



ASHFORD
BOROUGH COUNCIL

Playspace / Allotments / Cemeteries Topic Paper

of the Local Planning Authority in respect of:

Land at Chilmington Green, Ashford Road, Great Chart, Ashford, Kent

Appeals by:

Hodson Developments (Ashford) Limited; Chilmington Green Developments Limited;
Hodson Developments (CG ONE) Limited; Hodson Developments (CG TWO)
Limited; and Hodson Developments (CG THREE) Limited.

Against the failure to determine applications to modify or discharge obligations contained in the S.106 agreement dated 27 February 2017 attached to planning permission ref: 12/00400/AS (as amended by a Supplement Agreement dated 29 March 2019 and a deed of variation dated 13 July 2022).

Appeal References: APP/W2275/Q/23/3333923 & APP/E2205/Q/23/3334094

Ashford Borough Council References: AP-90718 & AP-90647

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Appendices

- A Chilmington Green AAP Main Phase 1 Design Brief and Specification for Play Space 1 December 2022
- B Children's and Young People's Playspace provision - appraisal of proposed modifications alongside AAP & SPD requirements.
- C Allotment provision - appraisal of proposed modifications alongside AAP & SPD requirements.

1.0 Introduction

- 1.1 This Topic Paper is submitted on behalf of the Local Planning Authority, Ashford Borough Council (“the Council”) and concerns the modifications proposed to Schedules 8, 9 and 11 of the Chilmington Green S.106 Agreement (“the Agreement”) which require children’s and young people’s play space (the “Playspace”) and allotments to be provided on the Chilmington Green development site (the “Site”) and requires financial payments towards the provision of cemeteries outside of the Site.
- 1.2 Playspace and allotments are required to meet the recreational needs of the residents of the Chilmington Green development (the “Development”), based on a total population of circa 13,800. The amount of provision required is set out in Table 2 of the Chilmington Green AAP (the “AAP”) (CD3/1/1, page 57). The amount, in turn, was derived from the Public Green Space and Water Environment SPD 2012 (CD3/1/5). This provision comprises 6.9 hectares of equipped playspace and 2.76 hectares of allotments – all to be provided on the Site.
- 1.3 Chapter 11 of the AAP “sets out the proposed approach to phasing of the Development and how this should relate to the delivery of key infrastructure” (CD3/1/1, paragraph 11.1, page 110). The AAP continues that “*this approach is informed by the availability of existing infrastructure and the ability to deliver new infrastructure in a cost-effective and viable manner whilst ensuring that development remains sustainable in its own right at all stages – a key principle of this AAP*” (paragraph 11.3, page 110).
- 1.4 The Development is to be delivered in four phases – Main AAP Phases 1, 2, 3 & 4. The location of these four phases on the Site are shown in AAP Figures 18-21 (CD3/1/1, pages 115-118) and they are defined in the Agreement (refer to Definitions, paragraph 1.1). The number of dwellings in each phase is shown in Table 1 below.

Main AAP Phase	Number of dwellings	Cumulative number of dwellings
1	1501	1501
2	1124	2625
3	1559	4184
4	1566	5750

Table 1: the number of dwellings in each Main AAP Phase.

- 1.5 One of the key principles of the AAP (refer to policies CG1(b) & CG8) is that each phase of the Development is ‘sustainable in its own right’. The AAP states that “*this requires that properly planned infrastructure delivery is achieved*

alongside the development of new housing and that any significant gaps or shortfalls in provision are avoided” (CD3/1/1, paragraph 11.30, page 113).

- 1.6 The AAP also states that *“the delivery / funding of infrastructure will be based on a series of ‘triggers’, typically threshold numbers of homes completed. These triggers will help to guarantee that at all stages of the development, sufficient infrastructure will be in place to adequately serve the resident population” (CD3/1/1, paragraph 4.27, page 29).*
- 1.7 The AAP includes an Infrastructure Delivery Plan (the “IDP”) *“which sets out when key infrastructure will need to be delivered and how it is anticipated this will occur” (CD3/1/1, paragraph 11.33, page 114).* The AAP also envisaged that *“the IDP will provide the basis for the Heads of Terms within the Section 106 Agreement for the Development and for the use of planning obligations attached to any grant of outline planning permission to control the implementation of the Development.” (CD3/1/1, paragraph 11.33, page 114).*

2.0 The Requirements of the Agreement

Children’s and young people’s play space

- 2.1 Children’s and young people’s play spaces (the “Playspaces”) are proposed in five locations on the Site. The locations are identified as land parcels ‘PS1’, ‘PS2’, ‘PS4’, ‘PS5’ and ‘PS7’ on the Chilmington Green Open Space Plan¹ (the “Open Space Plan”) (CD6/13) that was approved as part of the outline planning permission for the Chilmington Green development (the “Development”). There is an additional playspace ‘PS6’ also identified on the Open Space Plan – this playspace will be located in Discovery Park and its delivery is secured under Schedule 10 of the Agreement. ‘PS6’ is therefore dealt with in the Sports Facilities (inc. Strategic Parkland) topic paper, although it is referred to in this topic paper where relevant.
- 2.2 As defined in the Agreement, the size of each Playspace and the total capital cost to be spent by the appellant on each Playspace is set out in Table 2 below. The total capital cost to be spent on all five Playspaces combined shall not exceed £2,585,143.00. Each sum, and the total cost, are index linked up to the date of each reserved matters approval for the relevant Playspace. The total capital cost excludes fees, contingencies, specification and design costs, supervision fees, access roads, service costs and costs for any landscaped buffers or screening around play areas (Schedule 8, paragraphs 1.1 and 1.1.1).

¹ Plan ref: OPA06R2 Rev P2 attached as Annex 3 to the Agreement, and superseded by OPA06R2 Rev P3 approved under non-material amendment application ref: 12/00400/AM07/AS.

Main AAP Phase	Playspace	Size (hectares)	Total capital cost
1	PS1	1.0	£235,013.00
2	PS2	1.5	£705,039.00
3	PS4	1.5	£705,039.00
4	PS5	1.5	£705,039.00
4	PS7	1.0	£235,013.00

Table 2: the size and total capital cost of each Playspace

2.3 In summary, Schedule 8 requires the appellant to (1) submit to and have approved by the Council a Design Brief and Specification (the “DB&S”) for each Playspace and (2) to provide each Playspace on the Site in the locations identified on the Open Space Plan.

2.4 In detail, Schedule 8 requires the following:

- i. To submit to and have approved by the Council a DB&S for each Playspace no later than the number of dwelling occupations in each Main AAP Phase specified in the Agreement (refer to Table 3 below). The DB&S shall include all the information specified in Schedules 8A (Schedule 8, paragraphs 1, 1.1 & 1.1.1).

Main AAP Phase	Playspace	Trigger – dwelling occupations
1	PS1	50
2	PS2	50
3	PS4	750
4	PS5	650
4	PS7	1150

Table 3: Triggers for submission and approval by the Council of each DB&S.

- ii. Before the submission of the DB&S to the Council, the appellant is required to undertake a consultation exercise with the Chilmington Management Organisation (the “CMO”) and other relevant stakeholders and the public (Schedule 8 paragraph 1.1.2).
- iii. Before the commencement of the consultation with stakeholders and the public, the appellant is required to submit and have approved by the CMO the details of the proposed consultation exercise, or if not approved by the CMO within six weeks, then seek approval from the Council (Schedule 8 paragraph 1.1.2).

- iv. The DB&S shall include all consultation responses received, including the CMO's comments on the costings (Schedule 8, paragraph 1.1.2).
- v. To provide the Playspaces on the Site no later than the number of dwelling occupations in each Main AAP Phase specified in the Agreement (refer to Table 4 below) and in accordance with the reserved matters approval granted for the Playspaces and the approved DB&S. The Playspaces shall also be free from any defects identified by the CMO, other than those of a cosmetic nature (Schedule 8, paragraphs 1.2, 1.2.1 & 1.4).

Main AAP Phase	Playspace	Trigger – dwelling occupations
1	PS1	500
2	PS2	500
3	PS4	1100
4	PS5	1100
4	PS7	1500

Table 4: Triggers for the provision of each Playspace on the Site.

- vi. The appellant is required to ensure that all necessary actions have been taken to ensure that the land on which the Playspaces are located is free from contamination and pollution and protected species that would prevent or limit the intended use (Schedule 8 paragraph 1.2.2).
 - vii. The appellant is also required to ensure that all conditions attached to the planning permission or approval for reserved matters for the Playspaces that are required to be discharged before first occupation/use of the Playspaces, have been discharged (Schedule 8, paragraph 1.2.3).
 - viii. The Council is required to notify the CMO's director of the approval of the DB&S and the reasons for it (Schedule 8, paragraph 3.2).
- 2.5 Schedule 8 also includes obligations relating to the long-term ownership and management and maintenance of the Playspaces and payment of the Council's costs (Schedule 8, paragraphs 1.2.4 – 1.2.6; 1.3, 2 and 3.1). The proposed amendments to these obligations are dealt with separately in the 'Ongoing Management and Maintenance' and the 'Delivery/Monitoring/Council's costs' Topic Papers and therefore this topic paper does not respond to the proposed modifications to these obligations.
- 2.6 To date, only one of the dwelling occupation triggers referred to above has been reached. This relates to the obligation to submit to and have approved by the Council, a DB&S for PS1 no later than 50 dwelling occupations in Main AAP Phase 1. Based on evidence of dwelling occupations, the DB&S should have been submitted to and be approved by the Council on or before 20 April 2021.

The DB&S was submitted to the Council on 6 January 2023. The Council provided the appellant with their comments on the DB&S on 13 February 2023. The Council, following the CMO's agreement to the appellant's stakeholder consultation strategy, also agreed the consultation strategy on 14 February 2023. To date the appellant has not submitted an updated DB&S to address the comments made by the Council, nor has the appellant completed the stakeholder consultation exercise detailed in the agreed consultation strategy.

Allotments

- 2.7 The allotments are proposed in four locations on the Site. The locations are identified as land parcels 'A1+A2', 'A3', 'A5', 'A4+A6' and 'A7' on the Chilmington Green Open Space Plan (the "Open Space Plan") (CD6/13) that was approved as part of the Outline planning permission for the Development.
- 2.8 As defined in the Agreement, the size of the allotments and the total capital cost to be spent by the appellant on each allotment is set out in Table 5 below. The total capital cost for each allotment is index linked up to the date of the reserved matters approval and excludes fees, contingencies, specification and design costs, supervision fees, access roads, service costs (Definitions, paragraph 1.1).

Main AAP Phase	Allotment ²	Size (hectares)	Total capital cost
1	A1 + A2 ³	0.70	£313,542.00
2	A4 + A6 ⁴	0.57	£255,312.00
3	A7	0.72	£322,500.00
4	A3 ⁵	0.77	£344,896.00
	Total	2.76	

Table 5: the size and total capital cost of each allotment

- 2.9 There is an additional allotment identified on the Open Space Plan ('A5') that is not referred to in the Agreement. This was proposed and agreed as part of the outline planning permission for the Development and is proposed to be delivered in Main AAP Phase 1, in addition to allotments A1 + A2. As part of

² The Council suggests that the errors identified in footnotes 3, 4 & 5 below are corrected via the clause built into each allotment Definition in the Agreement whereby the Council can approve an alternative location of each allotment so that the approved locations align with the Open Space Plan.

³ The Definitions in the Agreement erroneously refer to the Main AAP Phase 1 allotments as land parcel 'A6+A4'. Instead, the Main AAP Phase 1 allotments are land parcel 'A1+A2' as identified on the Open Space Plan.

⁴ The Definitions in the Agreement erroneously refer to the Main AAP Phase 2 allotments as land parcel 'A3'. Instead, the Main AAP Phase 2 allotments are land parcel 'A6+A4' as identified on the Open Space Plan.

⁵ The Definitions in the Agreement erroneously refer to the Main AAP Phase 4 allotments as land parcel 'A1+A2'. Instead, the Main AAP Phase 4 allotments are land parcel 'A3' as identified on the Open Space Plan.

the approval of the Main AAP Phase 1 Masterplan (refer to permission ref: 12/00400/CONA/AS) it was agreed that allotment “A5” would be re-sited from its location identified on the Open Space Plan (adjacent to the first primary school) to instead form an extension to allotment “A7”. At this time, it also became apparent that the size of allotment “A7” as shown on the Open Space Plan was smaller than that identified in the Agreement. Consequently allotment “A7” as shown on the Open Space Plan will be extended to match the area stated in the Agreement by incorporating allotment “A5”. Allotment “A5” is therefore required to meet the minimum amount of allotment provision on the Site of 2.76 hectares.

2.10 In summary, Schedule 9 requires the appellant to provide each allotment on the Site in the locations identified on the Open Space Plan. In detail, Schedule 9 requires the following:

- i. To provide the allotments on the Site no later than the number of dwelling occupations in each Main AAP Phase specified in the Agreement (refer to Table 6 below) and in accordance with the reserved matters approval granted for each allotment (Schedule 9, paragraphs 1, 1.1, 1.1.1 & 1.3).

Main AAP Phase	Allotments	Trigger – dwelling occupations
1	A1 + A2	1000
2	A4 + A6	1000
3	A7	1400
4	A3	1400

Table 6: Triggers for the provision of each allotment on the Site.

- ii. The appellant is required to ensure that all necessary actions have been taken to ensure that the land on which the allotments are located is free from contamination and pollution and protected species that would prevent or limit the intended use (Schedule 9, paragraph 1.1.2).
 - iii. The appellant is also required to ensure that all conditions attached to the planning permission or approval for reserved matters for the allotments that are required to be discharged before first occupation/use of the allotments, have been discharged (Schedule 9, paragraph 1.1.3).
- 2.11 Schedule 9 also includes obligations relating to the long-term ownership and management and maintenance of the allotments and payment of the Council's costs (refer to Schedule 9, paragraphs 1.1.4 – 1.1.6; 1.2, 2 and 3). The proposed amendments to these obligations are dealt with separately in the 'Ongoing Management & Maintenance' and the 'Delivery/Monitoring/Council's

costs' topic papers and therefore this topic paper does not respond to the proposed modifications to these obligations.

- 2.12 To date, none of the dwelling occupation triggers for allotments referred to above have been reached.

Cemeteries

- 2.13 Schedule 11 secures the payment of a total of £800,000.00 to the Council in five instalments no later than the number of dwelling occupations specified in the Agreement - refer to Table 7 below (Schedule 11, paragraphs 1 & 2). The monies received are to be used to fund "*the provision of a new cemetery in south Ashford*" (Schedule 11, paragraph 3). To date, the trigger for the Development to make the first payment (1599 occupations) has not been reached.

Amount payable	Trigger – dwelling occupations
£250,000.00	1599
£250,000.00	2199
£100,000.00	2799
£100,000.00	3399
£100,000.00	5199

Table 7: Triggers for payment of the cemetery provision obligation.

3.0 The Continuing Purpose

Children's and young people's play space

- 3.1 The methodology for calculating the amount of playspace required on the Site to meet the recreational needs of residents of the Development is set out in the Public Green Space and Water Environment SPD (the "SPD") (CD3/1/5).
- 3.2 In accordance with the SPD, the dwelling threshold for the provision of equipped play space on a site is 415 dwellings (CD3/1/5, page 14, Table 2) and the provision for playspace should be made at the level of 0.5 hectares per 1000 population (CD3/1/5, page 12, Table 1).
- 3.3 The Agreement secures the delivery of the Playspaces in Main AAP Phase 1 and 2 of the Development later than that required in the AAP IDP. The timing of the delivery of the Playspaces in Main AAP Phase 3 and 4 are in-line with the timing required in the AAP IDP – there is therefore initially and in the medium term a deficit of provision in Main AAP Phases 1 and 2 when compared

to the AAP but the provision then 'catches up' with the requirements of the AAP IDP in Main AAP Phases 3 and 4 (refer to Appendix B).

- 3.4 When considering that amount of provision required by the SPD based on the population that would be living on the Site when the Playspaces are due to be delivered in accordance with the Agreement – there would be under provision in Main AAP Phases 1, 2 and 3, with the provision required to meet the needs of the total population 'catching up' in Main AAP Phase 4.
- 3.5 There is no alternative provision in the local area that would be accessible to residents of the Development and that would be able to provide for the needs of the existing local community and the needs generated by the Development.
- 3.6 The Ashford Open Space Strategy 2017 (CD4/9) provides details of existing play provision within the borough. Figure 8, page 49 shows the result of the audit of play area quality and illustrates that there is limited play provision near the Site, with some provision close to the eastern boundary, and certainly no existing provision that would be accessible from the whole of the Site.
- 3.7 The triggers for the delivery of the Playspaces on the Site are set to ensure that there is sufficient provision to meet the needs of the residents of the Development in accordance with the AAP and the quantitative standards identified in the SPD (CD3/1/5, Appendix 2, page 35). There is no alternative provision in the local area that would be accessible to residents of the Development and that would be able to provide for the needs of the existing local community and the needs generated by the development. The provision of playspace on the Site within the timescales set out in the Agreement remains integral and essential to meeting the recreational needs of the residents of Chilmington Green and to successful placemaking for a development of the scale proposed.
- 3.8 With regard to the DB&S, the triggers for the submission and approval of the DB&S are set to ensure that sufficient time is available for meaningful consultation with residents; for all parties to agree a playspace of a high design quality; for construction contracts to be let and to enable the Playspace to be delivered 'on time' to meet the recreational needs of residents of the Development.

Allotments

- 3.9 The methodology for calculating the amount of allotment space required on the Site to meet the recreational needs of residents of the Development is set out in the SPD (CD31/5).

- 3.10 In accordance with the SPD, the dwelling threshold for the provision of allotments on site is 1375 dwellings (CD3/1/5, Table 2, page 14) and the provision for allotments should be made at a level of 0.2 hectares per 1000 population (CD3/1/5, Table 1, page 12).
- 3.11 The timing of the delivery of the allotments on the Site is secured in the Agreement in accordance with the AAP IDP and broadly in accordance with the requirements of the SPD based on the population that would be living on the Site when the allotments are due to be delivered – with an over-provision by 0.22 hectares in Main AAP Phase 1 but with provision being brought back in line with the SPD in Main AAP Phases 2, 3 and 4 (refer to Appendix C).
- 3.12 There is no alternative provision in the local area that would be accessible to residents of the Development and that would be able to provide for the needs of the existing local community and the needs generated by the development.
- 3.13 Existing allotment provision is failing to meet demand within the borough. The nearest Council owned allotments to the Site are Cryol Road and Beaver Field, approximately 4km away. Both sites are fully occupied, and there are waiting lists of 82 for Cryol Road and 100 for Beaver Field. There are other allotments in the borough managed by Parish Council's – the nearest of these to the Site is Hillcrest, circa 1.0km from the Site. Great Chart with Singleton Parish Council has confirmed that Hillcrest is at full capacity with a waiting list of 20.
- 3.14 The triggers for the provision allotments on the Site are set to ensure that there is sufficient provision to meet the needs of the residents of the Development in accordance with the quantitative standards identified in the SPD (CD3/1/3/5, Appendix 2, page 35). There is no alternative provision in the local area that would be accessible to residents of the Development and that would be able to provide for the needs of the existing local community and the needs generated by the development. The provision of allotments on the Site within the timescales set out in the Agreement remains integral and essential to meeting the recreational needs of the residents of Chilmington Green.

Cemeteries

- 3.15 The AAP identifies the need for the Development to contribute towards new cemetery provision in the borough (CD3/1/1, paragraph 6.50, page 61). This accords with the Public Green Space and Water Environment SPD (the "SPD") which identifies that financial contributions will be sought from developments rather than provision on site (CD3/1/5, Table 2, page 14). In accordance with the SPD, provision for cemeteries should be made at 0.6 hectares per 1000 population (CD3/1/5, Table 1, page 12). AAP policy CG8 and the IDP identify the potential for a cemetery to be provided within Discovery Park, however, this

was not taken forward in the outline planning permission and was not secured in the Agreement.

- 3.16 It was identified in the planning committee report for the outline planning application that the total sum required to be paid for the provision of cemeteries departs from the sums set out in the SPD. This departure is justified on the basis that *“aggregating contributions in the way proposed it is realistic that they could deliver a new cemetery”* (CD6/14, Item 13).
- 3.17 The planning committee report also identifies that the contribution is only payable for anticipated dwellings occupied post 2020. At the time the application was determined it was identified that there was sufficient cemetery capacity until 2020, but more space would be needed thereafter. In accordance with the housing completions trajectory set out in Appendix 4 of the AAP (CD3/1/1, page 164) the contribution applies to 4300 dwellings.
- 3.18 In accordance with the SPD a contribution of £1,221,200 towards the capital costs of providing a new cemetery and a contribution of £756,800 towards maintenance costs for 10 years would be required from the Development - a total of £1,978,000. Instead, the Agreement secures a total contribution of £800,000 for the provision of a new cemetery. It is understood that the amount secured in the Agreement was based on the understanding that additional cemetery provision would only be required post 2020.
- 3.19 The planning committee report identified that payments would be made in four stages in line with the ‘viability phases’ also identified in the committee report - this was set out as follows
- Viability Phase 2 - £500k to allow for site acquisition and preparation.
 - Viability Phase 3 - £100k for the remainder of site layout/access road/services, etc.
 - Viability Phase 6 - £100k for enlargement costs –new roads/planting, etc
 - Viability Phase 9 - £100k for enlargement costs –new roads/planting, etc
- 3.20 The Agreement secures payment of the contribution in five phases, albeit the timing of the first and final payments (trigger by dwelling occupations) remains generally the same as envisaged in the planning committee report.
- 3.21 There are currently four cemeteries in the borough, the nearest to the Site are Canterbury Road and Willesborough, circa 5.5km - 8km to the east respectively. The Ashford Borough Council Cemetery Provision: Challenges

and Solutions report to Cabinet, November 2019, identifies the amount of cemetery provision that remains in each cemetery (CD4/12, paragraph 16, page 235) and the number of years of estimated provision (CDXX, paragraphs 21 and 22, page 236). The report identifies that *“the key issues facing our cemeteries are that with a rapidly expanding and aging population the remaining capacity could fall dramatically in coming years. At current rates we have 34 years remaining at Bybrook, 90 at Willesborough and 25 at Tenterden but if the death rates continue as expected, these lifespans will decrease to 24 at Bybrook, 62 at Willesborough and just 17 years at Tenterden”* (CD4/12, paragraph 24, page 236).

- 3.22 The triggers for the payment of this financial contributions are set to ensure that there is sufficient provision to meet the needs of the residents of the Development in accordance with the quantitative standards identified in the SPD (Appendix 2, page 35).
- 3.23 The Cemetery Provision: Challenges and Solutions report to Cabinet, November 2019 (CD4/12) identifies that the borough is running out of cemetery space. The Chilmington Green development, being the largest development site in the borough, will place a significant demand on cemetery space in the future. The payment of the financial contribution within the timescales set out in the Agreement consequently remains integral and essential to meeting the needs of the residents of Chilmington Green.

4.0 Relevant Planning Policy & Guidance

- 4.1 Chilmington Green AAP Policy CG1(b) Chilmington Green Development Principles – requires that each main phase of the Development will be sustainable in its own right, through the provision of the required social and physical infrastructure, both on-site and off-site (CD3/1/1, page 21).
- 4.2 Chilmington Green AAP Policy CG8 Meeting the Recreational Needs of Chilmington Green – requires the Development to provide public open space provision, based on the parameters and spatial requirements set out within the Public Green Space and Water Environment SPD, in a way that meets the needs of the development as it evolves, to ensure each phase of the development is sustainable in its own right (CD3/1/1, page 62).
- 4.3 With specific reference to Playspace, policy CG8 states that the majority of equipped play facilities at Chilmington Green should be provided within 4 large (minimum 1.5 ha) ‘strategic play space areas’ which contain a range of equipped facilities that can cater for a range of differing age groups (CD3/1/1, page 62).

- 4.4 With specific reference to allotments, policy CG8 states that allotments will be promoted at Chilmington Green in line with the aspirations set out within the Public Green Spaces and Water Environment SPD and should be well related to residential development, sit sympathetically in the landscape and enjoy suitable vehicular access arrangements (CD3/1/1, page 62).
- 4.5 Chilmington Green AAP Policy CG22 Phasing, Delivery and Implementation – sets out measures to ensure an appropriate quality of development is achieved at detailed design stage and how the delivery of the Development will be monitored to ensure that the quality aspirations established within the AAP are delivered and maintained (CD3/1/1, page 124).
- 4.6 Local Plan Policy SP1 Strategic Objectives – seeks to ensure development is supported by the necessary social, community, physical and e-technology infrastructure, facilities and services, with any necessary improvements brought forward in a co-ordinated and timely manner (CD4/1 page 9).
- 4.7 Local Plan Policy SP6 Promoting High Quality Design – requires development proposals to be of high quality design and to demonstrate careful consideration and a positive response to a set of design criteria. Development proposals should show how they have responded positively to the design policy and guidance, including national and local design guidance, and site specific development briefs. Developers are strongly encouraged to participate in the Council's 'Quality Monitoring Initiative' which works to make sure that the approach agreed to design quality when planning permission is given is delivered on site (CD4/1, page 40).
- 4.8 Local Plan Policy COM1 Meeting the Community's Needs – sets out the requirement for infrastructure and facilities to meet the need generated by new development, including community facilities and play space (CD4/1, page 303).
- 4.9 Local Plan Policy COM2 Recreation Sport, Play, and Open Spaces – seeks the development of recreation sport play and open spaces provision consistent with the standards established in the Public Green Spaces and Water Environment SPD (CD4/1, page 307-308).
- 4.10 Local Plan Policy COM3 Allotments – are an increasingly popular leisure activity, providing wildlife and species-rich habitats and attractive areas of green space as well as making contributions to the planning and promotion of healthy communities encouraging physical activity and social interaction. Allotments are therefore important facilities that meet the needs of the community. The Public Green Spaces and Water Environment SPD establishes several design principles relating to new allotment provision (CD4/1, page 309).

- 4.11 Local Plan Policy COM4 Cemetery Provision – supports the creation of new cemeteries in the borough (CD4/1, page 309).
- 4.12 Local Plan Policy IMP1 Infrastructure Provision – seeks the delivery of infrastructure to support new development (CD4/1, page 312).
- 4.13 The Public Green Spaces and Water Environment SPD 2012 – green spaces and the water environment provide multi-functional spaces, including children’s and young people’s play spaces and allotments, which have significant health, environmental, economic, and social benefits for those who live work and enjoy recreational facilities within the borough (CD3/1/5, paragraph 1.3, page 2). The evidence base for the SPD is contained in the Ashford Open Space Study 2008 (CD4/10, Appendix 3).
- 4.14 The Ashford Open Space Strategy 2017 formed part of the evidence base for the Local Plan. The quantitative standards for playspace and allotment provision identified as being required in the Open Space Strategy, remain the same as the standards set out in the Public Green Spaces and Water Environment SPD 2012.
- 4.15 Paragraph 96 of the NPPF identifies the importance of achieving healthy, inclusive, and safe places which promote social interaction to enable and support healthy lifestyles, with specific reference made to allotments.
- 4.16 Paragraph 98 of the NPPF requires planning decision to plan positively for the provision and use of shared spaces, community facilities (such as meeting places, sports venues, open space) and other local services to enhance the sustainability of communities and residential environments, and, guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs.
- 4.17 Paragraph 103 of the NPPF identifies the importance of access to a network of high-quality open spaces and opportunities for sport and physical activity for the health and well-being of communities and stresses the need for “robust and up-to-date assessments of the need for open space, sport and recreational facilities”.

5.0 The Proposed Modifications

- 5.1 In summary, the appellant seeks the following modifications to the Agreement:

Children's and young people's play space

- 5.2 To extend the timescales within which the DB&S for the Playspaces are to be submitted to and approved by the Council, as set out in Table 8 below (CD2/14, request 34).

Main AAP Phase	Playspace	Current trigger – dwelling occupations	Proposed new trigger – dwelling occupations
1	PS1	50	350
2	PS2	50	500
3	PS4	750	850
4	PS5	650	850
4	PS7	1150	1350

Table 8: proposed modifications to the timescales for the approval of the Playspace DB&S's.

- 5.3 To allow the total capital cost of the Playspaces to include “fees, contingencies, specification and design costs, supervision fees, access roads and service costs”. To delete reference to the costs for any landscaped buffers or screening around play areas to be excluded from the total capital cost. To insert a clause to allow the scope of the Playspaces to be altered as agreed with the Council to match the stated capital cost for each Playspace (CD2/14, request 34).
- 5.4 To discharge the obligation for the CMO to be consulted on the DB&S; for the CMO to agree the details of the consultation exercise or for the Council to approve the details if the CMO does not respond, and, for the DB&S to include the CNO's comments on the costings (CD2/14, request .35).
- 5.5 To delay the delivery of three of the Playspaces (PS2, PS4 and PS5) as set out in Table 8 below (CD2/14, request 36).

Main AAP Phase	Playspace	Current Trigger – dwelling occupations	Proposed new trigger– dwelling occupations
1	PS1	500	500
2	PS2	500	700
3	PS4	1100	1200
4	PS5	1100	1300
4	PS7	1500	1500

Table 9: Proposed modifications to the timescales for delivery of the Playspaces.

- 5.6 To delete the reference made in respect of deflects “other than those of a cosmetic nature” (CD2/14, request 37).

Allotments

- 5.7 To delay the delivery of the Main Phase 1 allotments from no later than 1000 dwelling occupations in Main Phase 1 to no later than 1450 dwelling occupations in Main Phase 1. To delay the delivery of the Main Phase 2 allotments from no later than 1000 dwelling occupations in Main Phase 2 to no later than 1100 dwelling occupations in Main Phase 2. To remove the requirement to provide the Main Phase 3 & 4 allotments entirely (CD2/14, requests 40-43).

Cemeteries

- 5.8 To delete the obligation to pay the financial contribution entirely (CD2/14, request 57).

6.0 Appraisal of the Proposed Modifications

Children's and young people's play space

- 6.1 The appellant acknowledges that the obligation to provide the Playspaces "*serves a useful purpose in line with good placemaking and planning policy*" (CD2/13, paragraph 8.38). However, the appellant seeks to delay the provision of three Playspaces due to their concerns about site safety, stating "*the current phasing of the playspace does not align with the land disposal and construction strategy. As currently required, the play areas will be at risk of being undeliverable due to access and construction site safety restrictions*" (CD2/13, paragraph 8.38). The appellant is also of the view that "*the delivery of these assets remains substantially in line with policy*" (CD2/14, request 34).
- 6.2 There is no evidence either on-site, in the case of the Main AAP Phase 1 Playspace ("PS1"), or on the parameter plans or masterplan drawings approved or submitted to date, in the case of the Playspaces to be provided in Main AAP Phases 2, 3 and 4 ('PS2', 'PS4', 'PS5' and 'PS7'), that construction activity would prevent the delivery of the Playspaces within the timescales currently specified in the Agreement. PS1 is due to be provided no later than 500 dwelling occupations. The housing land parcels surrounding the site of PS1 are nearly complete and are very likely to be occupied prior to 500 dwelling occupations, given that dwelling occupations on the Site to date are circa 380.
- 6.3 Equally, most of the site of PS2 is bounded by land where construction would be complete prior to the required delivery of the Playspace. The north-western boundary is located adjacent to housing land parcel 'M' which is due to be delivered in Main AAP Phase 1 and which proposes a road running alongside the Playspace site which could provide safe access. On the eastern boundary

is the site of the Hamlet Facilities which are due to be provided no later than 1400 dwelling occupations, which is circa 600 dwelling occupations earlier than PS2 is required to be delivered. The southern boundary is with Chilmington Green Lane, an existing road alongside which housing on land parcel “P” is nearing completion. The north-eastern boundary is with a housing land parcel in Main AAP Phase 2 and the western boundary is with SuDS/greenspace also to be provided in Main AAP Phase 2 – both boundaries could easily and safely be fenced off from the Playspace to ensure site safety.

- 6.4 The masterplans for Main AAP Phases 3 and 4, where Playspaces PS4; PS5 and PS7 are to be located, have not yet been submitted and therefore the arrangement/layout of these phases is not yet known. However, there is no reason why safe access to the Playspaces and site safety could not be taken into account when developing these masterplans and the phasing of their delivery.
- 6.5 The timing of the delivery of the Playspaces in the early phases of the Development set out in the Agreement already lags behind what is required by the AAP IDP and SPD, resulting in a deficit in provision in the early phases of the Development when compared to the population. The proposed modifications would increase this under-provision in Main AAP Phase 2 and would result in an under-provision in Main AAP Phase 3, with the provision of Playspace to meet the recreational needs of residents of the Development only ‘catching up’ in Main Phase 4.
- 6.6 There are no play facilities and a considerable lack of access to play facilities in the Development now, to delay provision would be to the detriment of the existing and future community. The early delivery of social facilities for young people in new developments, such as playspaces, is an integral and essential part of good placemaking for a development the size of Chilmington Green. It is evident, especially when visiting the Development in the school holidays, that there is a need for playspace to serve Main AAP Phase 1 now. Planning officers have witnessed young children playing on the streets and on land parcels adjacent to their homes not yet brought forward for development. Given this need, it could be argued that the delivery of the playspaces should be brought forward earlier and certainly not delayed.

Playspace - Design Briefs and Specifications

- 6.7 The submission and approval of the DB&S within a timely manner enables the Council to ensure design quality is embedded in the Development at an early stage and ensures sufficient time is allowed to enable playspace of sufficient design quality to be agreed and delivered ‘on-time’ to meet the recreational needs of residents of the Development. This safeguards against poor quality

development and ensures that sufficient time is given to consultation with residents and stakeholders because this consultation must happen before the DB&S is approved by the Council.

- 6.8 The appellant has advised that “*housing delivery is expected to accelerate from around 100-125 homes per year in 2020-2024 to around 300 homes after 2028 with final completion by 2048*” (CD2/13, paragraph 4.3). The Agreement currently allows either 350 or 450 dwelling occupations to occur between the trigger for the approval of the DB&S and the trigger for the delivery of the Playspace on the Site. Based on the appellant’s expected housing delivery per annum this equates to a timescale of circa 12 to 18 months, which the Council considers is sufficient time. The modifications proposed would reduce the number of dwelling occupations that can occur between the trigger for the approval of the DB&S and the trigger for the delivery of the Playspace on the Site to 150 dwelling occupations in the case of PS1 and PS7 and 200 dwelling occupations in the case of PS2. Based on the appellant’s expected housing delivery per annum this equates to a timescale of six to eight months, which the Council considers is insufficient time.
- 6.9 In addition, it is necessary to ensure that fees, contingencies, specification and design costs and supervision fees are sufficiently provided for, and do not ‘use up’ the main construction budget sum. Access roads and service costs are infrastructure costs associated with the wider development. Including these costs in the total capital cost would reduce the total budget available to deliver the facilities. and consequently, undermine the ability to deliver the required quality of playspaces. Information provided by the appellant in their DB&S, dated December 2022, for the first playspace (PS1) (Appendix A, page 11) indicates that fees, contingencies, specification and design costs and supervision fees for that project would total £88,441. This would equate to circa 38% of the total budget for PS1 if this amount was included.
- 6.10 It is already evident from discussions with the appellant about the total capital cost for PS1, and the appellant’s position with reference to request 25 relating to the cost of the informal/natural green space, that the budgets identified in the Agreement, without the inclusion of fees, contingencies, specification and design costs, supervision fees, access roads, service costs, landscaped buffers and screening around play areas, do not provide sufficient budget to deliver the quality facilities required by the outline planning permission, the Chilmington Green Design Code and the Design and Access Statement submitted by the appellant in support of the outline planning application. Including these costs in the budget identified in the Agreement for the total capital cost will undermine further the ability to deliver the quality of facilities envisaged for Chilmington Green.

- 6.11 The appellant states that consultation with the CMO is “*surplus to requirements*” and consulting the CMO on the proposed consultation strategy “*unnecessarily complicates what should be a relatively straightforward and simple exercise*”. The CMO is an important stakeholder at Chilmington Green. They will take on the management and maintenance of the Playspaces. It is therefore important that the CMO can input at an early stage in the design process. It should be in the appellant’s own interest to ensure that the CMO is fully engaged in discussions about the facilities proposed so that the CMO is able to maintain those facilities to a high standard to the benefit of the Development. The value of early consultation is reflected in National Planning Practice Guidance (NPPG) which identifies the benefit of “working collaboratively and openly with interested parties at an early stage to identify, understand and seek to resolve issues associated with a proposed development” (ref: NPPG, para: 001 Reference ID: 20-001-20190315). It is noted that the appellant does not propose to remove the requirement to consult with other relevant stakeholders and the public.
- 6.12 In addition, the approval of the details of the consultation strategy by the CMO/Council prior to the consultation taking place ensures that the consultation is fit for purpose and involves all necessary parties. The CMO are best placed to advise on the consultation strategy given their close relationship with residents of the Development and other local groups.
- 6.13 Furthermore, the requirement for the DB&S to include the CMO’s comments on the costings ensures that the CMO can input into the specification and cost of facilities they will own, manage and maintain and raise any concerns at any early stage in the design process and for the Council to be aware of their comments when reviewing the document.

Allotments

- 6.14 The appellant acknowledges that the obligation to provide allotments “potentially serves a useful purpose but argues that “*Based on the minimum viable size of allotments -20 plots meeting the needs of 1,375 homes, the trigger for completion of these allotments should come no earlier than that (and for each further tranche of allotments)*” (CD2/13, paragraph 6.31).
- 6.15 The appellant claims that the “*The revised trigger is based on the point at which demand for the minimum viable size (20 plots/0.66 ha) of allotment is reached (1,375 homes)*”. The Council do not agree that it is appropriate to delay the provision of allotments until demand meets the minimum viable size. There will be demand prior to this, with demand increasing as residents move into the Development.

- 6.16 The SPD (CD3/1/5, Table 5, page 24) states that allotments should be “*Laid out to agreed specification before completion of 400th dwelling*”. The Council has therefore already agreed to delay provision significantly based on the SPD requirement.
- 6.17 The appellant also states that the provision of allotments in Main AAP Phases 3 and 4 is “*unnecessary and represents over provision of such facilities*” (CD2/14, request 42 & 43).
- 6.18 In accordance with the AAP and SPD the Development should provide at least 2.76 ha of allotments. Provision in Main AAP Phases 3 and 4 is not ‘over-provision but instead provision that will meet the needs of residents of the Development in accordance with the requirements of the AAP and SPD. If 1.49 hectares of allotments is removed from the Development, then this would result in a deficit of allotments when compared to the proposed population of the Development. There is currently a waiting list for allotments locally and there is no evidence to suggest that the future residents of the Development would not want to access allotments.
- 6.19 The modification would delay the delivery of the allotments in Main Phase 1 and 2 and reduce the total amount of allotment space to be provided for the Development by 54%. This would result in a significant deficit of facilities in proportion to the number of residents of the Development. This delay and under-provision of facilities would have a material and measurable impact on residents.

Cemeteries

- 6.20 The appellant questions the quantitative standard set out in the SPD that requires 0.6 hectares of cemetery provision per 1000 population and states that “*this must be incorrect and if the £800,000 obligation is based on this metric, it must be adjusted downwards*”. The appellant instead states that the metric should be “*0.6 hectares per 10,000 people*”. (CD2/13, paragraph 8.33). The appellant does not explain how they have arrived at the metric of “*0.6 hectares per 10,000 people*” or how they have estimated that the need for burials from the Development would be “*400-800 graves over 30 years*” or what they believe the total obligation should be if “*it must be adjusted downwards*”.
- 6.21 As explained in Section 3.0 above, the contribution secured in the Agreement is less than that required by the quantitative standards in the SPD, however, a reduced contribution was considered appropriate when outline planning permission was granted. There is no justification now to reduce this contribution further and discharge the obligation.

- 6.22 The appellant is of the view that the obligation is “*unnecessary and represents over provision of such facilities given the available off-site facilities*” (CD2/13, paragraph 8.33). As outlined in Section 3.0 above, the Council has identified that there will be a shortage of cemetery space in the Borough in the future, therefore there is unlikely to be sufficient existing provision off-site to meet the needs of the Development
- 6.23 There currently remains a requirement for cemetery provision in South Ashford as set out in the report to the Council’s Cabinet dated 28 November 2019 (CD4/12). The discharge of this obligation would result in insufficient cemetery space within the borough to meet the needs of residents of the Development.

Viability

- 6.24 The appellant has stated in several of the requests that relate to the playspace, allotment and cemetery obligations in the Agreement, that these obligations “*undermine the viability and ultimately the deliverability of the Development*” and that the proposed modifications “*supports the ultimate delivery of the entire Development*”.
- 6.25 For the reasons set out in the Council’s legal submissions, it is not accepted that viability is relevant to the tests which need to be applied when considering the appeals, the Council’s ‘Viability’ Proof of Evidence will, however, present the Council’s case in respect of the substantive viability issues; therefore, this Topic Paper does not respond to this point.

7.0 Conclusion

- 7.1 The Agreement currently secures the provision of playspaces and allotments on the Site and a financial contribution towards the delivery of cemetery space off-site.
- 7.2 The Playspace and allotment obligations serve a useful purpose because they will ensure that the recreational needs of the residents of the Chilmington Green development are met in a timely manner to support their health and wellbeing. The provision of recreational facilities is also essential to good placemaking for a development the size of Chilmington Green.
- 7.3 The cemetery obligation will serve a useful purpose because it will ensure that sufficient cemetery space can be provided to meet the needs of residents of the Development.
- 7.4 The modifications proposed to the Agreement would not serve that purpose equally well because a further delay in the provision of playspace within the

Development and the delay and reduction in provision of allotments would result in a deficit of playspace on the Site in proportion to the number of residents of the Development and there is insufficient existing alternative provision in the local area to meet this shortfall and that would be accessible to residents.

- 7.5 The deletion of the cemetery obligation would not serve that purpose equally well because the Council would have insufficient funds to provide new cemetery provision to meet the needs of residents of the Development.

Appendix B

Children's and Young People's Playspace provision - appraisal of proposed modifications alongside AAP & SPD requirements.

Appendix A: Children's and Young People's Playspace provision - appraisal of proposed modifications alongside AAP & SPD requirements.

Public Green Space and Water Environment SPD Requirement = 0.5 ha per 1000 persons

Playspace	Current triggers in Agreement (Dwelling No's)	Population	SPD Requirement to meet needs of population (hectares)	Main AAP Phase	AAP requirement at end of phase (hectares)	Amount secured in Agreement (hectares)	Does provision in Agreement keep pace with SPD & AAP requirements	Proposed new trigger (Dwelling No's)	Population	SPD Requirement to meet needs of population (hectares)	Impact of modification on provision in respect of SPD.
PS1 0.5 hectares	500	1200	0.6	1	1.7	0.5	Secured 0.1 ha less than required by SPD and 1.2ha less than required in AAP.	500	1200	0.6	No change
PS2 1.5 hectares	2001	4802	2.4	2	3.14	2	Secured 0.4 ha less than required by SPD and 1.14 ha less than required in AAP	2201	5282	2.6	Secures 0.6 ha less than required.
PS4 1.5 hectares	3725	8940	4.5	3	-	3.5	Secured 1.0 ha less than required by SPD.	3825	9180	4.6	Secures 1.1 ha less than required by SPD.
PS6 1.44 hectares	4000	9600	4.8	3	4.94	4.94	Secured 1.0 ha more than required by SPD and met the AAP requirement	5000	12,000	6.0	Secures 1.06 less than required by SPD
PS5 1.5 hectares	5284	12,682	6.3	4	-	6.44	Secured 0.14 ha more than required by SPD.	5484	13,161	6.6	Secures 0.16 more than required by SPD
PS7 0.5 hectares	5684	13,642	6.8	4	-	6.94	Secured 0.14 ha more than required by SPD	5684	13,642	6.8	Secures 0.14 ha more than required by SPD
-	5750	13,800	6.9	4	6.9		Meets requirements of SPD & AAP.	5750	13,800	6.9	No change

Appendix C

Allotment provision - appraisal of proposed modifications alongside AAP & SPD requirements.

Appendix B: Allotment provision - appraisal of proposed modifications alongside AAP & SPD requirements.

Public Green Space and Water Environment SPD Requirement = 0.2 ha per 1000 persons

Allotments	Current triggers in Agreement (Dwelling No's)	Population	SPD Requirement to meet needs of population (hectares)	AAP requirement at end of phase (hectares)	Amount secured in Agreement (hectares)	Does provision in Agreement keep pace with SPD & AAP requirements	Proposed new trigger (Dwelling No's)	Population	SPD Requirement to meet needs of population (hectares)	Impact of modification on provision in respect of SPD.
Phase 1 0.7 hectares	1000	2400	0.48	0.7	0.7	Secured 0.22 ha more than required by SPD and meets requirement in AAP.	1450	3480	0.69	Secures 0.01 ha more than required by SPD and meets requirement in AAP.
Phase 2 0.57 hectares	2501	6002	1.20	1.27	1.27	Secured 0.07 ha more than required by SPD and meets requirement in AAP.	2601	6242	1.25	Secures 0.02 ha more than required by SPD and meets requirement in AAP.
Phase 3 0.72 hectares	4025	9660	1.93	1.99	1.99	Secured 0.06 ha more than required by SPD and meets requirement in AAP.	-	-	-	-
Phase 4 0.77 hectares	5584	13,401	2.68	-	2.76	Secured 0.08 ha more than required by SPD and meets requirement in AAP.	-	-	-	-
	5750	13,800	2.76	2.76	-	Meets requirements of SPD & AAP.	-	13,800	2.76	Secures 1.49 ha less than required by SPD and the AAP.