

Ashford Borough Council: Planning Committee

Minutes of a Meeting of the Planning Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on **13th October 2021**.

Present:

Cllr. Burgess (Chairman);

Cllr. Blanford (Vice-Chairman);

Cllrs. Anckorn, Bell (ex-Officio, non-voting), Chilton, Clokie, Forest, Harman, Howard, Howard-Smith, Mulholland, Ovenden, Sparks, Wedgbury, Wright.

In accordance with Procedure Rule 9.3. Cllrs. Forest and Wedgbury attended as Substitute Members for Cllrs. Iliffe and Shorter respectively.

Apologies:

Cllrs. Iliffe, Shorter.

In Attendance:

Team Leader Planning Applications; Strategic Development and Delivery Manager; Planning Officer; Planning Officer; Principal Solicitor (Strategic Development); Member Services and Ombudsman Complaints Officer.

151 Declarations of Interest

Councillor	Interest	Minute No.
Burgess	Made a Voluntary Announcement as he was a member of the Weald of Kent Protection Society.	
Blanford	Made a Voluntary Announcement as she was a member of the Weald of Kent Protection Society and the Campaign to Protect Rural England.	
Clokie	Made a Voluntary Announcement as he was a member of the Weald of Kent Protection Society.	
Mulholland	Declared that he was Ward Member for the application and as such was involved in parish affairs. He had detailed knowledge of the planning application.	154 – 20/01600/AS

Declared that he was for Deputy Portfolio Holder for Corporate Property and Projects.	154 – 21/01060
However he had taken no part in formulating the applications and would participate in the full debate and vote.	21/00541

152 Public Participation

The Member Services and Ombudsman Complaints Officer advised that at this meeting registered public speakers had been invited either to address the Committee in person, or to have their speech read out by a designated Council Officer, not from the Planning Department. On this occasion there were three public speakers, all of who had chosen to attend the meeting to deliver their speeches in person.

153 Minutes

Resolved:

That the Minutes of the Meeting of this Committee held on the 15th September 2021 be approved and confirmed as a correct record.

154 Schedule of Applications

Resolved:

That following consideration of (a), (b) and (c) below,

- (a) Private representations (number of consultation letters sent/number of representations received)**
- (b) The Parish/Town/Community Council's views**
- (c) The views of Statutory Consultees and Amenity Societies etc. (abbreviation for consultee/society stated)**

Supports 'S', objects 'R', no objections/no comments 'X', still awaited '+', not applicable/none received '-'

Application Number	20/01600/AS
Location	Land adjoining Four Winds, New Road, Egerton, Kent
Grid Reference	90958/47288
Parish Council	Egerton
Ward	Weald North Ward
Application Description	Erection of 15 dwellings together with all necessary infrastructure including access.
Applicant	Jarvis Land Promotions Ltd.
Agent	Ian Bull Consultancy Ltd.
Site Area	1.3ha

Initial consultation

(a) 11/4R; 3+; 3S	(b) R	(c) KCCLLFA R; KCC Eco X; KH&T X; KCCPROW X; NHS X; EH X; Refuse X; KCC Developer conts X; KCC Heritage X; SW X; ABC Housing X; Culture X; BHS +
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Amended Plans consultation

(a) 11/3R; 1+	(b) R	(c) KCCLLFA X; KCC Eco X; KH&T X; KCCPROW X; NHS X; EH X; Refuse X; KCC Developer conts X; KCC Heritage X; SW X; ABC Housing X; Culture X; BHS R
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The Team Leader Planning Applications gave a presentation and drew Members' attention to the Update Report. There were additional representations from Egerton Parish Council and three further letters of objection from neighbours.

In accordance with Procedure Rule 9.3, Mr King, a local resident, had registered to speak in objection to the application. He addressed the meeting in person and his

speech as submitted in advance of the meeting is attached to these Minutes at Appendix A.

In accordance with Procedure Rule 9.3, Mr Bull, the agent, had registered to speak in support of the application. He addressed the meeting in person and his speech as submitted in advance of the meeting is attached to these Minutes at Appendix B.

In accordance with Procedure Rule 9.3, Mr Lawton, on behalf of Egerton Parish Council, had registered to speak in objection to the application. He addressed the meeting in person and his speech as submitted in advance of the meeting is attached to these Minutes at Appendix C, although the final bulleted paragraph was not read out.

Resolved:

- (A) Subject to the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations detailed in Table 1 (and any section 278 agreement so required), in terms agreeable to the Strategic Development and Delivery Manager or Head of Planning in consultation with the Solicitor to the Council, with delegated authority to the Strategic Development and Delivery Manager or Head of Planning to make or approve changes to the planning obligations and planning conditions (for the avoidance of doubt including additions, amendments and deletions) as he sees fit,**

Table 1

Heads of Terms for Section 106 Agreement/Undertaking

Planning Obligation			
	Detail	Amounts (s)	Trigger Points (s)
Ashford Borough Council Planning Obligations			
	<u>Affordable Housing</u>		
	In accordance with Policy HOU1.	2 affordable rent units	Affordable housing to be constructed and transferred to a registered provider upon occupation of 75% of the open market dwellings.
	Rest of Borough (Zone C) <ul style="list-style-type: none"> - 10% of the total dwellings made available for affordable or social rent - 30% of the total dwellings made available for home 	4 shared ownership units	

	<p>ownership [including a minimum of 10% for shared ownership].</p> <p><i>Locations, floor-space, number and size of bedrooms to be as specified by Housing.</i></p> <p><i>The affordable housing shall be managed by a registered provider of social housing approved by the Council, which has a nomination agreement with the Council.</i></p> <p><i>Shared ownership units to be leased in the terms specified.</i></p> <p><i>Affordable rented units to be let at no more than 80% market rent and in accordance with the registered provider's nomination agreement.</i></p>		
	<p><u>Accessible Housing</u></p> <p>At least 20% of all homes shall be built in compliance with building regulations M4(2) as a minimum standard.</p>	<p>Provide on- site 20% of all units.</p>	<p>Dwellings required to be built in accordance with the standard to be approved prior to construction commencing.</p> <p>Prior to first occupation of 50% of the dwellings not required to be built in accordance with the standard.</p>
	<p><u>Informal/Natural Green Space</u></p> <p>Project: Purchase of land in Egerton for the provision of informal natural space</p>	<p>£580.55 per dwelling for capital & maintenance</p>	<p>Upon occupation of 75% of the dwellings.</p>

	including potential for pond, orchard and community woodland. Site to be secured within the Parish.	costs.	
	<p><u>Children and Young People's Play Space</u></p> <p>Project: Replacement and enhancement of existing playground equipment at Recreation Area, Millennium Hall, Elm Close, Egerton TN27 9DS.</p>	<p>£649 per dwelling for capital costs</p> <p>£663 per dwelling for maintenance</p>	Upon occupation of 75% of the dwellings.
	<p><u>Indoor Sports Provision</u></p> <p>Project New roof and interior and exterior refurbishment including extension to changing rooms for the Games Barn, Rock Hill Road, Egerton, Kent TN27 9DY</p>	<p>£449 per dwelling for capital costs</p> <p>£325 per dwelling for maintenance</p>	Upon occupation of 75% of the dwellings.
	<p><u>Outdoor Sports</u></p> <p>Project (Schemes in the rural Area): Improvement to the playing surfaces of the football and cricket pitches at Egerton Playing Fields to include the replacement of existing drainage at Recreation Area, Millennium Hall, Elm Close, Egerton TN27 9DS</p>	<p>£858 per dwelling for capital costs</p> <p>£531 per dwelling for maintenance</p>	Upon occupation of 75% of the dwellings.
	<p><u>Strategic Parks</u></p> <p>Contribution towards strategic park provision to be targeted towards quantitative and qualitative improvements at the 'hubs' identified in the local plan 2030.</p>	<p>£146 per dwelling for capital costs</p> <p>£47 per dwelling for maintenance</p>	Upon occupation of 75% of the dwellings

	<u>Voluntary Sector</u> Project: Re-launch the over-60s club, Egerton village (various locations).	£87 per dwelling	Upon occupation of 75% of the dwellings.
	<u>Art and Creative Industries</u> Project: Refurbishment of Millennium Hall, Elm Close, Egerton to provide facilities for a green room, break out room, sound system.	£338 per dwelling for capital costs	Upon occupation of 75% of the dwellings.
Kent County Council Planning Obligations			
	<u>Community Learning</u> Project: Towards new equipment and resources for the new learners at Ashford Adult Education Centre	£16.42 per dwelling. Indexation: BCIS General Building Cost Index from April 2020 to date of payment.	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings
	<u>Libraries</u> Project: Towards additional resources and bookstock for the mobile library service attending Egerton.	£48.02 per dwelling. Indexation: BCIS General Building Cost Index from April 2020 to date of payment.	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings.
	<u>Adult Social Care</u> Project: Towards Specialist Care Accommodation in Ashford Borough	£ 47.06 per dwelling. Indexation: BCIS General Building Cost Index from April 2020 to date	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings

		of payment.	
	<u>Youth Services</u> Project: Towards additional resources for Youth services in Ashford Borough	£27.91 per dwelling. Indexation: BCIS General Building Cost Index from April 2020 to date of payment.	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings.
Other			
	<u>Monitoring Fee</u> Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking	£1000 per annum until development is completed Indexation: TBC	First payment upon commencement of development and on the anniversary thereof in subsequent years
<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>			

(B) Permit Subject to planning conditions and notes, including those dealing with the subject matters identified below, with any 'pre-commencement' based planning conditions to have been the subject of the agreement process provisions effective 01/10/2018

1. Standard time condition
2. Development carried out in accordance with the approved plans
3. Enforcement
4. Materials
5. Surfacing materials and kerb stones

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6. Design details
 7. Construction Management Plan
 8. Parking spaces, turning and garages
 9. Electric Charging points
 10. Cycle parking provision
 11. Visibility splays
 12. Footway and crossing point to be provided, highway drainage, visibility splays, any street lighting and highway structures (if any) prior to occupation of any dwelling (as shown on drawing on 48386/5501/001 G)
 13. Relocation of speed limit gateway as shown on drawing on 48386/5501/001 G prior to occupation.
 14. Archaeological field evaluation and field investigation.
 15. Landscaping scheme
 16. Boundary treatments
 17. Protection of existing trees and landscaping
 18. Fibre to the premises
 19. SUDs – measures to prevent silt and pollutants from the site.
 20. Verification report for SUDs
 21. Reporting unexpected contamination
 22. Foul water to be connected to the main sewer network linking to Egerton
Waste water Treatment Works only.
 23. Removal of PD rights for further fencing
 24. Removal of PD rights for extensions and alterations
 25. Water efficiency
 26. Green energy

Note to Applicant

1. S106

2. Working with the Applicant.
3. Highways informative
4. Southern Water informative for connection to the foul sewer.
5. KCC PROW informative.
6. Refuse bin informative.
7. Informative regarding construction hours.
8. Informative regarding burning of controlled waste on site.
9. Informative regarding minimising dust on site.

Working with the Applicant

In accordance with paragraphs 38 of the NPPF Ashford Borough Council (ABC) takes a positive and creative approach to development proposals focused on solutions. ABC works with applicants/agents in a positive and creative 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

- the applicant/agent was updated of any issues after the initial site visit,
 - was provided with pre-application advice,
 - the applicant was provided the opportunity to submit amendments to the scheme/ address issues.
 - the application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.
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Application Number	21/01060/AS
Location	240 Beaver Road, Ashford Kent TN23 7SW
Ward	Norman
Application Description	Change of use of portion of rear garden of number 240 Beaver Road to public car park. Formation of revised access from Beaver Road.
Applicant	Ashford Borough Council
Agent	Corporate Property and Projects
Site Area	0.08 ha

Initial consultation

(a) 2/1R (b) + (c) KH&T X

Amended Plans consultation

(a) 2/+ (b) + (c) KH&T X

The Planning Officer gave a presentation and read out a statement from the Ward Member in support of the application.

Resolved:**Subject to the following Conditions and Notes:**

(with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or approve changes to the planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit).

1. Standard time condition
2. Approved plans
3. Available for inspection
4. Hard landscaping including boundary fencing to be agreed
5. Bound surface at access point

6. Provision and retention of parking spaces
7. Provision of EV charging points
8. Reinstatement of kerb prior to use of the site
9. Provision of infrastructure to provide for expanded electrical vehicle charging points.

Note to Applicant

1. Highways licenses and consents required
2. Land adjacent highway, ownership and rights
3. Details must agree with legislation and common law

Working with the Applicant

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- 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,

- the applicant/agent was updated of any issues after the initial site visit,
 - The applicant was provided the opportunity to submit amendments to the scheme/ address issues.
 - The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.
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Application Number	21/00541/AS
Location	East Stour Court, Mabledon Avenue, Ashford, Kent
Grid Reference	01798/42381
Parish Council	None
Ward	Stour (Ashford)
Application Description	Variation of condition 2 of planning permission 18/00938/AS (Demolition of existing sheltered housing scheme and replacement with over 50s sheltered housing scheme to provide 24no.1 bed/2 person apartments, 5no. 2 bed/3 person apartments, communal facilities and associated parking spaces) to increase elevation height, alter access to the rear and increase in bin store
Applicant	Mrs Sharon Williams, Head of Housing, Ashford Borough Council
Agent	Mr Sutherland, Turner Jackson Day Associates
Site Area	0.47ha
(a)	(b) (c)

The Planning Officer gave a presentation and drew Members' attention to the Update Report. The Ward Member had provided a written statement in support of the application. There was a further representation from KCC Highways and Transportation and a comment from the Strategic Development and Delivery Manager.

Resolved:

Grant planning permission:

- (A) Subject to the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations detailed in Table 1 (and any section 278 agreement so required), in terms agreeable to the Strategic Development and Delivery Manager or Development Management Manager in consultation with the Director of Law and Governance, with delegated authority to the Strategic Development and Delivery Manager or Development Management Manager to make or**

approve changes to the planning obligations and planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit, and

Heads of Terms for a Section 106 Deed of Variation

	Planning Obligation		
	Detail	Amounts (s)	Trigger Points (s)
	Specialist Affordable Housing	None	None
	The flats shall only be occupied by people aged 50 years or older and the flats shall remain affordable in perpetuity. The flats shall be let at rents that are below market. The flats shall be constructed to such standards and other particulars as the Council specifies. The flats shall be managed by a registered provider of social housing or other body approved by the Council.		
<p>Notices will have to be served on the Council at the time of the various trigger points in order to aid monitoring. All contributions to be index linked as set out on the council web site in order to ensure the value is not reduced over time. The costs and disbursements of the Council’s Legal Department incurred in connection with the negotiation, preparation and completion of the deed are payable. The Kent County Council may also require payment of their legal costs. If an acceptable agreement/undertaking is not completed within 3 months of the committee’s resolution to grant, the application may be refused.</p>			

(B) Subject to planning conditions and notes, including those dealing with the subject matters identified below

1. Time condition
2. Development carried out in accordance with the approved plans
3. Materials (implementation of previous details approved under 18/00938/COND/AS)
4. Design details (implementation of previous details approved under 18/00938/COND/AS)
5. Wall, fence and gate details (including implementation of previous details approved under 18/00938/COND/AS)
6. Archaeology (implementation of previous details approved under 18/00938/CONA/AS and 18/00938/CONF/AS into perpetuity)

7. Sustainable surface water drainage (implementation of previous details approved under 18/00938/CONC/AS into perpetuity)
8. Sustainable drainage operation and maintenance (implementation of previous details approved under 18/00938/CONF/AS into perpetuity)
9. Trees
10. Hard and soft landscaping scheme (including implementation of previous details approved under 18/00938/CONE/AS into perpetuity)
11. Construction management plan (implementation of previous details approved under 18/00938/CONB/AS into perpetuity)
12. Parking
13. Bound gravel access
14. Prevention of surface water discharge
15. Cycle parking provision (implementation of previous details approved under 18/00938/CONF/AS into perpetuity)
16. Refuse storage
17. Provision of new access
18. Visibility splays
19. Closure of existing access (implementation of previous details approved under 18/00938/CONF/AS into perpetuity)
20. Sewage disposal works
21. Electric vehicle charging point
22. Noise (implementation of previous details approved under 18/00938/CONH/AS into perpetuity)
23. External lighting (implementation of previous details approved under 18/00938/CONF/AS into perpetuity)
24. Contamination (implementation of previous details approved under 18/00938/CONB/AS into perpetuity) and details of remediation works to be submitted
25. Development available for inspection

Note to Applicant

1. S106
2. Working with the Applicant
3. KCC Highways informative

Working with the Applicant

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- 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

- the applicant/agent was updated of any issues,
- The applicant was provided the opportunity to submit amendments to the scheme/ address issues.
- The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Queries concerning these Minutes?

Please contact membersservices@ashford.gov.uk

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APPENDIX A

Mr King – local resident

Government says *'development plans are at the heart of the planning system, with a requirement set in law that planning decisions must be taken in line with the development plan unless material considerations indicate otherwise'*.

This application extends beyond the boundary of site S30 by almost half an acre. This addition to site S30 is not 'slight' or 'minimal' as the applicant suggests, and using policy HOU5, "residential windfall development in the countryside", to justify an extension to a designated site is certainly not what policy HOU5 is intended for.

The applicant states: "the allocation boundary is arbitrary". This is not true. Paragraph 4.53 of Policy S30 of the 2030 Local Plan states: "*The prominence of the site's location at the entrance of the village makes it essential that detailed consideration is given to design and layout issues. This site has a rural aspect and its development will impact on views of the village church when approached from the south, a scheme of no more than 2 storeys would be most appropriate here. The site should mirror the building line on the opposite side of the road.*"

So policy S30 actually stipulates that "The site should mirror the building line on the opposite side of the road". Egerton's village boundary is defined by Stone Hill Road, and your 2030 local plan unquestionably requires that it continues along the footpath, the traditional continuation of this route NE into the nearby orchard. The aerial photograph in the officer's report illustrates this quite clearly. The intention and requirement of your adopted 2030 local plan is very specific; the traditional lane and footpath are the obvious boundary to any extension of the village south-eastwards. To propose building to the SE beyond this line completely contradicts the requirements of Policy S30.

Paragraph 12 of the NPPF states "*Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed*". There is no over-riding material consideration to justify extending the development of this site beyond the boundary established in policy S30. The local plan should be followed.

Please refuse or defer this application and ask the applicant to come back with a proposal which respects the requirements of your 2030 local plan.

Mr Bull - agent

My name is Ian Bull. I am a Chartered Town Planner representing the applicant, Jarvis Land Promotions Ltd.

This application has been the subject of constructive and on-going discussions between the applicant and your Officers, following positive pre application advice in September 2020.

As your Officers report confirms, the majority of application site comprises the allocated site S30 in your adopted Local Plan, with an indicative capacity of 15 dwellings. The application site has been extended slightly in order enable an enhanced layout, but remains a development of 15 dwellings, including a policy compliant contribution of affordable dwellings.

The development proposes a mix of 2 to 5 bed dwelling types, each of high quality design, incorporating traditional vernacular and materials.

The layout incorporates a sustainable drainage system, a comprehensive landscape scheme and ecological enhancement. Views to St James' Church have been retained together with the existing public right of way, which will benefit from positive surveillance from the proposed dwellings.

In terms of planning policy, the proposed development is, in my opinion and as reflected in your Officers report, 'Policy Compliant', particular in respect of Policies S30 and HOU5. Consequently, and as required by the National Planning Policy Framework, the application should be approved 'without delay'.

Furthermore, Members will be aware that it is common ground that the Council can not demonstrate a five year housing land supply. This introduces the added requirement of the 'Tilted Balance', which creates an additional consideration in favour of the application.

I am aware that the Egerton Parish Council have raised concerns regarding the absence of an access through the application site to the Orchard Nursery site. However, whilst I understand that discussions have been held between the landowners and the Parish Council, no agreement has been reached. In any event an access is not a requirement of Policy S30 and is not a consideration in the determination of the application. This application must be determined on its planning merits, in accordance with the Development Plan.

Consequently, I would ask that you follow your Officers recommendation and approve the application.

APPENDIX C

Mr Lawton, on behalf of Egerton Parish Council

Egerton Parish Council acknowledges positive elements of this application, recognising that the site was allocated in the Borough's 2030 Local Plan. But we have serious concerns.

The application is misleading and inconsistent. It oversteps the Borough Plan Allocation, paving over an historic track, now a public footpath, damaging the landscape and heritage, contrary to policies ENV 3a and ENV 13.

The Borough Plan Inspector stated **“Egerton is one of the smaller and more remote villages in the Borough. However, the delivery of around 15 dwellings on New Road (S30) would round off this end of the village, bringing the edge of the built form in line with the recently built Harmers Way development opposite.”** The application site plan contravenes this. Its Design and Access Statement hints at future land-grabbing, as the whole field is delineated.

Certificate B of the application gives three addresses without identifying the persons on whom a section 16 notice was served.

Egerton's Neighbourhood Plan, at Examination stage, includes adjacent, derelict and land-locked Orchard Nurseries as a site for 8 houses for local older people selling their larger homes. Highway access could get it onto ABC's Brownfield register. As an infill, it offers real opportunity for development. Negotiations began in 2020 with this application's landowners to provide access but despite EPC agreeing cost and conditions, the landowners withdrew. Their developer suggested EPC support an unallocated site in exchange. EPC refused. Yet rejecting Orchard Nurseries from the Neighbourhood Plan would also frustrate Ashford's housing delivery targets.

The developers assert the Neighbourhood Plan is not a material planning consideration, but EPC disagrees, based on the Government's NPPF. Decisions not based on it could be unlawful and open to challenge.

I therefore urge members to:

- refuse the application because it:
 - oversteps the allocation boundary
 - is contrary to ABC Plan policies ENV 3a ENV 13
 - should be determined through the NPPF's legal requirements within the ABC Plan - and there are no material circumstances indicating otherwise
 - contradicts the Inspector's findings on the site boundary

- places a housing estate over the footpath, harming its character, appearance and significance to the detriment of the landscape and amenity of footpath users.