

<b>Application Number</b>	19/00834/AS	
<b>Location</b>	Land at Orchard Farm, Canterbury Road, Kennington, Kent	
<b>Grid Reference</b>	02793/44832	
<b>Community Council</b>	Kennington	
<b>Ward</b>	Kennington	
<b>Application Description</b>	Outline application for the change of use of land from agricultural to residential and erection of 25 dwellings with associated accesses.	
<b>Applicant</b>	Mr A Roake, Orchard Farm Kennington Ltd, 31 Joy Lane, Whitstable, Kent, CT5 4LT	
<b>Agent</b>	Mr A Roake, Urbanise Ltd, 31 Joy Lane, Whitstable, Kent, CT5 4LT	
<b>Site Area</b>	1.2 hectares	
(a) 35/38R	(b) R	(c) KCC Bio - , KCC H&T – X, SW- X, EHM – X, NE – X, RAM – X, EA – X, ABC Housing – X, KCC – X, KCC SuDS – X.

## Introduction

1. This application is reported to the Planning Committee because it involves the erection of more than 10 dwellings and therefore is classified as a major development that requires determination by the Planning Committee under the scheme of delegation.
  
2. This application is identical to a previous application (17/00944/AS) that was previously refused by the Council on the 29<sup>th</sup> June 2018, in summary, on the following grounds;-
  - (a) inadequate access from Canterbury Road to serve the development (in addition to an emergency access role) due to width, inadequate passing space for two vehicles and lack of a segregated pedestrian footpath,

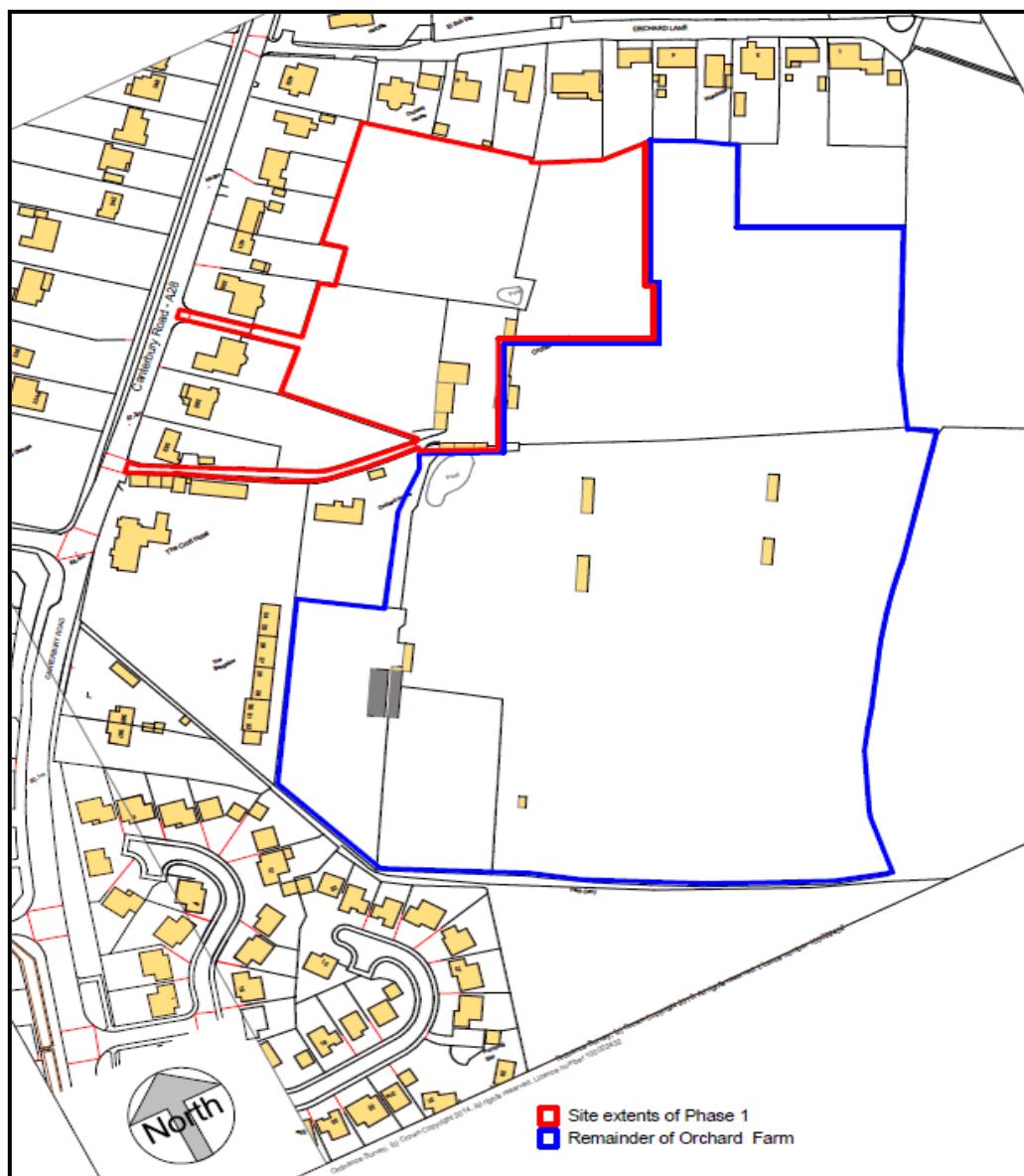
- (b) Loss of amenity for the two adjoining residences by reason of noise generated by vehicular use of the access,
  - (c) By virtue of the above, the site should not be brought forward in isolation of the remainder of ALP 2030 Site S2, and
  - (d) The necessary planning obligations have not been entered into to mitigate the impacts of the development.
3. Following a subsequent appeal – the appeal being dismissed on the 04 June 2019 - the proposal has been resubmitted. The decision of the Planning Inspectorate is a material consideration in the determination of this current application. The appeal decision is attached as **Annex 2**. In determining the appeal, the Inspector concluded that the Council's highways and noise objections were not valid reasons for the appeal to fail. In addition the Inspector was clear that there was no reason why the scheme could not come forward in advance of the large S2 allocation. The appeal was only dismissed because the Inspector had concerns relating to the Unilateral Undertaking (S106) which he did not consider to be clear enough with both parties objecting to its terms.

## Site and Surroundings

- 4. The site comprises an irregular shaped overgrown agricultural field of some 1.2 hectares in size. The western side of the site is bordered by dwellings and gardens, the eastern side by arable and pastoral farmland. The site contains a number of rundown and derelict redundant farm buildings. Site boundaries are marked by fencing, scattered trees and dense scrub, bramble and nettles.
- 5. The site is located to the southern side of Canterbury Road in Kennington, to the north eastern edge of the built up area of Ashford.
- 6. The site benefits from direct access from Canterbury Road from two separate accesses, one of which is an unmade track/farm lane adjacent to the northern boundary with the Croft Hotel with a second access between the residential properties of 387 and 399 Canterbury Road.
- 7. Public footpaths AU17, AU21 and AU20 run to the east, south and west of the site with views from the footpaths towards the site largely from the south and west with filtered views through the vegetation. These footpaths provide onward access to the Conningbrook Lakes Country Park across the railway line.
- 8. The topography of the site falls gradually from a height of 47 metres AOD at the proposed access point from Canterbury Road to the west to around 44 metres AOD to the south of the site. The site continues to fall across the adjoining fields towards the railway line which is approximately 500 metres away and the River Stour beyond that.
- 9. Approximately one third of the site falls within the Stour Gap (Wilmington Farmlands) Landscape Character Area and reflects some of the key

characteristic features such as large open fields gently sloping towards the Stour Valley, railway line to the east, remnant hedges, ditches and shelter belts and views towards the North Downs.

10. The site comprises the northern corner of the larger proposed site allocation set out in site policy S2 of the Ashford Local Plan 2030. This proposes a development of up to 700 dwellings on some 40 hectares of land.
11. The Kennington and Ball Lane Conservation Area is located approximately 160 metres to the west of the site on the opposite side of Canterbury Road.
12. The site is located within flood zone 1 (low probability) - a less than 1 in 1,000 annual probability of fluvial flooding.
13. A site plan is detailed below as **Figure 1** and attached as **Annex 1** to this report. **Figure 2** is an aerial view that shows the relationship to the site to its surroundings.





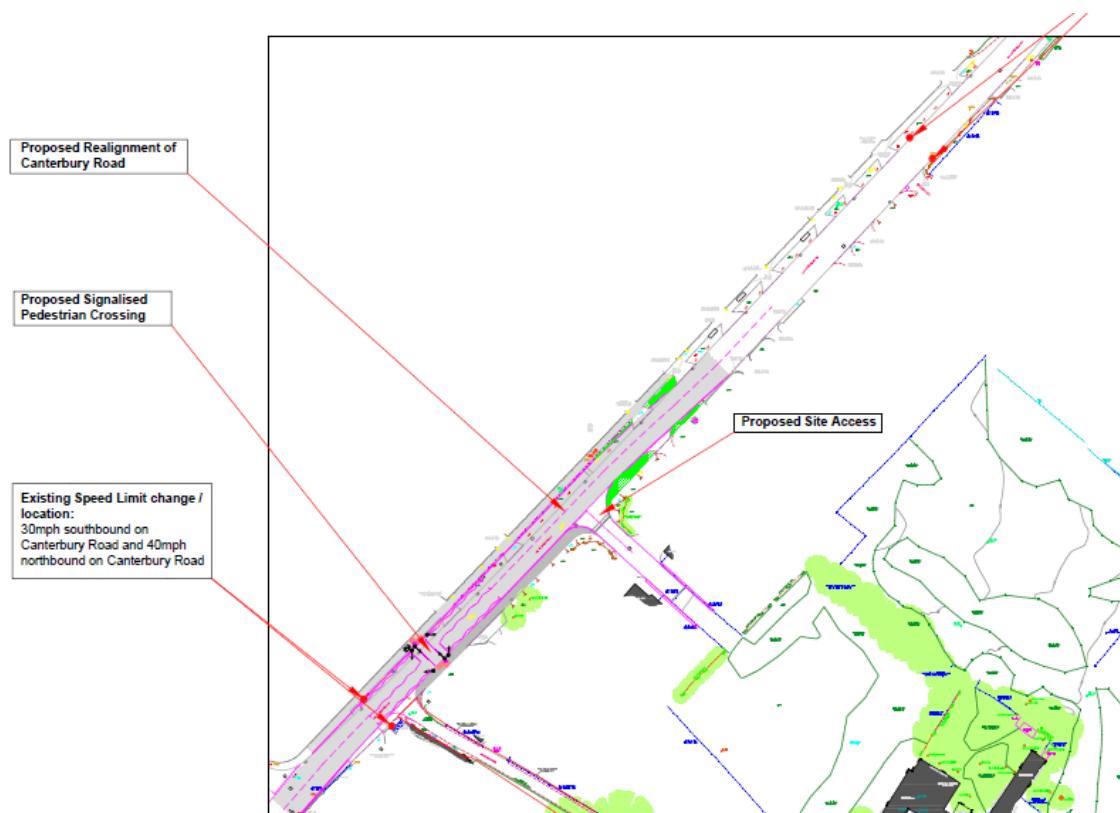
**Figure 2: Aerial view of site**

## **Proposal**

14. Outline planning permission is sought for the change of use from agricultural land to residential and the erection of up to 25 dwellings including access from Canterbury Road.
15. The proposal includes works to the highway to improve sightlines and safety. A second access is proposed along the existing farm track that currently provides access to Orchard Farm and the farm buildings. This would provide a shared pedestrian and cycle route into the development (whilst also allowing emergency vehicle access). Orchard House currently uses this access and would continue to do so.
16. Detailed layout and design would form part of reserved matters application(s). However, this outline planning application states that the intention is to provide a mix of flats, terraced, semi-detached and detached dwellings. These would offer 1, 2, 3, and 4 bedroom accommodation over the site area resulting in an approximate density of 20 dph. Whilst the layout is indicative and simply shows how the site could be laid out, it indicates the provision of some green infrastructure, SuDS, landscaping and enhancements to the existing public right of way to the south east.

17. The following infrastructure improvements are also proposed:

- The proposed relocation of the existing 30 mph speed limit restriction to 180 metres further to north of the existing location (currently it is located north of the junction with The Street). As a consequence the 30mph speed restriction would be extended in length and part of Canterbury Road would be realigned in a relatively minor manner in order to improve sightlines. **Figure 3** below shows these proposed changes.



**Figure 3: Proposed site access arrangement and speed limit extension**

- The proposed development would also provide a new signalised pedestrian crossing approximately 50 metres south of the site access. This is intended to provide a safe crossing point for pedestrians and to create a link to the shared cycleway/footway on the western side of Canterbury Road. Access for pedestrians to the northbound bus services and The Street would therefore also be enhanced. The location of the signalised crossing is shown in **Figure 4** below.

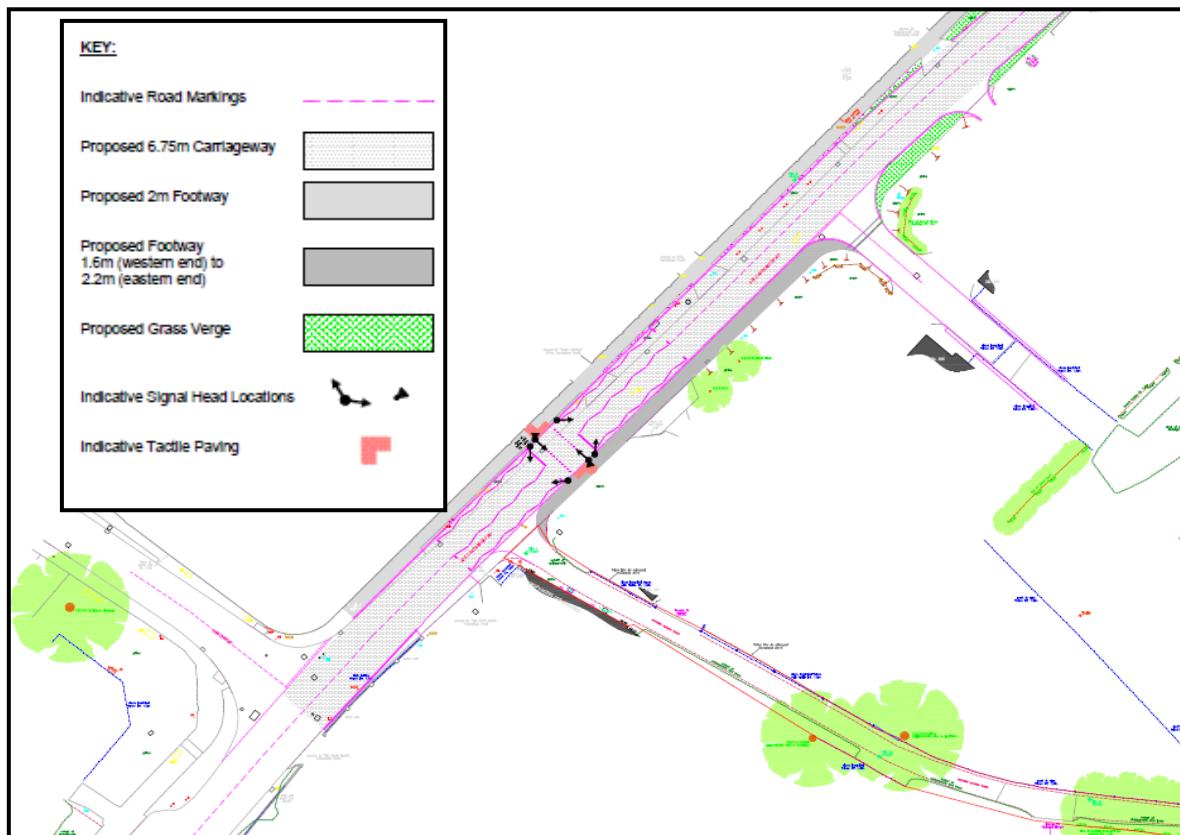
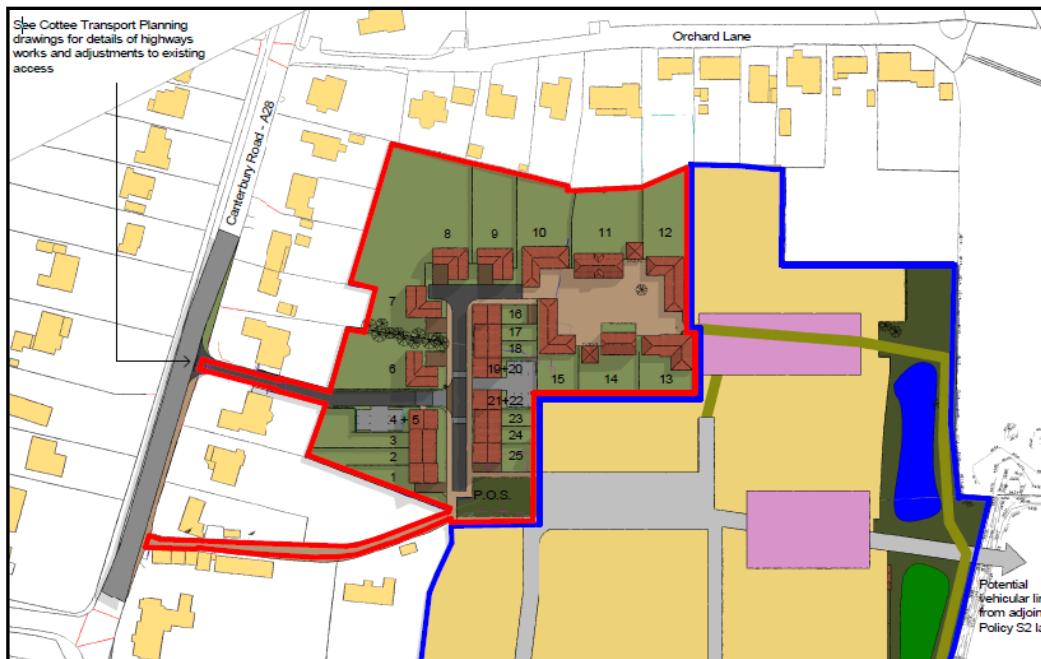


Figure 4: Proposed signalised pedestrian crossing

- The existing farm access track adjacent to the boundary with the Croft Hotel is proposed to provide a shared pedestrian and cycleway. This would also provide an emergency access into the development. **Figure 5** below shows this. The southern-most access in Figure 5 from Canterbury Road is the emergency access to the development and the northern-most access is the vehicular access that already exists to Canterbury Road and would serve up to 25 dwellings. The Figure shows the applicants indicative layout of the site.



**Figure 5: Proposed indicative site layout**

18. The following documents have been submitted in support of this application and are summarised below:

Cover Letter

19. This application is identical to application reference 17/00944/AS, which was refused by the Council on the 29th June 2018 and for which appeal referenced APP/E2205/W/18/3206595 was dismissed on 3rd June 2019.

At paragraph 27 of the appeal decision letter, the Inspector concluded;

*“Overall, I have found that the Council’s highway and noise objections are not valid reasons for the appeal to fail. In these respects, the scheme complies with the relevant policies of the Local Plan [Ashford Local Plan 2030] and Framework {National Planning Policy Framework}. Additionally, there is no reason why this scheme cannot be brought forward in advance of the larger land allocation. However, I have serious doubts about the UU and subsequent deed...on this basis only, it follows that the appeal should be dismissed.”*

20. The applicant indicates that the lack of an acceptable planning obligation is the only remaining obstacle to approval of this proposal. In summary, all the planning issues are considered to have been examined at length by the Council and subsequently at appeal by the Inspector and there are no planning matters outstanding which can justify a refusal for this application.
21. Design and Access Statement May 2017

22. The D&A is indicative because all matters, save for access are reserved for a later ‘reserved matters’ application to the Council. The D&A aims to demonstrate the design principles and objectives and demonstrate how these would guide the final detailed design in the future.
23. The site adjoins the edge of the built confines and is directly accessed from Canterbury Road. There are a number of bus routes running along Canterbury Road and The Street which provide a regular connection to Ashford Town Centre, the railway station, the William Harvey Hospital and Canterbury.
24. Kennington provides for a range of services within easy walking distance of the site, including two primary schools, a secondary school, two public houses, two hotels, doctor and dentist surgeries, local shops, playing fields and open green space.
25. The site is highly sustainable and adjoins the Ashford urban area with housing development on three sides.
26. Pre application discussions have taken place with Kent County Council Highways and Transportation and as a result of this advice it is proposed to access the site between 387 and 399 Canterbury Road rather than the existing farm track access (that would be less favourable due to limited sightlines). There is also a long frontage to the public footpath running along the southwest boundary of the site, providing a further pedestrian access.
27. Apart from the relatively high density development at Canon Woods Way (approx. 29 dph) to the south west of the site, in the main the housing around the site is built to a lower density of approx. 20 dph. Most of the surrounding housing comprises detached dwellings of 1 or 2-storeys, located on large plots, which is typical of this sort of edge location.
28. The site adjoins residential development for 60% of its boundary with the remaining 40% fronting onto open fields to the east.
29. Given the topography of the land which sees it fall from east to west, there are attractive views to the east towards the Kent Downs Area of Outstanding Natural Beauty.
30. Orchard Farm has gradually reduced in size following the building of houses along Canterbury Road. It is now completely developed along the east side, and the creation of Orchard Lane which is also now completely developed on its south side adjoining the farmland.
31. An application for an Environmental Impact Assessment (EIA) screening opinion has been submitted and determined. The Council’s opinion was that an EIA was not required.
32. Application for prior approval have also been made in respect of the conversion of the existing farm buildings to a residential use however these applications

were refused because it was considered that the buildings were too derelict to be converted.

33. Issues relating to SuDS are dealt with within the application and take account of the Council's adopted SuDS supplementary planning guidance. It is acknowledged that space may need to be allowed within the wider development to provide balancing ponds and bunds as part of the overall SuDS system.
34. In 2013 the whole Orchard Farm site (including additional land within the applicant's ownership that does not form part of this current application) was proposed for inclusion within the emerging development plan through the SHELAA. In 2016, the land was included within the Draft Local Plan, included within site policy S2. This proposed to allocate for housing development along with another 35 hectares to the south east for up to 700 dwellings. ABC published its final version of the SHELAA the same year which concluded that the site was sustainable in economic, social and environmental terms and that the Orchard Farm site could accommodate up to 150 dwellings.
35. In 2017 amendments to the plan were published stating that Council proposed to allocate Orchard Farm along with the rest of the S2 site for 700 dwellings and a new primary school. It is considered the proposal would comply with the requirements of current development plan policy.
36. The applicant has had pre-application discussions with the Council and KCC Highways with respect of this scheme. A public exhibition was held by the applicant. Whilst design and layout are matters reserved for future consideration, it is proposed to adopt a pattern of development that would see dwellings arranged in small clusters adopting a farmstead approach. The scheme would provide for up to 25 dwellings.
37. Whilst the application is a stand-alone application, it has been conceived in such a way that it would not impede the potential for future development on the remainder of the proposed policy S2 site. Scale is proposed for up to 2.5-storey dwellings. It is considered that this reflects the domestic scale of existing housing development in the vicinity.
38. The proposal would deliver significant highways improvements which would not only facilitate the delivery of this site but would also provide essential infrastructure deemed necessary for the wider S2 development. The proposal would meet the requirements of building regulations and with respect of renewable energy matters. In terms of sustainable construction, the proposed development would meet the requirements of the Council's SPD.
39. Transport Statement June 2017
40. The transport statement examines access and the suitability in transport terms of a 25 unit residential development.
41. The existing farm track adjacent to The Croft Hotel will provide a pedestrian and cycle access, whilst allowing for emergency vehicle access. This track will

continue to be used for vehicular access and egress to Orchard House, 381 and 383 Canterbury Road.

42. Reference is been made to Kent County Council's Kent Design Guide, with the principle access and internal layout designed as a Minor Access Way. This access type has been agreed with KCC (and the applicant) for 25 dwellings.
43. All roads in the vicinity of the site have footways and are street lit. There is a network of well-established cycle routes in the wider area, with a shared use cycle/footway on Canterbury Road.
44. The closest bus stops are located within 100m of the site on Canterbury Road. Two regular bus services are accessible from these stops, providing 3 buses an hour to Ashford town centre. Additional school services operate twice a day. Access to rail services is excellent with Ashford International station located 4.8km south of the site, with services operated by South Eastern, Southern Trains and Eurostar. High Speed rail services provide excellent connections to London and the south east.
45. The proposals include improvements to the highways infrastructure comprising an extension of the 30mph speed limit in the site vicinity and provision of a signalised pedestrian crossing on Canterbury Road. These proposals will benefit both existing residents as well as occupiers of the proposed dwellings, providing safer and improved pedestrian and cycle connection to the western side of Canterbury Road.
46. The development is within a sustainable location with access to a range of local services including, employment, hospitals, schools, leisure, shops and public transport.
47. Threshold assessment has been undertaken and show that the increase in traffic flows from the proposed development are small and do not constitute a material impact on the local highway network. Capacity analysis demonstrates that the proposed site access will operate with substantial capacity in the AM and PM peak periods.
48. Cycle and car parking provision would be examined further as part of a full planning application (reserved matters) and, in accordance to policy guidance detailed in the Kent Design Guide, the ABC Local Plan and Supplementary Planning Guidance.
49. The development will include a Travel Plan and a draft document has been prepared. Personal Injury Accidents over 5 years in the vicinity of the site have been reviewed, all accidents were slight and no accidents occurred in the vicinity of the site access.
50. In terms of national policy as contained in the National Planning Policy Framework (NPPF) the transport statement demonstrates that, being well located for access to; local services; public transport; cycling facilities and

designed to encourage walking, that the development will not have a severe impact on the local road network.

51. The development should not be refused on transport grounds because the transport impacts cannot be considered as severe in the context of NPPF paragraph 32.
52. Landscape Appraisal August 2016
53. The site is not covered by any landscape or ecological designations. The Kent Downs. The AONB is approximately 1km to the east. The site is included within an area allocated for residential use in policy S2 of the Local Plan (now adopted).
54. The site comprises a number of unmanaged fields in poor condition. It is enclosed on all boundaries by vegetation, which provides varying degrees of screening. Within the site there are a number of derelict farm buildings and scattered trees but there is no identifiable structure or landscape pattern. The Landscape Assessment of Kent and the Ashford Landscape Character Study both note that the character of the area is indistinct and has deteriorated over the years.
55. The condition of the landscape is poor. The proposed development of the site from unmanaged landscape to residential use would help to establish a sense of place and have a positive effect on the character of the site and its setting.
56. The site is not publicly accessible and is overlooked by only a small number of visual receptors. Views of the site are mainly limited to upper storey windows of properties on the immediate site boundary, i.e. Canterbury Road, Orchard Lane and Canon Wood Way. Most of these views are oblique or partially screened by vegetation on the site boundary. The site may be partially viewed from nearby public footpaths to the west and south. Walkers on these paths are provided with filtered views of the site through intervening vegetation but the whole of the site cannot be seen from any location. The value of views towards the site is limited.
57. Views of walkers on the footpath to the south of the site will be drawn away from the site towards the Kent Downs to the east, where the Wye Crown can be seen in the distance.
58. From greater distances, the site is difficult to identify against the backdrop of the settlement edge of Kennington.
59. Development of the site would result in a change to views from a small number of visual receptors immediately surrounding the site but these views are partial and of low value. The proposed development would, after an initial period of establishment, result in a beneficial effect on views. From greater distances the development would have in a minimal change in the wider view and the effect would be negligible. The poor condition of the site, and limited visibility means

that the proposed residential development could be readily integrated into the existing settlement of Kennington.

60. Landscape Appraisal Addendum May 2017
61. This document is an addendum to the 2016 Landscape Appraisal which sought to establish the landscape character and visual amenity of a landholding measuring approximately 5.5ha in area on the south edge of Kennington, and to assess the potential changes a proposed development may cause to the existing landscape character and to the views of people in the vicinity of the site. The addendum focuses on a portion of the landholding measuring approximately 1.3ha area located in the northeast corner of the larger landholding.
62. The Landscape Appraisal of the larger landholding found the landscape character of poor condition and low sensitivity and views towards the site to be limited, meaning that a residential development of appropriate scale and massing could be integrated into the existing settlement of Kennington, without detrimental effects.
63. The site makes up less than one quarter of the larger landholding and is located in an enclosed corner of it. Proposed development of the site would result in an even smaller change to the existing conditions and consequently a diminished effect on landscape and views.
64. Flood Risk Assessment & Surface Water Management Strategy May 2017
65. The site is a Greenfield site located within flood zone 1 and therefore assessed as having a less than 1 in 1000 annual probability of flooding in any one year. There is therefore a low probability of flooding.
66. It is recognised that climate change can still impact upon flood risk in flood zone 1. These impacts are primarily linked to the surface water discharge from the site and as such potential increases in future rainfall have been taken into account.
67. All potential sources of flooding have been considered including river flooding, flooding from manmade watercourses, risk from overland flow, groundwater and sewer flooding. Risks are considered to be low or no risk. It is recognised that future phases of development (S2) must also be considered as part of the proposed surface water drainage strategy to ensure that the drainage proposals do not prohibit the development of adjoining land, and that the surface water runoff from all phases of development can be managed sustainably.
68. Rain falling on to the current site flows across the site in a south east direction. A small drainage ditch, with onward connectivity to the River Stour, is located approximately 400 metres to the south east. This currently intercepts overland flow from the site.

69. Opportunities to manage surface water runoff: Infiltration - impermeable ground conditions (clay) therefore means this method has to be discounted. Discharge to watercourses - would require crossing land outside of the applicant's ownership. The applicant has confirmed that the third party landowner is open to working with the applicant to facilitate a drainage connection across this land. Discharge into the public sewer - whilst a surface water sewer is present it is not considered likely that this would be needed as a preferable solution to manage runoff is available.
70. Pollution control and oil interceptors should be considered. It is proposed to use a permeable surface for the access road with additional permeable paving incorporated within the scheme. The outfall from the paving is proposed to be discharged to a cellular storage system.
71. This phase of the development would discharge at 2.0 l/s/ha in line with the Council's SPD. It is suggested that a Management company would be responsible for maintaining the SuDS features for the lifetime of the development. It is not considered that the development would increase the risk of flooding off-site.
72. Extended Phase 1 Ecological Habitat Survey 2017
73. This report relates to the wider landholding of Orchard Farm. There are no statutory designated wildlife sites within 1km of the site. There is one local wildlife site within 1km located 450m south east.
74. The historical farming methods used on the site have limited the biodiversity through the use of pesticides and herbicides and organic fertilizers. The mature trees around the site have the highest ecological value due to their maturity and diversity in species. The site is dominated by ragwort. Habitats identified include; Broadleaved scattered trees, tall ruderals, dense scrub and semi-improved grassland. It is considered that the site has a low potential to support protected or notable flora due to the land being managed for flowers using fertilizers and pesticides.
75. Records of great crested newts or amphibians have been identified within 1km of the site the closest being 40 metres from the south western boundary. The site supports a small pond which was dry at the time of the survey. A single yellow iris was the only aquatic plant. The pond is considered poor in terms of suitability for GCNs. The map of the site shows a second pond to the south close to the centre of the western boundary. This was found to no longer exist. The site has limited potential for GCNs. There are records of native reptiles identified within 1km from the site. It is considered to have a moderate-high potential to support common reptile species around the field margins.
76. Numerous bird records were identified within 1km of the site. The trees across the site have potential to support nesting birds. Therefore the site should be regarded as having a high potential to support breeding birds.

77. Badger records have been identified within 1km. No signs of badger have been identified on site in the form of burrows, setts, runs, snuffle holes, dung piles, foot prints or hairs. Furthermore the site lacks wooded banks generally considered optimal for the creation of setts. Therefore, the site should be considered to have a low potential to support badgers. Bat roost records were identified within 1km of the site. Although none on or adjacent to site.
78. Trees were inspected from the ground for potential roosting features. The sites hedgerows and tree line boundaries are likely to support commuting and foraging bats. None of the mature trees on site support features such as wood pecker holes, cracks, rot holes or peeling bark which could support roosting bats due to their species age or form. Therefore the trees along the northern boundary should be considered to have a low potential to support roosting bats. All the buildings on site were inspected internally and externally for signs of bats in from of droppings, staining, feeding remains and the bats themselves with a high powered torch. No signs of bats were identified. Therefore it should be considered that the buildings have a low potential to support roosting bats.
79. No records of dormice have been identified within 1km of the site. The open field which dominates is generally considered to be sub-optimal for dormice and should not be considered to be suitable for hibernating or feeding and foraging dormice. The trees and scrub bordering the site does have some potential however without good habitat connectivity to a sustainable population it is unlikely to support dormice.
80. Therefore the site and the habitats to be affected should be considered to have a low potential to support hazel dormouse. No records of notable invertebrates have been identified within 1km of site. The habitats on-site support common arable wayside plants and notable weeds which are likely to support common moths and beetles although unlikely to support notable species, due to the overgrazed pasture and species poor nature of the site. Therefore it should be consider that the habitats proposed to be affected have a low potential to affect notable invertebrates.
81. Biodiversity enhancements, further surveys and mitigation measures should be provided as part of the development of the site.
82. Updated Extended Phase 1 Ecological Habitat Survey 2019
83. The fallow nature of the site provides habitats for common reptiles and foraging/commuting great crested newts which have been identified locally. The scattered mature trees bordering the site have the potential to support nesting birds and roosting commuting/foraging bats. The grassland is tightly grazed by rabbits and is low in botanical diversity due to many years of improvement with the use of herbicides and fertilizers which limits its value for wildlife such as invertebrates.
84. The proposed plans leave almost a third of the site for wildlife and amenity with the creation of two new ponds. The mature trees around the boundary of the

site will not be affected unless where they represent a health and safety concern.

85. As large areas of the site will be used for housing further surveys for reptiles should be undertaken to form the basis of an appropriate mitigation plan. The plan will encompass the current plan of a new pond and wildlife area which will be utilised for any translocation or mitigation where required, as it has good habitat connectivity to the wider farmland and a Kent wildlife site just under 500 meters from site. The mitigation plan will be formulated once further surveys have been undertaken.
86. Ponds on site have been ruled out for GCN through a survey undertaken by KB ecology during May 2016 together with eDNA analysis. Therefore no further surveys are recommended for GCN unless the works are delayed: in these circumstances the survey data will be updated to comply with Natural England guidance. Ponds are being created around the periphery of the site which will provide enhancements for Amphibians.
87. There are no designated sites on or adjacent to site therefore the scope of works are unlikely to affect any designated wildlife sites within 1km of site.
88. As the site supports suitable habitats for native reptiles. It is recommended that to avoid recklessly harming reptiles a presence/likely absence survey is undertaken taking due of the Herpetofauna Groups of Britain and Ireland (HGBI) Guidelines and Herpetofauna Workers Manual 2003 the standard recognised text for such a survey.
89. Should there be a requirement to remove any shrubs or structures that have the potential to be used by breeding birds, such works should be undertaken outside of the bird breeding season. The breeding bird season extends from March – August inclusively. It should be noted however that certain species are known to breed throughout the year (e.g. pigeons) and remain protected. If during works a bird's nest is identified and supports young or eggs, works must be delayed around the nest until the young have fledged.
90. Lighting plans for the site should be mindful that lighting does effect the behaviour of bats. As the site supported an open field with suitable treelines for foraging commuting bats. A bat activity survey is recommended to inform any lighting for the proposed scheme. The survey would comprise monitoring the site with three remote bat detectors for 5days each month for three months. This will also be supplemented with one evening bat survey undertaken per month.
91. Enhancements recommendations could include: landscaping, nest boxes, bat boxes, log piles and a hibernaculum and foraging opportunities.
92. Bat Activity Survey report June 2019
93. Bat species using the site were typically pipistrelles which are generalist bat species. The bats recorded were typically the same species and in similar

numbers during each night recorded. Bat activity passes were greatest at detector 2 although not significantly, indicating that the site supports habitats which support a good insect diversity and population density. No one area was highlighted as being more important for commuting and or foraging bats.

94. The September bat activity was significantly less than during July and August. The same methodology and equipment was used. This indicates that the decrease in activity is unlikely to be due to equipment malfunction or weather. Bats change their behaviour towards the end of the year. During the month of September mating begins and fat stores are built up for the winter. This is the likely reason for the decrease in bat activity during September. The six species recorded of the 17 native to the UK use this site for feeding and commuting.
95. The transect data did not identify high bat presence on site. Therefore the site should not be considered to be important for bats locally. Although boundary features such as mature trees and hedgerows along the western and eastern boundaries in particular are likely to act as commuting foraging corridors. Therefore these boundaries should be enhanced through native planting and retained with any proposed lighting to be downward facing. Light spill onto the boundaries should also be avoided.
96. Reptile Presence/Absence survey
97. The report identifies the presence or likely absence of native protected reptiles and was undertaken following the identification of suitable rough grassland and scrub habitat on site. A good population of slow worms and common lizards were identified along with a low population of grass snake.
98. A good population of common lizards and slow worms were identified on the site. One grass snake was identified. The reptiles were scattered around pockets of scrub and along the periphery of the site. The site supports good habitat connectivity owing to the arable fields to the south and residential gardens to the north. Therefore it is recommended that the reptiles should be retained on site.
99. It is proposed to leave a large area along the south eastern boundary for amenity and wildlife. Such areas should be enhanced for reptiles with several log piles and a hibernaculum. This will provide a suitable habitat for foraging and hibernating reptiles. The proposed mitigation area was surveyed as part of the survey this area does support a low number of common lizards and slow worms and therefore providing enhancements are installed before translocation the current population in this area are unlikely to be displaced. **[HODM&SS comment:** Layout is a reserved matter and is for future consideration]
100. Translocation of the slow worms and common lizards and grass snakes to the mitigation area on site should take place once a reptile proof fence has been placed around the site.
101. The good numbers of reptiles does warrant a monitoring plan as the translocation site has good habitat connectivity and is suitable for hibernating

and foraging/basking reptiles. A habitat management plan has also been created as to ensure the scrub and open areas remain long term for reptiles. A management plan for the translocation/mitigation site is outlined within this report.

102. Reptile Presence/Absence Survey June 2019
103. A good population of common lizards and slowworms was identified on site. One grass snake was also identified on site. The reptiles were found scattered around the pockets of scrub and along the periphery of the site.
104. The site supports good habitat connectivity owing to the arable fields to the south and residential gardens to the north. Therefore it is recommended that the reptiles should be retained on site.
105. As no significant changes in habitat on the site were observed during the walkover in June 2019, the above results and conclusions should therefore be considered a good indication of the current population status of common reptiles on the site.
106. It is understood that part of the proposed plan is to leave a large area along the southern and eastern boundary for amenity and wildlife. This area should be enhanced for reptiles with several log piles and a hibernaculum. This will provide a suitable habitat for foraging and hibernating reptiles. The proposed mitigation area was surveyed as part of the survey and as shown in figure 1 in the figure section this area does support a low number of common lizards and slow worms and therefore providing enhancements are installed before translocation the current population in this area are unlikely to be displaced.
107. Acoustic Study and Report
108. The acoustic assessment was carried out in accordance with pre- application advice given by ABC's Environmental Protection Manager. The site is located within a residential/agricultural area.
109. The acoustic environment was subjectively noted to be primarily attributable to road traffic sound from Canterbury Road (A28). Other noise sources present included, infrequent air traffic, birdsong and sirens.
110. The access road is screened from the nearest and potentially most noise sensitive premises on both sides by a 1.8m close boarded fence. A noise survey was carried out. The calculations indicate that the predicted levels attributable to the use of the proposed access road are at least 10dB below the measured levels at both Location A (between 387 & 399 at the front of the premises) and Location B (between 387 & 399 at the end of the garden) and would result in no perceptible increase in noise levels.
111. The calculations indicate that the predicted levels attributable to the use of the proposed access road will also be below 50dB LAeq. This is the level below

which few people may be annoyed, put forward by the WHO guidelines on community noise.

112. Individual vehicle passbys may be audible at the receiver locations, but it is noted that the proposed access road is not expected to be in use for more than 1.2% of a 16 hour day, or (2.4% peak hour), indicating that the proposed access road would ordinarily generate no noise for at least 15 hours, 48 minutes in any 16 hour daytime period, (and no noise for 58 minutes per hour at peak time) based on the figures provided.
113. Existing boundary fences should be retained and speed limited as proposed. It is considered that as proposed there are no concerns on noise grounds.
114. Utilities Statement and Foul Drainage Strategy June 2017
115. Initial investigations have not highlighted any concerns or engineering difficulties with servicing the proposed development with new gas, water, electric or telecommunication connections. No engineering difficulties are anticipated for the required connection works.
116. New infrastructure and service connection costs are anticipated to be in line with those expected for a standard development of this scale. Foul drainage matters relating to this development can be satisfactorily dealt with without any requirement for a planning condition.
117. It should be noted that all Utility Providers have a licence obligation to ensure that any connections to the system comply with all relevant regulations, legislation and Engineering Recommendations, so therefore do not have an adverse effect to the supply and quantity of supply to existing customers.
118. Statement of Community Involvement June 2017
119. The applicant engaged with Council Officers at the pre-application stage (planning policy and development management). An EIA screening opinion was sought.
120. The applicant has directly and through consultants pro-actively engaged with stakeholders including KCC highways, neighbouring residents, Kennington Community Forum, utility providers and Environmental Protection (ABC). Formal pre-application advice was sought from KCC Highways.
121. A public exhibition was held attended by 76 local residents. Letters were sent to all neighbours of Orchard Farm. There was a website containing the exhibition information boards and additional information concerning the applicant's intentions in relation to the development of the site.
122. The applicant attended a meeting of the Kennington Community Forum (this no longer exists and has been replaced by the Kennington Community Council) to present the scheme. This was attended by 30 residents who were given the opportunity to ask questions.

123. The utilities statement and FRA show the extent of consultation with statutory service providers. The acoustic report outlines the extent of consultation with ABC Environmental Health Officers.

## Planning History

**15/0003/EIA** – Application for an EIA screening opinion for the erection of circa 60 dwellings EIA not required.

**15/00116/AS** – Prior approval of proposed change of use of agricultural buildings to three dwelling houses and associated operational development. Prior approval refused.

**15/00583/AS** - Prior approval of proposed change of use of agricultural buildings to two dwelling houses and associated operational development. Prior approval refused. Dismissed at appeal.

**15/00584/AS** - Prior approval of proposed change of use of an agricultural building to a dwelling house and associated operational development. Prior approval refused. Dismissed at appeal.

**15/00772/AS** - Prior approval of proposed change of use of 3 agricultural buildings to 3 dwelling houses and associated operational development. Prior approval refused.

**17/00944/AS** - Outline application for the erection of up to 25 dwellings with associated access onto Canterbury Road. All matters reserved with the exception of the means of access onto Canterbury Road. This application is identical to the scheme subject of this report.

The Council refused this application on the 29 June 2018. The Council's reasons for the refusal of this application were as follows:

The proposal would be contrary to policies CS1, CS15 and CS18 of the Local Development Framework Core Strategy 2008, policy U24 of the Urban Sites and Infrastructure DPD 2012, emerging policies SP1, S2 and IMP1 of the Ashford Borough Local Plan 2030 (submission version 2017) and the National Planning Policy Framework, and would therefore represent development contrary to the interests of acknowledged planning importance for the following reasons:

- (a) The proposed access from Canterbury Road would be inadequate to serve the proposed development as well as serving as an emergency access for site S2 due to the width of the proposed access, lack of pedestrian footpaths and inadequate space for two vehicles to pass each other. This would result in a danger to pedestrian safety due to the conflict between the high number of cars using the road and the number of pedestrian movements.
- (b) The proposal would result in an unacceptable loss of amenity for the two adjoining residential properties by reason of the noise generated by traffic associated with the development.

- (c) As a result, the proposal should not be brought forward in isolation from the rest of site S2 for the above reasons.
- (d) the necessary planning obligation has not been entered into in respect of the list below so that the proposed development is unacceptable by virtue of failing to mitigate its impact and failing to meet demand for services and facilities that would be generated and the reasonable costs of monitoring the performance of the necessary obligations:
  - (i) affordable housing
  - (ii) primary schools
  - (iii) secondary schools
  - (iv) libraries
  - (v) sports – outdoor pitches
  - (vi) informal/natural project
  - (vii) children's and young people's play project
  - (viii) allotments provision
  - (ix) strategic parks project
  - (x) healthcare improvements at doctors' surgery
  - (xi) monitoring fee.

Following an appeal to the Planning Inspectorate and the recent decision dated 04 June 2019 the application has been resubmitted in light of the Inspector's decision.

Also of relevance in this application is application reference **19/00025/AS** which relates to a different area of land (in different ownership) included within the S2 site allocation (between the railway line and, Willesborough Road). This application, which is yet to be determined, is a hybrid application seeking the following:

- (i) Outline planning permission (all matters reserved except access) for up to 430 dwellings; formal and informal open space incorporating SuDS; and associated services, infrastructure and groundworks; and
- (ii) Full planning permission for the erection of 320 dwellings; the creation of serviced plot of land to facilitate the delivery by Kent County Council of a two-form entry primary school with associated outdoor space and vehicle parking; a new Bowls Centre including a clubhouse of 292 sq m, ancillary buildings and a bowling green; a local centre to provide 1,665 sq m of A1/A2/A3/A5 space (of which A5 should represent no more than 360 sq m, A2 should represent no more than 415 sq m and A3 should represent no more than 575 sqm) 915 sq m of B1 office space and 590 sq m of D2 gym/fitness studio space; open space incorporating SuDS; vehicle parking; and associated services, structural landscaping, infrastructure and groundworks.

## Consultations

**Ward Member:** The Ward Member, Councillor Iliffe, is not a member of the Planning Committee. He has requested that the planning application is decided by the Planning Committee.

**Kennington Community Council:** Object for the following reasons:

- Lack of a construction management plan
- No information about where construction workers would park,
- No information about regarding the removal of existing site contents.
- unhappy that highways have stated they are satisfied with the entrance width of 4.4metres on a 40mph road, as vehicles travelling from Canterbury direction and wishing to turn left in to the proposed new road, when another vehicle is exiting could cause a problem for traffic, especially as there is known to be high speed travel on this section of the A28 travelling at this speed
- While Highways have agreed that the road is suitable for the proposed 25 properties, Kennington CC considers that the 2 properties that will be required to access to proposed road should be included in the review, and either the road entrance should be wider – 5.5 metres to accommodate better ingress and access or the number of proposed properties are reduced to 23.

35 neighbours consulted, 38 letters of objection received. Comments are summarised below:

- i. This is an unreasonably large proposed residential development on valuable agricultural land which further eats into the green strip that separates Kennington and Wye.
- ii. The development would have negative impact on existing properties and views to and from the area.
- iii. The development denigrates the naming of the Conningbrook development as a 'country park' resulting in mis-sold misrepresented homes and lifestyles in that development.
- iv. There is ample pre-identified land elsewhere in Ashford for development of this scale which has yet to be exhausted.
- v. This proposed development offers no great value to the area.
- vi. The development would be harmful to wildlife.

- vii. This proposal has already been refused by the Council and should be again.
- viii. There would be a very poor access to the site, from the A28.
- ix. The transport statement by Cottee says there are regular buses to William Harvey, the E Line - these buses stopped running months ago. The 1 service doesn't run on Sundays, and stops running very early in the evening.
- x. The land should be being used for food production.
- xi. There are so many housing developments in this area and KCC highways has highlighted a massive increase in traffic this will only add to it.
- xii. The increase in traffic will make it harder for ambulances to reach the hospital and leave it. Any delays will be harmful to health.
- xiii. The visual impact will be unacceptable.
- xiv. The site is not in the Local Plan

**[HODM&SS comment:** The site is part of site S2 in the local plan and is a strategic housing allocation. The Local Plan was adopted in February 2019]

- xv. Views of the downs would be interrupted for existing residents.
- xvi. The proposed highways works would reduce visibility splays.
- xvii. Impacts on infrastructure will be adverse.
- xviii. Can the local schools handle the increase in students?
- xix. Doctors and dentists are at capacity.
- xx. The single lane access is inadequate and is not wide enough.
- xxi. The provision of a new pedestrian crossing will disrupt traffic.
- xxii. The land is agricultural land and should not be built on.
- xxiii. The development will impact on the AONB.
- xxiv. No local residents want any of these developments to go ahead, having moved to the area to enjoy a suburban location.
- xxv. The application also shows the potential access from the Orchard Lane proposed development on to the much larger development proposed by

Quinn Estates of 750 homes, this will undoubtedly lead to the access in Canterbury Road being used as a rat run for this estate.

**[HODM&SS comment:** It is not proposed that the access would be used for the remainder of S2].

- xxvi. The moving the 30mph speed limit further down Canterbury Road is going to have no effect what so ever on the dangers to the access and egress from the estate as people do not abide by the 40mph speed limit.
- xxvii. This application should not be allowed to come forward again.
- xxviii. Permitting this application will set a precedent.
- xxix. S2 should be masterplanned not piecemeal development.
- xxx. Moving part of the A28 does not stack up financially for this amount of dwellings. The access road should not be allowed to be used for more dwellings or the rest of S2.
- xxxi. The Council has a duty to preserve the beauty of the surrounding countryside.
- xxxii. Removing the grass verges would be very dangerous.
- xxxiii. The development would result in a loss of recreational land.
- xxxiv. Development should be focused on brown field sites.
- xxxv. The development would result in increased pollution.
- xxxvi. There will not be safe pedestrian access to 399 and 387 Canterbury Road.
- xxxvii. There would be considerable safety concerns for pedestrians, cyclists, mobility scooter drivers and those with disabilities in accessing 399 and 387 Canterbury Road.
- xxxviii. The development would not accord with the NPPF.
- xxxix. The proposal would contravene various sustainability and eco guidelines for new developments. This planning proposal would discourage residents from walking; cycling and even general use of a car given there is no safe access to do so.
- xl. There are numerous covenants attached 399 Canterbury Road, one of which relates to the occupiers having 'the right of way at all times and for all purposes connected with the use and enjoyment of the property, having the right to pass and repass with or without vehicles over and

along the roadway shown on the attached plan'. If this proposal goes ahead then Orchard Farm will be in breach of this condition. The occupiers would seek a legal challenge.

**[HODM&SS comment:** Covenants are private legal matters and not material to the planning merits of this case.]

- xli. Noise and disturbance would impact on residential amenity.
- xlii. An alternative access should be looked at.
- xliii. A buffer zone was promised for the Canterbury Road properties backing onto S2 – where is it?

**[HODM&SS comment:** This is an outline application, layout and landscaping are therefore not being considered at this stage.]

**KCC Ecological Advice service:** Initially advised that the ecological information submitted provides a good understanding of the ecological interest of the site, however, given the time that has passed since the original surveys were carried out additional information was requested. An updated extended phase 1 ecological habitat surveys report has been submitted.

**[HODM&SS comment:** KCC ecology have been re-consulted and at the time of writing this report further comments are awaited. I have built this into my Assessment and Recommendation].

**KCC Highways and Transportation:** No objections commenting as follows:

*"It should be appreciated that the Highway Authority (HA) did not raise objection to the proposals, and the Planning Inspector agreed with the HA's assessment of the highway aspects. Consequently, although the appeal was dismissed, the Planning Inspector concluded that that there were no valid highway grounds to refuse the application. Given the above, the HA considers that the same recommendation as before would be appropriate to the current application.*

*The proposed development site does form part of the larger allocated site covered by Policy S2 within the Local Plan for up to 700 dwellings. The policy envisages a secondary/emergency access being created onto Canterbury Road for the allocation, with the primary access being provided from Willesborough Road. Whilst the access proposed with the current application will form the primary access for this particular parcel of the development, it is appreciated that it will be restricted to serving just 25 dwellings of the entire S2 site allocation, and will in effect be the secondary access, and therefore policy compliant.*

*The proposed access will be 4.8m wide, which the Kent Design Guide confirms is suitable for use as a shared surface route giving direct vehicle and pedestrian access for up to a maximum of 25 dwellings, as will be the case here. Further pedestrian and cycle access is proposed through the existing farm track adjacent to The Croft Hotel. Given the limited amount of dwellings to be served by the*

*proposed access, it is considered that a simple priority junction is the appropriate form to be used at this location, as right turn movements will be relatively infrequent. This is as directed by the design criteria contained in the junction parameters matrix illustrated in TD 42/95 of the Design Manual for Roads & Bridges. There is therefore no requirement for a ghost island junction with right-turn lane that would have been required for a busier junction to ensure the free flow of northbound traffic along Canterbury Road. In addition, the PICADY assessment that has been undertaken to model the proposed junction suggests that it would operate at RFCs of just 0.039 and 0.034 during the AM and PM peak periods respectively. This is well below the desirable maximum RFC of 0.85, indicating that there would plenty of reserve capacity for the junction to operate efficiently.*

*Swept path analysis demonstrates that vehicle movements in and out of the proposed vehicular access can be accommodated, for the range of vehicles anticipated to use the junction on a regular basis. The width of the access is sufficient to maintain 2-way traffic, and as stated already, the level of development would allow this to be shared use by vehicles and pedestrians. The design of the junction involves the realignment of Canterbury Road to achieve appropriate visibility sightlines of 2.4m by 120m to the north and 2.4m by 90m to the south. This realignment also facilitates the provision of a new footway along the eastern side of Canterbury road, linking the main shared surface access to the alternative pedestrian route through the existing farm track, and provides the staging point for pedestrians to wait safely to cross the road. It is proposed to install a signalised pedestrian crossing at this point, which again is considered to be the most appropriate form of crossing facility in this location. Whilst the realignment does reduce the width of the current highway verge on the western side of Canterbury Road, it is still considered that the remaining footway provision and availability of sightlines for the private access along this short section of affected highway are satisfactory and meet current design standards.*

*Furthermore, it is proposed to extend the existing 30mph speed limit north past the site access, as the change in road environment due to the off-site highway works are likely to reduce vehicle speeds along this stretch of Canterbury Road, and support the lower limit. It will be expected that the developer should fund the associated Traffic Regulation Order and physical works to implement the 30mph speed limit extension, and this will need to be suitably secured by condition or legal agreement. This was again an issue that the Planning Inspector agreed with as being an appropriate measure to include. Although the planning application has been made in Outline form, with only access to be considered at this time, I do note that an indicative site layout has been submitted, and reference is made within the Transport Statement to the parking provision within the development. As these are considerations for any subsequent Reserved Matters application, should the Local Planning Authority grant approval to the current application, then those aspects of the proposals will be assessed in full at that time. Please note that the response being provided by Kent County Council Highways and Transportation now should not be taken as any acceptance of the details submitted beyond those of Access only. When assessing those other details at the Reserved Matters stage, the development layout and details will be expected to be in accordance with the appropriate design guidance, and provide suitable pedestrian/cycle access to the adjoining future development sites.*

*However, as the accesses onto Canterbury Road under Policy S2 of the Local Plan are intended to provide secondary/emergency access for the wider side allocation, it will be expected that the internal layout of the current application site should accommodate allowance for emergency access associated with the remaining S2 site allocation. I would seek that the future provision of this is also secured by condition.”*

**Southern Water:** No objections stating that initial investigations indicate that SW can provide foul sewage disposal to service the development. Requests that an informative is attached to any permission in respect of this. States that the developer will need to ensure that arrangements exist for the long term maintenance of any SuDS. Requests a condition relating to foul and surface water disposal.

**Environmental Health Manager:** No objections subject to conditions and informatives.

**Natural England:** No objections.

**Ramblers' Association:** No objections.

**Environment Agency:** No comments. The development falls outside of the criteria for consultation.

**Housing Services:** No objections making the following comments:

*2There will be an expectation of 30% affordable housing being delivered within this scheme. Consistent with the policy, 10% of the total dwellings should be made available for affordable or social rent, and 20% of the total dwellings made available for affordable home ownership (of which 10% of the total dwellings should be shared ownership). There is an expectation that 2 of these homes will be made available for affordable rent homes and 5 homes for an affordable home ownership product, 3 being shared ownership and 2 being either shared ownership or a low-cost home-ownership product agreed by the Development Partnership Manager within the authority.*

*The application does not indicate at this stage what the specific make-up of the units will be, but we request that 1-, 2- and 3-bedroom homes form part of the allocation for the affordable housing. We would expect the properties to meet the Nationally Prescribed Space Standards. In the case of the 1-bed properties we would expect two bed spaces, 2-bed properties we would expect four bed spaces to be provided and with the 3-bed homes we would expect five bed spaces to be provided.*

*The affordable housing properties to be visually integrated into the site, as well as being dispersed into the development to ensure a balanced tenure neutral mix rather than being positioned as a cluster of properties.*

*The developer may be keen to note that we have households on our waiting list in need of ground floor or fully adapted accommodation in Kennington. Should the developer be willing to incorporate such accommodation into their plans we would be willing to discuss this further.2*

**KCC Developer Contributions:** No objections. Request contributions.

**KCC Flood and Water Management:** No objection stating the following:

*“...it is highlighted that the proposed outfall to the watercourse lies outside the redline boundary within third party land. Therefore, a confirmation of agreement will be needed between both parties which would need to be submitted to the local planning authority before any development can take place.*

*Should access into the watercourse no longer be an option, we would accept for surface water to be directed into the nearby surface water sewer although any new connection would be subject to consent from Southern Water.*

*At the detailed design stage, we would expect to see the drainage system modelled using FeH rainfall data in any appropriate modelling or simulation software. Where FeH data is not available, 26.25mm should be manually input for the M5-60 value, as per the requirements of our latest drainage and planning policy statement (June 2017).”*

Request a condition requiring information to be submitted demonstrating that off-site surface water drainage works are appropriately secured and protected and subsequently implemented prior to the occupation of any phase of the development.

## Planning Policy

124. The Development Plan comprises the Ashford Local Plan 2030 (adopted February 2019), the Chilmington Green AAP (2013), the Wye Neighbourhood Plan (2016), the Pluckley Neighbourhood Plan (2017) and the Kent Minerals and Waste Local Plan (2016).
125. For clarification, the Local Plan 2030 supersedes the saved policies in the Ashford Local Plan (2000), Ashford Core Strategy (2008), Ashford Town Centre Action Area Plan (2010), the Tenterden & Rural Sites DPD (2010) and the Urban Sites and Infrastructure DPD (2012).
126. The relevant policies from the Local Plan relating to this application are as follows:-

### 127. **Ashford Local Plan to 2030**

**SP1** – Strategic Objectives

**SP2** – The Strategic Approach to Housing Delivery

**SP6** – Promoting High Quality Design

**S2** – Land north east of Willesborough Road Kennington

**HOU1** – Affordable Housing

**TRA3a** – Parking Standards for Residential Development

**TRA5** – Planning for Pedestrians

**TRA6** – Provision for Cycling

**HOU12** Residential Space Standards

**HOU14** - Accessibility Standards

**HOU15** Private External Open Space

**HOU18** Providing a Range and Mix of Dwelling Types and Sizes

**ENV1** – Biodiversity

**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

**ENV15** – Archaeology

**COM1** – Meeting the Community's Needs

**COM2** – Recreation, Sport, Play and Open Space

**IMP1** – Infrastructure provision

128. The Kent Minerals and Waste Local Plan 2013-30

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

### **Supplementary Planning Guidance/Documents**

Affordable Housing SPD 2009

Residential Parking and Design Guidance SPD 2010

Sustainable Drainage SPD 2010

Landscape Character SPD 2011

Residential Space and Layout SPD 2011 – External Space Standards Only

Public Green Spaces & Water Environment SPD 2012

Dark Skies SPD 2014

### **Informal Design Guidance**

Informal Design Guidance Note 1 (2014): Residential layouts & wheeled bins

Informal Design Guidance Note 2 (2014): Screening containers at home

Informal Design Guidance Note 3 (2014): Moving wheeled-bins through covered parking facilities to the collection point

### **Government Advice**

130. National Planning Policy Framework (NPFF) 2019
131. 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:-
  132. Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available .... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
  133. Paragraph 59 relates to the need for the delivery of a sufficient supply of homes. It states that in order to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. It also states that land with permission (as is the case here) is developed without unnecessary delay.
  134. Section 12 of the NPPF refers to achieving well-designed places. As such the creation of high quality buildings and places is fundamental to what the planning process should achieve. Good design is a key aspect of sustainable development, creates better places to live and helps to make development acceptable to communities. It is therefore clear that design expectations are essential for achieving this. Paragraph 127 states the following in relation to good design. It specifies that decision should ensure that developments:

- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- Establish or maintain a strong sense of place, using the arrangements of streets, spaces, building types and materials to create attractive welcoming and distinctive places to live work and visit.
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks, and
- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

135. The main issues for consideration are as follows:

- The appeal decision
- Principle of the development
- Sustainability
- Impact on visual amenity, the surrounding countryside and the setting of the North Downs AONB
- Impact on residential amenity
- Access arrangements, impact on the highway and pedestrian safety
- Ecology and biodiversity
- Drainage, SuDS and flooding
- Housing mix and affordable housing
- Minerals

- Whether planning obligations are necessary

## Assessment

### The appeal decision

136. The previous application, which was for an identical scheme, was subject to an appeal to the planning inspectorate (planning ref 17/00944/AS appeal ref APP/E2205/W/18/3206595). Whilst the Inspector dismissed the appeal and awarded the appellant costs, he concluded the following:

*“Overall, I have found that the Council’s highway and noise objections are not valid reasons for the appeal to fail. In these respects, the scheme complies with the relevant policies of the Local Plan and Framework. Additionally, there is no reason why this scheme cannot be brought forward in advance of the larger land allocation. However, I have serious concerns about the UU (unilateral undertaking) and subsequent deed...On this basis only, it follows that the appeal should be dismissed”.*

137. The key point is that permission was not granted on appeal solely due to the defective approach to matters covered by the unilateral undertaking. Given that the current application is, to all intents and purposes, an identical scheme the Inspector’s findings of acceptability in highway and noise terms is a significant material consideration and so must be given substantial weight in the approach to the fresh application.
138. The Planning Inspector awarded partial costs to the appellant in relation to the Councils noise reason for refusal. In summing up the costs award the Inspector stated the following:

*“I consider that the behaviour of both sides is open to criticism in respect of the planning obligations. In terms of the highway access, the Council has substantiated its case by reference to a design guide. Regarding the noise objection, the Council refused the scheme notwithstanding the clear findings of the appellant’s Acoustic Report that accompanied the application. It has subsequently failed to adequately substantiate its noise concerns, or rebut the technical findings of the Acoustic Report. This aspect of the Council’s behaviour is unreasonable and has resulted in wasted expense for the appellant. A partial award of costs is therefore justified, but only in respect of noise matters.”*

### The principle

139. Section 38 (6) of the Planning & Compulsory Purchase Act 2004 states that applications should be determined in accordance with the adopted Development Plan unless material considerations suggest otherwise. Section 70 of the Town and Country Planning Act 1990 is concerned with the determination of planning applications with regard to the provisions of the

development plan, so far as they are material and any other material considerations.

140. The Council has an up to date development plan. The Ashford Local Plan 2030 was adopted in February 2019.
141. The site forms part of a much larger area identified as a Strategic Housing Allocation in the Ashford Local Plan. Policy S2 envisages approximately 700 dwellings including a 2FE primary school and states that development proposals for the whole site shall be designed and implemented in accordance with an agreed masterplan that should take into account various criteria. The policy notes that the primary access to the site is to be provided from Willesborough Road, with a secondary/emergency access on to Canterbury Road, pending further investigations. The policy supporting text notes that a final site capacity should be determined following a masterplanning exercise that should inform any planning applications for development of the site. Therefore, the principle of residential development on the site accords with the adopted Local Plan.
142. The Planning Committee previously raised concerns relating to whether the scheme should be brought forward in advance of a larger strategic housing allocation. The Planning Inspector considered this and raised no objection citing the Local Plan which states at paragraph 3.16 that any proposals for a limited scale of development within the site allocation may be permitted in advance of a detailed masterplan being approved for the whole site allocation where it can be satisfactorily demonstrated that the proposals would not be prejudicial to the proper place-making of the area (including the delivery of infrastructure and services).
143. Policy S2 is detailed in **Figure 6** below:

**Policy S2 - Land North-East of Willesborough Road, Kennington**

**Land to the north-east of Willesborough Road, Kennington, is proposed for residential development with an indicative capacity of 700 dwellings. A serviced area of land shall be provided within the site for the development of a two form entry primary school. Development proposals for the 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 be developed taking into account the following:**

- a) The topography of the site and residential amenity of neighbouring occupiers of the site;**
- b) A full flood risk assessment that has been prepared in consultation with the Environment Agency;**
- c) Primary access to the site shall be provided from Willesborough Road, with the location of a secondary/emergency access to be determined following further investigation into the feasibility of access onto the Canterbury Road, in liaison with the Local Highways Authority;**
- d) New pedestrian and cycle routes are to be provided throughout the development with connections to existing routes. The PRoWs running through the site should be maintained and incorporated within the development, where possible. Proposals must investigate, and deliver, if feasible, a pedestrian and cycle bridge crossing over the railway line to replace the existing at-grade pedestrian crossings, and maintain the PRoW and provide access into the country park;**
- e) Structural planting, including linear tree belts running through the length of the development, together with the use of individual street trees, shall be incorporated in the development with this structural planting to be provided as part of the first phase of development. The existing trees and hedgerows along the boundaries to Willesborough Road, the railway line, and the northern countryside shall be retained and enhanced, except to provide suitable access;**
- f) Appropriate species and habitat surveys should be carried out. Results will inform ecological mitigation and enhancement measures to be provided on site and proposals for implementation, maintenance and monitoring in accordance with Policy ENV1;**
- g) The location of the primary school site shall be determined following liaison with Kent County Council, and the site should be made available in the initial stage of developing the wider site;**
- h) Provision of an extension to the Green Corridor, allotments and areas of informal open space to meet the needs of the development;**

*Continued....*

- i) The need to minimise the impact of noise and vibration from the railway line on the amenity of future occupiers of the development, informed by a noise and vibration assessment; and,
- j) Be designed to limit its impact upon views from the Kent Downs AONB, informed by a landscape and visual impact assessment, to determine appropriate structural and internal landscaping, building heights and materials.

In addition, the development shall:

- i. Make improvements to the local road network, where necessary and achievable, informed by a Transport Assessment carried out in liaison with KCC Highways and Transportation.
- ii. Provide a proportionate financial contribution to the delivery of Highway England's scheme for a new M20 Junction 10a.
- iii. Provide a financial contribution to the extension of the existing bus services in the area to serve the development.
- iv. Provide a proportionate contribution towards primary education to contribute towards the delivery of the primary school on site.
- v. Ensure that any land contamination issues are satisfactorily resolved or mitigated.
- vi. 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.

No occupation of the residential element of the development shall take place until the proposed M20 Junction 10a is open to traffic, in accordance with Policy TRA1, unless otherwise agreed with the Council and Highways England.

**Figure 6: Site policy S2**

144. There is a drafting error in the adopted version of the Ashford Local Plan. Page 47 of the plan details the site area of site allocation S2. The plan in the adopted version differs from that set out in the submission version, in that the accesses from Canterbury Road are not shown.
145. The correct plan for the S2 policy is, however, published in the adopted policies map on the Council's website and is detailed in **Figure 7** below). In addition, paragraph 3.22 of the adopted version of the Local Plan refers to two potential minor access points from Canterbury Road, stating that they are however relatively narrow and located between residential properties and the Croft Hotel, suggesting that it may not be possible to obtain the necessary visibility splays, As such the Local Plan requires that any development proposals must include a detailed assessment of the suitability of any access onto Canterbury Road. This is considered in the Highways Safety assessment further below.

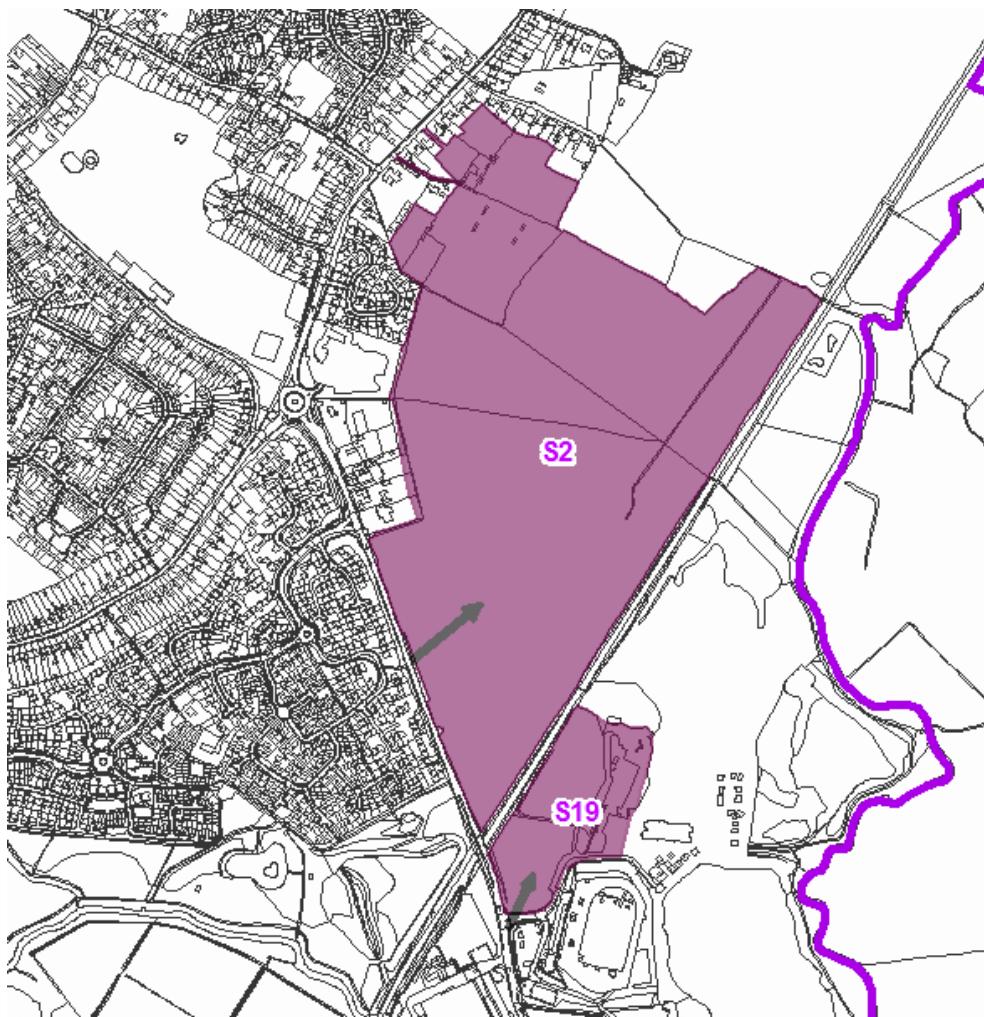


Figure 7

## Sustainability

146. The NPPF seeks to direct housing development away from isolated locations.
147. Kennington is part of the wider Ashford area and Ashford represents the most sustainable location with the Borough. The urban area is home to approximately half of the Borough's population and it is where a large proportion of local jobs are located. It is also the area that future economic growth will be concentrated.
148. It is also recognised that there are a wide and full range of local services available within the town centre and the various neighbourhoods that make up the wider urban area and the town caters for its own residents' needs and those living in the rural hinterland.
149. The site is not considered to be an isolated location given that it is adjacent to the established settlement. The site is with easy walking distance of the centre of Kennington where there are a number of local services and facilities including a foodstore, schools, a public house, doctor's surgery, post office etc.

150. There are bus stops located within walking distance of the site which offer frequent services. From here, there are services to Ashford and Canterbury (where there are onward rail connections including High Speed services from South Eastern, Southern Trains and Eurostar), as well as a service to the William Harvey Hospital. Furthermore school buses stop nearby providing access to a number of local schools. As such, in terms of access to public transport the site is well served.
151. Roads in the vicinity of the site have footways and have street lighting. There is also a good network of well-established cycle routes in the wider area and a shared use cycle/pedestrian footway on Canterbury Road. The proposed development would also be accessed from Canterbury Road (A28) and the site is located in close proximity to the M20.
152. The site is therefore not considered to be physically isolated from services. For these reasons the site is considered to be sustainably located which is a material consideration which weighs in favour of the proposal.

**Impact on visual amenity, the surrounding countryside and the setting of the North Downs AONB**

153. Policies SP1 and SP6 of the Local Plan requires the creation of the highest quality design and seeks to ensure that development conserves and enhances the boroughs natural environment including designated and undesignated landscapes. This is consistent with the NPPF which attaches great importance to the design of the built environment and states that developments should respond to local character and history and reflect the identity of local surroundings and materials. Section 12 seeks to ensure high standards of design and help raise the standard of design more generally, and that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area.
154. In addition, the local planning authority is required to take into consideration the setting of AONB's when determining planning applications.
155. Policy ENV3a relates specifically to landscape character and design and states the following:
156. All proposals for development in the borough shall demonstrate particular regard to the following landscape characteristics, proportionately, according to the landscape significance of the site:
  - a) *Landform, topography and natural patterns of drainage;*
  - b) *The pattern and composition of trees and woodlands;*
  - c) *The type and composition of wildlife habitats;*
  - d) *The pattern and composition of field boundaries;*

- e) *The pattern and distribution of settlements, roads and footpaths;*
  - f) *The presence and pattern of historic landscape features;*
  - g) *The setting, scale, layout, design and detailing of vernacular buildings and other traditional man made features;*
  - h) *Any relevant guidance given in the Landscape Character SPD;*
  - i) *Existing features that are important to and contribute to the definition of the local landscape character shall be retained and incorporated into the proposed development; and,*
  - j) *Any non-designated, locally-identified, significant landscape features justified in a Parish Plan or equivalent document.*
157. The site is currently unmanaged farmland, last used for the purposes of agriculture. It is located on the edge of the existing urban area. A small section of the site falls within the Stour Gap Landscape Character Area. Analysis of the LCA confirms that the character of the landscape is indistinct and poor and has deteriorated over the years.
158. Whilst some illustrative drawings have been submitted suggesting a future design strategy related to Kentish settlement patterns and vernacular buildings, this is not for consideration at this stage as appearance, as well as, layout, scale and appearance would all be determined at the reserved matters application stage. Notwithstanding this, I consider that it would be possible to deliver dwellings of the scale suggested on this site taking account of the site's topography and its relationship to the surrounding built development. Furthermore, given the opportunities for enhancing the landscaping around the boundaries of S2 in general and the distance of this part of the site from the AONB I am satisfied that the setting of the AONB would be protected.
159. A density of 20dph is proposed and this reflects the lower density pattern of development on the southern side of Canterbury Road which would be appropriate.
160. In light of the above, whilst the proposals would result in a significant visual change from an open field to a developed housing scheme, I consider that, the visual impacts associated with this would be relatively localised and contained by the existing and enhanced landscaping to the boundaries. For these reasons and the reasons set out above, I therefore conclude that the development of the site to accommodate up to 25 units would not cause significant and demonstrable harm to the wider landscape character or visual amenity.
161. I am satisfied that the proposals would comply with development plan policies which I have referred to which seek to protect landscape character. In addition, the proposals are considered to broadly reflect the landscape objectives set out in policy S2 of the Local Plan, which, amongst other matters, requires

development proposals for this site to consider the wider landscape impact and the retention of existing trees and hedgerows along the site boundaries.

### **Impact on residential amenity**

162. Paragraph 17 of the NPPF identifies a set of core land use planning principles that should underpin decision making. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
163. Whilst layout is reserved for future consideration, the indicative layout plan suggests that satisfactory distances can be maintained between the proposed and adjacent dwellings. Coupled with robust landscaping, I am satisfied that the re-development of the site can be achieved without causing demonstrable harm to neighbours amenity or to each other through loss of light, immediate outlook or by having an overbearing presence. Conditions can be used to maintain privacy at reserved matters stage, should it be considered necessary.
164. I note the representations of neighbours raising concerns about the access road and the impact that this would have on neighbours in terms of noise and disturbance. The Council's Environmental Health Officer has been consulted and has raised no objections in relation to this.
165. Further, this matter was considered by the Planning Inspector at the recent appeal who, whilst acknowledging that the development has the potential to increase noise levels, subject to the speed limit of the access road being limited to 20mph and boundary fences being retained there would be no noise concerns that would prevent permission being granted. The Inspector states that it is not an unusual arrangement for houses to have roads abutting both their front and side elevations, and the volume of traffic is unlikely to cause significant adverse impacts. The Planning Inspector subsequently concluded that the Council's stance on noise was not justified.
166. Turning to the amenity of future residents, the indicative layout plan suggests that gardens can be provided to a size which complies with the Council's Residential Space and Layout SPD. The reserved matters application should also ensure that the internal accommodation proposed complies with the National Space Standards. This can be secured by condition.
167. Given the above, I am satisfied that the development would not result in harm to the residential amenity of neighbouring or future occupiers and can comply with the requirements of part (a) of policy S2 which requires the development to be designed in a way that takes account of the residential amenity of the neighbouring occupiers.

### **Access arrangements, impact on the highway and pedestrian safety**

168. The proposed development site does form part of the larger allocated site covered by Policy S2 within the adopted Local Plan for up to 700 dwellings. The policy envisages a secondary/emergency access being created onto

Canterbury Road to serve the allocation, with the primary access being provided from Willesborough Road.

169. Whilst the access currently proposed would form the primary access for this particular parcel of the overall development, this would be restricted to serving just 25 dwellings of the entire S2 site allocation, and so could, in effect, only be a secondary/emergency access for the wider site S2 when that is developed in the future (if an alternative secondary access is not available). The indicative layout of the application site shows that a connection could be made to the adjoining land in the applicant's ownership control. In a layout for that adjacent seeking to provide an emergency access connection to the current site, a planning condition could be attached requiring details of the emergency access detail to be agreed: typically, such access is agreed as lockable bollards that can be lowered for emergency vehicles if need be. By the same token the same process can be followed if the reserved matters detail promotes a street connection to the remainder of the applicant's S2 land.
170. The proposed access would be 4.8m wide, which would be in accordance with the Kent Design Guide. This guidance confirms this would be suitable for use as a shared surface route giving direct vehicle and pedestrian access for up to a maximum of 25 dwellings, as would be the case here. Further pedestrian and cycle access is proposed through the existing farm track giving reasonable further movement options.
171. Given the limited amount of dwellings to be served by the new access, it has been agreed by KCC Highways and Transportation that a simple priority junction would be appropriate, as right-turn movements would be relatively infrequent. KCC Highways have also confirmed that there would be no requirement for a ghost island junction with right-turn lane that would have been required for a busier junction to ensure the free flow of northbound traffic along Canterbury Road. In addition, KCC are satisfied with the evidence that there would be plenty of reserve capacity for the junction to operate efficiently.
172. Swept path analysis demonstrates that vehicle movements in and out of the proposed vehicular access can be accommodated for the range of vehicles anticipated to use the junction on a regular basis. The width of the access is also considered to be sufficient to maintain 2-way traffic, and, the relatively low level of development would allow access to be shared use by vehicles and pedestrians.
173. The proposed development would see a very small percentage of the overall dwellings proposed at S2 being able to be accessed from Canterbury Road.
174. The design of the junction would involve the realignment of Canterbury Road to achieve appropriate visibility and also providing a new footway along the eastern side of Canterbury Road, linking the main shared surface access to the alternative pedestrian route through the existing farm track, and would provide the staging point for pedestrians to wait safely to cross the road.

175. The proposed signalised pedestrian crossing is considered to be a positive benefit and is considered to meet current design standards.
176. The proposed extension to the extent of the existing 30mph speed limit north past the site access would likely reduce vehicle speeds along this part of Canterbury Road. It will be expected that the developer should fund the associated Traffic Regulation Order and physical works to implement the 30mph speed limit extension, and this can be suitably secured by condition.
177. In light of the above, and taking into account the position of KCC Highways, I am satisfied that the proposed access arrangements would be appropriate to serve this limited number of dwellings. Should the reserved matters detail come forward that would suggest a layout giving connection to a proposed vehicular access street proposed on the wider S2 site (and thus be capable, as a layout, of operating as a through vehicular route) then a requirement for lockable barriers or bollards could be dealt with by planning condition at that time in order to prevent vehicle movements in excess of those serving 25 dwellings. Similarly, if it is considered desirable in the future for emergency access through route capability then lockable barriers or bollards would be similarly appropriate. Further, it would be appropriate at this stage to impose a condition that the reserved matters that come forward shall make provision for connections through the site for pedestrian, cycle and emergency access in order to ensure that the overall strategy for site S2 would not be threatened.
178. The development would improve sightlines and introduce a new safe crossing point for residents living in the vicinity. Analysis of the proposal has also demonstrated that the proposed development would not generate significant additional levels of vehicular movements, and that the existing network does not have capacity issues and, as a result, it is considered that the development would not result in significant traffic delays or materially increase the risk of accidents.
179. The proposed improvements to the existing infrastructure, comprising an extension to the 30 mph limit and the provision of a signalised pedestrian crossing on Canterbury Road would also be acceptable.
180. The Planning Inspector also considered the adequacy of the access in relation to highway safety. He stated in the decision dated 04 June 2019 that he could see no reason to depart from the conclusions of the Highway Authority who raised no objections in relation to highway safety and he therefore determined that the appeal should not fail on that basis.
181. For the reasons set out above, the proposed development is one that I do not consider can be demonstrated to be harmful to highway safety.

## **Ecology and Biodiversity**

182. The proposed development offers ecological enhancements and the retention of the existing boundary treatments. Further, additional landscaping would help to provide enhanced habitats and wildlife corridors throughout the site. It is

considered that ecological and biodiversity issues can be subsequently mitigated through planning conditions. I include resolution of an ecological matters in my Recommendation A.

### **Drainage/SuDS and flooding**

183. The site is located within flood zone 1 which is the lowest possible flood risk zone. The submitted site specific flood risk assessment demonstrates that there is no significant risk of fluvial flooding. In addition the risk from surface water runoff, sewer flooding, and groundwater flooding is also considered to be low.
184. The development would incorporate measures to deal with storm and surface water drainage which are in accordance with all current national and local guidance. It is noted that a discharge rate of 2l/s/ha is proposed in order to comply with the requirements of the SUDs SPD which would be appropriate.
185. The proposed surface water management strategy recognises that this site is part of a much larger development proposal but it is not considered that the drainage proposals would prohibit the development of the adjoining land or the wider S2 site. It is considered that it would be possible to ensure that the surface water runoff from all potential phases of the wider development site could be managed sustainably.
186. The proposed system has been subject to consultation with KCC Flood and Water Management who have not raised any objection to the proposals. Whilst a detailed drainage strategy has not been provided at this outline application stage it is considered that appropriate mitigation and SuDS would be able to be achieved (including an integrated approach to future phases of S2 should they come forward).
187. Subject to this mitigation being secured through conditions, I consider that the proposals would meet the requirements of policies ENV6 and ENV9 as well as the requirements of the NPPF and its Planning Practice guidance and would therefore be acceptable in terms of flood risk.

### **Housing mix and affordable housing**

188. Policy HOU18 of the Local Plan requires development proposals to deliver an appropriate range and mix of dwelling types and sizes in order to meet local needs. Whilst the applicant has indicated a mixture of 1, 2 3 and 4 bed properties could be provided, this would be a matter considered as part of any reserved matters applications.
189. Affordable housing is proposed at a rate of 30% in accordance with adopted policy HOU1 which is the appropriate level of provision for sites located with Ashford's hinterland. The proposal is therefore compliant and acceptable in relation to this.

190. Should planning permission be granted for the development I propose that the provision of affordable housing be secured through s.106 legal agreement. Tenure would be secured in line with policy HOU18 of the Local Plan.
191. Whilst not for consideration at this time, in terms of future reserved matters applications it would be important to ensure that the affordable dwellings are tenure blind in terms of design and quality and are located throughout the whole development rather than being concentrated in one location.

### **Minerals**

192. The site is located within a minerals safeguarding zone as identified in the Kent Minerals and Waste Local Plan 2013-30. Kent County Council made representations in relation to the Local Plan and a Statement of Common Ground was submitted. The Statement of Common Ground notes that in relation to site S2, the mineral resource is Sandstone (Folkestone Formation). It also acknowledges that deep extraction would be required here (up to 40 metres) and this is not considered to be practicable. It is agreed that this would also likely cause a significant delay in the ability to bring the site forward for residential. KCC did not object to the allocation of site s2.

### **Other matters**

193. The proposed development is likely to generate an increase in the use of PROW's AU20 and AU21. The applicant acknowledges this within the submitted Design and Access Statement stating that the PROW located to the south western boundary of the site should be enhanced as part of the wider permeable network of pedestrian and cycle routes. Following discussions with KCC Public Rights of Way and Access Service it is proposed to seek financial contributions through S106 to make improvements to the existing immediate PROW network. These improvements would comprise an upgrade to the surface of AU20 and the supply and installation of two wooden kit bridges on path AU21.
194. In accordance with policy ENV12 of the ALP 2030, the approach to reserved matters should provide for the slow charge of electric and hybrid vehicles at the new homes proposed. This can be secured by planning condition and will ensure that the development is compliant with the aims of policy ENV12 of the ALP 2030.
195. Policy S2, working in conjunction with Policy S19 for a second future phase of development at Conningbrook, requires the feasibility of a pedestrian/cycle bridge over the railway line dividing those two sites to be explored and, if feasible, taken forward through proportionate contributions. The unmanned surface crossings of the railway line are not fit for purpose in the altered context of this stretch of the railway line accommodating two large new residential neighbourhoods which will provide high numbers of family housing. A bridge would enable the existing and well used PROW linkage between the two sites to continue to the mutual benefit of the occupiers of both sites: the creation of a strategic Country Park will offer additional facilities for the occupiers of homes

at S2 and, equally, the provision of a new primary school at S2 will benefit the occupiers of homes at Conningbrook (currently at about 30 occupations).

196. An application for S19 has yet to be submitted. However, an application for the largest proportion of S2 has now come forward and is due to be reported to the Committee in late Autumn. A bridge between the two sites is one that is now actively being considered and, on the available information is progressing well in terms of technical feasibility and scheme viability.
197. As the area subject of this application falls within the policy S2, I consider that it should now, rightly, also be required to make a proportionate contribution towards its cost: the homes proposed by the applicant would equally benefit from the everyday movement connectivity that it would bring. In addition to Policy S2, Policies COM1 and IMP1 requires development to make appropriate mitigation to deal with scheme impacts including through the new provision of infrastructure. Table 1 further below includes an obligation to secure a contribution towards the bridge.

### **Planning Obligations**

198. Regulation 122 of the Community Infrastructure Regulations 2010 says that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
  - (a) necessary to make the development acceptable in planning terms,
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development
199. I recommend the planning obligations in Table 1 be required should the Committee resolve to grant permission. I have assessed them against Regulation 122 and for the reasons given consider they are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, they may be a reason to grant planning permission in this case

**Table 1**

	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts (s)	Trigger Points (s)	
<b>Potentially applies to any size/scale of residential development</b>				
1	<b>Informal/Natural Green Space</b>  <i>Potentially applicable to all residential developments</i>  Project: Improvements to Spearpoint Recreation Ground, to provide additional site furniture such as bins, benches and signs.	£434 per dwelling for capital costs £325 per dwelling for maintenance	Upon occupation of 75% of the dwellings	<b>Necessary</b> as informal/natural green space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies SP1, COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.  <b>Directly related</b> as occupiers will use informal/natural green space and the facilities to be provided would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.

Ashford Borough Council - Report of the Head of Planning and Development  
 Planning Committee – 4 September 2019

---

<b>Applies to sites of 10 dwellings or more or 0.5ha or over</b>				
2	<p><b>Affordable Housing</b></p> <p><i>Applies to:</i></p> <ul style="list-style-type: none"> <li>(i) developments of 10 dwellings or more</li> <li>(ii) residential sites of 0.5 ha or more</li> </ul> <p>In accordance with table within Policy HOU1</p>	<p>30% 10 % affordable rent units</p> <p>20% affordable home ownership products (10% min shared ownership) units</p> <p>(indicative if outline)</p>	<p>Affordable units to be constructed and transferred to a registered provider prior occupation of 75% of the open market dwellings.</p>	<p><b>Necessary</b> as would provide housing for those who are not able to rent or buy on the open market pursuant to SP1, HOU1 HOU12 HOU15 HOU18 of Local Plan 2030 the Affordable Housing SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as the affordable housing would be provided on-site in conjunction with open market housing.</p> <p><b>Fairly and reasonably related in scale and kind</b> as based on a proportion of the total number of housing units to be provided.</p>

<b>Applies to sites of 11 dwellings or more</b>				<b>Regulation 122 Assessment</b>
	<b>Planning Obligation</b>			
	<b>Detail</b>	<b>Amounts (s)</b>	<b>Trigger Points (s)</b>	
3	<p><b>Adult Social Care</b></p> <p>Project: Towards Ashford town centre changing place facility</p>	£47.06 per dwelling	Half the contribution prior to the occupation of 25% of the dwellings and	<p><b>Necessary</b> as enhanced facilities and assistive technology required to meet the demand that would be generated pursuant to Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use community</p>

			balance prior to the occupation of 50% of the dwellings	facilities and assistive technology services and the facilities and services to be funded will be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings.
4	<b>Allotments</b>  Specific Project: To be determined	£258 per dwelling for capital costs  £66 per dwelling for maintenance	prior to the occupation of 75% of the dwellings	<b>Necessary</b> as allotments are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies SP1, COM1, COM2, COM3, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.  <b>Directly related</b> as occupiers will use allotments and the facilities to be provided would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.
				<b>Necessary</b> as children's and young people's play

5	<u><b>Children's and Young People's Play Space</b></u>  Project: Contributions towards the safer surfacing project at Spearpoint recreation ground play area or other local project.	£649 per dwelling for capital costs £663 per dwelling for maintenance	Prior to the occupation of 75% of the dwellings	<p>space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD, and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use children's and young people's play space and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
6	<u><b>Community Learning</b></u>  Project: Towards additional IT equipment at the Ashford AEC for the new learners.	£34.58 per dwelling	Half the contribution prior to the occupation of 25% of the dwellings and balance prior to the occupation of 50% of the dwellings	<p><b>Necessary</b> as enhanced services required to meet the demand that would be generated and pursuant to Local Plan 2030 Policies COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use community learning services and the facilities to be funded will be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the</p>

Ashford Borough Council - Report of the Head of Planning and Development  
 Planning Committee – 4 September 2019

---

				number of dwellings.
7	<u>Health Care</u>  Project: Towards the cost of an extension to create a new consulting room at Sydenham House	£504 for each 1-bed dwelling £720 for each 2-bed dwelling £1008 for each 3-bed dwelling £1260 for each 4-bed dwelling £1728 for each 5-bed dwelling or larger  £0 for any affordable units	Half the contribution prior to the occupation of 25% of the dwellings and balance prior to the occupation of 50% of the dwellings	<b>Necessary</b> as additional healthcare facilities required to meet the demand that would be generated pursuant to Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2 and guidance in the NPPF.  <b>Directly related</b> as occupiers will use healthcare facilities and the facilities to be funded will be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has been calculated based on the estimated number of occupiers.
8	<u>Libraries</u>  Contribution for additional bookstock at libraries in the borough	£48.02 per dwelling	Half the contribution prior to the occupation of 25% of the dwellings and balance prior to the occupation of 50% of the	<b>Necessary</b> as more books required to meet the demand generated and pursuant to Local Plan 2030 Policies SP1, COM1 and KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.  <b>Directly related</b> as occupiers will use library books and the books to be funded will be available to them.  <b>Fairly and reasonably related in scale and kind</b>

			dwellings	considering the extent of the development and because amount calculated based on the number of dwellings.
9	<p><b><u>Outdoor Sports Pitches</u></b></p> <p>Specific Hub projects (COM2):  <i>Conningbrook Park (secure boat park and storage area for water sports).</i></p>	<p>£1,589 per dwelling for capital costs</p> <p>£326 per dwelling for maintenance</p>	<p>prior to occupation of 75% of the dwellings</p>	<p><b>Necessary</b> as outdoor sports pitches are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.</p> <p><b>Directly related</b> as occupiers will use sports pitches and the facilities to be provided would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.</p>
10	<p><b><u>Primary Schools</u></b></p> <p>Project: Towards the new Conningbrook primary school</p>	<p>£1134.00 per flat</p> <p>£4535.00 per house</p>	<p>Half the contribution prior to the occupation of 25% of the dwellings and</p>	<p><b>Necessary</b> as no spare capacity at any primary school in the vicinity and pursuant to, Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p><b>Directly related</b> as children of occupiers will attend</p>

Ashford Borough Council - Report of the Head of Planning and Development  
 Planning Committee – 4 September 2019

---

		£0 for any 1-bed dwelling with less than 56 m <sup>2</sup> gross internal area	balance prior to the occupation of 50% of the dwellings	primary school and the facilities to be funded would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of primary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
11	<u><b>Primary School Land</b></u>  Project: Towards the new 2FE primary school site at Conningbrook	£590.00 per flat  £2363.00 per house  £0 for any 1-bed dwelling with less than 56 m <sup>2</sup>	Half the contribution prior to the occupation of 25% of the dwellings and balance prior to the occupation of 50% of the dwellings	2030 Policies SP1, COM1, IMP1 and IMP2, KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.  <b>Directly related</b> as children of occupiers will attend primary school and the facilities to be funded would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and

		gross internal area		<p>because the amount has taken into account the estimated number of primary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.</p> <p>The site acquisition cost is based upon current local land prices and any section 106 agreement would include a refund clause should all or any of the contribution not be used or required.</p>
12	<b><u>Secondary Schools</u></b>  Project: Norton Knatchbull 1 FE expansion.	£666.67 per flat  £2666.66 per house  £0 for any 1-bed dwelling with less than 56 m <sup>2</sup> gross internal area	Half the contribution prior to the occupation of 25% of the dwellings and balance prior to the occupation of 50% of the dwellings	<p><b>Necessary</b> as no spare capacity at any secondary school in the vicinity and pursuant to, Local Plan 2030 Policies SP1, COM1, IMP1 and IMP2, Developer Contributions/Planning Obligations SPG, Education Contributions Arising from Affordable Housing SPG (if applicable), KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF. .</p> <p><b>Directly related</b> as children of occupiers will attend secondary school and the facilities to be funded would be available to them.</p> <p><b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of secondary school pupils and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered</p>

Ashford Borough Council - Report of the Head of Planning and Development  
 Planning Committee – 4 September 2019

---

				accommodation specifically for the elderly.
13	<b><u>Strategic Parks</u></b>  Project: Conningbrook Park specific to be confirmed.	£146 per dwelling for capital costs  £47 per dwelling for maintenance	Prior to the occupation of 75% of the dwellings	<b>Necessary</b> as strategic parks are required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to Local Plan 2030 Policies COM1, COM2, IMP1 and IMP2, Public Green Spaces and Water Environment SPD and guidance in the NPPF.  <b>Directly related</b> as occupiers will use strategic parks and the facilities to be provided would be available to them.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained and the maintenance period is limited to 10 years.
14	<b><u>Youth Services</u></b>  Project: Towards additional equipment for the new attendees at the Ashford North Youth Centre.	£27.91 per dwelling	Half the contribution prior to the occupation of 25% of the dwellings and balance prior to the occupation of 50% of the dwellings	<b>Necessary</b> as enhanced youth services needed to meet the demand that would be generated and pursuant to Local Plan 2030 policies SP1, COM1, IMP1 and IMP2, KCC document 'Creating Quality places' and guidance in the NPPF.  <b>Directly related</b> as occupiers will use youth services and the services to be funded will be available to them.

				<b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and because the amount has taken into account the estimated number of users and is based on the number of dwellings and because no payment is due on small 1-bed dwellings or sheltered accommodation specifically for the elderly.
15	<b>Accessible and Adaptable Dwellings</b>	At least 20% of all dwellings to be built in compliance with building regulations Part M4 (2) as a minimum standard	Prior to first occupation of any dwelling comprised within the Development	<b>Directly related</b> to the number of dwellings to be brought forward under the approved scheme (20%).  <b>Fairly and reasonably related</b> in scale and kind being 20% of all dwellings as per HOU14(a)  <b>Necessary</b> as a requirement under policy HOU14 (b) of the Ashford Local Plan and guidance in the NPPF
	<b>Wheelchair User Dwellings</b>	A proportion of affordable dwellings to be built in compliance with M4(3b) – wheelchair accessible. Proportion to be determined at	Prior to the first occupation of any dwelling comprised within the Development	<b>Directly related</b> to the number of dwellings to be brought forward under the approved scheme (7.5%) and need for wheelchair user dwellings based on the number of household on the Council's housing waiting list requiring wheelchair accessible homes and the location of the development  <b>Fairly and reasonably related</b> in scale and kind being 7.5% of all dwellings as per HOU14(b)

		RM stage		<b>Necessary</b> as a requirement under policy HOU14 (b) of the Ashford Local Plan and guidance in the NPPF
<b>Area / Site specific potential requirements</b>				
	<b>Planning Obligation</b>	<b>Regulation 122 Assessment</b>		
	<b>Detail</b>	<b>Amount (s)</b>	<b>Trigger Points</b>	
16	<b>Contribution to footway/cycleway bridge over railway line between S2 and S19</b>  Proportionate contribution towards a new footway / cycle-bridge linking the two new residential neighbourhoods either side of the railway line with a convenient non-vehicular connection	To be determined	To be determined	<b>Necessary</b> as the proposal will generate an increase in use of movement paths and Public Rights of Way within S2 and a safe crossing of the railway line to the facilities at the Conningbrook Country Park does not presently exist. Provision of a new non-vehicular bridge over the railway line is required to be investigated and pursued by Ashford Local Plan 2030 policies S2, COM1 and IMP1 in order to meet the needs of the occupiers of Site S2 of which the current application forms part. Meeting everyday movement needs in a manner that offers sustainable benefits and reduces the need for car travel is in accordance with the NPPF. The development of the application site, as part of S2, should pay a proportionate contribution to the cost of delivering the bridge.  <b>Directly related</b> as occupiers of the proposed homes at the development site, forming part of the S2 allocation, will use the bridge.

				<b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers
17	<b>Upgrade of the Footpath</b>  Upgrade to the surface of 150m of AU20 The supply & installation of two 5.5m wooden kit bridges on path AU21	£18,860.00	on occupation of 50% of the dwellings	<b>Necessary</b> generate an increase in use of the adjacent Public Rights of Way, specifically footpaths AU20 & AU21. Public footpaths must be maintained in order to continue to meet demand pursuant to Ashford Local Plan 2030 policies COM1 and IMP1, Public Green Spaces and Water Environment SPD and guidance in the NPPF.  <b>Directly related</b> as occupiers will use the public right of way.  <b>Fairly and reasonably related in scale and kind</b> considering the extent of the development and the number of occupiers
<b>Applies to all sites</b>				
18	<u><b>Monitoring Fee</b></u>  Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking	£1000 per annum until development is completed	First payment upon commencement of development and on the anniversary	<b>Necessary</b> in order to ensure the planning obligations are complied with.  <b>Directly related</b> as only costs arising in connection with the monitoring of the development and these planning obligations are covered.  <b>Fairly and reasonably related in scale and kind</b>

Ashford Borough Council - Report of the Head of Planning and Development  
Planning Committee – 4 September 2019

---

			thereof in subsequent years (if not one-off payment)	considering the extent of the development and the obligations to be monitored.
<b>Regulation 123(3) compliance:</b> Fewer than five planning obligations which provide for the funding or provision of the projects above or the type of infrastructure above have been entered into.				
<b>Notices</b> must be given to the Council at various stages in order to aid monitoring. All contributions are <a href="#">index linked</a> in order to maintain their value. The Council's legal costs in connection with the deed must be paid.				
<b>If an acceptable deed is not completed within 3 months of the committee's resolution, the application may be refused.</b>				

## **Human Rights Issues**

200. I have also taken into account the human rights issues relevant to this application. 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**

201. 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 as explained in the note to the applicant included in the recommendation below.

## **Conclusion**

202. The site is allocated for development in the adopted development plan (policy S2). The principle is therefore acceptable and also complies with SP1 and SP2.
203. An identical scheme was previously submitted and refused planning permission. At the subsequent appeal the planning Inspectorate did not uphold the Council’s reasons for refusal.
204. Other material considerations include the benefits associated with the scheme which include its ability to help to boost significantly the supply of housing in accordance with the NPPF and its sustainable location. Other recognised social and economic benefits include generating jobs opportunities, for example, during the construction process, and in particular the provision of specific tenures of affordable housing which will contribute to meeting identified housing needs and can be secured by a S106 obligation. Future residents would also buy goods and utilise services and facilities in the local area providing economic benefits to the immediate and wider locality.
205. Matters relating to layout, scale, appearance and landscaping are reserved for future consideration. However, based on the information available and indicative drawing submitted I am confident that a scheme can be designed which will represent an appropriate form of development that sits comfortably within its contextual setting in accordance with policy S2 and ENV3a of the Local Plan.
206. There would be no material harm to neighbouring or future occupier’s amenity, highway safety or ecology: in respect of the latter, KCC Ecology are reviewing updated submissions.

207. In terms of flooding I am satisfied that subject to conditions, the site can be drained in an acceptable way. I am therefore satisfied that the proposal accords with policies ENV1, ENV4, ENV6, and ENV9. My assessment of the various issues above indicate that minimal harm would arise as a consequence of residential development here.
208. The proposal would represent sustainable development. Sustainable development is at the heart of the NPPF and should be seen as the golden thread running through decision taking.
209. In conclusion, I recommend that planning permission should be granted.

## **Recommendation**

- (A) Permit**
- (B) Subject to resolution of any outstanding ecological issues to the satisfaction of the Head of Development Management and Strategic Sites or the Joint Development Control Managers taking into account the advice from KCC Ecology, and**
- (C) Subject to the applicant first entering into a Section 106 agreement/undertaking in respect of planning obligations detailed in Table 1 (and any section 278 agreement so required), in terms agreeable to the Head of Development Management and Strategic Sites or the Joint Development Control Managers in consultation with the Director of Law and Governance, with delegated authority to either the Head of Development Management and Strategic Sites or the Joint Development Control Managers to make or approve minor changes to the planning obligations and planning conditions (for the avoidance of doubt including additions, amendments and deletions) as she/he sees fit,**
- (D) Subject to the following conditions**
  - Standard time condition
  - Submission of reserved matters
  - Development carried out in accordance with the approved plans
  - Works to be completed before occupation (footpaths, lighting etc)
  - Code of construction practice
  - Parking
  - Electric vehicle charging points

- Access and visibility splays in accordance with approval prior to occupation
- Pedestrian and cycle connections to S2
- Bicycle storage
- SuDS
- Contamination
- Refuse
- Landscaping
- Ecological method statement
- Ecological enhancements
- Lighting design strategy
- Acoustic protection
- Use class
- Broadband
- Archaeology

### **Notes to Applicant**

1. S106
2. Working with the Applicant

### **Background Papers**

All papers referred to in this report are currently published on the Ashford Borough Council web site ([www.ashford.gov.uk](http://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 19/00834/AS)

**Contact Officer:** Alex Stafford

**Email:** alex.stafford@ashford.gov.uk

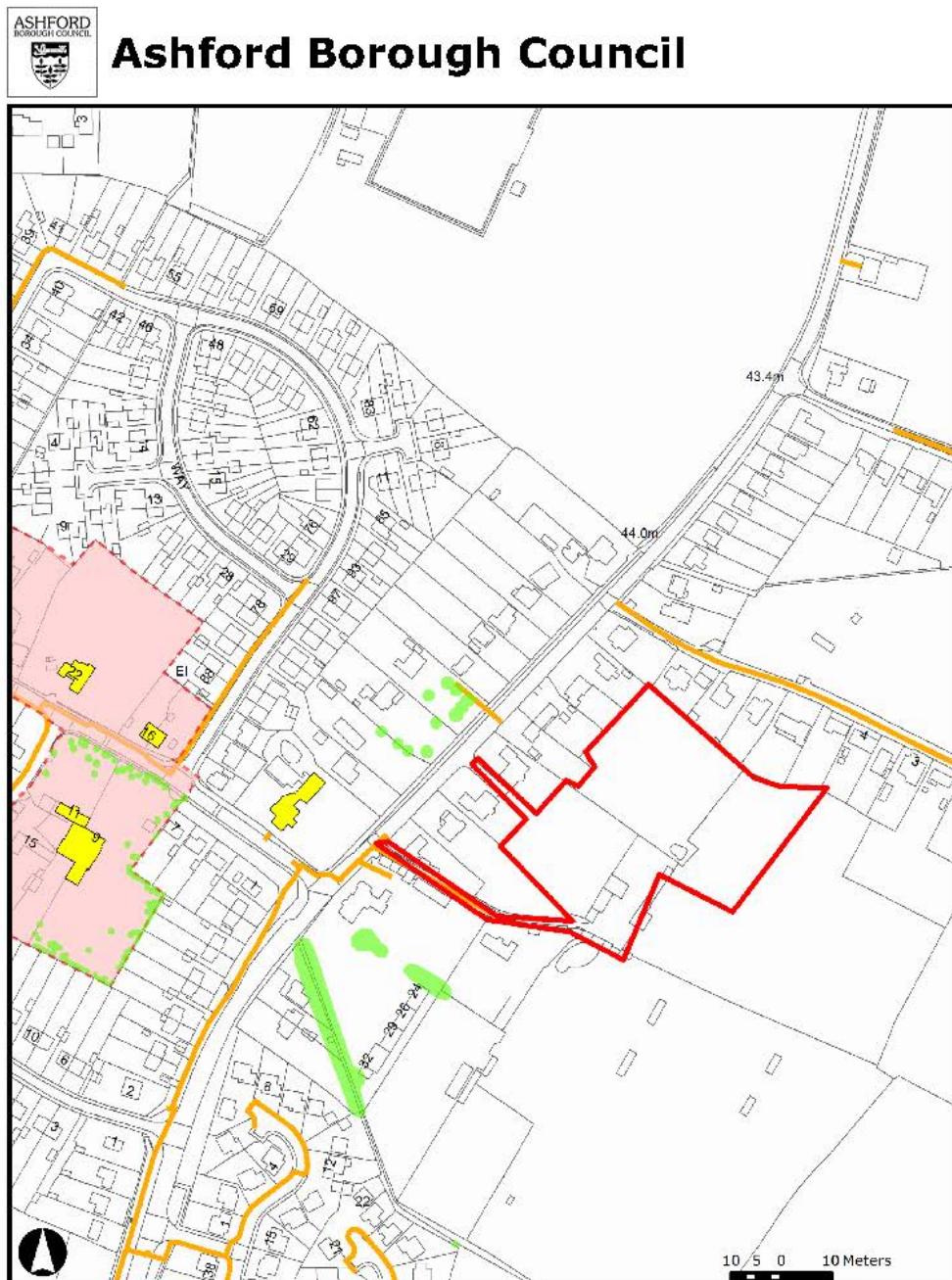
**Telephone:** (01233) 330248

Ashford Borough Council - Report of Development Control Managers  
Planning Committee 3<sup>rd</sup> June 2015

Annex 1

Ashford Borough Council

Page 1 of 1



All rights reserved. Licence Number 100024427

This product includes mapping data from  
Ordnance Survey with the permission of the  
Controller of Her Majesty's Stationery Office ©  
Crown Copyright.  
All rights reserved.

Annexe 2



## Appeal Decision

Site visit made on 16 January 2019

by M C J Nunn BA BPL LLB BCL MRTPI

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

Decision date: 4<sup>th</sup> June 2019

---

**Appeal Ref: APP/E2205/W/18/3206595**

**Orchard Farm, Canterbury Road, Kennington, Ashford, Kent, TN25 4DU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal of outline planning permission.
  - The appeal is made by Orchard Farm Kennington Ltd against the decision of Ashford Borough Council.
  - The application Ref 17/00944/AS, dated 20 June 2017, was refused by notice dated 29 June 2018.
  - The development proposed is described as 'an outline application for the change of use of land from agricultural to residential and erection of 25 dwellings with associated access'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Ashford Local Plan 2030 ('the Local Plan') was adopted in February 2019 and replaces the Ashford Borough Local Plan (2000) and the Ashford Core Strategy (2008). The adopted policies referred to in the original submissions have been superseded by policies in the new Local Plan. The parties' views were sought on any implications arising from the Local Plan's adoption, and the comments received have been taken into account in my decision. The appeal has been assessed on the basis of the new Local Plan in accordance with the relevant legislation<sup>1</sup>.
3. The application is made in outline with all matters except for access reserved for subsequent determination.
4. An application for an award of costs has been made by both the Council and appellant. These applications are subject of separate decisions.

### Main Issues

5. The main issues are: (i) highway safety, including the adequacy of the access to the site; (ii) the effect on living conditions at adjoining properties in terms of noise; (iii) whether the proposal should be brought forward in advance of the larger strategic housing allocation; and (iv) the adequacy of the planning obligations to mitigate the impact of the proposal.

---

<sup>1</sup> Section 38(6) of the 2004 Act

# Ashford Borough Council - Report of Development Control Managers

## Planning Committee 3<sup>rd</sup> June 2015

---

Appeal Decision APP/E2205/W/18/3206595

---

### **Reasons**

#### *Site and Planning Policy Context*

6. The irregular shaped appeal site of some 1.2 hectares comprises an area of overgrown agricultural land. It is mostly rough grass with some trees and areas of bramble. It contains a number of redundant and derelict farm buildings. Existing residential development adjoins the site on two sides, broadly to the north and west. There are two accesses both from Canterbury Road (A28): one running between dwellings at Nos 387 and 399 Canterbury Road; the other, an unmade farm track further to the south adjacent to the Croft Hotel.
7. The site forms part of a much larger area identified as a Strategic Housing Allocation in the Local Plan<sup>2</sup>. Policy S2 envisages a total of around 700 dwellings including a two form entry primary school and states that development proposals for the whole site shall be designed and implemented in accordance with an agreed masterplan that should take into account various criteria. The Policy notes that the primary access to the site is to be provided from Willesborough Road, with a second/emergency access on to Canterbury Road, pending further investigations. The Policy's supporting text notes that a final site capacity should be determined following a masterplanning exercise that should inform any planning applications for development of the site<sup>3</sup>. Therefore, the principle of residential development on the appeal site accords with the adopted Local Plan.

#### *Highway safety -Adequacy of Access*

8. As part of the assessment of the planning application, the Highway Authority (HA)<sup>4</sup> raised no objections to the scheme<sup>5</sup>. On this basis, the officer's Committee Report, in recommending that permission be granted, recorded that the scheme was not considered to be harmful to highway safety<sup>6</sup>. However, the reasons for refusal cite safety concerns over the adequacy of the access in respect of: its width, and the ability of vehicles to pass one another; and the absence of pedestrian footpaths, resulting in a danger to pedestrian safety.
9. To support its case, the Council cites the '*Kent Design Guide: Making it Happen*' which states that where a residential road joins a distributor road, a road width of 5.5 metres should be maintained for at least 20 metres from the junction, with footways provided on both sides of the carriageway. The width of the proposed access would not meet these criteria. However, the HA observed that, although the access would only be 4.8 metres wide, this was considered to be suitable for use as a shared surface route for vehicles and pedestrians for up to 25 dwellings and would be adequate for two way traffic<sup>7</sup>. The HA also noted that the existing farm track would provide alternative options for pedestrian and cycle access. I see no reason to depart from the conclusions of the HA, and do not consider the appeal should fail on this basis.

---

<sup>2</sup> Identified as Land North-East of Willesborough Road, Kennington

<sup>3</sup> Paragraph 3.16 of the Local Plan

<sup>4</sup> Kent County Council Highways

<sup>5</sup> Council Committee Report - 'Consultations'

<sup>6</sup> Paragraph 83

<sup>7</sup> Council Committee Report - 'Consultations'

Ashford Borough Council - Report of Development Control Managers  
Planning Committee 3<sup>rd</sup> June 2015

---

Appeal Decision APP/E2205/W/18/3206595

---

10. The Council's Statement of Case raises further concerns not originally identified in the reasons for refusal which relate to: firstly, the ability of refuse vehicles to safely access the site; secondly, the absence of a justification for the proposed 30mph limit along Canterbury Road; and thirdly, the absence of street lighting on both the vehicular access and the secondary pedestrian / cycle access to the site, resulting in an unattractive and unsafe environment for users.
11. Regarding the first issue, the Council states that the 'swept path analysis'<sup>8</sup> for refuse vehicles shows that when exiting southwards, vehicles would substantially overhang the centreline of Canterbury Road, causing an obstruction to northbound oncoming traffic, and raising highway safety concerns. The Council says that the vehicle assumed for this modelling exercise is shorter than that usually employed by the HA meaning the overhang is potentially greater. It also cites other instances, apparently similar to the appeal case, where the HA has raised an objection on these grounds.
12. In this instance, the HA has concluded that the 'swept path analysis' demonstrates that vehicle movements in and out of the access can be accommodated for the range of vehicles that would use the junction on a regular basis. I acknowledge that larger vehicles may overhang the centreline of Canterbury Road on occasions, and that this could cause some disruption to the flow of traffic. However, such disruption is not especially unusual with larger vehicles manoeuvring in residential areas, and drivers would be expected to give way in such circumstances. Moreover, such instances are unlikely to occur on a very frequent basis. Therefore, I am not persuaded this is a valid reason for the appeal to fail.
13. Regarding the second issue, the Council complains that there is a lack of evidence to justify the extension of the 30 mph speed limit northwards past the proposed access. I understand that this measure was agreed between the appellant and the HA, along with various other measures, including the realignment of Canterbury Road to achieve appropriate visibility, a new footway along the east side of Canterbury Road, and a signalised pedestrian crossing, all to improve vehicular and pedestrian safety in the locality following any residential development of the site. It seems to me eminently sensible to reduce the speed limit to improve highway and pedestrian safety along this stretch of Canterbury Road. Again, I do not consider this a convincing reason for the appeal to fail.
14. Regarding the third issue, the Council complains that there are no proposals for street lighting on the accesses to the site, and raises concerns over safety particularly in respect of pedestrians and cyclists. However, this is an outline planning application and such matters could be adequately dealt with by a suitably worded condition.

*Living Conditions - noise*

15. The main vehicular access to the appeal site would run between Nos 387 and 399 Canterbury Road. At present, there is an existing access to the redundant agricultural land. Clearly, any residential development of the appeal site would

---

<sup>8</sup> Transport Statement – Appendix K

---

# Ashford Borough Council - Report of Development Control Managers

## Planning Committee 3<sup>rd</sup> June 2015

---

Appeal Decision APP/E2205/W/18/3206595

---

increase vehicle movements along the access and this has the potential to increase the levels of noise.

16. An Acoustic Assessment<sup>9</sup> has been carried out by the appellant which concluded that the predicted noise levels from traffic using the access road would not exceed 50dbA LAeq based on both peak time and 16 hour daytime scenarios<sup>10</sup>. The calculations also indicated that the predicted noise levels attributable to the use of the proposed access road would be at least 10dB below the measured levels at two monitoring points along the access roads. The Assessment found that there would be 'no perceptible increase in noise levels'<sup>11</sup> and that provided the existing boundary fences are retained, and the speed is limited to 20mph there are no noise concerns that should prevent permission being granted<sup>12</sup>.
17. These findings were not disputed by the Council's Environmental Protection Officer who concluded that the Assessment 'provides a reasonable assessment of the likely noise impacts'<sup>13</sup>. No contrary evidence has been submitted to rebut the findings of the appellant's Acoustic Assessment. I acknowledge that there would inevitably be some increase in traffic compared with the current situation were development to proceed, and that residents may notice a change in the local environment as a consequence of 'through traffic' to the new houses. However, it is not an unusual arrangement for houses to have roads abutting both their front and side elevations, and the volume of traffic is unlikely to cause significant adverse impacts.
18. Overall, based on the technical evidence before me, I find that there are no reasonable grounds to conclude that the noise effects of the scheme would be unacceptable, nor that the Council's stance on noise is justified. The scheme would be consistent with the requirement of the National Planning Policy Framework ('the Framework') that decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life<sup>14</sup>.

*Whether the scheme should be brought forward in advance of the larger strategic housing allocation*

19. The Council's concerns in relation to highway safety and noise have led it to conclude that this proposal should not be brought forward in isolation from the rest of the strategic housing allocation. However, given my findings above, I see no reason why this should be so. In addition, the Local Plan specifically acknowledges that any proposals for a limited scale of development within the site allocation may be permitted in advance of a detailed masterplan for the wider site, provided it can be satisfactorily demonstrated that proposals would not be prejudicial to proper place making of the area (including the delivery of infrastructure and services)<sup>15</sup>.

---

<sup>9</sup> Able Acoustics dated 3 May 2017

<sup>10</sup> Paragraph 5.1.5

<sup>11</sup> Paragraph 6.6.1

<sup>12</sup> Paragraph 6.1.4

<sup>13</sup> Council's Committee Report - Consultations

<sup>14</sup> Paragraph 180(a)

<sup>15</sup> Paragraph 3.16, Local Plan

# Ashford Borough Council - Report of Development Control Managers

## Planning Committee 3<sup>rd</sup> June 2015

---

Appeal Decision APP/E2205/W/18/3206595

---

### *Planning Obligation*

20. The Council's final ground for refusal relates to the absence of a planning obligation to address a range of matters, including amongst other things, affordable housing, education and healthcare contributions, as well as contributions for other local services. When the appeal was originally lodged, the appellant's Statement of Case<sup>16</sup> noted that 'it is common ground that Reason for Refusal (d) can be met by the provision of an appropriate planning agreement'<sup>17</sup> and no detailed submissions were made on this matter. Such comments would strongly imply that the matter of the planning obligation was uncontroversial and not a matter of dispute.
21. A planning obligation in the form of a Unilateral Undertaking (UU) dated 20 December 2018 was completed by the appellant. The Council subsequently responded in a note<sup>18</sup> that the UU was 'legally flawed in its entirety', that its drafting was 'completely unclear' and that there were numerous 'errors and uncertainties'. The Council's note urged me to place no weight on the UU. Similar comments were made by the County Council<sup>19</sup>. Following this, a second multi-party deed, dated 25 January 2019, was entered into by the appellant, the Council and County Council. This was to modify the provisions of the earlier original UU<sup>20</sup>. This document was described as 'supplemental to the first planning obligation'<sup>21</sup> and stated that 'the parties have agreed to vary the terms of the First Planning Obligation'.
22. I do have concerns about this approach, and specifically the existence of two legal documents, one in the form of a UU (and therefore not binding on the Council), and the other a multi-party agreement (signed by the Council, County Council and appellant), apparently both to be read in conjunction with one another. I remain to be entirely convinced that in circumstances where the first UU document, which on the Council's own assessment is so fundamentally legally flawed<sup>22</sup>, can be effectively 'modified' in the way now proposed. Furthermore, and even assuming this approach is legally valid, the later deed contains extensive textual amendments, insertions, and deletions to the earlier UU. In my judgement, such an approach creates scope for significant uncertainty and confusion in interpretation.
23. Clearly, the intention of completing a planning obligation was to resolve the Council's objections in relation to the final reason for refusal. However, and notwithstanding that the later deed has been signed and dated by all the parties, both the Council and appellant still raise objections about its terms. For example, a note from the Council<sup>23</sup> states that not all its previous concerns have been addressed, and urges me to amend aspects of the obligations through my decision letter. The appellant also mentions that there are aspects

---

<sup>16</sup> Dated July 2018

<sup>17</sup> Paragraph 6.11

<sup>18</sup> Dated 4 January 2019: 'Comments of the District Council, Ashford Borough Council, on the appellant's submitted unilateral undertaking'

<sup>19</sup> Email dated 7 January 2019

<sup>20</sup> Deed of Modification of a Section 106 Unilateral Undertaking dated 20 December 2018

<sup>21</sup> Recital F

<sup>22</sup> The appellant disputes this claim

<sup>23</sup> Dated 15 January 2019: 'Statement to the Planning Inspectorate of the position of the district local planning authority, Ashford Borough Council, on the proposed deed of modification ('DOM') of the appellant's unilateral undertaking '

# Ashford Borough Council - Report of Development Control Managers

## Planning Committee 3<sup>rd</sup> June 2015

---

Appeal Decision APP/E2205/W/18/3206595

---

of the obligation ‘in issue’<sup>24</sup> between the parties, on which I should adjudicate, including the appropriate period for repayment of any unspent contributions, whether the monitoring fees are justified, the appropriate ‘indexation’ calculation period for the contributions, and the appropriateness of healthcare provisions<sup>25</sup>. It seems an odd situation indeed for the parties to have completed obligations, but to still dispute their provisions.

24. It is possible in certain circumstances to ‘strike out’ provisions in planning obligations, or to conclude they shall not have legal effect at the request of the parties. Such mechanisms within obligations are sometimes known as ‘blue pencil’ clauses. This may occur, for example, where provisions are unnecessary to make the development acceptable in planning terms, or do not directly relate to the development, or are not fairly and reasonably related in scale and kind to the development<sup>26</sup>. However, and to be clear, it is not for me to ‘alter’ or ‘amend’ the detailed terms or clauses of obligations through my decision letter, because they are standalone documents. Moreover and importantly, notwithstanding the various submissions of the parties, I do not consider I have sufficiently clear information to make a cogent judgement on the matters still at issue.
25. The appellant has commented that there have been difficulties liaising with the Council regarding the planning obligations. However, the Planning Practice Guidance (PPG) is clear that discussions about planning obligations, including their form and content, should take place as early as possible in the planning process, and pre-application discussions can prevent delays in finalising planning applications which are granted subject to the completion of planning obligation agreements<sup>27</sup>. The PPG also encourages the use of standard templates to assist with the process of agreeing planning obligations<sup>28</sup>.
26. To sum up, and given my observations above, I cannot safely conclude that the planning obligations (both the UU and subsequent deed) comply with the relevant tests in the Framework or Regulations.<sup>29</sup>

### Conclusions

27. Overall, I have found that the Council’s highway and noise objections are not valid reasons for the appeal to fail. In these respects, the scheme complies with the relevant policies of the Local Plan and Framework. Additionally, there is no reason why this scheme cannot be brought forward in advance of the larger land allocation. However, I have serious concerns about the UU and subsequent deed for the reasons set out above. On this basis only, it follows that the appeal should be dismissed.

*Matthew C J Nunn*

INSPECTOR

---

<sup>24</sup> Email dated 14 January 2019

<sup>25</sup> Also subject of Submissions dated December 2018

<sup>26</sup> Paragraph 56 of the Framework

<sup>27</sup> Paragraph: 013 Reference ID: 23b-013-20190315

<sup>28</sup> Matters such as indexation, repayment terms, and monitoring fees are often included as standard clauses in such templates.

<sup>29</sup> Paragraph 56 of the Framework; Community Infrastructure Levy Regulations 122 & 123