



***Are the site allocations justified and deliverable or developable within the plan period having regard to any constraints and consistent with national policy?  
Is there sufficient detail on form, scale, access and quantum?***

***i) Have site allocations been undertaken on a consistent basis having regard to the evidence base, including the SHELAA and the SA?***

### **SHELAA Process**

1. Sites considered for local plan allocation, whether submissions received during the 'call for sites' process in 2013/14, existing allocations, or 'omissions' received during local plan consultation stages have followed a consistent assessment process. This commenced with the Strategic Housing and Employment Land Availability Assessment (SHELAA), where these sites, in addition to sites from a variety of other sources, were appraised and screened through 4 stages to assess their availability, suitability (desk-top assessment), achievability and potential for development, including site capacity.
2. The full methodology undertaken for the SHELAA process is detailed within the main document (SD12) and is in accordance with the PPG on Housing and economic land availability assessment which outlines the process which should be undertaken to assess sites and inform Development Plan preparation. The PPG directs that the primary role of the SHELAA is to identify sites and broad locations with potential for development, assess their suitability for development and the likelihood of development coming forward.
3. Screening assessment of all sites in meeting this criteria was carried out in three parts. This is summarised in the SHELAA Report (SD12) (pages 12-19). Sites which didn't meet the criteria set under each of these screening categories were removed from further consideration at that relevant part. Sites which met all criteria (or where there was uncertainty on whether they may meet one of the criteria) were considered suitable for further assessment and went into the final stage of SHELAA

and on to detailed site appraisal as part of the Sustainability Appraisal (SA) process.

4. It is important to note that the site assessments undertaken at this stage were largely a basic desktop review. If a site was considered 'suitable' in SHELAA terms, this did not necessarily correspond with the more detailed assessment of 'suitability for allocation' undertaken at the SA process or suggest that the site would or would not receive planning permission. This is made clear in the disclaimer throughout the SHELAA document.

## **SA Process**

5. Following the SHELAA stage, sites that passed the 3 part basic screening were further assessed through the SA process<sup>1</sup>. Chapter 4 of the SA (SD02) provides full details of the site assessment process from the SHELAA stage, detailed above, and the comprehensive work then undertaken for the SA on sites which 'remained in the survey'. The SA site assessment process was based on a more detailed and in-depth site assessment survey, which included a site visit. These site visits were initially undertaken in late 2014, but have been updated throughout the local plan evolution where the council felt this was required and/or site details or constraints may have changed.
6. The SA site assessment process commenced with the SA scoping report (Appendix 1 of SD02) which included a draft site assessment *pro forma* in accordance with the 13 SA Objectives, accompanied by a positive/neutral/negative scoring schedule. These objectives were consulted upon with the 3 statutory consultees; Historic England, Natural England and the Environment Agency in 2013 and 2014. Following consultation, this site *pro forma* and 'scoring' schedule was amended, and the final versions published in SD02 Appendix 1 pages 79 – 88). These questions under the 13 objectives and standard scoring methodology

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<sup>1</sup> With the exception of sites with extant permission and sites within the 4 Neighbourhood Plan Designated areas at the time assessments commenced (in mid-2014) namely Wye, Rolvenden, Bethersden and Boughton Aluph & Eastwell. These NP areas were to undertake the next stage of site 'suitability' assessment for their own NP purposes and these were therefore not duplicated in the Local Plan SA process (excluding the Strategic Location of Eureka Park within Boughton Aluph which remains part of the Local Plan process).

based on the response, provided a consistent starting point for the council to assess all potential site allocations in sustainability terms.

7. Sites which went through the SA process that were considered suitable in the SHELAA are published in the SA document with individual site sheets showing the scoring given following the assessment and a written justification. (Appendix 3 of May 2016 document and the subsequent updates in July and November 2017). These sites are all referenced as 'reasonable alternatives' and were options for the Council to consider further for allocation. Not all of these sites were then allocated in the Local Plan but the detailed site conclusion explains why the site was considered suitable or unsuitable for allocation.
8. It is worth noting that some sites assessed in the SA include sites which originally passed part 3 SHELAA screening but were then re-assessed following SA assessment and are not removed at part 2 SHELAA. This was due to an evolving and overlapping site assessment process and occurred where the original desktop assessment of a site at SHELAA stage passed part 3 but, following the more detailed work undertaken at SA stage, it became apparent that the site no longer met the SHELAA 'suitability' criteria in part 2 or the SA suitability assessment. The SHELAA was then updated to this effect, as this is considered a 'live' document and required to be consistent with the SA survey. The more detailed SA site assessments have remained published in the SA document for transparency and are located in Appendix 4 of SD02 (and/or 2017 SA update), but were not considered to be 'reasonable alternatives' for the Local Plan to consider as allocations.

### **'Omission' Sites**

9. All sites subsequently submitted for consideration throughout the local plan-making process have also been through the same assessment process as the original sites and were evaluated for availability, suitability and deliverability in the SHELAA, and for sustainability through the SA process where they passed the three-stage screening, as well as being subject to consultation with key stakeholders such as Kent Highways and Transportation<sup>2</sup>. Assessments of these sites were included in

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<sup>2</sup> Only Omission sites received during 2016 Regulation 19 Consultation were subject to consultation.

revisions to the SHELAA and SA (where they passed the SHELAA screening - see July 2017 updates of both SD02 and SD12).

10. Some 'omission' sites, along with sites which had been considered previously in the SA, were assessed or re-assessed in late 2016 and then selected as suitable site allocation locations and included within the 2017 'Main Changes' to the Regulation 19 version of the Plan as a new site allocation policy.
11. Further new sites were submitted to the Council during the 'Main Changes' consultation in 2017, and again the Council undertook the same assessment process and updated the SHELAA and SA documents to include these new sites (see November 2017 updates). This has ensured that there is a consistent site assessment evidence base when considering omission site representations.

### **Site selection for Allocation**

12. It is important to stress that the overall 'score' from the sustainability appraisal process was not the only determining factor for site allocation selection, and the more detailed written conclusions of each SA site sheet provides an overall analysis of the suitability and sustainability of the site which led to allocation, this is explained in full in SD02, (page 58). The overall site conclusion takes into account individual site and local factors which may not be covered by the scoring process. This included an assessment of the overall suitability, deliverability and the location of the site with regards to the overall distribution of development across the borough required by the strategic policies of the Local Plan (SP2) which themselves had been assessed through the SA process.
13. For example, sites may score highly overall but have flooding or access constraints which impact on deliverability. As explained at 4.3.6 of SD02, there are some SA criteria which may have more weight than others which is not reflected in an individual score and some SA criteria which are more subjective or where the potential for future mitigation in a scheme proposal may be relevant. It is also noted at 4.3.11 that there were minor issues with data collection and timings of assessment.

14. The location of sites is an important consideration and it is not possible to compare scoring in different areas of the borough, such as comparing the Ashford urban area, which will score highly on access to services, to sites in a rural settlement with more limited access. This inevitable lower score should not in itself conclude that a site in a more rural location is not 'suitable' for allocation. Therefore sites with lower scores than other 'reasonable alternatives' in a different settlement may have been allocated. If site score alone was the determining factor in site allocation this would result in allocations in a very limited range of locations, most likely entirely around Ashford and Tenterden.
15. Other factors also played an important role in final site selection where the council considered issues such as market choice and variety, deliverability in the short term, and cumulative impact of allocations in a settlement – none of which are directly accounted for as part of the SA score. This was particularly relevant when the council were tasked with finding additional site allocations to meet the increase in the Objectively Assessed Housing Need for the borough in 2017. This led to the council looking at alternative approaches to site identification, as directed by PPG on land availability assessments (Paragraph: 026 Reference ID: 3-026-20140306). This process resulted in the identification of the strategic road corridors (A20 and A28) as potential broad locations for future growth, as they were relatively unconstrained (in part) and sites along them have good access to services by car and public transport.
16. With regards to considering cumulative impacts of development and the overall distribution of allocations across the borough, a site with a positive score may be located in a rural settlement which already has a number of other highly scoring 'suitable' sites, and the councils considers that it would not be sustainable to allocate all of them in one plan period due to the negative impact of cumulative developments on the particular settlement. In another scenario, sites may score positively than a selected allocation, but allocation of them would not be in accordance with the overall distribution strategy of the Local Plan set out in SP2.

#### **Other background evidence**

17. In addition to the SHELAA and SA site appraisal work, a number of other background evidence documents contained within the Submission Plan library

have been taken into account when making the selection of sites for allocation and drafting final policies. Some of these surveys fed directly into the SA Assessment and scoring which includes the Strategic Flood Risk Assessments (NBD01) of individual sites under SA objective 4 and consultation work was undertaken with key stakeholders throughout the assessment process such as with KCC Highways and Transportation regarding objective 8.1 (site access to the public highway) and both local water companies with regards to water and sewerage infrastructure.

18. With regards to biodiversity (objective 1), the council also corresponded with Natural England, Kent Nature Partnership, Kent Wildlife Trust, KCC ecology and the Environment Agency on potential site allocations early on in the assessment process.

19. Other background documents which influenced policy wording and site deliverability include the viability study (SD09), the Infrastructure Delivery Plan (SD10) and evidence documents relating to local and/or borough infrastructure requirements required through specific site allocations such as the Open Space Strategy (CBD04) and Green Corridor Action Plan (NBD02).

20. The council has produced more detailed work in order to undertake the assessment the Landscape and Visual impacts for the potential housing allocation Sites in the A20 Corridor, which was considered an essential assessment due to the location of these sites. This work has fed into the site allocation policies. (NBD04).

21. Employment and leisure site allocations have also taken into account evidence produced within the Employment Background Documents (EBD01-EBD04).

## **Conclusion**

22. In summary, all sites which may have been considered for allocation have been assessed through a consistent process, including through the SHELAA and Sustainability Appraisal, in consultation with stakeholders and in accordance with other background evidence which support the Local Plan.

23. A higher 'score' in the SA site assessment, whilst providing an indication of relative sustainability, but does not necessarily equate to the site being overall more suitable for allocation than an alternative site elsewhere in the borough - various considerations all played a role in determining the final list of site allocations included within the submission local plan.
24. The council's site assessment methodology and final assessment of each site allocation is made clear in the evidence base documents, particularly the conclusions within the individual SA site assessment (which for all allocations is repeated in Table 13 of the main SA document (SD02, Page 61), and subsequent changes to Table 13 made in the SA/SEA addendum published in July 2017 (page 19). These tables detail the written conclusion of each site appraisal for sites selected for allocation, rather than the 'score'.
25. The Council considers it has allocated the most appropriate and suitable locations for growth in accordance with the evidence base and the strategic objectives of the plan (such as SP2) with regards to housing and employment delivery and has given appropriate weight to all factors relating to suitability and deliverability as explained in the SA.

**ii) Are the allocated sites consistent with strategic objectives set out in Policy SP1 and the expectations of other relevant policies, including SP2-SP7, HOU3a and HOU5?**

26. Yes, the council considers that the allocations made in the in the Local Plan submission version are consistent with the strategic objectives and policies outlined in SP1-SP7.

**Accessible and sustainable locations**

27. The council considers that all site allocations meet the objectives of policy SP1 a) with regards to focusing '*development in accessible and sustainable locations which utilise existing infrastructure, facilities and services, wherever possible*'. It is important to note the term '*wherever possible*' as the council considers that all of the allocations are in accessible or sustainable locations but does accept that some allocations may be located in relatively less accessible and sustainable locations to others.

28. This is considered a reasonable approach which in addition meets the requirements of strategic policy SP2 with regards to the distribution of housing development across the borough. This policy directs that rather than focusing all development in the *most* sustainable locations, which would have led to allocations in and around Ashford, Tenterden and main rural service centres only, rural settlements and other areas across the borough were able to help deliver the housing requirement over the plan period at a scale relative to the settlements' accessibility. The deliverability of the site allocations was also an important consideration which was balanced against the sustainability of the settlements. (Also see response to Question i) above with regards to the identification of sites on the strategic transport corridors).
29. The SHELAA ruled sites out of consideration which were not considered to be in 'accessible' locations under Part 2 screening and the SA is more detailed in this regard with an assessment of access (walking distance) to local services and infrastructure such as shops, GPs and Schools under Objective 6, access to public open spaces, play areas and pavements under Objective 7, Health and wellbeing, proximity to bus and rail services under Objective 8, Sustainable travel and proximity to local town or district centre under Objective 13.
30. For more detailed information relating to access to transport and local services see response to xiii) below.
31. The process of assessing which areas of the borough are considered to be sustainable and accessible locations also links with, but is not determined by, the settlements considered as suitable locations for windfall housing growth within policies HOU3a and HOU5. Settlements included in these topic policies were assessed as part of the SA process (SD02, P42). The Council has further detailed the process which selected those settlements for inclusion in the document ABC/PS/09 (ABC Response to Question iii).
32. The vast majority of the allocated sites are all located within or adjoining settlements listed within the windfall housing policies and would meet the rest of the criteria within them. In the case of three sites (S48, S49 & S58) the council accepts these 3 site policies would not directly meet criterion (b) of HOU5 which



relates to walking distance to services. However, it is the Council's position that these allocations have been selected through a robust SA process to meet the strategic housing need of a borough-wide local plan. The principal purpose of policies HOU3a and HOU5 is to assist the council's development management function in respect of assessing windfall housing proposals outwith the Plan's allocations but, as with development management decisions, there may be circumstances where an alternative approach to that indicated by the policy would be appropriate.

33. Site allocations within the local plan have been considered on a wider strategic level, as outlined in Policy SP2, in addition to the site by site assessment work of the SA. The selection of the small number of strategic corridor sites for allocation is explained in section 3.29 of the Local Plan (p21). In respect of the Stevenson Brothers site on the A28 (S58), which is also located on a strategic road corridor, it is also partly brownfield, and therefore favoured over greenfield in accordance with Policy SP1a). The letter from Mr Marc Stevenson attached to this Statement (Appendix 1) also helps to explain the particular circumstances associated with this allocation. With regards to the allocation of these sites, the relatively long walking distance to services was balanced with the excellent accessibility to main towns or rural service centres by the primary broad network as other factors resulting in an overall assessment outlined in Table 13 of the SA/SEA update July 2017 (Page 19).

### **Brownfield Sites**

34. In accordance with SP1 criteria a) Brownfield sites were scored favourably in the SA process (Objective 10) and were allocated for development where they were considered to be sustainable, providing a suitable balance of brownfield vs greenfield land in allocations. Brownfield land allocations include the Commercial Quarter (S1), Newtown and Klondyke works (S6 & S7), Lower Queen's Road (S8), Gasworks Lane (S10) Leacon Road and Bombardier Works (S11 and 11a), Former K College (S12), Former Ashford South School (S13), Employment locations (S20-S23) and Chart Road (S46). In addition, Conningbrook Residential

P2 (S19), Charing Northdown Service Station (S28) and A28 - Stevenson Brothers (S58) are partly brownfield sites.

### **Other Strategic Policies**

35. With regards to all other strategic policies, the council considers that site allocations meet the requirements of these, where relevant. For example, employment locations identified in site policy are in accordance with policy SP3. Where retail and leisure requirements are made within site policies, these are in accordance with policy SP4 which requires the provision to come forward within Ashford Town centre, Tenterden or local/village centres (this may include new local centres proposed as part of large site allocations such as Policy S3 – Court Lodge).
36. The only site allocation policy identified in the Town centre which would relate to Policy SP5 – Ashford Town Centre, is the Commercial Quarter allocation. It is considered that these policies do not contain any criteria which would conflict with each other.
37. With regards to SP6 – High Quality Design, this would apply to all site allocation policies as an overarching policy. Where specific design requirements are required within individual site policy, these are considered to be compatible with this general policy.
38. All site allocations are considered to be consistent with SP7, as no allocation will create the coalescence, individually or cumulatively, of two or more identified settlements. See response below (iii) which addresses the specific issue of A20 sites in this regard. In addition, where the council felt there may be some risk of merging of settlement boundaries, in particular south of Kingsnorth, site policies here include identified green buffer areas within the policy areas to prevent these policies conflicting with SP7. See site policy S4 and map in Chapter 8 (Page 336 of SD01).

**iii) Would the individual or cumulative effect of sites along the A20 conflict with Policy SP7 on settlement separation?**

39. As an initial point, SP7 is a strategic policy that deals with proposals for built development on non – allocated sites. Bearing in mind the scale of allocations required to meet the overall housing requirement there will inevitably be cases where the proposed allocation of sites in the Local Plan may not accord with the intentions of SP7 but they will have been assessed as being suitable for development through the SHELAA and Sustainability Appraisal process. Indeed, the Local Plan makes it clear in paragraph 3.187 that the Council is concerned about “*unplanned*” erosion of the countryside.

40. Notwithstanding the above, whilst the Council acknowledges that the proposed development of the A20 corridor sites will constitute greenfield development it does not consider that their development would result in the coalescence or merging of two or more separate settlements or significant erosion of a gap between settlements.

41. The Local Plan supporting text to Policy SP7 provides the overall context for the policy. Paragraph 3.187 is clear that “*unplanned erosion of countryside between built up areas would have a serious and significant adverse impact on the character and individual identity of villages through loss of their setting or, more seriously, through coalescence*”

42. Whilst the A20 corridor sites are development of greenfield sites they do not have an adverse impact on the character and individual identity of villages and there is no coalescence of settlements.

43. Paragraph 3.187 refers to the particular case of “progressive ribbon or linear development along roads that joins up settlements” but once again the development of the A20 corridor sites does not constitute ribbon or linear development. There is a significant distance between the proposed allocation at S47 and the allocations at S48 and S49 at Tutt Hill, which lie to the west of Hothfield. The land between the S47 allocation and Hothfield village is open agricultural and horticultural land. The allocations S48 and S49 lie either side of

the A20 corridor but are physically and visually separated from Hothfield village by the Hothfield Common SSSI and from Westwell village to the north by the M20, railway lines and open countryside within the AONB. Charing village lies some 2km to the west of sites S48 and S49.

44. The three allocations are the development of three distinct sites that are well connected to the main A20 route corridor which provides excellent car and good public transport connectivity to Ashford and its full range of services and facilities and the village of Charing which has a range of local facilities and is one the larger rural service centres.
45. Paragraph 3.186 goes on to indicate that “the distance between settlements is only one factor to consider and topography of the area can create visual separation even if gaps are narrow. Also existing woodland and other natural features may also contribute to visual and functional separation”
46. It is considered that all three A20 corridor sites are distinct and discrete sites with clear boundaries and high level of visual containment. The Hothfield Mill site (S47) is an extension of the Ashford urban area and as such is a clear edge of urban area site. It is relatively limited in scale and has clear and distinct site boundaries that are set out in paragraphs 4.431 to 4.434 of the Local Plan.
47. The two proposed allocations at Tutt Hill (S48 and S49) are extensions to the Tutt Hill settlement that has several urbanising features typical of a village – filling station/shop, hotels/pub/restaurants/small businesses/food takeaway outlet. The site S49 is physically self-contained with distinct site boundaries, it is not development in open countryside or the development of a gap between settlements. The site S48 is well contained visually in its southern part with clear edges to the proposed development area.

***iv) Have all relevant planning issues or impediments that may inhibit development been considered and adequately addressed?***

48. Yes, the council believes that all planning issues or impediments that may inhibit development have been considered through the SHELAA and SA process, along with consultation with key stakeholders and the undertaking of additional background work, where this was considered necessary, as outlined in the council's response to Question i).
49. Sites which had impediments which could not be resolved, were removed from further consideration. By way of examples, Site Submission SW1 Gas House Field, adjacent Newtown Road, was removed due to being located in the Green Corridor Designation at SHELAA stage and Site Submission IO7 - Land adjacent Jubilee Field, Wittersham at SA stage for not having suitable vehicle access, on advice from KCC Highways and Transportation.
50. Where particular planning issues or impediments were highlighted but could be mitigated, these details were transferred from the assessment process into the site policies for sites selected for allocation. All issues which would potentially constrain the developable area of the site were taken into account when assessing the likely scale of development to be proposed. In some cases, areas within site boundaries have been disregarded as areas suitable for development and the proposed site capacity is reflective of this.
51. Some specific examples of this are:
- Policy S14 – Park Farm South East, which is partly affected by flooding constraints - the policy and the scale of development proposed reflects the remaining developable area outside of the flood zone.
  - Policy S28 – Charing, Northdown Service Station contains an existing area of employment and potential land contamination. Both are specifically dealt with in the policy.
  - Policy S33 – High Halden, Land at Hope House. A number of ponds were found on the northern area of the site, the development capacity of the site was reviewed to ensure these areas were retained as areas of biodiversity.
  - Policy S59 – Mersham, land at Old Rectory Close contains a number of large mature trees protected by the CA status, and ponds. The site policy, developable area and proposed scale is reflective of these impediments.

***v) Are there exceptional circumstances which justify any major development in an AONB?***

52. Paragraph 116 of the NPPF states that permission for major developments within AONBs should be refused unless there are exceptional circumstances and where it is in the public interest. There are two matters for consideration in regards to the allocation of land within the AONB. First, would development on this site constitute major development, and second, if it does constitute major development, are there exceptional circumstances to justify the allocation.

53. The council attest there are several factors which determine that development on this site would not be classed as 'major' for the purposes of paragraph 116.

54. Whilst the Town and Country Planning (Development Management Procedure) (England) Order 2015, classifies major development as residential development of ten dwellings or more, it is not necessarily relevant to the application of paragraph 116 of the NPPF. Indeed the term "major development" for paragraph 116 purposes does not have a uniform or criteria driven definition. In practice, the determination of whether a development is major for the purposes of paragraph 116 is a matter of fact and degree. Landmark Chambers have provided an Opinion in relation to determining of whether or not a development would be classified as 'major' or not (Appendix 2 to this Hearing statement).<sup>3</sup> They took the view that the determination of whether a development is 'major' should be an "exercise in planning judgement based on all the circumstances, and taking into account the potential impact that the development may have on the National Park or AONB by reason of its scale, character and nature". This legal Opinion later informed planning practice guidance, with PPG (ID: 8-005-20140306) stating "Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the framework applies, will be a matter for the relevant decision taker, taking

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<sup>3</sup> Landmark Chambers 2014: In the matter of the National Planning Policy Framework and in the matter of the South Downs National Park Authority. Para. 7

into account the proposal in question and the local context.” The factors influencing the classification of major or minor development therefore rest not only in the scale of the proposed development, but also the setting within which it is to be located.

55. The Ashford Local Plan to 2030 proposes the allocation of a number of sites within the AONB. The decision as to whether each of the developments would constitute major development rests on whether factors such as the site’s location, the surrounding built and natural forms, and the size of the development combine to impact on the AONB.

56. In the case of the largest proposed allocation, site S61 in Wittersham, the surrounding built form (on 3 sides) is defined by mid twentieth century housing estates which project back from the main road along the east and west edges of the site. Whilst there is a gentle incline to the site there is very little visibility of it from Poplar Road and it benefits from screening by existing dwellings of a mixed heritage, along with trees within the gardens of these. Indeed at present, the key viewpoints into the site would be from roads within the developments at Jubilee Fields and from Lloyds Green, two late twentieth century developments which serve to visually enclose the site within the built form of the village. To the north of the site is an area of Ancient Woodland which provides screening of the site from long views from the north. Only a small section of the eastern boundary of the development would not benefit from existing screening from natural or built features of the landscape.

57. Historic appeal decisions can provide some guidance as to how the definition of major development has been applied in various contexts. In APP/Y2736/A/13/2197184 it was held that a 30 unit resident development in the Howardian Hills AONB and outside the settlement was not major development due to its setting and impact. Of a similar scale, 46 dwellings in the East Devon AONB were considered on an edge of settlement site as being major development in APP8/U1105/A/14/2211701. However, the same authority had determined that a development of 39 units in the same village was not major for

the purpose of paragraph 116. In respect to the latter two cases, the decision reflected not necessarily the scale of the development but the locations and context of the sites. The site which had been subject to a refusal was located on a main approach road with land levels that would have resulted in higher visibility of the site. Much like the proposed allocation at S61, the approved site in this case was located where its visual impact was minimal.

58. The above cases highlight an issue of particular relevance to the proposed site allocation S61. Permission for 27 dwellings on land off Stocks Road, to the eastern edge of Wittersham, was refused in November 2015 and a subsequent appeal was dismissed. The council took the view that it would have constituted major development by reason of the combined effects of its size, location and the surrounding context. At appeal, the inspector agreed with the council's assessment and assessed it upon the basis that it was major development (APP/E2205/W/16/3151327) for the purposes of paragraph 116 of the Framework. The proposed allocation at S61 follows on from the assessment of this refused application, and takes into consideration the specific context of the site is such that development of 40 dwellings can occur without it constituting major development for the purpose of paragraph 116. Such development is considered sustainable and would best meet the housing needs of the village where infill windfall development opportunities are thought to be limited.
59. Notwithstanding the Council's view that this allocation should not be regarded as 'major' development for the purposes paragraph 116 of the Framework, should the Inspector take a different view, then the following points should be considered.
60. Paragraph 116 of the NPPF sets out the exceptional circumstances where it can be demonstrated that major development in the AONB would be in the public interest and identifies three points of assessment for sites. Although these relate to the determining of a planning application, they nevertheless provide an appropriate guide to the matters which would determine exceptional circumstances.



61. The first bullet point of paragraph 116 refers to need and impact of major development. Wittersham has had very limited new development over recent decades, with the last allocation having done so through the June 2000 Local Plan, an allocation which was not subsequently been developed. Whilst HOU3a makes provision for infilling within villages, there is limited opportunity to do so in Wittersham without impacting on the built character of key street frontages. Yet in order to maintain the vitality of the village, some new housing is desirable. Indeed, the issue of the ability to deliver through the application of HOU3a in Wittersham was raised by the Parish Council in their 2016 Regulation 19 representations in which they acknowledged that there are too few opportunities available for infill windfall housing in Wittersham (ALP/893). In their comments to the Main Changes (2017), the Parish Council further acknowledged the need for new housing (MCLP/591). The logical solution is therefore to identify a suitable site for delivery of an appropriate number of dwellings which would also include affordable housing and which would be located on the most suitable site, taking into consideration impact on the AONB.
62. Bullet point two points to issues of the practicality developing elsewhere. Wittersham is located entirely within the AONB and the nearest settlements outside the AONB, Tenterden and Appledore, are both approximately 4 miles from the village. Diverting new housing development from Wittersham to these settlements would not serve to contribute to providing for the long term housing need and vitality of the community.
63. The final bullet point relates to the effect that the development would have on the environment, landscape and recreational uses. As discussed above, the site is located so as to minimise the impact that new housing development would have on the historic character of the village (in particular the Conservation Area), and on the landscape setting of the village - so much so that the policy requires only a small amount of planting along the eastern edge of the site in order that this boundary would visually tie it in to the nearby woodland (criterion (d) of policy S61).

64. Taking the above issues into account, the allocation of S61 for 40 dwellings represents the most suitable response to meeting the need for sustainable development in Wittersham.
65. The other smaller scale residential allocations within the AONB are sites S41 – Chilham, S53 – Brook, S54 – Challock, S56 – Chilham, S25 – Pickhill and, S44 - Westwell. These sites are assessed below.
66. Site S53 lies within the village of Brook, and seeks to infill a small area between the existing frontages with the erection of up to 10 dwellings. The site has a slight incline up to the western corner, and in part the site is bound by residential properties or highway. The northern part of the site is bounded by open countryside, however the boundary between this and the site comprises established trees and hedgerows. This area of the village is characterised by mid century detached properties, set back from the road and which benefit from generous grounds. Taking into account the small scale of the development, its setting and the characteristics of the site itself, development here would not represent major development for the purposes of paragraph 116 of the Framework but in any event, it would not adversely affect the character of the landscape and setting of the village in this AONB location.
67. Site S54 occupies a site to the north of the A252 in Challock which lies entirely within the AONB. The site is bounded by residential gardens to the east, by dwelling houses to the south, by ancient woodland to the west and by a mix of business uses and countryside to the north. Policy S54 proposes up to 15 dwellings on this site and these would utilise the existing access. The site, whilst slightly elevated from the road, is well screened by existing land uses in terms of long range views and the proposed addition of 15 dwellings would not result in a major addition to the village either in terms of numbers or site size. For reasons of siting, scale and context the proposed allocation would not constitute a major development within the AONB for the purposes of paragraph 116 of the Framework.

68. Site S56 in Chilham is located on the southern edge of the built village and is bound to the north and east by residential dwellings and municipal buildings associated with the adjacent playing fields and play area. To the south is open fields and to the west is a wooded area which forms part of a residential curtilage. The site does not project beyond the residential curtilage of the adjacent dwelling. Policy S56 proposes ten dwellings on this site, and given its location, the built form of its surroundings and its scale the allocation of this site would not constitute major development for the purpose of paragraph 116 of the Framework.
69. S41 is a site on the outskirts of Chilham and located within a cluster of generously spaced rural dwellings and agricultural buildings. The site is proposed for only two dwellings which are to be compliant with Paragraph 55 bullet point 4 of the NPPF, in that they should be of 'exceptional quality or innovative nature'. A development of two dwellings on this site is not considered to constitute major development for the purposes of paragraph 116 of the NPPF.
70. S25 and S44 both lie within the AONB and offer different types of development to those listed above. Nevertheless it is necessary to assess their impact.
71. Pickhill business village currently occupies converted agricultural buildings and are seeking to expand their operation. S25 proposes the northern expansion of the existing Pickhill business village which would be limited to 0.35 hectare in size. This is a small scale allocation, and its position adjacent to the existing commercial use and the requirement for detailed landscaping of the site would mitigate any visual impact. The proposed development would therefore not constitute major development for the purpose of paragraph 116.
72. S44 allocates five additional gypsy and traveller pitches. The impact of this site on the landscape has been addressed in response to questions raised under issue 7, but in summary it is a relatively small site which would accommodate up to ten caravans. It is well screened, and given the siting, scale and surrounding environment the development proposed would not fall under the category of major development for the purposes of paragraph 116.

**vi) In allocating sites, has sufficient attention been paid to the effect on landscape and local character?**

73. As detailed in response to Question i), all sites were assessed in detail by the Sustainability Appraisal. Objective 2 of the SA Framework requires that attention is paid to the effect on landscape when assessing potential of sites for allocation. Each SA Objective is accompanied by a number of sub-objectives and decision making criteria in order that each site assessment is as thorough as feasible as to the effect of proposed site allocations on these Objectives. For Objective 2 these were:

- Is the site within or in the setting of an Area of Outstanding Natural Beauty?
- Could development of the site respond effectively to the existing character and quality of the landscape/ townscape?
- Would there be an identifiable and cumulative visual impact from the development of the site and related sites?

74. To assess the response to these questions, officers undertook a desk-based and on-site assessment. Where the SA identified a particular concern with regards to these issues, the site policies contain an additional requirement. The majority of the site policies make reference to landscape impact in some way, for example:

- S2 & S47 acknowledge the importance of the surrounding landscape and the impact that the sites could have on long distance views from the AONB. The Policy text requires the enhancement of boundaries, and for the landscape of the AONB to be taken into account when designing the built form and landscaping within the site.
- S4 & S14 recognise the importance of the landscape setting of these sites and requires that landscaping works to lessen the visual impact of them. S28 requires that the character and setting of the countryside be taken into consideration in the design of the development. S58, S60 and S59 seek to ensure that existing landscape features within the site are retained, and that boundary landscaping is enhanced.

- S16 requires that development on the site enhances the Stour River Corridor to help set the development in with the wider landscape (para. 4.184)
- S24 recognises the importance it plays as the interface between the rural landscape and urban areas (para. 4.265). This policy requires that development proposals are designed taking into account the character and setting of the AONB.
- S34, S38, S41, S42, S45 and S35 recognise the impact that development on these sites could have on the wider landscape, and require, as part of the policy, suitable mitigation measures such as screening. A number of policies require that existing landscaping features, such as hedgerows, are retained as part of a development proposal.
- Sites S25, S41, S44, S53, S54, S56 and S61 lie within an AONB. Landscape impact lies at the heart of each assessment of these sites, and this is reflected in the policy wording and accompanying text.

75. In addition to site specific policies, each proposal is required to accord with policies ENV3a, ENV3b, and ENV5. These policies require that all development takes into consideration the Landscape Character SPD, the AONB and the important rural features that define the character of the landscape.

76. Sites allocated in the two AONBs in the borough include proposals for mitigation within the relevant Site Policy to offset any potential detrimental impact on landscape and local character. Additional information regarding AONBs can be found in response to Question v above.

***vii) In allocating sites, has sufficient attention been paid to the effect on biodiversity assets, including protected habitats, and to designated and non-designated heritage assets?***

77. All site submissions to the Local Plan were subject at the outset to the Sustainability Appraisal process (see answer to issue 12 i) above). The SA Framework, Objectives and assessment scoring system were developed from the SA Scoping Report (Appendix 1 SA SEA Main Report [SD02]. This was

completed in consultation with the statutory consultees Historic England, Natural England and the Environment Agency in 2013 and 2014. Objectives 1 and 3 of the SA Framework require that attention is paid to the effect on biodiversity assets, including protected habitats, and to heritage assets, when assessing potential of sites for allocation. With regard to biodiversity assets, the SA Site Assessment *pro forma*, including prompt questions (Annex 2 of Appendix 1 of SA SEA Main Report [SD02] (pgs 82-89)) was drawn up taking account of the views of Natural England (detailed in Annex 4 and Annex 5 of Appendix 1 of SA SEA Main Report [SD02] pages 101-104).

78. Each SA Objective is accompanied by a number of sub-objectives and decision making criteria in order that each site assessment is as thorough as feasible as to the effect of proposed site allocations on these Objectives. For Objective 1: Biodiversity these were:

- Is the site located within or adjoining a designated habitat?
- Would development of the site be likely to have significant effect on a Local Wildlife Site?
- Would development of the site result in the loss of key components in the habitat network, such as woodland, trees/hedgerows, wetland, ponds, streams and ditches or other features supporting protected species or biodiversity?
- Would development of the site enable the creation of new habitat and/or components in the habitat network?
- Is the site located within or adjoining the Green Corridor?

79. As a result of this SA site appraisal process, no site allocations are made in or adjoining European designated sites. Furthermore, site allocations have avoided areas of biodiversity importance (Table 13 of the SA SEA Report 2016, updated by the SA SEA Addendum Report July 2017 [SD02] summarises the sustainability impact of proposed site allocations and where resultant mitigation requirements is deemed to be necessary). Only one site (S53) adjoins an SSSI.

80. Examples of site allocation policies with criteria in them to cover biodiversity mitigation include:

- Insofar as minimising the impact on the natural environment, S2, S3 & S4, S20 require mitigation for any potential ecological impacts as well as enhancement measures.
- On ecological enhancements, S8 recognises the potential of natural features on the site and requires development to account for and incorporate mitigation. S9 acknowledges the ecological areas within the site and requires protection and enhancement of these and S11 requires that development make a positive contribution to biodiversity on this former brownfield site. For S16 the policy text requires that the development protects and enhances the East Stour river corridor.
- S26, S31, S32, S57 – note the proximity of Ramsar and the Special Protection Area (para. 4.283, 4.321) and require that an Environmental Assessment study be carried out as part of any development proposal, and that the developments do not cause ecological harm.
- In respect to SSSI's; S34, S47, S48, S49, S53 seek to ensure that any impact from sites is adequately mitigated. This was drafted in liaison with Natural England.

81. With regard to ensuring no harmful effect on the borough's heritage assets, Objective 3 of the SA process required each proposed site to be assessed against the following:

- Is the site within or adjoining an area of archaeology importance or a Conservation Area?
- Does the site contain or does it adjoin a listed building, scheduled monument (SM) or registered Park/ garden?
- Will it respect and enhance the character and setting of Ashford's historic and/or cultural assets?

82. Where site allocations are proposed which have the potential to affect the borough's heritage assets, appropriate mitigation requirements are included within the criteria of the site policy – such sites include Policy S30 which requires archaeological investigation work; and Policies S56 and S59 (among others)

which require design and layout to conserve and enhance the Conservation Areas in which they are located, and integrate with nearby listed buildings.

83. In addition, the Plan makes clear (para 4.3) that it should be read as a whole and as a result all site allocations are subject to compliance with Policies ENV13, ENV14 and ENV15 which seek to preserve, conserve or enhance the heritage of the borough.

84. In October 2017, the Ashford Heritage Strategy (NBD03) was adopted by the Council. This provides a positive strategy for the conservation and enhancement of the historic environment under the parameters of NPPF paragraph 126. There was substantial community involvement in the development of this strategy, along with the involvement of Historic England and KCC Heritage.

85. The amount, quality and variety of this borough's heritage assets were highlighted within this strategy, and a programme of heritage development emerged as a result of the document.

86. The strategy highlighted the need for further work to be undertaken on non-designated heritage assets, as detailed in NPPF paragraph 139, through cataloguing and disseminating their significance. These are defined in the strategy as *"all those recognised elements of the historic environment not covered by one of the above designations. These include standing buildings, below-ground archaeology and archaeological findspots and earthworks."* The strategy highlighted some of these non-designated assets, and recommended a number of objectives to ensure their conservation and enhancement.

<p><b>viii)      <i>In allocating sites, has sufficient attention been paid to mineral safeguarding areas?</i></b></p>
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87. The SA objective 11 includes an assessment of whether a site is located on an existing, known mineral reserve. This question has been answered with regards to all sites assessed in the SA process.



88. Ashford sits on a band of mineral deposits which run north-west to south-east through the Borough, meaning that the majority of land in and around Ashford town, and at a number of other settlements, has safeguarded mineral deposits. Sites that are proposed for allocation in and around Ashford and at other settlements represent the most sustainable options to provide for the housing and employment needs for the Borough, as has been demonstrated through the SA. In order to meet the needs for housing and employment development it is the Council's view that it would not be realistic to avoid allocations within these areas as this would create an unsustainable form of development if the mineral safeguarded areas were not considered for development as a matter of principle. However, that is not the purpose of the safeguarding designation.
89. Kent County Council, who are the relevant body with regards to mineral and waste policy, have requested that minerals assessments be carried out in order to identify the need for prior extraction of the minerals within the safeguarded areas. The KCC Minerals and Waste Local Plan 2013 – 2030 which forms part of the statutory development plan for the Borough, includes policies which set out these requirements, and are therefore material considerations when in determining planning applications. It is not considered necessary to replicate these policies within this Local Plan.

***ix) Which infrastructure is critical to the delivery of the individual site? Where contributions are specified, are they necessary and justified by the evidence base?***

***x) Do the allocations contain sufficient detail, particularly with regard to the contributions required for community uses or infrastructure, and have all of the expectations in the supporting text been adequately reflected in the policy itself?***

90. The Council's response to Issue 17 i) explains how, through a combination of generic topic policies and site specific policies the Council intends to ensure that the required infrastructure is provided and delivered to meet the needs of new development.

91. The Infrastructure Delivery Plan (IDP, SD10) classifies infrastructure as critical, essential or desirable. There are three pieces of infrastructure classified as critical in the IDP; Junction 10a, A28 Chart Road, and M20 Junction 9/Drover's roundabout.
92. Issues in relation to Junction 10a, including references to requiring contributions, have been addressed in the Council's response to Issue 11 i) and at the relevant hearing session.
93. The A28 Chart Road is critical to the delivery of Chilmington Green, but not specifically to other sites within the Plan. It is also fully funded in response to the Chilmington Green development.
94. M20 Junction 9/Drover's roundabout whilst being identified as critical infrastructure has already been delivered and is therefore not an impediment to the delivery on any individual site. The issue of contributions towards the repayment of the forward funding has already been discussed at the hearing of Issue 11.
95. Within the site policies the Local Plan makes reference to any specific infrastructure project where the need is generated solely from that development, and it is expected to be delivered on site, or in the immediate locality to the site, and/or where land is needed to be provided on the site for the infrastructure or facility, but it is also meeting a wider need. A list of examples has been set out in the Council's response to Issue 3 vi).
96. Where specific reference has been made in a site policy to a piece of infrastructure or contribution towards a specific item, the Council is satisfied that the requirements are necessary and justified, based upon the local circumstances of the site.
97. For example:
- Policy S1 refers to the need for proportionate contributions towards the delivery of strategic parking provision in the town – development of this site

clearly creates the need for additional parking provision a contribution towards strategic parking provision in the town is therefore justified.

- Policies S2 and S3 require land to be provided for new primary schools and proportionate contributions towards these. The need for two new primary schools is clearly evidenced through the infrastructure planning and supported by KCC (see response to Issue 12 xii). These two sites make the largest contribution to the need for the new schools, the size of the sites provide the opportunity for a new school to form the heart of a new community, and the sites provide an appropriate location to meet the need for primary education from sites in the surrounding area.
- Policy S6 requires the funding of signalisation if the Crowbridge Road Bridge and traffic management works as a direct result of impact from the development.
- Policy S15 requires a strategic green corridor to be delivered through the site that is complemented by a local children's play space in response to the need generated by the development but to also complement the infrastructure that is being delivered on the adjacent site so a consistent development is delivered overall.
- Policy S16 sets out that improvements to the green corridor which runs through the site are required.
- Policy S17 requires the funding for new pedestrian and cycle routes but also the provision of on-road parking restriction via a new traffic order that will restrict non-residential parking on the site, in response to both the impact of the development but also known parking issues in the area.
- Policy S19 makes specific reference to proportionate contributions towards primary education being provided on site S2, this is justified given the location of the site adjacent to the new primary school being provided.

98. While the amount of infrastructure funding from development will vary depending on location and site characteristics, it is clear from the analysis that development will be able to play a role in the infrastructure funding strategy in the IDP (SD10), which relies on a combination of developer contributions, service providers, economic development agencies and local authority funding (see P8 onwards).

99. The Council's view is that site allocations contain sufficient detail, along with other topic policies in the plan which would be applied, with regards to contributions required for community uses and infrastructure where this is already established. Where this is not yet the case, the Council would normally wish to seek the views of the local community on how best a developer contribution to local community infrastructure might be applied.
100. In summary, the Council considers that the Local Plan provides the right balance between providing as much certainty as possible regarding the level and type of infrastructure needed, balanced against being as flexible as possible to ensure that the needed infrastructure will be delivered. In doing so, the approach is considered consistent with the guidance contained in the PPG.
101. It is accepted by the Council that supporting text may not always be consistent in this regard, and the Council would raise no objection to making minor amendments to supporting text in the relevant policies, where this has not been consistently cross referenced.

***xi) Have the individual and cumulative transport related implications of allocated sites been fully assessed and are measures to address them sufficiently clear and deliverable?***

102. The Transport assessment work that supports the Local Plan is set out in the evidence base and constitutes the following:-
- TBD02 – Traffic Impact Assessment (of Kennington and Eureka allocations)
  - TBD03 – Ashford Parking Review
  - TBD04 – Ashford Cycling Strategy
  - TBD05 – Feasibility reports on the A20 Corridor Sites
  - TBD06a – Amey report on the impacts on the Strategic Road Network
103. In addition, feasibility work was undertaken in respect of the proposed Pound Lane Link road (TBD01) which considered options for the link.
104. In respect of the cumulative impact of development on the highway network, the study undertaken by Amey on behalf of the Borough Council and KCC

Highways & Transportation shows clearly that the levels of traffic predicted to be on the strategic network by 2030 will be significantly less than that predicted on the basis of the Core Strategy's level of growth around, notwithstanding that the Core Strategy was also based on the anticipated implementation of the 'Smartlink' public transport network that would have made significant changes in modal split. The Amey study has tested Local Plan levels of development around Ashford with existing modal split assumptions built in.

105. In addition to the Amey study, the Council has also been involved in the preparation of the evidence base supporting Highways England's Development Consent Order application for the M20 junction 10a scheme. This included a review of the 'Uncertainty log' for the scheme modellers to assess the likelihood of schemes coming forward by 2031 and the scale of development that might be expected to have occurred by that time. This included assessing the emerging housing and employment allocations in the Local Plan to consider whether they add to or are in substitution of existing Core Strategy-based allocations.
106. The individual assessment of transport related implications of sites will be addressed through site specific Transport Assessments in accordance with Policy TRA8 of the Local Plan as those sites come forward and at this stage the Council would expect detailed proposals for on and off-site mitigation to be provided where needed in light of agreement with the relevant highway authorities over matters such as the modal split, trip distribution and the need to model relevant committed developments at the time.
107. However, the Council has consulted with both the local highway authority (KCC) and Highways England in respect of allocated sites and, as can be seen in the respective Statements of Common Ground (ED/05 and ED/06), both are satisfied that the transport impacts of the proposed allocations can be adequately accommodated on the local and strategic highway networks subject to the delivery of identified improvements to the network such as those set out in policy TRA1 and the Infrastructure Delivery Plan such as the A2070 Orbital Park junction upgrade and the improvements to the town centre Ring Road junctions.

108. With respect to the local highway network, KCC Highways & Transportation and the Borough Council have agreed a series of suggested amendments to several site specific policies in the Statement of Common Ground (ED/05) to set out, for example, access requirements that KCC H&T will be seeking when a proposal comes forward.

109. At the Examination, the Inspector has asked for clarification of KCC H&T's position in respect of the cumulative impact of Local Plan allocations on the local highway network. Given KCC H&T's position on individual site allocations and the wider strategic position in respect of traffic more widely on the network set out in the Amey report, it is expected that this will be now be provided as part of an updated Statement of Common Ground (ED/05).

***xii) Have the individual and cumulative education implications of allocated sites been fully assessed and are measures to address them sufficiently clear and deliverable?***

110. Yes, the individual and cumulative education implications of allocated sites has been fully assessed.

111. The Council has worked on a continual basis with Kent County Council, as Strategic Commissioner of Education Provision, throughout the development of the Local Plan in order to understand the education implications of the proposed development allocations. This is detailed at paragraphs 3.2.5-3.2.10 of the Duty to Co-operate Statement (SD07) and page 24 of the Infrastructure Delivery Plan (SD10).

112. The assessment of education requirements is explained at pages 24-27 of the Infrastructure Delivery Plan (SD10), and a list of the individual education projects needed to support the development proposed in the Local Plan are set out in Section 3 of SD10 (page 69-71).

113. The assessment identified the need for two new 2FE primary schools in Ashford and a number of extensions to existing schools. This is in addition to the new schools currently in the pipeline to be delivered at Chilmington and Finberry.

114. The Council considers that the measures to address them are sufficiently clear and deliverable. Section 3 of the IDP (SD10) identifies the delivery body, cost and funding position in relation to the projects that were known at the time of publication.
115. The Council has identified the land required to deliver the two new primary schools in specific site allocations within the Plan, at Policies S2 and S3. Extensions to existing schools can be delivered on existing school land, and there is therefore no requirement to identify further land for these purposes.
116. Policies COM1 and IMP1 set out the requirements for financial contributions to be made by developers in order to fund education facilities. The need for the two new primary schools and extensions to existing schools is generated primarily from site allocations in the local vicinity of the projects and it is therefore expected that S106 contributions will be required from developers to fund these, as set out in Policy COM1 and indicated within the Section 3 of SD10.
117. Policy IMP1 sets out the Council's commitment to continue to work with all infrastructure providers to ensure that infrastructure is delivered to meet the needs of the Plan. The Infrastructure Delivery Plan is proposed to be updated on an annual basis in order to take into account any changing circumstances.
118. Kent County Council support the approach proposed, and agree that the proposals are deliverable through these means (see the letter at Appendix 3 of this Hearing Statement).

***xiii) Are allocated sites in accessible locations with good access to everyday facilities by a range of means of transport? Does the Plan provide an adequate basis to address any areas of deficiency?***

119. As outlined in the Council's response to question ii, we consider that site allocations meet the objectives of Policy SP1 with regards to focusing 'development in accessible and sustainable locations which utilise existing infrastructure, facilities and services, wherever possible'. It is important to note

the term 'wherever possible' as the council considers that all of the allocations are in accessible or sustainable locations but does accept that some allocations may be located in less accessible and sustainable locations to others.

120. Objectives 6 (Access to Services and Social Inclusion), 7 (Health and Wellbeing), 8 (Sustainable Travel) and 13 (Town and District Centre Vitality) of the Sustainability Appraisal (SD02) were instrumental in assessing site suitability. Within the parameters of this assessment, sites were interrogated as follows:

- Is the site located in close proximity to a Local Centre/ Shop?
- Is the site located in close proximity to a GP Surgery?
- Is the site located in close proximity to a Primary school?
- Is the site located in close proximity to public green open space?
- Is the site located within close proximity of an equipped play area?
- Does the site have direct access to a footway (PRoW or pedestrian pavement)?
- Is there direct access to the site from the public highway?
- Is the site within 1.6km of an existing designated cycleway?
- Is the site within 400m of a Railway station or bus stop that provides an hourly or more frequent bus service?
- Is the site within 400m of the nearest district centre?

121. Such an approach considered a full suite of facilities and access to them, as NPPF and PPG require. Those sites achieving positive results in relation to these questions therefore scored higher overall, with the final score establishing an indicative balance of sustainability. In line with the Local Plan's Vision, housing allocations were focused at the more sustainable settlements in the borough, most likely to have a range of services and transport options (e.g. three allocations in Hamstreet and in Charing). While smaller settlements logically have a more limited range of services and transport options, specific sites have been allocated where they can relate to existing infrastructure (e.g. Policy 53, Brook, within the heart of the settlement along National Cycle Route 18).



122. However, where the evidence has revealed a more limited range of local options, these have been treated in different ways. As an example, Policy S30 allocates 15 dwellings at Egerton. As a result of its more limited range of services and public transport options, the site capacity was reduced, and a requirement for the pedestrian permeability enhancements and improvements included in criteria. Similarly, relating to Policy S58 (Stevenson Bros, High Halden), the SoCG between ABC and KCC highways and Transportation (ED/05) has agreed the provision of a new criterion in relation to bus provision as follows:

*(h) deliver the provision of two new bus stops on either side of the A20 adjacent to the site to a specification to be agreed with the relevant bus operator.*

123. Furthermore, Policy S18 specifically supports the improvement, expansion, reconfiguration and consolidation of the strategic medical facility at the William Harvey Hospital, alongside improvements of transport links. Beyond those site-specific requirements identified, the Local Plan should be taken as a whole, and Policies TRA4-6 in particular promote the enhancement of bus, pedestrian and cycling infrastructure relating to development, while rail infrastructure is also highlighted within the Plan. Furthermore, the Infrastructure Delivery Plan (ID10) in particular provides further evidence, detail and delivery information relating to specific items to be delivered, in which locations and on what timescales.

***xiv) Have the site allocations been made in accordance with Diagrams 2 and 3 of the PPG on Flood Risk and Coastal Change (ID7), including the application of the sequential and exception tests?***

124. Site allocations have been made with due consideration of Flood Risk, as outlined in the Ashford Strategic Flood Risk Assessment (SFRA, NBD01), taking into account not only the risk of fluvial flooding, but that from surface water, groundwater, sewers, and other sources. In the vast majority of cases, site allocations within the Local Plan are located wholly in Flood Zone 1 (area of lowest flood risk). Where these have fallen outside of Flood Zone 1, allocation has been made in accordance with Diagrams 2 and 3 of the PPG on Flood Risk

and Coastal Change, including the application of the sequential and exception tests.

125. Location of sites in relation to flood risk was a key consideration in site evaluation in the Local Plan's Sustainability Appraisal (SD02). Ensuring that flood risk is managed appropriately and that new development sites are sequentially tested so that they are allocated to land at least risk of flooding was a key sustainability indicator of the Plan. The vast majority of site allocations were made in Flood Zone 1 and, where parts of an allocated site fall within either flood zones 2 or 3, the site policy notes that the built area must generally fall outside of these areas and/or remedial work and mitigation is required. However, for the purposes of good spatial planning, a minority of sites were allocated within areas of higher flood risk, following guidance on sequential and exceptions testing. Individual site selection and policies for these were informed by the Ashford SFRA (NBD01), and consideration was given as to whether development on these sites could demonstrate wider sustainability benefits to the community, supported by site-specific flood risk summary sheets (see Appendix C of that document).
126. Recognising that a minority of allocated sites include areas of higher flood risk, these are indicated within the relevant policy text to be addressed in site-specific ways. In the majority of instances, as per Diagram 2 (PPG ID: 7-005-20140306), built development is directed towards areas on site with lowest risk. Such an approach is taken in a number of ways in site policies as balanced with other consideration, including directing development to on-site areas outside of Flood Zone 2 and 3 (Policy S57, Warehorne Road, Hamstreet); retaining flood-risk areas for open space and ecological mitigation (Policy S9, Kennard Way, Henwood); or requiring capacity reductions to ensure all development is located in Flood Zone 1 (Policy S32, Land at Parker Farm, Hamstreet).
127. In particular cases, however, allocations have been made on sites located in areas of substantially higher flood risk. Site specific flood risk assessments can be found in Appendix C of the SFRA (NBD01). Sites S3 (Court Lodge) and S11 (Leacon Road) have significant areas located in Flood Zone 3. In the case of Site

S3, the Council and site promoters have engaged at length with the Environment Agency, and have drawn up a number of site arrangement options. The preferred option would involve application of the exception test – and the Council is satisfied that it would bring wider sustainability benefits through integrated placemaking in South Ashford. This would involve land remodelling and the ability for the public open space delivered at Chilmington Green to be extended eastwards, and would deliver residential development more tightly against the current grain of urban Ashford enabling better connectivity. Two alternatives could deliver residential development outside of Flood Zones 2 and 3, but would contribute less satisfactorily to sustainable placemaking. In the case of Site S11, this is an existing site allocation considered previously by the Inspector of the Urban Sites DPD and, while situated in Flood Zone 3, it is a brownfield site in a central location on a main public transport corridor in the town and so has wider sustainability benefits. It is noted that the Environment Agency has raised no objection in relation to flood risk or the mitigation potential on this site.

128. Ashford Borough Council has a strong track record of placemaking through overcoming flood risk. A particular exemplar is the Finberry development, which involved a remodelling of the floodplain to the south of Ashford, and for this was recipient of the 2014 RTPI South East “Exemplary Planning to Deliver Housing” award.
129. The Local Plan and its allocations have been considered by the Ashford Water Group, a partnership working group consisting of statutory and non-statutory partners in the water cycle. This includes water industry representatives from South East Water as supplier and Southern Water as undertaker, and includes the main statutory bodies responsible for the management of flood risk (including the Environment Agency, and Kent County Council as Lead Local Flood Authority), who offer no objection to site allocations on flood grounds (as evidenced by their Statements of Common Ground with the Council, and by their representations on the Local Plan). There is a clear policy requirement where necessary for front-loaded flood risk assessments, surface water drainage and management strategies for relevant sites as detailed in the Local Plan.

***xv)In allocating sites has the Local Plan taken account of paragraph 112 of the NPPF which expects local planning authorities to seek to use areas of poorer agricultural land in preference to that of a higher quality?***

130. Full assessment of all relevant site factors has been carried out through the Sustainability Appraisal, and agricultural land classification is dealt with by Objective 11. Sites within Grade 1 or Grade 2 areas did receive a negative 'score' in this regard. However, as outlined in response to Question i) this was one of many factors considered when selecting the most appropriate sites to allocate for development. It should be noted that there has been no survey work undertaken in the borough which differentiates between the Grade 3 land, therefore the council are unable to determine if sites in this category are 3a or 3b.
131. Whilst it is acknowledged that part (around 60%) of one site allocation at Kennington (Policy S2) is Grade 1 agricultural land. The remainder of the site is Grade 3 land. In the case of Site S2, the decision to allocate the site for development has been made in light of other reasonable alternatives and on balance, whilst the development of this site will result in the loss of some Grade 1 agricultural land, it is considered that the wider benefits of developing the site outweigh this loss and is an appropriate option taking into account the need to meet the Borough's housing requirement in a sustainable way.
132. Furthermore, in the wider context of site allocations in the Plan, it is clear the Council has sought to minimise the allocation of the best and most versatile agricultural land for development. Out of a total of 61 site allocations, only one is partly on Grade 1 land, 11 are on predominantly Grade 2 land, 35 are predominantly Grade 3 or 4 land, and 14 are classified as urban.
133. The Council notes that the NPPF does not include a higher, 'exceptional circumstances' test for the use of Grade 1 or 2 agricultural land, and therefore the Council believes this balanced approach has led to the most appropriate site allocation options.

***xvi) Is the overall mix and scale of development proposed for each site justified? For mixed use and non-residential sites, is it clear what form of 'employment', 'commercial' or 'other employment generating uses' would be considered acceptable and would this be consistent with other policies in the plan, including Policy EMP9?***

134. As outlined in the Council's response to Issue 10 (xv), Paragraph 159 of the NPPF requires the production of a Strategic Housing Market Assessment (SHMA, SD13) which, of course, identifies the scale and mix of housing and the range of tenures that the local population in the borough is likely to need during the plan period. Attention to housing mix is highlighted within the Local Plan in Policy HOU18 which highlights a borough-requirement, in accordance with the NPPF (paragraphs 7 and 69), while providing the market some flexibility to undertake an assessment of need more locally at the point in time during the plan period that the development comes forward.

135. The Council's response to Issue 5 (vii) outlines its approach to site density assumptions. These were calculated at SHELAA (SD12) stage following the guidance in paragraph 47 of the NPPF and PPG advice (ID3-017-20140306). The SHELAA section 'Identifying the Development Potential of each Site/Broad Location' (SD12 Page 17) explains the context in which the density assumptions were calculated. When progressing sites from the SHELAA site survey, into the Local Plan process for allocation, the standard site densities were adjusted to take into account any additional individual site characteristics and physical constraints which were highlighted during the Sustainability Appraisal site assessments (SD02). Examples of specific sites subject to scale reductions as a result of on-site constraints are given throughout the Council's response to Issue 12.

136. Allocation of larger sites generates a requirement for complementary facilities and infrastructure, as identified in the Infrastructure Delivery Plan (SD10) which was developed in liaison with statutory providers, and which were also identified in many instances through individual site assessments within the SA (SD02). In certain cases, distinct site allocations were treated as a group for mix-

identification purposes, the most obvious example being allocations in Policies S3, S4 and S5, with a requirement for a local centre, to include a school and play area, located on site S3 but to serve the wider area.

137. For mixed use and non-residential sites, the Employment Land Review (EBD02) is the evidential guide. In general terms, these allocations are based on evidenced need for the type of employment space allocated and the spatial context of the site (e.g. Policy S1 allocating offices as town centre use) in line with the sequential assessment and impact test outlined in Policy EMP9. The Plan as a whole recognises that Ashford borough's employment requirements are broad, and specific attention is given within individual site policies to the types of uses the Council's evidence base suggests would be suitable and viable in particular locations enhancing existing employment clusters. For example, at S20 Eureka Park, where 'commercial' development will adjoin residential development, the supporting text at para 4.227 indicates that primarily B2 and B8 uses would not be appropriate but that 'clean' sui generis employment generating operations may be acceptable beyond B1 uses. Alternatively, at S23 Henwood Industrial Estate, there is a broader scope to accommodate the full range of B-class uses although this may depend where on the estate a scheme is proposed and its proximity to neighbouring residential areas.
138. Where there is reference in site policies to the potential for 'commercial' development, this is always qualified within the policy or supporting text what classes are broadly acceptable, albeit with an element of flexibility to support market need and delivery at the time.
139. The Council considers its approach to allocation is consistent with other policies in the plan, enabling the delivery of diverse employment uses in appropriate locations, in accordance with the sequential and impact requirements outlined in Policy EMP9, and safeguarding town centres as defined in Policy SP4, EMP7 and EMP8. The policy wording in general is specific in terms of the broad types of uses sought, and in certain cases (e.g. Policy S11a Former Bombardier Works) is very focused given the existing onsite and nearby infrastructure availability). However, the Plan recognises that the market is likely to evolve during the plan period and a certain amount of flexibility is appropriate. Specific

uses, ultimately, will be subject to planning applications which, if permitted, will generally be subject to legal agreements (s106) providing finer grained detail of specific uses permitted on a site and thus ensuring the integrity of town centre uses is maintained. Policy EMP9 also makes specific reference to proposals that are “in accordance with other policies in the plan” in order to distinguish between windfall proposals and allocations.

**xvii)      *Is there a consistent approach to cross referencing between policies, for example parking requirements referring to Policy TRA3a/TRA3b or references to affordable housing in policy or supporting text?***

140. It was the intention of the Council that the list of topic policies which would apply to all sites (on page 48), would negate the requirement for cross referencing within site policies. However, having assessed the cross referencing between policies throughout the Plan, the Council considers that there has not been a consistent approach to this, particularly with regards to TRA3 and affordable housing. TRA3 (a/b) has only been referenced in a handful of policies (S9/10/20/25), whilst HOU1 has been referenced in more policies (S3/4/5/6/8/14/15/16/19/20 /HOU2) but not widely throughout the Plan.

141. The Council does not consider it necessary to repeat the requirements of other policies within each of the individual site policies. This intention is set out at paragraph 4.2 (page 48), which is clear that the plan should be read as a whole, and identifies a number of other policies that apply to all sites.

142. The Council will therefore propose amendments to delete the references where they are not required.

19 April 2018

Mr Simon Cole  
Borough Planning Office  
Ashford Borough Council  
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Tannery Lane  
Ashford  
Kent  
TN23 1PL  
United Kingdom

  
Stevenson  
Brothers

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**DRAFT ASHFORD PLAN, SITE MC158, STEVENSON BROTHERS LAND, A28  
ASHFORD ROAD, HIGH HALDEN, KENT**

We write with reference to the on going Local Plan Inquiry for Ashford and specifically the above site in our ownership where a proposed change of use for an allocation to residential development land is put forward by Ashford Borough Council in their Draft Plan. In order to support their case we felt that it would be beneficial to write to you in order to explain our position clearly to you in case this information is of benefit to the Planning Inspector in giving consideration to the inclusion of our site in the Ashford Plan.

**STEVENSON BROTHERS**

The business, a partnership initially between the twin brothers Marc & Tony Stevenson, was set up in 1982 located at the family's Finn Farm, in Kingsnorth.

Over the years it has evolved into an internationally renowned business and is now the leading brand in the skilled process of manufacturing handmade bespoke quality rocking horses.

We now make and sell 150 -200 rocking horses on average every year and restore a similar number in the unique Rocking Horse Hospital and employ 13 in the business. Stevenson Brothers are particularly proud to have provided six rocking horses to Her Majesty the Queen since 2002 . As the business has evolved we have been able to set up our main headquarters and showroom premises at Bethersden and further expansion requirements led us to acquire the site at Ashford Road, High Halden to locate our manufacturing and production facility.

Stevenson Brothers are well known in the Borough of Ashford and have been active in supporting various community issues. As a result we have forged a good relationship over many years with both members and officers at Ashford Borough Council.



## **THE SITE**

When we purchased the site in 1999, the principle aim was to have a modern manufacturing facility from which to make and supply our quality product. There was no need for this facility to be based at the Bethersden HQ and it made good business sense to have a degree of flexibility space wise, which the site provides. The accommodation that we specifically use on site for our operational manufacturing facility now stands at 4,000 Square feet approximately. In addition, as part of the purchase, there were other properties on site which allowed us initially run a separate business involving luxury reduction size motor cars and more recently to allow short term lettings to third parties that helped to provide a small income to assist the main operational business.

In order to acquire the property to expand our business we had to purchase the interest in it's entirety. This extends to a total site size we believe to be in the region of 18 acres. It is this overall size that has led to unsolicited interest from developers in the residential market and, whilst it was never in our initial consideration when originally acquiring the property, has eventually led to our learning of and entering into the process of seeking to gain a residential allocation within the Draft Ashford Plan for part of the site.

## **FUTURE BUSINESS PLANS**

Our business continues to be successful. In the context of a potential allocation for residential development in the Draft Ashford Plan we have carefully reviewed our business position. We have concluded that there are a number of suitable alternative local premises that we can relocate to, with minimal disruption to our business, that can be secured at short notice. Indeed we have already discussed terms on premises at Marten Park, Marten Lane, High Halden comprising approximately 3,000 square feet which will suit our requirements ideally.

In addition the third party income we have been receiving is often irregular and unreliable with a high turnover of short term occupiers and will not therefore compromise our business in any way.

Our intention would be to move all of our existing High Halden based staff to any new premises secured. We do not foresee any issues with our employees as the move will be a local one within Ashford Borough.

## **PLANNING**

As mentioned earlier, we have received approaches from prospective purchasers interested in residential development at our site over a period of time. Having subsequently sought advice from both member and officer contacts at Ashford Borough Council we have been encouraged in our view that the pursuing of an allocation for residential development in the Draft Ashford Plan would be appropriate.

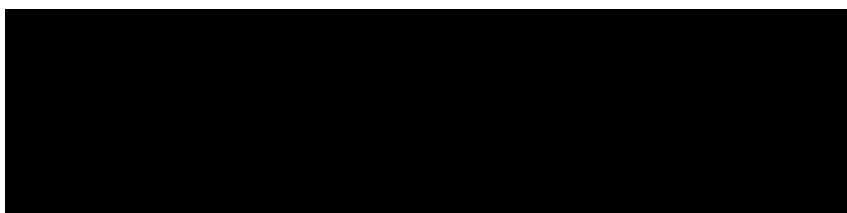
Obviously we have left the relevant experts at Ashford Borough Council to consider our site from a planning policy perspective. Our decision to seek the aforementioned allocation is, we understand with the support of Ashford Borough Council and in the knowledge that this can in due course help in the investment to improve our business.

## **SUMMARY**

We hope that this statement helps explain to the Planning Inspectorate the perhaps unique situation that an allocation for residential development at our site would provide. That is to say, not only does it allow for the provision of new housing to help meet targets within Ashford borough whilst working within accepted planning policy, but it will also allow the Stevenson Brothers brand a greater degree of financial stability for their future business expansion needs.

We do hope that this statement is of assistance and please feel free to contact us should you require further clarification of information.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Marc Stevenson.

**IN THE MATTER OF THE NATIONAL PLANNING POLICY  
FRAMEWORK  
AND IN THE MATTER OF THE SOUTH DOWNS NATIONAL PARK  
AUTHORITY**

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**OPINION**

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**SECTION 1: INTRODUCTION**

1. I am asked by the South Downs National Park Authority ('the NPA') for my opinion on the meaning of "major development" in paragraph 116 of the National Planning Policy Framework ('NPPF'). I previously advised the NPA on the meaning of "major development" in paragraph 22 of PPS7 ('my 2011 Opinion'). Now that PPS7 has been replaced by the NPPF, I am asked to review and update that previous advice.

**SECTION 2: THE POLICY FRAMEWORK**

2. Paragraph 22 of PPS7 stated:

"Major developments should not take place in these designated areas [National Parks, the Broads, and AONBs], except in exceptional circumstances. This policy includes major development proposals that raise issues of national significance. Because of the serious impact that major developments may have on these areas of natural beauty, and taking account of the recreational opportunities that they provide, applications for all such developments should be subject to the most rigorous examination. Major development proposals should be demonstrated to be in the public interest before being allowed to proceed. Consideration of such applications should therefore include an assessment of:

- (i) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- (ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- (iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."

3. On 27 March 2012, the NPPF came into force and PPS7 (along with all other Planning Policy Statements) was revoked. However, the majority of

the content of paragraph 22 of PPS7 was incorporated into paragraph 116 of the NPPF which states:

“116. Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated”

4. Neither PPS7 nor the NPPF define “major development”. While the NPPF is written with a more condensed style, there does not appear to be any substantial difference in the way the term is used in the two documents. Consequently, on a *prima facie* basis, there is no reason to consider that the definition of “major development” differs between the two documents.

### **SECTION THREE: THE MEANING OF “MAJOR DEVELOPMENT” IN THE NPPF**

#### **Part 1: My previous opinion**

5. In my 2011 Opinion, I noted that there was no definition of “major development” in PPS7 and no relevant caselaw providing guidance on the point. In addition, I highlighted an inconsistent approach in previous Secretary of State and Inspectorate appeal decisions. Having considered this material, and the definition of “major development” contained in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (‘the 2010 Order’), it was my opinion that, in determining whether a development was “major development” for the purposes of paragraph 22 of PPS7, it would be an erroneous approach to:

- a. Simply apply the definition of “major development” contained in the 2010 Order; or
- b. Apply any rigid or set criteria; or
- c. Include only developments which raise issues of national significance.

6. At paragraph 38 of my 2011 Opinion I advised as follows:

“(1) The definition of “major development” in the 2010 Order is not the definition for the term as used in paragraph 22 of PPS7.

(2) Major development, for the purposes of paragraph 22 of PPS7 is any development which, by reason of its scale, character or nature, has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a National Park or AONB. That does not require an in-depth consideration of whether the development will have such an impact. Instead, it requires a prima facie assessment of the potential for such impact.

(3) Assessing whether a proposed development is a “major development” is a matter of judgment based on all the circumstances. It is not a matter that can be determined by criteria alone.

(4) However, criteria may be used to raise a presumption that a development is a “major development”. That criteria might include:

- i. The development is EIA development;
- ii. The development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended) (those developments falling within Schedule 2 have the potential to have significant environmental effects and therefore this is an appropriate criteria to apply in this context);
- iii. The development is “major development” for the purposes of the 2010 Order (although the definition in the 2010 Order does not apply directly to paragraph 22 of PPS7, the criteria set out in that definition is a useful starting point to identify development of a size, character or nature that may have a significant adverse impact on the National Park);
- iv. The development requires the submission of an appraisal/assessment of the likely traffic, health, retail implications of the proposal. The application of this kind of criteria appears to be supported by the Secretary of State’s decision in the Leda Properties appeal.

(5) If the criteria above are met, the NPA must consider whether there is anything to rebut the presumption that the development is major development. Local circumstances, the particular facts of the application, and other applicable planning policies must be taken into account before coming to a view on whether the development, by reason of its scale, character or nature, has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a National Park or AONB.

(6) There may also be circumstances in which an application which does not raise a presumption that it is a “major development” may nonetheless be properly regarded as a “major development” when all the circumstances are considered.”

7. In essence, I advised that the determination of whether a development is a “major development” is an exercise in planning judgment based on all the circumstances, and taking into account the potential impact that the development may have on the National Park or AONB by reason of its scale, character or nature.

### *Part 2: Relevant case-law*

8. At the time of writing my 2011 Opinion, there was no relevant caselaw to assist in defining “major development” for the purposes of paragraph 22 of PPS7. However, since then, the courts have provided guidance on the meaning of “major development” in paragraph 116 of the NPPF.
9. In *Aston v Secretary of State for Communities and Local Government* [2013] EWHC 1936 (Admin), Wyn Williams J rejected the submission that the definition of “major development” in paragraph 116 of the NPPF was the same as that in the 2010 Order. He said:

“90.... The NPPF does not define or seek to illustrate the meaning of the phrase “major developments”. Mr Harwood QC points out that in the Town and Country Planning (Development Management Procedure) Order 2010 Article 2 defines major development as development involving any one or more of the following:

- “(a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwelling-houses where –
  - (i) the number of dwelling-houses to be provided is 10 or more; or
  - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more.”

91 Mr Harwood QC points out, too, that this definition appears or is incorporated into other regulatory provisions. That being so, he submits that the term “major development” should be given the same meaning wherever it appears in regulations or planning policy documents and, consequently,

the proposal to erect 14 dwelling-houses upon the appeal site constituted major development.

92 The Inspector declined to treat the application before him as major development. His view was that the development of 14 dwellings could not properly be described as major “by any published or even commonsense criterion” – see paragraph 39 of the decision letter.

93 Despite Mr Harwood's persuasive submissions I do not accept that the phrase “major development” should have a uniform meaning wherever it may appear in a policy document, procedural rule or Government guidance provided the context is town and country planning and, I presume, no contrary meaning is provided in the policy document, rule or guidance. Rather, it seems to me much more appropriate that the term should be construed in the context of the document in which it appears. In my judgment the context of the NPPF and paragraphs 115 and 116 in particular militate against the precise definition which Mr Harwood QC suggests should attach to the phrase “major development”. The word major has a natural meaning in the English language albeit not one that is precise. In my judgment to define “major development” as precisely as suggested by Mr Harwood QC would mean that the phrase has an artificiality which would not be appropriate in the context of national planning policy. As Mr Kolinsky points out in his skeleton argument the Regulations in which the phrase major development is defined are procedural in nature as is the guidance contained within Circular 02/2009 which is also relied upon by Mr Harwood QC – a point with which Mr Harwood QC did not disagree. I do not consider it appropriate to import a definition which may be sensible and desirable in Regulations or guidance concerned with procedural matters into a document intended to form a detailed policy framework.

94 I am satisfied that the Inspector made no error of law when he determined that the meaning of the phrase major development was that which would be understood from the normal usage of those words. Given the normal meaning to be given to the phrase the Inspector was entitled to conclude that the Third Defendant's application to erect 14 dwelling-houses on the appeal site did not constitute an application for major development.” (underlining added)

10. The underlined section of the judgment above appears to confirm that the determination of whether an application is “major development” is fact-specific and a matter of judgment for the decision maker.

11. If there were any doubt of that, it was confirmed in *R. (Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin), where Lindblom J affirmed the approach adopted by Wyn Williams J in defining “major development” according to “the normal meaning to be given to the phrase” and confirmed that the decision as to whether or not a

development was “major development” was a matter of planning judgement. The judge said:

“64 In his “Late Observation Sheet” the officer referred to the presumption against “major developments” in Areas of Outstanding Natural Beauty. He noted that the NPPF “does not define major development”, but that the Town and Country Planning (Development Management Procedure) Order 2010 (“the Development Management Procedure Order”) “defines major residential development as 10 or more dwellinghouses”. On this definition he did not regard the scheme as major development of the kind to which paragraph 116 of the NPPF would apply.

65. Mr Strachan made two main submissions on this ground... Mr Strachan's second submission was that the officer also misdirected the committee on the question of whether the proposal was for “major development” in the AONB. As was held in *R. (on the application of Aston) v Secretary of State for Communities and Local Government* [2013] EWHC 1936 (Admin), this is not a question to be decided merely by using the definition of major development in article 2(1) of the Development Management Procedure Order.

66. I cannot accept either of those submissions.

...

68. Mr Strachan's second submission, that the Council ought to have treated this development of six affordable dwellings as a “major development” in the AONB, is not an attractive argument either. Nor, in my view, is it supported by the decision of Wyn Williams J. in *Aston*.

69. The officer's advice in the “Late Observation Sheet” that the proposed development was not “major development” within the scope of policy in paragraph 116 of the NPPF was consistent with common sense, and also with the view of the inspector in *Aston* that a scheme for 14 dwellings was not “major development”. In his judgment in that case (at paragraphs 91 to 95) Wyn Williams J. rejected the submission that the term “major development” when used in paragraph 116 of the NPPF had the same meaning as it does when used in the Development Management Procedure Order. As he said (at paragraph 91), the NPPF “does not define or seek to illustrate the meaning of the phrase “major developments””. In his view, with which I agree, that concept should be understood in the context of the document in which it appears, and in paragraphs 115 and 116 of the NPPF the context militates against importing the definition of “major development” in the Development Management Procedure Order. In this context I think “major developments” would normally be projects much larger than six dwellings on a site the size of Forge Field. But in any event it was clearly open to the Council to conclude that the proposed development in this case was not a major development to which the policy in paragraph 116 applied. This too was an entirely reasonable exercise of planning judgment, and the court should not interfere with it.

70. I therefore reject this ground of the claim.” (underlining added)

12. The *Aston* and *Forge Field Society* judgments now provide a substantial degree of clarity on the meaning of “major development” in paragraph



116 of the NPPF. It is to be given its normal meaning and it will be a matter of judgment for the decision maker to reach a conclusion on whether a proposal is a “major development”, having regard to all the circumstances.

### **Part 3: Planning Practice Guidance**

13. On 6 March 2014, Planning Practice Guidance (PPG) was issued in relation to the definition of “major development” in paragraph 116 of the NPPF. It reads as follows:

“Paragraph: 005 Reference ID: 8-005-20140306

How is major development defined in National Parks and Areas of Outstanding Natural Beauty, for the purposes of the consideration of planning applications in these areas?

Planning permission should be refused for major development in a National Park, the Broads or an Area of Outstanding Natural Beauty except in exceptional circumstances and where it can be demonstrated to be in the public interest. Whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. The Framework is clear that great weight should be given to conserving landscape and scenic beauty in these designated areas irrespective of whether the policy in paragraph 116 is applicable.” (underlining added)

14. That Guidance is not conclusive but is a material consideration in determining applications and appeals. It echoes the approach of the courts in confirming that the question of whether a proposal is “major development” is context-specific and dependent on the particular application.
15. Arguably, the PPG goes further than the decisions in *Aston* and *Forge Field Society* in specifically requiring a consideration of “the local context”. However, in my opinion, that requirement flows naturally from the fact that the determination of whether a proposal is “major development” is a matter of planning judgment: one cannot exercise that judgment in the abstract and must take into account the specific, and local, circumstances of the application.

#### **Part 4: Subsequent appeal decisions**

16. Since my 2011 Opinion, there have been numerous appeal decisions in relation to the meaning of “major development” in relation to both PPS7 and the NPPF. However, many of those decisions pre-date the High Court decisions in *Aston* (10 July 2013) and *Forge Field Society* (12 June 2014) and publication of the Practice Guidance (6 March 2014). Accordingly, their usefulness may be limited<sup>1</sup>.
17. The appeal decisions post-dating the *Aston* decision potentially provide more useful guidance and are summarized as follows:
  - a. In APP/Y2736/A/13/2197184, Land to the rear of Station Road, Ampleforth (decision dated 13 November 2013), a development of 30 housing units was proposed on a 1ha agricultural site within an AONB, abutting, but outside of, the existing built up area as defined in the Local Plan. Relying on *Aston*, the Inspector rejected the submission that the “major development” should be construed in line with the 2010 Order. She found that “this development of 30 houses, in the context of the existing village development does not constitute major development for the purposes of paragraph 116 of the Framework” (underlining added).
  - b. In APP/D3830/A/13/2198213, Land at Handcross, West Sussex (decision of 1 May 2014), a development of between 75 – 90 dwellings, with accompanying carehome, was proposed in an AONB. In finding that the proposal was “major development” for the purposes of paragraph 116 of the NPPF, the Secretary of State agreed with the following reasoning by his Inspector:

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<sup>1</sup> For completeness, I have listed some of these appeal decisions in an appendix attached to this Opinion.

"87. Para 116 of the NPPF indicates that permission should be refused for major developments in the AONB other than in exceptional circumstances where the proposal is in the public interest. There is no agreed definition of 'major development' and whether a proposal falls into this category is a matter of fact and degree, and subject to the context of the site. It is certainly the case that the Cuckfield appeal decision concluded that it referred to projects of national significance in relation to the definition in the Planning Policy Statement 7 which applied at the time. On the other hand, the judicial opinion quoted by the Council in the 'Aston' Case suggests that 'major' should take on its natural meaning. In the present context, a scheme of 75 or 90 houses would fall into the normal interpretation of the word 'major' in relation to the size of the village. There is not a compelling case that para 116 refers only to schemes of national or regional significance and, on balance, there is adequate reason to consider that these schemes are major developments to which the paragraph applies.

88. In reaching this conclusion, account is taken of the appellants' suggestion that para 116 is intended to capture schemes which have a major effect on the AONB, which they consider does not apply to the present appeals. However, the wording of para 116 refers to major developments rather than effects. It lies with the assessment carried out in accordance with the third bullet point of the paragraph to establish the level of any effect. A limited degree of harm, or the potential for mitigation, would clearly count in favour of the proposal when establishing whether exceptional circumstances apply." (underlining added)

- c. In APP/U1105/A/14/2211701, Land adjacent to Badger Close, Newton Poppleford, Devon (decision of 11 June 2014) a development of c.46 dwellings was proposed within an AONB. In dismissing the appeal, the Inspector noted:

"At paragraph ref. 8-005-20140306, the national Planning Practice Guidance (PPG) states that the matter of whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context. It is the Council's view that the appeal scheme comprises a major development in these terms. It was stated at the Hearing that a development of the size of the appeal scheme would be approximately 5% of the size of the existing settlement of Newton Poppleford. In the context of the village, and in the light of the scheme's visibility from a main approach road as described in respect of viewpoint 3, this seems to me to be a significant addition. Accordingly, I agree with the Council's assessment of this matter. The requirements of paragraph 116 of the Framework therefore apply.

26. It was stated at the Hearing that the Council took a different view when assessing the King Alfred Way scheme, which as already noted

would be of a similar size to that now proposed. Clearly, that is a matter for the Council. However, I note that, unlike the present scheme, the King Alfred Way does not adjoin a main approach road into the village: it also differs from the appeal site in terms of its site levels and landform. While the appellant refers to an appeal decision in Tetbury within the Cotswold AONB, where a 39 dwelling scheme was deemed to not comprise major development, my assessment is based upon the local context of the present proposal, as is required by the PPG."

- d. In APP/P1615/A/13/2204158, Land off Reddings Lane, Staunton, (Coleford) Gloucestershire (decision of 23 June 2014), 15 residential units were proposed with public open space within an AONB. The Inspector found that the development would cause substantial harm to the AONB. He then noted as follows:

"20. There were differences of views at the inquiry on whether the proposal represented a 'major' scheme in the context of paragraph 116 of the Framework and the appellant referred to a number of decisions in support of their argument that it was not major<sup>14</sup>. However, relative to the limited size of Staunton and to the location and extent of development in recent years, I regard the proposal to represent a major scheme for which planning permission should be refused." (underlining added)

18. The underlined sections of these decisions reveal a largely consistent approach of Inspectors and the Secretary of State: when addressing the question of whether a development is "major development" for the purposes of paragraph 116 of the NPPF, the question must be addressed in relation to its local context. In my opinion, that is consistent with the caselaw and with the PPG.

19. This approach is less clear in the appeal decision provided to me by instructing solicitors in relation to Burlands Field, Selbourne Road, Selborne. (decision of 13 March 2014), which involved an application for 30 dwellings in the South Downs National Park. In that decision, the Inspector noted:

"57. The SDNPA's first reason for refusal alleges that the appeal proposal would be major development in the National Park. This is a significant point, as paragraph 116 of the Framework explicitly states that planning permission should be refused for major development in designated areas such as

National Parks, except in exceptional circumstances and where it can be demonstrated that the development, would be in the public interest.

58. As the Framework does not provide a definition of what constitutes major development there was much debate on this matter at the inquiry. The SDNPA argued that the starting point should be to use the definition set out in the Town and Country Planning (Development Management Procedure)(England) Order

59. In this regard the SDNPA argues that a development which would increase the size of a village which currently has some 311 dwellings, by about 10%, would lead to significant adverse effects, and that such a development could not be considered anything but major.

60...the appellant argues that the origins of the phrase “major development” can be traced back to the former national planning guidance contained in PPG7 and PPS7. Both of these indicated that major development proposals include those that raise issues of national significance. Whilst it is clear that this is not a comprehensive definition, and there is no suggestion that major developments can only relate to projects of national significance, it does provide some useful guidance concerning the likely scale of development to be considered as major in the National Park context.

61. With this in mind I take the view, in the current case, that although the appeal proposal would amount to a fairly significant development in the context of Selborne, its impact would be confined to the local area and, as already noted, would be less than substantial in terms of effects on heritage assets. This view is generally supported by the screening direction for Environmental Impact Assessment purposes, issued by the Secretary of State, in which the proposed development is described as a small-scale housing project.

62. It is also supported by the initial consultation response from Natural England, which took the view that the development would not be likely to adversely affect the purpose of the SDNP designation. However, this response was retracted shortly before the start of the inquiry, with comments on protected landscape matters being deferred to the SDNPA. Although this decision to defer does not appear to have been taken as a result of any detailed reassessment of the proposal, the fact that Natural England’s comments have now been retracted means that I cannot give them weight.

63. But notwithstanding this last point, having regard to all the matters detailed above I am not persuaded that the appeal proposal should be seen as a major development needing to be justified by exceptional circumstances, as discussed in paragraph 116 of the Framework.”

20. Instructing solicitors have raised a concern in relation to this decision.

That concern relates to two aspects: first, that the Inspector appears to have placed some weight on the PPG7 and PPS7 reference to projects “that raise issues of national significance”; and secondly, that the Inspector

appeared to find that the proposal was not “major development” because the impact would be confined to the local area.

21. In my opinion, the Burlands Field decision is best understood as a decision which turns on its facts, rather than a decision which purports to apply any specific test for “major development”. Nonetheless:

a. To the extent that the Inspector relied on the reference in PPG7 and PPS7 to “projects that raise issues of national significance”, I consider that this ought to carry very little weight in the decision making process. I say that for the following reasons:

- i. The PPS7 and PPG7 reference to “projects that raise issues of national significance” has been removed from the NPPF and no longer has any basis in policy;
- ii. Paragraph 116 of the NPPF does not apply at all where the application is for a nationally significant infrastructure project (see paragraph 3 of the NPPF).
- iii. In any case, it is clear – as the Inspector acknowledged – that the reference in PPS7 and PPG7 was not exhaustive and it was never intended to restrict the meaning of “major developments” to those which raised issues of national significance;
- iv. In the Handcross appeal (which followed the Burlands Field decision), the Secretary of State agreed that “there is not a compelling case that paragraph 116 refers only to schemes of national or regional significance”

b. To the extent that the Inspector found that the proposal was not a “major development” because the impact would be confined to the local area, this cannot possibly be a test of general application. If “the local area” was a highly important part of the National Park or AONB, then that local impact may be very significant indeed. In

any case, this approach appears to run counter to the observations at paragraph 88 of the Inspector's Report in the Handcross appeal (quoted above), where the Inspector noted and the Secretary of State agreed that the test in paragraph 116 of the NPPF is not whether the impact of the development is major, but whether the development itself is major. The Inspector in the Burlands Field decision appears to have reached his conclusions on whether the development was "major development" only after a careful assessment of impacts. In my opinion, that is to put the cart before the horse. While it may well be appropriate, as part of the determination of whether a proposal is "major development", to consider whether, by reason of its scale, character or nature, it has the potential to have a serious adverse impact on a National Park or AONB, "major developments" are not defined in paragraph 116 of the NPPF by their actual, assessed impacts but by the nature of the development.

22. Accordingly, to the extent that the Inspector in the Burlands Field decision did purport to apply any particular test for "major development" (which I doubt), I do not consider that those tests should be followed.

#### **SECTION 4: APPROACH TO BE ADOPTED BY THE NPA**

23. In light of the caselaw, guidance and appeal decisions since 2011, I consider that the views contained in my 2011 Opinion remain, despite various developments in the caselaw and changes to policy, largely valid. However, there are matters of nuance which need revision. Accordingly, I set out below a set of principles – derived from the caselaw, guidance and appeal decisions – to be applied by decision makers when determining whether an application is for "major development".

24. First, the overarching principle is that the determination of whether a proposal amounts to “major development” for the purposes of paragraph 116 of the NPPF is a matter of planning judgment to be decided by the decision maker in light of all the circumstances of the application and the context of the application site.
25. Secondly, the phrase “major development” is to be given its ordinary meaning. Accordingly, it would be wrong in law to:
- a. Apply the definition of major development contained in the 2010 Order to paragraph 116 of the NPPF.
  - b. Apply any set or rigid criteria to defining “major development”.
  - c. Restrict the definition to proposals that raise issues of national significance.
26. Thirdly, in making a determination as to whether the development is “major development”, the decision maker may consider whether the development has the potential to have a serious adverse impact on the natural beauty and recreational opportunities provided by a National Park or AONB by reason of its scale, character or nature. However, that does not require (and ought not to include) an in-depth consideration of whether the development will in fact have such an impact. Instead, a prima facie assessment of the potential for such impact, in light of the scale, character or nature of the proposed development is sufficient.
27. Fourthly, as a matter of planning judgement, the decision maker must consider the application in its local context. This is made clear in the PPG, but also appears implicit in the caselaw. In *Forge Field*, for instance, Linblom J noted that ““major developments” would normally be projects much larger than six dwellings on a site the size of Forge Field.” In so observing, he appears to have contemplated the possibility that, depending on the local context, there may be circumstances in which a project of six dwellings



could amount to major development on a site the size of Forge Field. Accordingly, in principle, the same development may amount to “major development” in one National Park, but not in another; or in one part of a National Park, but not in another part of the same National Park.

28. Fifthly, the application of criteria such as whether the development is EIA development, whether it falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (as amended), whether it is “major development” for the purposes of the 2010 Order, or whether it requires the submission of an appraisal/ assessment of the likely traffic, health, retail implications of the proposal will all be relevant considerations, but will not determine the matter and may not even raise a presumption either way<sup>2</sup>.

29. Finally, and fundamentally, in making a determination, it is important to keep in mind the ordinary, common sense, meaning of the word “major”. Although Lindblom J appears to have contemplated the theoretical possibility of 6 dwellings amounting to “major development” he noted (rightly in my opinion), that in ordinary language a “major development” will normally be much larger than 6 housing units. Accordingly, having considered all the circumstances, including the local context, the decision maker must take a common sense view on whether the proposed development can appropriately be described – in ordinary language – as “major development”.

## **SECTION 5: SPECIFIC QUERY**

30. I am asked whether the NPA *“should continue to apply the same definition of “major development” across the National Park and possibly reach different conclusions depending on whether the development proposed is within a larger*

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<sup>2</sup> In this respect, in particular, I have revised the advice contained in my 2011 Opinion

*town or the countryside or whether the Park should be considering a different definition of "major development" within larger towns."*

31. In my opinion, the NPA should apply the same definition of "major development" to all applications it receives. However, I trust it is clear from the general advice set out above that what constitutes a major development will depend on all the circumstances, including the local context. Accordingly, it may be that the NPA reaches different conclusions in relation to identical applications in different parts of the National Park. For example, it may be that an application for 50 dwellings within a larger town in the National Park is not "major development", but an application for 50 dwellings in the countryside of the National Park is "major development". However, the determination of these matters will be a matter of planning judgment for the decision maker at the time of considering the application and will depend on whether the application, in its context, can – as a matter of ordinary language – be described as "major development".

## **SECTION 6: CONCLUSION**

32. If there is anything else I can assist with, I can be contacted in Chambers.

**JAMES MAURICI QC**  
**Landmark Chambers**  
**180 Fleet Street**  
**London**  
**EC4A 2HG**  
**Thursday 31 July 2014**

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## APPENDIX TO OPINION

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The following appeal decisions post-date my 2011 Opinion and predate the High Court decision in *Aston*. They address the meaning of “major development” in paragraph 116 of the NPPF. As discussed in my Opinion, I do not consider that they provide substantial assistance, but they are provided here for completeness:

- APP/N2525/A/11/2164661. Land adjacent to Northwold Farm (decision of 18 April 2012). The Inspector treated the NPPF policy as identical to the PPS7 policy and found that a development of two wind turbines was not “major development”.
- APP/C3621/A/11/2159362. Land to the rear of Springfield Road, Dorking (decision of 30 April 2012). The Inspector considered that “major development” may include both published and “common sense” criteria. He found that a development of 14 dwellings was not “major development” on any criteria.
- APP/B3600/A/11/2166561. Land at Bury Hill West, Coldharbour Lane, Surrey (decision of 26 September 2012). The Inspector rejected the submission that the 2010 Order definition applied and instead adopted a contextual approach. Having regard to the scale and reversibility of the proposal, he found that a limited and temporary minerals development was not “major development”.
- APP/W0340/A/12/2173977. Old Kiln Quarry, Oxford Road, West Berkshire (decision of 6 November 2012). The Inspector noted that the proposed minerals development fell within the definition of “major development” contained in the 2010 Order, but appears to have applied a broader definition when reaching the conclusion that the development was “major development”.
- In APP/A1530/A/13/2195924. land north of London Road and West of the A314, Little Horkesley, Colchester, the matter in dispute was the extent to which a proposal needed to be ‘in’ the AONB in order for paragraph 116 of the NPPF to apply. (This matter was also addressed by the Court of Appeal in *R (Cherkeley Campaign Ltd) v Mole Valley DC* [2014] EWCA Civ 567). The appeal concerned “planning

permission for the change of use and development of land to form 'The Stour Valley Visitor Centre at Horkesley Park' comprising a country park, art and craft studios (The Chantry), public gardens, a central building complex to provide an indoor display ring, 'Suffolk Punch Breeding Centre', entrance building, shop, café, 'Field to Fork', 'Farming through the ages', Active Learning, 'Nature Watch', and retained greenhouse as a demonstration nursery and gardens, an 'Energy Centre', main and overflow car parks, service yard, highway improvements, ancillary works and infrastructure provision". The Inspector noted (see paragraph 281 of the inspector's report) that "the proposed development would include the erection of 8,950 m<sup>2</sup> of new buildings and the change of use of some 42 ha of agricultural land to country park. It is intended to attract more than 300,000 visitors every year from across the region and more specifically from China. It would by any measure be a major development ... However, the new buildings would occupy the site of the redundant nursery, outside the AONB ... They would form the major part of the new development. While there would be the creation of the Chinese garden, the erection of fencing and the change of use of land within the AONB, these are relatively minor elements of the scheme in terms of development. The proposal cannot with any factual accuracy be described as major development in the AONB, so in my view ¶116 of the Framework cannot be invoked". The Secretary of State agreed that it was not major development in the AONB (see the Secretary of State's decision letter at paragraph 17).

**IN THE MATTER OF THE NATIONAL PLANNING POLICY**  
**FRAMEWORK**  
**AND IN THE MATTER OF THE SOUTH DOWNS NATIONAL PARK**  
**AUTHORITY**

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**OPINION**

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Phone: 03000 418827  
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Date: 19 April 2018

Dear Mr Smith, Mr Lee,

**Local Plan 2030 Examination**

**INSPECTORS' ISSUES AND QUESTIONS – PART 2 - Issue 12**

***'Have the individual and cumulative education implications of allocated sites been fully assessed and are measures to address them sufficiently clear and deliverable?'***

With regard to the above Inspectors' question concerning the Local Plan 2030 Examination, I can, on behalf of the County Council confirm the following:

Kent County Council (KCC) and Ashford Borough Council (ABC) have worked very closely (and continue to do so) to understand how proposed housing developments within the draft local plan will impact upon existing education provision in the Borough and to recognise where new facilities will be required to accommodate pupils generated from these new dwellings. As such, the County Council has proposed two new 2 Form Entry Primary schools (420 places each) for Ashford and has requested that appropriate land parcels are safeguarded for this delivery<sup>1</sup>. These are in addition to those identified at the Chilmington and Finberry developments, as well as the expansion of existing schools, where required.

The effect of planned development on Secondary Education provision in the Borough has also been carefully assessed. With ABC's support, land has been secured within the Chilmington development site and proportionate contributions are being sought from developers to provide this new school in due course. Additional places will also be created from the expansion of existing secondary schools.

Due to the work already carried out between the two councils in provision planning, when individual planning applications concerning Local Plan Policy sites are received, KCC's requirements regarding education is already understood by ABC.

KCC's close working relationship does not end, however, with the adoption of the Local Plan. Through the Ashford Borough Council - Kent County Council District

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<sup>1</sup> As set out in SD10 Infrastructure Delivery Plan 2017

Delivery Deal<sup>2</sup>, partnership working arrangements have been created to ensure that day-to-day working has clear lines of communication between officers on a range of outcomes. As part of this relationship, KCC has a designated S106 officer who leads on Ashford for the County Council, liaising with KCC service providers and providing ABC with updates on issues as and when they arise. In addition to this, site specific working groups have been set up to discuss, plan and action specific issues. For example, Chilmington Green has a Education, Communities and Health Group, with the first major topic of interest being the provision of the first primary school.

I trust the above is helpful, but should you require any further information, please do not hesitate to contact me.

Yours sincerely,



Katie Stewart

**Director of Environment, Planning & Enforcement**

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<sup>2</sup> The Ashford Borough Council – Kent County Council District Delivery Deal is an agreement to work together to deliver better outcomes for residents and business of the borough and, by extension Kent. The deal has two parts:

- A focus on key strategic projects
- An improved way of working together