

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Land between Woodchurch Road and Appledore Road, Tenterden

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 orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Save for access, matters of appearance, landscaping, layout & scale reserved for consideration') 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.

Appeal by Wates Developments Ltd

Proof of Evidence by **Len Mayatt, Cultural Projects Manager, Ashford Borough Council**

Rebuttal to Proof of Evidence prepared by Richard Grady, Consult QRD on behalf of the Appellant.

Local Authority Reference: 21/00790/AS

Planning Inspectorate Reference: APP/E2205/W/21/3284479

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1.0 Introduction

1.1 This rebuttal has been prepared to address the issues raised in the Proof of Evidence (PoE) dated January 2022, submitted by Richard Grady on behalf of the Appellant in relation to the proposed provision of sports and community facilities and countryside open space.

1.2 The intention of this document is to clarify areas where Ashford Borough Council (ABC) has sought and continues to seek sufficient information to enable it to determine whether the Appellants application fulfills the requirements of IMP4 in relation to the governance of the proposed sports and community facilities.

Policy IMP4 – Governance of Public Community Space and Facilities

Proposals that will deliver substantial community space and facilities are required to be supported by a 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.

Proposals which adopt a community stewardship model of governance will be supported.

Should a private management company model be promoted, then it will need to be established and run in a way that is affordable, gives the residents a key governance role and is focused towards the management of the facilities to be delivered by the development.

1.3 As a reminder, the Council's Decision Notice sets out Reason for Refusal as follows:

6. 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;

1.4 This document will address the Council's view on the issues referenced above as; general need; community provision; community engagement and; management of the open space facilities. A key element of the community provision and engagement issues is the outstanding question of whether the two local football clubs named in the Borough Council's Playing Pitch Strategy 2017 – 2030 as being in need of a confirmed 'home' facility, would be accommodated within the proposed development.

1.5 The Borough Council's overall aim is to ensure the proposed development would achieve the following;

- Meet the requirements of the Playing Pitch Strategy 2017 – 2030 (PPS)
- Utilise a robust governance strategy that clarifies how the proposed facilities would be managed and by whom.
- Specifically provide detail on who would own the proposed community facilities
- Specifically provide detail on who would manage the proposed community facilities
- If a community stewardship model is proposed by the Appellant to meet the requirements of IMP4, detail is required as to who the community organisation would be, how they would be supported in their development if it is a new community group and the anticipated timescale for them to become proficient in managing the proposed facilities.
- If a private management company is proposed to manage the facilities to meet the requirements of IMP4, detail is required on how that company will engage with the local community and how local residents will be given a key governance role in the management of the facilities.
- Provide detail on how the two key football clubs referenced in the PPS (Tenterden Tigers and Tenterden Town FC) would be accommodated within the proposed community facilities and whether agreement has been reached on whether they would definitely be accommodated within the proposed community facilities and on what terms if they are to be accommodated within the proposed scheme.

1.6 The purpose of seeking absolute clarity on these issues at this stage in the process is to ensure that the proposed facilities would meet the requirements of the PPS and providing sufficient detail on the proposed relationship between the proposed facilities and the local community to enable the Council to determine whether or not the facilities are likely to be used by the community. Within this context community includes the two key clubs referenced in the PPS as well as the wider community who desire access to affordable community facilities. It is essential to the Council and local community to see firm evidence that the proposed facilities would not be left unused by the local clubs and community for any reason.

2.0 General Need

- 2.1 The level of detail provided by the Appellant is reassuring to the Council that the number of proposed pitches, their design, layout and configuration would be in accordance with the ambitions of the PPS. Sport England have also confirmed they do not object to these elements of the proposed development. The same comment can be made of the proposed ancillary facilities, changing rooms and community space in terms of their structure, layout and configuration.
- 2.2 Although the layout and design is reassuring to the Council and is complimentary of the ambitions of the PPS, the Appellant has not provided detailed evidence that the proposed facilities would meet the current need of the anticipated user groups themselves. The Appellant has cited meetings with potential users (**RG Proofs Section C para 21; para 3.1.2 to 3.4.5**) and inserted individual quotations from those meetings in their evidence. However, they have not provided any detail of those meetings or any form of written assurance the proposed facilities would be used by the local community.
- 2.3 This is in contrast to the position regarding negotiations with Homewood School, who have confirmed in writing they will not be using the facilities (**RG Proofs Appendix One**). That in itself is disappointing to learn, as such facilities would be of benefit to younger members of the community as part of their school physical education programme. However, the school have described the distance they would be required to travel to the proposed facilities would make them an unpractical option for the school to consider.

- 2.4 The Appellant has not provided any similar written evidence to support their claims the proposed facilities would meet the current and future needs of the community, they have only advised definitively who would not use the facilities. **(RG Proofs para 3.4.4)**
- 2.5 The Council continues to seek reassurance from the Appellant that they have addressed the question of need with the local community and the proposed facilities would in fact meet the current needs of that community and be used by them.

3.0 Community Provision

- 3.1 The position regarding community provision is related to the question of need noted above in this document. However, the prime focus here is that of community. The Appellant has described the potential benefit of the proposed facilities to the local community should they be delivered. **(RG Proofs Section 2.0)** However, they have not provided detail on how the community would interact or directly benefit from the proposed facilities if they are delivered.
- 3.2 It should be noted that the proposed community facilities would not just provide changing rooms and ancillary space for the proposed sports pitches, they will also provide a community space to be used for meetings and gatherings for non-sporting users. However, The Appellant has not produced a detailed programme of potential users of the proposed facilities, an indicative timetable for usage or an indicative pricing structure. Their only confirmation is that the Sea Scouts will be accommodated within the proposed facility, which is welcomed.
- 3.3 It is noted that the population of Tenterden is growing, so the potential demand for community facilities may match that projected growth. However, there are already a number of community facilities within the Tenterden area (Assembly Room, Councillors Room, Highbury Hall, St Michaels Village Hall, St Mildreds Church Hall and Tenterden Leisure Centre for example). Therefore, the Council continues to seek reassurance the proposed facilities would meet the demands and needs of the current community, complimenting what is already available and would be regularly made available to the local community.

4.0 Community Engagement

- 4.1 The Appellant has described their attempts to engage with the local sporting community within their written submission **(RG Proofs Section C para 21; para 3.1.2 to 3.4.5)**. It is clear from that submission that the Appellant has not been able to fully engage with the local sports clubs and in particular those clubs that have been cited within the PPS as most likely to benefit from the proposed facilities should they be delivered.
- 4.2 At the time of writing, the limited engagement from the community leaves the question of who will use the facility as unanswered. To date, two organisations that have responded to the Appellant, who could have been considered as potential users; Homewood School and Brewmaster High Halden FC have confirmed they will not use the facility.
- 4.3 It is noted the Appellant has recorded having received some information from potential users of the facility but has been asked not to present it within their submissions **(RG Proofs para 3.3.3)**. Therefore, that information cannot be considered as relevant at this time. It is of particular concern that the two main local clubs cited in the PPS as being in

need of facilities in the Tenterden area have not fully engaged with the Appellant. This leaves the Council unable to determine whether the proposed facilities would benefit those clubs or not.

4.2 As the Appellant has not been able to secure confirmation from the community on the subject of who will use the facility and as yet has not indicated a timetable by which they hope to do so, the question of community engagement remains unfulfilled for the purposes of complying with IMP4. The Appellant has confirmed they have been unable to achieve a positive response despite trying to do so since 2014 (**RG Proofs para 3.1.4**). Therefore the Council submits this element of IMP4 remains unmet.

5.0 Management

- 5.1 The level of detail provided by the Appellant on the proposed programme of pitch maintenance works is reassuring to the Council that the correct processes could be incorporated into the future maintenance programme for the proposed facilities if they are delivered.
- 5.2 This is subject to the caveats highlighted by Sport England regarding final construction of the pitches, drainage and seed types being resolved satisfactorily first. (**RG Proofs para 4.1.6**) As pitch construction, pitch drainage and choices of grass seed types are fundamental to the final performance of a playing surface it is necessary to seek confirmation from the Appellant as to their final proposals in regard to these matters to ensure compliance with IMP4.
- 5.3 The Appellant has cited comparison with a relatively recent planning application for a new pitch to serve Hamstreet Primary Academy (Ref:11.800644AS) (**RG Proofs para 4.1.7**) where different information has been sought by the Council than what has been requested for the proposed Appledore Road development. There are a number of differences between the two applications; The Hamstreet application relates to a single pitch and it is primarily a school facility that will have some community use. This is in contrast to the Appledore Road application that would deliver multiple pitches if it is approved and has been confirmed by the Appellant the proposed development does not include school usage. Therefore, it is the Council's belief that the example presented by the Appellant is not comparative.
- 5.4 The Appellant has provided proposals through the Appeal process for how the important questions of ownership, management and governance could be addressed should the development be approved. The Council continues to seek certainty in relation to these critical issues.
- 5.5 On the subject of future management and governance, in his submission dated January 2022, **Draft Proofs of Evidence Para 5.2.10, Richard Grady** states... 'given the Sports Hub and Country Park will not be open to community use before Autumn 2024, it is my view that there is ample time available to identify, appoint and support a suitable organisation or organisations to ensure that appropriate expertise and a sustainable business plan are in place.' This is disappointing as it does not address what would happen if a suitable organisation or organisation could be identified, which given then lack of meaningful engagement between the Appellant and the local community has to be considered as one possible situation. It is that potential situation the Council is keen to

avoid by seeking absolute certainty on who would own, manage and maintain the facilities at the application stage.

- 5.6 The timetable proposed by the Appellant by (**Richard Grady Proof Appendix 13**) to deliver a community interest group to manage the facilities is too short. The Council's previous experience on these situations means that twelve months should be considered as a realistic timeframe to enable such a group (if willing volunteers can be identified) to be mobilised and registered with relevant governing bodies such as the Charity Commission and/or Football Association.
- 5.7 The Appellant has cited a number of open space sites within Richard Grady's Proofs (**Para 5.4.8 and 5.5.5**) and that have benefited from a Fields in Trust (FIT) Deeds of Dedication to offer them a level of protection. While such a proposal can be considered as being of potential benefit to the proposed development at Appledore Road, it is understood that such Dedications are normally offered by Fields in Trust for sites that are owned by Town, Parish, Borough or District Councils. **FIT** [What is Fields in Trust protection? | Fields in Trust](#) As ownership of the proposed sports and community spaces has not been agreed and the Appellant has suggested the freeholder could be an estate management body (**RG Proof para 5.1.1**), doubt is cast over whether this is a viable suggestion unless Fields in Trust have indicated they would favourably consider an application on behalf of this site without a local council freehold in place.
- 5.8 To summarise the Council's position in relation to management of the proposed facilities should they be approved, we still await the detail of who the named organisations will be that will own, manage and maintain those facilities. We still await the detail of whether the two main football clubs will be incorporated into the scheme and if so on what terms and if they are not engaged with the scheme (as they represent the main body of potential users) who will use and benefit from the facilities. To date we have only been advised of who will not use the facilities.
- 5.9 A timetable has been presented for how a community based organisation could be incorporated to manage the proposed facilities but that timetable is unrealistic.
- 5.10 A proposal has been submitted for a FIT Dedication of the proposed open spaces. However, uncertainty remains as to whether such a dedication is achievable.
- 5.11 The Appellant has produced a schedule of proposed actions and a proposed methodology for securing a community based operator for the proposed facilities, which covers many of the areas the Council would expect to see in such a suite of documents. (**RG Proofs Appendix 13**) However, clarity on whether this approach will in fact be adopted or not and what would approach would be introduced if a suitable community group cannot be secured remain missing.
- 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.