

LAND BETWEEN APPLIEDORE AND WOODCHURCH ROADS, TENTERDEN

OPENING STATEMENT
FOR THE LOCAL PLANNING AUTHORITY

1. The intention of this opening statement is not to make submissions on the evidence, but to provide a brief introduction to the Council's case.
2. The proposed development for up to 145 houses, including affordable homes, together with the creation of a community orchard, sports pitches and a pavilion building would, if permitted, contribute towards meeting the acknowledged shortage of housing in Ashford Borough Council's area. It is not in dispute that the Council cannot currently demonstrate a 5-year supply of housing land and the 'tilted balance' in NPPF para 11(d) is engaged. However, the extent of the shortage is disputed, as are other important issues, and the local planning authority has after careful consideration reached the overall conclusion that planning permission should be refused.
3. The proposed development would harm the strategy of the recently adopted Development Plan (Ashford Local Plan 2030, adopted February 2019), which itself is designed to address the housing land shortfall - which is small and will be short lived. The development would also cause significant environmental harm, especially to the landscape and important trees, and adversely affect the amenity of a well-used public right of way; there would be conflict with a proposed public right of way (which is subject to being confirmed by the Inspectorate in the near future). Of added concern

is that the future governance and management of the sports pitches is insufficiently clear to give confidence that the proposed development would provide the benefit to the community claimed by the appellant.

4. There is good reason why the adopted Local Plan focusses the majority of growth in the Borough at the most sustainable settlement of Ashford (see specifically policies SP1 and SP2). Ashford is a suitable sustainable settlement for strategic development of this scale; the appeal site contributes positively to the settlement edge of Tenterden and is not suitable for development.
5. Tenterden has limited scope for significant development. The Local Plan therefore says that any development must be of a “scale that is consistent with the relevant settlement’s accessibility, infrastructure provision, level of service available, suitability of sites and environmental sensitivity” (Policy SP2). The appeal site was specifically considered during the Local Plan allocation process and rejected because it was not regarded as a suitable site on account of its value as countryside and its contribution to the setting of the town. The Local Plan Inspector found that: “the site forms a wedge of countryside characteristic of the urban form of Tenterden as a small market town in a strongly rural setting, which would be eroded on development” (para 2.98, CD 2.6). His judgement, and that of the appeal Inspector in 1989, should be respected. The passage of time has not changed anything material with regard to the character and form of Tenterden.
6. Siting such a large development in this location would harm the Local Plan’s strategy as it would reduce the intended focus on Ashford and cause serious environmental harm, in particular to the landscape setting of Tenterden. Policies SP1 and SP2 are entirely consistent with the NPPF and there is no reason why they should not be given full weight. Similar themes are reflected in Policy HOU5 which allows for windfall development in the countryside but only according to strict criteria. These criteria are not met by this proposal because of its environmental impacts.

7. The Inspector has identified the main issues in this case, to which we now turn (in so far as they are reflected in the Council's reasons for refusal).
8. Mr Withycombe will consider the character and appearance of the area and the landscape and visual impact issues that the proposed development gives rise to. He will describe the landscape value of the land, in particular its strongly rural character and its important contribution to the settlement edge of Tenterden. The significant built form of the proposed development would neither sit sympathetically within the wider landscape nor enhance the setting of Tenterden. It would instead harm the intrinsic character and beauty of the countryside – which is much enjoyed by walkers along existing Footpath AB12 (and would be much enjoyed by walkers on Footpath AB70 if the order is confirmed). Attractive views towards St Mildred's Church from Footpath AB12 would be much changed, the main views not being enjoyed in a pastoral and verdant context but being framed by close residential development; the overall experience of using the right of way would be spoiled by the dominating influence of development. The development itself would transform the settlement edge of Tenterden and create a prominent, exposed and relatively intense urban edge. It is to be noted right from the start that this is not a case in which the appellant contends that there would be no or little harm in landscape and visual amenity terms – it is clear from the appellant's LVIA that there would be a number of significant negative effects (the appellant's case is that such harm would be outweighed by the benefits of the scheme).
9. Mr Cook will address the issues relating to trees. As he will explain, a number of trees would be lost, but the impacts on two particular trees is of serious concern (contrary to Policies SP6 and ENV 3a). T43 (a mature horse chestnut tree) near the site entrance forms part of the avenue of mature trees along Appledore Road. Its removal would cause a break in the rhythmic pattern of trees as one approaches the town. Contrary to the appellant's position, the prospect of a financial payment to the County Council would not mitigate this loss.
10. T381 (a field maple), although not proposed for removal, would likely be under significant pressure due to the proximity of the sports pitch development to its roots.

This tree is an “ancient” tree and is described in the tree survey schedule as an “essential component of the group within which it stands, of ecological, cultural and historic value, of high quality and moderate landscape value; of long-term potential” (CD 1.13). It should not be subject to any risk of deterioration through development. There is a difference in view between the two experts in relation to the likely damage to this tree which the Inspector will need to consider.

11. There is a well-used circular route around the appeal site which Kent County Council has made an Order to record on the definitive map (AB70). Although the rights of long-user have not yet been formally confirmed, KCC’s decision to make the Order reflects its view that there is sufficient evidence that there is a reasonable allegation that the rights subsist (see the test in s. 53(3)(c)(i) of the Highways Act 1981). There must therefore be at least a reasonable prospect that the route will be confirmed, and the effects on claimed footpath AB70 (which is clearly visible on the ground on the site) should be taken into account now as a material consideration.
12. As Ms Beswick will explain, the Illustrative Masterplan shows development which would wholly obstruct AB70. The developer has at a very late stage provided new revised layout plans which seek to show that the houses could be relocated so that the footpath would not be obstructed and contends that this can be dealt with at reserved matters stage. However, it is perfectly clear that, whatever the exact layout, there would inevitably be houses in extremely close proximity to the path causing amenity and safety issues both for users of the path and future residents. Accordingly, this must be acknowledged as a harmful impact at the outline stage, otherwise the Council would be put in the invidious position of being compelled to approve a layout at reserved matters stage, knowing that it would have harmful consequences, but being powerless to refuse it.
13. Ms Forster will give evidence concerning ecology. A Landscape and Ecological Management Plan has been submitted but there are serious concerns about the ability for the developer to manage the improved habitats so that the claimed Biodiversity Net Gain can be achieved. There are also objections as to management in the context of

the proposed sports facilities. As Mr Mayatt will explain, the plans lack detail as to ownership, management and maintenance responsibilities, contrary to Policy IMP4 of the Local Plan. It does not appear that the two Tenterden football clubs, Tenterden Town Football Club and Tenterden Tigers, who would represent the majority of potential users, are engaged with the developer. They may well not actually use the proposed facilities at all, if they are built. This casts doubt on their usefulness and benefit.

14. Overall, as Ms Goodyear will set out in relation to the planning balance, the proposal does not accord with the statutory development plan, and there are overriding objections to the proposed development of this site as a matter of principle in strategic planning and environmental terms, reflected in the Council's reasons for refusal in relation to landscape and associated visual impacts, the enjoyment of existing and proposed rights of way, trees, ecology and to the management of the country park and sports facilities.

15. Building new houses and providing affordable homes is of course an important issue. The shortfall in housing land in this case is reflected in the application of the 'tilted balance' in the NPPF. However, the Council considers that the claimed benefits of the appeal scheme are significantly and demonstrably outweighed by the serious harm to interests of acknowledged importance that would be caused. Accordingly, the Inspector will in due course be invited to dismiss the appeal.

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