

## STATEMENT OF COMMON GROUND

Ashford Borough Council and Wates Developments Limited  
February 2022

### S.78 Planning Appeal Land between Appledore Road and Woodchurch Road Tenterden, Kent

*The Hybrid Application comprising:*

*“a) Outline application for the development of up to 145 residential dwellings (50% affordable) including the creation of access points from Appledore Road (1 x all modes and 1 x emergency, pedestrian, and cycle only) and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchard, sustainable drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Matters for approval: Access)*

*And*

*b) Full planning permission for the change of land use from agricultural land to land to be used as a Countryside Open Space (8.66 ha), and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable drainage systems and associated landscaping*

<p>Signed on behalf of the Appellant:</p> <p></p> <p>Position: Director of Planning Wates Developments Date: 3/02/2022</p>	<p>Signed on behalf of the Local Planning Authority:</p> <p>Mark Davies</p> <p>Position: Deputy Team Leader Strategic Applications Team Strategic Development &amp; Delivery Planning &amp; Development Service Ashford Borough Council</p> <p>Date: 3/2/22</p>
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## CONTENTS

<b>1.0</b>	<b>Introduction</b>	<b>Page 3</b>
<b>2.0</b>	<b>Appeal Proposals</b>	<b>Page 4</b>
<b>3.0</b>	<b>Site Description</b>	<b>Page 13</b>
<b>4.0</b>	<b>Planning History</b>	<b>Page 16</b>
<b>5.0</b>	<b>Planning Policy Framework</b>	<b>Page 21</b>
	(a) The Development Plan	
	(b) The NPPF	
	(c) ABC's Five Year Housing Land Supply 2020 - 2026	
	(d) Local Plan 2030 Examination	
<b>6.0</b>	<b>Areas of Agreement</b>	<b>Page 25</b>
<b>6.1</b>	<b>The Principle of Development</b>	<b>Page 25</b>
	(i) Policies SP1 and SP2	
	(ii) Tenterden's position in the settlement hierarchy	
<b>6.2</b>	<b>The Housing Land Supply Policy Position</b>	<b>Page 25</b>
<b>6.3</b>	<b>Affordable Housing</b>	<b>Page 26</b>
<b>6.4</b>	<b>Sustainable of Sites Location</b>	<b>Page 27</b>
<b>6.5</b>	<b>The Quantum of Development</b>	<b>Page 27</b>
<b>6.6</b>	<b>Housing Mix</b>	<b>Page 27</b>
<b>6.7</b>	<b>Highways &amp; Access</b>	<b>Page 28</b>
<b>6.8</b>	<b>Impact on Public Right of Way</b>	<b>Page 28</b>
<b>6.9</b>	<b>Cultural Heritage</b>	<b>Page 28</b>
<b>6.10</b>	<b>Archaeology and Historic Landscape</b>	<b>Page 28</b>
<b>6.11</b>	<b>Impact on the Landscape Character of the Area</b>	<b>Page 28</b>
<b>6.12</b>	<b>Tree and Landscaping Proposals</b>	<b>Page 29</b>
<b>6.13</b>	<b>Ecology</b>	<b>Page 29</b>
<b>6.14</b>	<b>Open Space</b>	<b>Page 30</b>
<b>6.15</b>	<b>Privacy and amenity of adjacent residents</b>	<b>Page 31</b>
<b>6.16</b>	<b>Drainage and Flood Risk</b>	<b>Page 31</b>
<b>6.17</b>	<b>Foul Water Drainage</b>	<b>Page 31</b>
<b>6.18</b>	<b>Air Quality</b>	<b>Page 31</b>
<b>6.19</b>	<b>Minerals</b>	<b>Page 31</b>
<b>6.20</b>	<b>Ground contamination</b>	<b>Page 31</b>
<b>6.21</b>	<b>Infrastructure</b>	<b>Page 32</b>
<b>6.22</b>	<b>Matters to be dealt with via Planning Obligation</b>	<b>Page 32</b>
<b>6.23</b>	<b>Planning Conditions</b>	<b>Page 32</b>
<b>7.0</b>	<b>Areas of Dispute</b>	<b>Page 33</b>

## **1 Introduction**

- 1.1 This Statement of Common Ground has been prepared under Rule 14 of the Inquiry Procedure (2000) Rules (as amended) with reference to the S.78 Appeal by Wates Developments Limited ("**The Appellant**") and has been agreed by Ashford Borough Council ("**ABC**").
- 1.2 The SoCG identifies the areas of agreement between the Appellant and ABC and highlights the areas of dispute, to assist in the determination of the appeal.
- 1.3 It should be noted that in addition to this Statement of Common Ground separate, topic-based Statements of common ground are being agreed between the Appellant and the Council.

## 2 Appeal Proposal

2.1 The appeal relates to a Hybrid Application (19/01788/AS) comprising:

*'a) Outline application for the development of up to 145 residential dwellings (50% affordable) including the creation of access points from Appledore Road (1 x all modes and 1 x emergency, pedestrian, and cycle only) and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchard, sustainable drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Matters for approval: Access)*

*And*

*b) Full planning permission for the change of land use from agricultural land to land to be used as a Country Park<sup>1</sup> (8.66 ha), and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable drainage systems and associated landscaping*

2.2 The appeal scheme was submitted on the 30th April 2021 and registered as valid on the 14 May 2021. The 13 week determination period expired on the 12th August 2021. See Core Documents file 4 – document 4.1.

2.3 The appeal scheme followed the refusal of previous hybrid planning application reference 19/01788/AS on 23<sup>rd</sup> September 2020 submitted by the appellant on this site that comprised:

*'a) Outline application for the development of up to 250 residential dwellings (40% affordable) including the creation of access points from Appledore Road (all modes) and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Matters for approval: Access)*

*b) Full planning permission for the change of land use from agricultural land to land to be used as a country park (8.66 ha), and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable urban drainage systems and associated landscaping'*

2.4 The reasons for the refusal of Wates earlier application 19/01788/AS are set out in section 4 of this statement.

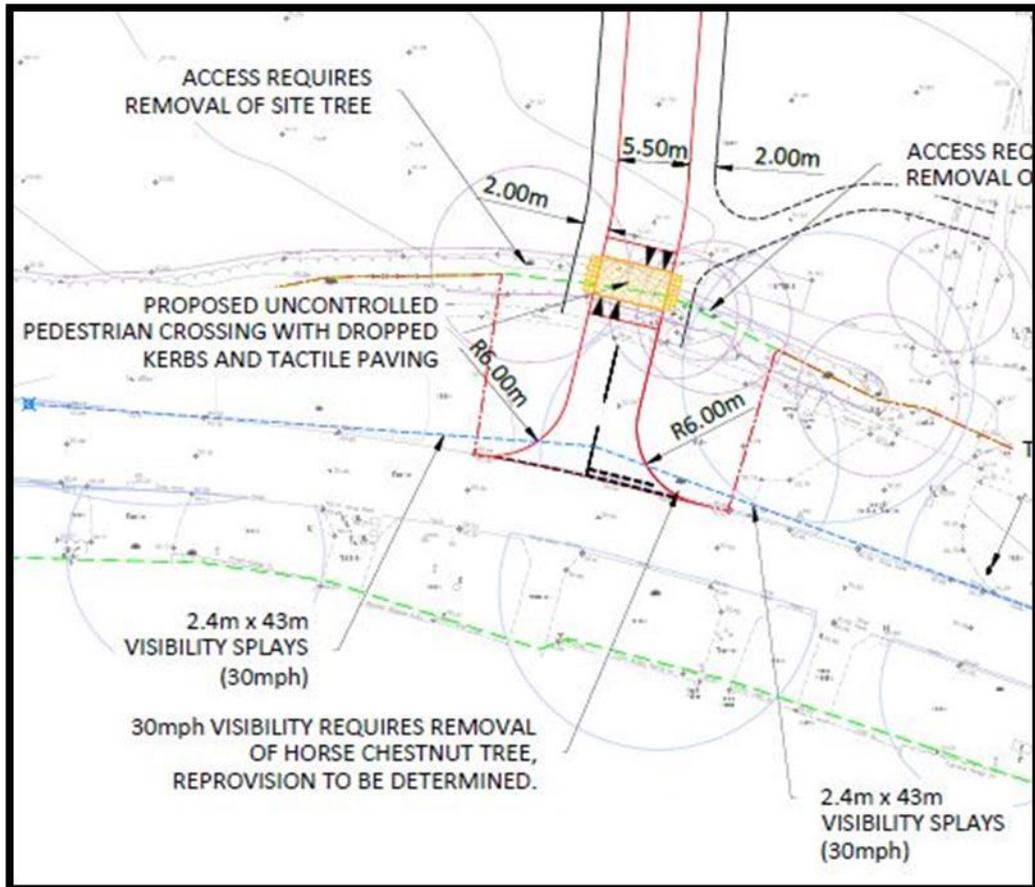
2.5 The Appeal scheme is described in detail in the Application documents that form part of the Appeal pack.

2.6 In summary the Appeal scheme comprises a Hybrid Application involving both outline and full planning proposals. The outline part of the Appeal scheme (matters of appearance, landscaping, layout, and scale reserved for future consideration with access detail for approval at this stage), relates to the western part of the site and comprises:

- (i) Up to 145 residential dwellings with 50% being affordable, and the creation of a network of roads, footways, and cycleways through the site.
  - (ii) Provision of play areas, open spaces, sustainable drainage systems, landscape buffers and green links.
- 2.7 The full part of the Appeal Scheme relates to the eastern portion of the site and comprises:
- (i) The change of land use from agricultural land to land to be used as a Country Park (8.66 ha in extent),
  - (ii) Land to be used as formal sports pitches (3.33 ha in extent), together with a new pavilion building to serve the pitches. Including accesses, ancillary parking, pathways, sustainable drainage systems and associated landscaping.
- 2.8 Two points of access are proposed onto Appledore Road, 1 x all modes and 1 x emergency, pedestrian, and cycle only, with a single pedestrian/cycle access only onto Woodchurch Road. In addition, the Appeal scheme provides for speed reduction and traffic calming measures along Appledore Road.
- 2.9 Taking each element in turn, and starting with the detailed component it is agreed that:

#### **Access**

- 2.10 There is a single point of access for all modes proposed to the east of field F13, near to the existing sport pitch. This has been designed as a simple priority junction and is shown on drawing ITL9289-GA-102. An extract is provided below. Drawing ITL9289-GA-114 shows the full access route. The site access includes a 5.5m wide carriageway, 6m radii with Appledore Road and 2m wide footways on either side to tie in with the existing footpath along Appledore Road.



- 2.11 Visibility splays have been shown for a 30mph speed, at a 2.4m setback by 43m along the kerb line, in line with Manual for Streets guidance. These visibility distances require a speed reduction along Appledore Road, from the existing 40mph to 30mph, the details of which are set out below. In order to accommodate this access one of the horse chestnut trees (T43) situated along Appledore Road is proposed to be removed. this is subject to a ground of refusal 3

The Speed Reduction and Traffic Calming Measures along Appledore Road

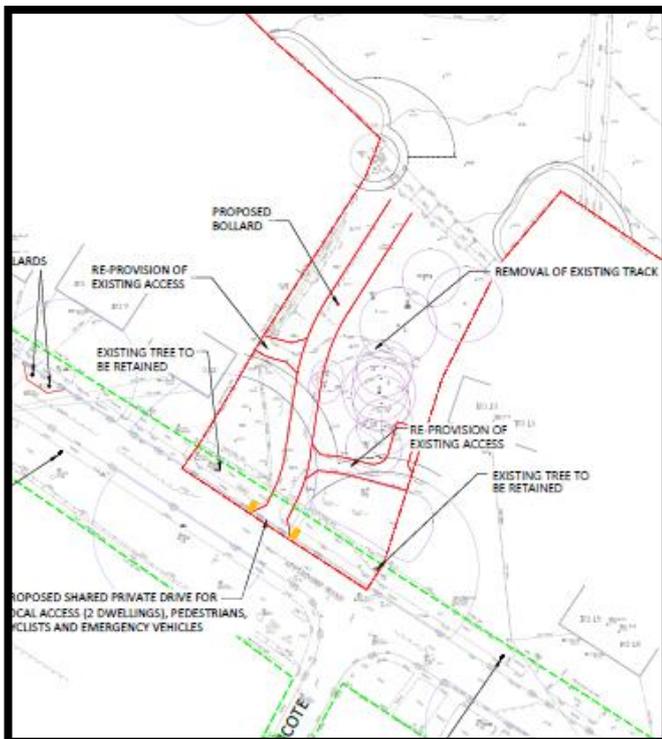
- 2.12 The appeal proposals look to extend the length of the 30mph limit on Appledore Road from its current location some 30m from the junction with East Hill, to the junction with William Judge Close and to introduce traffic calming measures, that have been agreed in principle with KCC that would provide for:
- A one-way priority shuttle working (located east of the junction with East Hill) with eastbound traffic ceding priority to westbound movements. This includes associated build out, road markings, reflective bollards and signage;
  - A one-way priority shuttle working (located east of the Shrubcote (West) junction) with westbound traffic ceding priority to eastbound movements. Again, this would include associated build out, road markings, reflective bollards and;
  - The central section of Appledore Road as detailed in drawing ITL9289-GA-107 includes a single zebra crossing (located west of Limes Close) with drop kerbs and tactile paving;

- A one-way priority shuttle working (located west of the proposed site's vehicular access) with eastbound traffic ceding priority to westbound movements. This includes associated build out, road markings, reflective bollards and signage;
- A one-way priority shuttle working (located east of the proposed site's vehicular access) with westbound traffic ceding priority to eastbound movements. This includes associated build out, road markings, reflective bollards, and signage; and
- A 30mph gateway feature including 30mph road marking roundel, red surfacing, white picket fencing and 30mph signs to the east of the junction with William Judge Close.

2.13 The speed reduction and traffic calming measures have been the subject of discussion with Kent Police (who agree them as part of a long term signed speed reduction) and have been subject to a Stage 1 Road Safety Audit.

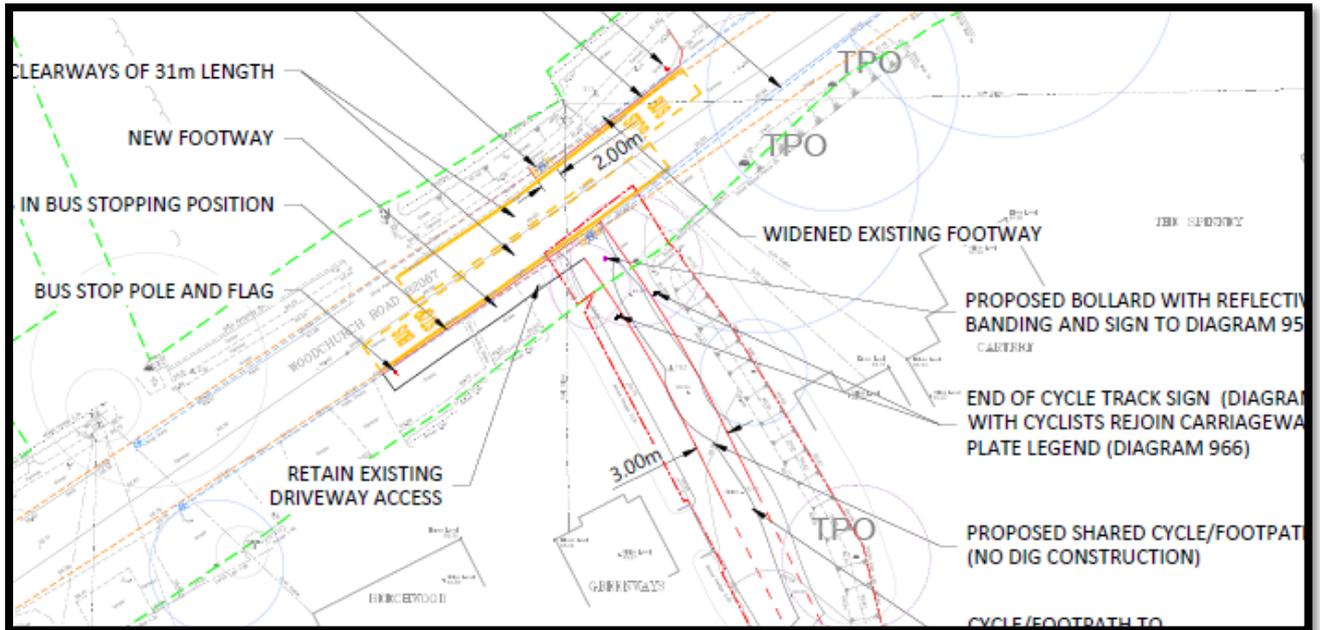
The Pedestrian, Cycle, and Emergency Only Access onto Appledore Road

2.14 A pedestrian, cycle, and emergency only access arrangement is proposed at the western end of the site, adjacent to No. 13 Appledore Road, circa 20m west of the Shrubcote (west) / Appledore Road junction. This access arrangement is shown on drawing ITL9289-GA-100 (extract below) and encompasses a 3.75m wide access to be used by pedestrians, cyclists and emergency vehicles only. Existing vehicle access into No. 11 and 13-15 Appledore Road is also to be retained at this location. A bollard with emergency key will be located beyond the retained driveway accesses, to ensure it can also provide a secondary emergency access into the site. The previous scheme 19/01788/AS included a second vehicular access onto Appledore Road at this location which required the removal of 2 horse chestnut trees (T110 and T111) situated alongside Appledore Road. The appeal proposal does not include a full vehicular access here. It is instead set aside as a pedestrian, cycle and emergency access only which does not require the removal of trees T110/111.



## The Pedestrian and Cycle Access Arrangements onto Woodchurch Road

- 2.15 A pedestrian and cycle only access arrangement is also proposed onto Woodchurch Road between properties known as “Greenways” and “Willow Cottage”, some 75m west of the junction with Knockwood Road. This is shown on Drawing No. ITL9289-GA-113 (extract below), which includes a bollard to prevent vehicles accessing the site from Woodchurch Road as well as an uncontrolled crossing with dropped kerbs and tactile paving across Woodchurch Road tying in with the existing footpath along the northern side of Woodchurch Road.



## Woodchurch Road changes

- 2.16 Two new bus stops are proposed on Woodchurch Road with associated clearways, raised kerbs and footways. These are shown in the extract above. (drawing number ITL9289-GA-113 )

## Internal Access Strategy

- 2.17 Kent Highways and Transportation have raised no objection to the detailed access proposals on highways safety grounds subject to the imposition of conditions and obligations outlined in their letter dated 20 May 2021. The requested visibility splay condition for the eastern access to Appledore Road would result in the loss of the horse chestnut tree subject to Reason for Refusal number 3.

## The Formal Sports Pitches

- 2.18 Fields F10 and F14 are to accommodate the proposed sports facilities. These comprise:
- 1 x 11v11 Adult Football Pitch on field F10
  - 1 x 9v9 Junior Football Pitch on field F14

- 1 x 7v7 Mini Soccer Pitch (55m x 37m) on field F14
- 2 x 5v5 Mini Soccer Pitch (37m x 28m each) on field F14

2.19 It is agreed that the size, location, and design of these sports pitches, as well as the run-off space has been designed in accordance with the relevant Football Association and Sport England guidance

#### The Pavilion Building

2.20 Sport England in their comments on the application state the pavilion building proposed meets relevant Sport England and FA guidance.. The pavilion building comprises a single storey building which is circa 500sqm in size and accommodates:

- Two team changing rooms
- Two officials changing rooms
- Physio and first aid room
- Club Room /Drill Hall (80m<sup>2</sup>)
- 2 meeting rooms (12m<sup>2</sup> each)
- Office (6m<sup>2</sup>)
- Kitchen and servery
- Storage (totalling approx. 72m<sup>2</sup>)
- Spectator toilets.
- 62 car parking spaces.

2.21 Elevationally the Pavilion Building comprises a red facing brick plinth, vertical timber cladding and a red plain tile roof. The feature gable fascia & soffit are in zinc detail and zinc standing seam cladding is proposed to the upper half of the cafe terrace elevation.

#### The Countryside Park

2.22 The Country Park, encompass part of the eastern part of the site (Fields F8 (which includes the community orchard), and fields 9, 11 and 12).

#### The Play Areas

2.23 Details of the play areas are yet to be agreed with the Council.

#### The Community Orchard

2.24 A mixed orchard of apple and plums, encompassing a cobnut plat is located at the northern extremity of the site, adjacent to Woodchurch Road and the PRow. SLR's plan (drawing 403.06269.00058.landscape4) shows a wildlife meadow, scrub, and hedgerow planting within and adjacent to the orchard.

#### The Illustrative Masterplan

2.25 An illustrative masterplan has been submitted. The Appellant has confirmed that the illustrative plan shows 141 units rather than the maximum of 145 dwelling units applied for.

2.26 Up to 72 dwellings (50%) are designated affordable units that will be secured through a S106 agreement and provide for an agreed tenure split.



The appeal drawings:

2.27 It is agreed that the appeal drawings for determination comprise:

21037- RFT - 00 - 00 - DR - A – 0100 rev P02 - Site Location Plan

21037 - RFT- 00 –XX- DR - A – 101ReV P05 - Detailed application identification plan

403.06269.00058.landscape1 Rev 1 - Landscape masterplan for the whole  
(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

403.06269.00058.landscape 2 Rev 1 - Landscape masterplan for the country park and sports facilities  
(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

403.06269.00058.landscape 3 - Landscape masterplan for the pavilion area  
(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

403.06269.00058.landscape 4 - Landscape masterplan for the orchard  
(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

TGMS1044.18-1 rev 8 - Proposed and Existing Levels – Fields F10 and F14

7657 03 01 rev E - Block Plan - Proposed Clubhouse Building - Land at Appledore Road Tenterden

7657 03 02 rev F - Floor Plan - Proposed Clubhouse Building - Land at Appledore Road Tenterden

7657 03 03 rev G - Elevations - Proposed Clubhouse Building - Land at Appledore Road Tenterden

ITL9289-GA-100 - Proposed site access arrangement, pedestrian, cycle, and emergency access at land adjacent to number 13 Appledore Road

ITL9289-GA-102 - Proposed site access arrangement, school land

ITL9289-GA-105 - Appledore Road, proposed extension of 30mph speed limit and location of traffic calming measures

ITL9289-GA-106 - Appledore Road, proposed extension of 30mph speed limit and location of traffic calming measures (Detail 1 of 3)

ITL9289-GA-107 - Appledore Road, proposed extension of 30mph speed limit and location of traffic calming measures (Detail 2 of 3)

ITL9289-GA-108 - Appledore Road, proposed extension of 30mph speed limit and location of traffic calming measures (Detail 3 of 3)

ITL9289-GA-113 - Proposed site access arrangement, pedestrian, and cycle access from Woodchurch Road

ITL9289-GA-114 - Proposed internal street design towards sport pitches F

RSK-C-ALL-05-03-01 Rev P07 - Proposed Surface Water General Arrangement (Sheet 1 of 2)

(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReVP05)

RSK-C-ALL-05-03-02 Rev P07 - Proposed Surface Water General Arrangement (Sheet 2 of 2)

(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

RSK-C-ALL-05-05-01 Rev P06 - Proposed SuDS Features & Overland Flow Routes (the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

RSK-C-ALL-05-07-01 Rev P07 - Critical Hydrological Features

(the plan is illustrative and is approving no details with regards to the extent of the outline area as show on drawing 21037 - RFT- 00 –XX- DR - A – 101ReV P05)

RSK-C-ALL-01-02-01 Rev P06 - Existing ditch, ponds & drainage features

RSK-C-ALL-01-03-01 Rev P05 - Existing Overland Flow Routes and Catchment Areas

2.28 It is agreed that the following drawings were provided for information/illustration purposes only

TGMS1044.18-3 - Formation Isopachytes

21037 - RFT - 00 - ZZ - DR - A – 2500 rev P06 - Landscape Area Plan

21037 - RFT - 00 - 00 - DR - A – 0121 S2 rev P08 – Site Plan

403.06269.00058.landscape5 - Play area landscape detail

ITL9289-GA-101 - Proposed site access arrangement, land adjacent to number 13 Appledore Road Swept path analysis – pumping appliance

ITL9289-GA-103 - Proposed site access arrangement, school land - Swept path analysis – large refuse vehicle

ITL9289-GA-104 - Proposed site access arrangement, school land - Swept path analysis – pumping appliance

ITL9289-GA-109 - Entry / exit existing driveways on Appledore Road (Plan 1 of 4)

ITL9289-GA-110 - Entry / exit existing driveways on Appledore Road (Plan 2 of 4)

ITL9289-GA-111 - Entry / exit existing driveways on Appledore Road (Plan 3 of 4)

ITL9289-GA-112 - Entry / exit existing driveways on Appledore Road (Plan 4 of 4)

ITL9289-GA-115 - Proposed internal street design towards sport pitches, forward and junction visibility

ITL9289-GA-116 - Limit of highway to be offered for adoption

ITL9289-GA-117 - Proposed internal street design towards sport pitches - Swept path analysis – large refuse vehicle

ITL9289-GA-118 - Proposed internal street design towards sport pitches - Swept path analysis – fire tender

ITL9289-GA-119 Rev A - Site layout swept path analysis – large refuse vehicle

ITL9289-GA-120 Rev A - Site layout swept path analysis – fire tender

RSK-C-ALL-05-04-01rev P05 - Proposed Foul Water General Arrangement

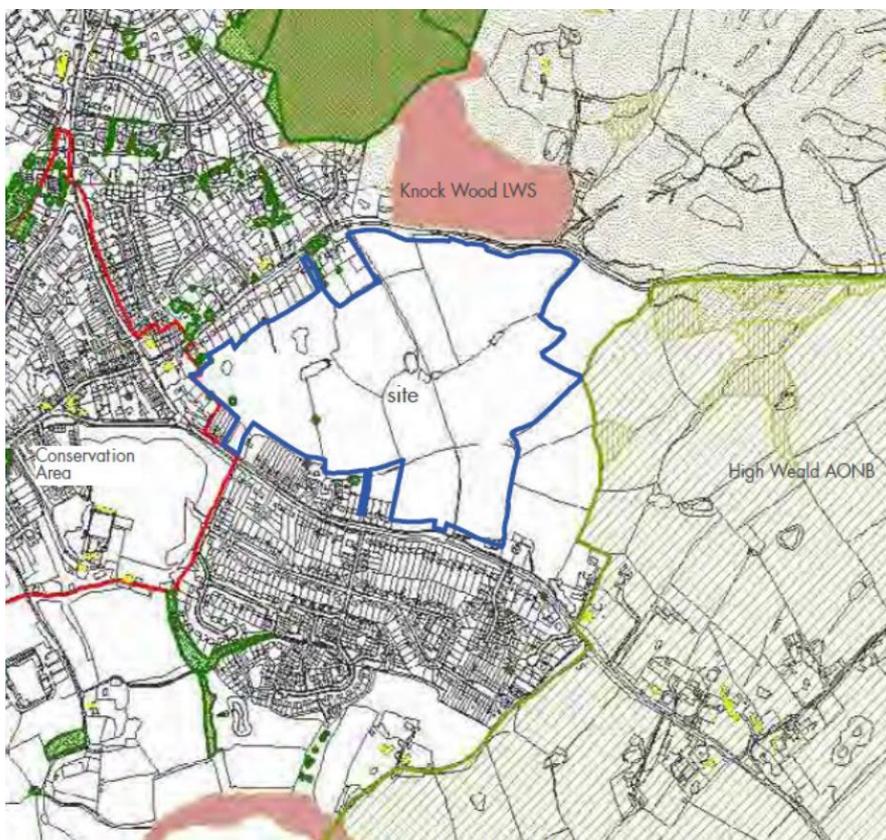
### 3 Site Description

#### (i) The Appeal Site

- 3.1 The Appeal site is situated to the north of Appledore Road and south of Woodchurch Road, to the northeast of Tenterden. Residential development physically adjoins the western and southern boundaries of the site. To the north of the appeal site on the opposite (northern) side of Woodchurch Road is the Knock Wood Local Wildlife site (LWS) comprising of broadleaved woodland, whilst to the east of the site is open countryside.
- 3.2 The Appeal site extends to 24.45ha (60.41 acres) and comprises 14 parcels of land (Fields F1 – F14). Some of these fields are used for occasional grazing, and one is currently a disused grass sports pitch. The field boundaries are generally enclosed by trees and hedgerow. Some trees within the site are subject of Tree Preservation Orders. A Public Right and Way (PROW) AB12 bisects the application site running from Appledore Road at the southern edge of the site to Woodchurch Road at the northern edge of the site. An application has been made to KCC for a Definitive Map Modification Order (DMMO) which would provide for new footpaths to the east and west of the current PROW (AB70). This is subject to a forthcoming Planning Inquiry in April 2022.



- 3.3 There is a change in levels within the site with a ridge of higher ground rising to around 63mAOD, which runs north-south just to the east of the AB12 PROW. To the west of the ridge (fields F1- F10) the land slopes down into a bowl towards the edge of the site with the upper and northern slopes (F3 & F6) generally steeper, gradually becoming shallower towards the bowl bottom which lies towards the southern edge in F4, F5 & F7. Fields F13 & F14 are relatively flat although sloping gently to the south-west. The land along the south-western edge lies at around 49.5mAOD.
- 3.4 The lowest lying point of the appeal site is the north-east corner of F11 on Woodchurch Road, which lies at around 43.5mAOD sloping down steeply from the north-south ridge. Fields F11 & F12 slope eastwards. AOD.
- 3.5 The appeal site is not located within an Area of Outstanding Natural Beauty. The red line area serving the western pedestrian and cycle only access (adjacent to 13 Appledore Road), partly overlaps with the eastern boundary of the Tenterden Conservation at the access point, and the rear garden boundaries of dwellings within the conservation area adjoin the site for approximately 90m. The conservation area then stretches away from the site to the northwest, west and south. The nearest listed building to the site is Stace House a 2.5 storey (Grade 2) dwelling located just beyond the southwest corner of the appeal site at the junction between Beacon Oak Road and Woodchurch Road. Another Grade 2 listed building, Craythorne House, a 3 storey building, is located on the opposite side of the Beacon Oak Road and Woodchurch Road junction. There are no other listed buildings in proximity to the site. The site all lies within Flood Zone 1 and the AONB abuts the site on the eastern edge of field F12.



(ii) Wider Area

- 3.7 Residential development physically adjoins the northwestern and southern boundaries of the site. The western boundary adjoins ribbon development located along the Woodchurch Road comprising of mainly detached houses, most of which are 2 storey in height with a 2.5 storey listed dwelling at the Beacon Oak Road Junction. The dwellings are embracing a variety of different house types, ages and styles sited typically within spacious well landscaped plots. The southern boundary adjoins houses initially along Beacon Oak Road and then Appledore Road. This is mainly ribbon development apart from two small cul-de-sacs. The housing is mainly 2 storey semi-detached with some detached homes again embracing a variety of different house types, ages, and styles, and sited within quite spacious and well landscaped grounds.
- 3.8 There is a bus stop along the northern side of Woodchurch Road near the Beacon Oak Road Junction. There are bus stops either side the Appledore Road near to the Shurbcote junction.
- 3.9 It is agreed that Ashford International station is located some 14.5km north of the site, and Headcorn railway station is located circa 14.2km north west of the site. Both can be accessed by bus, and regular rail services operate from both stations. Ashford International provides high speed rail links to other areas of Kent and London.

## 4 Planning History

### (i) The Appeal Site

4.1 It is agreed that the appeal site was the subject of a previous application (19/01788/AS), which was a Hybrid Application that comprised:

*'a) Outline application for the development of up to 250 residential dwellings (40% affordable) including the creation of access points from Appledore Road (all modes) and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Matters for approval: Access)*

*b) Full planning permission for the change of land use from agricultural land to land to be*

*used as a country park (8.66 ha), and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable urban drainage systems and associated landscaping'*

4.2 Said application was refused by notice dated 23<sup>rd</sup> September 2020 for the following reasons:

1. *The proposal would be contrary to policies SP1 and SP2 of the adopted Ashford Local Plan 2030. The application proposal would significantly increase the number of dwellings to be provided in Tenterden considered alongside the existing residential allocations and commitments referred to in the adopted Ashford Local Plan 2030. The scale of development that is proposed runs counter to the adopted spatial strategy enshrined in policy SP2 and would undermine the carefully considered and independently-examined and accepted approach to the sustainable distribution of housing development across the borough to 2030.*

2 *The proposals would be contrary to policies HOU5, SP1, SP6 and ENV3a of the adopted Ashford Local Plan 2030 in that the proposals would involve a large scale, intensive residential development on undeveloped land forming part of a strongly rural edge that, in its undeveloped state, contributes positively to the landscape setting of the south-east side of Tenterden. The proposals would not sit sympathetically within the wider landscape, preserve or enhance the setting of the settlement or be consistent with local character and would result in harm to the character and appearance of the surrounding area.*

3 *The proposed western site access would result in the loss of two mature trees located on Appledore Road within and at the entrance to the Tenterden Conservation Area. These trees are a component part of the visual character of Appledore Road as it enters Tenterden and their loss would be detrimental to the character of Appledore Road and harmful to the character of the conservation area, contrary to policies ENV14, SP1 and SP6 of the adopted Ashford Local Plan 2030. It is not considered that this detrimental impact can be adequately mitigated.*

4 *The proposed eastern site access would result in the loss of a mature tree located along the Appledore Road. The tree forms a component part of the visual character of the street and its loss would be detrimental to the character of the area*

contrary to policies SP1 and SP6 of the adopted Ashford Local Plan 2030. It is not considered that this detrimental impact can be adequately mitigated.

5 The supporting documents with the application fail to satisfactorily evidence that the quantum of residential development for which permission is sought could be realistically delivered on the site in the area shown in a manner that would ensure that (i) occupiers would be provided with acceptable minimum levels of amenity and privacy and (ii) sufficient space would be available for policy TRA3(a) compliant levels of car parking provision distributed spatially in a manner that would achieve its sensitive integration as part of high quality place-making. The proposal would therefore be contrary to policies SP1 and SP6 of the Ashford Local Plan.

6 The proposals would not preserve or enhance biodiversity as it is considered the proposed ecological mitigation measures would be unlikely to be able to be successfully implemented alongside the quantum of development for which permission is sought. The application would be likely to result in a loss to biodiversity contrary to policies HOU5 (e) and (f vi) and ENV1 of the adopted Ashford Local Plan 2030.

7 Policy IMP4 of the adopted Ashford Local Plan 2030 requires proposals that would deliver substantial community space and facilities to be supported by a clear governance arrangement. It is not clear from the application what the Land Trust's expertise is in managing sporting facilities similar to those which are proposed and how the local community would benefit from the facilities. Accordingly, the proposals are not considered to fully satisfy the requirements of policy IMP4 of the adopted Ashford Local Plan 2030.

8 In the absence of unilateral undertaking (UU) the proposal fails to secure the mitigation that is necessary to satisfactorily meet the additional infrastructure impacts and needs that would be generated by the development and therefore the proposal is contrary to policies IMP1 and HOU1 of the Ashford Local Plan 2030

4.3 Further details of application 19/01788/AS are set out in Core Documents File 3.

4.4 The council's position on the appeal scheme was crystallised in their committee report of the 15<sup>th</sup> September 2021 which led the members of the planning committee to resolve to refuse the appeal scheme for the following reasons:

i. The proposal would be contrary to policies SP1 and SP2 of the adopted Ashford Local Plan 2030. The application proposal would significantly increase the number of dwellings to be provided in Tenterden considered alongside the existing residential allocations and commitments referred to in the adopted Ashford Local Plan 2030. The scale of development that is proposed runs counter to the adopted spatial strategy enshrined in policy SP2 and would undermine the carefully considered and independently-examined and accepted approach to the sustainable distribution of housing development across the Borough to 2030.

ii. The proposals would be contrary to policies HOU5, SP1, SP6 and ENV3a of the adopted Ashford Local Plan 2030 in that the proposals would involve a large scale, intensive residential development on undeveloped land forming part of a strongly rural edge that, in its undeveloped state, contributes positively to the landscape setting of the south-east side of Tenterden. The proposals by virtue of their scale, form and intensity would not sit sympathetically within the wider landscape, preserve or enhance the setting of the settlement or be consistent with local

- character and would result in harm to the character and appearance of the surrounding area.
- iii. *The proposed main vehicular site access would result in the loss of a Mature Horse chestnut tree located along the Appledore Road. The tree forms a component part of the visual character of the street and its loss would be detrimental to the character of the area habitat contrary to policies SP1, SP6 and ENV3 of the adopted Ashford Local Plan 2030 and advice in the National Planning Policy Framework Guidance. It is not considered that this detrimental impact can be adequately mitigated*
  - iv. *The proposals in their current form would have a detrimental impact on the following important trees within the site.*
    - a. *T381 Ancient Field Maple. A new football pitch is proposed within its offset Buffer Zone and an incursion within its Root Protection area. The Root Protection Area and buffer zone plotting of the tree described in the application is not accepted. The associated works required for the footpath pitch would result a deterioration and possible loss of this ancient tree.*
    - b. *T312 veteran oak tree. The development area lies too close and does not reflect the rooting morphology of the veteran tree. The Root Protection Area and buffer zone plotting of the tree described in the application is not accepted. The proposals would result in the deterioration and possible loss of this to the veteran tree.*
    - c. *T313 Oak. The proposed SUDs features appear to run through the Root Protection area of the tree subject to a preservation order. Insufficient detail and analysis of the impact of this feature has been provided and the construction of the SUDs will likely be detrimental to the protected tree. The deterioration and possible loss of T381, T312 and T313 would amount to a deterioration of an irreplaceable habitat and harm to the visual character of the area contrary to policies SP1, SP6 and ENV3 of the adopted Ashford Local Plan 2030 and advice in the National Planning Policy Framework Guidance para 180 (c).*
  - v. *The proposals would not preserve or enhance biodiversity as it is considered the proposed ecological mitigation measures would be unlikely to be able to be successfully implemented alongside the scale of development for which permission is sought. The application is likely to result in loss and harm to biodiversity interests on the site contrary to policies HOU5 (e) and (f) (vi) and ENV1 of the adopted Ashford Local Plan 2030.*
  - vi. *Policy IMP4 of the adopted Ashford Local Plan 2030 requires proposals that would deliver substantial community space and facilities to be supported by a clear governance strategy which will need to be agreed with the Council. This strategy will need to set out what facilities are to be delivered and by when, and how they will be managed over time to an acceptable standard. The proposals have not provided sufficient information regarding general need, community provision, community engagement and management of the sport, community and open space facilities. Accordingly, the proposals are not considered to fully satisfy the requirements of Policy IMP4 of the adopted Ashford Local Plan 2030.*
  - vii. *The proposals are contrary to Policy ENV6 of adopted Ashford local Plan advice in the National Planning Policy Framework Guidance as they have not demonstrated they contribute to an overall flood risk reduction, that the site itself would not be at an unacceptable risk of flooding and that there would be no increase in flood risk elsewhere. It has also not be shown that the flood risk mitigation measures would*

*have any no adverse spatial implications for the development proposals in terms of delivering the scale and type of development proposed.*

- viii. *An Order has been made to record a new footpath AB70 within site that is subject a forthcoming Planning Inquiry. The proposals fail to show the impact of the scheme on the AB70 footpath within the site or any acceptable diversion to it, if is approved by the Secretary of State. The AB70 footpath would clearly have a significant impact on the spatial layout of the development that is proposed and change the dynamic of the footpath experience itself to that of ~~by~~ passing through a built up residential area rather than a series of fields as at present. The proposals are therefore contrary to policies SP1 and TRA5 of adopted Ashford Local Plan 2030 and National Planning Policy Framework Guidance advice. The proposal fails to consider or acceptably incorporate the AB70 footpath within the scheme. It therefore does not demonstrate how safe and accessible pedestrian access and movement routes will be delivered and connect to the wider movement network and proactively, looks to connect with and enhance public rights of way whenever possible, encouraging journeys by foot.*
- ix. *In the absence of a unilateral undertaking, the proposal fails to secure the mitigation that is necessary to satisfactorily meet the additional infrastructure impacts and needs that would be generated by the development and self- and custom-built development and accessibility standards, and, therefore, the proposal is contrary to Policies IMP1, HOU1, HOU6 and HOU14 of the Ashford Local Plan 2030*

4.5 The formal decision notice was dated 27th September 2021. This corrected some minor typographical errors in an initial decision notice dated 22 September 2021.

4.6 The 1987 application (ref 87/00259/AS) for 124 dwellings and garages with access from Appledore Road, which relates to fields F1, F3 and F4 in the southwest corner of the current appeal site. Said appeal was refused planning permission by ABC on 7/10/88. The first appeal was allowed on 28/7/88. The decision then quashed by the High Court. The second appeal was dismissed 28/10/89.

(ii) The Wider Area

- 4.7 There are currently a number of outstanding applications, allocations and planning permissions in the local area that have been taken into consideration in considering the cumulative impacts of development, including:
- Consent granted on appeal for 100 dwellings at land south and east of Tilden Gill Road - 14/01420/AS – currently being built out by Redrow South East;
  - Consent for 250 dwellings on land south west of Recreation Ground Road and north and east of, Smallhythe Road, Tenterden - 14/00757/AS - Tent 1A, currently being built out by Taylor Wimpey and Dandara;
  - The allocation of land to provide for 225 units on land known as Tent 1B.

It is agreed that these are material to this appeal.

(iii) Screening

- 4.8 An application for a screening opinion (ref 19/0007/EIA/AS) on the need for an Environmental Impact Assessment for a development of up to 250 houses with associated car parking, landscaping, and community facilities to include place space

and community orchard, together with a 8.57ha country park encompassing natural place areas and outdoor classroom and land for five football pitches, changing rooms, pavilion and parking was submitted on 28th June 2019. ABC concluded in a letter dated 23rd August 2019 that no EIA was required. Following a third party request, a screening direction dated 30th October 2019 by Secretary of State has also concluded that no EIA was required.

## 5. Planning Policy Framework

### A) The Development Plan

- 5.1 As a starting point it is relevant to highlight the Statutory requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 (As Amended) that the determination of a planning application must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 The current Development Plan comprises the Ashford Borough Local Plan (ABLP) which was adopted on 21st Feb 2019, and the Kent Minerals and Waste Local Plan (2016) as well as the Kent Minerals and Waste Early Partial Review (2020). The policies mentioned in the reasons for refusal are set out in the tables below. A copy of the adopted Local Plan is attached at Core Document 2.1.

**Table 2 – Summary of relevant policies of the ABLP**

<b>Policy</b>	<b>Title</b>	<b>Mentioned in Reason for refusal</b>
SP1	Strategic Objectives	Yes
SP2	The Strategic Approach to Housing Delivery	Yes
SP6	Promoting High Quality Design	Yes
HOU1	Affordable Housing	Yes
HOU5	Residential windfall development in the countryside	Yes
HOU6	Self and Custom Built Development	Yes
HOU12	Residential space standards	No
HOU14	Accessibility standards	Yes
HOU15	Private External open space	No
HOU18	Providing a range and mix of dwelling types and sizes	No
TRA3 (a)	Parking Standards for Residential Development	No
TRA4	Promoting the local bus network	No
TRA5	Planning for Pedestrians	Yes
TRA6	Provision for Cycling	No
TRA7	The Road Network and Development	No
TRA8	Travel Plans, Assessments and Statements	No
ENV1	Biodiversity	Yes
ENV3a	Landscape Character and Design	Yes
ENV3b	Landscape Character and Design in the AONBs	No
ENV4	Light Pollution and Promoting Dark Skies	No
ENV5	Protecting Important Rural Features	No
ENV6	Flood Risk	Yes but RfR withdrawn
ENV7	Water Efficiency	No
ENV8	Water Quality, Supply and Treatment	No
ENV9	Sustainable Drainage	No
ENV12	Air Quality	No
ENV13	Conserving and Enhancing Heritage Assets	No
ENV14	Conservation Areas	No
ENV15	Archaeology	No
COM1	Meeting the Community's Needs	No

COM2	Recreation, Sport, Play and Open Spaces	No
COM3	Allotments	No
COM4	Cemetery Provision	No
IMP1	Infrastructure Provision	Yes
IMP4	Governance of Public Community Space and Facilities	Yes

**Table 3 – Summary of relevant policies of the Kent Minerals and Waste Local Plan 2016 and the Kent Minerals and Waste Early Partial Review (2020).**

Policy	Title	Mentioned in Reason for refusal
DM7	Safeguarding Mineral Resources	No

5.3 In addition to the Local Plan policies the following Supplementary Planning Documents and Informal Design Guidance is also of relevance to this appeal:

Landscape Character Assessment SPD 2011

Residential Space and Layout SPD 2011(now external space only)

Residential Parking and Design SPD 2010

Sustainable Drainage SPD 2010

Public Green Spaces and Water Environment SPD 2012

Dark Skies SPD 2014

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

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

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

Tenterden Neighbourhood Plan

5.4 Tenterden Parish was designated as a Neighbourhood Area on 12<sup>th</sup> March 2019 and is currently progressing a Neighbourhood Plan. The Reg 14 Neighbourhood Plan was published for public consultation on the 23<sup>rd</sup> June 2021 for 8 weeks. The consultation has now ended. It is notes that the Appellant made detailed representations, including legal submissions on said plan.

5.5 It is agreed between the parties that Policy TEN NP2 of the draft version of the Tenterden Neighbourhood Plan, proposes to designate a large proportion of the application site as 'Local Green Space' as per the area masked in lime green on the image below. Draft Policy TEN NP2 states that "*proposals for development at the sites identified as designated Local Green Spaces will be considered in line with national planning policy on Green Belts*".



- 5.6 It is agreed that the plan has been out for regulation 14 consultation, and the Appellant made details submissions opposing the plan. The parties will address the weight to be afforded to the Neighbourhood Plan in their evidence.

B) National Planning Policy Framework (2021)

- 5.7 It is agreed that the NPPF 2021 is a material consideration and that the appeal proposal should be assessed against the policies in the Framework taken as a whole.

- 5.8 The following sections of the NPPF are also of relevance to the determination of this Appeal:

Paragraph 11 - Presumption in favour of sustainable development  
Paragraph 20 – 23 - Strategic policies  
Paragraph 28 – 30 - Non Strategic policies  
Paragraph 34 - Developer contributions  
Paragraph 38 - Decision making  
Paragraphs 39 to 46 - Pre-application engagement  
Paragraph 47 – Determining planning applications.  
Paragraphs 55 to 58 - Planning conditions and obligations  
Paragraph 60 to 67 - Delivering a sufficient supply of homes  
Paragraphs 68 to 73 - Identifying land for homes  
Paragraphs 74 to 77 - Maintaining supply and delivery  
Paragraphs 92 to 97 - Promoting healthy and safe communities.  
Paragraphs 98 to 103 – open space and recreation  
Paragraphs 104 to 113 - Promoting sustainable transport  
Paragraphs 114 to 118 - Supporting high quality communications  
Paragraphs 119 to 123 - Making effective use of land  
Paragraphs 124 to 125 - Achieving appropriate densities  
Paragraphs 126 to 136 - Achieving well-designed places.  
Paragraphs 152 to 169 - Meeting the challenge of climate change, flooding.  
Paragraphs 174 to 178 - Conserving and enhancing the natural environment.  
Paragraphs 179 to 182 - Habitats and biodiversity.  
Paragraphs 183 to 188 - Ground conditions and pollution  
Paragraphs 189 to 208 - Conserving and enhancing the historic environment  
Paragraphs 209 to 212 - Facilitating the sustainable use of minerals

c) ABC's Five Year Housing Land Supply 2020 - 2026.

5.9 Since the determination of the appeal proposal the Council has updated its position with regard to its Five Year Housing Land Supply. It is agreed between the parties that the latest published position (November 2021) regarding Five Year Housing Land Supply 2021 - 2026 states that the Council are able to demonstrate a housing land supply position of 4.54 years. The Housing Land Supply Calculation is reproduced in Table 3 below for ease.

**Table 3 Housing Land Supply Calculation**

Five year requirement (inc 5% buffer)	7,195
Deliverable five year housing land supply	6,531
<b>Housing land Supply (6531 / 1439)</b>	<b>4.54</b>

5.10 It is agreed that ABC do not have a 5 year HLS and that paragraphs 11 and 74 of the NPPF are invoked.

d) Local Plan 2030 Examination

The Council consider that several examination documents, evidence base and representations made during the examination of the Local Plan 2030 are material to the determination of the appeal proposal. These include:

- The Strategic Housing and Economic Land Availability Assessment 2017/18 and Addendum December 2017
- Housing Topic Paper 2017 and Addendum to Housing Topic Paper
- Sustainability Appraisal (SA) and SEA of the Ashford Local Plan 2030, SA and SEA Addendum Report Jul 2017 and Addendum to SA November 2017
- Judith Ashton Associates Representations submitted in response to the Regulation 19 and Main Changes consultations.
- ABC's Response to the Inspectors Issues and Questions
- Judith Ashton Associates Response on behalf of the Appellant to the Inspectors Issues and Questions
- The Inspectors Report Ashford Local Plan

The Appellant does not consider these to be relevant and the weight to be afforded to them in the decision making process will be a matter of planning judgement that will be addressed by the planning witnesses.

## 6. Areas of Agreement

### 6.1 The Principle of Development

Adopted Local Plan:

#### (i) Policies SP1 and SP2.

6.1.1 It is agreed that Policy SP1 and Policy SP2 of the ALP set out the strategic approach to development across the borough. This includes a clear recognition that Ashford (town) is the most sustainable location within the borough, based on its range of services and facilities access to places of employment, access to public transport hubs and the variety of social and community infrastructure available.

6.1.2 It is also agreed that Policy SP2 sets out that windfall housing development will form part of the wider housing strategy, Policy SP2 states Windfall housing development will be permitted where it is consistent with the spatial strategy outlined above **'and'** is consistent with other policies of this Local Plan, in order to ensure that sustainable development is delivered.

#### (ii) Tenterden's position in the settlement hierarchy

6.1.3 It is agreed that Tenterden is the second largest settlement in Ashford Borough and is the Borough's only other town outside of Ashford. How it differs and the materiality of this in the context of the appeal proposal will be a matter that will be addressed by the planning witnesses.

#### (iii) Whether the proposed development is windfall development

6.1.4 Both parties agree that the proposal can be considered a windfall housing scheme, in so far as the proposal is for housing that is not on an allocated site in the development plan, as per the definition of windfalls in the NPPF 2021 (Annex 2: Glossary)

6.1.5 Both parties agree that Policy HOU5 does not mention an upper limit of housing to count as a windfall housing proposal but outlines a number of criteria in HOU5 (a) to (f) that need to be met

### 6.2 The Housing Land Supply Policy Position

6.2.1 It is agreed that the ALP (Policy SP2) sets a minimum requirement of 16,872 dwellings over the plan-period (2011 to 2030) (ALP, Table 1). This equates to an average annual requirement of 888 dpa over the 19-year plan-period.

6.2.2 It is further agreed that ABC's latest five-year housing land supply position ('Five Year Housing Land Supply Update Nov 2021') concludes that a five-year supply cannot currently be demonstrated. It puts supply at 4.54 years with a deliverable supply of 6,531 units in the five-year period against a requirement of 7,195 units; a shortfall of 664 units. It is thus agreed that in accordance with NPPF footnote 8, NPPF paragraph 11(d) the tilted balance is engaged and the presumption in favour of sustainable development applies.

- 6.2.3 The Council does not agree with the appellants five-year housing land supply calculation. The Council intends to provide evidence to substantiate its position as set out in the Council’s Five Year Housing Land Supply Update (published Nov 2021)
- 6.2.4 It is agreed that the Housing Delivery Test 2020 (released in Jan 2021) reported a delivery in Ashford of 90%<sup>2</sup>, which required an Action Plan. An Action Plan was published in June 2021, which updates the Council’s first HDAP, which was published in June 2020. The Action Plan explored the reasons for under-delivery and establishes actions to reduce the risk of under-delivery getting worse and sets out the measures the Council intends to take to rectify the position. In the 2021 HDT ABC has scored 118% with no requirements. Under both this does not affect the 5YHLS calculation; insofar as under both a 5% buffer is applied
- 6.2.5 It is agreed that the appeal site does not lie within the Stodmarsh Catchment and that its delivery would not be prejudiced by this matter.

6.3 Affordable Housing

- 6.3.1 It is agreed that there is a need for affordable housing in the borough and that the council’s housing officer made detailed comments on the application and has not raised any formal objection to the application subject to these appeal proposals.
- 6.3.2 The Strategic Housing Market Assessment 2014 (SHMA) identified a need for 368 affordable homes per annum in Ashford over the period to 2030. The ABLP (paragraph 6.2) reports that the Council’s 2014 SHMA establishes that around 50% of all future houses delivered in the Borough should be affordable, but a lower policy requirement is applied in practice.
- 6.3.3 It is agreed that ABC’s latest five-year housing land supply position statement (‘Five Year Housing Land Supply Update Nov 2021’) indicates that there were 153 affordable housing completions in 2020/21.

**Table 6: Affordable Housing Completions 2011/12-2020/21**

2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Total
245	68	4	124	247	148	108	145	84	153	1,326

- 6.3.4 It is agreed that the appeal scheme will provide for up to 72 affordable units if 145 dwellings are delivered on this site. It is also acknowledged that 50% affordable provision, exceeds the minimum requirements of policy HOU1 of the ABLP 2030. The parties agree that the weight to be attributed to this in the planning balance is a matter for each parties proofs of evidence.

<sup>2</sup> For the 2020 measurement, there is a reduction in the period for measuring total homes required – usually this would be measured over a three-year period, but an 11-month period has been used for the 2019/20 monitoring year. This is to account for disruption to housing delivery and monitoring caused by restrictions announced on 23 March 2020, in response to the COVID-19 pandemic. For the 2021 measurement, there is a reduction in the period for measuring total homes required with an 8 month period used for the 2020/21 monitoring year. This is to account for disruption to housing delivery and monitoring caused by the COVID-19 pandemic

#### 6.4 Sustainability of Site's Location

- 6.4.1 It is agreed that the appeal site is located adjacent to the built confines of Tenterden, and that Tenterden is the second largest town in Ashford Borough, although is markedly different to Ashford in terms of its sustainability credentials. It is however agreed that Tenterden encompasses a breadth and quality of services which reflects its role as the main rural service centre for much of the south-western part of the borough which is rural in nature.
- 6.4.2 It is agreed that bus stops are located on Woodchurch Road and Appledore Road, with further stops located north west along Ashford Road and west along Tenterden High Street.
- 6.4.3 It is further agreed that Ashford International railway station is located some 14.5km north of the site, providing onward services via the high-speed services to central London in less than 40 minutes. Headcorn station is located circa 14.2km from the site and is accessible by bus service No.12 from Ashford Road, providing services to London Charing Cross, Dover Priory and Ramsgate via Canterbury West. Appledore station is located circa 9km to the east of the site and is on the Brighton to Ashford line, calling at Hastings and Eastbourne en-route.
- 6.4.4 It is further noted and agreed that KCC as the local highway authority did not raise any objection to the location of the development/ suggest that the appeal site was located within an unsustainable location.

#### 6.5 The Quantum of Development

- 6.5.1 The proposed development is for up to 145 dwellings. The submitted Design and Access statement states an illustrative mix of 141 dwellings

#### 6.6 Housing Mix

- 6.6.1 Whilst, as an outline application, the overall unit mix has yet to be determined, the illustrative layout submitted with the appeal scheme looks to demonstrate how a scheme that encompasses 1 and 2 bed apartments and 2, 3 and 4 bed houses could be accommodated on this site.
- 6.6.2 Policy HOU18 cross refers to the SHMA (2014), which at paras 8.29 and 8.32 recommends the following mix be sought for affordable and market dwellings.

**Table 8 – Housing mix advocated in 2014 SHMA.**

	Affordable	Market
1 bed	25%-30%	5%-10%
2 bed	35%-40%	30%-35%
3 bed	25%-30%	40%-45%
4 bed	5%-10%	15%-20%

- 6.6.3 It is agreed that the appeal scheme reflects the aims and objectives of policy HOU18 and thus also policy SP1(g) of the ABLP.

## 6.7 Highways & Access

6.7.1 Kent Highways and Transportation as the Local Highway Authority in their letter 20 May 2021 raise no objection subject to conditions and obligations. See CD 4.2.

## 6.8 Impact on Public Right of Way

6.8.1 It is agreed that Footpath AB12 crosses the site from north to south linking Appledore Road and Woodchurch Road. An order has been made by KCC to confirm a further footpath AB70 that crosses the site and development. An objection has been lodged to this and will be subject to an inquiry in April 2022.

## 6.9 Cultural/ Built Heritage

6.9.1 It is agreed there are no listed buildings located within the boundaries of the appeal site. It is also agreed that the red line area serving the western pedestrian and cycle only access (adjacent to 13 Appledore Road), partly overlaps with the eastern boundary of the Tenterden Conservation at the access point. There are no other known nationally or locally designated heritage assets located within the boundaries of the appeal site. The closest listed assets to the site are Stace House and Craythorne (both grade II listed buildings), which lie close to the western boundary of the appeal site.

## 6.10 Archaeology and historic Landscape

6.10.1. KCC Heritage comments on the application are dated 1 July 2021 and outline conditions to deal with outstanding archaeological and historic landscape issues. See CD 4.5

## 6.11 Impact on the Landscape Character of the Area

6.11.1 Whilst a separate SoCG is being compiled to address the landscape and visual effects of the proposed development, it is agreed that the most up to date and relevant guidance on the methodology for assessing landscape and visual effects of development is the Guidelines on Landscape and Visual Impact Assessment, 3rd Edition (GLVIA3, Landscape Institute/IEEMA 2013). The most up to date guidance on valuing landscapes outside of national designations is now Landscape Institute Technical Guidance Note 02/21 "Landscape Value Outside Nationally Designated Landscapes, 2021".

6.11.2 The appeal site is located within an area classified as National Character Area (NCA) 122, High Weald, at a national scale. At a county level the Landscape Assessment of Kent includes the site on the northern edge of the Oxney: Lower Rother Valley character area, close to the Biddenden-High Halden character area. In the Ashford Landscape Character Assessment (2009) the appeal site forms part of the Woodchurch Undulating Farmlands character area (area 23).

6.11.3 The selection of landscape receptors and viewpoints in the SLR LVIA (April 2021) is appropriate for assessing the landscape and visual effects of the proposed development.

- 6.11.4 The appeal site is not covered by any national or local landscape designations. It is agreed that the AONB abuts the site on the eastern edge of field F12. It is however agreed that the proposed development would result in no direct effects on the AONB, and that the visibility of the proposals on the AONB would be very limited/ negligible. Thus, it respects the aims and objectives of paragraph 176 of the NPPF and footnote 8 of paragraph 11 in terms of the tilted balance.
- 6.11.5 It is agreed that the setting of the AONB is defined as an area outside of the designation where a particular development could result in effects upon the designation itself, as set out at page 21 of the AONB Management Plan and section 85 of the CROW Act 2000
- 6.11.6 It is agreed that the effects on the prominence of St Mildred's as a landscape receptor would be moderate negative/adverse. Whilst some views would be lost as a result of development, some long vistas from west footpath AB12 through the site would be retained. It is agreed that impacts on views east from footpath AB12 and other viewpoints identified in the LVA would in the main be minor or negligible.
- 6.11.7 It is agreed that there would be moderate/minor and positive landscape effects on the land to the east of footpath AB12, due to the creation of extensive new habitats and the provision of a new areas of informal recreation.
- 6.11.8 It is agreed that the overall extent of the potential visibility of the appeal proposals would be localised, with little visibility in the wider landscape. The principal visual issues relate to views from footpath AB12.

## 6.12 Tree and Landscaping Proposals

- 6.12.1 The impact on tree is outlined in Arboricultural Implications Report prepared Simon Jones Associates Limited; Ref. SJA air 21123-01 April 2021– CD 1.13. It is agreed that of the forty-six trees to be removed to facilitate the development, none are ancient, veteran or category 'A' specimens and only two are mature. Five have been assessed as category 'B', thirty one as category 'C' and ten as category 'U' in accordance with the criteria set out in Table 1 of BS5837:2012 '*Trees in relation to design, demolition and construction – recommendations*'. In addition, it is agreed that seven groups of trees would need to be removed and seven groups of trees/hedgerows partially removed to facilitate the development. It is acknowledged that as there is a total of 479 individually surveyed trees, and 66 groups of trees and hedgerows growing within or adjacent to the appeal site, or within the avenue along Appledore Road.
- 6.12.2 It is agreed that the effects of the proposed development on trees T43, and T381 is at issue.

## 6.13 Ecology

- 6.13.1 It is agreed that the appeal site is not situated within any statutory or non-statutory designated sites. Nor are there any statutory designated sites of International/European or National importance within 5km of the Site. There are however six non-statutory Local Wildlife Sites (LWS's) within 2km of the site - Knock Wood LWS, Ashenden Gill LWS, Kench Hill LWS, Heronden Woods and Pasture LWS,

Woods and Pasture Millpond Farm LWS and, Friezingham Dykes and Newmill Channel. The nearest being Knock Wood LWS, which is situated just beyond the northern boundary of the site, on the opposite side of Woodchurch Road.

6.13.2 It is further agreed that all other non-statutory sites and pockets of Ancient Woodland are located a significant distance away from the appeal site boundary, and / or have restricted access and would not be adversely affected by the appeal proposals.

6.13.3 It is agreed that the appeal site has been subject to detailed site surveys, and that the following main habitat / vegetation types are present within the boundaries of the appeal site:

- Grassland – including Semi-improved Neutral Grassland (predominantly Forb Species Poor), Improved Grassland, and Rush Pasture.
- Scrub
- Recently Felled Woodland
- Ruderal vegetation
- Ponds – 6 on site and 5 adjacent to the site boundary
- Seasonally Wet Ditches
- Hedgerows and treelines
- Built-form

6.13.4 It is agreed that the detailed survey work undertaken across the appeal site has recorded the use of the appeal site by the following protected and notable species:

Bats – foraging and commuting,

Badgers

Reptiles – slow worms, common lizard, and grass snakes

Amphibians – Great Crested Newts

Breeding birds – including 4 Red Status BoCC species and

Invertebrates

6.13.5 A separate SoCG will be produced to agree the ecological effects of the development.

#### 6.14 Open Space

6.14.1 The appeal proposals provide for a 8.66 ha Country Park as well as 3.33 ha of land to be used as formal sports pitches (1 x 11v11 Adult Football Pitch, 1 x 9v9 Junior Football Pitch, 1 x 7v7 Mini Soccer Pitch and 2 x 5v5 Mini Soccer Pitch), and 6.93 ha of incidental public open space/ amenity space, which includes 3 areas of play and an outdoor gym. It is agreed that the planning policy requirement would, for a scheme of 145 dwellings be 1.87ha (see table below), and that the appeal proposals provide for a considerably greater level of amenity space than required.

<b>Planning requirements</b>	Unit's total	145
	Resident/ household	2.4
	Total residents	348
<b>Item</b>	<b>m2 /resident</b>	<b>ha. required</b>
Outdoor sport	16	0.56
Children's & young people's play	5	0.17
Informal Natural Green space	20	0.70
Allotments	2	0.07
Parks and recreation	3	0.10
Cemeteries	6	0.21
	<b>Total</b>	<b>1.87</b>

#### 6.15 Privacy and amenity of adjacent residents

6.15.1 The Council has not raised an objection to the proposals on the impact on neighbouring residents as outlined in paragraphs 93 to 97 of the Planning Committee report 15 September 2021.

#### 6.16 Drainage and Flood Risk

6.16.1 KCC Flood and Water Management further letter 24 September 2021 and 30 November 2021 are no longer raising an objection to the proposals subject to conditions. See CD 4.29

6.16.2 The Council agree subject to these conditions (as updated from KCC email 16/12/21) that reason for refusal 7 is withdrawn.

#### 6.17 Foul Water Drainage

6.17.1 Southern Water made comments in their letter dated 11 June 2021. They did not raise objections to the development subject to certain conditions being attached to the planning permission. See CD 4.11

#### 6.18 Air Quality

6.18.1 It is agreed that Air Quality impacts can be addressed by condition as recommended by ABC Environmental Protection and do not affect the principle of development.

#### 6.19 Minerals

6.19.1 KCC in their letter 8 July 2021 (CD 4.7) has, no minerals or waste safeguarding objections to the proposal.

#### 6.20 Ground contamination

6.20.1 ABC Environmental protection having no objection subject to conditions

6.21 Infrastructure

6.21.1 It is agreed that appropriate mitigation can be secured through S106 and/or conditions.

6.22 Matters to be dealt with via Planning Obligation

6.22.1 Negotiation are continuing on the section 106 agreement

6.23 Planning Conditions

6.23.1 The Appellant and the Council are negotiating a schedule of planning conditions in the event that the appeal is allowed, and planning permission is granted.

## **7. Areas of Dispute**

- 7.1 1. Whether the proposal meets all relevant policy; and 2. If not, whether the adverse effects would significantly and demonstrably outweigh the benefits.
- 7.2 Whether the appeal proposals would significantly increase the number of dwellings to be provided in Tenterden when considered alongside the existing residential allocations and commitments referred to in the adopted ABLP such that the scale of development proposed would run counter to the adopted spatial strategy enshrined in policy SP2 and would undermine the approach to the sustainable distribution of housing development across the borough as set out in policies SP1 and SP2.
- 7.3 The scale of the 5-year Housing Land Supply deficit. See separate Topic Specific SoCG on HLS.
- 7.4 Landscape
- 7.4.1 Whilst it is agreed all new development on undeveloped greenfield land will involve a change to the character and appearance of the land, the issue is the extent to which that change results in harm. To this end it is disputed whether:
- a) the appeal site provides a strongly rural edge to Tenterden.
  - b) the appeal site contributes positively to the landscape setting of the south-east side of Tenterden.
  - c) the appeal scheme would sit sympathetically within the wider landscape.
  - d) the appeal scheme would preserve or enhance the setting of the settlement.
  - e) the appeal scheme would be consistent with local character.
  - f) the appeal scheme would harm the character and appearance of the surrounding area.
- 7.5 Ecology
- 7.5.1 It is disputed whether:
- a) the appeal proposals would result in any biodiversity net gains
  - b) the appeal proposals would preserve or enhance biodiversity.
  - c) the proposed ecological mitigation measures would be able to be successfully implemented alongside the quantum of development for which permission is sought.
- 7.6 Appledore Road - Street Trees
- 7.6.1 It is disputed whether:
- a) the loss of tree 43 would be significantly detrimental to the local pattern and composition of trees and woodlands, and so conflict with Policy ENV3a(b) of the ABLP 2030
  - b) tree 43 is of high or very significant individual value.
- 7.7 Site Trees
- 7.7.1 It is disputed whether:
- a) the proposed sports pitch is likely to result in a deterioration of the ancient field maple tree, no. 381.
  - b) the protection and long-term integration of tree 381 within the proposed site can be assured through the imposition of an appropriate condition requiring the creation and implementation of an 'ancient and veteran tree management plan'.

7.8 Management and Maintenance of the Sports Facilities, Country Park and Incidental Open Space/ Amenity Space

7.8.1 It is disputed whether:

- a) there is a need for the proposed facilities.
- b) the proposed management structure is appropriate/ accords with policy IMP4.
- c) that the governance strategy is clear, and that it is clear what facilities are to be delivered and by when, and how they will be managed over time to an acceptable standard.

7.9 New Footpath AB70

7.9.1 It is disputed whether:

- a) The relevance of the unmade PRow (AB70) and whether it is material to this appeal; and
- b) Whether there is a need to show a suitable and acceptable route to KCC now, or whether this could be addressed at the reserved matters stage