



ASHFORD
BOROUGH COUNCIL

Planning Proof of Evidence of Faye Tomlinson in respect of:

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

Contents	Page
1.0 Introduction	2
2.0 Relevant Planning Policy & Guidance	3
4.0 Conclusion	9

1.0 Introduction

- 1.1 I, Faye Tomlinson, am employed by Ashford Borough Council (The “Council”) as a Team Leader (Strategic Applications) in the Planning and Development Department. I hold a BA (Hons) Degree in Urban Planning and Management, a Diploma in Town Planning and a Master’s Degree in Urban Design. I am a Chartered Member of the Royal Town Planning Institute (MRTPI). I have 26 years post qualification experience in town planning.
- 1.2 Since joining the Council in March 2021, I have been the lead planning officer for the South Ashford Garden Community – an area, comprising the Chilmington Green, Court Lodge and Kingsnorth Green developments, which combined, was granted Garden Village status by the government in June 2019.
- 1.3 This Proof of Evidence concerns the appeal against the Council’s failure to determine applications to modify or discharge obligations contained in the S.106 agreement (the “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) for the Chilmington Green development (the “Development”).
- 1.4 This Proof of Evidence is accompanied by a series of Topic Papers which present the Council’s case against the appeal. The evidence that I provide in this Proof of Evidence and the accompanying Topic Papers is true to the best of my knowledge and has been prepared and is given in accordance with the guidance of my professional institution. The Topic Papers include information provided by colleagues in the Council’s Environment, Property and Recreation; Housing and Planning and Development teams, in addition to information provided by the County Council and the NHS. The opinions expressed are my own and are formed from professional judgement based on my knowledge and good practice.
- 1.5 The following Topic Papers are submitted to present the Council’s case against this appeal:
- Affordable Housing
 - Bus Service
 - CMO & Early Community Development
 - District Centre Facilities / Public Art
 - Ongoing Management & Maintenance

- Playspace / Allotments / Cemeteries
- Regional Infrastructure Fund (RIF)
- Sports Facilities (inc. Strategic Parkland)
- Delivery/Monitoring/Council's costs reimbursement

1.6 The Council has not prepared a Topic Paper in response to the modifications proposed by the appellant relating to 'indexation' (CD2/14, requests 5 & 6). The Council considers that the indexation provisions in the Agreement serve a useful purpose and would not do so equally well if amended as the appellant requests for the reasons set out in the County Council's Topic Paper titled 'Clause 28 Indexation'.

2.0 Relevant Planning Policy & Guidance

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:

2.2 *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".*

2.3 Outline planning permission was granted for the Development in January 2017 at which time the Development Plan for Ashford borough comprised the saved policies in the adopted Ashford Borough Local Plan 2000, the adopted LDF Core Strategy 2008, the Tenterden & Rural Sites DPD 2010, the Urban Sites and Infrastructure DPD 2012 and the Chilmington Green AAP 2013.

2.4 The planning committee report for the outline planning application (CD6/1) refers to the planning policy context and concludes that

"The AAP policy CG0 sets out how sustainable development at Chilmington Green is to be achieved, through compliance with the rest of the policies in the plan. The report above demonstrates how this will occur in practice through a combination of the proposals now advanced, the terms of a s106 agreement and the use of planning conditions. The conditions and Heads of Terms suggested will regulate the development as it proceeds to bring it in line with the Development Plan, and all comply with Government policy and the CIL, Regulations. Officers are of the opinion that the application fully accords with the provisions of the Development Plan" (CDXX, paragraph 433, page 1.2229).

- 2.5 The Development Plan for Ashford Borough now comprises the Ashford Local Plan 2030 (adopted February 2019) (CD4/1) and the Chilmington Green AAP (adopted July 2013) (CD3/1/1). The Development Plan also comprises several Neighbourhood Plans and the Kent Minerals and Waste Local Plan (2016) and the Kent Minerals and Waste Early Partial Review (2020). These latter plans are not relevant to the Development or this appeal and therefore are not referred to in the Council's submission.
- 2.6 There are several supplementary planning guidance documents that are relevant to this appeal, and they are referred to in the relevant Topic Papers.
- 2.7 The following guidance in the National Planning Policy Framework (the "NPPF") 2024 is relevant to this appeal.

Section 5. Delivering a sufficient supply of homes

- 2.8 Paragraph 63 states, in the context of establishing housing need:

"the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing (including Social Rent); families with children; looked after children; older people (including those who require retirement housing, housing with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes".

- 2.9 And paragraph 64 states:

"Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (including the minimum proportion of Social Rent homes required), and expect it to be met on-site"

- 2.10 Paragraph 66 continues:

"Where major development involving the provision of housing is proposed, planning policies and decisions should expect that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures".

- 2.11 Paragraph 77 states, in the context of identifying land for homes:

“The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes)”.

- 2.12 Paragraph 77 (c) continues that, in the context of identifying suitable locations for large scale development authorities should:

“set clear expectations for the quality of the places to be created and how this can be maintained (such as by following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed homes to meet the needs of different groups in the community”.

Section 8. Promoting healthy and safe communities

- 2.13 Paragraph 96(a) states that *“Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

(a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages”.

(c) enable and support healthy lives, through both promoting good health and preventing ill-health, especially where this would address identified local health and well-being needs and reduce health inequalities between the most and least deprived communities – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling”.

- 2.14 Paragraph 98 states that *“to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

(a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other

local services to enhance the sustainability of communities and residential environments;

(b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

(e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services”.

2.15 Paragraph 103 states, in the context of open space and recreation:

“Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate”.

Section 9. Promoting sustainable transport

2.16 Paragraph 109 states:

“Transport issues should be considered from the earliest stages of plan-making and development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve (e) identifying and pursuing opportunities to promote walking, cycling and public transport use”

2.17 Paragraph 115 states, in the context of considering development proposals, that:

“in assessing applications for development, it should be ensured that (a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location”

2.18 Paragraph 117 states that

“applications for development should (a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring

areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use”.

Section 12. Achieving well-designed places

2.19 Paragraph 131 states that:

“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process”.

2.20 Paragraph 140 continues that:

“Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”.

2.21 The schedule below identifies the guidance in the NPPF and the Development Plan that are relevant to this appeal and indicates where the outline planning application was in compliance with these policies (if applicable at that time) and where there would be conflicts with the Development Plan if the proposed modifications to the Agreement are accepted.

Policy / Guidance Reference	Policy / Guidance	Compliance in 2017	Compliance in 2025
National Planning Policy Framework (NPPF) 2024			
64, 66, 67 & 77	Delivering a sufficient supply of homes	n/a	×
96, 98, 103	Promoting healthy and safe communities	n/a	×
109, 115, 117	Promoting sustainable transport	n/a	×
131, 140	Achieving well-designed places	n/a	×

Policy / Guidance Reference	Policy / Guidance	Compliance in 2017	Compliance in 2025
Chilmington Green Area Action Plan			
CG1	Chilmington Green Development Principles	✓	✗
CG2	Strategic Development Requirements	✓	✗
CG3	The District Centre Character Area	✓	✗
CG8	Meeting the Recreational Needs of Chilmington Green	✓	✗
CG9	Discovery Park	✓	✗
CG10	Developing a community	✓	✗
CG11	Highways and Access	✓	✗
CG12	Public Transport	✓	✗
CG16	Indoor Sports and Community Leisure Provision	✓	✗
CG17	Social and Community Facilities	✓	✗
CG18	Provision of Affordable Housing	✓	✗
CG22	Phasing, Delivery and Implementation	✓	✗
Ashford Local Plan 2030			
SP1	Strategic Objectives	n/a	✗
SP6	Promoting High Quality Design	n/a	✗
HOU1	Affordable Housing	n/a	✗
HOU14	Accessibility Standards	n/a	✗
HOU18	Providing a Range and Mix of Dwelling Types and Sizes	n/a	✗
TRA1	Strategic Transport Schemes	n/a	✗
TRA4	Promoting the local bus network	n/a	✗
COM1	Meeting the Community's Needs	n/a	✗
COM2	Recreation Sport, Play, and Open Spaces	n/a	✗
COM3	Allotments	n/a	✗
COM4	Cemetery Provision	n/a	✗
IMP1	Infrastructure Provision	n/a	✗
IMP2	Flexibility, Viability and Deferred Contributions	n/a	✗
IMP4	Governance of public community space and facilities	n/a	✗

3.0 Conclusion

- 3.1 When delivering large scale development such as that proposed at Chilmington Green, the infrastructure, services and facilities that are required to meet the needs of the residents of the development should go hand in hand with the delivery of the housing development. The timescales for delivery of the infrastructure, services and facilities should 'keep pace' with the housing construction so that residents of the development can access the amenities and services they need on a day to day basis.
- 3.2 Within each of the Topic Papers the Council has demonstrated, in the context of the four essential questions that are required to be answered in this appeal, that the current obligations serve a useful purpose, and the obligations would not serve that purpose equally well if they had effect subject to the appellant's proposed modifications. As such, I consider that this appeal should be dismissed.