

APPEAL REFS: FORMER WYE COLLEGE BUILDINGS (APPEAL A: APP/E2205/W/20/3259450); OCCUPATION ROAD (APPEAL B: APP/E2205/W/20/3259462); FORMER ADAS SITE (APPEAL C: APP/E2205/W/20/3259465)

WYE COLLEGE APPEALS, WYE, ASHFORD

**OPENING STATEMENT ON BEHALF OF
WYE WITH HINXHILL PARISH COUNCIL (RULE 6 PARTY)**

INTRODUCTION

1. It will not come as a surprise to learn that the Parish Council consider Wye to be a settlement of significant historical and landscape importance. No doubt many Parish Councils would, quite understandably, claim as much in respect of their main settlements. But by any metric this is true of the village of Wye.
2. The beauty and quality of the landscape in, and surrounding, the village is self-evident. It is recognised and protected by the fact that the entirety of the village, and much of the surrounding Parish, falls within the Kent Downs Area of Outstanding Natural Beauty (AONB).
3. In terms of its history, by the time of the Domesday Book in 1086 Wye was already a settlement of some size. However, its historical importance stems in large part from “Kemp’s College”: a chantry college and grammar school founded in the mid-15th Century by Cardinal Archbishop John Kemp pursuant to a licence granted by Henry VI. Consisting of the Cloister Quad (Grade I), the Latin School (Grade I) and the Wheelhouse (Grade II*), Kemp’s College was one of a number of scholarly foundations of the period, including Eton College. The historical significance of Kemp’s College can hardly be overstated. Its redevelopment demands close and careful consideration.
4. An important part of the historical significance of Wye is the role the College played in village life: its communal value. The functions of chantry colleges were to provide free education to the boys of their village; religious services to the community at large; as well as housing and jobs for those working and living on their large estates. Kemp’s College was no different. Thus from its very foundation, Kemp’s College has been central to the spiritual, educational, economic and social life of the village.

5. Over the centuries the College continued to provide much of the vitality and life-blood of the village.
6. The grammar school continued following Dissolution and the Charity Schools were established in the early 18th Century. Both provided for the educational needs of local children; employment for residents; and a place of residence for the schoolmasters and mistresses.
7. In the late 19th Century, the schools moved out and were replaced by the South Eastern Agricultural College (SEAC). There followed a significant period of expansion of the College: to the north, West and North Quads (c.1901); to the north-east, the Wood and Iron Workshops (c.1903); and to the east, the completion of the Middle Quad (c.1906), and the Agricola Quad and entrance to the High Street (circa.1912-1914). The Dining Hall was constructed in 1953 as a modern interpretation of the medieval Great Hall found in the Cloister Quad.
8. Each of these buildings - which Ms Wedd has collectively referred to as Wye College - are of historical importance in their own right, as is recognised by their Grade II Listing. But crucially the functioning of the agricultural college (initially operated by SEAC, and then Imperial College) also meant that during the 20th Century the College remained a central, vibrant part of the village. It had a profound impact in the growth of the village and its surroundings - not least by way of the expansion of its own campus, including all three sites which are the subject of these appeals; provided an important source of employment for members of the community; held weddings and services in the Chapel; allowed for a wide range of formal and informal community uses, including enabling village residents the 'freedom' to roam through its gardens and green spaces.
9. The outstanding historical interest of the Former Wye College Buildings, as well as the landscape quality of the area as a whole, means that the proposed (re)development of each of these appeal sites must be carefully scrutinised to ensure that these important qualities are not adversely affected.
10. However, there is also a wider consideration of fundamental importance. As is recognised by the Neighbourhood Plan, given the size, location and importance of the landholdings within the village, the redevelopment of the former Imperial College

campus as a whole (i.e. the WYE3 site) *“represents a tremendous opportunity to shape Wye for the future, preserving and enhancing the vitality and sustainability of the historic village and surrounding Parish”*¹ There is, therefore, a one-time opportunity in the history of Wye to ensure the *“right type”* of development take place, in the *“right places”*, at the *“right time”*² in order secure the future sustainability of the village. Therefore, quite apart from the heritage and landscape interests at play, this consideration also demands that any proposals for the redevelopment of the WYE 3 sites are careful scrutinised.

SUMMARY OF THE PARISH COUNCIL’S CASE

11. The Parish Council recognise that the redevelopment of the WYE 3 sites is critical to the future sustainability of Wye. This is evidenced from the fact that it promoted a neighbourhood plan which contains not one, but two, policies (WNP6 and WNP11) which are specific to the WYE3 sites. However, it is equally critical that redevelopment of the WYE 3 sites come forward in an appropriate form.
12. The Parish Council’s objection to the current proposals – objections which are long-standing and supported at this Inquiry by cogent, specialist evidence – are far wider and more fundamental than those expressed by Ashford Borough Council (“ABC”). The primary objections can be summarised into three categories:
 - 12.1. First, in respect of all Appeals, the piecemeal approach to the redevelopment of the WYE 3 sites constitutes a fundamental breach of the neighbourhood plan and threatens the future sustainability of the village.
 - 12.2. Second, in respect of Appeal A, the proposals would cause a net adverse impact on the heritage significance of Former Wye College site, which would be significant. In respect of Kemp’s College, the net harm would be at the very highest level of “less than substantial”.
 - 12.3. Third, in respect of Appeals B and C, the proposals would also give rise to adverse impacts on the landscape quality and visual amenity of the AONB; and

¹ CD3, p42 section 6.1

² In order to further the economic objective (see NPPF, para 8(a)),

in respect of C the development would also be unsustainable in locational terms, having regard to nature and amount of the use proposed.

1) All Appeals: Piecemeal Approach/Fundamental breach of the Neighbourhood Plan

13. The neighbourhood plan recognises that, in order to ensure the continuing vitality and sustainability of the village, it is of singular importance that an integrated solution is provided for the WYE 3 sites. One which has been subject to a masterplan adopted by ABC; which promotes a mix of business, educational, community and residential uses across the sites, to ensure that a balance of uses is achieved; and where, in the words of the examiner of the neighbourhood plan, *“the viability and deliverability of the package [is considered] as a whole”*³.
14. The proposals are in fundamental conflict with the neighbourhood plan, and its policies in each respect.
15. First, the proposals are being advanced in the absence of an adopted masterplan. The importance of the masterplan going through the process of adoption, either as part of the development plan or as a Supplementary Planning Document (‘SPD’), before the determination of planning applications is obvious. It means that there would have been a statutory process during which the draft masterplan would be consulted upon, and scrutinised. It would also mean, crucially, that the masterplan was not simply the vision of an individual developer: but the considered expression of the local planning authority (including its democratically elected members).
16. Second, taken together, the proposals provide, almost exclusively, for residential redevelopment of the WYE3 sites. It is not the balanced mix of uses sought by the neighbourhood plan. There is no business use proposed. No new educational use proposed. And the proposed community use – which relates only to the Former Wye College buildings – is severely restricted. What is more, there is no mechanism to ensure the remainder of the WYE3 sites come forward in alternative uses and, on the basis of the available evidence, the prospect of them doing so (at least anytime soon) is remote. The bringing forward of a significant amount of residential development on the WYE3 sites, without any business use and only very limited community use, is

³ CD4, para 11. See also WNP11

antithetical to the vision, objectives and policies of the neighbourhood plan, as well as being inimical to the sustainability redevelopment of Wye.

17. Third, the Appellant appears to rely on considerations of viability to justify its proposals in number of respects. Viability is used to explain: why greater community and/or any business use of the Wye College is not possible; why affordable housing (and other) contributions cannot be made in respect of the Wye College site; and why the ADAS site must be brought forward in residential use. However, the viability evidence before this Inquiry relates to the Wye College alone (and even then, only in respect of section 106 contributions. It does not consider the impact of providing more community use, or any business use). Crucially, what the viability evidence does not do is to consider the viability and deliverability of “*the package (ie. the WYE3 sites) as a whole*”.

2) Appeal B: Significant harm to the historic interest in Wye College

18. The Appellant appears to have considered this issue as a *fait accompli*. On one level this is unsurprising. Listed Building consent has been issued. Historic England support the proposals. And ABC’s objection in heritage terms which was always a narrow one, has recently been withdrawn.
19. The problem that the Appellant faces is that the judgments made by Historic England (“HE”) and the Council’s conservation officer, were made in the absence of any Heritage Impact Assessment, properly so-called. That is to say a systematic analysis of the heritage values and interests which contribute to the heritage assets’ significance.
20. We are told that the Canterbury Archaeological Trust’s (‘CAT’) ‘Heritage Statement’⁴ informed the design of the proposals. This is a detailed and impressive narrative of the history of the historic campus and a description of the places and spaces within it. But that is all it is: a historical narrative and a gazetteer. There is no attempt either: (a) to analyse what interests and values contribute to the College’s significance or (b) to assess, in light of that analysis, what impact the proposed development would have

⁴ CD/14l. The document entitled ‘Heritage Impact Assessment’ (CD/14k) submitted by the Appellant is no such thing. It is simply a Schedule of the Proposed Works.

on that significance. Presumably this is because CAT were not asked to undertake such an assessment as part of their Heritage Statement.

21. The absence of a HIA produced in accordance with the NPPF, the PPG and guidance published by Historic England would be surprising in relation to the proposed redevelopment of any heritage asset. In the case of a collection of listed buildings which are – everybody is agreed – of outstanding significance, the omission is truly baffling.
22. The omission of a HIA is also of singular importance in this case. It means that the judgments made by HE and the Council’s conservation officer were based on, at best, an incomplete understanding of the factors which contribute to the assets’ historical significance.
23. The only person to have undertaken a HIA is Ms Wedd, the heritage expert commissioned by the Parish Council. In her careful, systematic approach she analyses the interests and values which contribute to the College’s significance⁵, and assesses how the proposed development would impact on that significance.⁶ In doing so she identifies a number of important considerations which had previously been overlooked by all parties, including the historic communal value of the College and the heritage significance of the workshops.
24. Ms Wedd acknowledges that there would be material heritage benefits from the proposal (including the re-use of the heritage assets which are currently vacant), but her analysis demonstrates that that these benefits are decisively outweighed by the harm she identifies.
25. In short, that harm can be summarised, primarily as:
 - 25.1. In respect of **Kemp’s College**:
 - (a) Harm in principle from the disintegration of the buildings which make up Kemp’s College – which have been preserved, and operated, as a whole for more than 570 years – into three, separate private dwellings;

⁵ Wedd, para 2.23-2.47 & A1.4 (for detailed analysis)

⁶ In respect of Kemp’s College, see para 2.61-2.68; 2.85-2.95, 2.96, and 2.98-2.106; In respect of Wye College, see para 2.69-2.77, and 2.97

- (b) The almost entire loss of the community use of Kemp's College – which, as described above, has been central to its historic use, both at foundation and through the ages; and
 - (c) Albeit to a lesser degree, the proposed physical changes to the listed buildings
- 25.2. Even taking account of the accepted benefits, Ms Wedd concludes that the net harm would be at **the very highest level of less than substantial harm**
- 25.3. In respect of **Wye College (apart from Kemp's College)**, the harm would arise from:
- (a) The subdivision of the Dining Hall, the design intent of which was to mirror the medieval Great Hall;
 - (b) The demolition of circa. 80% of the workshops (and the use of its yard for private gardens and car parking), given that the building was an essential part of the functioning of the agricultural college from its inception;
 - (c) The proposals for rebuilding the northern elevation of the Agricola Quad, which does not reinstate the original fenestration
- 25.4. Even taking account of the accepted benefits, Ms Wedd concludes that the net harm would be at a **high level of less than substantial harm**.
26. There would also be a lesser degree of harm to conservation area, and to the listed buildings through changes in setting.
27. Although HE's views are *prima facie* to be given 'great weight', their conclusions are not infallible. Indeed, in a recent appeal decision Ms Wedd's evidence was critical to the decision of an inspector to disagree the views of Historic England, and (accepting Ms Wedd's evidence) conclude that the heritage harm caused was greater than HE had recognised.⁷ In that case, the developer's HIA on which HE relied was deficient: here it is entirely absent.
28. Finally, the Parish Council do not accept that this degree of heritage harm (or indeed, any net heritage harm) is the necessary corollary of the redevelopment of Wye College.

⁷ CD27/1 – Lavenders Road

Certainly there has been no attempt by the Appellant to demonstrate that the use proposed is the optimum viable use, i.e. of the range of alternative economically viable uses, the one likely to cause the least harm to the significance of the asset.⁸

3) **APPEAL B&C: Landscape harm and locational sustainability**

29. The Parish Council agree with ABC's objections to Appeals B & C on the basis of the material harm that the particular proposals would cause to the character and amenity of the surrounding countryside, which is designated as AONB. Mr Goodwin will give evidence on this topic on behalf of the Parish Council.

30. In addition, it considers the ADAS site to be an unsustainable location for residential development, particularly of this quantum. It stretches well-beyond breaking point the concept of a walkable village which forms an important element of the neighbourhood plan.

Planning Balance

31. The Parish Council accepts that the proposal would bring about some benefits in planning terms, particularly through the delivery of housing and the re-use/re-development of currently vacant buildings (in respect of Appeals A & C). However these benefits have been overstated by the Appellant, and the harms significantly underplayed.

32. In respect of all appeals, the Parish Council will contend that the fundamental breach of the neighbourhood plan is reason alone to refuse permission in relation to all three proposals. The material considerations weighing in favour of the development do not outweigh this breach

33. In respect of Appeal A, the public benefits (predominately the provision of housing⁹;) do not come close to outweighing the net heritage harm which would be caused to the designated heritage assets. In this regard it is notable that the *Conservation Principles* guidance expressly explains that "[t]he fact a place is neglected should not, of itself, be grounds for agreeing a scheme that would otherwise be unacceptable"¹⁰. That is precisely the

⁸ PPG, Paragraph: 015 Reference ID: 18a-015-20190723

⁹ Heritage benefits have been taken account of in the consideration of whether there is net heritage harm or not. It would be double counting to then factor them in again as a public benefit in the section 196 test, or a further material consideration in the section 38(6) PCPA 2004 test.

¹⁰ CD25-2, p61, para 153

case here. Accordingly, as well as being in breach of the development plan, the Framework provides a “clear reason” for refusing the development proposed (NPPF, para 11(d)(i)). In addition, as a matter of law, the harm to the listed buildings must be given “considerable weight and importance” (s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council & Ors* [2014] EWCA Civ 137).

34. In respect of Appeals B & C, the material harm caused to the AONB is, in addition to breach of development plan, a consideration which must be given ‘great weight’ (NPPF, para 172) and is capable of providing a “clear reason” for refusing the development proposed (NPPF, para 11(d)(i)) (*Monkhill Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 1993). Added to that is the harm caused by a proposal which is not sufficiently sustainable in locational terms. The benefits of these proposals, including the very limited provision of affordable housing, do not outweigh the conflict with the development plan and Framework.

Conclusion

35. The Parish Council recognises the central role that the redevelopment of the WYE3 sites will play in the future of both the village and Parish. This makes it all the more important that the redevelopment is truly sustainable: bringing forward the right type of development, in the right places, at the right time, whilst protecting and enhancing Wye’s outstanding natural, built and historic environment. These proposals fail at each juncture.
36. It follows that permission should be refused, and the appeal dismissed.

ROBERT WILLIAMS

Cornerstone Barristers

28th January 2021