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Your ref:
 RMS/PB
 Our ref:
 T/APP/E2205/A/87/079807/P7 (HC)

Date: 2 OCT 1989

(This letter supercedes that
 issued on 28 July 1988)

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
 APPEAL BY HILLREED HOMES LTD
 APPLICATION NO. AS/87/0259

1. The decision on the above-mentioned appeal was quashed by order of the High Court. I have been appointed by the Secretary of State for the Environment to redetermine the appeal which is against the decision of Ashford Borough Council to refuse planning permission for the erection of 12⁴ dwellings and garages with access from Appledore Road on land at Appledore Road/ Woodchurch Road, Tenterden, Kent. I held a local inquiry into the appeal on 8, 9 and 10 August 1989.

2. Tenterden is a small rural town situated on high ground on the southern edge of the Kent High Weald. The appeal site is a broadly triangular area of some 4.47 hectares on the eastern edge of Tenterden and is currently used for grazing of sheep. The site is bounded to the north-west and south-west by ribbons of housing fronting respectively Woodchurch Road and Appledore Road, while on the third side is open countryside. This eastern boundary is demarcated by a mixture of hedgerows and trees and has a pond adjoining it which it is proposed would be retained within the development. The site slopes gently downwards from the rear of properties in Woodchurch Road south-eastwards towards Appledore Road. Beyond the eastern boundary of the site the land gradually rises to a hill top from which there are extensive views over the low lying land to the east. A public footpath runs across this slope connecting Woodchurch Road with Appledore Road. Much of the land surrounding Tenterden, although not the appeal site, lies within the High Weald Area of Outstanding Natural Beauty and a Special Landscape Area designated in the Kent Structure Plan. The central parts of Tenterden have been designated an Outstanding Conservation Area and this adjoins part of the south-western boundary of the appeal site.

3. From my inspection of the site and its surroundings and from the evidence and representations presented at the inquiry and in writing, including those made to the original inquiry, I consider that the main issue, bearing in mind the availability of land for housing and the structure and local plan policies applicable to Tenterden, is whether the proposed development would detract from the character and appearance of the area.

4. Turning first to the land availability position, I note that the Council has now accepted that it is appropriate to use the residual method of calculation recommended in PPG3. Agreement was reached between the parties that the housing requirement for the borough, based on the published modifications by the Secretary of State to the Second Alteration to the Structure Plan, was 3783 dwellings for the 5-year period 1989-94. The differences therefore centre on the supply of housing land, relating mainly to the availability for development of sites at Singleton, Goat Lees and Little Burton Farm. In the Council's view some 3845 sites would be available representing 5.09 years supply, but you maintain that ownership, access and other constraints would reduce this to 3546 which represents only 4.69 years supply.

5. I recognise that the extent of the difference is small and that PPG3 advises that decisions on individual planning applications should not turn on a precise calculation of whether the supply from identified sites matches the requirement, as such calculations can rarely be exact. Nevertheless, it is clear from the Circular that the 5-year requirement is a minimum and the land must be genuinely available. In my view there is a considerable element of uncertainty attaching to the sites in question and I am not therefore satisfied that the Council has demonstrated clearly that a 5-year supply exists. In consequence your clients should have the benefit of the special presumption in favour of housing development.

6. Policy SP2 of the approved Kent Structure Plan identifies the Ashford urban area as the county's growth point while, as a corollary, in the rural areas there is a general presumption against further development of "fresh land" outside the existing confines of built-up areas. A similar presumption is applied by Policy SP4 outside the 18 urban areas (which do not include Tenterden) in order to protect the countryside and the rural settlements from urban-generated development. In Policy RS1 Tenterden is recognised as a small rural town where development outside the confines of the settlement would not be permitted unless the site has been identified for this purpose in a local plan or, in the absence of a local plan, there is a special local justification. I recognise that the appeal site was investigated as a potential site for release in the Ashford Rural Areas Local Plan Report of Survey in 1983. However, in the light of the response to consultation Tenterden was deleted from that local plan and the conservation-based Tenterden Local Plan, which was placed on deposit on 3 August 1989, does not identify the site for development. Nor do I agree with your suggestion that the absence of a 5-year land supply for housing represents "special local justification" under Policy RS1(a). The appeal site lies clearly outside the existing built confines of Tenterden and as such the proposed development would in my view conflict directly with the policies of the approved Structure Plan.

7. Now that the Secretary of State's proposed modifications to the Second Alteration of the Structure Plan have been published, it is approaching the final stage of statutory approval and accordingly carries great weight. Policy S3 continues the focus on Ashford as the county's growth point, but recognises that the rural settlements have a role to play in providing a choice of housing. Policy S6 maintains the general presumption against the development of fresh land in the countryside and Policy RS2 is effectively a restatement of Policy RS1 in the approved Structure Plan. Taken together it is clear to me that, although S3 omits specific reference to countryside and environmental considerations in relation to Ashford, the thrust of the Second Alteration is to continue the policies of restraining development outside the urban areas of the approved Structure Plan, subject to necessary provision for peripheral expansion of the Ashford urban area. Although Policy RS3 enables local planning authorities to identify villages and small rural towns to be treated

as exceptions, the Council has made it quite clear through its Local Plan that Tenterden is primarily regarded as an RS3(b) settlement where the primary planning policy towards new residential development will be conservation and enhancement of the town's special character.

8. The deposited Tenterden Local Plan states that the exceptional conservation and tourism importance of the town requires particularly strict control of development and that it would not be appropriate to cater for externally generated demand if this would harm the character of the town. Policy TE14 states that development beyond the confines of the existing settlement will not be permitted although Policy TE15, reflecting the Local Plan's underlying site-specific approach, provides for consideration of proposals for sites not identified in the Local Plan where these would be acceptable on the ground. I recognise that policy TE15 provides a degree of flexibility although it is clear that it relates primarily to unidentified sites within the settlement confines.

9. The Local Plan refers to the suggestion in the County's Strategic Brief for Tenterden that in view of the town's conservation importance rates of house building would be below past rates, whereas the effect of the proposed development would be to increase building rates. However, I have seen no firm evidence that the facilities of Tenterden which is a service centre could not accommodate the development and I do not consider that the building rate alone could justify refusal if there was no adverse visual impact. The scale of development proposed for Tenterden in the Local Plan, amounting to some 418 dwellings, represents in my view more than the minor development envisaged in Policy RS2 of the Second Alteration to the Structure Plan, but I recognise that a substantial proportion is accounted for by development at Henley Fields where the Council took the view that the principle of development had been established following an appeal decision. As you point out, Henley Fields, unlike the current appeal site, lies within an Area of Outstanding Natural Beauty and a Special Landscape Area, but I note the Inspector's conclusion in that appeal that the site was largely contained by the fall of the land and the former railway embankment such that it would be largely invisible from the adjoining countryside and would not materially affect the objectives of the AONB or SLA. I do not therefore accept that the Henley Fields decision lends support to the development of the appeal site.

10. I have concluded that there are strong objections deriving from structure and local plan policies to the proposed development of the appeal site. However, I accept that conflict with planning policies alone is not a sufficient ground for refusal unless there is evidence that your clients' development would give rise to demonstrable harm on the ground to the character and appearance of Tenterden. I turn now to this aspect.

11. You refer to 4 points which you say would limit the visual impact of the development: that the site is bounded by housing on 2 of its 3 sides; that views into it are limited by the topography and frontage development; that the development would not have the appearance of an intrusion into open countryside; and that the development would be kept below the important ridge line to the east. The last point is not disputed.

12. The Council argues that although the site is bordered by housing on Woodchurch Road and Appledore Road, there is no sense of urban enclosure. I agree with that conclusion. There would only be fleeting views into the site at 2 points from Woodchurch Road, but in my opinion the development would be more clearly visible from Appledore Road both in the vicinity of the access road and the set back cottages at Nos 13/15 and across the playing fields further east along the road. Residential development would extend over what are now open fields for a depth of up to 300m from the south-western boundary

of the site and would rightly be perceived as a major incursion into the countryside. The rise in ground levels towards the north and west would in my view compound this impression, although I note that the dwellings proposed for the western end of the site would be mostly bungalows. On its eastern boundary the site is wholly open and appeared to me on my visit to form an integral part of the wider rural area which rises towards the hilltop.

13. The public footpath runs at a higher level than the site at a distance from it of between 100m and 240m and permits views across the site towards Tenterden. I saw on my visit that these views particularly from the more northerly end of the footpath were very attractive, the predominant impression being of the church and other buildings set in a swathe of trees rising above the fields and hedgerows in the foreground. Neither the dip which marks the appeal site nor the hedgerow forming its boundary which has gaps and is of varying thickness would in my view satisfactorily screen the development from the footpath. Although there would remain either 1 or 2 fields separating the footpath and the site, I consider that the housing development which would be of a relatively intense nature would appear as a substantial intrusion into the views of Tenterden and the Conservation Area. This would clearly be detrimental to the character and appearance of the area.

14. It has been suggested that the proposed housing would merely round off this edge of Tenterden with the proposed development contained in a pocket behind existing housing, but this is not an assessment with which I can agree. Tenterden has a largely linear form and it appears to me that a significant element in its character derives from the close proximity of the countryside to the heart of the town. The Local Plan is in my view rightly concerned to protect this aspect of its character which I consider would be damaged were the appeal proposal to be permitted.

15. Residents have expressed considerable concern about highway and drainage aspects of the development. However, while I note that the access point on Appledore Road would be close to the junction with Shrubcote the Highway Authority has raised no objection, nor has the Borough Technical Officer in respect of drainage. I do not therefore consider that there is any technical objection to the development. Nor in my view is there any requirement to protect the land on agricultural grounds, it being of grade 3c quality.

16. I have taken account of all the other matters raised, including the retention of the existing pond within the development and the likely quality of the housing to be provided on a phased basis by a local builder. However, they do not alter my conclusion that the development would result in a significant intrusion into the countryside in conflict with structure and local plan policies and that it would detract from the character and rural setting of a very attractive small town. It cannot therefore be permitted.

17. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen
Your obedient Servant



C.J.CRAIG MA(Oxon), M.Phil, MRTPI
Inspector

2/10/89

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T/APP/E2205/A/87/079807/P7 (HC)

APPEARANCES

FOR THE APPELLANTS

Mr Roy Vandermeer

QC, instructed by Argles &
Court, Bell House, Bell Road,
Sittingbourne, Kent ME10 4DH

He called:

Mr Anthony J Hillier, BSc

Director, Hillreed Homes Ltd

Mr Mr Robert M Sellwood,
DipTP, MRTPI, ARICS

Partner, G L Hearn & Partners,
Surveyors & Planning
Consultants

FOR THE PLANNING AUTHORITY

Mr Adrian Trevelyan Thomas

of Counsel, instructed by Mr T
Mortimer, Solicitor, Ashford
Borough Council

He called:

Mr Anthony Slack, MRTPI

Borough Planning Officer

Mr Paul Green, BA, BTP, MRTPI

Principal Planning Assistant,
Local Plans, Ashford BC

INTERESTED PERSONS

Mr Adrian Greaves

Tenterden Town Council, of
Woodbury House, Woodbury Road,
Tenterden

Mr W G Green

2 Stace Close, Tenterden

Mr D K Harrington

Chairman, Tenterden Trust, of
59 Rogersmead, Tenterden

Mrs Mary Renwick

Felbridge, Appledore Road,
Tenterden

DOCUMENTS

- Document 1 List of persons present at the inquiry
- " 2 Council's letter of notification of the inquiry
- " 3 Statement by Tenterden Town Council
- " 4 Letters of objection
- " 5 Extract from Daily Telegraph 9 August 1989

- " 6 Letter from Kent County Council 25 July 1989 re housing land supply
- " 7 Letter from Kent CC 9 August 1989 re Singleton site
- " 8 Letter from Beazer Homes 20 June 1989 re Goat Lees development
- " 9 Letter from Vincent & Gorbing 9 August 1989 re Little Burton Farm
- " 10 Council's amended assessment of housing land availability
- " 11 Survey of ecology of appeal site August 1989
- " 12 Appendices volume (numbered 1-9) to Mr Sellwood's proof
- " 13 Appendices volume (numbered 1-15) to Mr Green's proof
- " 14 Copies of representations on application
- " 15 Schedule of highway alterations (application stage)
- " 16 Rural Ashford Local Plan Appendix 29 - Plan of Tenterden and area assessments
- " 17 Kent Structure Plan Jan 1984
- " 18 Kent Structure Plan Second Review and Alterations and Secretary of State's Proposed Modifications
- " 19 Rural Ashford Local Plan Feb 1987
- " 20 Study for Further Residential Development in Tenterden 1973
- " 21 Tenterden Local Plan Issues Report Dec 1987
- " 22 Henley Fields appeal decision
- " 23 Consultative Draft Tenterden Local Plan
- " 24 Draft Tenterden Local Plan
- " 25 Strategic Brief for Tenterden Local Plan
- " 26 Local Plans Sub-Committee 9 March 1989 - Report on Consultative Draft Tenterden LP and letter dated 23/2/89 from G L Hearn on behalf of appellants

PLANS

- Plan A Site Plan, dwg RS/2, scale 1:2500
- " B Layout for 124 houses and bungalows, dwg 65/3/A (revised), scale 1:500
- " C Superceded layout
- " D House and garage plans and elevations (set of 15)

2/10/89

: E Site location in relation to landscape features, scale 1:10000
PHOTOGRAPHS
Photos 1 Photographs of house types (appendices to Mr Hillier's proof)