



GENERAL STATEMENT OF COMMON GROUND

Appeals by Hodson Developments (Ashford)
Limited and others

Section 106B of the Town and Country Planning
Act 1990

Non determination by Ashford Borough Council and
Kent County Council of Applications under s106A of
the Town and Country Planning Act 1990 to
discharge and/or modify various of the obligations
under an agreement made pursuant to s106 of the
Town and Country Planning Act 1990 dated 27
February 2017(as amended)

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1. Introduction

- 1.1 This Statement of Common Ground has been prepared jointly by Fladgate LLP on behalf of Hodson Developments (Ashford) Limited; Chilmington Green Developments Limited; Hodson Developments (CG ONE) Limited, Hodson Developments (CG TWO) Limited and Hodson Developments (CG THREE) Limited (together hereinafter referred to as the **Appellant** or **Hodson**), Ashford Borough Council (**ABC**) and Kent County Council (**KCC**).
- 1.2 This Statement of Common Ground is submitted in conjunction with Hodson's appeals against the deemed refusal by ABC and KCC of identical applications (**Application No 2**) made to each under s106A of the Town and Country Planning Act 1990 (**1990 Act**) to discharge and/or modify various of the obligations in an agreement entered into by Hodson¹, ABC, KCC and others pursuant to s106 of the 1990 Act on 27 February 2017 (**s106 agreement**), which accompanied the Chilmington Green outline planning permission (Ref 12/00400/AS, (**Outline Permission**) which, along with the associated non material amendments and reserved matter approvals listed at **Error! Reference source not found.**, are together referred to as the **Development**)².
- 1.3 The appeals (references: 3333923 and 3334094) were submitted to the Planning Inspectorate and a copy sent to ABC and KCC on 17 October 2023. The appeals start date was 5 November 2024.
- 1.4 The document has been prepared in accordance with the guidance set out in the Planning Appeals – England (Procedural Guide) January 2024.

2. Background and context

Chilmington Green planning permission

2.1

- 2.1.1 By application submitted in August 2012, outline planning permission was sought for the following description of development:
- "Permission for a Comprehensive Mixed-Use Development comprising:*
- *up to 5,750 residential units, in mix of sizes, types and tenures;*
 - *up to 10,000m² (gross external floorspace) of Class B1 use;*
 - *up to 9,000m² (gross external floorspace) of Class A1 to A5 uses;*
 - *education (including a secondary school of up to 8ha and up to four primary schools of up to 2.1ha each);*
 - *community Uses (class D1) up to 7,000m² (gross external floorspace);*
 - *leisure Uses (class D2) up to 6,000m² (gross external floorspace);*
 - *provision of local recycling facilities;*
 - *provision of areas of formal and informal open spaces;*
 - *installation of areas of appropriate infrastructure as required to serve the development;*

¹ Hodson Developments (CG THREE) Limited did not enter into the agreement but subsequently became bound by it as a successor in title

² Application No. 2 also included a re-submission of an earlier application for modification and/or discharge, which is referred to as Application No. 1 below.

- *transport infrastructure, including provision of three accesses to the A28, an access to Coulter Road / Cuckoo Lane other connections on the local road network, and a network of internal road, footpaths and cycle routes.*
- *new planting and landscaping;*
- *associated groundworks*

where appearance, landscaping, layout and scale are reserved for future approval and where access is reserved for future approval with the exception of the three accesses on to the A28 and the access on to Coulter Road / Cuckoo Lane."

2.1.2 ABC resolved to grant outline planning permission at its planning committee meeting on 15 October 2014.

2.1.3 Outline planning permission was granted by ABC (Ref: 12/00400/AS, **Outline Permission**) on 6 January 2017.

Section 106 agreement

2.2

2.2.1 The s106 agreement was entered into by Hodson with ABC and KCC on 27 February 2017 in respect of the Outline Permission. The other parties to the agreement were Chelmden Limited, Malcolm Colin John Jarvis, Beverley June Jarvis, Malcolm Jarvis Homes Limited, Pentland Kent Limited, Pentland Homes Limited, BDW Trading Limited, Homes and Communities Agency, Titlestone Property Lending Limited and Close Brothers Limited. A plan showing the area which has the benefit of the Outline Permission and which is bound by the s106 agreement is attached at Annex 1.

2.2.2 Deeds of variation of the s106 agreement have been entered into on 29 March 2019 and 13 July 2022 (**Deeds of Variation**). References in the remainder of this document to the s106 agreement are to the agreement as amended by these Deeds of Variation.

2.2.3 The s106 agreement contains numerous planning obligations. It distinguishes between 'Positive Planning Obligations To Pay'/'Positive Planning Obligations To Provide And / Or Construct' and 'Negative Planning Obligations'. The Positive Planning Obligations include the requirements to make a number of financial contributions to be paid to ABC and KCC.

2.2.4 The Positive Planning Obligations were imposed on Hodson as a master developer (the relevant Hodson companies being referred to in the agreement as the Paying Owners). The Negative Planning Obligations were imposed on both the Paying Owners and the other parties to the s106 agreement (defined as the Owners). They generally limit the ability of the Owners to progress and/or occupy development until certain preconditions are met.

Initial attempts to modify and/or discharge

2.3

2.3.1 Hodson submitted a request to ABC on 20 August 2020 under s106A of the 1990 Act. By that application (which the local planning authorities regarded as an informal request because it was made within the 5-year

period when applications cannot be made), Hodson proposed 55 modifications to the s106 agreement.

2.3.2 By letter dated 16 October 2020, ABC refused that application.

2.3.3 Hodson challenged that decision by judicial review (CO/4435/2020) on the basis that ABC had not had regard to certain evidence submitted in support of the application, including evidence on viability. Permission to proceed with a challenge was granted by the High Court, but the judicial review was settled by a consent order sealed on 23 April 2021.

2.3.4 On 27 April 2021, Hodson submitted a new application (which the local planning authorities regarded as an informal request because it was made within the 5-year period when applications cannot be made) under s106A to ABC and KCC (with some minor changes from its earlier request, including a request for two additional variations). The new application was refused by a letter dated 17 November 2021, with the following summary of the Decision:

"In summary, ABC and KCC agree to 6 of the Requests entirely and agree to 5 of the Requests in part. ABC and KCC do not agree to the other 46 Requests, but in some instances, ABC and KCC have proposed different modifications which Hodson is invited to agree."

2.3.5 Hodson sought to challenge that decision by judicial review (CO/4125/2021), which was refused permission.

Application No. 1

2.4

2.4.1 A further request was submitted by Hodson to ABC under s106A on 4 May 2022 (**Application No. 1**).

2.4.2 The Appellant's focus of Application No. 1 was the removal of the requirement to present Viability Review Submissions for viability review phases 2, 3 and 4 of the Development. By Application No. 1, the Appellant proposed the discharge of each of these viability review submissions on the basis that the viability could not support any additional Affordable Housing requirement and that this should be limited accordingly to minimum 10% provision.

2.4.3 By letter dated 30 June 2022 ABC asserted that Application No. 1 was invalid on a number of grounds (refer to CD1/18).

2.4.4 By letter dated 20 October 2022 sent on its behalf, the Appellant set out its primary position that Application No. 1 was and remained valid, before then setting out the Appellant's position in respect of each alleged flaw. The Appellant requested that ABC proceed to validate Application No. 1 without further delay. ABC did not do so.

Application No. 2

2.5

2.5.1 Under cover of the same letter dated 20 October 2022, the Appellant submitted to ABC and KCC a further application to discharge and/or modify various of the obligations under the s106 agreement, which not only repeated a number of the requests made under Application No. 1 but also requested further modification and/or discharge, as well as

providing some of the further information that had been requested by ABC in respect of Application No. 1 (**Application No. 2**).

2.5.2 Application No. 2 comprised (together the **Application No. 2 materials**):

- 2.5.2.1 Application No. 2 and Annex A (and Appendices A1 and A2 thereto) (**Annex A**), which explained the Appellant's reasoning for the changes and detailed the variations sought (modification and/or discharge) and the reasons for each;
- 2.5.2.2 Viability Report dated April 2022 and appendices (prepared by Turner Morum, the **Turner Morum Viability Report**) in support of Application No. 1 (as previously submitted) (Annex B), which uses the template set out in a schedule to the s106 agreement;
- 2.5.2.3 Explanatory Statement and appendices dated 18 October 2022 (prepared by Quod on behalf of the Appellant, with contributions from Vectos in respect of traffic obligations) (**Explanatory Statement**), which provided further justification for the Appellant's requests made as part of the application;
- 2.5.2.4 Viability Report prepared by Quod on behalf of the Appellant and appendices dated October 2022 (**Quod Viability Report**), which included new viability (baseline and sensitivity) analyses and which assesses the viability of the whole scheme.

The Settlement Agreement

2.6

- 2.6.1 The Appellant entered into a settlement agreement with ABC on 10 February 2023 which amongst other matters provided ABC with additional time to consider Application No. 2 and to facilitate modification and/or discharge by agreement. However, agreement was not reached between the Appellant and ABC and the prohibition on lodging an appeal set out in that agreement expired.
- 2.6.2 In effect, therefore, Application No. 2 was not determined by ABC within the statutory determination period (as extended) and so this appeal proceeds against ABC for non determination.

Non determination by KCC

- 2.7 Following the submission of Application No 2 KCC and ABC undertook a review of the application and wrote to the Appellant on the 13 October 2023 setting out where it was thought that further without prejudice discussions between the parties would be beneficial to reach an agreement. The letter referred to various matters which KCC and ABC were willing to discuss but stated that ABC and KCC was not prepared to discuss any other matters. Following the letter a date of 23 February 2024 was set for an initial meeting. However, on 26 January 2024 the Appellant's solicitor advised KCC and ABC that the meeting would need to be postponed until after ABC had determined the Appellant's application for planning permission for a waste water treatment works.

- 2.8 Under cover of a letter dated 15 August 2023, the Appellant resubmitted Application No. 2 to KCC.
- 2.9 However, KCC failed to determine the application within the statutory time period and so, as noted above, an appeal was also brought against KCC for non-determination of the resubmitted Application No 2.

Partial withdrawal of Modification Requests

- 2.10 On 31 January 2024 the Appellant notified ABC, KCC and the Planning Inspectorate of the withdrawal of certain requests for modification of the s106 Agreement.
- 2.11 On 3 October 2024 the Appellant confirmed that any change that was sought as a discharge or in the alternative as a modification, would be considered as a discharge proposal only.
- 2.12 A revised version of Annex A reflecting the events described in paragraphs 2.10 and 2.11, a revised Explanatory Statement, a revised Statement of Case and a further revised draft s106 agreement reflecting the amendments proposed were issued by the Appellant to ABC, KCC and the Planning Inspectorate on 25 October 2024.
- 2.13 On 23 December 2024, the Appellant issued a further version of Annex A, an Education Statement and submissions on viability to ABC, KCC and the Planning Inspectorate highlighting the further changes which the Appellant proposed to make to the application with a note of the reasons for the proposed changes.
- 2.14 On 21 January 2025, the Appellant issued a further revised draft s106 agreement reflecting the amendments proposed in the 23 December 2024 submissions to ABC, KCC and the Planning Inspectorate.
- 2.15 On 31 January 2025, the Inspector advised the Appellant that the changes made on 23 December to modifications 97 and 98 in Annex A could not be considered under this appeal as the modifications would substantially extend the scope of the applications on appeal introducing new arguments and issues.
- 2.16 On 2 February 2025 the Appellant issued a further version of Annex A (CD2/22) with a revised draft of the s106 agreement showing the Appellant's revised proposed modifications following the above events (CD2/20) .
- 2.17 On 28 March 2025 the Appellant issued a List of Corrections dated 27 March 2025 to its revised draft of the s106 agreement, showing also the Appellant's further withdrawals of two of its proposed modifications from its revised Annex A³. This List of Corrections was superseded by a further version, issued on 2 April 2025 but dated 27 March 2025, in which a third withdrawal of a proposed modification had been added (CD14/17).
- 2.18 On 28 April 2025 the Appellant issued the final version of Annex A (version dated 25/04/25) (CD 14/42) with a final revised draft of the s106 agreement as sought to be modified (version dated 24/04/25) (CD14/40). These two documents incorporate (1) the corrections and modifications set out in the List of Corrections Note issued on 2 April (CD14/17); and (2) corrections to some of the amounts paid for which the Appellant is seeking reimbursement (they now correspond exactly with the amounts set out in section 8 of Delivery, Monitoring & Council's Costs Reimbursement Topic Paper (table 8.1) issued by ABC.

³ The version Issued on 27 March 2025 Is not a Core Document

- 2.19 On 30 April 2025, the Appellant issued a final redline version of the s106 agreement (CD14/47) which shows all the changes to the s106 agreement which would be made by modifications proposed in CD14/42 (the final version of Annex A).

3. Legal and policy context

Section 106

- 3.1 By s106 of the 1990 Act, any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into a planning obligation which is enforceable by the local planning authority. A planning obligation may inter alia require sums to be paid to the authority on specified dates or periodically: s106(1)(d).

Section 106A

- 3.2 A planning obligation may not be modified or discharged except pursuant to s106A of the 1990 Act, which materially provides as follows:

“(1) A planning obligation may not be modified except –

(a) *by agreement between the appropriate authority (see subsection (11)) and the person or persons against whom the obligation is enforceable; or*

(b) *In accordance with –*

(i) *this section and section 106B...*

...

(3) *A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the appropriate authority for the obligation –*

(a) *to have effect subject to such modifications as may be specified in the application; or*

(b) *to be discharged...*

(4) *In subsection (3) “the relevant period” means –*

(a) *such period as may be prescribed; or*

(b) *if no period is prescribed, the period of five years beginning with the date on which the obligation is entered into.*

(5) *An application under subsection (3) for the modification of a planning obligation may not specify a modification imposing an obligation on any other person against whom the obligation is enforceable.*

(6) *Where an application is made to an authority under subsection (3), the authority may determine –*

(a) *that the planning obligation shall continue to have effect without modification;*

(b) *if the obligation no longer serves a useful purpose, that it shall be discharged; or*

(c) *if the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.*

- (7) *the authority shall give notice of their determination to the applicant within such period as may be prescribed.*

...

- (9) *Regulations may make provision with respect to –*
- (a) *the form and content of applications under subsection (3);*
 - (b) *the publication of notices of such applications;*
 - (c) *the procedures for considering any representations made with respect to such applications; and*
 - (d) *the notices to be given to applicants of determinations under subsection (6)."*

- 3.3 Thus, a person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the local planning authority by whom the obligation is enforceable for the obligation to be discharged.
- 3.4 The 'relevant period' if no period is prescribed (as in this case), is the period of five years beginning with the date on which the obligation is entered into. The obligation was entered into on 27 February 2017 and so the relevant period has now expired.
- 3.5 In addressing an application pursuant to s106A(3), there are four essential questions to be considered:
- 3.5.1 what is the current obligation?
 - 3.5.2 what purpose does it fulfil?
 - 3.5.3 is it a useful purpose? and if so,
 - 3.5.4 in the case of modification as opposed to discharge would the obligation serve that purpose equally well if it had effect subject to the proposed modifications? See *R (Garden and Leisure Group Ltd) v North Somerset Council* [2003] EWHC 1605 (Admin) per Richards J (as he then was), at paragraph 28.
- 3.6 It is possible to have several obligations within one s106 agreement as in this case. It would be lawful for the Secretary of State when determining the appeals to approve the changes to one (or more) obligations within the s106 agreement but refuse modifications to others within the same agreement if she sees fit to do so having regard to the provisions of s106A.
- 3.7 The "useful purpose" in s106A(6)(b) and (c) may, but need not be, the same as the original purpose for entering into the planning obligation: *ibid* at paragraph 46. See also *R (Renaissance Habitat Ltd) v West Berkshire Council* [2011] JPL 1209 per Ouseley J, at paragraph 33; and *R (Mansfield DC) v SSHCLG* [2018] EWHC 1794 (Admin), in which the Court concluded that:
- 3.7.1 s106A does not bring in the full range of planning considerations involved in an ordinary decision on the grant or refusal of planning permission (paragraph 30); and
 - 3.7.2 the question for the authority is whether the obligation served any useful purpose, not just any useful planning purpose (paragraphs 37-38).

Section 106B

- 3.8 Section 106B of the 1990 Act provides for appeals in relation to applications under s106A, as follows:

- "(1) *Where an authority...*
- (a) *fail to give notice as mentioned in section 106A(7); or*
 - (b) *determine under section 106A that a planning obligation shall continue to have effect without modification, the applicant may appeal to the Secretary of State.*
- (2) *For the purposes of an appeal under subsection (1)(a), it shall be assumed that the authority have determined that the planning obligation shall continue to have effect without modification.*
- (3) *An appeal under this section shall be made by notice served within such period and in such manner as may be prescribed.*
- (4) *Subsections (6) to (9) of section 106A apply in relation to the Secretary of State under this section as they apply in relation to applications to authorities under that section.*
- (5) *Before determining the appeal the Secretary of State shall, if either the applicant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.*
- (6) *The determination of an appeal by the Secretary of State under this section shall be final.*
- (7) *Schedule 6 (determination of certain appeals by persons appointed by the Secretary of State applies to appeals under this section..."*

3.9 Thus, the jurisdiction of the Secretary of State on appeal under s106B is the same as that of the local planning authority under s106A.

4. Outline Permission Assumptions and Delivery

- 4.1 The Environmental Statement that accompanied the application (and upon which a number of assumptions were based, with associated mitigation secured through the s.106 agreement) assumed that the Development would be undertaken over a period of approximately 20 years, commencing in 2013/2014.
- 4.2 The Planning Statement accompanying the application predicted an annual build out of 250-300 homes per year.
- 4.3 The first occupations of dwellings occurred in late September 2019.
- 4.4 The parties have not been able to agree on the exact number of current occupations and have each given evidence to the Inspector on this matter during the Inquiry.

5. Discharge of Conditions and Submission of Applications for Approval of Reserved Matters

- 5.1 There were 21 pre-commencement conditions, which had to be discharged before works could start on site. These were submitted by the Appellant between December 2016 and March 2017.
- 5.2 The last pre-commencement conditions were discharged in June 2017, which enabled the commencement of infrastructure works on site. However, the only works that could be constructed were the detailed access points (A, B and D), which were approved as part of the Outline Permission. No further works could be carried out until reserved matter approvals had been obtained.

- 5.3 No reserved matters applications could be submitted by the Appellant or registered by ABC until Condition 17 of the Outline Permission had been discharged. Condition 17 requires a detailed masterplan for each main phase to be approved by ABC.
- 5.4 The Appellant submitted an application for approval of the Main AAP Phase 1 Masterplan required by Condition 17 to ABC in August 2016. Following the submission of additional documents the application was registered in March 2017. Condition 17 was discharged on 26 September 2017. The Appellant made its first reserved matters application on the same day, and that application was granted consent on 20 April 2018. The first occupations of dwellings occurred in late September 2019.

6. Agreed Modifications

- 6.1 The modifications to the section 106 agreement which are agreed (either in whole or in part) are set out in Appendix 2. This does not include agreements which have also been reached on compromise positions (that is, an alternative modification to that proposed by the Appellant). Compromise positions have been agreed in respect of the modifications proposed by the Appellant to Schedules 19 and 21 of the Section 106 Agreement as set out in the Transport Statement of Common Ground. It is agreed that the agreed compromise positions will need to be taken forward through separate discussions outside the formal Appeal process.

7. Other Statements

- 7.1 Topic specific Statements of Common Ground have been submitted in relation to viability and transport matters and two Statements of Common Ground have been submitted in relation to education matters.

Signatures

NAME Roland Mills

TITLE Strategic Development & Delivery Manager

Ashford Borough Council

...

NAME Richard Eaton (on behalf of Kent County Council)

Mark Harnett (on behalf of the Appellant)

Solicitor

Fladgate LLP

Mark Harnett

.....

8 May 2025

Appendix 1 Planning History

Outline Permission

| Decision Date | ABC Reference | Proposal |
|---------------|---------------|--|
| 06.01.2017 | 12/0400/AS | Outline application for a Comprehensive Mixed Use Development comprising: up to 5,750 residential units, in a mix of sizes, types and tenures; up to 10,000m ² (gross external floor space) of Blass B1 use; up to 9,000m ² (gross external floorspace) of Class A1 to A5 uses; Education (including a secondary school of up to 8ha and up to four primary schools of up to 2.1ha each); Community Uses (Class D1) up to 7,000m ² (gross external floorspace); Leisure Uses (Class D2) up to 6,000m ² (gross external floorspace); Provision of local recycling facilities; Provision of areas of formal and informal open space; Installation of appropriate utilities infrastructure as required to serve the development, including flood attenuation works, SUDS, water supply and wastewater infrastructure, gas supply, electricity supply (including substations), telecommunications infrastructure and renewable energy infrastructure (including CHP in the District Centre); Transport infrastructure, including provision of three accesses on to the a28, an access on to Coulter Road / Cuckoo Lane, other connections on to the local road network, and a network of internal roads, footpaths and cycle routes; New planting and landscaping, both within the Proposed Development and on its boundaries, and ecological enhancement works; and Associated groundworks where appearance, landscaping, layout and scale are reserved for future approval and where access is reserved for future approval with the exception of the three accesses on to the A28 and the access on to Coulter Road / Cuckoo Lane |

Non Material Amendments to Outline Permission

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| 05.10.2021 | 12/00400/AM10/AS | Non material amendment to planning conditions 17, 60, 80, 81, 82, 83, 84, 85 and 86 of planning permission 12/00400/AS relating to the Secondary School within Phase 2 |
| 20.09.2021 | 12/00400/AM09/AS | Revision to Condition 17 (Main Area Action Plan Phase 1) on planning permission reference 12/00400/CONA/AS Non material amendment to the Detailed Masterplan Phase 1 (Plan 1 of 4) |

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| 14.04.2020 | 12/00400/AM08/AS | Non material amendment to plans approved under Condition 17 relating to the electricity sub station on planning permission 12/00400/AS |
| 07.08.2019 | 12/00400/AM07/AS | Replacement of two plans listed under condition 14 in so far as they relate to parcels Q and R only as a non material minor amendment to planning permission 12/00400/AS |
| w/d | 12/00400/AM06/AS | Amendment to Outline Planning Condition 89 "Main AAP CEMP version 2 document dated 25 April 2017" approved under case reference 12/00400/COND/AS |
| 28.03.2019 | 12/00400/AM05/AS | Non material amendment to condition 17 of planning permission 12/00400/AS to revise condition 17 (xii) SuDS Strategy – Revised SuDS Strategy Masterplan |
| 07.12.2017 | 12/0400/AM04/AS | Non material amendment to condition 17 of planning permission 12/00400/AS to revise condition 17 (ii) dwelling numbers per land parcel within Phase 1. Land Parcels A, E and F (In Part) changed from 137 units to 153 units and adjustments made to achieve the 1501 dwelling within Phase 1 |
| 06.04.2018 | 12/0400/AM02/AS | Non material amendment to Planning Condition 18 (Advanced Planting) |
| 11.04.2018 | 12/0400/AM03/AS | Non material amendment to Planning Conditions 41 and 50 – variation of condition wording as follows: Condition 41 – new subsection (xix) a plan showing the development phasing (if applicable). Condition 50 – All applications for the approval of Reserved matters shall include the following details... |
| 25.08.2017 | 12/0400/AMND/AS | Application for a non material amendment to condition 14 of planning permission 12/00400/AS to replace the approved residential density parameter plan 00122 - OPA03R1 with a new residential parameter plan 00122 - OPA03R3 in the list of main approved documents, and the addition of an addendum (dated 20 July 2017) to the approved development specification dated 13 September 2017 to the list of main approved documents |
| 10.10.2017 | 12/00400/AM01/AS | Replacement of residential density parameter plan OPA03R1 with OPA3A04 in list of main approved documents and consequential addendum to development specification. |

Reserved Matters approvals

| | | |
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| 16.01.2018 | 17/01732/AS | RM application for the construction of access maintenance layby, gas governor housing and new hedgerow planting, located adjacent to the lane near Couleter Road, and an access maintenance... |
| 20.02.2018 | 17/01851/AS | Construction of an electricity sub-station and attached fibre cabinets to service the proposed Brisley Farm housing extension. |
| 23.04.2018 | 17/01170/AS | Layout, access, scale, landscaping and appearance of development at Chilmington Green for the 346 residential dwellings, which comprises of a mix of two bedroom apartments, two, three, four and five bedroom houses within Land Parcels BCJK within minia AAP Phase 1 (Subsequent NMA approval: (29.06.2018, 17/01170/AMND, Revision to location of substation within the parking court to plot 31) (05.10.2023, OTH/2023/1548 changes to windows on Block D) (21.12.2023, OTH/2023/1880 changes to fenestration to rear elevation of Block B; and relocation of the bin store). |
| 13.12.2018 | 18/01310/AS | RM for the development of 22 residential dwellings within Parcel Q, Main Phase AAP 1 including associated roads, parking, landscaping, open space and infrastructure (NMA approved subsequently (15.08.2019, 18/01310/AMND/AS Revision to design of plot 17) |
| 10.07.2018 | 18/00395/AS | RM application relating to strategic foul drainage works, which include, foul drainage and manholes, a pumping station (including access and service area) and associated works |
| 19.07.2019 | 18/00207/AS | RM approval for the development of Parcel P for 99 dwellings, together with associated access roads, footpaths, drainage, car/cycle parking, groundworks, landscaping and infrastructure (NMAs approved subsequently (16.10.2020, 18/00207/AMND/AS changes to layout, landscaping and substitute house types) (11.11.2020, 18/00207/AM01/AS to vary brick colour) (17.02.2021, 18/00207/AM02/AS minor revisions to design), (12.04.2021, 18/00207/AM04/AS insertion of doors to 50% of car barns on plots 1 and 2), (12.04.2021, 18/00207/AM05/AS amended soft landscaping plans), (12.04.2021 18/00207/AM06/AS change to french doors on plot 91), ((09.04.2024, OTH/2024/0513 installation of garage doors to carports on plots 58 & 59). |
| 14.12.2019 | 18/00911/AS | RM application for the Construction of 153 dwellings on Parcels A, E and F (In part), Main AAP Phase 1, |

| | | |
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| | | together with associated roads, parking, landscaping public open space and infrastructure |
| w/d | 19/00417/AS | RM application (pursuant to planning permission 12/00400/AS) for the Community Management Organisation (CMO) First Temporary Premises at Chilmington Green |
| 18.07.2019 | 19/00475/AS | RM (pursuant to outline planning application 12/00400/AS) for the development of 64 residential dwellings within Parcel Q, Main Phase AAP 1 including associated roads, parking, landscaping (subsequent NMA approvals : (04.09.2020, 19/00475/AMND/AS repositioning of 3 carports associated with plots 37 49 and 58). |
| 26.07.2019 | 18/00382/AS | Mock Lane Highway Improvements which comprise of the Access to Land Parcel G and the eastern section of Mock Lane, which include carriageway, footpath / cycleway, soft verges, foul and surface water drainage, services and associated works. |
| 20.12.2019 | 19/00753/AS | Electricity substation south east of Meadow View, Chilmington Green Road, Great Chart (Subsequent NMA approval: (04.09.202, 19/00475/AMND/AS reposition of 3 car ports for plots 37, 49 and 58 on parcel Q2) |
| 04.05.2020 | 19/1032/AS | RM for the development of 82 residential dwellings within Parcel R, Main Phase AAP 1 including associated roads, parking, landscaping, open space and infrastructure (subsequent NMA approvals: (22.12.2020, 19/01032/AMND/AS variation to approved plans) (02.11.2023, OTH/2023/0975 minor realignment to Road 1 in front of plots 129 - 135 and 145 – 152). |
| 20.09.2019 | 19/00733/AS | Construction of an electricity substation within Main AAP Phase 1, Land Parcel H at Chilmington Green – Application for Reserved Matters pursuant to condition 10 of outline permission |
| 02.11.2021 Refused | 19/00503/AS | Reserved matters application for the Landscaping Works to the Phase 1 Northern Gateway (Access A) |
| 15.06.2022 | 21/01914/AS | Reserved matters application for the construction of a 6FE secondary school which will include a multi-use games area (MUGA), car parking, landscaping and external play, with the creation of a new access from Chilmington Green Road (subsequent NMA approvals: (04.05.2023, OTH/2023/0505, relocation of substation) |

Full permissions

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| 26.05.2017 | 17/00529/AS | New highway from Access D to the edge of the proposed extension to the Brisley Farm development (Part of the Discovery Park Link Road) |
| 07.07.2017 | 17/00665/AS | infrastructure routes which include carriageway, footpaths, cycleways, associated visitor parking bays and soft verges to the Avenue and Access B Street |
| 22.12.2017 | 17/01334/AS | Phase 1 SUDS |
| 30.01.2018 | 17/01349/AS | Phase 1 SUDS at Brisley Farm (Subsequent NMA approvals: (18.05.2018, 17/01349/AMND/AS, Revision to foul water pipes for Phase 1 Brisley Farm extension at Chilmington Green), (19.07.2019, 17/01349/AM01/AS, alteration to position of swale 1 and pond 1). |
| 06.03.2019 | 18/00677/AS | Variation to conditions 1,3,4&5 of 17/01334/AS to delay landscaping to pond 3, 4a and 4b. |
| 07.03.2019 | 18/01345/AS | Full application for a temporary haul road required to facilitate the development of parcels Q and R, Phase 1, in association with the outline permission for the wider Chilmington Green development |
| 19.09.2019 KCC Decision | KCC/AS/0088/2019 | The development of a new 2FE primary school for 420 mainstream pupils with 26 nursery places and a Specialist Resource Provision (SRP) for up to 14 pupils with autistic spectrum disorder (ASD), including associated on-site parking for staff and visitors, hard-surface external play areas, sports field and ecology zone at Parcel PS1 to the south of Mock Lane. |
| 20.09.2019 | 19/0179/AS | Full application for the Community Management Organisation (CMO) First Temporary Premises at Chilmington Green (Application submitted to remove conditions 8, 9, 10, 11, 12 and 13 and vary condition 5 (validated on 23/01/2023 ref: PA/2023/0119). The purpose of this was to separate out the delivery of play space 1 from the CMO building, with Play Space 1 coming forward as a stand alone RMA). |
| 20.02.2020 | 19/01170/AS | Construction of an electricity substation within Land Parcel CH4 of Main AAP Phase 2. |

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| 04.03.2021 w/d | 20/01702/AS | Variation of delivery of planning conditions 27 and 29 of outline planning approval, reference: 12/00400/AS dated 06/01/2017 relating to "Access C - the southern access roundabout". |
| 18.03.2021 | 20/01806/AS | Construction of a Wastewater Pumping Station with associated vehicular access and landscaping bund. |
| 02.12.2021 | 21/01611/AS | Variations to conditions 1, 3, 5 and 7 of 18/00677/AS to delay landscaping work to pond 3 and 4(a)&(b) and to insert the reference number of a plan) to change the submission date on condition 1 from May 2019 to November 2021; to alter wording on condition 3 to read "The soft landscaping to Pond 3 shall be implemented in accordance with the details approved in Condition 1"; to change the submission and commencement dates on condition 5 from March 2020 to March 2023 and September 2020 to September 2023; and to change the planting season dates on condition 7 from October 2020 to March 2021 inclusive to October 2023 to March 2023 inclusive |
| 01.10.2021 | 21/00839/AS | Active Travel Route to provide pedestrian access between Chilmington Avenue and the Secondary School Site Entrance. |
| 01.10.2021 | 21/00840/AS | Infrastructure route which includes carriageway, footpath/cycleway, indicative locations of visitor parking bays and soft verges to the Phase 2 Avenue providing access to the Chilmington Green Secondary school (Subsequent NMA approval: (27.05.2022, 21/00840/AMND/AS alter the junction configuration at crossroads at Chilmington Avenue and Chilmington Green Road) |
| 09.08.2023 | PA/2023/0986 | Erection of a bus stop (pole and flag) together with associated road marking |
| 18.12.2023 | PA/2023/1959 | Construction of an electricity sub-station within Main AAP Phase 2, Land Parcel B2 |
| 04.11.2024 Appeal Decision | PA/2023/0715 APP/E2205/W/24/3345453 | Wastewater Treatment Plant |

Live Reserved Matters Applications

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| | 21/002248/AS | Land Parcel K (47 units) |
| | 21/02165/AS | Amended Landscaping Works to the Phase 1 Northern Gateway (Access A) |
| | 22/00024/AS | Land Parcels D and H (173 units) |
| | OTH/2022/3142 | Land Parcels F and G (96 units) |
| | OTH/2022/3169 | Land Parcel I (145 units) |
| | OTH/2023/0018 | Land Parcels L, M and O (217 units) |
| | OTH/2023/0030 | Land Parcels CH1 and CH2 (114 units and District Centre) |
| | OTH/2023/0033 | Land Parcels A1 and A2 (allotments) |
| | OTH/2023/0034 | Land Parcel A5 (allotments) |
| | OTH/2023/0019 | Land Parcel G10 (green space) |
| | OTH/2023/0032 | Land Parcel S1 (Chilmington Hamlet, cricket pitch) |
| | OTH/2023/0035 | Land Parcel DP3 (Discovery Park) |
| | OTH/2023/0031 | Land Parcels EC6, EC7, EC8, EC17, F8 (Landscaping and Pond) |
| | OTH/2023/0036 | Land Parcel EC9 (landscaping) |
| | OTH/2023/0020 | Land Parcel PS1 (Play Space 1) |
| | NOT/2025/0035 | Land Parcel A2 |
| | NOT/2025/0036 | Land Parcel B2 |
| | NOT/2025/0037 | Land Parcel C2 and D2 |
| | NOT/2025/0038 | Land Parcel E2- J2 |
| | NOT/2025/0034 | Land Parcel N2 |

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| | NOT/2025/0039 | Land Parcel CH3 and CH4 |
| | NOT/2025/0041 | Land Parcel CH5 |
| | NOT/2025/0044 | Play Space 2 |
| | NOT/2025/0046 | G7, G8 and F5 |
| | NOT/2025/0043 | Land Parcel G20 |
| | NOT/2025/0040 | Land Parcel DP3 |
| | NOT/2025/0048 | Land Parcels EC4, EC16 and EC17 |
| | NOT/2025/0047 | Land Parcel G9 and F3 |
| | NOT/2025/0045 | Land Parcels A4 and A6 |

Live Full Planning Applications

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| | 22/00814/AS | Green Spine Infrastructure Route Extension (Phase 2) |
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Appendix 2 Agreed Modifications

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| 1. | Definition of 'Commence (Statutory) the Development' Clause 1.1 | <p>The Appellant proposes to Modify the said definition to read as follows:</p> <p>'The carrying out of a Material Operation (Statutory) pursuant to the planning permission for the Planning Application and any Reserved Matters Application approval and any modification to the planning permission for the Planning Application and any Reserved Matters Application occurring prior to the commencement (statutory) of the Development which would constitute the beginning of the Development for the purpose of section 56 of the Planning Act (as amended) but for non-compliance with any condition of the planning permission for the Planning Application and any modification to the same and related expressions such as "Commenced (Statutory) the Development" "Commencement (Statutory) of the Development" and "Commenced (Statutory) the Development" shall be construed accordingly.'</p> | <p>Not agreed as a whole, but there is partial agreement as follows:</p> <p>A correction to the drafting of the definition, to refer to the correct section of the T&CPA, namely section 91 rather than 56 is agreed.</p> |
| 10 | Affordable Housing Unit tenure split 60% Affordable Rents and 40% Shared Ownership, with 5% of units to have Habinteg fixtures and fittings. | <p>The Appellants apply to Modify the Affordable Housing tenure split to provide the 10% affordable housing in each Viability Phase with a tenure split of 10% affordable rent and 20% shared ownership</p> | <p>Not agreed as a whole, but there is partial agreement as follows:</p> <p>The Appellant accepts the compromise suggested in ABC's Statement of Case that the provision of the 10% affordable housing in each Viability Phase with a tenure split of 33% affordable rent and 67% shared ownership In accordance with Ashford Local Plan policy HOU1 would continue to serve a useful purpose equally well</p> |

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| | Sch1 Paragraphs 9 and 12. | | |
| 11 | <p>Provision of a Building Energy Performance Certificate for each building.</p> <p>Calculation of carbon off setting contributions and payment liabilities.</p> <p>Schedule 2 and 43</p> | <p>The Appellants apply to Discharge the whole of Schedule 2 and the obligations therein.</p> <p>Whilst the above is understood to be agreed it will be necessary to give proper effect to this by modifying Schedule 43, to ensure appropriate credit is still included in each Viability Phase Review for the Carbon Off-setting Savings achieved by other means. The Appellants apply accordingly.</p> | <p>Not agreed as a whole, but there is partial agreement as follows:</p> <p>Agree to the discharge of the obligation in Schedule 2 for residential and commercial properties SUBJECT TO the appropriate amendments to Schedule 43 being agreed through an appropriate Deed of Modification outside the Appeal process.</p> |
| 12 | <p>Viability submissions and appraisal for a Combined Heat and Power Plant (CHP) or District Heating Plant (DHP)</p> <p>Schedule 3</p> | <p>The Appellants apply to Discharge the obligation under Schedule 3 save for paragraph 1.3.2 and for the definition of Chilmington Green Carbon Reduction Project to be deleted</p> | <p>It is agreed that discharge is appropriate.</p> |
| 78 | <p>Provision of an account of education and expenditure and repayment of any surplus</p> <p>Sch 15</p> <p>Paragraphs 48 and 49</p> | <p>The Appellants apply for the existing paragraph 48 to be modified so that the Owner's Agent or the person from whom any contribution was received may apply to the County Council one year following practical completion of a School for an account of the expenditure of the money, such account to be provided within a reasonable time of any such request.</p> <p>Further, for paragraph 49 to be modified to provide for any surplus to be reimbursed forthwith to the persons from whom the contribution was received, and for the remainder of the paragraph (beginning 'or if the person ...') to be deleted.</p> | <p>The application to amend paragraph 49 is accepted subject to the application to amend paragraph 48 being expressly refused/rejected by the Inspector's decision.</p> |

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| 119 | <p>Restriction on withdrawals</p> <p>Schedule 30 paragraph 8</p> | <p>The Appellants apply for the deletion of the words '(other than interest)' to provide that</p> <p>KCC cannot withdraw any monies (including interest) from the County Council's Contributions Bank Account otherwise than in accordance with Schedule 30C</p> | <p>KCC agree this modification . It is accepted that interest would be used for the purpose set out within Schedule 30C</p> |
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