

Application Number	15/00856/AS
PINS Appeal Reference	APP/E2205/W/23/3320146
Location	Land at Pound Lane, Magpie Hall Road, Bond Lane and Ashford Road, Kingsnorth, Kent
Grid Reference	Easting: 600153 Northing: 139125
Parish Council	Kingsnorth
Ward	Kingsnorth Village & Bridgefield
Application Description	Outline application for a development comprising of up to 550 dwellings in a mix of size, type and tenure. Provision of local recycling facilities. Provision of areas of formal and informal open space. Installation of utilities, infrastructure to serve the development including flood attenuation, surface water attenuation, water supply, waste water facilities, gas supply, electricity supply (including sub-station, telecommunications infrastructure and renewable energy). Transport infrastructure including highway improvements in the vicinity of Ashford Road/Magpie Hall Road/Steeds Lane, Pound Lane and Bond Lane, plus an internal network of roads and junctions, footpaths and cycle routes. New planting and landscaping both within the proposed development and on its boundaries as well as ecological enhancement works. Associated groundworks. **SUBJECT TO AN ENVIRONMENTAL IMPACT ASSESSMENT**
Applicant	Pentland Homes Ltd & Jarvis Homes Ltd
Agent	Ian Bull Consultancy Ltd
Site Area	51 Hectares

(a) 837/32R	(b) PC – no comment	(c) Shad PC – +; GCS PC – +; Bils PC – R; MWS PC – +; KCC Highways – R; NH – X; KCC SuDs – X; EA – X; KCC Prow – R; KCC Her – X; Hist Eng – X; KCC Bio – X; Nat Eng – R; SE – X; ABC EP – X; SE Rail – +; HSE – +; WKPS – +; BHS – R; SWS – X; CPRE – +; KCC M&W – X; ABC SS – X; KFR – X; KP – X; KMG – +; KWT – +; NHS – +; RA – R; RSIDB – R;
-------------	---------------------	--

Introduction

Overview

1. This application is reported to the Planning Committee because it is classed as a major application and therefore, under the Council's scheme of delegation, normally would require determination by the Planning Committee. However, in this instance, the application is now the subject of an **appeal against non-determination** following the expiry of previously extended time period for decision. The Committee is asked to agree the Recommendation that is set out in the report: this will then form the Council's case for a Planning Inquiry that the Planning Inspectorate will hold in October 2023.

Previous Council Resolution to grant outline permission

2. The application was previously presented to Planning Committee on 14 November 2018 with a recommendation to grant outline planning permission subject to planning conditions and the following:
 - a. the withdrawal of the objection from Highways England, and
 - b. the expiry of the site notice for the amended plans and subject to the expiry of the necessary notices to landowners and in the opinion of the Head of Development Management and Strategic Sites and the Joint Development Control Manager no further issues of significance being raised, and
 - c. the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations.

3. At this meeting the Planning Committee resolved to grant outline planning permission subject to the following:
 - a. the expiry of the site notice and no further representation of any significance being made, and no further representations being received from those with an interest in the land raising any new issues not covered in this report, and
 - b. the applicant first entering into a section 106 agreement/undertaking in respect of planning obligations.
4. Since that Committee, the planning permission has not been able to be issued. This was initially due to the necessity for further consultations with residents and consultees and an independent review of the applicant's Environmental Statement (ES). More recent issues halting progress towards issuing a decision flow from the requirement for the application to demonstrate nutrient neutrality following the advice that was issued by Natural England in July 2020.
5. In summary, in March 2019, April 2020, and October 2022, amendments to the application were submitted along with further supporting information and addendums to the original ES. Full re-consultations were undertaken on all three re-submissions.
6. I set out further detail about the addendums to the ES, the outcome of re-consultations, and issues of nutrient neutrality later in this report.

Non-determination appeal

7. On 6 April 2023, the applicants submitted an appeal to the Planning Inspectorate (PINS) against the non-determination of the application within the appropriate time period. The appeal Inquiry is scheduled to run for eight days from 17 October 2023. That date has been imposed on the Council by PINS. The pre-Inquiry timetable, with which the Council must comply, raises a number of resource and time constraint difficulties. It has required this report to be made to the July Committee in order to comply with the tight timescales involved in presenting the Council's Statement of Case for the Inspector.
8. This report sets out the Recommendation that I would have made to Members in reporting the application back to the Committee in order to deal with issues of:
 - a. nutrient neutrality (and the acceptability of the applicant's approach thereto), and,

- b. the applicant's viability assessment and the implications of that on the ability to secure policy compliant s.106 mitigation, and
 - c. whether, as a result of the above, the planning balance still remains in favour of a grant of outline permission.
9. The Council cannot now determine the application: that task falls to PINS given the appeal that has been made. This Report will form the basis of the Council's Statement of Case, assist with a required 'Statement of Common Ground' with the applicants and Proofs of Evidence for those representing the Council at the Inquiry. It will also inform negotiations on any draft s.106 agreement (or a unilateral undertaking) to be put before the Inspector at the Inquiry as well as draft planning conditions for the Inspector's consideration.

Updates

10. This report provides an update to the previous report ("the 2018 report") and associated Committee Update Report ("the 2018 Update report") presented to the Committee in November 2018 and I also provide an assessment of the planning issues that have changed since 2018.
11. This report should be read alongside the 2018 Report, the 2018 Update Report, and the minutes from the November 2018 meeting. As a matter of record given the time that has elapsed since that previous meeting, these three documents are provided as Annex A, B & C respectively.
12. I set out below the following:
- a. Proposal & Supporting Documents Update
 - b. Planning History Update
 - c. Summary of responses to re-consultations undertaken since 2018
 - d. Planning Policy Update
 - e. An assessment of the matters that have changed
 - f. Conclusion and Recommendation
13. The following section of the 2018 Report remains unaltered (please refer to Annex A)
- a. Site and Surroundings

Proposal & Supporting Documents Update

Proposal Update

14. The application includes a series of parameter plans. The parameter plans for density and building heights are unchanged. The plans for land use and connectivity have been amended since the 2018 Report, most recently in October 2022. The changes made to the plans are set out below. The illustrative masterplan has been amended to reflect the changes to the land use and connectivity plans. A description of the plans previously considered by the Committee can be found in paragraphs 17-23 of the 2018 Report.
15. The updated land use and connectivity parameter plans are provided in **Figures 1 & 2** below.
 - a. Area 1 - now includes a proposal for a waste water treatment works (WwTW) and the provision of larger and repositioned SuDS/attenuation features. This has resulted in an alteration to the northern residential built edge in this area. In addition, the possible future link to the adjacent Court Lodge development has been removed and the primary road within the site re-aligned.
 - b. Area 2 – no change.
 - c. Areas 3 - the 2018 Report identified a new area of woodland to the rear of properties fronting Stumble Lane. This has been removed.
 - d. Area 4 - no change.
16. I note that the building heights parameter plan does not include a height parameter for the proposed WwTW. The landscape and visual effects of the WwTW identified in the ES 2022 are based on the maximum heights of the structures set out in the application. I therefore consider it important that a maximum height is agreed on the parameter plans. I therefore recommend to the Committee that the Inspector be requested to seek that amendment to the building heights parameter plan.
17. To note, there are a couple of typographical errors in the 2018 Report in respect of the parameter plans. Paragraph 20 of the 2018 Report contains an error in respect of the development density range proposed. The proposed density range is 10 to 25 dwellings per hectare (not 15 to 24 dwellings per hectare as stated). Paragraph 21 of the 2018 Report contains an error in respect of the height of the 3 storey buildings. The maximum height should state 14 metres (not 14 stories).

Ashford Borough Council - Report of the Head of Planning and Development Planning Committee 5 July 2023

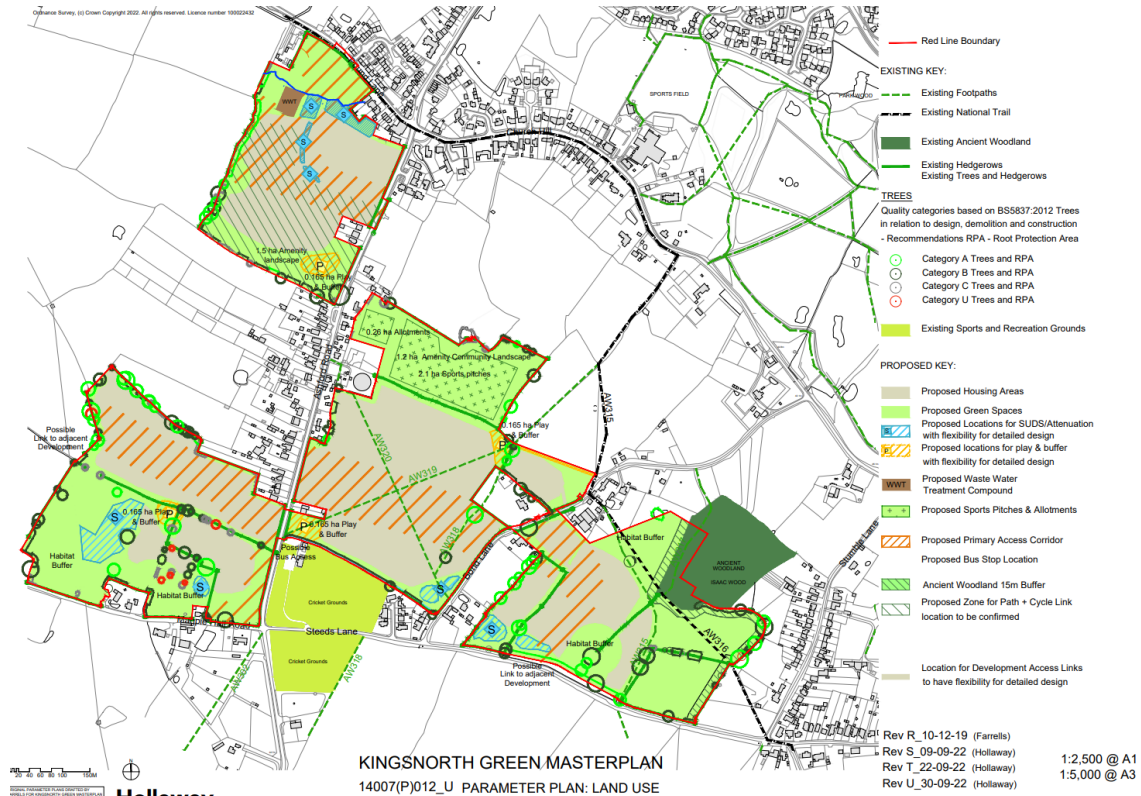


Figure 1 – Land Use Parameter Plan

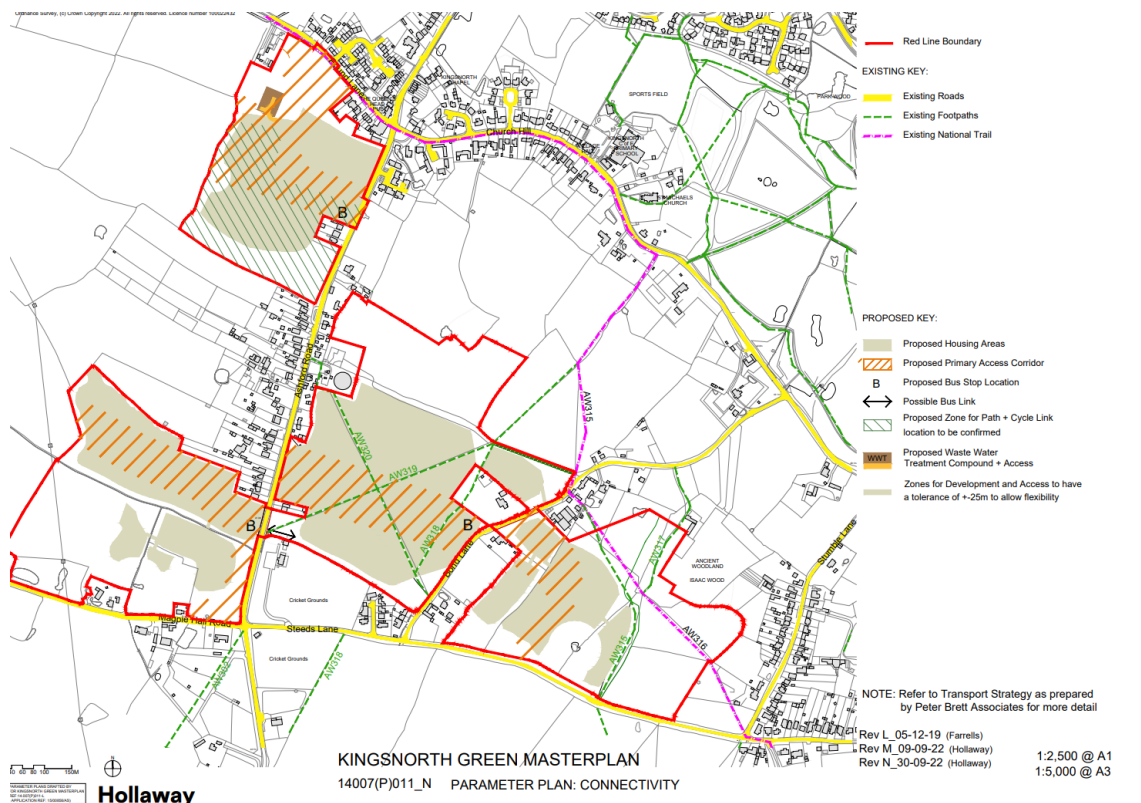


Figure 2 – Connectivity Parameter Plan

Supporting Documents Update: The Environmental Statement & subsequent addendums

18. The proposed development is Environmental Impact Assessment (EIA) development as defined by the Town and Country Planning (EIA) Regulations 2011, due to its scale and nature. Therefore an Environmental Statement was submitted with the application in 2015 (“2015 ES”).
19. The 2015 ES was prepared in accordance with the Town and Country Planning (EIA) Regulations 2011. The new Town and Country Planning (EIA) Regulations 2017 came into force on the 16th of May 2017. However, under Regulation 76 of the 2017 Regulations, the 2011 Regulations continue to apply to this application as an ES was submitted prior to the 16th of May 2017. Therefore, the 2017 Regulations are not relevant to this application.
20. An Environment Statement Addendum was submitted in 2017 (“2017 ES Addendum”) to assess whether proposed amendments gave rise to materially new or different environmental effects. The 2017 ES Addendum also considered the length of time that had passed since the 2015 application was submitted.
21. In 2019, the Council commissioned Temple Group to undertake an independent review of the 2015 ES and 2017 ES Addendum. Subsequently, a further ES Addendum (“2019 ES Addendum”) was submitted by the applicants to address the matters raised within the Temple Group Review.
22. The 2019 ES Addendum also included an assessment of the cumulative effects of developments which had come forward since submission of the 2015 ES and 2017 ES Addendum, following the adoption of the Ashford Local Plan 2030 (Court Lodge, ref 18/01822/AS and Waterbrook, ref 18/00098/AS).
23. A further ES Addendum was submitted in April 2020 (“2020 ES Addendum”) in response to a review of the 2019 ES Addendum by Temple Group.
24. In October 2022 an ES addendum (“2022 ES Addendum”) was submitted to assess whether the proposed addition of the WwTW would give rise to materially new or different environmental effects. This Addendum sits alongside the previous documents and does not supersede them.

25. The application subject of the appeal against non-determination is therefore supported by the 2015 ES and the subsequent addendums of 2017, 2020 and 2022.
26. As is normal practice, the review of an ES by Temple Group, is funded by the applicant as this cost is not covered by the planning application fee. The applicants were asked to fund Temple Group to review the 2022 ES Addendum, however they have refused to do so.
27. The 2022 ES Addendum considers the following:
 - a. Ground Conditions;
 - b. Landscape and Visual Impact;
 - c. Ecology;
 - d. Archaeology and Cultural Heritage;
 - e. Water Resources;
 - f. Noise and Vibration;
 - g. Air Quality; and
 - h. Climate Change
28. The 2020 ES Addendum remains valid in relation to land use and soils and transport. No further ES updates on these aspects of the development are necessary.

Planning History Update

29. The following application and subsequent appeal relate to a site identified as part of the 'green buffer' within site allocation S4. The full extent of the green buffer within the site allocation is shown on **Figure 3** below.
30. Application 21/00126/AS - planning permission refused (Outline application) on 16 April 2021 for up to 15 dwellings, a medical centre and pharmacy, associated landscaping and infrastructure with all matters reserved except for access on land south-east of, Ashford Road, Kingsnorth, Kent.
31. Appeal decision APP/E2205/W/21/3284706 - this was dismissed by the Inspector on 10 August 2022. The Inspector found that the development

would adversely affect the integrity of Stodmarsh habitats sites but did not otherwise find any other aspect of the proposal to objectionable.

32. Following the appeal, application PA/2022/2851 was received on 30 November 2022 for outline permission for up to 15 dwellings, a replacement Medical Centre and Pharmacy, together with all necessary infrastructure to consider access on land south-east of, Ashford Road, Kingsnorth, Kent. The proposed development is substantially the same as that proposed in the previous application, dismissed at appeal, the only difference being the proposed mitigation to address nutrient neutrality.
33. On 22 May 2023 the applicant submitted an appeal against the non-determination of this application within the appropriate time period. The Planning Inspectorate have confirmed that this appeal will be heard at a Hearing on 10 October 2023. This application is also reported on this agenda.

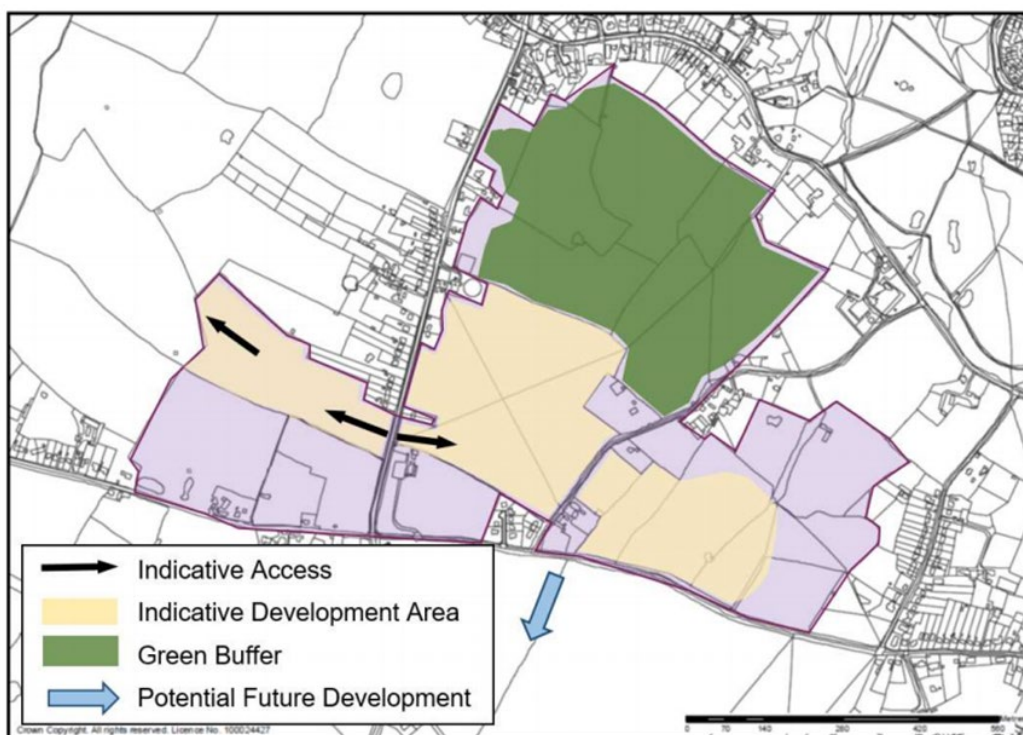


Figure 3 – Site Allocation S4

Consultations Update

Parish Councils

34. As set out in the 2018 Report, the Parish Councils of Bilsington; Kingsnorth; Mersham with Sevington; and Shadoxhurst all raised objection to the

application. Great Chart with Singleton Parish Council did not object but made a number of comments.

35. Following the 2018 Planning Committee meeting, Kingsnorth Parish Council made further comments which are summarised below:

- a. Object to the name 'Kingsnorth Green' and suggest it should be changed.
- b. The site's former use as farmland should be reflected in the design and landscaping.
- c. The siting of the open spaces should be clearer and given protected status in order to prevent further development.
- d. Connectivity with the existing village needs to be 'built in' and all weather surface paths should be provided on key routes.
- e. There should be engagement with key stakeholders about how the highways, water management systems and green spaces all link together and discussion about how the green spaces can be protected and key infrastructure can be funded.
- f. The Parish Council would wish to be involved in how (and by whom) open spaces in the development would be managed.
- g. The development should make a contribution to the Parish Council's sports facility in the Entrance Park.

36. In response to the March 2019 re-consultation, Kingsnorth Parish Council made further comments which are summarised below.

- a. The applicant's ES does not comply with the EIA Regulations as it does not consider the cumulative impacts with other committed development in the Local Plan.
- b. The red line should include the whole of the site allocation and new pedestrian links to Kingsnorth village should be provided.
- c. Development is proposed beyond the area defined by the Local Plan, with development closer to the village, eroding the buffer area.
- d. Traffic impacts, and the transport assessment, traffic modelling, the design of the Ashford Road/Pound Lane/Church Hill junction were questioned.

- e. Concerns raised about flood risk, the layout of the development; sustainability; heritage and landscape; air quality.
37. In response to the April 2020 re-consultation, Kingsnorth Parish Council requested a meeting to discuss the developer contributions to be secured as part of the development and re-iterated its concerns about the design of the Ashford Road/Pound Lane/Church Hill junction. Great Chart with Singleton Parish Council raised no objection but requested that the application should not be considered in isolation to other potential developments, particularly Chilmington Green and identified that there should be coherence about transport links for the whole of Ashford.
38. In response to the December 2022 re-consultation, Bilsington Parish Council objected on the grounds of lack of infrastructure and the impact on roads in the adjoining parish and lack of public transport. Kingsnorth Parish Council advised that they had no comments to make.

National Consultees

39. **Environment Agency** - as set out in the 2018 Report, the Environment Agency advised that the application has a low environmental risk and they therefore had no comments to make. In response to the April 2020 re-consultation, the Environmental Agency stated that they have no objection subject to conditions.
40. In response to the December 2022 re-consultation the Environmental Agency initially raised an objection in respect of water quality and nutrient neutrality due to insufficient evidence being provided. In response, in April 2023, the applicant submitted an updated nutrient neutrality assessment and mitigation strategy.
41. The Environment Agency subsequently confirmed that they have no objection subject to conditions to require the submission of a strategy to deal with foul water drainage and to require that there shall be no infiltration of surface water drainage into the ground. With respect to foul drainage they noted that:-
- “foul drainage is proposed to be treated on-site by a new treatment works, with treated effluent discharged to the Stour via its tributaries. However, it is unclear whether these tributaries flow year round, and as such whether the proposed discharge would actually be to ground for parts of the year. The above point should be clarified and, if necessary, enquiries made for an appropriate permit.”*

The Environment Agency also recommend a condition relating to land contamination and an informative relating to the re-use of materials.

42. **Historic England** - as set out in the 2018 Report, Historic England advised that they do not wish to offer any comments, suggesting the Council seek the views of its conservation and archaeological advisers. In response to the April 2020 and December 2022 re-consultations, Historic England stated that they had no further comments.
43. **National Highways (previously Highways England)** - as set out in the 2018 Update Report, Highways England raised no objection subject to a Grampian style (i.e. 'negative') planning condition to require no more than 200 dwelling occupations until the Bellamy Gurner improvement to the A2070, Waterbrook Avenue/The Boulevard roundabout (a scheme proposed as part of a Crest Nicholson development at Finberry) is complete and open to traffic. They also recommended the development provide a proportionate financial contribution to the delivery of new Junction 10a on the M20.
44. In response to the 2020 re-consultation, Highways England re-iterated their previous 2018 comments. However, they noted that Junction M20 J10a was nearing completion and therefore advised that it was for the Council to determine whether it would be appropriate to seek a financial contribution.
45. In response to the December 2022 re-consultation, National Highways raise no objection subject to planning conditions in respect of a Construction Management Plan and Travel Plan. They note that the Bellamy Gurner Scheme should be completed shortly, therefore it is no longer necessary to recommend a Grampian condition. They are satisfied that, subject to their recommended conditions, the development would not have a material impact on the safe and efficient operation of the Strategic Road Network.
46. **Natural England** - as set out in the 2018 Report, Natural England raised no objection and advised that the development is unlikely to affect any statutorily protected sites or landscapes. In response to the April 2020 re-consultation, Natural England advised that their previous responses remain applicable and they raise no objection.
47. In response to the December 2022 consultation, Natural England advised that the development could have potential significant effects on Stodmarsh Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar Site and National Nature Reserve (NNR) due to the impact of nutrients. They requested further information to determine the significance of these impacts and the scope for mitigation.
48. In March 2023, the applicants submitted a Technical Note to deal with nutrient neutrality and the proposed mitigation in the form of the aforementioned WwTW. Natural England consequently advised, in May 2023, that it would be necessary for the Council to update its Habitats Regulations Assessment of

the proposal in order to demonstrate that the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered in the assessment of the application.

Kent County Council

Kent County Council Development Investment - as set out in the 2018 Report, KCC sought financial contributions from the development towards primary and secondary education, community learning, youth services, libraries and social care. In response to the April 2020 re-consultation, KCC sought contributions to the same infrastructure and services as set out in 2018, in addition to a contribution to the provision of a materials recovery facility. No comments have been received from KCC in response to the 2022 re-consultation.

49. **Kent County Council Ecological Advice Service** - as set out in the 2018 Report, KCC advised that the ecological information provided was sufficient and suggested conditions be attached to the permission if granted.
50. In response to the April 2020 re-consultation, KCC raised concerns that the Preliminary Ecological Appraisal had not been updated, noting that much of the survey data considered in 2018 was now at least three years old. In response, updated surveys were submitted by the applicant. KCC subsequently advised that they were largely satisfied with the submitted surveys and generally agreed that further updated surveys were not required. However, KCC highlighted that, if planning permission is granted, there would be a requirement for a full suite of surveys to be carried out to inform detailed mitigation strategies and any necessary ESP licences.
51. In respect of the submitted mitigation strategy, KCC accepted that this provided an overview of the mitigation required, although noted that an up to date outline mitigation strategy would have been preferable. KCC noted that the intention to mitigate for the majority of species on site and is supportive of this approach but advise that appropriate management and monitoring would be required for the lifetime of the development. KCC suggested a number of conditions be attached to any grant of planning permission.
52. In response to the December 2022 re-consultation, KCC advised that the 2020 comments remain valid for the following reasons:
 - a. The site continues to be actively managed arable fields and it is unlikely that the conclusions of the ecological surveys will have significantly changed

- b. The proposed amendment is for an updated WwTW which has a small development footprint in the context of the wider site. Therefore, the creation of the WwTW would not significantly impact the conclusions of the survey or the implementation of the mitigation proposed.
53. However, KCC advised that due to the age of the survey data there would need to be a full suite of ecological surveys carried out to inform any detailed mitigation strategy if planning permission is granted.
54. **Kent County Council Flood and Water Management** - as set out in the 2018 Report, KCC raised no objection to the application subject to conditions. No further comments were received in response to the April 2020 re-consultation.
55. In response to the December 2022 re-consultation, KCC accepted the principles proposed for dealing with surface water and as such had no objection. KCC did, however, raise concerns about the methodology used within the hydraulic analysis, specifically relating to the greenfield runoff calculations; the proposed discharge rate from the WwTW which had not been given; and that more detailed analysis of the risk of flooding from an unnamed watercourse identified in the Flood Risk Assessment is required. KCC advised that these points would need to be addressed as part of future reserved matters applications. KCC also recommended that a number of conditions be attached to any grant of planning permission.
56. **Kent County Council Heritage** - as set out in the 2018 Report, KCC commented that no further assessment of the historic environment is essential at this stage, although it would be preferable to have the results of the targeted field trial trenching; and an assessment of military heritage.
57. In response to the 2020 re-consultation, KCC welcomed the submitted Archaeological Evaluation Report, but noted that no additional assessment of the historic environment had been undertaken. KCC advised that their comments remain mostly the same as reported in 2018. They reiterated that no further assessment of the historic environment was essential at this stage although it would be preferable to have an assessment of military heritage. Conditions were recommend as per the 2018 report, in addition to the S106 planning obligation previously recommended. No further heritage comments have been received in response to December 2022 re-consultation.
58. **Kent County Council (KCC) Highways and Transportation** - as set out in the 2018 Report, KCC raised no objection subject to conditions and obligations to be secured via a s.106 agreement. In response to the April 2020 re-consultation, KCC confirmed that these previous comments remained valid and that they continued to raise no objection to the application.

59. In response to the December 2022 re-consultation, KCC noted that a vehicular connection to the neighbouring Court Lodge site was not proposed and in accordance with Policy S5 it was suggested that the illustrative masterplan and parameter plan should be updated to provide such connection.
60. **Kent County Council Minerals and Waste** - KCC Minerals and Waste team did not comment on the application prior to it being presented to the Committee in 2018. In response to the December 2022 re-consultation, KCC it had no minerals or waste management capacity safeguarding objections or comments to make.
61. **Kent County Council Public Rights of Way (PROW)** - as set out in the 2018 Report, KCC raised a number of concerns, but advised that these could be overcome and recommended planning conditions if the Council were minded to grant planning permission.
62. In response to the April 2020 re-consultation, KCC noted the intention to address the PROW at Reserved Matters application stage. They found this disappointing given the issues previously raised which were considered to have been only partially addressed. They consider that to leave PROW until this stage is too late and can potentially lead to unnecessary delay and unexpected responses. KCC PROW requested a PROW scheme of management is submitted.
63. In response to the December 2022 re-consultation, KCC advised that the previous comments remained applicable and that it disagreed with some of the findings in the 2022 ES Addendum.

Ashford Borough Consultees

64. **ABC Drainage Engineer** - as set out in the 2018 Report, the Council's (then) drainage engineer recommended a planning condition to secure details of a sustainable drainage system for the site.. Surface water drainage matters are now exclusively dealt with by KCC Flood and Water Management as per further above.
65. **ABC Environmental Protection** - as set out in the 2018 Report, the Council's Environmental Protection team recommended conditions to be attached to the planning permission, if granted. In response to the April 2020 and December 2022 re-consultations, Environmental Protection advised that their previous comments remain valid.
66. **ABC Street Scene** - the Council's Street Scene team did not comment on the application prior to it being presented to the Planning Committee in 2018. In

response to the December 2022 re-consultation, the Street Scene team comment that, prior to commencement of a waste collection service, a refuse strategy would need to be submitted and approved.

Other Consultees

67. **British Horse Society** - as set out in the 2018 Report, the British Horse Society identified that the proposed development does not affect any bridleways. However, it raised concerns that development around Ashford is having a detrimental impact on leisure activities and many of the access routes are being enveloped by housing estates.
68. In response to the December 2022 re-consultation, the British Horse Society raised an objection to the application. They advise that there are almost 7,000 horses owned by people within the Borough. Horse riders have access to 16.7% of the Kent public rights of way network. Many of these routes are inaccessible or disconnected as a result of increased traffic and/or development. Substantially less is considered available to carriage drivers. The Society request that, if planning permission is granted, a condition is attached to require footpaths AW319, AW320, AW318, AW315, AW316 to be upgraded to at least bridleway, if not restricted byway, status.
69. **Council for the Protection of Rural England (CPRE)** - as set out in the 2018 Report, the CPRE objected to the application. No further comments have been received since the 2018 Report.
70. **Health and Safety Executive (HSE)** - as set out in the 2018 Report, the HSE did not advise on safety grounds against the granting of planning permission. No further comments have been received.
71. **Kent Fire & Rescue** - did not previously provide comments about the application. In response to the December 2022 re-consultation, Kent Fire and Rescue advised that, if planning permission is granted, the Fire and Rescue Service will require emergency access (a requirement under B5 of the Building Regulations).
72. **Kent Police** - as set out in the 2018 report, Kent Police advised that the application had not demonstrated that crime prevention and the seven attributes of CPTED had been considered. In response to the April 2020 re-consultation, Kent Police re-iterated concerns and advised that a report to confirm how the development would reduce the opportunity for crime, fear of crime, anti-social behaviour, nuisance and conflict would be required.
73. In response to the December 2022 re-consultation, Kent Police (i) advised that design and access statements should address crime prevention and

demonstrate the seven attributes of CPTED and (ii) recommended the applicant bases the design on the SBD Homes 2019 guide and (iii) suggested the applicant attains SBD certification to show commitment to crime prevention and community safety. If planning permission is granted, Kent Police request a condition to ensure that crime prevention is addressed effectively and opportunities to design out crime are not missed.

74. **Kent Mammal Group** - as set out in the 2018 Report, the Kent Mammal Group raised concerns about the level of information submitted with the application. No further comments have been received since the 2018 Report.
75. **Kent Wildlife Trust** – as set out in the 2018 Report, the Kent Wildlife Trust submitted a ‘holding objection’, raising concerns about the level of information submitted. In response to the April 2020 re-consultation, the Trust re-iterated its holding objection. No further comments have been received in response to the December 2022 re-consultation.
76. **NHS** - as set out in the 2018 Report, the NHS requested a financial contribution to support the provision of healthcare services in the locality (via an extension to the existing Kingsnorth Surgery). No further comments have been received in response to the April 2020 and December 2022 re-consultations.
77. **Ramblers’ Association** - as set out in the 2018 Report, the Ramblers’ Association commented that they could see no indication on the plans for proposals to accommodate PROWs within the proposed development. No comments were received in response to the April 2020 re-consultation. In response to the December 2022 re-consultation, the Association raise a holding objection due to the lack of a PROW Management Scheme.
78. **River Stour (Kent) Internal Drainage Board (IDB)** - did not previously provide comments about the application. In response to the December 2022 re-consultation, the IDB noted that although the site lies predominantly outside of the IDB’s ‘Drainage District’, the majority of the surface water from the development would be discharged to ordinary watercourses and ditches, which would drain into the wider drainage network that discharges into the Board’s District.
79. The IDB’s request that the applicant demonstrate that the proposed point of discharge does indeed outfall into a wider, contiguous drainage system (rather than to a blind-ditch that may exacerbate the local flood risk), and suggest a condition is attached to any permission granted to this end. The additional rates/volumes being discharged from the foul water treatment plant, should also be fully quantified.

80. **Southern Water** - as set out in the 2018 Report, Southern Water made a number of comments, in particular, about the capacity of and connection into the public sewer system in the vicinity of the site and SUDS. In response to the April 2020 and December 2022 re-consultations, Southern Water confirmed that their previous comments remain valid.
81. **South Eastern Railway** – as set out in the 2018 Report, South Eastern Railway requested funding to address congestion issues on the forecourt of Ashford Station. No further comments have been received in response to the April 2020 and December 2022 re-consultations.
82. **Sport England** – as set out in the 2018 Report, Sport England considered the application as a non-statutory consultation and raised an objection. In response to the 2020 re-consultation, Sport England advised that they no longer objected to the application. They requested a financial contribution towards indoor sports facilities and suggested a number of conditions. No further comments have been received in response to the 2022 re-consultation.
83. **Weald of Kent Protection Society** – as set out in the 2018 Report, the Weald of Kent Protection Society objected to the application, stating that the development would put a significant strain on the local infrastructure. No further comments have been received in response to the April 2020 and December 2022 re-consultations.

Residents

84. Following the November 2018 Planning Committee meeting; objections were received from 19 residents and Kingsnorth Residents' Association. Comments were received from two residents. Since the 2018 Planning Committee meeting the application has undergone three re-consultations.
85. In response to the March 2019 re-consultation, objections were received from 21 residents and Kingsnorth Residents' Association. Comments were received from two residents.
86. In response to the April 2020 re-consultation, objections were received from 45 residents and comments were received from two residents.
87. In response to the December 2022 re-consultation, objections were received from 35 residents. The concerns raised in response to the 2022 re-consultation are summarised below.

Principle of Development

- a. There is already enough new housing in the area. The need for large-scale housing development in south Ashford needs to be reassessed. Ashford has exceeded its housing targets set by Government. The application is overdevelopment. The application is premature and unnecessary.
- b. Greenfield land should be left for food production. Development should be on brownfield land closer to the town centre.
- c. No consideration has been given to the cumulative impact of the development alongside other developments proposed nearby.
- d. The Environmental Impact Statement and other core documents should be updated.

Highways

- e. Impact on highways from additional traffic generated by the development. This will cause more congestion in the local area. Local roads are unable to cope with existing traffic. Local junctions are not safe. Local highway infrastructure needs upgrading.
- f. Steeds Lane, Stumble Lane and Bond Lane are narrow country lanes, they are in poor condition and not suitable for increased traffic from construction or new houses. These lanes have no pavements for pedestrians and no space to provide them.
- g. Blocking off Bond Lane will push more traffic down Steeds Lane and Stumble Lane.
- h. There is inadequate footpath provision proposed. Improvements to PROW are required.

Amenity

- i. Vibration, pollution and noise from construction traffic. Noise, air and light pollution from the new housing.
- j. Impact on Kingsnorth Village, an ancient village, including listed buildings and their settings. The village will lose its identity. Development is not in proportion and in-keeping with the character of the village.
- k. Impact on existing residents' quality of life. The health and wellbeing of existing residents should be safeguarded. Loss of greenspace enjoyed by existing residents.

- l. Odours from the waste water treatment works would have a detrimental effect on existing residents.

Design

- m. Development is not in keeping with the rural landscape. Three storey properties are not in keeping with existing housing which is predominately two-storey. The high density development is not in-keeping with the village.
- n. There should be a 750m exclusion zone between Pound Lane and the development.
- o. The detailed design and layout of the development should be provided now so that residents can see exactly what will be built.

Landscape / Ecology

- p. Why has the woodland area proposed to mitigate the loss of wildlife habitats been removed and replaced with greenspace? The woodland should be reinstated.
- q. Disruption to wildlife, flora and fauna, loss of habitats/hedgerows. The submitted reports are out of date and need re-assessing to accurately reflect the current situation. Since the surveys were undertaken, the ecosystem and biodiversity of the site has changed. The mitigation strategies are inadequate.
- r. Concerns that large trees in the area would be felled.
- s. 10% biodiversity net gain should be mandatory
- t. The location of the proposed allotments is not appropriate, the land is heavy clay and does not drain after rain. There is no road access to the allotments. This area should be a community orchard.

Flood Risk & Drainage (incl. nutrient neutrality)

- u. Surface water flooding around Bond Lane and Pound Lane is already an issue and would be exacerbated. The flood management scheme seems inadequate.
- v. How will the proposed new SuDS be maintained?

- w. Development would put additional pressure on local drainage and water pressure.
- x. The application fails to demonstrate that the Government guidance criteria to obtain an EA permit to discharge treated waste water into the Whitewater Dyke are met. There is a lack of information/minimum essential data about the proposed WwTW.
- y. The development is in proximity to a public main sewer and therefore it should connect. The waste water connection to Ashford WwTW has recently been upgraded to serve local development. The applicant is pursuing an unsustainable and non-compliant alternative route to circumvent the nutrient neutrality issue that has arisen.
- z. No consideration is given to the overall suitability of the Whitewater Dyke as an Environmental Receptor for the treated wastewater, no assessments have been made of water flow, quality, etc in the watercourse, nor of potential ecological and/or biological impacts. No risk assessment addressing the potential impact of 'off-specification' release to the watercourse has been submitted.
- aa. The drainage strategy assumes that foul water drainage will be gravity flow. This assumption is flawed. Foul water pumping will be required, in part, as a minimum.

Other

- bb. The red line site boundary is not correct, it includes land owned by a resident who has not given permission to the applicant to develop on their land.
- cc. Lack of infrastructure to support the new housing - GP surgeries, hospitals, dentists, schools, emergency services. Existing telephone and broadband infrastructure is inadequate. Utilities to support EV charging and heat pumps will need upgrading.
- dd. The development should be carbon neutral both in construction and operation.
- ee. Concerns raised about the applicants viability appraisal.

Planning Policy

- 88. At the time of writing the 2018, report the Development Plan comprised the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted

LDF Core Strategy 2008 and other Area Action Plans, DPD's and Neighbourhood Plans. The Ashford Local Plan 2030 had been submitted for examination and the Council had commenced consultation on the main modifications to the draft plan.

89. The Development Plan for Ashford Borough now comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017), the Rolvenden Neighbourhood Plan (2019), the Boughton Aluph and Eastwell Neighbourhood Plan (2021), the Egerton Neighbourhood Plan (2022) and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020).
90. The application site is allocated for development in the Ashford Local Plan 2030 under site allocations S4 and S5. These site allocations are located to the east of another allocated site known as Court Lodge (S3) which is located to the east of the Chilmington Green development that is under construction. Together, the developments comprise the 'South Ashford Garden Community'.
91. The relevant policies from the Ashford Local Plan 2030 are as follows:-
- | | |
|-------|---|
| SP1 | Strategic Objectives |
| SP2 | The Strategic Approach to Housing Delivery |
| SP6 | Promoting High Quality Design |
| S4 | Land north of Steeds Lane and Magpie Hall Road |
| S5 | Land south of Pound Lane |
| HOU1 | Affordable Housing |
| HOU6 | Self and Custom Build Development |
| HOU18 | Providing a range and mix of dwelling types and sizes |
| HOU14 | Accessibility Standards |
| TRA4 | Promoting the Local Bus Network |
| TRA5 | Planning for Pedestrians |
| TRA6 | Provision for Cycling |

TRA7	The Road Network and Development
TRA8	Travel Plans, Assessments and Statements
ENV1	Biodiversity
ENV2	The Ashford Green Corridor
ENV3a	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
ENV12	Air Quality
ENV13	Conservation and Enhancement of Heritage Assets
ENV15	Archaeology
COM1	Meeting the Community's Needs
COM2	Recreation, Sport, Play and Open Space
COM4	Allotments
IMP1	Infrastructure Provision
IMP2	Deferred Contributions
IMP4	Governance of Public Community Space and Facilities

92. The site-specific policies, S4 and S5 are set out in full below.

Policy S4 - Land North of Steeds Lane and Magpie Hall Road

Land north of Steeds Lane and Magpie Hall Road is proposed for residential development, with an indicative capacity of 400 dwellings. Development proposals for this site shall be designed and implemented in accordance with an agreed masterplan for the general layout and delivery of development and related infrastructure on the site. The masterplan shall include details of the following elements:-

- a) Design and layout principles – a series of models or codes that set out the prevailing scale and form of the urban environment to be created in each of the three separate areas of the site (north of the cricket ground; east of Bond Lane and west of Ashford Road). This will include the mean net residential densities to be created in each area as well as road hierarchies, streetscape treatments and building height to street width ratios;*
- b) Highway access proposals – details of junction arrangements on Ashford Road, Steeds Lane and Bond Lane;*
- c) Traffic management – details of any traffic / speed management measures proposed on any adopted highway within the site;*
- d) Ecology – Appropriate species and habitat surveys will be carried out. Results will inform ecological mitigation measures to be provided on the site and proposals for implementation, maintenance and monitoring in accordance with policy ENV1. Particular attention to the conservation and enhancement of Isaacs Wood (Ancient woodland) will be required;*
- e) Landscaping and open space – details showing where strategic areas of landscaping and open space will be provided, including the retention of a significant open buffer area between the northern extent of the built part of the development and Kingsnorth village as shown on the policies map, and between the eastern extent of the built part of the development and the site boundary;*
- f) Drainage – the layout and treatment of surface water drainage through the use of SuDS should be provided as an integral part of the landscape design and open space strategy along with acceptable maintenance arrangements and, west of Ashford Road, be compatible with drainage proposals serving the proposed Court Lodge development. The development should provide a connection to the nearest point of adequate capacity in the sewerage network, in collaboration with the service provider and provide future access to the existing sewerage infrastructure for maintenance and upsizing purposes;*
- g) Pedestrian / cycleway routes - provide a network of pedestrian and cycle routes throughout the development with connections to existing rural*

routes and public rights of way and to the new development at Court Lodge; and,

- h) Community facilities – Public open space and suitably equipped play areas needed to serve the development, taking the opportunity to create a sense of the heart of the community being based around the cricket field at the main traffic corridor – Ashford Road. A local convenience store should be located here in a way that can take advantage of passing trade. A specific set of projects related to the scale of needs arising from the development will be identified in consultation with the local community and the cricket club. It is expected that the cricket club will be retained for community use.*

In addition, the development shall also:-

- i. Provide a proportionate financial contribution to the delivery of Highways England's scheme for a new Junction 10a and any other off-site highway improvements measures identified through agreed transport modelling in accordance with policy TRA8.*
- ii. Provide a link road from the Ashford Road to the boundary with the adjoining Court Lodge Farm development.*

Policy S5 - Land South of Pound Lane

Land south of Pound Lane is proposed for residential development. The capacity of the site will be determined following a comprehensive masterplan exercise, but is proposed with an indicative capacity of 150 dwellings. Development proposals for this site shall:-

- a) Retain the southern part of the site free from built development, with the creation of pedestrian and cycleway links across the land from Ashford Road to the western site boundary;*
- b) Provide primary vehicular access from Ashford Road and a secondary access to Pound Lane. Proposals to close Pound Lane to through traffic, providing access to this development only, and the signalisation of the Pound Lane / Ashford Road / Church Hill junction shall be considered as part of the traffic mitigation proposals for the development. Proposals shall also enable the ability to provide a direct vehicular connection to the boundary with the adjoining Court Lodge development;*
- c) In addition to the pedestrian and cycleway connection in (a) above, provide a network of pedestrian and cycleway links throughout the built part of the site, including a connection to the site boundary with the adjoining Court Lodge development;*

- d) *Provide a landscaping plan for the site to create a visual separation with the adjoining Court Lodge development and to screen the houses and gardens of any adjoining residential properties;*
- e) *Be subject to a full Flood Risk Assessment, to be prepared in consultation with the Environment Agency; and,*
- f) *The layout and treatment of surface water drainage through the use of SuDS should be compatible with drainage proposals serving adjacent development. The development should provide a connection to the nearest point of adequate capacity in the sewerage network, in collaboration with the service provider, and provide future access to the existing sewerage infrastructure for maintenance and upsizing purposes. The layout and treatment of surface water drainage will need to ensure that there is no adverse flooding or drainage effects to any neighbouring properties.*

In addition the development shall also:

- i. *Provide a proportionate financial contribution to the delivery of Highways England's scheme for a new Junction 10a and any other off-site highway improvements measures identified through agreed transport modelling in accordance with policy TRA8.*
 - ii. *Provide proportionate financial contributions to deliver, improve, extend or refurbish existing or planned local recreational, educational and community facilities, as appropriate, in accordance with Policies COM1 and COM2.*
93. The following are also material considerations to the determination of this application:-

Supplementary Planning Guidance/Documents

Affordable Housing SPD, 2009

Climate Change Guidance for Development Management, 2022

Dark Skies SPD, 2014

Fibre to the Premises SPD, 2020

Landscape Character SPD, 2011

Public Green Spaces & Water Environment SPD, 2012

Sustainable Design and Construction SPD, 2012

Sustainable Drainage SPD, 2010

Government Advice

National Planning Policy Framework (NPPF) 2021

National Planning Practice Guidance

94. 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. The following sections of the NPPF are relevant to this application:-

Chapter 2 - Achieving sustainable development

Chapter 4 - Decision-making

Chapter 5 – Delivering a sufficient supply of homes

Chapter 8 - Promoting healthy and safe communities

Chapter 9 - Promoting sustainable transport

Chapter 10 - Supporting High Quality Communications

Chapter 11 - Making effective use of land

Chapter 12 - Achieving well-designed places

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Chapter 15 - Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment

Assessment

95. The following sections of the assessment in the 2018 Report remains unchanged and consequently forms part of this current recommendation. I have not repeated these sections here. Instead, Members should refer to the relevant sections of the 2018 Report **attached as Annex A**. The relevant paragraphs of the 2018 Report are provided in brackets below for ease of reference.

- Location and Sustainability (paras 54-55 in Annex A 2018 Report)
- Visual Amenity (paras 73-83 in Annex A 2018 Report)
- Residential Amenity (paras 84-93 in Annex A 2018 Report)
- Heritage and Archaeology (paras 94-100 in Annex A 2018 Report)
- Ecology and Biodiversity (paras 101-102 in Annex A 2018 Report)
- Trees and Landscaping (paras 103-106 in Annex A 2018 Report)
- Self-build/Custom-build (para 109 in Annex A 2018 Report)
- Have impacts identified in the ES (up to 2018) been satisfactorily addressed (paras 118-132 in Annex A 2018 Report)

96. The following elements of the proposed development have been amended and/or planning policy has changed since the 2018 Report. An assessment of these elements of the development is therefore provided below.

- Principle of the Development
- 5 Year Housing Land Supply
- Nutrient Neutrality
- Waste Water Treatment Works
- Flood Risk and Surface Water Drainage
- Highway Issues
- Planning Obligations Update

- Have impacts identified in the ES (post 2018) been satisfactorily addressed
- Other Matters

Principle of Development

97. At the time of the 2018 Report the submission Ashford Local Plan included the allocation of the application site for housing, via site allocation policies S4 and S5. The Ashford Local Plan 2030 was adopted in February 2019 and, included allocations S4 and S5. The adopted version of these policies is the same as the submission Local Plan version presented in the 2018 Report.
98. The proposal presented in the 2018 Report - agreed by the Planning Committee - is one that complies with allocations S4 and S5. The amendments made to the proposed development since 2018 do not alter that previously reached planning conclusion. Consequently, in my opinion the previous conclusion in respect of the principle of the development (Annex A 2018 Report para 51) remains valid and the principle of the development remains acceptable.
99. An important point that must be considered here is that the NPPF states that where development proposals accord with an up-to-date development plan then the presumption in favour of sustainable development should apply and proposals that are in accordance with the plan should be approved without delay.
100. As I identified elsewhere in this report, the delays in moving the application forward to the issue of a decision since the 2018 Committee resolution primarily relate to matters of addressing nutrient neutrality, associated amendments to the ES and the applicant's viability assessment submission.

5 Year Housing Land Supply

101. The Council is currently unable to demonstrate a five year supply of deliverable housing sites.
102. The Council's last published supply position was the Five Year Housing Land Supply Update July 2021 ('5YHLSU') covering the period 2021 - 2026 which states that the Council are able to demonstrate a housing land supply position of 4.54 years. However, in a decision on an appeal in Tenterden dated March 2022 (the 'Wates' appeal reference APP/E2205/W/21/3284479), the Inspector suggested that the Council is only able to demonstrate a 5YHLS position of 3.5 years. The Council therefore accept that the figure of 3.5 years is relevant,

and therefore material to the determination of planning applications and appeals.

103. The Council's housing land supply position of between 3.5 years and 4.54 years has been upheld in several more recent appeal decisions including:

- a. Appeal Ref: APP/E2205/W/21/3289039 - Land off Front Road, Woodchurch, Kent, dated 3 November 2022
- b. Appeal Ref: APP/E2205/W/22/3302116 - Land North East of 74 North Street, Biddenden, Kent, dated 30 November 2022
- c. Appeal Ref: APP/E2205/W/22/3300798 - Land to South of Hookstead Green, Ashford Road, High Halden, Ashford, Kent dated 2 December 2022
- d. Appeal Ref: APP/E2205/W/22/3298686 - Land rear of 7 to 14 Harmers Way, Egerton, dated 4 April 2023

104. The inability to demonstrate a 5 year supply of deliverable housing sites means that, paragraph 11(d) of the NPPF (referred to as the 'titled balance') is engaged. Paragraph 11(d) states:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

105. In effect, paragraph 11(d) requires additional weight to be given to the issue of delivery of homes in the required balancing exercise.

106. In the case of the proposed development, the application site is allocated under Policies S4 and S5 of the Ashford Local Plan 2030. The Local Plan specifies that site S4 is proposed for residential development, with an indicative capacity of 400 dwellings. Site S5 is also proposed for residential development with an indicative capacity of 150 dwellings, so 550 dwellings in total across the site allocations.

107. As the site is an allocated site, dwellings are already assumed to come forward as part of the Council's five year housing land supply calculations (Table A4 of the Council's Five Year Housing Land Supply Update July 2021 applies).
108. The tilted balance is engaged unless either of the criteria (i) or (ii) of paragraph 11(d) are met. Criterion (i) refers to policies in the Framework that protect areas or assets of particular importance, examples of these types of environments are listed in Footnote 7 of the NPPF. Among those listed are habitats sites. The site is located within the Stour catchment and as a result the new housing could have an impact on the protected Stodmarsh Lakes, which are located in Canterbury. As the development could have an impact on the Stodmarsh designated sites, this would engage part (i) of paragraph 11(d).
109. In the case of appeals, the Inspector is the competent authority under Regulation 7 of the Conservation of Habitats and Species Regulations (England and Wales) 2017 (as amended) and is therefore responsible for carrying out an Appropriate Assessment to determine whether or not the proposed mitigation is effective, i.e. that there will be no adverse effect arising from the development on the integrity of the Stodmarsh protected sites. The Inspector will also need to be satisfied that the mitigation measures necessary to achieve nutrient neutrality can be fully implemented and secured in perpetuity.
110. With the above in mind, paragraph 182 of the NPPF is also relevant, as it sets out that the presumption in favour of sustainable development will not apply for sites where the Appropriate Assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site (e.g. Stodmarsh). In summary, if the Inspector is unable to conclude that the mitigation is sufficient, then criterion (i) will apply, and this would provide a clear reason for refusing the development proposed.
111. Finally, with regard to part (ii), for the reasons set out in this report I do not consider there to be any adverse impacts that would reach the required bar so as to recommend a refusal of planning permission. Therefore it is concluded that this exemption would not apply.

Nutrient Neutrality

112. The Council is committed to development only taking place if it is sustainable and respects the relevant environmental protections. Part of this consideration is whether there would be a detrimental impact on any European Designated Nature Conservation Sites.

113. The site is located within the Stour River Catchment. The River Stour feeds into Stodmarsh Lakes to the east of Canterbury. Stodmarsh Lakes are a set of lakes that are afforded a range of protection including, a Special Protection Area (SPA), Ramsar site, Special Area of Conservation (SAC), and a Site of Special Scientific Interest (SSSI). Parts are also designated a National Nature Reserve (NNR).
114. In July 2020, Natural England (NE) issued an Advice Note to Ashford Borough Council titled 'Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites – For Local Planning Authorities'. This Advice was then updated in November 2020 and again on 16 March 2022. The Advice note sets out that there are excessive nitrogen and phosphorus levels in the Stodmarsh Lakes, and so the water within the Lakes is in an unfavourable condition and has the potential to further deteriorate.
115. In line with established case law and the 'precautionary principle', Natural England advise that applications for certain types of development proposing overnight accommodation (including housing) within the Stour River catchment, and/or which would discharge to particular Waste Water Treatment Works within the catchment, should be the subject of an Appropriate Assessment (AA) under the Habitat Regulations.
116. The AA is required to determine the effect on the integrity of Stodmarsh Lakes. In order for an AA to conclude that there is no significant effect, the decision maker must be satisfied that the development can achieve nutrient neutrality.
117. Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 (as amended) provides that: "In the light of the conclusions of the assessment, and subject to regulation 64 [which does not apply], the competent authority may agree to the plan or project [i.e. grant planning permission] only after having ascertained that it will not adversely affect the integrity of the European site"
118. In the case of planning appeals, the Inspector is the decision maker and the competent authority under Regulation 7 of the Conservation of Habitats and Species Regulations 2017 (as amended) and is therefore responsible for carrying out the AA of the appeal proposal, with the assistance of staff at the Inspectorate.
119. Therefore, the Inspector - having taken Natural England's advice into account – will need to be satisfied that there is no adverse effect on the integrity of the designated sites. The Inspector will also need to be satisfied that the

mitigation measures necessary to achieve nutrient neutrality can be fully implemented and secured in perpetuity.

120. The applicant's submitted a preliminary nutrient impact assessment and mitigation technical note in February 2021. This was followed by a nutrient neutrality assessment and mitigation strategy in August 2022. This was updated in October 2022. A further update was submitted in April 2023, alongside a nutrient neutrality technical note.
121. The applicant's nutrient neutrality assessment and mitigation strategy calculates the development's 'nutrient budget' based on the Natural England Generic Methodology (March 2022) using the Natural England Nutrient Neutral Calculator – a catchment specific calculator for the River Stour (v2). To mitigate the potential increase in nitrogen and phosphorus generated by the development, the applicant's now propose to construct a wastewater treatment works on the application site to treat waste water prior to discharge to a tributary of the Whitewater Dyke. Sustainable drainage systems (SuDS) are also proposed across the four areas of the site to (i) reduce surface water run-off and the (ii) reduce the nutrient loading in surface water from the development. The proposed 0.42ha 'bio-retention' SuDS would include swales, open basins and ponds, with constructed reed beds. The applicant states that the combination of these two measures will ensure that the proposed development will be nutrient neutral.
122. The applicant's identify that the Works will be designed, operated and maintained by Severn Trent Connect, an Ofwat-licenced water company. A licence will be required from the Environment Agency in order to discharge to the Dyke.
123. The applicant's nutrient neutrality assessment and mitigation strategy (submitted in August and subsequently revised in October 2022) has been reviewed by the Council's consultants, AECOM Ltd, who produced a technical report and Appropriate Assessment, dated January 2023, to inform the Council's Habitat Regulations Assessment (HRA). AECOM advised that the applicant's mitigation proposal appeared to be robust and that there was a high level of confidence that the development would not add to nutrient burdens in the Stour catchment area, subject to further details being secured via either planning conditions / a s.106 Agreement. AECOM advised that adverse effects from the development on the integrity of the Stodmarsh designated sites would not occur either alone or in combination with other plans or projects.
124. Following AECOM's advice, the Council consulted Natural England and the Environment Agency. Both consultees initially requested further information from the applicants. This was provided by the applicants in April 2023 and

Natural England and the Environment Agency were consulted again. However, prior to the Council receiving a response the applicant submitted the appeal against non-determination.

125. The submission of the appeal means that the Council is no longer the competent authority under Regulation 7 of the Conservation of Habitats and Species Regulations (England and Wales). The role of Competent Authority passes, instead, to the Inspector who is therefore now responsible for carrying out the AA.
126. In response to the most recent consultation, (A) Natural England asked that the Council update its Habitats Regulations Assessment to demonstrate that the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered and (B) the Environment Agency advised that it had no objection subject to planning conditions.
127. The Inspector will, having taken Natural England's advice into account, need to be satisfied that there is no adverse effect on the integrity of the designated sites, and that the mitigation measures necessary to achieve that outcome have been robustly and fully secured. Accordingly, the Council makes no further comment on this issue. Any further consultation with Natural England and the Environment Agency from this point on should be carried out by the Inspectorate.

Waste Water Treatment Works

128. As identified above, the applicants propose to provide a waste water treatment works (WwTW) on site to deal with waste water generated by the development. The applicants have advised that the WwTW would be owned, operated and maintained by Severn Trent Connect in its capacity as the local waste water undertaker. The WwTW would therefore be considered "public" assets by the Environment Agency, and Severn Trent Connect would have a duty to maintain and operate the WwTW effectively in perpetuity in line with its licence obligations.
129. The WwTW are to be sited in the north-west corner of Area 1 of the site, immediately to the south of an existing gas pressure reducing station located adjacent to Pound Lane as shown in **Figure 4** below. The application is submitted in outline, with all matters reserved except for access, and therefore full details of the design and layout of the WwTW have not yet been provided and would need to be submitted at reserved matters stage. However, Severn Trent Connect have advised that the compound would be 34m wide x 45m long with an area of 1530sq/m. The maximum height of structures/buildings (excluding access gantries) would be 6.4m and the maximum height including

access gantries would be 7.5m. In addition, the applicant's 2022 ES Addendum advises that the specification will include an on-site Balance Tank, Reactors, Attenuation Tank, Aerated Sludge Thickening Tank and Aerated Sludge Holding.

130. The applicant has advised that the proposed waste water treatment system is based on an advanced form of activated sludge treatment to remove nitrates and phosphates and which would not require chemical dosing for effective treatment. Organic sludges generated during the treatment process which cannot be treated onsite would be removed by tanker for further processing at a nearby sludge treatment centre to generate sustainable energy in the form of biogas.
131. Severn Trent Connect have advised that the treatment system would be designed to have both planned and reactive operations and maintenance arrangements in place to ensure the upkeep of assets and effective wastewater treatment. In addition, the facility would be linked to remote telemetry and sensors to monitor site condition and treatment processes effectiveness. An environmental permit from the Environment Agency will ultimately be required in order to operate the WwTW.
132. The 2022 ES addendum has been submitted to assess the potential impacts of the WwTW. This review has been undertaken in the context of the environmental assessments previously undertaken, to assess whether the amendments give rise to materially new or materially different environmental effects. An updated flood risk assessment, arboricultural survey and arboricultural impact assessment have also been submitted.

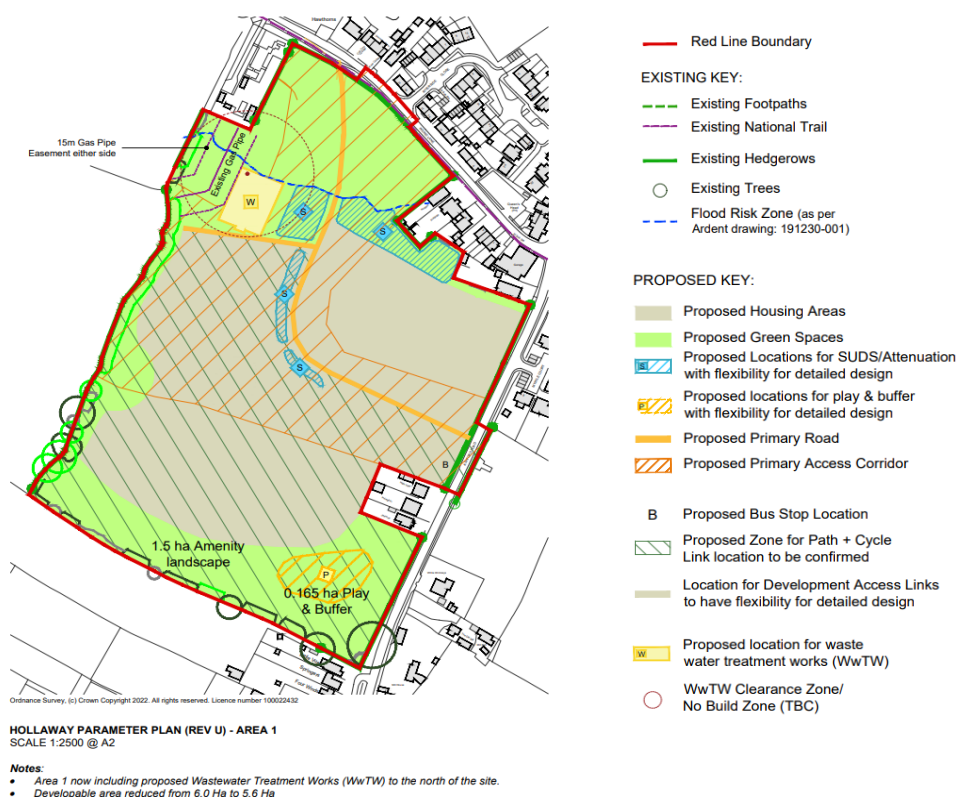


Figure 4: location of WwTW in Area 1

133. **Ground Conditions** – The 2022 ES Addendum concludes that the level of residual effect on ground conditions during the construction stage would be negligible and minor. This conclusion is reached on the basis that further assessments and intrusive ground investigation works are undertaken as part of the detailed design stages of the development in order to determine the contaminative status of the site and identify any mitigation measures required. In addition, a construction environmental management plan (CEMP) to be agreed should be secured and adhered to during the construction phase of the development. At post completion stage the 2022 ES Addendum concludes that the residual effects would remain negligible and minor provided the WwTW is maintained in accordance with WwTW specific guidelines. The 2022 ES Addendum also recommends a regime of post works assessment to review the impact of construction activity. It is recommended that this assessment and the CEMP should be secured by planning conditions.

134. **Landscape and Visual** – The previous 2015 ES and subsequent addendums identified that the landscape effect of the proposed development as a whole would be ‘moderate-substantial adverse’. The 2022 ES Addendum identifies that “the WwTW would introduce additional built form, however this would not alter the distribution of open space / proposed landscape, and the northern extent of built form within Area 1 would remain comparable. SuDs features

are already proposed as part of the scheme in the north of Area 1, and the altered size / location of these would therefore not result in greater impacts upon the landscape at this scale". The 2022 ES Addendum identifies that the introduction of the WwTW would result in an increase in residual effects upon views into the site from nearby public rights of way and along Pound Lane, albeit this would be localised.

135. The 2022 ES Addendum does not recommend any measures to mitigate such visual impacts. The maximum height of the dwellings to be located adjacent to the WwTW would be 6 metres to eaves height and 11 metres to ridgeline. The WwTW would therefore be of comparable height to the proposed adjacent housing. However, the visual appearance of the WwTW, being infrastructure, is likely to be intrusive and impact on the visual appearance of the local area as identified in the 2022 ES Addendum. I therefore would recommend that a comprehensive landscape plan for the WwTW should be secured via planning condition to mitigate these visual impacts through strong tree and other planting helping visually soften this functionally necessary component to the development.
136. **Ecology** – the 2022 ES Addendum concludes that the impacts on ecological habitats, following inclusion of mitigation, would be negligible, stating that "with environmental measures in place, no likely significant effects are considered to arise from the impacts associated with the proposals. As stated in the 2017 ES Addendum, environmental measures will likely lead to an overall slight increase in the ecological value and diversity of habitats within the site". Accordingly, I recommend that the mitigation measures identified in the 2022 ES Addendum are secured via planning condition, to include:
- a. Retention of ecological valuable habitats during site design and creation of open green spaces and associated planting.
 - b. Retention of woodland habitat with a permanent 15m buffer forms part of the scheme. As mitigation, this will not be managed but will be allowed to establish into semi-natural habitat. Localised works to the footpath in the woodland to manage increased foot fall during the operational phase.
 - c. Buffer zones around known badger setts, planting of open green spaces and signs along roadways. Mitigation to adhere to relevant legislation.
 - d. Capture and exclusion of Great Crested Newts from the site. Creation of receptor sites. Enhancement of open green spaces for foraging and hibernating newts. SuDS to establish naturally to become suitable for newts. Retention of all known breeding ponds.

- e. Retention of known water vole habitats with suitable buffers. Displacement of water vole at existing culvert. Enhancement of less optimal existing habitats where water vole has not been recorded. Use of box culverts with ledges and planting. Creation of SuDS, designed with water vole in mind. Management of suitable habitats to favour water voles and reduce predation.
 - f. Retention of foraging and commuting routes for bats. Sensitive lighting scheme. Planting of open green spaces to enhance foraging and commuting within the site.
 - g. Retention of nesting and foraging habitats for birds. Planting of open green spaces to encourage farmland bird species.
 - h. Reptiles will be trapped and relocated during mitigation for GCN. Inclusion of a site-specific reptile mitigation strategy for areas not covered under GCN mitigation. Retention of commuting and foraging habitats within the site. Planting of open green space, SuDS and plantation woodland to encourage dispersal and provide additional habitat for reptiles.
 - i. Buffer zones surrounding hedgerow habitats to protect dormouse. Timing and ecological supervision for hedgerow removal with use of hand tools. Artificial connectivity measures implemented for road crossings. Sensitive management of hedgerows. Planting of a woodland block and enhancement of open green spaces.
137. **Archaeology and Heritage** – the 2022 ES Addendum identifies that there would be no additional residual impacts from the proposed WwTW on archaeology. As recommended in the 2018 Report, further archaeological fieldwork, if required, can be secured via planning condition.
138. No listed buildings are located within the immediate vicinity of the WwTW. The nearest listed buildings comprise the Queens Head Public House, Pound Green and Pound Farmhouse, which are clustered approximately, 215m, 265m and 290m east of the WwTW. The 2022 ES Addendum assesses the potential additional impacts to the significance of these listed buildings through potential noise and odour effects. The report concludes that, subject to appropriate noise mitigation, the WwTW would result in no harm to the significance of the listed buildings. The proposed mitigation is outlined under the assessment of ‘noise and vibration’ below.
139. **Water Resources** – an assessment of the impacts of foul water and surface water associated with the development in respect of nutrient neutrality and the proposed mitigation is set out above under ‘nutrient neutrality’.

140. **Noise and Vibration** – the 2022 ES Addendum identifies that the WwTW has the potential to result in noise impacts on existing neighbouring residents. Therefore an industrial noise impact assessment has been carried out in accordance with BS4142. The WwTW would operate uniformly throughout a 24-hour period, therefore, the noise assessment has been carried out over the night-time period, to represent the most sensitive period. The Addendum identifies that, without specific mitigation measures, the WwTW would generate a significant adverse impact on existing residents closest to the WwTW during the night time. A noise enclosure would be required around air blowers on the WwTW site. The report concludes that with an enclosure in place the noise levels would be reduced and noise would not be likely to be audible inside the homes of existing neighbouring residents. I therefore recommend that a planning condition to ensure delivery of an enclosure in accordance with details and design (including acoustic design) prior to the first operation of the WwTW.
141. The 2022 ES Addendum has not assessed the impacts of the WwTW in operation on future residents of the proposed development as it is assumed that these properties would include the appropriate level of sound insulation to mitigate any impact. Again, this is a matter that I recommend is addressed through a planning condition requiring details to be submitted for approval prior to the first operation of the WwTW. Through such condition, the applicant would be required to identify the detailed mitigation measures to be provided in order reduce noise to acceptable levels and clarify the geographical extent of such measures relative to distance from the WwTW.
142. **Air Quality** – the applicant has undertaken odour dispersion modelling to assess the potential odour impact of the WwTW on existing and future neighbouring residents. This modelling has been undertaken using AERMOD (Lakes Environmental, Version 10.2.1) and in accordance with Environment Agency (EA) modelling guidance and the EA Technical Guidance Note ‘H4 – Odour Management’ (March 2011). This modelling has taken account of metrological conditions (over 5 years), surface characteristics, terrain and location of buildings surrounding the WwTW site.
143. The report quotes Institute of Air Quality Management (IAQM) guidance which states that “odours from sewage treatment works plant operating normally, i.e., non-septic conditions, would not be expected to be at the ‘most offensive’ end of the spectrum” and “can be considered on par with ‘moderately offensive’ odours”. Therefore, in accordance with the benchmark criteria outline in EA guidance, a moderately offensive odour source should apply the C98, 1-hour 3ouE/m³ odour benchmark criterion. The different levels of odour impacts are set out in the table below.

Table 9.4: Proposed Odour Effect Descriptors for impacts predicted by modelling – ‘Moderately Offensive’ Odours			
Odour Exposure Level C ₉₈ , 1-hour ouE/m ³	Receptor Sensitivity		
	Low	Medium	High
≥10	Moderate	Substantial	Substantial
5 - < 10	Slight	Moderate	Moderate
3 - < 5	Negligible	Slight	Moderate
1.5 - < 3	Negligible	Negligible	Slight
0.5 - < 1.5	Negligible	Negligible	Negligible
<0.5	Negligible	Negligible	Negligible

144. The report states that, in accordance with IAQM guidance, for highly sensitive receptors (such as residential dwellings) odour concentrations that exceed C₉₈, 1-hour 3 ouE/m³ are considered to correlate to a ‘Moderate Adverse’ impact which is a ‘significant’ impact in accordance with guidance. Odour concentrations below this level are considered to be either slight adverse or negligible, which is ‘not significant’ in accordance with the guidance.
145. With regard to existing residents, the closest residential properties are located to the north and north-east of the proposed WwTW, along Pound Lane. In all five years that have been assessed, no existing sensitive receptor is predicted to be affected by odours above the C₉₈, 1-hour 3 ouE/m³ benchmark criterion. 12 existing residential properties to the north, north-east and east are predicted to be affected by the C₉₈, 1-hour 1.5 - 3 ouE/m³ odour contour. However, all existing receptors are not predicted to experience odour concentrations above C₉₈, 1-hour 2 ouE/m³. In accordance with IAQM and EA H4 guidance, the proximity of residential development to the WwTW is considered suitable within this contour as it correlates to a ‘not significant’ odour impact. The report concludes that, overall, the effect of odour from the proposed WwTW on existing residential properties is considered to be negligible. In accordance with IAQM guidance, this correlates to an overall ‘not significant’ effect.
146. The results of the modelling assessment predict that in all of the 5 years assessed, the majority of the proposed development is predicted to experience odour concentrations below the C₉₈, 1-hour 3 ouE/m³ benchmark criteria and so would not experience any adverse odour impact. However, an area to the south of the proposed WwTW is predicted to experience an odour

impact within the C98, 1-hour 3 - 5 ouE/m³ odour contours, which extends approximately 20m from the southern boundary of the WwTW into the proposed residential area. This contour also extends approximately 20m from the western boundary of the WwTW where no new housing is proposed (to note, this does not extend into the neighbouring Court Lodge site allocation S3).

147. In accordance with IAQM guidance, all residential development should be built outside of the C98, 1-hour 3 ouE/m³ benchmark criterion composite contour that is shown. I recommend that this be addressed at reserved matters application stage when the exact locations of dwellings relative to the contour will be determined with this relationship forming a planning condition. The report concludes that the effect of odour from the WwTW on future residents of the development site is considered to be negligible and this correlates to an overall 'not significant' effect.
148. Whilst the report concludes that no mitigation is required, it acknowledges that tree planting/landscaping is proposed surrounding the WwTW. This would help mitigate any odour impacts beyond the WwTW site by further by increasing the dilution of odours through increased vertical mixing as well as the reducing the dispersion of odours. The 2022 ES Addendum concludes that landscaping would reduce any odour impact further and that any residual impact should be 'not significant'.
149. As I identified in the Landscape and Visual Impacts section of this report above, I would recommend that a comprehensive landscape plan for the WwTW should be secured via planning condition. I recommend, also, that this landscape plan be designed to minimise any odour impacts and the condition should be worded to include this requirement.
150. **Climate Change** – the 2022 ES Addendum states that the WwTW would have a negligible impact on climate change resilience. With regard to climate impact the report concludes that the WwTW is not considered to alter the current assessment of significance attributed to the whole development. The report advises that, at the reserved matters stage, this may need to be reviewed after a more detailed assessment of GHG emissions arising from the WwTW has been calculated and referenced against the baseline assumptions. If there is a net negative difference between the baseline and absolute emissions, the assessment of emissions arising from the WwTW would need to change from not significant to significant and suitable emissions mitigation measures would be required.
151. **Highways Impact** – the 2022 ES Addendum did not assess highway impacts. However, I understand that traffic movements associated with the WwTW would be negligible. KCC Highways have advised that the number of tanker

deliveries expected would not warrant any traffic modelling. In addition, KCC advise that the proposed road layout of the link from Ashford Road to Pound Lane is of a sufficient standard to cater for tanker deliveries at 6.75 metres in width. The detailed design of the WwTW would need to accommodate tankers and vehicle tracking would need to be submitted with the reserved matters application to show that these movements can be made from the highway.

152. **Conclusion** – the 2022 ES Addendum concludes that the amended scheme would not result in any new or materially different significant effects. Mitigation measures are proposed to reduce or avoid potentially significant adverse effects on the environment. Therefore, the previous conclusions of the 2015 ES and 2017, 2019 and 2020 Addendums remain valid.

Flood Risk and Surface Water Drainage

153. The majority of the site is located within Flood Zone 1, with a small area of land along the northern boundary of Area 1, in the north-west of the site, located within Flood Zone 2. The Sequential Test, set out in the National Planning Practice Guidance, aims to steer developments to areas with the lowest risk of flooding (i.e. Flood Zone 1 where possible). The proposed development is classified as 'More Vulnerable' development in the NPPG. 'More Vulnerable' development is considered to be appropriate in Flood Zones 1 and 2.
154. The applicants have submitted an update to the flood risk assessment submitted in 2017. The updated assessment concludes that the level of flood risk posed to the site from rivers, the sea, sewers and artificial sources is low or very low, and therefore flood risk mitigation measures for these sources are not necessary.
155. Mitigation measures are, however, required to reduce the risk of flooding from surface water, increased surface water runoff and the predicted effects of climate change. The risk of flooding from groundwater is assessed as being medium to high in areas of the site. The report advises that this can be mitigated with the management of overland flow pathways to be addressed as part of the mitigation of surface water flooding.
156. The area within the north-western land parcel (Area 1) shown to be at "medium" to "high" risk of surface water flooding (also within Flood Zone 2 of Whitewater Dyke) would not be developed and instead would be provided as public open space. The areas within the south-western land parcel (Area 2) shown to be at "medium" to "high" risk of surface water flooding would also be provided as public open space. This approach to site layout would ensure that surface water runoff and any emerging groundwater would have a pathway through the site. I recommend that how proposed surface water drainage

(using appropriate SuDS techniques with a clear preference for above ground solutions due to biodiversity benefits) is designed into proposed phases of development and the detailed design and layout coming forward for approval through reserved matters submission in relation to defined phases be addressed by a planning condition.

157. The 2018 Report stated that runoff would be restricted to pre-development greenfield rates and on-site attenuation would be provided for all events up to and including the 1 in 100 year event, including an allowance for climate change. The updated assessment proposes that, as a minimum, the attenuation facilities and drainage systems are designed to accommodate the 1 in 30 year event +40% climate change. Any flows in excess of this would flow overland and be temporarily stored at ground level within the site. Overland flow routes and safe areas of storage for surface water can be designed into the development in the form of SuDS features.
158. As set out in the consultation section above, KCC, as Lead Local Flood Authority, raise no objection to the principle of the proposal to deal with surface water. However, they have raised concerns about some of the information submitted. KCC advised that these detailed issues will need to be addressed at reserved matters stage.

Highways Issues

159. Paragraphs 56-72 of the 2018 Report provide an assessment of the proposed accesses into the four areas of the site and the impact of the development on existing local road junctions, and the strategic highway. A further update on the strategic highway was included in the 2018 Update Report. This previous assessment remains applicable, except for the further update below.
160. The masterplan approved by planning committee in 2018 identified two links to be provided between the application site and the neighbouring site allocation S3 (Court Lodge), one connection from Area 1 and the second from Area 2 (refer to masterplan extract in **Figure 5** below). These connections were to be secured via the s106 agreement. The amended masterplan and parameter plan only shows the connection from Area 2, with the connection from Area 1 removed (refer to masterplan extract **Figure 6** below).
161. It is a requirement of site allocation S5 to enable the ability to provide a direct vehicle/pedestrian/cycle connection to the site boundary with the Court Lodge development. This is particularly important to provide access for residents to the new local centre that is proposed as part of the Court Lodge development. The applicants have removed the potential for this connection stating that this is not necessary or appropriate, submitting a Technical Note in August 2020 to support their view. The Note assesses the wider traffic impact on the local

highway network of a connection between allocations S3 and S5. However, it does not assess the need to sustainably connect the two sites and the potential impact on Pound Lane if this required link is not provided. Pound Lane is not suitable for significant amounts of increased traffic. The Technical Note has been reviewed by KCC Highways who confirm that the link between S3 and S5 is still required. I further note that the applicants for the Court Lodge development have no objection to the link between the two sites. In the light of the above, I do not agree with the applicant's position and in the interests of the proper planning of the local area I recommend that the requirement to secure this vehicle / footway / cycle connection remains a requirement for an agreement under s.106.



Figure 5: the masterplan presented in 2018 with two links between the application site and the Court Lodge site



Figure 6: the amended masterplan showing one link between the application site and the Court Lodge site

162. Since 2018, as identified in the consultation section of this report, National Highways advise that it is no longer necessary to include a Grampian condition in respect of the Bellamy Gurner Scheme. They state in their

consultation response that this is because this scheme should be finally completed shortly. This scheme is now open to traffic and for all intents and purposes 'complete'.

163. As stated in para 69 of the 2018 Report, allocations S4 and S5 are required to provide a proportionate financial contribution to the delivery of Highway England's scheme for a new M20 Junction 10a. In 2018 the amount to be secured was £1,917,916.00 index linked. Since 2018 the way in which this obligation is calculated has changed and consequently the obligation required is now reduced to £191,791.60 index linked.

Planning Obligations Update & Viability Assessment

164. Regulation 122 of the Community Infrastructure Regulations 2010 states 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.
165. The Table 1 included in the 2018 report set out a series of planning obligations that were considered necessary at the time to mitigate the impacts of the development.

Updated Table 1: stakeholder requests as in 2023

166. The majority of the obligations that are sought from key stakeholders remain the same as they were in 2018, with obligations updated in line with current policy requirements and increased to take into account rising costs. Financial obligations would always be index-linked to the point of future payment.

The applicant's viability case

167. In November 2022 the applicants submitted a financial viability assessment (further updated in January 2023) setting out that the scheme, with the provision of affordable housing at any level would be unviable. The applicants, however, stated that they would be prepared to deliver 10% affordable housing on site, (with a 40% affordable rent / 60% shared ownership tenure split) despite the stated viability deficit in order to acknowledge the importance of this important planning policy area seeking to address a variety of housing needs.

168. The recommendation in the 2018 Report included the provision of 30% affordable housing on site in accordance with the then emerging Ashford Local Plan policy HOU1: that Policy was subsequently taken forward in the adopted Ashford Local Plan 2030.
169. The applicant's viability assessment has been reviewed by the Council's expert viability consultants who conclude that the development would not be viable if the provision of policy compliant 30% affordable housing is required, agreeing also that the provision of 10% would not be viable although capable of being offered by an applicant and a level of provision that would impact on the typical profit level that would be expected by a house builder in order to take a development forward.
170. The Council's consultants set out that, in comparison to the position assessed in 2017 when the viability assessment of the emerging Local Plan (as a whole) was undertaken, the following factors have significantly impacted the viability of the development allocated in the ALP 2030 and applied for:
- a. Base Construction costs have risen by c.33%
 - b. The Infrastructure Cost per dwelling has risen from approx. £31,000 to £45,600 (+47%).
 - c. The s106 requirements on a per dwelling basis have increased from c.£14,900 to £30,500 (+105%)
171. In the light of the above, a key decision for both the decision maker (in this instance, PINS) and the Council (in presenting its evidence to the Inquiry) is whether the planning benefits of the scheme would outweigh any planning harms in order to conclude that outline permission should, indeed, be granted.
172. Clearly, the inability to meet policy compliant affordable housing is disappointing and would represent a sub-optimal approach to mitigating known needs. Nevertheless, the applicant's evidence in relation to the cost increases is considered robust and the cost of the on-site WwTW, as an additional previously unforeseen element of essential site infrastructure, further introduces a financial burden on the scheme alongside other escalating costs.
173. Nevertheless, Policy IMP1 of the ALP 2030 identifies that where the policy compliant infrastructure that is necessary to support a development cannot be delivered (either completely or only in part) - and an applicant can fully justify why this is the case - then a flexible approach to provision can be taken. This necessarily includes affordable housing provision.

174. Related Policy IMP2 further sets out the Council's approach to flexibility in this area, identifies that analysis of the planning benefits of a sub-optimal approach to policy compliance will be required and identifies that an approach will be taken seeking to deal with deficits over time should market conditions significantly improve. In this regard, Policy IMP2 adopts two slightly different approaches.
175. First, a deferred contributions approach which might include 'pay regardless' items but typically defers any 'claw-back' to the completion of the development and the final outturn costs and sale/rental values realised compared with those costs and values as originally forecast. Any deferred contributions that are captured in this manner would then paid to the Council together with a decision being made as to how best re-allocate these funds given the competing mitigation requests originally made.
176. Second, for larger schemes that are typically phased over time (or simply where opportunity exists to do so) then Policy IMP2 identifies that it is open for the Council to seek to take an approach that seeks to re-evaluate the viability of the scheme at certain points as it progresses in order to capture changes in circumstances and re-evaluate viability. This second approach is capable of securing greater levels of affordable housing provision than originally forecast could be provided. It enables the detail of on-site delivery to help evolve greater levels of affordable housing provision beyond the 10% offered by the applicant.

Planning Harms vs Planning Benefits

177. The planning benefits of the scheme are set out comprehensively in the 2018 Report with further updates provided in this report.
178. The Council is required by statute to prepare a Development Plan and determine proposals in accordance with the provisions of that Plan unless material considerations dictate otherwise.
179. In this case, the two sites covered by the application have been allocated by the Council for residential development and the Council has previously considered the impacts arising on the wider locality and resolved to grant outline permission for the development. The Local Plan site allocation process sits alongside the Plan's approach to residential windfall applications in terms of how best, from a variety of perspectives, to spatially accommodate growth in the Borough.
180. The subsequent changes to the scheme, including seeking outline permission for a WwTW within the site, do not diminish the planning benefits that would arise. In summary, the layout, nature, development quantum, parameters of

built form, ecological, surface water / foul drainage proposals, heritage, landscape and green space, ecological impacts, connectivity and vehicle accessibility aspects of the scheme are all considered to be acceptable in planning terms.

181. As per the comment made at the start of the report, where proposals accord with the Development Plan then a grant of permission is the clear government expectation.
182. The planning harms arising from the scheme are also set out in the 2018 Report with updates as necessary in this report.
183. In order to deal with harm, a number of areas of important detail will need to be controlled through planning conditions requiring the submission and approval of fine details. Only the broad subject area of such planning conditions are set out further below: detailed conditions will need to be drafted by officers for discussion with the applicants and, ultimately, for consideration by the Inspector.
184. Putting to one side that the proposed on-site WwTW would ultimately need permitting from the relevant authorities and would need to be conditioned so as to be in place prior to the first occupation of a dwelling at the site, the issues of WwTW noise and odour when in operation have been considered as far as they are able in an outline application with updated information relating to this new addition to the scheme. Therefore, subject to detailed conditions, any planning harm arising from the WwTW in use is capable of mitigation.
185. The issue of future connectivity with the Court Lodge development to the west of the site is one where the applicant's 'deletion' proposal is one that I, and KCC Highways, consider would be harmful in terms of the proper planning of the local area. The connection would enable everyday journeys to be easily made between sites by a variety of means and reduce the otherwise need for avoidable more circuitous vehicle movements between neighbouring strategic development sites. For the reasons set out in this report, the applicant's proposition is therefore not agreed.
186. The provision of a reduced quantum of affordable housing at the site is a planning harm in terms of the requirement set out in Policy HOU1 of the ALP 2030 where 30% provision is the Plans requirement. Notwithstanding, Policy HOU1 identifies that where viability evidence is submitted and verified, flexibility will be considered by the Council on a case-by-case basis (with Policies IMP1 and IMP2 further confirming that flexibility and application of various techniques to capture contributions should be considered during and at the end of delivery change).

187. The applicant's offer of 10% affordable housing provision (with a tenure split of 40% affordable rent / 60% shared ownership) is one that, although sub-optimal, I would be prepared to accept as it would help with delivery to meet a known need. The planning harm of sub-optimal delivery is potentially lessened in the planning balance by the adoption of a viability review approach. Through this approach, the scheme can potentially be further shaped for the better in terms of levels of affordable housing provision during phased build-out due to changes in circumstances involving costs and sales/rentals. In effect, the scheme may be able to evolve as it moves through reserved matters approval and on-site delivery stages and have capacity to move closer to the 30% figure in Policy HOU1. As mentioned above, this is covered by Policy IMP2 of the ALP 2030 and, alongside Policy IMP2 and HOU1 identifies the Council's flexibility.
188. I therefore recommend that the required s.106 includes the requirement to submit an updated viability appraisal with each reserved matters application when the dwelling mix is fixed. This would establish an accurate view of viability of the development as the assumptions used in the applicant's appraisal would reflect the market at the time that a detailed design is agreed. I also recommend reviews are undertaken at later dates to be agreed once the development is under construction in order to reflect the true costs and sales values of the development and establish the ability for the scheme to evolve beyond the applicant's 10% affordable housing offer. Given the application is submitted in outline with all matters reserved expect access, the mix (size) of housing has not yet been agreed and would only happen at reserved matters stage. I note that the housing mix can have a significant impact on viability.
189. For the reasons set out above, the approach to affordable housing has been altered in the updated Table 1 with this report.
190. Returning to the issue of the planning balance, my view is that the planning benefits of the scheme outweigh planning harms which can be mitigated through detailed planning conditions and s.106 obligations and through retention of the requirement to provide vehicular connection with the nearby Court Lodge allocation as set out in the site allocation policies.
191. The delivery of development at the site would accord with the Council's spatial strategy, assist with the delivery of housing (including a level of affordable housing) within the Borough and help demonstrate that planned-for allocated development is being delivered through pragmatic local solutions being found to challenging issues such as nutrient neutrality and development viability. I consider that moving forward with the site has the ability to generally strengthen the Council's position on housing delivery when dealing with windfall development applications for unallocated sites.

192. I therefore recommend that the planning obligations set out in Table 1 should be sought through the Inquiry decision making process and s.106 agreement process. I have assessed them against Regulation 122 and consider that they all **are necessary** to make the outline development **acceptable in planning terms, are directly related to the development** and are **fairly and reasonably related in scale and kind** to the development.

Other Matters

193. My assessment of the amended plans submitted in October 2022 identified other issues that I considered should be addressed by the applicant. These relate to the parameter plans and illustrative masterplan, biodiversity net gain and climate change. I asked the applicants to respond to these points in March 2023, however, they failed to do so before lodging the appeal against non-determination.
194. Following the submission of the appeal, the applicants advised that they would be submitting documents in respect of Biodiversity Net Gain and Climate Change as part of their evidence to the Inquiry and that the issues raised about the parameter plans and illustrative masterplan could be addressed at reserved matter stage and/or by planning condition. I set out below the issues that I raised for Members' information.
195. Playspace - there is a Policy requirement to provide one play space, 0.63 Ha in size on-site in allocation S4 (areas 2, 3 & 4), however, the illustrative masterplan shows the playspace as being split into four sites of 0.165 Ha. The plans should be amended to provide one single play space and I consider that the most appropriate location for this is in Area 3. As set out in the Council's adopted Public Green Spaces and Water Environment SPD, the Council has found that small areas of equipped play areas tend to result in smaller facilities of a very basic standard that often do not positively engage children, tend to not be particularly well-used as a result and that are difficult and expensive to maintain over time when provided in a separated fashion. A smaller number of higher quality, more 'strategic' equipped play facilities that serve a wider catchment is more appropriate.
196. Outdoor Sports Provision – as set out in Table 1, there is a requirement to support the provision of sports provision off-site and not on-site. The provision of sports pitches on site is not in accordance with the Council's 'hub' approach to sports provision. I do not consider that piecemeal provision would be of value as the necessary infrastructure of changing facilities, access, parking, etc. cannot be provided. I asked the applicants to amend their plans to remove the proposed on-site sports pitch provision and instead provide this area (2.1 ha) for informal public open space and green buffer. The play space could also be located here.

197. Woodland – I noted that an area of new woodland proposed to the rear of properties fronting Stumble Lane shown on the parameter plan approved by the Planning Committee in 2018 has now been removed from the plans. This point has also been raised by neighbouring residents. The applicant has provided no explanation as to why this woodland has been removed.

Table 1 - Heads of Terms for Section 106 Agreement/Undertaking

The following planning obligations have been assessed against Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and for the reasons set out in the officer's **committee** report are considered to be **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. In the event of a planning appeal, the approved Table 1 derived shall form the Council's CIL compliance statement along with any necessary additions and clarifications as may be required for the Planning Inspectorate.

Obligation No.	Planning Obligation Detail	Amounts (s)	Trigger Points (s)
Ashford Borough Council Planning Obligations			
1	<p><u>Affordable Housing</u></p> <p>Provide not less than 10% of the residential units on site as affordable housing, comprising 40% affordable / social rent and 60% shared ownership.</p> <p>An Affordable Housing Scheme for each phase to be submitted to and approved in writing by the Council prior to the submission of a reserved matters application for the relevant phase.</p> <p>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.</p> <p>Shared ownership units to be leased in the terms specified.</p>	<p>Not fewer than 10% dwellings in each phase, comprising:</p> <p>40% dwellings for affordable / social rent</p> <p>60% dwellings for shared ownership</p>	<p>An affordable housing scheme for each phase to be submitted to and approved in writing by the Council before commencement of development of the relevant phase</p> <p>Affordable housing to be constructed and transferred to Registered Provider before occupation of 50% of the general market units in each phase] and in accordance</p>

Ashford Borough Council - Report of the Head of Planning and Development
 Planning Committee 5 July 2023

	Affordable rented units to be let at no more than 80% market rent and in accordance with the registered provider's nomination agreement.		with the approved Affordable Housing Scheme
1a	<p><u>Financial Viability Review Mechanism</u></p> <p>An updated viability appraisal to be submitted with each reserved matters application to determine whether the development can deliver an increased level of affordable housing, up to the policy complaint level of 30%.</p> <p>An updated viability appraisal to be submitted during the course of construction and occupation (trigger point to be agreed) to determine whether the development can deliver an increased level of affordable housing, up to the policy complaint 30%.</p>	Up to 30% affordable housing provision.	To be delivered on site if the circumstances prevail.
2	<p><u>Accessible and Adaptable Dwellings</u></p> <p>Amount to be secured in accordance with Policy HOU14:</p> <p>At least 20% [total of 110 dwellings] of all homes shall be built in compliance with building regulations M4(2) as a minimum standard.</p>	20% M4(2) across the whole site.	All accessible and adaptable homes to be constructed before the occupation of any dwellings.
3	<p><u>Allotments</u></p> <p>Project detail (on site):</p> <p>To provide the Allotment Facilities on site within Area 3 in accordance with the relevant reserved matters approval.</p>	<p>On site:</p> <p>A minimum of 0.26 hectares. + £66.00 per</p>	<p>The Allotment Facilities to be provided before the occupation of 75% of the dwellings in Area 3.</p> <p>The maintenance</p>

	<p>The developer to ensure the Allotment Facilities land is free from contamination, pollution and protected species that would prevent or limit the intended use.</p> <p>The Stewardship Body to appoint an 'Appointed Professional', at the developers cost, to inspect and advise the Stewardship Body as to whether the Allotment Facilities have been satisfactorily completed.</p> <p>The Allotment Facilities to be transferred to the Stewardship Body to manage and maintain.</p> <p>The developer to repair any defects which occur within 12 months of the Allotment Facilities being transferred to the Stewardship Body</p>	<p>dwelling for maintenance.</p> <p>Indexation: BCIS General Building Cost index 2012</p>	<p>contribution to be paid to the Council before the occupation of 75% of the dwellings in Area 3 (or upon completion of the allotment facilities, if earlier).</p> <p>The Council to transfer the maintenance contribution to the Stewardship Body.</p>
<p>4</p>	<p><u>Amenity Open Space Land</u> Project detail:</p> <p>To provide the Amenity Open Space Land in each phase in accordance with the relevant reserved matters approval.</p> <p>The developer to ensure the Amenity Open Space Land is free from contamination, pollution and protected species that would prevent or limit the intended use.</p> <p>The Stewardship Body to appoint an 'Appointed Professional', at the developers cost, to inspect and advise the Stewardship Body as to whether the Amenity Open Space Land has been satisfactorily completed.</p>	<p>On site:</p> <p>all those parts of the site comprising verges and all areas (not privately owned) in and around dwellings excluding public open space/play space</p>	<p>The Amenity Open Space Land to be provided before the occupation of 75% of the dwellings in the relevant phase.</p>

	<p>The Amenity Open Space Land to be transferred to the Stewardship Body to manage.</p> <p>The developer to repair any defects which occur within 12 months of the Amenity Open Space Land being transferred to the Stewardship Body</p>		
5	<p><u>Art and Creative Industries</u> Project detail:</p> <p>Contribution towards the provision of public art or the delivery/enhancement of a facility on or off site within the Kingsnorth Parish.</p>	<p>£338.40 per dwelling for capital costs</p> <p>Indexation: BCIS General Building Cost index 2019</p>	<p>Before the occupation of 75% of the dwellings.</p>
6	<p><u>Children and Young People's Play Space</u> Project detail (on site):</p> <p>To provide the Children's and Young People's Play Space Facilities on site (Policy S4 site) in accordance with the relevant reserved matters approval.</p> <p>The developer to ensure the Children's and Young People's Play Space Facilities land is free from contamination, pollution and protected species that would prevent or limit the intended use.</p> <p>The Stewardship Body to appoint an 'Appointed Professional', at the developers cost, to inspect and advise the Stewardship Body as to</p>	<p>On site:</p> <p>a minimum of 0.46 hectares + £663.00 per dwelling for maintenance.</p> <p>Indexation: BCIS General Building Cost index 2012</p> <p>Off site:</p>	<p>On site:</p> <p>The play facilities to be provided before the occupation of 75% of the dwellings in Area (TBC).</p> <p>The maintenance contribution to be paid to the Council before the occupation of 75% of the dwellings in Area (TBC) (or upon completion of the facilities in the relevant</p>

	<p>whether the Children's and Young People's Play Space Facilities have been satisfactorily completed.</p> <p>The Children's and Young People's Play Space Facilities to be transferred to the Stewardship Body to manage.</p> <p>The developer to repair any defects which occur within 12 months of the Children's and Young People's Play Space Facilities being transferred to the Stewardship Body</p> <p>Project detail (off site):</p> <p>Contribution towards new play provision (Policy S5 site) within the Parish of Kingsnorth.</p>	<p>£649 per dwelling for capital costs</p> <p>£663 per dwelling for maintenance</p> <p>Indexation: BCIS General Building Cost index 2012</p>	<p>phase, if earlier). The Council to transfer the maintenance contribution to the Stewardship Body.</p> <p>Off site:</p> <p>Payment of the total amount (Capital and Maintenance) to the Council before occupation of 75% of the dwellings in Area 1</p>
7	<p><u>Community Building</u></p> <p>Project detail (off site):</p> <p>Contribution towards an existing facility in the Parish of Kingsnorth</p>	<p>Off site:</p> <p>£1870.83 per dwelling for capital costs</p> <p>£528.33 per dwelling for maintenance</p> <p>Indexation: Indexation applied from the date of resolution to grant permission.</p>	<p>50% of the total amount due will be payable before the occupation of 50% of the dwellings, with the remainder being payable upon occupation of 75% of the dwellings</p>

8	<p><u>Indoor Sports Provision</u> Project detail (off site):</p> <p><i>Schemes in the Ashford Urban Area:</i></p> <p>Contribution towards outdoor sports pitch provision at Ashford to be targeted towards quantitative and qualitative improvements at the 'Hubs' identified in the Local Plan 2030.</p>	<p>Off site:</p> <p>£83,08 per dwelling for capital costs (3G pitches)</p> <p>£527.32 per dwelling for capital costs (sports hall)</p> <p>(capital only – contributions are derived from the latest Sport England England Calculator).</p> <p>Indexation: BCIS General Building Cost index 2019</p>	<p>50% of the total amount due will be payable before the occupation of 50% of the dwellings, with the remainder being payable upon occupation of 75% of the dwellings</p>
9	<p><u>Informal Natural Green Space</u> Project detail (on site):</p> <p>To provide the Informal Natural Green Space and habitat buffers in accordance with the relevant reserved matters approval</p> <p>The developer to ensure the Informal Natural Green Space and</p>	<p>On site:</p> <p>2.65 hectares to be provided on site +</p> <p>£325.00 per dwelling for maintenance</p>	<p>The Informal Natural Green Space to be provided before the occupation of 50% of the dwellings in Area 1, 2, 3 & 4.</p> <p>The maintenance</p>

	<p>habitat buffers is free from contamination, pollution and protected species that would prevent or limit the intended use.</p> <p>The Stewardship Body to appoint an 'Appointed Professional', at the developers cost, to inspect and advise the Stewardship Body as to whether the Informal Natural Green Space and habitat buffers has been satisfactorily completed.</p> <p>The Informal Natural Green Space and habitat buffers to be transferred to the Stewardship Body to manage.</p> <p>The developer to repair any defects which occur within 12 months of the Informal Natural Green Space and habitat buffers being transferred to the Stewardship Body</p>	<p>Indexation: BCIS General Building Cost index 2012</p>	<p>contribution to be paid to the Council before the occupation of 50% of the dwellings in Areas 1, 2, 3 and 4 (or upon completion of the informal natural greenspace and habitat buffers (if earlier). The Council to transfer the maintenance contribution to the Stewardship Body.</p>
<p>10</p>	<p><u>Outdoor Sports Provision</u></p> <p>Project detail (off site):</p> <p>Contribution towards outdoor sports pitch provision at Ashford to be targeted towards quantitative and qualitative improvements at the 'Hubs' identified in the Local Plan 2030.</p>	<p>Off site:</p> <p>£404.70 per dwelling for capital costs (pitches)</p> <p>£582.47 per dwelling for maintenance (pitches)</p> <p>£570.28 per dwelling for</p> <p>(For capital</p>	<p>Before the occupation of 75% of the dwellings.</p> <p>(</p>

		<p><i>contributions - calculations are derived from the latest Sports England Calculator)</i></p> <p>Indexation: BCIS General Building Cost index 2019</p>	
11	<p><u>Quality Monitoring</u></p> <p>Contribution towards monitoring, to ensure that the approach to design quality is delivered on site in accordance with the details approved as part of the planning permission, including any subsequent details approved pursuant to any conditions related to the planning permission.</p>	<p>One off payment of the following:</p> <p>£90.00 per dwelling</p> <p>£45.00 per flat</p> <p>Total amount capped at £350,000 in relation to development provided for by any single outline/full planning permission.</p> <p>Indexation: Indexation applied</p>	<p>25% of the total amount due will be payable on commencement of the development, with the remainder being payable before the occupation of 50% of the total number of dwellings.</p>

		from the date of the resolution to grant permission.	
12	<p><u>Self/Custom Build Housing</u> Amount to be secured in accordance with Policy HOU6:</p> <p>Up to 28 serviced plots for use by custom/self-builders to be made available and marketed.</p> <p>Full details of the serviced custom / self-build plots, a Design Brief and marketing strategy to be submitted to and approved in writing by the Council prior to submission of the first reserved matters application.</p> <p>If, following a marketing period of no less than 12 calendar months, it is demonstrated that there is no interest from a Self-Build / Custom House Builder, the plots can be developed as open market housing.</p>	Up to 28 serviced plots (5% of total dwellings). To be provided across the site.	Each reserved matters application to be accompanied by a Self/Custom Build Housing proposal.
13	<p><u>Strategic Parks</u> Project detail:</p> <p>Contribution to be targeted towards quantitative and qualitative improvements at the strategic parks within the 'Hubs' identified in the Local Plan 2030.</p>	<p>£146 per dwelling for capital costs</p> <p>£47 per dwelling for maintenance</p> <p>Indexation: BCIS General Building Cost index 2012</p>	50% of the total amount due will be payable before the occupation of 50% of the dwellings, with the remainder being payable upon occupation of 75% of the dwellings

Ashford Borough Council - Report of the Head of Planning and Development
 Planning Committee 5 July 2023

14	<p><u>Voluntary Sector</u> Project detail: Project: off-site provision with the Kingsnorth Parish</p>	<p>£87 per dwelling Indexation: BCIS General Building Cost index 2019</p>	<p>Before the occupation of 75% of the dwellings.</p>
Kent County Council Planning Obligations			
15	<p><u>Adult Social Care</u> Project detail: Specialist Housing Provision in the District, adaptation of community facilities, technology to promote independence, multi-sensory facilities and changing place facilities in the vicinity of the development</p>	<p>£146.88 per dwelling Indexation: BCIS General Building Cost Index from Oct 2016</p>	<p>Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings</p>
16	<p><u>Community Learning</u> Project detail: Contributions towards additional equipment and resources for Adult Education Centres locally</p>	<p>£16.42 per dwelling Indexation: BCIS General Building Cost Index from Oct 2016</p>	<p>Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings</p>
17	<p><u>Education Land for Primary</u> Project detail: Contribution towards the delivery of the new 2FE Primary School at</p>	<p>£590.95 per flat £2363.93 per dwelling</p>	<p>Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of</p>

	the Court Lodge site (Local Plan Policy S3 site).	<p>£0 for any 1-bed dwelling with less than 56 m² gross internal area.</p> <p>Indexation: BCIS General Building Cost Index from Oct 2016</p>	50% of the dwellings.
18	<p><u>Libraries</u> Project detail:</p> <p>Contribution towards additional Library equipment, stock, services including digital infrastructure, shelving and resources for the new borrowers at Libraries in the Ashford Urban Area</p>	<p>£55.45 per dwelling</p> <p>Indexation: BCIS General Building Cost Index from Oct 2016</p>	Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings.
19	<p><u>Primary Schools</u> Project detail:</p> <p>Contribution towards the delivery of the new 2FE Primary School at the Court Lodge site (Local Plan Policy S3 site).</p>	<p>Per Flat £1134.00 (New Build)</p> <p>Per Dwelling £4535.00 (New Build)</p> <p>£0 for any 1-bed dwelling with less than 56 m² gross</p>	Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings

		internal area. Indexation: BCIS General Building Cost Index from Oct 2016	
20	<p><u>Public Rights of Way (PROW)</u> Project detail:</p> <p>Project 'A' Financial contribution towards creation of a cycle link to Church Hill</p> <p>Project 'B' Financial contribution towards surfacing bridleway AW384, AW385 and AW207 which forms higher rights connectivity East to West across Kingsnorth. .</p>	<p>Project 'A' £26,000.00 total financial contribution</p> <p>Project 'B' £10,000 total financial contribution</p> <p>Indexation: BCIS General Building Cost Index from Oct 2016</p>	<p>Project 'A' The total amount payable before the occupation of 100 dwellings</p> <p>Project 'B' The total amount payable before the occupation of 200 dwellings.</p>
21	<p><u>Secondary Schools</u> Project detail:</p> <p>Contribution towards new school provision at the Chilmington Green Secondary school or alternative new provision in the planning group</p>	<p>Per Flat £1172.00 (New Build)</p> <p>Per Dwelling £4687.00 (New Build)</p>	<p>Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings</p>

		<p>£0 for any 1-bed dwelling with less than 56 m² gross internal area.</p> <p>Indexation: BCIS General Building Cost Index from Oct 2016</p>	
22	<p><u>Travel Plan Monitoring Fee</u> Project details:</p> <p>Contribution towards the cost of monitoring compliance with the Travel Plan.</p>	<p>£1000 per annum for a period of 5 years post completion of the development.</p> <p>Indexation: Indexation applied from the date of the resolution to grant permission.</p>	<p>First payment before the first occupation of the development and on the anniversary thereof in subsequent years.</p>
23	<p><u>Youth Services</u> Project detail:</p> <p>Contribution towards additional resources for the Ashford Youth Service to enable outreach work in the vicinity of the development</p>	<p>£65.50 per dwelling</p> <p>Indexation: BCIS General Building Cost Index from Oct 2016</p>	<p>Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings.</p>

Other Obligations			
24	<p><u>Health Care (NHS)</u> Project detail:</p> <p>To develop capacity within the Ashford Stour Primary Care Network (PCN) either via new development, extension of current sites or land for new building</p>	<p>£769.10 per dwelling.</p> <p>Indexation: Indexation applied from the date of the resolution to grant permission.</p>	<p>Half the contribution before the occupation of 25% of the dwellings and balance before the occupation of 50% of the dwellings.</p>
25	<p><u>Strategic Highways</u></p> <p>Project 'A' Junction 10A* - Financial contribution towards construction of junction 10A of the M20</p> <p>And</p> <p>Road network improvements comprising:</p> <p>'Project 'B' The 'Flanders' Roundabout (A2042 Avenue Jacques Faucheux, A2042 Bad Munstereifel Road, Malcolm Sargent Road junction) - Financial contribution towards junction capacity improvements.</p>	<p>Project 'A' £191,791.60</p> <p>Indexation: ROADcon date TBC</p> <p>And</p> <p>Project 'B' £1,871,229.00</p> <p>Indexation: BCIS General Building Cost Index from October 2016</p>	<p>50% on commencement of construction, 25% before the occupation of 1/3 of the dwellings and 25% before the occupation of 3/4 of the dwellings.</p>
26	<p><u>Sustainable Travel</u></p>	<p>£400,000.00</p>	<p>£120,000 in year 1</p>

	A financial contribution towards improvements to bus services between the site and Ashford Town Centre	Indexation: BCIS General Building Cost Index from October 2016.	£100,000.00 in year 2 £80,000.00 in year 3 £60,000.00 in year 4 £40,000.00 in year 5
27	<p><u>Stodmarsh Mitigation - SuDS</u></p> <p>If the Inspector, as the competent authority, is satisfied that there is no adverse effect on the integrity of the designated sites, the Council requests that the mitigation measures necessary to achieve that outcome are robustly and fully secured. The following heads of terms are suggested.</p> <p>To provide SuDS on-site that will satisfy the objectives and requirements of the Appropriate Assessment in order to secure nitrogen and phosphorous neutrality for the Development and result in an absence of significant effects of the Development upon the integrity of the Stodmarsh Designated Sites taking account of the Natural England Nutrient Neutrality Guidance.</p> <p>To submit to the LPA for approval in writing the detailed design of the SuDS, including a monitoring, management and maintenance scheme (SuDS Proposal).</p> <p>The developer to appoint an Appointed Professional', at the developers cost, to inspect and advise the Council as to whether the</p>		<p>To submit the SuDS Proposal to the Council for approval before the commencement of development.</p> <p>To complete the SuDS on site before the occupation of any dwelling.</p> <p>The SuDS to be monitored, managed and maintained in accordance with the SuDS Proposal, as long as the development remains in use.</p>

	<p>SuDS have been satisfactorily completed</p> <p>The SuDS to be transferred to an approved body to monitor, manage and maintain in accordance with the SuDS Proposal, as long as the development remains in use.</p>		
<p>28</p>	<p><u>Stodmarsh Mitigation – Waste Water Treatment Works</u></p> <p>If the Inspector, as the competent authority, is satisfied that there is no adverse effect on the integrity of the designated sites, the Council requests that the mitigation measures necessary to achieve that outcome are robustly and fully secured. The following heads of terms are suggested.</p> <p>To provide a waste water treatment works (WwTW) on site that will satisfy the objectives and requirements of the Appropriate Assessment in order to secure nutrient neutrality for the Development and result in an absence of significant effects of the Development upon the integrity of the Stodmarsh Designated Sites taking account of the Natural England Nutrient Neutrality Guidance.</p> <p>To obtain the relevant environmental permits from the Environment Agency to allow the discharge of treated waste water from the on-site WwTW within the Whitewater Dyke water body prior to commencement development</p> <p>To transfer the WwTW to an appropriately regulated waste water operator who will manage and maintain the WwTW in perpetuity.</p>	<p>The WwTW to be delivered on site in accordance with the reserved matters approval</p>	<p>To obtain the relevant environmental permits from the Environment Agency before the commencement of development.</p> <p>To complete and bring into operation the WwTW on site before the occupation of any dwelling (or temporary arrangements to bridge the gap are in place before the occupation of the first dwelling whilst the WWTW is coming on-line, the temporary arrangements to be agreed with the LPA before the commencement of the development).</p>

Site Specific Obligations			
29	<p><u>Archaeology</u></p> <p>Financial contribution to provide heritage interpretation measures and funding for a part time community archaeologist for two years</p>	<p>£60,000 for heritage interpretation measures</p> <p>£40,000 for a part time community archaeologist</p>	<p>The triggers for the payments to be agreed with KCC.</p>
30	<p><u>Closure of Bond Lane</u></p> <p>Bond Lane to be closed in accordance with the Transport Assessment via a S278 Highway Agreement with Kent County Council</p>	<p>Bond Lane to be closed in the location shown on plan (to be provided)</p>	<p>Section 278 agreement to be completed before the grant of the first reserved matters)</p> <p>Timing of the road closure to be agreed with KCC</p>
31	<p><u>Link between Kingsnorth Green and Court Lodge sites</u></p> <p>To safeguard land 'without ransom strips' and facilitate the delivery of (if agreement is reached with neighbouring land owner(s) vehicle /cycle/pedestrian links between the application site and neighbouring allocated development sites - Local Plan Policy S3 area (Court Lodge) and Local Plan Policy S5 Area (Land South of Pound Lane) to ensure the land is not used for any other purpose</p> <p>To safeguard land 'without ransom strips' and facilitate the delivery of (if agreement is reached with neighbouring land owner(s) vehicle</p>	<p>In accordance with reserved matters approvals</p>	<p>The reserved matters application for Areas 1 & 2 shall identify land and provide a detailed design for safeguarding, up to the site's boundary, and the delivery of a vehicle / cycle / pedestrian connection to Local Plan Policy S3 area</p> <p>The site to be laid out in</p>

	<p>/cycle/pedestrian links between the application site and neighbouring allocated development sites - Local Plan Policy S3 area (Court Lodge) and Local Plan Policy S4 Area (Land North of Steeds Lane and Magpie Hall Road) to ensure the land is not used for any other purpose</p>		<p>accordance with the relevant reserved matters approval upon occupation of 75% of the dwellings in Areas 1 & 2 and to be maintained as such for as long as the development exists</p>
<p>32</p>	<p><u>Community Stewardship Body</u> A Community Stewardship model of governance to be established to manage and maintain the Allotments; Amenity Open Space Land; Children's' and Young People's Play Space; and Informal Natural Green Space. To be taken forward by either:</p> <p>Option 'A' : the Chilmington CMO, or</p> <p>Option 'B': the formation of a separate independent stewardship organisation that aligns with the long term stewardship arrangements for Chilmington Green and the wider South Ashford Garden Community. The developer to submit a strategy, business plan and governance structure for the stewardship body.</p> <p>In both options there will be an annual charge payable by each household</p>	<p>If Option A is taken forward then a Start-up contribution to be paid to the Council and transferred to the CMO - amount (with indexation) to be agreed.</p> <p>If Option B is taken forward, the developer to fund the start up of the stewardship organisation directly..</p>	<p>Prior to submission of the first reserved matters, a decision to be agreed between the Council, developer and CMO as to whether to proceed with Option 'A' or Option 'B'.</p> <p>For Option A & Option B The submission by the developer and approval by the Council of the strategy, business plan and governance structure for the stewardship body prior to commencement of development.</p> <p>For Option A The triggers of payment of the Start-up grant to be agreed in the business</p>

			<p>plan.</p> <p>The Stewardship arrangement to be in place prior to first marketing of the dwellings.</p>
Monitoring			
33	<p><u>Monitoring Fee</u> Contribution towards the Council's costs of monitoring and reporting.</p>	<p>£500 per annum until development is completed</p> <p>Indexation: Indexation applied from the date of the resolution to grant permission.</p>	<p>First payment before the commencement of development and on the anniversary thereof in subsequent years.</p>
<p><u>Notices</u> must be given to the Council at various stages in order to aid monitoring. All contributions are index linked in order to maintain their value. The Council's and Kent County Council's legal costs in connection with the deed must be paid.</p> <p>PLEASE NOTE:</p> <ul style="list-style-type: none"> • Depending upon the time it takes to complete an acceptable deed the amounts specified above may be subject to change 			

Human Rights Issues

198. I have also taken into account the human rights issues relevant to the approach to this application now the subject of appeal against non-determination. In my view, the “Assessment” section above and the Recommendation below represent an appropriate balance between the interests and rights of the applicant (to enjoy their 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

199. 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 and this has been the case during the period from first submission up to the point of the appeal against non-determination being confirmed as valid.

Conclusion

200. The application site is designated for housing development through two separate site Policy allocations in the adopted Ashford Local Plan 2030. This is a material consideration in the assessment of the application.
201. The development of the sites was resolved to be granted by the Council in 2018: that is also a material consideration.
202. The other key material consideration is the benefits associated with the provision of new housing in a sustainable location which underpins the overarching approach to the site allocations in the adopted Ashford Local Plan 2030.
203. The applicant has subsequently provided further updates to the supporting material since that 2018 Planning Committee resolution and amended the application accordingly including seeking outline planning permission for an on-site WwTW as part of the site infrastructure in order to deal with the new issue affecting this area of the Borough in terms of the need to ensure nutrient neutrality. The applicant has also submitted a viability assessment in support of seeking agreement to a reduced quantum of affordable housing. Appropriate re-consultation has been carried out in accordance with these post 2018 Report changes.
204. The 2018 Committee resolution concluded that the development, subject to the approval of fine detail through subsequent applications for approval of

reserved matters and through other planning conditions, would not result in a scheme that would create material harm to landscape character and neighbour amenity. Furthermore, it was concluded that the development would be appropriate and would sit comfortably within its contextual setting, and, subject to planning conditions, would not harm matters of ecological interest, highway safety, heritage assets or result in unacceptable flood risk and that any planning harms could be mitigated through planning conditions. When balanced alongside the positive social and economic impacts arising from the proposal, the 2018 Committee conclusion was that the proposal would represent sustainable development and so should be permitted.

205. I concur with that 2018 conclusion. Save for the introduction of the WwTW and the proposed reduction of the amount of affordable housing to be provided, there has otherwise been no material change in planning circumstances and national planning guidance in the NPPF that might dictate an alternative conclusion being reached.
206. It should be remembered that save for affordable housing, other s.106 obligations to mitigate other impacts remain and the applicant's proposition is not for these to be reduced or deleted.
207. In terms of affordable housing, whilst a diminution in affordable housing from the ALP 2030 Policy HOU1 starting point of 30% is disappointing, the applicant's viability assessment has been carefully examined by the Council's expert advisors and found to be robust in terms of the offer of 10% affordable housing given the extra costs that would have to be absorbed in order to progress the scheme.
208. The need for delivery of new housing remains and I consider that a pragmatic position needs to be adopted to affordable housing. Policy HOU1 contains within it flexibility to consider a reduction if a well-evidenced case can be proven to be justified on a case-by-case basis and that is the position here. Policies IMP1 and IMP2 of the ALP 2030 similarly identify the approach that will be taken through deferred contributions and viability review. Viability review is the approach that I consider would be most appropriate here in order to ensure that if betterment of the 10% offer proves able to be achieved through the actual costs and revenue realised through phased build-out then that betterment can be actively worked into the development as it progresses and provide enhanced diversity in terms of meeting differing housing needs.
209. In respect of nutrient neutrality, this is a requirement if much needed new housing is to be developed in this part of the Borough in accordance with the adopted ALP 2030 and the spatial strategy to accommodate housing in sustainable locations. The applicant's introduction of a WwTW into site infrastructure deals with this new issue since the adoption of the Local Plan

and the site allocation policies within. It is a pragmatic solution, although one that comes with extra infrastructure costs to the scheme.

210. The Inspector is now the competent authority decision-maker in respect of the acceptability of the applicant's scheme and will be required to adopt an Appropriate Assessment when determining the appeal.
211. As set out in this report, I consider that as a matter of principle the WwTW can be accommodated within the scheme layout without amenity, visual and landscape harm. Planning conditions will be essential. In operation the available evidence suggest that the WwTW would not give rise to adverse noise or odour impacts. Conditions will be needed to deal with (a) WwTW provision and readiness for operation at the site prior to first occupation of any dwelling – a 'Grampian' style negatively worded condition will be needed - and (b) fine detail including any necessary mitigation approach to the layout and./or detailing of nearby new homes.
212. Outside of town and country planning legislation, the WwTW will need to be permitted by the relevant authorities. I have no certainty as to whether this will be forthcoming but, as stated above, it is a prerequisite to the granting of any outline permission and will need to be covered by planning condition.
213. My updated Recommendation below is cognisant that the application is subject of an appeal against non-determination. It forms the basis of the Council's case to the Planning Inquiry including:
- a. those matters where the Planning Inspector will need to satisfy him/herself that an Appropriate Assessment on nutrient neutrality can be adopted by him/herself as competent authority decision maker
 - b. those matters that should be secured through s.106 obligations, and,
 - c. those matters that should be secured through planning conditions.

Recommendation

(A)

That in the light of the appeal against non-determination the Planning Inspectorate be advised that, had the Borough Council been able to determine the application, it would have been minded to grant outline planning permission, subject to:-

- i. the applicant first entering into a section 106 agreement/undertaking in respect of the planning obligations detailed in Table 1 above, to reflect the viability of the scheme and to ensure that reasonable and**

proper contributions are made by the development bearing in mind the viability position and the requirement for further reviews of viability in the future to secure an increased affordable housing contribution up to the policy compliance 30% should viability improve in the future.

- ii. in terms agreeable to the Strategic Development & Delivery Manager or the Development Management Manager in consultation with the Director of Law and Governance (with delegated authority to either the Development Management Manager or the Strategic Development and Delivery Manager to make or approve changes to the planning obligations and planning conditions and notes (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit),**
- iii. the applicant submitting information to enable an Appropriate Assessment under the Habitats Regulations 2017 (as amended) to be adopted by the Head of Planning and Development identifying suitable mitigation proposals such that, in his view, having consulted the Solicitor to the Council and Natural England, the proposal would not have a significant adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site alone or in combination with other plans or projects with delegated authority to the Development Management Manager or the Strategic Development and Delivery Manager, in consultation with the Solicitor to the Council, to enter into a section 106 agreement/undertaking to add, amend or remove planning obligations and/or planning conditions as they see fit to secure the required mitigation and any associated issues relating thereto, and**
- iv. subject to planning conditions and notes, including those dealing with the subject matters identified below (but not limited to that list) and those necessary to take forward stakeholder representations, with wordings and triggers revised and refined as appropriate and with any 'pre-commencement' based planning conditions to have been the subject of agreement with the applicant.**

(B)

The Strategic Development & Delivery Manager or the Development Management Manager in consultation with the Solicitor to the Council and Monitoring Officer be authorised to present the Council's case to the Planning Inspectorate in accordance with (A) above with authority delegated to the Strategic Development & Delivery Manager or the Development Management Manager to add/amend/delete/approve obligations and/or planning conditions as he/she considers necessary.

Conditions

Standard Conditions

1. Standard outline condition A
2. Standard outline condition B
3. Development carried out in accordance with the approved plans
4. Development shall accord with ES as submitted, unless agreed in writing
5. Site shall be made available for enforcement inspection when required.

Reserved Matters

6. Phasing Plan to be submitted prior to first RM
7. Detailed Masterplan to be submitted prior to first RM
8. RM to accord with parameter plans
9. Delivery of and Connection to Waste Water Treatment Works
10. Submission of Contour Plan - Levels & Earthworks
11. Climate Change - WwTW emissions

Highways/Parking/PROW

12. Proposed roads between Areas 1 and 2 and the Court Lodge development
13. PROW Management Scheme
14. Parking Details
15. Highway Design
16. EV Charging Points
17. Pound Lane/Church Hill/Ashford Road signal junction to be provided prior to the commencement of Area 2 or by occupation of the 151st dwelling, whichever is earlier.

18. Magpie Hall Road/Ashford Road/Steeds Lane junction realignment to be provided prior to the commencement of Area 2 or by occupation of the 151st dwelling, whichever is earlier.
19. Bus stops, raised kerbs and shelter to be provided on Ashford Road prior to commencement of Area 2 or by occupation of 151st dwelling, whichever is earlier
20. Existing bus stop and shelter on Ashford Road to be moved north prior to commencement of Area 2 or by occupation of 151st dwelling whichever is earlier.
21. Ashford Road Site Area 1 Access Junction and Visibility splays to be provided prior to the occupation of any dwellings in Area 2 or 3.
22. Ashford Road Site Area 2 and 3 Access Junction and Visibility splays to be provided prior to the occupation of any dwellings in Area 2 or 3.
23. Visibility splays and Bond Lane widening to be provided prior to occupation of any dwellings in Area 3 served off Bond Lane or Area 4.
24. Steeds Lane access and visibility splays to be provided prior to occupation of any dwelling in Area 4.
25. Travel plan to be submitted prior to occupation of first dwelling
26. Completion of works between a dwelling and the adopted Highway
27. Bicycle storage

Landscape & Trees

28. Details of earthworks
29. Play space Strategy
30. WwTW Landscape Plan
31. Tree Root Protection
32. Soft landscaping (including advance planting)
33. Hard landscaping
34. Design and implementation of public amenity space and allotments.
35. Landscape management plan

36. Tree Protection

Ecology & Biodiversity

37. Site wide Ecological mitigation strategy (informed by updated surveys)

38. Detailed mitigation strategy for each phase (informed by updated surveys)

39. Habitat creation plan

40. Ecological Management and Monitoring Plan for the whole site

41. Ecological Management and Monitoring Plan for each phase

Foul and Surface Water Drainage

42. Detailed SUDs Scheme to be submitted

43. SuDS Operation and Maintenance

44. Details of foul drainage to be submitted.

45. Surface water Drainage Verification report to be submitted.

46. No infiltration to the ground permitted.

Archaeology

47. Archaeology – programme of building recording

48. Archaeological field evaluation

49. Historic landscape assessment

50. Fencing to protect heritage assets.

51. Heritage Conservation and Interpretation Strategy.

Environmental Protection

52. Construction Environment Management Plan

53. Dust Management Plan

54. Land Contamination

- 55. Internal sound levels – residential
- 56. WwTW Noise rating level – night
- 57. WwTW Noise rating level – day
- 58. WwTW Acoustic Enclosure
- 59. WwTW Lighting Scheme
- 60. WwTW Development in relation to odour contour

Visual Amenity & Detailed Design

- 61. High speed fibre optic broadband to be provided.
- 62. Site Levels
- 63. Services Plan
- 64. Details of Materials
- 65. Details of external appearance
- 66. Crime Prevention through Environmental Design
- 67. Level thresholds
- 68. Space standards
- 69. Refuse & Recycling
- 70. Lighting Strategy
- 71. Wate4r Usage Restriction
- 72. Fans, louvres, ducts, meter boxes

Note to Applicant

- 1. S106 Agreement
- 2. Environment Agency
- 3. National Highways

4. PROW

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 reference 15/0856/AS)

Contact Officer: Faye Tomlinson
Email: faye.tomlinson@ashford.gov.uk
Telephone: (01233) 330275