

Carina
Woodchurch Road
Tenterden
Kent TN30 7AE

17th September 2019

The Rt Hon Robert Jenrick MP
Secretary of State for Housing, Communities and Local Government

Dear Mr Jenrick

RE: APPEAL AGAINST AN EIA DECISION – ASHFORD BOROUGH COUNCIL – 19/00007/EIA/AS

I am writing in regard to a recent decision made by Ashford Borough Council (“ABC”)^{1 2}, our Local Planning Authority (“LPA”), in relation to an application made by Judith Ashton Associates (“JAA”), on behalf of Wates Developments, for an EIA Screening Opinion on land to the rear of Appledore Road known as ‘Limes Land’ in Tenterden, Kent³. ABC determined that an EIA was not required.

The LPA has failed to recognise the impact on biodiversity and the cumulative effects the development will have on the local area, together with the environment as a whole and appears to favour the comments with the JAA letter. I therefore seek a Screening Direction under section 5 (6)(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the “Regulations”), because I do not consider that the LPA has thoroughly examined the application in an objective manner and reached a reasonable conclusion that an EIA is not required in this instance.

It appears that the LPA has accepted the submissions provided by JAA, despite several organisations and residents providing their own submissions pointing out numerous substantive inaccuracies in those of JAA. The LPA’s approach to examining the evidence has been subjective, rather than objective, therefore in breach of section 64 of the Regulations.

In summary, Limes Land consists of approximately 48-50 acres and is situated behind Appledore Road and Woodchurch Road in Tenterden which is **NOT** allocation in the local plan. The land is a haven for wildlife and contains species rich hedgerows and grassland, a habitat for documented **15 Red List birds plus numerous Amber list species**, European protected species and contains several heritage assets, including the site of the historic Gallows, medieval ridge & furrows and Drove Road, all non-designated heritage assets. Furthermore, Limes Land has recently been identified as containing a large expanse of **Unimproved Grassland**, a **Priority Habitat (JNCC/Defra)** which has been completely overlooked and disregarded by the LPA⁴⁵⁶. In addition to Limes Land, Wates

¹ Screen Opinion of ABC

² Officers Assessment Sheet

³ Judith Ashton Assc Correspondence

⁴ Attachment 1(CPRE)

⁵ Attachment 2(WKPS)

⁶ Attachment 3(Masefield)

Developments wish to develop approximately 8-10 acres of secondary school land which is in continued use.

- Limes Land contains numerous **ancient/veteran trees** (many without TPOS), **ancient hedgerows and ancient ponds**. Many of the trees will be felled for development, ancient ponds will be dredged, potentially destroying extinct pollens and wildlife will be transported to a manmade environment. Residents and local Councillors have been lobbying the LPA for over a year, requesting that TPOs be placed on the ancient/veteran trees on Limes Land as they provide a habitat for numerous species, many of which are protected under the Wildlife and Countryside Act. To date, the LPA has refused to put TPOs on these trees as they said they were in 'communication' with the developer, Wates Developments, and would not wish to contravene any confidence between the two parties.
- This development would cause catastrophic damage to a Defra Priority Habitat which contains approximately 30 acres of **Unimproved Neutral Grassland** and several acres of **Acid Grassland**. Most of the unimproved grassland will be removed for housing and football pitches. In addition, several acres of Acid Grassland is identified on Limes Land, together with in the Kent Biodiversity Strategy (KBS). The KBS aims to restore 39 hectares of acid grassland and create a further 21 hectares by 2020. Building on Limes Land will destroy habitats identified in the Kent Biodiversity Strategy and BAP Priority Habitats. The LPA has completely ignored these findings.⁷⁸⁹
- JAA and Wates neglected to mention the discovery of unimproved grassland in their correspondence. A comprehensive ecological survey would have identified this priority habitat and failure to mention this can only make one question the accuracy and validity of their survey.
- Although the land is not classified as an AONB, it is adjacent to the High Weald AONB and Knockwood (Local Wildlife Site) and is also classified as an **ABC Landscape Character Area LCA23**. The impact on a landscape character area will be immense as the development, which includes 5 football pitches/changing rooms/carparking/250 dwellings/infrastructure and will cover approximately 35 acres, over half of the total site. The land is on the edge of the Ashford Dark Skies SPD and will be affected by the proposed development and floodlighting at the football pitches. The visual amenity for residents looking out onto the dark skies will be permanently damaged. These facts have been disregarded by the LPA.
- The LPA has completely ignored that Wates Developments plan to remove some of the medieval hedgerows and cut back the remaining hedgerows to provide a manicured appearance, despite what is best for wildlife. These hedgerows are subject to protection under The Hedgerows Regulations 1997, provide a foraging habitat for the 7 species of bat present on Limes Land, a European protected species, together with being a habitat for nesting birds and other wildlife.

⁷ Attachment 3(Masefield)

⁸ Attachment 16(Reed)

⁹ Attachment 5(Overton)

- The notification of screen opinion by ABC states that the majority of the site comprises of 3b agricultural land. You will see from the attached Agricultural Land Classification that the majority of the 'development' land is 3a grade, and in contrast, the majority of the proposed country park is 3b.
- Wates Developments have entered into a Legal Agreement with Tenterden Schools Trust/Homewood School without the consent of the Secretary of State for Education. This agreement is registered with Land Registry and contravenes the legislation regarding the disposal of land.
- The development will exceed the 150 dwellings in an environmentally sensitive area and will decimate at least 30 acres of predominantly untouched land as Limes Land has remained **unploughed** for hundreds of years.
- Following recent discussions with Natural England regarding the 'unimproved grassland', they have requested additional evidence as the case has now been allocated to their Conservation Team and they are 'investigating the possible means by which future conservation management of the unimproved grassland can be secured'.
- Schedule 4 of the Environmental Impact Assessment (EIA) Regulations 2017, requires that the cumulative effects of development locally is considered. Tenterden is undergoing extensive growth with the impending Tent1B (225 dwellings), together with Tilden Gill (100 dwellings), Pope House Farm (30 houses) and Hales Place (4 large houses), together with additional planning applications proposing at least 60 more dwellings. The prospect of these developments, combined with the remaining dwellings to be completed within Tent1A, can only be described as **unsustainable and catastrophic for wildlife**. Another 250 dwellings would be **unsustainable** for the locality, necessitating the need for an EIA. The negative impact of the approved development of Tilden Gill on wildlife and biodiversity will hopefully be absorbed by the ecosystem of Limes Land. To develop here will result in **permanent loss of habitat** across the southern aspect of Tenterden, potentially decimating entire species locally. The impact on infrastructure and amenities has not been thoroughly assessed to competently analyse the cumulative effects locally. Once again, the LPA has ignored the cumulative effect of this proposal.
- I do not believe that the LPA has analysed the distances to amenities provided by JAA as these distances are questionable, contradicting previous figures issued by JAA. These misleading distances are unfortunately masking that there will be a greater reliance on car use due to greater distances to access services. Additionally, the areas designated for development differ with every document produced by JAA.
- Kent Wildlife Trust ("KWT") were appointed by Tenterden Town Council ("TTC") in 2017 to carry out a full survey of Limes Land, however this was obstructed by Wates Developments. TTC have continued to request that an independent survey is carried out by KWT, however Wates continue to prevent KWT carrying out a full ecological survey.
- There are already documented problems with foul water sewage disposal for houses bordering the site, resulting from an already overloaded local sewerage system and regularly foul waste flooding to properties and gardens. The LPA is negligent to ignore the overwhelmed sewage system which regularly contaminates the land.

- The LPA's consultation was minimal. Kent & Medway Biological Records Centres were not consulted, neither were Kent Wildlife Trust and similar conservation groups. Organisations such as CPRE¹⁰, Weald of Kent Protection Society and TTC commented voluntarily because they were made aware of the screening opinion by a small number of residents.
- A huge number of residents were not aware of the EIA Screening Opinion as the LPA did not properly publicise the screening with notices on the land, or with correspondence to neighbouring properties or press publications. Frustratingly, those residents who were made aware of the EIA Screening Opinion by fellow neighbours had their comments overlooked by the LPA.^{11 12}
- Historically, land slippage and land instability has been documented on Limes Land. This has not been addressed by JAA or recognised by the LPA.¹³
- Wates Developments and JAA previously advised the community that there would be a landscape buffer surrounding the site, however, their masterplan clearly illustrates that the development has had this buffer removed along part the Woodchurch Road. Large trees of several varieties run along the boundaries of these properties which could be affected by the proposed development.¹⁴ Owls and bats reside along this boundary and will be impacted by development which skirts the boundary.
- The development would be harmful to local amenity, together the visual amenity of walkers on the public footpath and the neighbouring residents overlooking the historic land. Views of the church would be blocked along the footpath due to the proposed development. The proposed development will negatively impact the visual amenity of residents who live adjacent to the open countryside, obstructing views of the historic pond and field boundaries identified on the Tithe Map.¹⁵
- Regulation 64 emphasises the need for objectivity by the officer at the LPA. Given that the LPA has seemingly overlooked the extensive comments and evidence supplied to them, I believe that their approach was subjective and lacked thorough analysis. In these circumstances I question whether the officer, Mark Davies, is suitably experienced and qualified to make a decision regarding an EIA.
- The LPA has ignored the dangers of introducing a zebra crossing on the Woodchurch Road and no evidence has been supplied by JAA regarding road safety on this road. Additionally, the already overwhelmed junction of Beacon Oak Road and the A28 has been assessed as inadequate, something that has been overlooked by the LPA and JAA. Proposed improvements to this junction (which are yet to be finalised) are to accommodate the nearby Tilden Gill development (100 dwellings). Recent analysis/surveying of the junction has labelled the junction dangerous and also states that anticipated Tilden Gill development would mean the junction is over capacity. This junction would therefore be

¹⁰ Attachment 1(CPRE)

¹¹ Attachment 6(Quinton)

¹² Attachment 8&12(Poole)

¹³ Land Stability Issue

¹⁴ Masterplan - Wates

¹⁵ Tithe Map – Gallows Green

incredibly dangerous with the additional vehicles from 250 houses and traffic generated by several football pitches. The risk to pedestrians and school children attending the nearby academy could be disastrous and could lead to fatalities.¹⁶ Importantly, there is no central government funding to supplement improvements to the A28 and is deemed as low priority by Kent County Council.

- After the analysis of Defra Magic Maps, the land in question has the following designations/classifications which has been overlooked by the LPA:
 - A Woodland Priority Habitat
 - Woodland – Water Quality Area
 - Woodland Flood Risk Area
 - Keeping Rivers Cool (England)
 - Climate Change Vulnerability Buffer
 - Agri-Environment Scheme – Higher Level Steward
 - Agricultural Land Classification – Grade 2. 3a and 3b

- After analysis of the Kent Landscape Information System (KLIS) Maps, the following designations/classifications apply, once again overlooked by the LPA:
 - Fertile Soils Woodland – Medium Habitat Opportunity
 - Forms part of the historic High Weald landscape

- The emerging Playing Pitch Strategy for ABC has identified that 8 adult, 7 junior and 2 mini pitches will be required within the **Borough of Ashford** to meet demand by 2030, totalling 17 pitches. The JAA correspondence proposes that 5 pitches will be built including a clubhouse and a carpark, ignoring that Tenterden Town Council are already in negotiations with another landowner for 4 pitches to be built; this will then total 9 pitches in 7 square miles, almost half of the borough provision which is over 200 square miles. This excessive destruction of the environment is disproportionate in such a rural area; it appears that the LPA have disregarded this.

- The proposal is in direct conflict with environmental policies within the ABC Local Plan (ALP), particularly ENV 1, ENV 3a, ENV3b, ENV 5, ENV 13 and also conflicts with SP1, SP2, HOU5 of the ALP. The proposal is also in direct conflict with paragraphs 193, 194 and 197 of the NPPF. There is no mention of this within the officer’s decision notice. The proposal is also in direct conflict with the objectives set out within the Kent Biodiversity Plan.

- Unfortunately, the LPA removed the documents from their planning portal which has made it rather difficult to gather evidence for the appeal. The LPA have stated that ‘documents are routinely removed once a decision has been made however, not usually so soon. We are therefore investigating why this has happened on this case’. This makes one question whether there is indeed bias towards the developer by the LPA; it could possibly be an opportunity to detract residents from making an appeal.

¹⁶ Attachment 18(RoadAss)

I believe all of the above factors mean that an EIA is essential, together with a **Habitats Regulations Assessment**, as proposals will have a significant adverse effect on Limes Land and the geographical area as a whole. Limes Land is currently on a shortlist as a Local Green Space on the Tenterden Neighbourhood Plan, and during a recent consultation proved to be one of the most popular green spaces in the area.

If you require any additional information, please do not hesitate to contact me.

Yours sincerely

Samantha Reed