



## Appeal Decisions

Inquiry opened on 28 January 2021

Site visit made on 17 February 2021

**by David Prentis BA BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 April 2021**

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### **Appeal A: APP/E2205/W20/3259450**

#### **Former Wye College Buildings, High Street, Wye, Ashford TN25 2AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Telereal Trillium against Ashford Borough Council.
  - The application, Ref 17/00567/AS, is dated 7 April 2017.
  - The development proposed is *conversion of former College buildings with associated restoration and alterations to buildings, demolition of later structures and rebuilding to provide 38 dwellings and community space; together with provision of two new dwellings, parking courts with car barns, cycle storage and refuse stores on land to the north of the retained buildings and associated landscaping; and change to parking arrangements for Squires Cottages (Change of Use from College residential accommodation back to 4 individual dwellings approved under Reference 16/00893/AS).*
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### **Appeal B: APP/E2205/W20/3259462**

#### **Occupation Road, Wye, Ashford TN25 5EN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Tele Property Investments Ltd against Ashford Borough Council.
  - The application, Ref 19/01327/AS, is dated 5 September 2019.
  - The development proposed is *residential development of 40 dwellings with associated access road, car park and open space.*
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### **Appeal C: APP/E2205/W20/3259465**

#### **Former Government Offices, Olantigh Road, Wye, Ashford TN25 5EW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Tele Property Investments Ltd against Ashford Borough Council.
  - The application, Ref 19/01330/AS, is dated 9 September 2019.
  - The development proposed is *demolition of offices and redevelopment with twenty dwellings with associated garages, parking and internal estate roads and open space.*
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### **Decision – Appeal A**

1. The appeal is allowed and planning permission is granted for conversion of former College buildings with associated restoration and alterations to buildings, demolition of later structures and rebuilding to provide 38 dwellings and community space; together with provision of two new dwellings, parking courts with car barns, cycle storage and refuse stores on land to the north of the retained buildings and associated landscaping; and change to parking arrangements for Squires Cottages (Change of Use from College residential accommodation back to 4 individual dwellings approved under Reference 16/00893/AS) at Former Wye College Buildings, High Street, Wye, Ashford TN25 2AL in accordance with the terms of the application, Ref 17/00567/AS, dated 7 April 2017, subject to the conditions set out in the attached schedule.

### **Decision – Appeal B**

2. The appeal is dismissed.

### **Decision – Appeal C**

3. The appeal is dismissed.

### **Preliminary matters**

4. The Inquiry sat for 7 days between 28 January and 5 February 2021. I visited the sites and surrounding area on 17 February 2021. By agreement with the parties, my visits were mainly unaccompanied. I visited the listed buildings which are the subject of Appeal A in the presence of a security officer (unconnected with the Inquiry team) who enabled me to gain access safely.
5. The description of development set out above for Appeal A is taken from the Statement of Common Ground (SoCG) for that appeal. This differs from the application form because the number of residential units was reduced, whilst the application was before the Council, in response to comments from Council officers and Historic England. I have determined the appeal on the basis of the plans that were before the Council when it considered the application.
6. The appeals were made against the failure to determine the applications within their respective statutory periods. In respect of Appeal A, the Council had previously resolved to grant planning permission, subject to the receipt of amended plans showing the former Latin School in community use (rather than residential use) and subject to a s106 obligation relating to infrastructure contributions. The Council had accepted that the infrastructure contributions that would normally be sought for residential development in this location would make the scheme unviable. There was agreement that this could be addressed by way of a review mechanism to enable proportionate contributions to be made in the event that values were to improve during the construction period. However, the details of the review mechanism were not agreed. Nor was there agreement on the use of the Latin School.
7. The Council subsequently reviewed its position in relation to the former Latin School and decided not to pursue an objection on those grounds. Moreover, agreement was reached on the terms of a s106 Agreement. Consequently, the Council withdrew its opposition to Appeal A. At the Inquiry, objections to Appeal A were maintained by Wye with Hinxhill Parish Council (the Parish Council), the Wye College Regeneration Group (WyeCRAG) and others.

8. In respect of Appeal B, the Council resolved that, had it been in a position to determine the application, permission would have been refused for five reasons:
  - a) overdevelopment and poor layout and design that would result in harm to the Kent Downs Area of Outstanding Natural Beauty (AONB) and the visual amenity of the area generally;
  - b) the absence of a s106 obligation to provide the infrastructure required to offset the impacts of the proposals;
  - c) the absence of a s106 obligation to provide the highway works required to form a safe access to the site;
  - d) insufficient information to demonstrate that a proposed infiltration drainage scheme would not harm groundwater sources; and
  - e) insufficient information to demonstrate that translocation of reptiles could be implemented satisfactorily.
9. Discussions continued between the Council and the appellant and agreements were reached on the terms of a s106 obligation and suggested planning conditions. These agreements resolved items (b) to (e). At the Inquiry, only item (a) was pursued by the Council. However, the Parish Council and others maintained objections on other grounds.
10. In respect of Appeal C, the Council resolved that, had it been in a position to determine the application, permission would have been refused for four reasons:
  - a) overdevelopment and poor layout and design that would result in harm to the Kent Downs AONB and the visual amenity of the area generally;
  - b) the impact on trees within and adjacent to the site;
  - c) the absence of a s106 obligation to provide the infrastructure required to offset the impacts of the proposals; and
  - d) the absence of a s106 obligation to provide the highway works required to form a safe access to the site.
11. The appellant submitted revised plans for Appeal C. The effect of the revisions was to amend the detailed siting of some units in order to address item (b). The Council was satisfied that the amendments would resolve those concerns and arranged for neighbour consultations to be carried out. There were no objections to the revisions. I am satisfied that the amendments would not alter the substance of the proposals, nor would they result in any additional impacts on people or the environment. No party would be prejudiced by the appeal being considered on the basis of the amended plans. I have therefore determined the appeal on that basis.
12. The Council and the appellant subsequently reached agreements on the terms of a s106 obligation and suggested planning conditions, thereby resolving items (c) and (d). At the Inquiry, only item (a) was pursued by the Council. The Parish Council and others maintained objections on other grounds.

13. The effect on the Stodmarsh nature conservation sites, which includes consideration under the Habitats Regulations, was a matter that only came to the attention of the Council after the appeals had been submitted. The Council did not provide evidence on this matter. However, evidence was provided by the appellant and the views of Natural England were obtained.
14. Discussions on planning obligations continued during the Inquiry. Agreement was reached at a late stage and I allowed a period after the last sitting day of the Inquiry for signed versions of the three Agreements to be submitted. The signed versions were consistent with the final draft versions that were available for discussion at the Inquiry. It was also necessary to allow a period for closing submissions to be submitted in writing after the last sitting day, due to lack of time at the event. The Inquiry was formally closed in writing on 16 February 2021 after closing submissions and the Agreements had been received.
15. The s106 Agreement for Appeal A makes provision for various financial contributions. A contribution to footpath improvements in the vicinity of the site would be payable in any event. All other contributions would become payable under a deferred contributions mechanism in the event that values improve sufficiently during the course of the project. The deferred contributions would relate to allotments, cemeteries, primary healthcare, informal natural greenspace, play space, outdoor sports facilities, libraries, primary education and secondary education.
16. The s106 Agreements for Appeals B and C each make provision for financial contributions to adult social care, allotments, cemeteries, play space, community learning, informal natural greenspace, libraries, public art, primary education, secondary education, strategic parks and facilities for the voluntary sector and youth services. The s106 Agreement for Appeal B also makes provision for footpath improvements. In addition, it would secure the delivery of two residential plots for self-build housing and two shared ownership units.
17. For each Agreement, the Council submitted a statement of compliance with the Community Infrastructure Levy Regulations. The statements explained why the various contributions would be necessary to mitigate impacts arising from the appeal schemes, identifying relevant planning policies as appropriate. The obligations were not controversial at the Inquiry and no party argued that they were unjustified. I see no reason to take a different view and, accordingly, I have taken the obligations into account in my decisions.

### **Main issues**

18. The main issues are:

#### Appeal A

- whether the proposals would provide a suitable location for housing and community uses and whether the provision for community uses would be adequate, having regard to the provisions of the development plan;
- the effect of the proposals on the historic environment; and
- the effect of the proposals on the Stodmarsh nature conservation sites.

### Appeals B and C

- whether the proposals would provide a suitable location for housing, having regard to the provisions of the development plan;
- the effect of the proposals on the Kent Downs Area of Outstanding Natural Beauty and on the character and appearance of the area generally;
- the effect of the proposals on the Stodmarsh nature conservation sites.

### **Reasons**

#### ***Background and policy context***

19. Wye is a village situated within the Kent Downs AONB around three miles north east of Ashford. It is one of the larger villages in Ashford Borough with a good range of shops, schools and services. There are rail services from Wye to Ashford, Canterbury, London and other locations. Wye Agricultural College played a major part in the life of the village throughout the 20<sup>th</sup> century. Many of those who worked at the college also lived in Wye and the college buildings were frequently used by the wider community. The agricultural college became part of Imperial College, London. The college facilities in Wye were closed in 2008.
20. The appeal sites are part of a wider area identified in the Tenterden and Rural Sites DPD 2010 (TRSDPD) as WYE3. Policy WYE3 stated that the future of the facilities and land at the Imperial College campus should be the subject of a marketing campaign for educational and related research and business uses for a period of six months. The aim was to secure such uses on all or part of the site if possible. If the marketing campaign demonstrated that these uses would not be achievable then the policy required that the mix of alternative uses should be established through a master planning exercise.
21. A report to the Council in September 2018 records that the required marketing campaign was undertaken on behalf of Imperial College. The Council concluded that the marketing had demonstrated that a viable educational or related use was not going to emerge so the master planning exercise needed to be undertaken. This was taken forward through the Wye Neighbourhood Plan (WNP) which was adopted in 2016. The WNP was based on the policies of the Ashford Borough Local Plan 2000, the Core Strategy 2008 and the TRSDPD, all of which are now superseded. The development plan currently comprises the Ashford Local Plan 2030 (adopted in 2019) (ALP) and the WNP. Where neighbourhood plan areas had been established early in the preparation of the ALP, as in Wye, site allocations fall to the neighbourhood plan where they are non-strategic in nature.
22. Policy WNP6 states that development proposals for the WYE3 site should deliver a mix of uses, including education, business, community infrastructure and some housing. It goes on to say that such development should be delivered in a phased manner in accordance with a masterplan that has been adopted as a Supplementary Planning Document by Ashford Borough Council. Policy WNP11 sets out the mix of uses proposed for the former Imperial College landholdings.

23. A masterplan was prepared by the appellant in consultation with the Council and other stakeholders, although the Parish Council and others dispute the effectiveness of community engagement in that process. The masterplan was presented to the Council's Cabinet in September 2018. There was a resolution to adopt it as informal guidance, rather than as a Supplementary Planning Document, subject to some minor amendments. The masterplan was discussed again by the Cabinet in October 2019 when there was a further resolution to adopt it as informal guidance for development management purposes. Again, this resolution was subject to amendments, one of which was to limit the number of dwellings on the former Agricultural Development Advisory Service (ADAS) site (Appeal C) to 15. Subsequently, the Council received a pre-action letter from solicitors acting for the Parish Council. This set out an intention to seek judicial review should the masterplan be adopted in line with the Cabinet resolution. The current position is that the masterplan has not been adopted and the Council has no plans to take the matter forward.
24. It is not for me to comment on the lawfulness of the Council's approach to adopting the masterplan or the merits of the Parish Council's challenge to that approach. For the purposes of these appeals, the practical outcome is that there is no masterplan for the WYE3 site that has been adopted by the Council as Supplementary Planning Guidance. It follows that, in this respect, none of the appeal schemes can fully comply with WNP Policy WNP6. In my view the draft masterplan carries no weight as a statement of development plan policy because it has not been adopted. Moreover, it carries very little weight as emerging policy because the Council currently has no intention of taking it forward.
25. The WNP establishes a village envelope around the settlement, outside which development will only be permitted in accordance with development plan and national policies for development in the countryside and AONB. The site of Appeal A is within that envelope and the site of Appeal C is outside it. However, at the site of Appeal B, the village envelope is marked with a dotted line which (the plan states) indicates that this section is to be defined through the masterplan. As there is no adopted masterplan, the village envelope remains undefined at this point.
26. The position on other sites within WYE3 is as follows:
- Wye School has been established, providing educational use in accordance with WNP11(a), albeit that this use was in place at the point at which the WNP was made;
  - land to the west of Olantigh Road remains available for development as a business hub in accordance with WNP11(b) but there were no proposals for this land before the Inquiry;
  - commercial uses along the south side of Occupation Road have been retained in accordance with WNP11(c), albeit that they have not been enhanced in accordance with that policy;
  - horticultural uses have continued to the south of Occupation Road, in accordance with WNP11(d); and



- the Withersdane site has been acquired by an organisation with the intention of putting it to an institutional use in accordance with WNP11(f).

27. The Council's most recent Five Year Housing Land Supply Update indicates that the supply equates to 4.8 years of the five year requirement (with a 5% buffer). The Council accepts that it cannot currently demonstrate the five year supply required by the National Planning Policy Framework (the Framework). The appellant considers that the shortfall may be greater. However, the SoCG confirms that the Council and the appellant agree that the scale of the shortfall is not a matter that needs to be explored in more detail for the purposes of these appeals. I share that view.

***Appeal A - whether the proposals would provide a suitable location for housing and community uses and whether the provision for community uses would be adequate, having regard to the provisions of the development plan***

28. The appeal site comprises an area of around 1ha, bounded by High Street to the south, Olantigh Road to the east, former college buildings to the north and the church of St Gregory and St Martin to the west. A footpath crosses the site running from the churchyard to Olantigh Road. To the south of the footpath the buildings of the former Wye College, which include nationally important heritage assets, are arranged in a series of quadrangles. To the north of the footpath are more modern buildings which were also part of the college. It is proposed that most of the buildings to the south of the footpath would be converted to residential and community use. The buildings to the north would be demolished and replaced by two new dwellings and parking courts with car barns and other ancillary structures.
29. The site is located within the WNP village envelope and housing is one of the uses proposed in Policy WNP11(e). It is well located in relation to the services available in the village. At the Inquiry there was no dispute that this would be a suitable location for housing, amongst other uses. I share that view.
30. The Latin School is located in the south west corner of the site, adjacent to the High Street. It has until recently been used as a Heritage Centre<sup>1</sup>. This use would be relocated within the complex. The Council and the appellant agree that the proposed floorspace is larger and more practical than the existing floorspace. I note that the proposed facility would have an entrance directly from the High Street and would have space for an archive room, accessible WC and kitchen. I agree that this would be an improvement on the existing arrangements. The proposals would therefore accord with ALP Policy COM1, which seeks to retain community infrastructure unless a suitable replacement can be provided.
31. Local residents drew attention to the level of demand for space to accommodate the activities of community groups in Wye and to the loss of other spaces used by such groups. The point was made that the Heritage Centre is one of many groups in the village. However, I consider that the proposed community space would be an improvement on the existing situation. Whilst I appreciate that some residents would like to see more space devoted

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<sup>1</sup> It was closed at the time of my visit in accordance with national restrictions in response to the Covid-19 pandemic

to community use, Policy WNP11(e) does not specify the amount of community space to be provided. The planning system is generally concerned with land uses rather than the identity of individuals or organisations that may use a particular building or space.

32. The proposals do not include any of the business uses that are referred to as part of the mix set out in WNP11(e). This matter was considered in the officers' report which stated that:

*"Given the marketing exercise that has been carried out promoting a mix of uses, has failed to generate any commercial interest from developers, I consider that the combination of housing and some community use on this scheme to be a realistic mix of use for the conversion and restoration of this heritage asset".<sup>2</sup>*

33. The Council has therefore reached the view that, notwithstanding the terms of WNP11, the proposed mix of uses is a good fit with the need to secure the conversion and restoration of the listed buildings. I agree that securing the reuse of the listed buildings is an important planning objective. Heritage considerations are discussed in more detail below. I see no reason to disagree with the Council's judgement that the absence of employment uses should not amount to a reason for refusal.
34. The Parish Council argued that the absence of an adopted masterplan amounts to a fundamental conflict with the WNP. It was suggested that this is not merely a technical or procedural matter and that, had the viability of the WYE3 site been assessed in a comprehensive way, it may have been possible to achieve more infrastructure contributions and more community and/or employment use within the Appeal A site. I agree that, in the absence of an adopted masterplan, it is not possible to secure phased development of the WYE3 sites as envisaged in WNP6. Also, there can be no guarantee that the proposed business hub and improvements to commercial units south of Occupation Road will be delivered. It follows that the balance between residential and employment uses may not be achieved in the way envisaged in the WNP.
35. The Appeal B and C schemes would deliver proportionate infrastructure contributions. It is possible that assessing viability across all the WYE3 sites would result in more (or indeed less) contributions in total but there is no evidence before me on that. It should also be noted that the total number of dwellings proposed across the three appeal sites would be well above the "approximately 50" referred to in WNP11(g). That said, the WNP does not seek to limit the number of dwellings and there is no evidence that exceeding 50 would, in itself, be harmful.
36. Whilst I consider that the absence of an adopted masterplan is a material disadvantage, I do not agree with the characterisation of the appeal proposals as "piecemeal". The appellant has sought to engage with the masterplan approach. Importantly, the pattern of development that is emerging on the ground (as described above) appears to me to be broadly consistent with the WNP.

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<sup>2</sup> Paragraph 66 of the officers' report



37. The Framework states that the planning system should be plan-led and that plans should provide a positive vision for the future of each area, addressing housing needs and other economic, social and environmental priorities. On the Parish Council's approach, the absence of an adopted masterplan would be likely to delay necessary development of the WYE3 site for an indefinite period. In my view that approach would not be consistent with the Framework. I consider that the absence of an adopted masterplan should be regarded as a material conflict with part of WNP6 which should be weighed in the balance together with other planning policies and other material considerations. Having regard to all the above matters, I attach moderate weight to that conflict.
38. WyeCrag has submitted an illustrative scheme for a hotel, restaurant, events space and other community uses. This scheme was put forward in support of arguments relating to the optimum viable use of the listed buildings. These are heritage considerations that are discussed below.
39. I conclude that the site is a suitable location for housing and community use and that the proposed community use would accord with the development plan. The proposals would accord with WNP6 insofar as that policy seeks residential and community uses as part of a mixed use development of the WYE3 site. They would accord with WNP11(e) insofar as the positive reuse of the listed buildings at the former Wye College would be achieved with residential and community use. They would accord with ALP Policy COM1 which seeks to ensure that there is a suitable replacement for the loss of any existing community facilities. There would be conflict with WNP6 insofar as that policy requires development to be delivered in a phased manner in accordance with an adopted masterplan. There would be conflict with WNP11(e) insofar as that policy requires an element of business use.

***Appeal B - whether the proposals would provide a suitable location for housing, having regard to the provisions of the development plan***

40. The site extends to around 2ha of land to the east of Wye School and to the north of Occupation Road. It is a gently sloping site with a mix of buildings comprising glasshouses, former teaching classrooms and research spaces to the west, a former meteorological station within an otherwise undeveloped field in the central part and an undeveloped field to the east. The buildings that were used by the college are now vacant and this part of the site comprises previously developed land. The western and central portions would be developed for housing with the eastern section left largely undeveloped, other than the introduction of a small car park to accommodate visitors to the North Downs Way. The Council does not object to the principle of residential development at this site although objections were maintained by the Parish Council and others.
41. WNP11(g) allows for residential development of land at WYE3 that is not required for the school or business hub. However, as noted above, the village envelope has not been defined at the site of Appeal B. As the WNP has not defined the extent of the relevant allocation it is appropriate to have regard to ALP Policy HOU5. This policy deals with proposals for residential development adjoining the built up confines of specified villages, including Wye.
42. I consider that the scale of development proposed would be proportionate to the size of the settlement and the service provision that it offers. There would be highway improvements at the junction of Olantigh Road and Occupation

Road which would ensure satisfactory access to the site. The site is on the edge of the village and would allow access to locations within the settlement by walking and cycling. Public transport services are also available in the village. For the reasons discussed below, I consider that the proposals would achieve a high quality of design and would sit sympathetically in the wider landscape. In these respects they would accord with the criteria set out in HOU5.

43. The Parish Council's arguments in relation to the absence of an adopted masterplan apply to all three appeal sites. My comments on that issue, which are set out above in relation to Appeal A, apply equally to Appeal B.
44. Part of the site is previously developed land. The central part of the site is not previously developed. However, it is land adjoining the built up confines to which ALP Policy HOU5 applies. The proposals comply with the criteria of HOU5 in all respects but one. In principle, I consider that the parts of the appeal site that are proposed for development are in a suitable location for housing.
45. However, Policy HOU5(f)(vi) also states that development should not adversely affect the integrity of international and national protected sites for nature conservation, in line with Policy ENV1. For reasons discussed below, the appeal scheme does not meet that criterion so it would not accord with Policy HOU5(f)(vi) in this respect.

***Appeal C - whether the proposals would provide a suitable location for housing, having regard to the provisions of the development plan***

46. The site, which extends to around 2.67ha, is occupied by a range of one and two-storey brick faced buildings, glasshouses, storage and plant rooms dating from the 1970s. It was previously used by ADAS and was last occupied by DEFRA until around 2009. Access is from Olantigh Road. The site is largely enclosed by woodland, some of which (fronting Olantigh Road to the south) is subject to a Tree Preservation Order. To the north is Olantigh Towers Registered Park and Garden (Grade II). The appeal site comprises previously developed land and the scheme would result in a net reduction in built footprint and floor area. The Council does not object to the principle of residential development at this site although objections were maintained by the Parish Council and others.
47. Policy WNP11(h) seeks to achieve the appropriate reuse of the former ADAS buildings, having regard to the concept of the walkable village. Given that the WNP does not allocate the site for any particular use, it is appropriate to have regard to ALP Policy HOU5. Although the site does not adjoin the built up confines of Wye, the policy also covers sites that are close to the built up confines. This would include the appeal site.
48. I consider that the scale of development proposed would be proportionate to the size of the settlement and the service provision that it offers. The proposed highway improvements include revisions to the site access, a reduced speed limit on Olantigh Road, traffic calming, footway improvements and works at the junction of Olantigh Road and Occupation Road. Together, these works would ensure that the site could be accessed safely and that there would be no harm to the wider road network.
49. Although there is a Registered Park and Garden nearby, no party at the Inquiry suggested that the replacement of the existing buildings would cause any harm

to the designated heritage asset through development in its setting. The appeal site is visually enclosed and I agree that there would be no harm to the significance of the heritage asset. For the reasons discussed below, I consider that the appeal scheme would achieve a high quality of design and would sit sympathetically in the wider landscape.

50. The Parish Council argued that the proposals would be in conflict with Policy WNP11(h) in relation to the concept of the walkable village. The WNP promotes the concept of a concentric village with the centre being within easy walking distance. It states that locating housing within about 400m from the centre of the village (defined as the Bridge St/Church St junction) is a good indicator of a sustainable settlement. However, the WNP does not set a policy limit of 400m. Neither the Council nor the highway authority raised any objection to the principle of up to 15 dwellings at the appeal site, which is around 870 to 900m<sup>3</sup> from the village centre defined in the WNP.
51. Local residents gave evidence that the footway along Olantigh Road is narrow and poorly surfaced in places. However, the proposals include improvements to the footway. These improvements could be secured by a condition. In my view, subject to those improvements, the facilities within the village would be reasonably accessible by walking and cycling. Policy WNP11(h) requires that development proposals should have regard to the concept of a walkable village. I consider that the planned improvements to the walking route between the site and the village would accord with the policy in that regard. I do not consider that the difference between the 15 dwellings contemplated by the Council and the 20 dwellings proposed in the appeal scheme is significant.
52. The Parish Council's arguments in relation to the absence of an adopted masterplan apply to all three appeal sites. My comments on that issue, which are set out above in relation to Appeal A, apply equally to Appeal C.
53. In conclusion, the site comprises previously developed land. The WNP does not allocate it for any particular use but it is close to the built up confines of Wye so ALP Policy HOU5 applies. I consider that the proposals comply with the criteria of HOU5 in all respects but one. In principle, I consider that this is a suitable location for housing. As this would be an appropriate reuse of the site, the proposals would accord with WNP11(h).
54. However, Policy HOU5(f)(vi) also states that development should not adversely affect the integrity of international and national protected sites for nature conservation, in line with Policy ENV1. For reasons discussed below, the appeal scheme would not meet that criterion so it would not accord with Policy HOU5(f)(vi) in this respect.

### ***Appeal A – the effect of the proposals on the historic environment***

#### *Introduction*

55. The designated heritage assets that have been identified as being affected are:
  - Wye College, Cloister Quadrangle – Grade I
  - The Latin School, Wye College – Grade I

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<sup>3</sup> These are the alternative estimates provided by the appellant and the Parish Council

- The Wheel House (Junior Common Room), Walls and Gates attached – Grade II\*
- Wye College, Entrance and Hall Quadrangles – Grade II
- Church of St Gregory and St Martin – Grade I (effect on setting only)
- Wye Conservation Area

56. In addition to the above, the medieval college of St Gregory and St Martin at Wye is a Scheduled Monument (SM). The monument includes the buried remains of the medieval college. The standing listed buildings are all excluded. The appeal scheme does not indicate any works below ground level. If any such works were required then SM consent may be required. Consequently, it is not necessary for me to comment further on the SM in this decision.

*The significance of the heritage assets*

57. At the Inquiry, Cloister Quadrangle, the Latin School and the Wheel House were referred to collectively as Kemp's College. The buildings were constructed at about the same time for related purposes and their shared history is an important aspect of their significance. It is therefore convenient to consider them together when assessing significance, bearing in mind that the statutory duty<sup>4</sup> applies to them as individual listed buildings. The later Grade II listed buildings were referred to at the Inquiry as Wye College. I shall use the terms Kemp's College and Wye College in the same way in this decision. All listed buildings are important and the Framework requires that great weight is to be attached to the conservation of designated assets. The presence of Grade I and Grade II\* listed buildings indicates a particularly high level of significance.
58. Kemp's College comprises an outstanding collection of medieval college buildings, founded in 1447 by Archbishop John Kemp. Historic England (HE) describes these as rare and impressive structures, including stone ranges with elaborate timber roofs, set around a small quadrangle (Cloister Quadrangle). The Wheel House was a separate building to the south, probably accommodating kitchens and a brewhouse. The Latin School, also a separate building to the south, was built as a school. After 1545 the buildings of Kemp's College were used as a school and master's house. The most important changes to the buildings around the Cloister Quadrangle came in the 17<sup>th</sup> century, when panelling was installed in the parlour<sup>5</sup> and Solar and a staircase was constructed in the north range. In the 18<sup>th</sup> century brick arcading was constructed around the Cloister Quadrangle.
59. Kemp's College has a high level of historic interest in that it illustrates the arrangement and use of a 15<sup>th</sup> century chantry college. The association with Kemp, who was an advisor to the monarch, adds to the historic interest. It also has a high level of architectural interest, due to the completeness of its component parts, the survival of the historic plan form and the existence of extensive 15<sup>th</sup> century fabric. There is also a large amount of important 17<sup>th</sup> century fabric with the addition of fireplaces, chimneys and panelling in that period. All parties have drawn attention to the size and grandeur of the staircase. Carved statues of Ancient Britons, that once stood on the newels of

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<sup>4</sup> Section 66, Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>5</sup> The two ground floor spaces in the north range shown as "communal spaces" on the proposed ground floor plans are referred to as the "Jacobean dining room" and the "parlour" in the suggested conditions

- the staircase, are currently in the minstrels gallery. The 18<sup>th</sup> century facades to the Cloister Quadrangle add a further layer of architectural interest.
60. In the late 19<sup>th</sup> century the buildings were converted to an agricultural college which expanded rapidly in the early 20<sup>th</sup> century to form a number of quadrangles (Wye College). The buildings of Wye College have considerable architectural interest. They demonstrate a high standard of design, incorporating historical revival styles that sit harmoniously with the earlier buildings. The materials and craftsmanship are of similarly high quality. To my mind the pre-eminent feature of Wye College is the design quality of the elevations and the way that the buildings enclose a series of four quadrangles, creating a harmonious and unmistakably collegiate atmosphere.
61. HE highlighted the steeply raked lecture theatre as the most notable feature of the Wye College buildings. The dining hall is also an impressive space which adds to significance. The workshops, which lie outside the arrangement of quadrangles, add something to the overall significance of Wye College in that they illustrate the practical aspects of the education that the agricultural college provided, alongside academic teaching and research. All of these features add to the historical interest of Wye College in that they illustrate the way that the college functioned. The overall design quality of the buildings also demonstrates the confidence and ambition of those responsible for expanding the college in the early 20<sup>th</sup> century.
62. HE's *Conservation Principles* suggests that the communal value of a heritage asset includes the way a place figures in the collective experience. The concept of communal value is pertinent here because of the close association between the college and the village of Wye. That association goes back over centuries because of the charitable schools that once provided education for the local community. At the Inquiry, local residents described how the life of the agricultural college was entwined with the economic, social and community life of the village in many ways. Aspects of this close relationship included the use of spaces within the college for community activities. There was, it seems, little restriction on the ability of the general public to walk through the college and use facilities within it. It is clear from the representations that I have heard and read that the former agricultural college figures in the collective experience such that it is, for many local residents, an important aspect of their sense of community and local distinctiveness.
63. The agricultural college closed in 2008 and the buildings have been unused since that time.
64. The Church of St Gregory and St Martin is a parish church dating from the 13<sup>th</sup> century. It has a high level of architectural and historic interest. The church is seen as a free-standing structure set within its churchyard, the east side of which is bounded by the buildings of Kemp's College. This setting makes an important contribution to the ability to appreciate the church and hence to the significance of the listed building. However, the modern buildings to the north of the east/west footpath have little impact on the character of the space around the church. They neither add to, nor detract from, the significance of the listed building.
65. The Wye Conservation Area covers the historic core of the settlement, including the buildings of Kemp's College and Wye College, the Church and numerous listed buildings along Church Street and Bridge Street. The concentration of



designated assets and the street pattern of the settlement core make important contributions to the significance of the Conservation Area.

*The effect of the appeal proposals*

The Old Hall, Jacobean dining room, parlour, Jacobean staircase and chapel

66. The Old Hall, Jacobean dining room, parlour and Jacobean staircase are amongst the most important and sensitive spaces within Kemp's College, in terms of the ability to understand the layout and functioning of the chantry college, the illustration of the innovations made to support domestic use in the 17<sup>th</sup> century and the amount and quality of historic fabric that survives. These spaces would be retained as they are, for communal use by residents of the residential accommodation with occasional public access. This approach would limit the pressure to make changes to these highly sensitive spaces, for example through the introduction of new services that might be required for a more intensive use. In my view the restoration of these spaces, and retention in communal use, is a key aspect of the preservation of the heritage asset which should be regarded as an important heritage benefit.
67. The Jacobean staircase has been identified as a highly significant element of 17<sup>th</sup> century fabric. It is important in its own right, as an example of the craftsmanship of the period. Moreover, it illustrates the status that the house and its occupants had achieved at that time. Restoration of the staircase, with the reinstatement of the statues of the Ancient Britons, is also an important heritage benefit. Retention of the chapel for public worship would maintain an important link with the way previous occupiers have used the buildings, contributing to the preservation of significance.

Upper floor of the north range (Unit 32)

68. The ability to appreciate the earlier layout and function of this part of the building (which includes the Solar) has been heavily compromised by 20<sup>th</sup> century adaptations. The spaces have been subdivided by modern partitions and fire doors to create a series of student study/bedrooms. The subdivision of the panelled room to the east<sup>6</sup> appears particularly unfortunate, with the proportions of the room being lost.
69. In discussions with HE, the appellants have proposed the removal of the existing ceilings in the central part of Unit 32, creating a single volume and allowing the crown-post roof trusses to be seen. Some parties have criticised this approach on the basis that it would involve the loss of historic fabric from the 17<sup>th</sup> century. I appreciate that there is a balance of considerations here and that the proposed approach would result in the loss of some historic fabric. However, the existing ceilings are subdivided as described above and overlain with modern finishes. It seems likely that historic fabric survives but it is not readily appreciated in the current condition. In contrast, the appeal scheme would enable the spatial quality of the Solar and the structure of the roof to be appreciated. HE considered that opening up the fine crown-post roof represents one of the most important opportunities for enhancement in the northern range. I agree.
70. The ceiling would be retained in the panelled room to the east. This would be appropriate and consistent with the retention and restoration of 17<sup>th</sup> century

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<sup>6</sup> Photograph 8 on drawing *Demolition – first floor plan – Unit 32* (drawing 2742-91 Rev A)



features such as panelling and the chimneypiece. The southern wall adjoins the Old Hall and it would be necessary to provide fire separation at this point. I note that the panelling would need to be removed and then repositioned with fire separation behind. The Council was satisfied that full details of those works could be secured by conditions on the listed building consent. I see no reason to take a different view and consider that any harm from disturbance to historic fabric would be minor. Taken together, I consider that the proposals for Unit 32 should be regarded as an important heritage benefit.

#### South range and west range

71. The conversion of the south and west ranges to a single dwelling (Unit 18) could be achieved largely within the existing layout of rooms and circulation spaces. The layout and historic fabric would therefore be preserved. The creation of a separate dwelling here would require sound and fire separation to be installed at two points, in bedroom 5 (adjacent to Unit 32) and in a corridor (adjacent to the southern end of the Old Hall). I saw that overlining the walls in question would not result in the loss of any important features. The overlining would be attached to historic fabric and the details would need to be approved. Again, this could be controlled by conditions on the listed building consent, such that any harm from disturbance to fabric would be minor.

#### The Latin School

72. The Latin School is shown as ancillary residential accommodation associated with Unit 18. The space has most recently been used as a heritage centre and would require little adaptation for its proposed use. No subdivisions or external alterations are proposed. I consider that keeping the Latin School in the same unit of occupation as the south range of Kemp's College is an important aspect of the appeal scheme. This is because the physical relationship between the Latin School and the south range, which is important in understanding the way the site functioned in the past, would be unchanged. There would be no need to introduce walls, gates or other barriers into the important garden space adjacent to the Latin School and no change to the pathway leading from High Street to the southern entrance of the south range. The concerns raised at the Inquiry related to functional subdivision and public access, rather than the proposed physical works. I return to those matters below.

#### The Wheel House

73. The Wheel House would be retained as a single open plan space. The only external change would be the removal of a small and unsympathetic modern extension. At the Inquiry, no party identified any harm arising from works to the Wheel House.

#### Wye College

74. The buildings of Wye College were purpose-built as student accommodation, mostly in the early 20<sup>th</sup> century. The cellular nature of the buildings lends itself to residential conversion. The appeal scheme would result in only very limited changes to the external elevations or to the calm, enclosed character of the quadrangles. Thus the special architectural interest of these elevations and spaces would be preserved.
75. The lecture theatre was considered by HE to be the most notable feature of the Wye College buildings. I agree that it is an important feature, both from the

craftsmanship of its steeply-raked seating arrangement and from the strong sense of connection it provides to a long history of academic endeavour. The lecture theatre would be retained as it is, for the communal use of residents and with occasional public access. I consider that retaining this sensitive space unchanged should be regarded as a heritage benefit.

76. No party at the Inquiry questioned the appropriateness of putting most of the buildings to residential use. However, the Parish Council criticised the proposals for the dining hall, the workshops and the north elevation of the Agricola Quadrangle. The dining hall is an impressive space which would be subdivided to create residential units. In my view this should be recognised as causing some harm to the significance of the listed building. The degree of harm would be mitigated (to some extent) by retaining a double height void within Unit 23, thereby allowing the structure to be appreciated and recalling the scale of the original space.
77. Although the workshops lie outside the arrangement of quadrangles, which is the principal feature of the listed building, they nevertheless have some value in illustrating the practical aspects of the education that the agricultural college provided. The demolition of most of the workshops would therefore represent some loss of significance, mitigated by the retention of the two storey central block with its Arts and Crafts architectural details. The north elevation of the Agricola Quadrangle has been partly subsumed in a modern extension dating from the 1970s. Removing this utilitarian structure would in itself be a benefit. There is no policy requirement for the lost elevation to be recreated. Instead, the appellant has proposed a new elevation, albeit using materials and detailing consistent with the period of the building. In my view that is a valid approach that would not be harmful.

#### Church of St Gregory and St Martin

78. The churchyard is an important element of the setting of the church. No alterations are proposed to the west elevation of Kemp's College where it adjoins the churchyard. However, the modern buildings to the north of the east/west footpath have little impact on the character of the space around the church. In my view replacement of those buildings with two houses linked by a single storey car barn would not affect the ability to experience the church in its churchyard setting. There would be no harm to the setting or the significance of the church.

#### Wye Conservation Area

79. The buildings of Kemp's College and Wye College are important features of the conservation area. The appeal scheme would not result in any significant changes to the appearance of the buildings as seen from High Street, Olantigh Road or the churchyard. There would, therefore, be no harm to the conservation area.

#### Bringing vacant buildings back into use

80. Planning Practice Guidance notes that the vast majority of heritage assets are in private hands and that putting such assets to a viable use is likely to lead to the investment in their maintenance that is necessary for their long-term conservation. That advice is pertinent to this appeal which relates to buildings that have been unused since 2008. HE has noted that some maintenance has

continued but the buildings are in need of reuse. I share that view. The viability of the appeal scheme has been assessed by the Council. It concluded that the scheme would be viable, albeit that some infrastructure payments would need to be deferred as set out in the s106 Agreement.

81. I consider that the appeal scheme would secure new uses that are likely to lead to the investment needed for the long-term conservation of the listed buildings. Having regard to the high level of significance attributable to these buildings, and the scale and complexity of the group of buildings that is in need of reuse, I regard this as a heritage benefit to which significant weight should be attached.

Subdivision – function and occupation

82. The buildings of Kemp's College have been occupied as a single unit since the foundation of the chantry college. The buildings have had an educational function, to varying degrees, for most of that time. The buildings of Wye College were built as a residential institution. The Parish Council and others are concerned that the complex would be subdivided into individual residential units, resulting in harm to the significance of the listed buildings. HE referred to the "*dilution of the overall coherence and institutional character of the buildings*" as a negative impact.
83. I agree that the coherence and institutional character of the buildings adds to their significance. However, the institution that gave rise to much of that character closed in 2008. A marketing campaign was undertaken to seek an appropriate institutional use to take on the buildings but none was forthcoming. The current development plan does not require institutional use, nor any further marketing, no doubt as a result of what has gone before. The WNP seeks a mix of uses, including community, residential and business uses. Any scheme in compliance with that policy is likely to result in subdivision of function and occupation. Moreover, no party at the Inquiry suggested that there is any reasonable prospect of a single institutional occupier coming forward.
84. The loss of institutional use is not a consequence of this appeal scheme, which was brought forward several years after the agricultural college had closed. To the extent that the appeal scheme would result in a loss of institutional character, the proposals include some important mitigation. The future residents would have access to the quadrangles and cloisters, as well as to the Old Hall, panelled dining room, parlour and lecture theatre. These spaces, which would have been important to the previous institutional use, would be made available for communal use by future residents. There would be occasional public access to most of these spaces and the Chapel would be kept available for public worship. Moreover, there would be a unified management structure for the external spaces within the complex.
85. Taken together, I consider that these measures would mitigate the loss of institutional character, notwithstanding the subdivision of much of the floorspace into individual residences. My overall assessment is that subdivision would result in some loss of coherence and institutional character, resulting in some harm to significance. For both Kemp's College and Wye College this would be at the lower end of the spectrum of less than substantial harm.

### Communal value

86. As noted above, the agricultural college was, for many local residents, an important aspect of their sense of community and local distinctiveness. Residents have described how the life of the college was entwined with the economic, social and community life of Wye. However, that institution has gone and there is no reasonable prospect of any comparable institutional use coming forward. The communal value that is still felt within the community resides in the collective experiences associated with the buildings that remain. To my mind, finding an appropriate new use for buildings that have been vacant for a lengthy period would not represent a further loss of communal value.

### Public access

87. It seems that there was little restriction on the ability of the general public to walk through the agricultural college and use facilities within it. However, that ability came to an end when the college closed. As long as the buildings remain vacant it seems unlikely that there will be any ability for the public to gain access. The proposals include public access to the quadrangles, cloisters and important rooms on one day per month, with the chapel available for public worship for four services per month and an annual heritage open day.
88. It is understandable that those who were familiar with the college when it was functioning would prefer to see a much greater level of public access. However, there is no policy or legal requirement for the landowner to replicate the former arrangements. Indeed, there is no general obligation on an owner of a heritage asset to grant any public rights of access to it<sup>7</sup>. HE advised that the provision of occasional public access to key historic features would represent a heritage benefit. I share that view and I consider that the proposed arrangements for public access to key features of the complex should be regarded as a heritage benefit.

### *Conclusions on the designated heritage assets*

#### Cloister Quadrangle

89. The heritage benefits would include:

- restoration of the most important and sensitive spaces and their retention in communal use;
- restoration of the Jacobean staircase;
- removal of modern subdivisions in the Solar;
- opening up the roof of the Solar to reveal the crown-post roof;
- restoring the fabric and proportions of the 17<sup>th</sup> century panelled room; and
- public access to the Old Hall, Jacobean staircase and Cloister Quadrangle and use of the chapel for public worship.

In addition, there would be a wider heritage benefit in securing the reuse of the buildings in a manner that is likely to support their long-term conservation. There would also be some heritage harm:

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<sup>7</sup> Particular obligations may apply in some cases, for example as a condition of public funding

- loss of 17<sup>th</sup> fabric in the ceiling to the Solar;
- minor disturbance to fabric in limited areas where fire separation would be needed;
- subdivision would result in some loss of coherence and institutional character.

Overall I would characterise the harms as relatively minor (individually and collectively) and towards the lower end of the spectrum of less than substantial harm. They would be decisively outweighed by the heritage benefits identified above, to which I attach significant weight. The result would be a net heritage benefit.

#### The Latin School

90. There would be no harm from physical works to the building. There would be some harm from the subdivision of the wider complex which would result in some loss of coherence and institutional character. This would be mitigated by the retention of the Latin School in the same unit as the south range, enabling the intervening garden space to remain undisturbed. The residual harm would be outweighed by the wider heritage benefit of securing the reuse of the building in a manner that is likely to support its long-term conservation. This would result in a net heritage benefit.

#### The Wheel House

91. There would be no harm from physical works to the building. There would be some harm from the subdivision of the wider complex which would result in some loss of coherence and institutional character. The harm would be outweighed by the wider heritage benefit of securing the reuse of the building in a manner that is likely to support its long-term conservation. This would result in a net heritage benefit.

#### Wye College, Entrance and Hall Quadrangles

92. The cellular nature of the buildings makes them well suited to residential conversion, without harm to the architectural quality of the external elevations and spaces. Heritage benefits would include retention of the lecture theatre in communal use and public access to the lecture theatre and quadrangles. There would also be a wider heritage benefit of securing the reuse of the buildings in a manner that is likely to support their long-term conservation.
93. There would be some heritage harm from the subdivision of the dining hall and the loss of the greater part of the workshops. There would be some harm from the subdivision of the wider complex which would result in some loss of coherence and institutional character. Overall, I would characterise the harms as relatively minor (individually and collectively) and towards the lower end of the spectrum of less than substantial harm. They would be decisively outweighed by the heritage benefits, to which I attach significant weight. The result would be a net heritage benefit.

#### Conclusion on the listed buildings that would be directly affected

94. For each of the listed buildings identified above I have found that any heritage harms would be outweighed by heritage benefits, resulting in a net heritage

benefit. In relation to the statutory duty<sup>8</sup>, I conclude that each of the listed buildings would be preserved. In relation to the Framework, I conclude that there would be net heritage benefit (in each case) such that the appeal scheme should be considered under paragraph 193 which requires that great weight is given to the conservation of designated heritage assets<sup>9</sup>.

#### Church of St Gregory and St Martin

95. There would be no harm to the significance of the church through development in its setting. The setting of the listed building would be preserved.

#### Wye Conservation Area

There would be no harm to the character or the appearance of the conservation area. The character and appearance of the conservation area would be preserved.

#### *Other heritage considerations*

##### The WyeCrag proposals

96. WyeCrag put forward an alternative scheme which, it was suggested, would involve less harm to the listed buildings and would therefore represent the optimum viable use. WyeCrag argued that the appeal scheme would result in less than substantial harm to the listed buildings, would not represent the optimum viable use and, consequently, would be contrary to paragraph 196 of the Framework.
97. Whilst I have identified some harm to each of the listed buildings, in each case I have found that the harm would be outweighed by greater heritage benefits. For the reasons given above, I do not think paragraph 196 is applicable. However, even if paragraph 196 was applicable, it does not require demonstration of optimum viable use in every case. Optimum viable use is to be considered "*where appropriate*". In my view, it would not be appropriate to require the appellant to demonstrate optimum viable use in the circumstances of this case where heritage benefits would decisively outweigh heritage harms.
98. In any event, I do not think it has been shown that the WyeCrag scheme would result in less harm to the listed buildings. It is an illustrative concept sketch rather than a fully developed scheme, so cannot be compared directly with the appeal scheme. Even so, on the basis of the information before the Inquiry, I consider that WyeCrag's evidence understated the level of intervention in the historic fabric that would be likely to be required in practice to support the mix of uses proposed. In summary, whilst I have taken account of the WyeCrag scheme, it does not alter my conclusions on the appeal scheme.

##### The information available to Historic England and the Council

99. The Parish Council argued that the appellant's heritage report was a description of the listed buildings rather than a proper analysis of their significance. Planning Practice Guidance states that applicants are expected to describe the

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<sup>8</sup> Section 66, Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>9</sup> An alternative approach would be to weigh the heritage harms against the heritage benefits (for each asset), together with any other public benefits, under paragraph 196 of the Framework. It makes no difference which approach is taken because consideration of non-heritage benefits (in this case, the delivery of housing) would only add to the weight in favour of the appeal scheme.



significance of any heritage assets that will be affected and, where relevant, how this has informed the development of the proposals. The Parish Council pointed out that the heritage report came after the scheme drawings were prepared. Consequently, it was not clear on the face of the application documents how significance was assessed and taken into account in the preparation of the appeal scheme. In my view that was a fair criticism.

100. The timeline submitted by the appellant at the Inquiry describes an iterative process in which the appellant's team engaged with HE during the pre-application period and after the submission of the application.
101. Given the level of engagement with HE, it seems to me that HE would have been aware of the historic and architectural interest of the heritage assets when making its comments to the Council. I have taken HE's comments into account, keeping in mind that some aspects of significance (such as communal value) may not have been explored at that stage. Subsequently, the Inquiry heard expert evidence on heritage matters on behalf of the appellant, the Parish Council and WyeCrag. That evidence included detailed analysis of the significance of the heritage assets. I have reached my conclusions in the light of that evidence, together with what I saw on site. Overall, I am satisfied that there is sufficient information before me for heritage matters to be properly assessed.

#### *Conclusions on the historic environment*

102. I conclude that the appeal scheme would preserve the listed buildings that would be directly affected and would support their long-term conservation. Bearing in mind the high level of significance attributable to these buildings, great weight should be attached to their conservation. There would be no harm to the setting or the significance of the Church of St Gregory and St Martin. There would be no harm to the character or the appearance of the Wye Conservation Area.
103. The scheme would accord with ALP Policies SP1 and ENV13 which seek to preserve heritage assets and to encourage proposals that bring redundant buildings into appropriate uses consistent with their conservation. It would accord with ALP Policy ENV14, which seeks to protect conservation areas, and with ALP Policy SP6 and WNP Policy WNP2 which promote high quality design that conserves local distinctiveness.

#### ***Appeal B - the effect of the proposals on the Kent Downs AONB and on the character and appearance of the area generally***

104. The appeal site lies within the Kent Downs AONB. The management plan for the AONB describes it as having a dramatic and diverse topography, including scarp slopes and broad, steep-sided river valleys. This topography provides opportunities for long distance panoramas across open countryside. The site is located within the broad valley of the River Stour. To the east the land rises gently, then more steeply, to Wye Downs. Wye Memorial Crown is a well-known elevated viewpoint on the North Downs Way which provides extensive views over the village of Wye and the Stour valley.

#### *Landscape impact*

105. The site is adjoined by modern school buildings to the west. The North Downs Way passes along Occupation Road which forms the southern site boundary.

There are commercial premises and houses fronting the southern side of Occupation Road. There are school playing fields to the north and open fields to the east. As noted above, this is a gently sloping site with a mix of buildings comprising glasshouses, former teaching classrooms and research spaces to the west, a former meteorological station within an otherwise undeveloped field in the central part and an undeveloped field to the east (known as the Strawberry Field).

106. The redundant buildings detract from the landscape character of the site itself and its surroundings. However, this is a relatively localised impact. In middle and longer range views the impact of the vacant buildings is limited by vegetation and the presence of buildings on the northern fringes of Wye. The proposals would not increase the total footprint of buildings on the site but development would extend further east, into the meteorological station field. The Strawberry Field would be retained as meadow with additional planting along its northern and eastern boundaries. I consider that the replacement of the existing buildings with well-designed houses in a landscaped setting would result in an enhancement of the landscape character of the site itself. This would be a localised effect.
107. Having regard to the previously developed nature of part of the site, together with the location on the edge of the settlement, I consider that the appeal scheme would have a neutral effect on the landscape character of the wider AONB.

#### *Visual impact*

108. The main locations where visual receptors would experience the proposed development would be in the immediate vicinity of the site along Occupation Road, middle distance views from footpaths to the east (including parts of the North Downs Way) and longer views from the vicinity of Wye Memorial Crown. The current approach to the village along Occupation Road is not of high visual quality, being hemmed in by commercial buildings on one side and a high conifer hedge on the other.
109. The proposed linear park would have the effect of opening up and softening the character of this part of the North Downs Way. Whilst the linear park would not be wide enough to function as an area for outdoor recreation, if suitably landscaped it would provide an important visual amenity. It would enable the tree-lined nature of the North Downs Way to extend most of the way to Olantigh Road. Details of landscaping could be secured by a condition. Insofar as the redundant buildings are visible from Occupation Road, their replacement with well-designed houses in a landscaped setting would be an improvement in visual terms. The Village Design Statement comments on the importance of approaches to the village. I consider that the appeal scheme would improve the appearance of the approach to Wye along the Occupation Road section of the North Downs Way.
110. In middle distance views from the east, some of the proposed houses would be closer to the viewer than the existing redundant buildings. Even so, the proposed houses would be seen in the context of existing buildings in Wye, including the prominent school buildings. Views of the proposed houses would be filtered by existing trees. There would be greater filtering over time as new tree planting matured. The skyline would continue to be formed by a ridge of

higher ground to the north west, as it is now. Although there would be some change in the view, I do not think that the change would be harmful.

111. As seen from Wye Memorial Crown, the appeal site is a small element in a broad, sweeping panorama encompassing the settlement of Wye and the Stour Valley. It might be possible to pick out the roofs of the proposed houses, at least at times when visibility is good. However, I do not think there would be any material change in the character and quality of the view.

### *Design*

112. The proposed houses would be set within a landscape framework formed by planting along the site boundaries, including in the linear park to the south and the Strawberry Field to the east. Some of the houses would be grouped around a central green space which would mark a division between two broad character areas. There would be higher density to the west, closer to Wye, with more terraced and semi-detached units, and lower density to the east, closer to the countryside. The design of the houses would draw on the materials and roof forms of Kent vernacular architecture, with a mix of hipped roofs, gables and catslides.
113. The proposals would achieve a coherent pattern of development with a legible and accessible layout. The green spaces within the developed area would not be large in area but they would create an attractive and distinctive public realm. Public safety has been considered in that the spaces would be overlooked by housing. The Strawberry Field, which is proposed for ecological mitigation, would also provide a green setting in visual terms. There would be a good range of unit types. This would be beneficial in terms of mix and integration. It would also allow for variety in the street scene.
114. The Council characterised the layout as suburban, referring to the street pattern as “*rectangular*” and criticising the use of parking courts and the lack of verges and roadside greenery. However, the plans show that the main routes would incorporate changes of alignment to avoid long, straight views. Some buildings would be sited close to the street to create pinch points, thereby providing variety, visual enclosure and traffic calming. The proposed parking court would be small in scale, bounded by houses and landscaping. Its layout would be convenient and secure. To my mind this represents a reasonable design choice, enabling the inclusion of some smaller houses that would not have individual parking. The southern and eastern sections of the access road would have landscaped open space on one side. Some of the frontages within the scheme would be enclosed by trees and the plot boundaries would be defined by hedges. Further details of landscaping and boundary treatments could be controlled by planning conditions.
115. The Council provided information about housing density in other locations on the edge of Wye. This was essentially a numerical exercise which, to my mind, did little to inform consideration of the design quality of the appeal scheme. Reference was also made to the design of housing schemes in other locations<sup>10</sup>. However, the fact that a particular design approach was followed on an unrelated site does not provide a measure of design quality for this appeal site. In my view the proposed density would be appropriate to this edge of village location.

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<sup>10</sup> Orchard Gate and Wootton Farm

### *Conclusions*

116. My overall assessment is that the appeal scheme would achieve high quality design, as required by the Framework and the development plan, and would not result in harm to the Kent Downs AONB or the character and appearance of the area generally. The proposals would accord with ALP Policies SP1 and SP6 and WNP Policy WNP2, insofar as those policies promote high quality design. They would accord with ALP Policies HOU3a and HOU5, insofar as those policies relate to design and landscape. They would accord with ALP Policy ENV3b and WNP Policy WNP8 which seek to protect and enhance the distinctive character of the AONB.

### ***Appeal C - the effect of the proposals on the Kent Downs AONB and on the character and appearance of the area generally***

117. The appeal site is close to the site of Appeal B, so my comments above in relation to the setting of that site in the wider landscape apply equally to this appeal.

### *Landscape impact*

118. As noted above, the site is occupied by a range of one and two-storey brick faced buildings, glasshouses, storage and plant rooms dating from the 1970s, previously used by ADAS. The buildings are in a poor condition and they detract from the landscape character of the site. This can be seen at the site access from Olantigh Road. However, the site is largely enclosed by woodland, including an arboretum to the south (subject to a Tree Preservation Order) and Olantigh Towers Registered Park and Garden to the north. Consequently the existing buildings have little impact on the wider landscape of the AONB.

119. The site comprises previously developed land and the scheme would result in a net reduction in built footprint and floor area. I consider that the replacement of the existing buildings with well-designed houses would result in an enhancement of the landscape character of the site itself. Due to the visually enclosed nature of the site, this would be a localised effect. There would be a neutral effect on the landscape character of the wider AONB.

### *Visual impact*

120. The main locations where visual receptors would experience the proposals would be in the immediate vicinity of the site at the access from Olantigh Road, middle distance views from footpaths to the east (including parts of the North Downs Way) and longer views from the vicinity of Wye Memorial Crown.

121. Views from the site access would be improved by the replacement of the existing buildings with well-designed housing. That said, the development would not have a strong presence in the street scene of Olantigh Road because most of the houses would be set back from the site frontage. Moreover, the houses would face onto internal roads. The existing brick boundary wall and mature tree belt along the site frontage would be maintained. The approach to the village would therefore be largely unaffected.

122. There is limited ability to see the existing buildings in middle distance views from the east due to intervening topography and vegetation. The ridges of the proposed houses would be higher than the parapet level of the existing flat-roofed structure but the eaves level would be lower. The roofscape of the

proposed houses would, potentially, be visible, albeit any such views would be heavily filtered by existing vegetation. The design incorporates hipped roofs and the buildings closest to the eastern boundary would be widely spaced.

123. The roof ridges would be below the general level of the tree canopy in the vicinity of the site. There would be no impact on views of the far horizon, which is formed by high ground on the opposite side of the valley. Subject to suitable colour and tone of roofing materials, which could be covered by a condition, I consider that the proposed houses would have little impact on the middle distance views. They would not be harmful.
124. My comments above in relation to views of the Appeal B scheme from Wye Memorial Crown apply equally to this appeal. For the same reasons, I consider that there would be no material impact on those views.

### *Design*

125. The scheme would retain the trees and woodland around the site, creating a strong sylvan setting for the development. The focal point of the layout would be a roughly triangular green with houses grouped around it. There would be smaller character zones in other parts of the site, including a more formal arrangement at the southern end and a looser grouping on the higher land to the east. The design of the houses would reflect the materials and roof forms typically associated with Kent vernacular architecture. The density would be relatively low. The scheme would include four semi-detached house types with the rest being detached houses set in relatively generous plots. I consider that the proposals would create an attractive place to live. The central green would be a safe and accessible space, overlooked on all sides. It would be a distinctive feature, giving a sense of identity. The routes through the site would be legible and it would be easy to move around.
126. The Council criticised the scheme on the basis that it would be a linear arrangement with a uniform set back of houses from the street, that the layout would not allow the countryside to penetrate the site and that the largest houses would be placed on the highest land, on the eastern side of the site. I do not agree with those criticisms. The layout would have an informal character, appropriate to this rural setting. The scheme would include a range of house types and roof forms. Some of the garages would be attached to houses whilst others would be sited side-on or backing on to the street, creating localised narrowing and variety in the street scene.
127. I agree that the scheme would be inward-looking, with the houses facing the internal roads and green rather than facing Olantigh Road or the countryside. However, to my mind that is a reasonable design response to a site that is largely surrounded by woodland and visually separated from other built development. Whilst seeking to draw the countryside into the residential enclave, as the Council suggested, would be one design approach, it is not the only approach. For the reasons given above, I consider that the proposed development would sit comfortably in the wider landscape whilst creating an attractive living environment for future residents. It is fair to point at that plots 7 and 8, containing the largest houses, would occupy higher ground on the eastern side of the site. However, as discussed above, this arrangement would not result in harm to the landscape of the AONB.



128. My comments on Appeal B relating to density comparisons, and comparisons with design approaches followed elsewhere, apply equally to this appeal. The Council would prefer to see 15 houses on this site rather than the 20 proposed by the appellant. However, there is no adopted policy in support of that preference. Although there was reference to 15 houses in a report relating to the draft masterplan, that carries very little weight as a statement of planning policy for the reasons discussed above. In my view the Council's preference for 15 dwellings is not, in itself, a valid criticism of the design quality of the appeal scheme.

### *Conclusions*

129. My overall assessment is that the scheme would achieve high quality design, as required by the Framework and the development plan. It would not result in harm to the Kent Downs AONB or to the character and appearance of the area generally. The proposals would accord with ALP Policies SP1 and SP6 and WNP Policy WNP2, insofar as those policies promote high quality design. They would accord with ALP Policies HOU3a and HOU5, insofar as those policies relate to design and landscape. They would accord with ALP Policy ENV3b and WNP Policy WNP8 which seek to protect and enhance the distinctive character of the AONB.

### ***The effect of the proposals on the Stodmarsh nature conservation sites***

130. Natural England (NE) considers that the water environment in the Stour catchment is one of the most important in the UK for water dependant wildlife. Moreover, the Stodmarsh water environment is internationally important. However, there are high levels of nitrogen (N) and phosphorous (P) input to this environment and there is evidence that these nutrients are causing eutrophication in parts of the designated sites, thereby impacting on protected habitats and species.
131. Stodmarsh Special Protection Area (SPA) is a wetland of international importance including open water, reedbeds and grazing marshes. The interest features of the SPA include great bittern, gadwall, northern shoveler and hen harrier, together with assemblages of waterbirds and breeding birds. The conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored, including by maintaining or restoring the habitats and populations of the qualifying features.
132. Stodmarsh Special Area of Conservation (SAC) is described in similar terms. The qualifying feature of the SAC is Desmoulin's whorl snail. The conservation objectives for the SAC are to ensure that the integrity of the site is maintained or restored and that it contributes to achieving the favourable conservation status of its qualifying feature by maintaining or restoring habitats and populations.
133. The interest features of the Stodmarsh Site of Special Scientific Interest (SSSI) include the features noted above together with wetland habitats, standing waters and assemblages of vascular plants and invertebrates. The interest features of the Stodmarsh Ramsar Site include assemblages of invertebrates, scarce plant species and rare wetland birds.
134. It is necessary to consider all three appeals in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) (the



Habitats Regulations) due to the presence of the Stodmarsh SPA, SAC and Ramsar designations. Impacts on the SSSI are also a relevant consideration. However, as there is considerable overlap in terms of interest features and impact pathways is it not necessary to discuss the SSSI separately.

135. Some of the waterbodies within the designated sites have been found to be in unfavourable condition due to high levels of P and N. There is uncertainty regarding the source of these nutrients, although NE considers that they are mostly caused by wastewater from housing and agricultural sources. NE has published advice on nutrient neutrality for new development in the Stour catchment. This states that there is uncertainty as to whether new growth will cause further deterioration of the designated sites. Studies are being undertaken to investigate the impacts of the wastewater treatment works (WWTW) discharging into the River Stour. These studies will also investigate the hydrological links between the River Stour and the Stodmarsh lake system and will seek to propose solutions to identified impacts.
136. Until that work is done, NE advises that there is potential for new housing developments to exacerbate the existing impacts, creating a risk to the future conservation status of the designated sites. It is NE's view that a likely significant effect on the internationally designated Stodmarsh sites, due to increases in wastewater from new developments coming forward in the Stodmarsh catchment, cannot be ruled out. This advice is pertinent to all three appeal schemes, each of which will create additional housing within the catchment. In these circumstances the Habitats Regulations state that planning permission should not be granted unless an appropriate assessment has determined that the proposals would not adversely affect the integrity of the designated sites. The appellant has provided information to support the assessments and NE has provided comments on that information. The information was discussed at the Inquiry and I have taken it into account.
137. NE considers that one way of addressing the current uncertainty is for development proposals to achieve nutrient neutrality. The advice for the Stour catchment includes a methodology for calculating nutrient budgets. The appellant has sought to follow that approach and has submitted nutrient budgets for each appeal.
138. The appellant has also considered the potential for effects on the designated sites arising from additional recreational pressure. The designated sites are around 17km from the appeal sites. Moreover, there are existing visitor management measures in place at Stodmarsh, which any additional visitors would be subject to. The appellant concluded that there would be negligible impact on the designated sites as a result of additional recreational pressure. This conclusion was not challenged by NE and I see no reason to take a different view. It follows that the potential for nutrient enrichment is the only impact pathway that requires more detailed assessment.

#### *Appeal A – Appropriate Assessment*

139. The Appeal A site would drain to the Wye WWTW, which discharges to the River Stour, creating a pathway to the designated sites. Consequently, the appeal scheme has the potential to affect the designated sites through nutrient enrichment from wastewater and surface water drainage. Such enrichment could harm the water environment which supports the habitats and species that the designations seek to protect. Parts of that water

environment are already in poor condition. This outcome could hinder the conservation objectives for the sites and result in adverse impacts on their integrity.

140. The methodology for calculating nutrient budgets takes account of the previous use and occupancy of the site. For Appeal A, this results in a relatively low increase in population which, in turn, generates only small increases in P and N. The proposals include a number of mitigation measures. During construction, there would be a Construction Environmental Management Plan to manage risks of nutrient enrichment arising from construction activities. In the operational phase, there would be a landscape strategy and management plan designed to control surface water run-off and enhance uptake of P and N. The surface water drainage strategy would include treatment<sup>11</sup> and infiltration of run-off from hard surfaces, including those used by vehicles. Sustainable transport measures, such as cycle parking and electric vehicle charging points, would reduce transport related emissions. Low Nitrogen Oxide boilers would be used and there would be greywater recycling for the two new dwellings.
141. The appellant's assessment is that, taken together, the mitigation measures would outweigh the small positive budgets for P and N, thereby achieving nutrient neutrality. NE raised a query on the nutrient budgets relating to the reduction factors for P and N resulting from the proposed sustainable drainage measures. The appellant provided further evidence in support of those factors which NE has had the opportunity to comment on. No further challenge to the nutrient budgets, or the overall conclusion based on those budgets, has been received from NE or any other party.
142. The proposed mitigation measures could be secured through the imposition of planning conditions. Subject to such conditions, it can be ascertained on the basis of the evidence before the Inquiry that the Appeal A scheme would achieve nutrient neutrality. There are no impact pathways to the designated sites other than the potential for nutrient enrichment. The advice of NE is that achieving nutrient neutrality is one way of addressing current uncertainties. Mindful of that advice, I conclude that the appeal scheme would not adversely affect the integrity of the Stodmarsh SPA, SAC and Ramsar sites, either alone or in combination with other plans and projects. For the same reasons, the proposals would not harm the Stodmarsh SSSI.
143. It follows that application of the Habitats Regulations does not indicate that planning permission should be refused. The Appeal A scheme would accord with ALP Policy ENV1 which seeks to avoid adverse effects on the integrity of European protected sites and to protect SSSIs.

#### *Appeals B and C*

144. The sites for Appeals B and C are within the Stour catchment. The impact pathway and related potential for harm to the integrity of the designated sites through nutrient enrichment exists in the same way as it does for Appeal A. However, the population increases would be greater at these sites. The proposals for each site include mitigation measures that would be broadly similar to those described above. In addition, it is proposed that a package

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<sup>11</sup> The nutrient budget calculations include a reduction in P and N resulting from use of sustainable drainage mitigation

treatment plant (PTP) would be installed at each site to remove most of the P and N from wastewater before it is discharged to the public sewer. The treated effluent would drain to the Wye WWTW which discharges to the River Stour.

145. The nutrient budgets show small increases in N at both sites, a small increase in P for Appeal B and a decrease in P for Appeal C. The appellant's assessment is that, taken together, mitigation measures would outweigh any small positive budgets for P and N, thereby achieving nutrient neutrality.
146. The PTPs would use a biological nutrient removal system which does not require the addition of chemicals. The calculations assume that the PTPs would remove 98.84% of P and 89.05% of N from the wastewater leaving the sites. The justification for those factors comes from data relating to a demonstration plant at Petersfield in Hampshire which has been operating within a larger WWTW complex since 2014. The demonstration plant has large above-ground tanks and deals with a higher throughput of wastewater than the PTPs would process. There is, therefore, an inbuilt assumption that the high level of efficiency achieved at the demonstration plant would be replicated in significantly smaller, remote facilities located below ground. The appellant argued that the technology would be the same so the same level of efficiency would be achieved. However, there was no scientific evidence before the Inquiry to demonstrate that the same efficiency would be achieved in a PTP.
147. Indeed, there was no evidence before the Inquiry about any aspect of the performance of PTPs. The appellant was not able to point to any examples of PTPs that have been installed to address concerns about nutrient enrichment in sensitive environments.
148. The data submitted for the demonstration plant includes a maintenance schedule comprising weekly inspections, cleaning and calibration of instruments every six months and a service of all drives and motors every 12 months. The appellant suggested that the company that supplied the plant would also be able to provide a maintenance service. Whilst that is no doubt a possibility, there is no certainty that it would happen. One of the suggested conditions requires approval of future arrangements for management and maintenance, including possible adoption by a public body. However, there would be no mechanism to require such adoption. NE advises that PTPs require significant upkeep to ensure their continued efficacy and that the competent authority would need to be satisfied that the long term monitoring and management measures would be sufficiently secure.
149. There was limited information before the Inquiry as to what the future management arrangements might be. Notwithstanding the suggested condition, to my mind there is not sufficient certainty that the PTPs would ultimately be controlled by a body with the expertise and resources required to maintain them in a way that would deliver the high level of performance that is being relied on to provide mitigation.
150. Drawing all this together, I do not think that the evidence provides sufficient certainty that the proposed PTPs would deliver nutrient neutrality, either at the outset or over the lifetime of the developments. Having regard to the precautionary principle, I cannot exclude the risk of a significant effect on the conservation objectives of the designated sites.

151. In general, NE considers that PTPs which discharge to the mains network are not certain as mitigation measures. The appellant disputes the basis for NE's advice, both as a matter of approach and on the particular circumstances of this case. However, whilst I have taken account of NE's advice, my conclusions on these two appeals are not founded on NE's more general objections to PTPs as mitigation. It is not therefore necessary for me to comment further on the differences of approach as between the appellant and NE.
152. At the Inquiry, the appellant suggested a scenario whereby the PTPs might discharge directly to the environment, without being connected to the public sewerage system. However, there was no evidence before the Inquiry that would exclude the potential for a hydrological connection between the appeal sites and the designated sites in that scenario.
153. The contribution that these two housing schemes could make to nutrient enrichment at the designated sites may be small. However, it is necessary to consider the proposals alone and in combination with other plans and projects. I conclude that it has not been shown that either appeal scheme would achieve nutrient neutrality. I cannot exclude the risk that the proposals would adversely affect the integrity of the Stodmarsh SPA, SAC and Ramsar sites. I do not consider that the risk could be adequately addressed by way of planning conditions.
154. In these circumstances, application of the Habitats Regulations would indicate that planning permission should be refused, unless there were no alternative solutions that would avoid an adverse effect and there were imperative reasons of overriding public importance. There was no evidence before the Inquiry on alternatives or imperative reasons of overriding public importance. That is unsurprising, given the appellant's view that there would be no adverse effect. Nevertheless, it seems unlikely that either of these medium scale housing developments would meet those high tests. Accordingly, I have not sought further information on those matters.
155. I conclude that, for Appeals B and C, the risk of harm to the integrity of the European protected sites cannot be excluded. The proposals would conflict with ALP Policy ENV1 which seeks to avoid adverse effects on the integrity of European protected sites, either alone or in combination with other plans and projects. They would also result in an unacceptable risk of harm to the Stodmarsh SSSI, contrary to Policy ENV1.

### **Other matters**

#### *Affordable housing*

156. The Parish Council and local residents expressed concern that very little affordable housing would be delivered across the three appeal sites. In Wye, ALP Policy HOU1 requires all schemes of 10 or more dwellings to deliver 40% of the units as affordable housing, split between affordable home ownership and affordable/social rented units. The policy is applicable to all three schemes.
157. However, the Council has agreed with the appellant that all three sites are subject to national policy on Vacant Building Credit (VBC), as set out in the Framework and Planning Practice Guidance. The result of applying national

policy on VBC is that no affordable housing should be sought in respect of Appeals A and C. In the case of Appeal B, after allowing for VBC, the proposals include two affordable dwellings which would be delivered as shared ownership units. The Council considers that the conflict with Policy HOU1 would, in each case, be outweighed by the application of national policy on VBC.

158. An interested party argued that VBC should not be applied in respect of some of the buildings in question, either on the basis that they have been abandoned or on the basis that they have been made vacant for the sole purpose of redevelopment. However, the Council would have been aware of national policy on these matters, as set out in Planning Practice Guidance, when assessing the applicability of VBC. I see no reason to disagree with the Council's conclusions on this matter. Consequently this is not a matter that weighs against the appeals.

#### *Biodiversity*

159. The Wye and Crundale Downs SAC is around 1.2km to the east of the closest of the appeal sites. It is designated for semi-natural dry grasslands on calcareous substrates. The appellant's ecological report did not identify any impact pathways between the appeal sites and the designated site, concluding that the SAC could be screened out of further assessment under the Habitats Regulations. No party has disputed that finding. I conclude that there is not likely to be a significant effect on this site in respect of any of the appeal schemes, either alone or in combination with other plans or projects.
160. Each application was accompanied by ecological reports which assessed the presence or absence of important or protected habitats and species. Measures of mitigation and biodiversity enhancement were identified. These could be secured by appropriate planning conditions.

#### *Transport*

161. Each application was accompanied by a transport assessment which considered the availability of sustainable transport options and the effects of generated traffic on the road network. Transport improvements have been proposed, including a reduced speed limit and a village gateway on Olantigh Road, a new junction arrangement at the intersection of Occupation Road and Olantigh Road and footway improvements to improve pedestrian connectivity. These are matters that could be secured by conditions. Neither the Council nor the Highway Authority has any objections on transport or highway safety grounds. I consider that transport has been properly taken into account and is not a matter that weighs against any of the appeals.

#### *Residential amenity*

162. The Parish Council argued that some of the residential units proposed in Appeal A would be subject to undue overlooking from footpaths and that a private garden would be overlooked from the archive room in the proposed heritage centre. I note that the footpath through the churchyard passes close to windows and that the east/west footpath through the site would be adjacent to the building. However, it is not uncommon for people who live in historic environments to accept a degree of overlooking from the public realm. Sometimes this may be greater than that found in modern housing. I do not

think that any impacts would be so great as to result in unacceptably poor living conditions for future residents.

*Representations of interested parties*

163. I have taken account of the representations from interested parties, including those made at the Inquiry and those submitted in writing. The main matters raised in the representations have been discussed above.

**Conclusions - Appeal A**

164. I have concluded that the site is a suitable location for housing and community use. The proposals would accord with Policy WNP6, insofar as that policy seeks residential and community uses as part of a mixed use development of the WYE3 site. They would accord with Policy WNP11(e), insofar as the positive reuse of the listed buildings at the former Wye College would be achieved with residential and community use. They would accord with ALP Policy COM1 which seeks to ensure that there is a suitable replacement for the loss of any existing community facilities.
165. The proposals would accord with ALP Policies SP1 and ENV13 which seek to preserve heritage assets and to encourage proposals that bring redundant buildings into appropriate uses, consistent with their conservation. They would accord with ALP Policy ENV14, which seeks to protect conservation areas, and with ALP Policy SP6 and WNP Policy WNP2 which promote high quality design that conserves local distinctiveness. They would also accord with ALP Policy ENV1 which seeks to avoid adverse effects on the integrity of European protected sites and to protect SSSIs.
166. No party at the Inquiry identified conflict with other relevant development plan policies, such as those relating to residential space standards, transport, environmental matters and infrastructure provision.
167. On the other hand, there would be conflict with Policy WNP6, insofar as that policy requires development to be delivered in a phased manner in accordance with an adopted masterplan. There would be conflict with Policy WNP11(e) insofar as that policy requires an element of business use. There would be conflict with ALP Policy HOU1 in that no affordable housing would be provided.
168. Overall, I attach greatest weight to the policies which seek to preserve heritage assets and secure their long-term conservation because of the high level of significance attributable to the designated heritage assets in question. The policy conflicts that I have identified are not, in my view, sufficient to outweigh the matters where I have identified policy compliance. I conclude that the proposals are in accordance with the development plan as a whole.
169. Turning to other material considerations, the proposals would contribute to housing delivery, provide improved accommodation for community use and secure the reuse of previously developed land. VBC has been applied by the Council in accordance with national policy. These are matters weighing in favour of the appeal. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be allowed.



### **Conclusions – Appeal B**

170. I have concluded that the parts of the appeal site that are proposed for development are, in principle, in a suitable location for housing. The appeal scheme would accord with the criteria of HOU5 in all respects but one. It would achieve high quality design and it would not result in harm to the Kent Downs AONB or the character and appearance of the area generally. The scheme would accord with ALP Policies SP1 and SP6 and WNP Policy WNP2, insofar as those policies promote high quality design. It would accord with ALP Policies HOU3a and HOU5, insofar as those policies relate to design and landscape. It would accord with ALP Policy ENV3b and WNP Policy WNP8 which seek to protect and enhance the distinctive character of the AONB.
171. No party at the Inquiry has identified conflict with other relevant development plan policies, such as those relating to residential space standards, transport, environmental matters (other than effects on the Stodmarsh sites) and infrastructure provision.
172. However, the risk of harm to the integrity of the Stodmarsh European protected sites cannot be excluded. The appeal scheme would therefore conflict with ALP Policy ENV1 which seeks to avoid adverse effects on the integrity of European protected sites. It would also result in an unacceptable risk of harm to the Stodmarsh SSSI. It would conflict with ALP Policy HOU5(f)(vi) which states that development should not adversely affect the integrity of international and national protected sites. I have also identified conflict with Policy WNP6, insofar as that policy requires development to be delivered in a phased manner in accordance with an adopted masterplan, and with ALP Policy HOU1, insofar as the affordable housing to be provided would be below the level required by the policy.
173. Overall, I attach greatest weight to the policies which seek to protect international and national protected sites because of the importance of those sites for nature conservation. My overall assessment is that the proposals should be regarded as being in conflict with the development plan as a whole, notwithstanding the matters where I have identified policy compliance.
174. It is therefore necessary to consider whether there are other material considerations that indicate a decision other than in accordance with the development plan. The Framework can be one such consideration. The Council cannot currently demonstrate the five year supply of deliverable housing sites required by the Framework. Paragraph 11(d) of the Framework is therefore engaged. However, paragraph 177 of the Framework states that the presumption in favour of sustainable development does not apply where a project is likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the project would not adversely affect the integrity of the habitats site. In this case I have found that, on the evidence before the Inquiry, an appropriate assessment could not reach that conclusion. It follows that the presumption in favour of sustainable development does not apply. The Framework is not a consideration that indicates that the appeal should be allowed.
175. The proposals would contribute to housing delivery (including two shared ownership units) and secure the reuse of previously developed land. VBC has been applied by the Council in accordance with national policy. These are matters weighing in favour of the appeal. However, they do not outweigh the

conflict with the development plan that I have identified. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

### ***Conclusions – Appeal C***

176. In principle, I consider that this is a suitable location for housing. As this would be an appropriate reuse of the site, the appeal scheme would accord with Policy WNP11(h). My conclusions on compliance/conflict with the other development plan policies discussed above in relation to Appeal B are the same for Appeal C. The material differences to have in mind are that Appeal C would make a smaller contribution to housing delivery and would not include any affordable housing. Taking account of those differences, I reach the same overall conclusion. The proposals should be regarded as being in conflict with the development plan as a whole, notwithstanding the matters where I have identified policy compliance.
177. For the same reasons as those discussed above in relation to Appeal B, I find that the Framework is not a consideration that indicates that the appeal should be allowed. I have not identified any considerations that indicate a decision other than in accordance with the development plan. The appeal should therefore be dismissed.

### ***Conditions for Appeal A***

178. The suggested conditions were discussed at the Inquiry. They were largely agreed between the Council and the appellant although in some instances there were differences of substance on the draft conditions, which I have referred to below. The suggested conditions were not disputed by other parties. I have considered them in the light of Planning Practice Guidance. In some cases I have amended detailed wording and/or merged conditions to avoid duplication. Some conditions require matters to be approved before development commences. This is where they address impacts arising during construction.
179. I have decided not to impose some of the suggested conditions. A condition relating to access for site inspections is not necessary because the Council already has the relevant powers. A condition on phasing is not necessary because this matter is covered adequately in the conditions on the listed building consent that has already been granted. A condition relating to obscure glazing in some windows of the listed buildings could result in harm to historic fabric and would be disproportionate to any minor impact from overlooking within the historic complex. A condition limiting the hours of use of the communal spaces within the listed building is not necessary because these spaces are within the development and would not affect nearby residents. The arrangements for use by residents of the scheme would be a matter for the management company. A condition relating to subdivision of dwellings is not necessary because this would be subject to planning control.
180. Condition 2 requires development to be in accordance with the approved plans in the interests of clarity and certainty. Conditions 3, 4 and 5 require approval of external materials, architectural details and external fixtures in the interests of protecting the listed building and the character and appearance of the conservation area. Condition 6 controls the hours of construction work to protect the living conditions of nearby residents.

181. Condition 7 controls the use of specified spaces within the listed buildings, to ensure that heritage benefits described in the application are delivered. I have adopted the wording suggested by the appellant because it would provide greater clarity than the Council's suggested wording. Condition 8 would secure the replacement of an existing community facility, in compliance with development plan policy. I have adopted the wording suggested by the appellant because the Council's suggested wording includes matters not relevant to planning. Condition 9 would secure public access to parts of the listed building, to ensure that heritage benefits described in the application are delivered. I have adopted the wording suggested by the appellant which gives greater clarity and certainty than the wording suggested by the Council. Moreover, the Council's wording includes matters not relevant to planning.
182. Condition 10 would secure access for an archaeologist during the works, Conditions 11 and 12 would provide for archaeological investigations and building recording to be carried out and Condition 13 would ensure that no hoardings are erected during construction unless details have first been approved. These conditions are necessary to protect the archaeological potential of the site, both above and below ground. For Conditions 11 and 12, I have adopted the wording suggested by the appellant because the Council's suggestions would conflict with conditions on the listed building consent that has already been granted for the works.
183. Condition 14 requires approval of details of external lighting in the interests of the character and appearance of the area and to mitigate impacts on bats. Condition 15 would secure footpath improvements in the interests of sustainable transport. Condition 16 requires approval of details of earthworks and finished levels in the interests of the character and appearance of the conservation area. Conditions 17 and 18 require approval of details of hard and soft landscaping, Condition 19 would secure implementation of these details and Condition 20 would secure long-term management of the landscaping. These conditions are necessary in the interests of the character and appearance of the conservation area and would contribute to the achievement of nutrient neutrality.
184. Conditions 21, 22 and 23 relate to provision of vehicle parking and turning areas, residents' information on parking and transport and provision of cycle parking. They are necessary in the interests of meeting the transport needs of the development and conditions 22 and 23 would also contribute to the achievement of nutrient neutrality. Condition 24 requires approval of details of foul and surface water drainage in the interests of managing risks of flooding and pollution and achieving nutrient neutrality. Condition 25 requires approval of details of biodiversity enhancements to ensure that the scheme makes a positive contribution to biodiversity.
185. Conditions 26, 27, 28 and 29 relate to provision of refuse storage facilities, water efficiency, connection to broadband and electric vehicle charging points in the interests of sustainable development and achieving nutrient neutrality. Condition 30 requires approval of a cleaning and maintenance strategy for the exterior of the listed buildings, in the interests of their long-term conservation. Condition 31 requires any historic fabric removed during the works to be kept for reuse on site or elsewhere, in the interests of the conservation of the listed building and the conservation of the historic environment generally. Conditions 32, 33 and 34 require approval of a

construction environmental management plan and schemes of minimum environmental requirements for demolition and construction. They are needed in the interests of protecting the living conditions of nearby residents, managing risks of pollution and achieving nutrient neutrality.

*David Prentis*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mark Westmoreland Smith	of Counsel, instructed by Carissa Humphrey, Senior Planning and Development Solicitor. Ashford Borough Council
<i>He called</i> Lesley Westphal BA(Hons) MRTPI	Senior Planning Officer, Ashford Borough Council

### FOR THE APPELLANT:

Christopher Boyle	Queen's Counsel, instructed by Union4 Planning Ltd
<i>He called</i> Marian Cameron BSc(Hons) MSc MIEMA CENV PEIA	Marian Cameron Consultants Ltd
Ryan Hilton BA(Hons) MArch PGDip RIBA	On Architecture
Andrew Cox BSc DipLA CMLI	Lloyd Bore Ltd
John Burton MBE DipArch RIBA AABC IHBC	Purcell
Steven Fidgett BSc(Hons) DipTP MRTPI	Union4 Planning Ltd

### WYE WITH HINXHILL PARISH COUNCIL:

Robert Williams	of Counsel, instructed by Richard Buxton Solicitors
<i>He called</i> Kit Wedd BA(Hons) IHBC	Spurstone Heritage Ltd
Kevin Goodwin BA(Hons) MRTPI	KG Creative Consultancy

### WYE COLLEGE REGENERATION GROUP:

Dr James McAdam	
<i>He called</i> C Bain-Smith RIBA SCA	Architect
Jonathan Timms MA(Oxon)	Financial advisor to building conservation groups
Tony Shoults MA(Cantab) DipTP	Former Chair, Wye with Hinxhill Parish Council

## INTERESTED PARTIES

Dr Sally Leaver	Wye College Regeneration Group
Dr Lee Prosser	Wye College Regeneration Group
Prof John Mansfield	Local resident, former member of staff
Prof Chris Bains	Wye College Regeneration Group
James Ransley	Local business
Alan Paterson	Local resident
Cllr Noel Ovenden	Member, Ashford Brough Council
Judith Rossiter	Wye College alumni and former member of staff
Malcolm Alexander	Wye College alumni and former member of staff
Christine Drury	CPRE Ashford
Francis Huntingdon	Local resident, Wye Heritage
Sue Powell	Local resident
Lucy Huntingdon	Local resident, former member of staff
Rosie Fletcher	Local resident
Dr Christopher Burnham	Local resident, former member of staff
Trudi Field	Local resident
Martin Mackey	Local business
Cllr David Reece	Local resident (spoke in personal capacity)
Matt Judge	Local resident
Cllr Richard Bartley	Local resident, former member of staff (spoke in personal capacity)
Elizabeth Coulsdon	Local resident
Maryanne Graham	Local resident, former member of staff



## Conditions for Appeal A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Development shall be carried out in accordance with the plans listed in the attached schedule.
- 3) Samples of all external materials shall be provided on site for discussion with the local planning authority within three months of the commencement of construction works and shall be accompanied by written details of the materials including source, manufacturer and samples of all bricks, stone, tiles and cladding materials to be used externally. The details of the external materials shall be approved in writing by the local planning authority before their use in the development.
- 4) No development above ground floor slab level on any new build structures shall be commenced until the following details have been submitted to and approved in writing by the local planning authority:
  - 1:20 scale details of eaves, fascias, coping and roof ridge details;
  - 1:20 scale details of cladding panels including dimensions, overlaps, joint details and fixing methods;
  - external rainwater goods;
  - boundary walls and gates (including colour finishes);
  - brick or stone laying patterns, mortar specification and colour;
  - brick bond and decorative brick work bands including vertical brick courses and window surround details;
  - 1:10 and 1:20 scale details and sections of the window and door frames (including reveals);
  - 1:20 scale details of balconies including materials, balustrade, railings, fixings and soffits;
  - 1:20 scale details and sections of recessed or projecting sections of the facades and materials to show joins and edge treatment;
  - supporting columns including materials, finish and colour;
  - external doors to car ports, cycle stores and bin stores;
  - 1:20 scale details of the location, set back, colour and specification of any expansion points or weep holes; and
  - rooftop fixtures or equipment.

Development shall be carried out in accordance with the approved details.

- 5) Details of the location, design, appearance and materials of external fixtures and equipment located above ground level on the new or converted buildings shall be submitted to and approved in writing by the local planning authority before they are installed. The details shall include any:
  - lighting;

- signage;
- intercom systems;
- security, alarms or CCTV cameras;
- delivery/collection of post;
- cables and/or pipework for gas, electricity, water and telecommunications; and
- vents, grilles or flues.

This condition does not apply to any works that are subject to listed building consent. Development shall be carried out in accordance with the approved details.

- 6) No construction activities shall take place, other than between 08:00 to 18:00 hours (Monday to Friday) and 08:00 to 13:00 hours on a Saturday, with no working activities on a Sunday or Bank Holiday.
- 7) The areas and rooms identified below shall only be used as follows:
  - From commencement of use of the new Wye Heritage Centre as a heritage centre, it shall only be used for purposes within Use Class D1(c-g) as a non-residential institution, as a heritage centre and public hall for exhibitions, meetings, archive, education and activities of local community groups and for no other purposes within Use Class D1.
  - The Lecture Theatre and Old Hall shall only be used by occupants of the development for communal uses ancillary to the main residential C3 use of the site and for use as an ancillary hall for occasional meetings and activities of community groups and for no other purpose whatsoever.
  - The Jacobean dining room/parlour room, Jacobean Staircase, cloisters and quadrangles shall only be used by occupants of the development for access and for communal uses ancillary to the main residential C3 use of the site.
  - The Chapel shall only be used for purposes within Use Class D1(h) in connection with public worship and for no other purposes within Use Class D1.

These rooms and areas shall not be used for any other purpose whether or not in the same Use Class of the Schedules of the Town & Country Planning (Use Classes) Order 2005 or any subsequent Order revoking or re-enacting that Order, or whether the alternative uses are permitted by virtue of Article 3 and Schedule 2 Part 3 of the Town & Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order.

- 8) The area marked on Proposed Ground Floor Plan Overview (drawing number 2742-50, P7) as a Heritage Centre (with associated foyer, kitchen, WC and archive room) shall be made available for use as a Heritage Centre prior to the cessation of use of the existing Heritage Centre in the Latin School. The Heritage Centre shall be available for use between the hours of 08:00 and 22:00 hours each day.

- 9) Within 3 months of the date of first occupation of the development, and thereafter for as long as the property is in residential use, public access shall be granted to the following areas of the building for the prescribed periods:
- once per calendar month, for no less than 4 hours, access shall be available to the Chapel, Old Hall, Jacobean staircase, Lecture Theatre, War Memorials, Cloister Quadrangle, Middle Quadrangle, Agricola Quadrangle and West Quadrangle;
  - the Chapel shall be available for a minimum of 4 services per month, each of up to 2 hours; and
  - an annual heritage open day of up to 6 hours duration providing (as a minimum) access to the areas identified in this condition.

Each residential occupier shall be provided with details of how to participate in the annual heritage open days.

- 10) The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority and shall allow him/her to observe the excavations and record items of interest and finds. The developer shall inform the County Archaeologist of the start date of construction works on site not less than two weeks before the commencement of such works.
- 11) No development shall take place, other than internal works/strip out and demolition to slab level, until the applicant, or their agents or successors in title, has secured the implementation of archaeological field evaluation works in accordance with a specification and written timetable which has previously been submitted to and approved in writing by the local planning authority and following on from the evaluation has secured the implementation of any safeguarding measures, identified in the evaluation as necessary, to ensure preservation in situ of important archaeological remains and/or further archaeological investigation in accordance with a timetable which has previously been submitted to and approved in writing by the local planning authority.
- 12) No development shall take place, other than internal works/strip out and demolition to slab level, until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording in accordance with a written specification and timetable which has been previously submitted to and approved in writing by the local planning authority.
- 13) No fencing or hoarding shall be erected during the construction of the development other than in accordance with details that have been submitted to and approved in writing by the local planning authority.
- 14) Prior to occupation of any dwelling details of external lighting required to ensure community safety and secure access to that dwelling shall be submitted to and approved in writing by the local planning authority. The approved lighting shall be installed prior to occupation of that dwelling and no further external lighting shall be installed without the prior written consent of the local planning authority.

- 15) Prior to occupation of any dwelling a scheme of footpath improvements shall be submitted to and approved in writing by the local planning authority. The scheme shall include:
- footpath AE113 between Olantigh Road and footpath AE110 through the site to be widened and upgraded with a new bound surface; and
  - a section of footpath AE110 adjacent to the development site to be upgraded with a new bound surface.

The scheme shall be implemented as approved within 3 months of the first occupation of the development.

- 16) No development shall take place, other than internal works/strip out and above ground demolition, until details of earthworks have been submitted to and approved in writing by the local planning authority. The details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

- 17) No development shall take place, other than internal works/strip out and above ground demolition, until details of hard landscape works have been submitted to and approved in writing by the local planning authority. The details shall include:

- entrance forecourt adjacent to High Street;
- means of enclosure;
- car parking layouts;
- samples of surfacing materials;
- minor artefacts and structures;
- existing and proposed functional services above and below ground (including alignment of pipes and cables, manholes and supporting structures);

The works shall be carried out as approved.

- 18) No development shall take place, other than internal works/strip out and above ground demolition, until details of soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include:

- planting plans;
- written specifications including cultivation and other operations associated with plant and grass establishment;
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- tree pits including root protection details; and
- an implementation programme.

The works shall be carried out as approved.

- 19) All hard landscape works shall be carried out prior to the occupation of the development. All soft landscape works shall be carried out in accordance with the implementation programme approved pursuant to Condition 18. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 20) Prior to the occupation of the development a landscape management plan shall be submitted to and approved in writing by the local planning authority. The management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than domestic gardens. The landscape management plan shall be carried out as approved.
- 21) Prior to the occupation of the development the areas shown on drawing reference number 2742-03 rev P10 (Proposed Site Plan) as vehicular access, vehicle parking space, car ports, visitor parking bays, loading bays and turning areas shall be provided, surfaced and drained in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter, those areas shall be permanently maintained and retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on those areas or in such a position as to preclude vehicular access to those areas.
- 22) Prior to the occupation of the development details of a residents' information pack shall be submitted to and approved in writing by the local planning authority. The information pack shall relate to the approved parking arrangement for each home (including Squires Cottages) and shall include:
  - the location of any allocated parking facilities serving the home;
  - confirmation that, in respect of car barns, these facilities have been designed to ensure that they are used for the parking of motor vehicles and that the addition of further doors is prohibited;
  - details of cycle parking spaces; and
  - details of public transport connections.

The approved details shall be given to the first occupier of each dwelling and also to those managing communal areas at first occupation.

- 23) Prior to the occupation of the development details of cycle stores shall be submitted to and approved in writing by the local planning authority. The details shall include internal amenity lighting, secure entrance doors and parking arrangements within the store. The cycle stores shall be provided in accordance with the approved details prior to the occupation of the development and shall thereafter be permanently retained as such.
- 24) No development shall take place, other than internal works and strip out and above ground demolition, until details of foul and surface water

drainage have been submitted to and approved in writing by the local planning authority. The details shall ensure that:

- no additional land drainage or ground water will enter the public sewer network;
- land uses such as hardstanding that may be subject to oil/petrol spillages are drained by means of oil trap gullies or petrol/oil interceptors;
- additional surface water generated by the development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site; and
- silt and pollutants resulting from the site can be adequately managed to ensure there is no pollution risk to receiving waters.

The details shall include:

- an implementation timetable; and
- a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the drainage system throughout its lifetime.

Development shall be carried out in accordance with the approved details and implementation timetable.

- 25) Prior to the occupation of the development details of biodiversity enhancements, including bat and bird nesting boxes and native planting, shall be submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable. Thereafter the development shall be maintained and operated in accordance with the approved scheme.
- 26) No dwelling shall be occupied until facilities for refuse storage for that dwelling have been provided in accordance with details that have been submitted to and approved in writing by the local planning authority. The details shall include arrangements for secure access, amenity lighting and cleaning facilities. Thereafter the development shall be maintained and operated in accordance with the approved details.
- 27) The dwellings hereby permitted shall achieve the minimum optional requirement set out in the Building Regulations for water efficiency that requires an estimated water use of no more than 105 litres per person per day.
- 28) Units 40 and 41 as shown on drawing number 2742-03-P10 hereby approved shall not be occupied until they have been connected to high speed wholly fibre broadband in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be maintained and operated in accordance with the approved details.
- 29) No dwelling shall be occupied until facilities for electric vehicle charging for that dwelling have been provided in accordance with details that have



been submitted to and approved in writing by the local planning authority. Thereafter the development shall be maintained and operated in accordance with the approved details.

- 30) Prior to the occupation of the development a cleaning and maintenance strategy for the external elements of the building shall be submitted to and approved in writing by the local planning authority. The strategy shall include the methodology and techniques for cleaning the various external materials and the frequency of cleaning. Thereafter the development shall be maintained and operated in accordance with the approved cleaning and maintenance strategy.
- 31) The demolition of any external walls shall be carried out in such a way as to ensure that all external stones/bricks not irretrievably damaged or eroded are set aside and stored securely for potential re-use in the construction of other buildings within the development or for recycling.
- 32) No development shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
  - a) location of the site compound and routing of construction and delivery vehicles between the site and the M20/A28;
  - b) parking and turning areas for construction vehicles, delivery vehicles and site personnel;
  - c) temporary traffic management signage;
  - d) access points, loading/unloading and turning areas for construction traffic;
  - e) hours of operation and timing of deliveries which are to be between 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on a Saturday and at no time on a Sunday or Bank Holiday unless in association with an emergency;
  - f) dust suppression, odour suppression and vapour suppression methods;
  - g) fencing/hoardings to any compounds;
  - h) structures to be located within compounds and any proposed lighting including measures to limit light spillage to the public highway and to nearby residents;
  - i) plant, equipment and machinery to be installed within the compound including details of hours of operation and noise during operation;
  - j) facilities for washing the wheels, chassis and bodywork of construction vehicles free of mud;
  - k) storage and removal of demolition and construction waste;
  - l) construction activities to be carried out in accordance with best practice pollution prevention guidelines;
  - m) the Environment Agency and/or Internal Drainage Board to be consulted prior to any temporary or permanent works that may interfere with the bed, banks or floodplains of any watercourse;

- n) prior to pumping from excavations, permits to operate pumps to be issued to the pump operator, indicating the point of discharge and all other necessary control procedures;
- o) water quality and flow rates within any watercourses running through or near the site to be monitored prior to and at regular intervals during construction to ensure that water quality and flow is not affected;
- p) no pumping to controlled waters or surface water drains/ditches without a Discharge Consent obtained from the Environment Agency;
- q) before any discharge of water is made from the site adequate provisions to be made to ensure that it is not polluting, including the incorporation of appropriate silt settlement techniques into any affected watercourses and protection of gullies (if necessary, blocking the drains during specific operations);
- r) reporting of all spills regardless of size;
- s) storage of fuel, oil or chemicals to be on impervious bases of appropriate capacity located away from any watercourses;
- t) drainage from storage compounds to be passed through oil interceptors prior to discharge;
- u) leaking and empty drums to be removed from the site and disposed of appropriately;
- v) refuelling of mobile plant and machinery to be undertaken in a designated area away from watercourses and surface drains, supplied with appropriate spill kits and bunded bowsers;
- w) mobile plant to have drip trays or the equivalent under them to prevent any leaks getting to the ground;
- x) handling and storage of potentially hazardous liquids on site (such as fuels and chemicals) to be controlled and best practice guidance from the Environment Agency to be applied;
- y) biodegradable hydraulic oil to be used for machinery/plant where possible;
- z) operational outlets to public sewers to be protected from debris and filters/screens/sumps to be employed;
- aa) drums and barrels to be fitted with flow control taps and properly labelled;
- bb) portable toilets (for initial site set up works only) and good quality temporary toilet facilities to be provided for construction workers with waste water from these facilities to be removed from site by tanker and disposed of appropriately;
- cc) placing of any wet concrete or cement in or close to any water body including culverts will be controlled through temporarily bunding the area of works to prevent leaks into the water body;
- dd) no concrete wash-outs to be permitted on site, contractors using concrete wagons must employ the use of a concrete sock for

- each wagon and manholes and catch pits to be covered to prevent concrete or cement ingress;
- ee) any haul roads and hardstanding on the site and approaches to any water body (or drains leading to a water body) to be regularly cleaned using water bowsters and/or road sweepers to prevent the build-up of mud, oil and dirt that may be washed into a water body or drain during heavy rainfall;
  - ff) use of water sprays to reduce dust or wash down within construction areas to be carefully regulated to avoid washing substantial quantities of silt into surface water drains;
  - gg) spill kits to be located near any water body, within the works compounds and at any location where fuel, oil or other chemicals are in use; and
  - hh) arrangements for liaising with local residents and community groups.

All measures included in the approved CEMP shall be installed prior to the commencement of development and retained for the duration of the construction works. Any variations to the approved CEMP shall first be submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to throughout the site preparation and construction phases.

- 33) No demolition or on-site clearance shall commence until a Scheme of Minimum Environmental Requirements for Demolition (SMERFD) has been submitted to and approved in writing by the local planning authority. The SMERFD shall include:
- a Code of Construction Practice; and
  - hours of working for demolition and noisy activities and details of the installation of any large equipment such as cranes relating to those works.

Thereafter, demolition and on-site clearance works shall be implemented in accordance with the SMERFD.

- 34) No construction shall commence until a Scheme of Minimum Environmental Requirements for Construction (SMERFC) has been submitted to and approved in writing by the local planning authority. The SMERFC shall include:
- design, implementation and protection of any landscaping to be retained to relevant British Standards;
  - Considerate Contractors/Code of Construction Practice;
  - methodology for protecting existing and new trees to the relevant British Standard during construction; and
  - a method statement for any piling (or other noisy construction activities) or the installation of any large static construction equipment such as cranes.

Thereafter, construction shall be implemented in accordance with the SMERFC.

*End of conditions*

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