered to adoptable standards.

However, we would advise that we still await the Borough Council's design comments in respect of application 16/01722/AS. Should the comments from the Borough Council affect the access arrangement towards Highmead on the Bellway side, in terms of its location, alignment or levels, then the Phase 2 access arrangement will also have to be amended accordingly to ensure the deliverability of the connection. The Borough Council can therefore not proceed with the determination of this application until it has satisfied itself that it is in agreement with the proposed access design on the connecting Bellway land. We therefore would expect your written confirmation of this in this regard.

S106

As set out in previous representations, Bellway Homes remain concerned as to how the Phase 2 access arrangements will be secured and of paramount importance that measures will be put in place to ensure the closure of the Phase 1 access, once development on the adjacent Bellway site commences. We therefore repeat previous representations that the following must be secured through a S106:

- a) A S38 plan to be secured that ensures that all the land necessary to deliver the accesses, which is under the Applicant's control (to be secured in the S106) is included within the land identified as being made over to KCC Highways;
- b) A requirement that all the land necessary (shown on the drawings or any other land that might otherwise be needed) to deliver the Phase 2 access is to be made over to KCC Highways through a S38 Agreement to ensure that no ransom strips are retained. The trigger for entering into the S38 Agreement and transferring the land should be prior to commencement of development, to ensure against a ransom position and to ensure that the Phase 2 access is actually deliverable;

- c) A requirement that the Phase 2 access is designed to an adoptable standard to ensure that KCC Highways will take on the access;
- d) A requirement that the Phase 1 access is designed to an adoptable standard to ensure that KCC Highways will take on the access and that it can be eventually stopped up to facilitate the delivery of the Phase 2 access, since the two junctions cannot function together. It is proposed that the landowner is made responsible for the stopping up of the access or if the access has been transferred to KCC Highways that the landowner provides KCC Highways with the necessary funds for this to take place;
- e) Provision that requires that on any Outline and/or detailed application being consented on any part of the adjacent land to the west, that the Phase 1 access shall be stopped up as soon as the Phase 2 access linking into the development from the Bellway land has been delivered up to the Site boundary. This is paramount because the Phase 1 access cannot work in conjunction with the signal controlled junction to be delivered by the Bellway development and is required to facilitate the delivery of the whole allocated site. As above, it is proposed that the landowner is made responsible for the stopping up of the access or if the access has been transferred to KCC Highways that the landowner provides KCC Highways with the necessary funds for this to take place;
- f) A requirement for the Applicant to deliver the Phase 2 access connection to the edge of their land ownership, linking the Highmead site with the adjacent Bellway development. This will ensure that access to the proposed scheme can be delivered and no land is retained preventing the wider site allocation coming forward;
- g) A sum of money to be agreed as part of the S106, to be paid to KCC Highways on transfer of the Phase 1 access to KCC Highways, to cover the cost of stopping up, removing and filling in the Phase 1 access once this is no longer required. It is proposed that the sum is paid prior to the transfer of the Phase 1 access to KCC Highways;
- h) It is a requirement that any subsequent reserved matter applications demonstrate that the proposed housing layout will not prejudice the delivery of the Phase 2 access to an adoptable standard; and
- i) The S106 should protect the proposals from any future attempt by the landowner to vary the approved access drawings, where such changes would prejudice the delivery of the Phase 2 access and/or opening of the new A20 signal controlled junction, on the adjacent Bellway land.

We understand from separate conversations with Officers at KCC Highways, that it has been suggested that the delivery and phasing of the phased accesses can be secured through S278/S38 Agreements. We strongly object to any such proposal on the basis that such highway agreements principally address technical matters of design and do not deal with issues of planning in ensuring proposals do not prejudice the wider allocated site coming forward including protecting against any potential ransom situations.

It is a fundamental planning requirement of Policy U14 of the Urban Sites and Infrastructure DPD (USIDPD) that the allocated site (which includes Highmead) is to provide a new signal controlled junction on to the A20. It would therefore be wholly inappropriate for the delivery of this access not to be safeguarded through the planning process via S106.

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4

14 February 2017

Without the above provisions, or confirmation of what elements of the submitted amended plans are to be approved, the development proposal will fail to ensure that the wider allocated site can be delivered, contrary to Policy U14 of the USIDPD. Bellway Homes therefore continue to object to the development proposals and reiterate previous requests that it must be party to the S106 to ensure the deliverability of the wider allocated site is not prejudiced.

Yours sincerely

LUCY WILFORD
Associate

cc. Julian Goodban : Bellway Homes
Matt Hogben : KCC Highways