

## Maxine Mentoor

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**From:** Jeremy Baker <[REDACTED]>  
**Sent:** 31 January 2025 12:30  
**To:** mharnett  
**Cc:** Emma Hargreaves; [REDACTED]; Elizabeth Nuttall; Cheryl Parks; Faye Tomlinson; Victoria Thistlewood; Andy Leahy  
**Subject:** [EXTERNAL] APPEALS 3333924 & 3334094 - Land at Chilmington Green, Ashford Road, Great Chart, Ashford [PM-AC.FID5944260] [FLADG-IMAN\_NR.FID1667945]  
**Attachments:** FW: Chilmington Green revised Viability; FW: Chilmington Green revised Viability; Chilmington S106B Appeals ABC & KCC Letter to Fladgate re late production of Viability information 310125.docx  
**Importance:** High

Good morning Mark,

Please see attached letter and two enclosures.

Kind regards,  
Jeremy D.I. Baker  
Principal Solicitor (Strategic Development) and Deputy Monitoring Officer  
Legal and Democracy  
ASHFORD BOROUGH COUNCIL  
Telephone: [REDACTED] – **these numbers divert to remote working locations as necessary.**

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Legal and Democracy  
Solicitor to the Council and Monitoring Officer  
T W Mortimer LLB Solicitor

Ask for: Jeremy Baker  
Email: [REDACTED]  
Direct line: [REDACTED]  
Our Ref: JDIB/DS54-0669-21  
Your Ref: FLADG-IMAN\_NR.FID1667945  
Date: 31 January 2025

Mark Harnett Esq.  
Fladgate LLP  
16 Great Queen Street  
London, WC2B 5DG  
By email only: [REDACTED]

Dear Mark

**Appeals under Section 106B Town and Country Planning Act 1990**  
**LAND AT CHILMINGTON GREEN, ASHFORD ROAD, GREAT CHART, ASHFORD, KENT**  
**APPEAL REFS: APP/W2275/Q/23/3333923 & APP/E2205/Q/23/3334094**

I write at the request and on behalf of both Ashford Borough Council and Kent County Council ("the LPAs"), the respondents to your clients' two Appeals.

The LPAs are extremely concerned of the failure by your clients' team to provide the necessary and required information regarding financial matters to enable the Inquiry to carry out its task properly.

I refer to the attached email exchanges between our jointly-instructed viability experts at Bespoke Property Services and your clients' instructed experts at Quod, in which relevant financial information has been requested since 20 January, but much remains unprovided, apparently in many cases owing to Quod awaiting instructions from your clients. Since those emails, nothing further has been received.

The key information that remains outstanding is as follows:-

- i) Land purchase details - including cost, timing and terms that may affect the viability of the scheme.
- ii) Land sale agreements - including value, timing and terms that may affect the viability of the scheme.
- iii) Infrastructure expenditure to date - by area and item, inclusive of professional fees, and prelims.
- iv) S.106 contributions – those paid to date and those outstanding.
- v) Evidence justifying the use of an 11.2% interest rate in relation to master developer funding.
- vi) Details of sales of affordable housing that have taken place to date (10No. units).

You will of course be aware of the duty of an Appellant to act transparently in this matter, as well as the duties of your client's expert witnesses to assist the Inquiry and ensure it is not misled (including by withholding any relevant information, whether or not it assists your clients). They are also required to state the facts and assumptions on which their opinions are based, and to ensure that their counterparts have access to the information which they have access to for this purpose.

It is clear that all the information requested is within the knowledge/possession of your clients, and it is of relevance to the matters in dispute in these Appeals for the reasons set out in the enclosed emails. Accordingly, your clients are required to provide it in accordance with their duty to assist the Inquiry and ensure transparency in respect of the Viability Assessment.

Failure to provide the above information is having a serious effect on the ability of our viability experts to finalise their Proofs of Evidence, which are required to be submitted next Wednesday 5 February 2025, and to prepare for the Public Inquiry which is due to open on 19 February 2025. Accordingly, please confirm by return that the requested information will be produced in writing to Bespoke as a matter of urgency and in any event **no later than 14:00 today**.

If the outstanding items are not provided by that time, the LPAs may need to request an extension of time from the Planning Inspector for the submission of our viability experts' Proofs of Evidence.

For the avoidance of doubt, notwithstanding this formal request for production of the outstanding information today on the basis that late disclosure is better than no disclosure, nevertheless the LPAs reserve the right to make submissions or take any other appropriate action regarding the consequences of disclosure so late in the process of preparation of evidence.

I look forward to hearing from you urgently.

Yours sincerely



**Jeremy Baker**

Principal Solicitor - Strategic Development, and Deputy Monitoring Officer  
for and on behalf of  
Solicitor to the Council & Monitoring Officer

Encs.

cc: Kent County Council; Pinsent Masons; Bespoke Property Services; Counsel

## Maxine Mentoor

---

**From:** Ryan Wells [REDACTED]  
**Sent:** 23 January 2025 10:32  
**To:** Andy Leahy  
**Cc:** Chris Wheaton; Peter Griffiths; Faye Tomlinson; Jeremy Baker; Victoria Thistlewood; Terry Sullivan; Simon Cole; [REDACTED]  
**Subject:** FW: Chilmington Green revised Viability

Hi Andy

Further responses below:

Let me know if I can be of any further help as you're working through.

Kind regards

Ryan.



Ryan Wells  
Associate  
07719 527 788  
[www.quod.com](http://www.quod.com)

---

**From:** Andy Leahy [REDACTED]  
**Sent:** 20 January 2025 10:22  
**To:** Chris Wheaton [REDACTED]

**Subject:** RE: Chilmington Green revised Viability

Hi Chris and Ryan,

Following our meeting on 10<sup>th</sup> Jan, you were going to see if you could provide the following:

- 1) Information on the Secondary School end cost and the terms of the loan from KCC – **Awaiting client confirmation, will respond when available.**
- 2) Justification of the 11.2% interest rate used in the FVA in relation to master developer funding – **Current lending rate HD have obtained from Cheyne Capital (7% +SONIA)**
- 3) Details of the Homes England loans/funding of infrastructure costs. **Loan was secured in 2017 for £72.5m, with a finance rate of 7%, this was fully repaid in 2023.**
- 4) Timing and value of land sales in respect of the land already sold off – eg: Mann/Thakeham – **Awaiting client confirmation, will respond when available.**
- 5) Confirmation that you have indexed costs from the ECH 2016 cost plan and not the 2014 originally agreed cost plan. **That is correct, for the direct works infrastructure costs**

We could do with your replies to the above by midday on Thursday 23<sup>rd</sup> Jan, as we are trying to complete our draft evidence by the end of the week.

There will be further questions we need to raise today on the detail of the costs and the live appraisals you sent over on 14<sup>th</sup> Jan. We will issue those to you this afternoon.

Could you also advise when we might receive the draft Statement of Common Ground on viability as we understand the general planning SoCG does not cover viability.

Kind Regards

Andy

Andy Leahy BSc MIOD FRICS

Managing Director

Bespoke Property Consultants  
[REDACTED]



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**From:** Andy Leahy

**Sent:** 08 January 2025 18:31

**Subject:** RE: Chilmington Green revised Viability

**Importance:** High

Hi Chris,

Please can we have the appraisals and costs in excel as agreed at our last meeting.

Regards

Andy

Andy Leahy BSc MIOD FRICS

Managing Director

Bespoke Property Consultants



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**From:** Chris Wheaton <[REDACTED]>

**Sent:** 08 January 2025 18:00

**Subject:** RE: Chilmington Green revised Viability

Hi Andy



Yes, the report has been issued, copy attached.  
Let us know any queries.  
Kind regards,  
Chris



**Chris Wheaton**  
**Senior Director**  
**07736 289 629**  
[www.quod.com](http://www.quod.com)

---

**From:** Andy Leahy [REDACTED]  
**Sent:** 08 January 2025 16:45

[REDACTED]

**Subject:** RE: Chilmington Green revised Viability

Hi Chris,

We were expecting your updated FVA on Chilmington today.

If this has been sent to PINS, please could you forward us a copy to expedite matters.

Thanks

Andy

Andy Leahy BSc MIO FRICS

Managing Director

Bespoke Property Consultants

Office: 01403 823425

Mobile: 07798 834758



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**From:** Chris Wheaton [REDACTED]  
**Sent:** 19 December 2024 13:49

**To:** Peter Griffiths [REDACTED]

**Cc:** Andy Leahy [REDACTED]

**Subject:** RE: Chilmington Green revised Viability

Hi Peter

As Andy may have passed on from the CMC call this morning, the viability has been a little delayed but is now agreed to be shared on the 8<sup>th</sup> January. Apologies for the delay – we are reliant on some other parties for inputs and these have taken a little longer than hoped.

We will copy the report to you on the 8<sup>th</sup>. If helpful we could have a quick call shortly after for us to talk you through the approach / answer any initial queries. We are free on the 10<sup>th</sup> 9-11am and 3:30pm onwards if that suits? Obviously we can then have future sessions if helpful with a view to agreeing as much common ground as possible.

Kind regards,  
Chris



**Chris Wheaton**  
**Senior Director**  
[chris.wheaton@quod.com](mailto:chris.wheaton@quod.com)

**Mobile: 07736 289 629**  
[www.quod.com](http://www.quod.com)

**21 Soho Square**  
**London**  
**W1D 3QP**

**From:** Peter Griffiths [REDACTED]  
**Sent:** 16 December 2024 12:08

**Subject:** Chilmington Green revised Viability  
Good Morning Chris/Ryan,

**Chilmington Green revised Viability**

Just checking in with you on when you expect to be issuing the revised viability submission for this scheme. As discussed, once we have reviewed it we consider that it may be prudent to arrange a meeting where the key changes to the viability may be discussed with a view to trying to reach agreement prior to the appeal. We look forward to hearing from you.

All the best

Peter Griffiths CIHCM  
Bespoke Property Consultants  
Mob: 07581328570

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**From:** Ryan Wells [REDACTED]  
**Sent:** 23 January 2025 10:29  
**To:** Andy Leahy  
**Cc:** Chris Wheaton; Peter Griffiths; Faye Tomlinson; Jeremy Baker; Victoria Thistlewood; Terry Sullivan; [REDACTED]  
DForsdick@landmarkchambers.co.uk; Simon Cole  
**Subject:** FW: Chilmington Green revised Viability

Hi Andy  
Please see responses below, we'll also respond to your other e-mail shortly.  
Kind regards  
Ryan.



Ryan Wells  
Associate  
07719 527 788  
[www.quod.com](http://www.quod.com)

**From:** Andy Leahy [REDACTED]  
**Sent:** 20 January 2025 15:18

**Subject:** RE: Chilmington Green revised Viability

Hi Chris and Ryan,

Here are our follow up questions as promised this morning. Again it would be good to have answers to these by Thursday midday.

1. We need to understand the full level of completed sales on the site. We have had information from ABC building control but want to make sure we are all working on the same basis. From what we have which is 280 completions, the Building Control records are as follows:  
BDW – number of dwellings on site is 173 units – we have 114 completions – however according to our site visit all units are completed (but some are in Parcel R) – please confirm.  
Hodson number of dwellings across their parcels is 220 units – we have 125 completions - not sure if this is a full record, please confirm.  
Jarvis – number of dwellings across their parcels is 99 units – we have 42 completion records – not sure if this is a full record, please confirm.

Therefore, please can you provide a full record of completions, address, size of unit incl NIA, date of completion and the developer

Apologies, we don't have all the info requested, but a breakdown of what is available is below:

Plot Ref.	Plot Developer	Total Dwellings	Year of Commencement	Year of Completion	U
Q & R	BDW	165	2018	2024	
P	Jarvis Homes	99	2019	Ongoing	
C	Hodson Development	67	2018	2022	
B, C & J	Thakeham Homes	225	2020	Ongoing	
A, E & F	Hodson Development	153	2020	Ongoing	
K	Brookworth Homes	54	N/A	N/A	

<b>Total</b>	<b>763</b>	<b>2018</b>	<b>Ongoing</b>	
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2. We have been informed that some affordable housing units have been delivered – please can you confirm address, date, tenure, unit size, NIA and price for the units that have been delivered. **Awaiting client confirmation, will respond when available.**
3. On your appraisals there is reference to Actual Dwellings and Projected Dwellings without any information being provided on an annual basis in each tab for actual delivery – can it be confirmed why this approach has been taken and an updated document be provided (for both the consented and actual schemes) in excel please. **The 'actual' section of the model will be updated each plot within a review has been fully delivered, to ensure accuracy across all inputs.**
4. On the appraisal tab there is reference to the Infrastructure Cost Plan projected being adopted, however no data has been provided on the infrastructure costs spent to date and how this relates to the cost plan. Can we also have the completion dates for these items. – can this be updated for both appraisals please and resent in excel. **Awaiting client confirmation, will respond when available.**
5. For the housing delivery figures the following overall phasing has been adopted.

#### Projected Dwellings

Review	Projected Start Year	Projected Dwellings	End Date	Total Years	Projected Dwellings per Annum
1	2018	932	2026	9	104
2	2027	569	2029	3	190
3	2030	621	2032	3	207
4	2033	503	2035	3	168
5	2036	473	2037	2	237
6	2038	467	2039	2	233
7	2040	619	2042	3	206
8	2043	475	2044	2	238
9	2045	452	2046	2	226
10	2047	639	2049	3	213
<b>Total</b>		<b>5,750</b>		<b>18</b>	<b>319</b>

Please can you confirm why you have taken a different approach to phasing number references compared to that set out in schedule 48/49 of the s106 agreement? **Current delivery assumptions as absorption has slowed since s106 signing**

6. We have identified the following Actual cost of certain infrastructure works in the schedule below. As you will note these differ from that advised by KCC – please explain.

Ref	Item	Base schedule amount exc indexation	Cost advised to KCC
1200.1	Access A	£548,102	£285,639
1200.2	Access C	£617,591	£47,495
1200.3	Access D	£113,795	£147,171
1400.5a	Mock lane	£1,408,860	£153,870

On Mock Lane we have seen this is complete up to the Primary School so need to understand what the costs are to date, same for Access C which is also part complete.

7. Please also confirm the prelims and fees related to the works that have been completed. **Awaiting client confirmation, will respond when available.**  
Please confirm why the landscape design fees of £2,799,010 have been omitted? **Please can you confirm what reference this relates to within the costplan?**
8. Please confirm why the cashflow contains some negative numbers in relation to S.106 contributions – are you expecting repayment from the Council? If so, where have you specified the amount paid to date. **Correct, where negative numbers appear the assumption is that HD are due a rebate from the council – Awaiting client confirmation for any fees repaid to date**
9. We are not proposing to include any interest costs that may have become due because of late payment of contributions. This is on the basis that such a cost is a contractual penalty which could

have been mitigated by the developer. We note that from our reading of your costs you have also excluded this cost, but please confirm. **Correct**

**10.** As per previous requests we would like to see the land purchase agreements. **Awaiting client confirmation, will respond when available.**

Kind Regards

Andy

Andy Leahy BSc MloD FRICS

Managing Director

Bespoke Property Consultants



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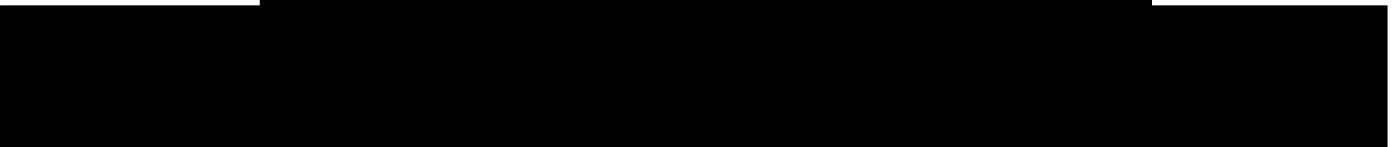
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**From:** Andy Leahy

**Sent:** 20 January 2025 10:22

**To:** 'Chris Wheaton'



**Subject:** RE: Chilmington Green revised Viability

Hi Chris and Ryan,

Following our meeting on 10<sup>th</sup> Jan, you were going to see if you could provide the following:

- 1) Information on the Secondary School end cost and the terms of the loan from KCC
- 2) Justification of the 11.2% interest rate used in the FVA in relation to master developer funding
- 3) Details of the Homes England loans/funding of infrastructure costs.
- 4) Timing and value of land sales in respect of the land already sold off – eg: Mann/Thakeham
- 5) Confirmation that you have indexed costs from the ECH 2016 cost plan and not the 2014 originally agreed cost plan.

We could do with your replies to the above by midday on Thursday 23<sup>rd</sup> Jan, as we are trying to complete our draft evidence by the end of the week.

There will be further questions we need to raise today on the detail of the costs and the live appraisals you sent over on 14<sup>th</sup> Jan. We will issue those to you this afternoon.

Could you also advise when we might receive the draft Statement of Common Ground on viability as we understand the generall planning SoCG does not cover viability.

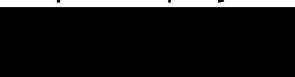
Kind Regards

Andy

Andy Leahy BSc MloD FRICS

Managing Director

Bespoke Property Consultants





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**Subject:** RE: Chilmington Green revised Viability

**Importance:** High

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Regards

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Andy Leahy BSc MIOD FRICS

Managing Director

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**From:** Chris Wheaton

**Sent:** 08 January 2025 18:00

**Subject:** RE: Chilmington Green revised Viability

Hi Andy



Yes, the report has been issued, copy attached.  
Let us know any queries.  
Kind regards,  
Chris



**Chris Wheaton**  
**Senior Director**  
**07736 289 629**  
[www.quod.com](http://www.quod.com)

**From:** Andy Leahy [REDACTED]  
**Sent:** 08 January 2025 16:45

[REDACTED]

**Subject:** RE: Chilmington Green revised Viability

Hi Chris,  
We were expecting your updated FVA on Chilmington today.  
If this has been sent to PINS, please could you forward us a copy to expedite matters.  
Thanks  
Andy  
Andy Leahy BSc MloD FRICS  
Managing Director  
Bespoke Property Consultants  
Office: 01403 823425  
Mobile: 07798 834758



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**From:** Chris Wheaton [REDACTED]  
**Sent:** 19 December 2024 13:49

[REDACTED]

**Subject:** RE: Chilmington Green revised Viability

Hi Peter  
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Kind regards,  
Chris





**Chris Wheaton**  
**Senior Director**

[www.quod.com](http://www.quod.com)

**21 Soho Square**  
**London**  
**W1D 3QP**

**From:** Peter Griffiths  
**Sent:** 16 December 2024 12:08

**Subject:** Chilmington Green revised Viability  
Good Morning Chris/Ryan,  
**Chilmington Green revised Viability**

Just checking in with you on when you expect to be issuing the revised viability submission for this scheme. As discussed, once we have reviewed it we consider that it may be prudent to arrange a meeting where the key changes to the viability may be discussed with a view to trying to reach agreement prior to the appeal. We look forward to hearing from you.

All the best

Peter Griffiths CIHCM  
Bespoke Property Consultants  
Mob: 07581328570

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maximising development potential

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