

**Rebuttal Evidence of Lindsay
Goodyear BA (Hons), DipTP,
MRPTI**

**Land between Appledore Road
and Woodchurch Road,
Tenterden, Kent**

January 2022

Appeal reference: APP/E2205/W/21/3284479

Local planning Authority Reference:
21/00790/AS



bell cornwell

CHARTERED TOWN PLANNERS

Bell Cornwell LLP, Unit 2, Meridian Office Park, Osborn Way,
Hook, Hampshire RG27 9HY

01256 766673 | info@bell-cornwell.co.uk | bell-cornwell.co.uk



CONTENTS

1	INTRODUCTION	1
	250 Dwelling Application	1
	1989 Appeal DECISION (Cd 6.1b)	5
	Appeal decisions	5
	IMP4 / Proposed Sports Facilities	7
	Weight	7
	Delivery of housing growth	8
	Impact on delivery of the Spatial Strategy	9
	Footpath AB70	10
	Housing Land Supply	11
	Benefits of the proposed development	12
2	APPENDICES	17
	R1: Oakendale Committee Report	17
	R2: 5 Year Housing Land Supply Position Statement	18
	R3: Cabinet Minutes	19
	R4: Wilesborough Road Decision Notice	20
	R5: Letter in regard to S24	21
	R6: Email correspondence in regard to S32	22
	R7: Email correspondence form Kent County Council	23



1 INTRODUCTION

1.1 This statement is submitted in rebuttal to some specific points in Mr Ross's proof of evidence.

250 DWELLING APPLICATION

1.2 The Appeal proposals followed the refusal of an application for 250 dwellings on the same site (reference: 19/01788/AS). In paragraph 2.10 to 2.11 Mr Ross states after first refusal that the appellant carried out a landscape-led review, with inputs from ecology and heritage, evaluated the previous scheme and offered a new approach to the delivery of the overall masterplan and on this basis Appellant should be commended as having followed best practice.

1.3 However, I note that the Appellant failed to engage with the Council's planning department in the 8 month period between the refusal of the first application and submission of the appealed application through the pre-application process including in relation to the provision of additional information (such as in respect of Governance) that had been requested. The NPPF outlines at para 39-46 the importance of pre-application engagement as good practice. In this respect, the Appellant did not follow best practice.

1.4 In paragraph 5.16 Mr Ross confirms that in general terms, the schemes are relatively similar.

1.5 In paragraph 2.15 Mr Ross states that several matters were raised by consultees throughout the determination of the Application, which the Appellant sought to address through the submission of further information. In paragraph 2.16 he states that Ashford Borough Council would not consider this information even though it was submitted in good faith and in order to address matters.

1.6 This is not the case. There was continuous engagement with the Appellant on the application, notably the technical consultation responses that were forwarded to the agent (but also available on the Council's website). This is also evidenced by the Council's request for an extension of time sent to the appellant's agent on 6 August 2021 before the 13 week expiry date. This clearly outlined the reasons and outstanding further information as follows:

- Request from KCC PROW and Access email 30 July with regards to AB70 route.
- Further information requested by KCC Flood and Water Management letter dated 23 July 2021.



- Any further response to ABC landscape officer's comments sent 21 July 2021.
- Further information requested by KCC Ecological Advice service letter dated 21 June (KWT letter 11 June 2021) with site meeting with applicant's ecologist pending.
- Further information requested by ABC Culture, Tourism and Leisure comments sent 19 July 2021
- Any further responses KCC Heritage comments 1 July 2021

1.7 The extension request was to 22 September 2021. It was made clear in the officer's email the EOT is for a 16 September planning committee meeting. The appellant did not agree to any extension of time.

1.8 The officer's planning committee report for the 16 September meeting provided a detailed analysis of all issues (as with the first application). There were a considerable number of objections to the scheme but not all of these resulted in a recommendation for refusal. These were all assessed, and reasons explained whether they either resulted in a recommendation of refusal or not.

1.9 Mr Ross set out in his proof of evidence a table in which he sought to identify the evolution of the scheme between that of the 250 unit proposal and the 145 unit appeal scheme. For ease of reference, and the benefit of the Inspector, I have adapted his table with an additional column setting out the Council's position:

Table 1: Mr Ross comparison of Appeal scheme and 250 unit scheme with commentary:

Reason for refusal No.	Issues	Addressed / current appeal	My conclusions	Ashford Borough Council's response
1	Contrary to SP1 and SP2. Significant increase in number of dwellings in Tenterden contrary to spatial strategy	The same reason for refusal has been imposed	Even though the 2nd application significantly reduced the number of homes proposed, there was no change of judgement from the Council as to whether the reduced number of homes would overcome this reason	Whilst the applicants have reduced the scale of the proposed development, the Appeal scheme is still contrary to policies SP1 and SP2 as set out in my proof of evidence. The housing land supply was addressed in detail in the planning



			for refusal. Neither was there any consideration of the changing housing land supply situation	committee report dated 16 September 2021 as the first item in the applications assessment paragraphs 38 -47.
2	Large scale, intensive residential development would not sit sympathetically within the wider landscape and result in harm to character and appearance of surrounding area	Whilst in general terms the same reason for refusal has been imposed, there are subtle differences. The 2nd decision sets out that the proposals by virtue of their scale, form and intensity would be harmful. These specific areas were not set out in the 1st decision	The reason for refusal does not reflect the significant reduction in built development proposed and the reduced 'intensity' of development	The developable areas proposed did not change between the two proposals. As set out in Mr Withycombe's proof of evidence and my own, even though the scale has reduced, the Appeal scheme would still harm the character and appearance of the surrounding area and not sit sympathetically with this part of Tenterden.
3	Loss of two mature trees on Appledore Road due to access	This reason for refusal is reflected in RF3 albeit, there is greater detail now in terms of the type of tree and expansion of the RfR to include Policy ENV3a which was not part of the Council's original reason for refusal	There has been no change to this element of the scheme and the Appellant accepts the loss of this Horse Chestnut tree, albeit it is the Appellant's view that the loss is not as significant as alleged and mitigation measures compensate for its loss	To be clear, the reason has changed as there is now only one tree to be lost as one point of vehicular access has been removed. The Appellant acknowledges this loss but forms a different view to the Council's witnesses about the significance of this loss and ability to mitigate the harm.
4	Loss of mature tree along Appledore Road	This reason for refusal is reflected in RF3 albeit, there is greater detail now in terms of the type of tree and expansion of the RfR to include Policy ENV3a which was not part of the	There has been no change to this element of the scheme and the Appellant accepts the loss of this Horse Chestnut tree, albeit it is the Appellant's view that the loss is not as significant as alleged and mitigation measures	Please see response to no. 3 above.



		Council's original reason for refusal	compensate for its loss	
5	Quantum of development would allow minimum levels of amenity and privacy and sufficient car parking spaces	The reduction in the number of units allows for these matters to be addressed.	This reason for refusal has fallen away	No comment.
6	Ecological mitigation unlikely to be implemented alongside the quantum of development	Whilst a similar reason for refusal is advanced by the Council it now refers to the scale of development rather than the quantum previously set out	The Council appears to accept that the quantum of development is now not a constraint to delivery of ecological benefits, but now prays in aid of the scale of development as being an obstacle.	Mr Forester sets out in her rebuttal evidence, paragraph 1, that she considered the appeal scheme on its merits. The change in use of language doesn't change the overall issue as set out in Ms Forester's proof that there is insufficient information to demonstrate the proposed high quality habitat enhancement and creation can be achieved, which could result in harm to species (paragraphs 39 to 42 Ms Forester's proof).
7	Governance of substantial community space and facilities	The Council's concern related to the experience of the Land's Trust and how the local community would benefit from the proposals. The Council's RfR now significantly expands on this seeking to have an issue with matters such as general need, community provision and engagement etc	This RfR has significantly expanded from the previous RfR even though the proposal has not materially altered.	The reason for refusal was expanded but nothing new was added. The Council's approach was to make the reason for refusal clearer as the Appellant did not respond to the Reason for Refusal to the first application by providing the information and clarity that was requested.



8	Lack of Unilateral Undertaking	Whilst this RfR is generally similar to the 1st one, significant additional information has been added (including new policies) such as matters of self and custom-built development and accessibility standards	The RfR has been expanded from the 1st RfR, albeit the Appellant is confident that an agreed S106 can be provided to overcome this RfR	Additional information was added to provide a comprehensive list of policies from the Ashford Local Plan. This followed updated advice from legal services to ensure that the reason for refusal comprehensively covered all relevant policies.
---	--------------------------------	--	--	---

1989 APPEAL DECISION (CD 6.1B)

1.10 I acknowledge that the 1989 appeal decision is dated in my proof of evidence and note that the planning policy context has changed. I have not drawn the Inspector's attention to the appeal to demonstrate the approach taken in that decision to the planning balance. Both myself and Mr Withycombe reference the appeal in relation specifically, and only, to the comments made about the landscape context, including the lack of *"urban enclosure"* and that a significant element of the character of the town *"derives from the close proximity of the countryside to the heart of the town"*. As set out in Mr Withycombe's proof of evidence, that context has changed little since 1990 and therefore those specific comments made by the Inspector are relevant today.

APPEAL DECISIONS

1.11 Wye College Appeal Decision is dated April 2021 (CD 6.6) and relates to three appeals at Wye College, an agricultural college where I understand from the appeal decision *"facilities were closed in 2008"* (paragraph 19, CD 6.6). Mr Ross notes in relation to this decision that the Council did not object to the principle of development at a settlement, which the appeal Inspector described in paragraph 19 as *"one of the larger villages ... with a good range of shops, schools and services"* (CD6.6). I note the village is in the AONB but it is also close to Ashford with a direct rail link to Ashford International and London.

1.12 I think it is helpful to understand the background of the case: the Inspector acknowledged part of the site comprised *"previously developed land"* (paragraph 40, CD 6.6), the dwellings proposed amount to 104 across the three appeals and that the *"appeal sites are part of a wider*



area identified in the Tenterden and Rural Sites DPD 2010 as WYE3” and in the Wye Neighbourhood Plan WNP6 and WNP11 (paragraphs 20-22). To my mind, this is a different context to the Appeal site and scheme, as such was considered by the Council and the Inspector at the time of the decision on its merits.

- 1.13 Oakengates Appeal Decision was decided on 16 July 2021 (CD6.6), for 53 apartments for Older People. The site is in Tenterden. The appeal site is described by the Inspector in paragraph 7 (CD 6.6), as being set between a care home and what is described in the appeal decision as the Three Fields Development, the Inspector noting that it is *“nestles in between features of a clearly built-up environment”* and that *“from a townscape perspective I conclude that the appeal development would not adversely affect the character or appearance of the locality”* (paragraph 11, CD 6.6).
- 1.14 In Mr Ross statement, he references this decision and notes that Ashford Borough Council had no objection to the principle of the appeal scheme in regard to SP1 and SP2. Whilst I was not involved with this case, I note that the committee report confirmed the scheme is contrary to SP1 (paragraph 35, appendix R1). The committee report does not specify a conclusion regarding SP2. However, the appeal scheme was for significantly less dwellings than the Appeal scheme.
- 1.15 In addition, the Oakendale proposal was assessed against policy HOU3a ‘Residential Windfall Development Within Settlements’ by the Inspector (paragraph 11, CD6.6), as a site that lies within the built confines of Tenterden. The Inspector in his decision concludes that *“the development would make efficient and effective use of brownfield land in an accessible, location, supporting a prosperous community and rural economy”* (paragraph 48, CD6.7). The Oakendale Appeal scheme is different to this Appeal scheme both in terms of size, location and surrounding context. The Appeal scheme was clearly considered on its own merits and determined accordingly.
- 1.16 Tilden Gill appeal decision is dated 20 April 2016 (CD6.3b). The policy context at the time was set by the Ashford Core Strategy which was adopted in 2008.
- 1.17 Mr Ross highlights the Tenterden Gill Inspector’s decision, summarising it as confirming failure to deliver Ashford provides no justification for delivery at Ashford. This Appeal scheme in a very different context and his conclusion about the location of growth at Ashford related to the application of policies in the Local Plan at that stage which restricted growth. Since the



Tenterden Gill Inspector's decision (April 2016) the Local Plan has been considered at examination. That examination considered the past failure of growth at Ashford but continued to promote the strategy of growth at Ashford and restraint in the more environmentally sensitive locations of the Borough.

IMP4 / PROPOSED SPORTS FACILITIES

1.18 The Appellant has provided options for ownership, management and maintenance for the proposed sports facilities. Mr Mayatt's proof of evidence confirms that without clarifying which option, they are proposing and how that option will be fulfilled it is not possible to determine whether IMP4 will be fulfilled. Whilst the Council acknowledge the exact model will be dependent on local circumstance, this does not remove the need to confirm the option the Appellant intends to pursue. In regard to local circumstances, the Council also seek clarity on whether the two local football clubs cited within the Borough Playing Pitch Strategy as being in need of a 'home' would be accommodated within the proposed development. IN his rebuttal, Mr Mayatt confirms that at paragraph 5.12 *"In order for the Council to be satisfied that the ambitions of IMP4 would be fully met, absolute clarity and certainty about who the owners, managers and operators would be along with detail of their relevant agreements (leases, maintenance responsibilities etc) is required. As the Appellant has not been able to provide this level of detail, the Council believes that policy IMP4 remains unmet."*

WEIGHT

1.19 I address the weight given to policies in my proof of evidence (specifically in regard to SP2 at paragraph 6.40) but seek here to expand on the weight to be accorded to SP2 as there is disagreement with the Appellant on this point (see section 7 pages 26 to 17 of Mr Ross's Proof of Evidence).

1.20 SP2 is consistent with the NPPF. It provides a combined approach to meeting the housing target, part of which is to allow for windfall development as set out in paragraph 69 c) of the NPPF and seeks to direct growth in a manner that seeks to achieve the objective of contributing to the achievement of sustainable development (paragraph 16) of the NPPF. The strategy has been recently examined.

1.21 SP2 provides a mechanism for the Council to address the lack of five-year supply by allowing suitable windfall development, that meets the requirements of the spatial strategy and other



policies in the plan, to be brought forward. As such, it is a policy tool that can be used to address the lack of five-year supply and should be given full weight.

1.22 Mr Ross gives Policy HOU5 full weight in the decision-making process, this is a function of SP2, in that it allows suitable windfall development to be brought forward and so it follows that SP2 attracts that same weight. Tenterden Neighbourhood Plan

1.23 There is an initial draft Tenterden Neighbourhood Plan. This has a level of community support, as clearly some aspects of the community felt strongly enough to dedicate time to the preparation of the draft plan. The Town Council has yet to publish the results or a summary of the consultation, but Wates have provided their objection to this Inquiry, in document CD2.4B. . This response raises a specific objection to the designation of the site as Local Green Space. The NPPF, paragraph 102 sets out reasons circumstances where a Local Green Space designation should be used. Mr Withycombe's rebuttal provides his thoughts on the proposed designation as Local Green Space considered against the criteria set out in the NPPF and concludes that "*the landscape value assessment would support the assessment of the land against the Local Green Space criteria set out in paragraph 102(b) of the NPPF*" (paragraph 24 of Mr Withycombe's rebuttal)

1.24 Wates objection to the principle of the Local Green Space on this site is a designation that could be supported based on the criteria of paragraph 102 in the NPPF, in my view and Mr Withycombe's view. In the context that the site designation is compliant with the NPPF, but that the plan is at an early stage of preparation, albeit it preparation itself must indicate a level of community support, it leads me to attribute limited weight to the plan in the decision-making process.

DELIVERY OF HOUSING GROWTH

1.25 The Housing Delivery Test has recently been published and demonstrates that Ashford Borough Council exceeded the delivery requirement. The table below compares the delivery in Ashford Borough Council in comparison to other authorities in Kent. Ashford Borough Council is one of only three authorities that exceed housing delivery requirements.

Table 2 Housing Delivery Test (2021) results for Kent Councils (published 14 January 2022):



Council	Number of Homes Required (2018 – 2021)	Number of homes delivered (2018 – 2021)	Housing Delivery Test (2021) Measurement	Consequence
Maidstone	2279	3878	170%	None
Ashford	2292	2715	118%	None
Dartford	2064	2167	105%	None
Tunbridge Wells	1764	1717	97%	None
Dover	1570	1382	88%	Action Plan
Folkestone & Hythe	1624	1383	85%	Action Plan
Swale	2721	2110	78%	Buffer
Thanet	1549	1207	78%	Buffer
Medway	4332	2895	67%	Presumption
Canterbury	2323	1509	65%	Presumption
Tonbridge & Malling	2189	1369	63%	Presumption
Sevenoaks	1828	1130	62%	Presumption
Gravesham	1154	661	57%	Presumption

IMPACT ON DELIVERY OF THE SPATIAL STRATEGY

- 1.26 I address the harm to the spatial strategy in my proof of evidence (paragraph 5.10 and in section 6). Mr Ross attaches limited harm to the spatial strategy as by his calculation the appeal scheme only delivers 1% of the total planned growth in the plan period. The function of SP2 is to ensure the right development is delivered in the right place and I address harm in these terms in my proof of evidence.
- 1.27 SP2 is two-fold. A policy focusing development at Ashford and restraining development in the more environmentally sensitive areas of the Borough. SP2 allows windfall development but only where it is compatible with the strategy and other policies in the plan. The harm is two-fold, to the strategy and in conflict with other policies in the plan. Just because the scheme is only 1% of the overall growth does not change the harm to the strategy. Allowing schemes on that basis would fundamentally detract from the strategy.
- 1.28 The other function of SP2 is to direct development to suitable sites, requiring windfall development to meet the tests of the policy, as noted above. At paragraph 8.32 of his proof of evidence Mr Ross states that the strategy is failing as 26% of completions are on windfall sites. Given the strategy allows for windfall development in the right locations, that comply with the overall strategy, and in accordance with the other policies in the plan, this does not demonstrate



a failure to me, but that the strategy and polices are functioning as they should to allow appropriate windfall development to be delivered in accordance with the spatial strategy.

- 1.29 Sustainability encompasses a wide range of environmental, economic and social factors. Mr Marshall highlights that the site is “*genuinely sustainable*”, however his points refer specifically to the accessibility of the site. Whilst Tenterden might be the largest settlement in the rural area, and I acknowledge there are shops and services within walking distance, there are other settlements with rail links to Ashford that offer easier access to major areas of employment. For instance, as I set out above, Wye and Hamstreet. But this is the purpose of creating a Development Plan, to assess locations and direct growth accordingly. Ashford Borough Council has a recently adopted development plan that has been recently examined and considered to direct growth to the most appropriate places in the Borough.
- 1.30 The Housing Delivery Test 2020/2021 has recently been published and a note has been provided to the Inspector in this regard. Mr Ross identifies monitoring data at 8.32. in relation to housing delivery. In the year 2020/ 2021, despite the Government expectation that authorities across the board to have under-delivered against requirements due to the restrictions in place due to the Coronavirus Pandemic, Ashford Borough Council exceeded its requirement of 888 dwellings, almost doubling the delivery regarding the Government’s reduced figure.

FOOTPATH AB70

- 1.31 Ms Beswick responds to Mr Ross points regarding footpath AB70 in section 3 of her rebuttal. She confirms that in making the order KCC PROW and Access Services considers that the PROW can be “*reasonably alleged to exist*” (paragraph 3.10) and it “cannot be ignored” and “*should be seen as a valuable resource*” and “*accommodated accordingly*” (paragraph 3.13). In her evidence she provides a response to the plans provided by Appellant detailing an alternative route for the path through a TCPA diversion. She concludes the route would not be approved by KCC PROW and Access and as such it is not clear how the route, should it be approved, can be incorporated into the scheme. It is on this basis that there is no confidence that if this was dealt with by condition that the scheme would be deliverable.



HOUSING LAND SUPPLY

- 1.32 There is disagreement between the Appellant and the Council in regard to the period for the five year housing land supply calculation. This is set out in the Statement of Common Ground in relation to Housing Land Supply.
- 1.33 The Housing Land Supply Update is clear it provides the land supply position for the period July 2021 to June 2026 (Paragraph 1.4). The dispute focuses on when data was collected and the timeframe applied for the purpose of calculating the 5YHLS position. The Council has provided a 'Position Statement', appendix R2, that sets this out the reason why the July base date was used, in essence due to the impact of the Coronavirus Pandemic and the national lock downs that prevented surveys coming forward in 2020, with implications for the 2021 surveys.
- 1.34 The Council's statement confirms tables A3, A6 and A8 were updated to the July 2021 base date.
- 1.35 It is a fact that monitoring of the delivery cannot be carried out at a single point in time, so there will be some dwellings in the 'under construction' category that may have been completed in the time between the survey and base date of the report. This relies on a planning judgement to be made as to whether they fall into the completed category or 'under construction' at the point of the base date by the person surveying the site. This would be the position was the base date April or July. The Council's position statement confirm surveys are carried out in the two preceding the monitoring start date (paragraph 5).
- 1.36 If a Council choose to overinflate the supply it would have an adverse impact for their Housing Delivery Test and visa versa.
- 1.37 The survey took two month and required officer judgement, but that does not equate to over inflating the supply by 0.25 years.
- 1.38 Appendix 2 Deliverability Review of Mr Taylor Proof of Evidence provides a table setting out the Council's position and Lichfield's assessment of a variety of sites. The majority of this supply is reduced or excluded by Lichfield's on the basis of the impact of Stodmarsh. I provided evidence in regard to the impact of Stodmarsh in paragraph 6.4 and appendix 2 of my proof of evidence. I note Mr Taylor references concerns about the funding mechanism for the mitigation. To clarify the position, I have included the minutes from the Cabinet meeting held on 29 July 2021, which confirms that if Central Government grant funding is not available, a "*financial package*" was



agreed to be set aside by the Council to deliver the mitigation (Resolution (iii) page 77, my appendix R3).

- 1.39 By means of an update, it is relevant to note that applications 19/0025/AS for 725 dwellings (site S2 Land northeast of Wilesborough Road, Kennington) received its hybrid planning consent on 21 January 2021 (see appendix R4 for the decision notice) with onsite mitigation for Stodmarsh. As part of that hybrid consent, full planning permission was granted for 288 dwelling, which now move into category a) of the NPPF. The issuing of this consent further demonstrates that mitigation measures can be delivered and progress is being made.
- 1.40 In regard to S24, Mr Taylor raises the issue of a covenant that would require overage payments if dwellings were delivered before 2028. The Council has raised this covenant with the landowner and their agent's response is attached (appendix R5). This response confirms that the owners are aware of the Covenant and are "*pressing ahead with their plans to bring this site forward for residential development*". The letter also confirms the position that "*this is an overage agreement and not a restrictive covenant*". On this basis I consider the landowner's statements are firm evidence that progress is being made to delivered the development and the Covent is not evidence that the site will not be delivered in as set out in CD2.9b.
- 1.41 Regarding S32, Mr Taylor removed 10 dwellings from the supply as the site is at an early stage in the process. The Council has provided me with further correspondence from the land agent (appendix R6). This confirmed the site is being sold and the purchaser has made a pre-application enquiry with the Council. The proposed development is for 10 units, given the size of the site and this evidence from the landowner clarifying firm progress is being made, I think there is clear evidence that the dwellings will be delivered in the five-year period.

BENEFITS OF THE PROPOSED DEVELOPMENT

Approach endorsed by appeals

- 1.42 Mr Ross provides us with a table setting out the approach to weight of two recent appeal Inspector's. Firstly, I note he has only looked at two cases which is in my mind a very limited sample but nevertheless I thought it would be helpful to review his table in relation to my conclusions and provide further explanation below as to where our approach differs:



Affordable Housing

- 1.43 Mr Ross gives the delivery of affordable housing “more than significant benefit” as the Appeal proposal would delivery more than the policy requirement, 50% as opposed to the minimum of 40%.
- 1.44 If the maximum of 145 dwellings is delivered on the appeal site, the minimum requirement of 40% would generate 58 affordable housing units. At 50% provision increases by 14 dwellings, to 72 affordable homes in total. There is no mention of additional affordable housing provision being a factor in policy HOU5 that would provide further weight to justify a development as the requirement for 40% affordable housing is already met. I have attributed the substantial benefit to the delivery of affordable housing.

Ecology

- 1.45 Mr Ross (at paragraphs 9.71 to 9.76) refers to Mr Godwin’s assessment of the impact of the scheme on biodiversity, concluding the scheme would provide ecological enhancements and gives this benefit moderate weight.
- 1.46 As Ms Forester’s rebuttal explains, that the lack of information means the evidence is not provided to demonstrate that the intended improvements can be achieved, which could result in a the “*decline or loss of the quality of the habitats on site and which may consequently result in likely harm the species present*” (paragraph 41, Ms Forester’s Proof of Evidence), and further clarified in her rebuttal, and therefore is not a benefit.

Avoidance of wider effects

- 1.47 Mr Ross has given weight in his assessment of the Appeal proposals to the avoidance of harm to the AONB, Stodmarsh, Tenterden Conservation Area and other designated heritage assets moderate weight as a benefit of the proposed development.
- 1.48 The fact that a development causes no harm in each respect does not of itself provide a benefit. This approach assumes that other developments will generate harm. He does not explain how this harm will be avoided.
- 1.49 For instance, development at Ashford will be delivered with appropriate mitigation to avoid harm to Stodmarsh, delivering the appeal scheme will not impact on that approach or be the reason why those schemes avoid that harm.



- 1.50 Surely, harm could only genuinely be said to be avoided if there were a choice between two schemes, one coming forward whilst the other, through legal agreement, was prevented from ever being developed.

Surface Water Improvement

- 1.51 Mr Ross gives the reduction of surface water flows significant weight in the planning balance. He quotes KCC where they say the reduction in flows *“provide a significant benefit to surface water flows downstream”* (Mr Ross proof of evidence paragraph 9.84).
- 1.52 I have requested the advice of KCC on this matter however due to Covid absences I have been unable to obtain a response for this submission and will update the Inquiry accordingly.

Highways

- 1.53 Mr Ross gives the highway benefits limited weight in the decision-making process. I understand, from the email received from Kent County Council (appendix R7), that these works are mitigation for the development. In the email, Mr Hogben suggests there is only additional public benefit from a change in cycle times to the traffic signal junction on the A28. He attributes very limited public benefit to this. I am guided by his judgement here, and attribute very limited benefit to that improvement in my planning judgement.

Employment

- 1.54 Mr Ross gives the economic benefits of the scheme significant weight.
- 1.55 I do not agree with the approach, the construction benefit is limited to three years, a short period of time and therefore I give this limited weight.
- 1.56 In regard to the impact on Tenterden of the increase in the number of homes. I refer to my conclusions in paragraph 7.2 of my proof of evidence. The Local Plan Inspector concluded that Tenterden *“appears to be thriving”* (CD2.2) and I make the same judgement. Mr Marshall provides a list of the range of retail provision on the High Street in Tenterden, noting in his main proof of evidence (paragraph 2.8.6) that there are *“over 110 retail stores, cafes, banks and hairdressers”*. Mr Ross states he counted *“10 vacant shop units”*, so by the Appellants count, less than 9% are vacant. I do not agree that this *“indicates some weakness in the centre”* as Mr Ross describes it (paragraph 9.93 of this proof of evidence). I also note that the Local Plan Inspector took the view that the *“town appears to be thriving”*, having considered evidence



presented by Judith Ashton Associates that the economic prospects of the town could decline (CD2.16a paragraphs 3.1.8, 3.1.13 and 3.1.14) in adopting my approach.

Table 3: summary of the approach to benefits and harm:

Matter	Mr Ross	My view
Market Housing	Significant benefit	Substantial benefit
Affordable Housing	More than Significant benefit	Substantial benefit
Open Space	Significant benefit	Moderate benefit
Sports Pitches	Significant benefit	Limited benefit
Avoidance of other effects	Moderate benefit	Cannot be considered.
Landscape enhancements	Limited benefit	Mitigation for development.
Ecological benefits	Moderate benefit	Ms Forester concludes insufficient information to demonstrate improvements achievable, so proposed development likely to result in decline or loss,
Highways, transport and access	Limited benefit	Very Limited benefit
Drainage	Significant benefit	Awaiting further assistance from KCC.
Economic	Significant benefit	Limited benefit
Energy efficient homes	Referenced in SoC but not in PoE	Limited benefit
Landscape	Limited Harm	Substantial harm



Trees	Neutral	Substantial harm
Development plan	No harm	Substantial harm
Setting of the town		Substantial harm
Impact to the spatial strategy	No harm	Substantial harm
PROW	No harm	Moderate harm
Emerging Neighbourhood plan	No harm	Limited harm

1.57 On balance, and considering Mr Ross assessment against my own, I conclude that the adverse impacts of the development significantly and demonstrably outweigh the benefits of the development and that the appeal should be dismissed.



2 APPENDICES

R1: OAKENDALE COMMITTEE REPORT



R2: 5 YEAR HOUSING LAND SUPPLY POSITION STATEMENT



R3: CABINET MINUTES



R4: WILESBOROUGH ROAD DECISION NOTICE



R5: LETTER IN REGARD TO S24



R6: EMAIL CORRESPONDENCE IN REGARD TO S32



R7: EMAIL CORRESPONDENCE FORM KENT COUNTY COUNCIL