

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Land between Woodchurch Road and Appledore Road, Tenterden

Outline application for the development of up to 145 residential dwellings (50% affordable) including the creation of access points from Appledore Road (1 x all modes and 1 x emergency, pedestrian and cycle only), and Woodchurch Road (pedestrian and cycle only), and creation of a network of roads, footways, and cycleways through the site. Provision of open space including children's play areas, community orchards, sustainable urban drainage systems, landscape buffers and green links all on 12.35 ha of the site. (Save for access, matters of appearance, landscaping, layout & scale reserved for consideration') b) Full planning permission for the change of land use from agricultural land to land to be used as a country park (8.66 ha), and land to be used as formal sports pitches (3.33 ha), together with pavilion to serve the proposal and the surrounding area. Including accesses, ancillary parking, pathways, sustainable urban drainage systems and associated landscaping.

Appeal by Wates Developments Ltd

Proof of Evidence by DP Withycombe MSc CMLI on behalf of Ashford Borough Council

Rebuttal to Proof of Evidence prepared by Jeremy Smith BSc (Hons), Dip LA, CMLI on
Landscape and Visual Matters

Local Authority Reference: 21/00790/AS

Planning Inspectorate Reference: APP/E2205/W/21/3284479

Inquiry date: 8th February 2022

1. I have prepared this rebuttal to address the issues raised primarily in the in the Proof of Evidence by Jeremy Smith on behalf of the appellant. I also refer to points made on landscape and visual matters in the Proofs by other witnesses on behalf of the Appellant and Council. In this Rebuttal I will refer to the Proof of Evidence by Mr Smith as ‘the PoE’ and clearly identify where I reference points raised by others. In this Rebuttal I will address the following:
 - Design Process (Section 3.3 of the PoE)
 - Design Review of the Approved Masterplan against the Criteria within the National Design Guide (Section 3.6 of the PoE);
 - Footpath AB70 (Section 3.7 of the PoE);
 - Mitigation for the loss of tree T43 (Section 3.8 of the PoE);
 - Comparative Assessment with the Tenterden Southern Extension (TENT 1B) (Section 4.5 of the PoE);
 - Perception of the Settlement Edge to the Appeal Site (Plates II and III and mainly paras 169 and 170 of the PoE).
 - Reasons for Refusal (Section 5 of the PoE)

Design Process

2. In Paragraph 89 Mr Smith lists the principal changes in the appeal scheme against the previous 250 dwelling proposal. The fundamental change is the reduction in numbers from 250 to 145 across the development area. As set out in his Paragraph 89 this will, of course, enable benefits to be delivered (over and above the previous scheme) in particular with regard to the landscape infrastructure and open space provision. These benefits do not, in my view, overcome the fundamental concern that this is an inappropriate location for this development due to the importance of the land to the landscape setting to Tenterden, the rural character of the Appeal Site and the local context, in particular the character of the settlement edge. I deal with this in more detail as part of the Design Review below.
3. Mr Smith concludes in Paragraph 99 that *the scale and density of the proposed development is thus wholly appropriate in the local context*, referencing housing densities associated with other developments in Tenterden in Paragraphs 96 and 97. I do not contest these figures but all of these sites and figures need to be seen in the local context. The Tent 1 development north of Smallhythe Road is located adjacent to the town centre where there are many existing terraced streets of relatively high residential density. Tilden Gill Road adjoins an estate mainly comprising semi

detached dwellings. Densities which might be appropriate elsewhere are not necessarily appropriate on the Appeal Site.

4. I estimate that the density of the dwellings backing onto the Appeal Site on Woodchurch Road is of the order of 10 to 12 dph whilst those on Appledore Road are nearer 15 dph (measurement includes full curtilage associated with properties). The development parcels nearest the settlement edge on the Appeal Site would be 40-45 dph decreasing to 20-25 dph on the proposed settlement edge. Even allowing for a degree of error in my calculations this would represent a significant contrast to the existing neighbouring housing densities and therefore the settlement edge and local context.
5. Whilst I agree that as part of the design process it has been possible to retain more features and create an enhanced landscape and open space infrastructure to the proposed development, it remains the case that the layout and densities remain strongly at odds with the immediate surrounding area. The proposed development on the Appeal Site would not build on, reflect or contribute to the character and appearance of the existing adjoining residential areas and the settlement edge. This conclusion is reinforced in my assessment of the scheme against the criteria within the National Design Guide below.

Design Review against the Criteria within the National Design Guide

6. I agree that the criteria set out in the National Design Guide form an appropriate basis for assessment of the appeal proposals. As for Mr Smith there are elements of the criteria which lie outside of my skill set. I have, therefore provided an assessment against the same seven criteria described in the PoE by Mr Smith (paragraph 104). In the conclusions to this review I also pick up on points raised in Section 4 of his PoE relating to assessed landscape and visual impacts and effects.

Context

7. I deal with context in my main Proof of Evidence in particular Paragraphs 4.4 to 4.10 and conclusions in 8.2 to 8.6. I think the key areas of disagreement lie in the character and appearance of the Appeal Site and the influence of the settlement edge on the western land parcel and the degree to which key characteristics could be retained within the development. I conclude that the proposed development would be out of context in this location, harming the character of the settlement edge and in contrast to the character of existing development on the settlement edge. I disagree

with the statement made at Paragraph 107 that within the western land parcel *there is already a clear sense of being on the settlement edge*. The SLR LVA references *some influence* which I would not disagree with as it implies a more limited influence (see my main Proof paragraph 4.8). I also conclude that the appeal proposals would be out of context and would alter the overall settlement pattern of Tenterden.

Identity

8. The proposals would retain much of the network of hedges, trees and watercourses and it would be possible to create a strong landscape infrastructure to the development. However, the need to retain these features will create parcels of higher density development which are out of keeping with the surrounding lower density development. Mr Smith makes reference to the Southern Extension in his Proof of Evidence. I have walked the High Weald Landscape Trail from the town centre to settlement edge and the planned location for Phase B of the Southern Extension. On this route there is a clear transition from higher density, close knit development (both new and old) immediately south of the town centre with a gradual transition to a more open, lower density character as one moves towards the settlement edge. This would not be the case if the appeal scheme was to be approved.
9. There is also emphasis on the retention of views, in particular to St Mildred's Church (see also paragraph 146 of the PoE) from Footpath AB12. As I set out in my main Proof of Evidence whilst I agree some views will be retained, the character, appearance and context to these views will change from views over a rural landscape framed by trees to views through the residential areas, largely framed by built form. Mr Smith returns to the views to the church in Paragraph 240 stating *Furthermore, it is important to note that not all visual effects to the west of the path would be entirely negative: there would be several framed views of the tower of St Mildred's, seen above existing tree canopies, viewed along broad greenways*. This statement seems to be at odds with the conclusions of the LVA that there will major/moderate adverse effects to walkers in relation to views towards St Mildred's Church (SLR LVA Viewpoints 5, 9, 13, A and B).
10. Residents immediately adjacent to the site also have potential to experience major/moderate negative effects. The SLR LVA acknowledges the harm that there will be to these views.

11. There would be an emphasis on the use of local materials in the design of built form, which is of course to be supported, but in my view the higher density massing of built form within the pockets of development would be inappropriate in this location.

Built Form

12. As I state in my main proof and above the density and massing of built form would be inappropriate in this location.

Movement

13. I would agree that the greenways would provide for high levels of access and movement through the development. As I highlight in my main Proof of Evidence it is the impact on the experience of users of the existing PRoW (AB12) and the potential PRoW (AB70) which would be impacted upon.

Nature

14. Evidence on the degree to which the proposals would conserve or impact upon biodiversity and nature conservation is provided by Helen Forster.

Public spaces

15. I agree that the proposals would include a hierarchy of open spaces and greenways, as one would reasonably expect from a scheme of this scale.

Uses

16. I agree with the points raised by Mr Smith on uses.

Conclusions

17. With good design it would of course be possible to create an *attractive, safe and distinctive place to live* (Paragraph 130 of Mr Smith's Proof of Evidence). The more important question in my view is whether the proposed development is appropriate to this location. In my opinion the proposals do not *respect local character*, in terms of both a failure to acknowledge and mitigate the harm to the character and appearance of the Appeal Site and a failure to reflect, inform and build on the character of the existing neighbouring residential areas. Whilst Mr Smith and other witnesses suggest that design matters could be addressed at the Reserved Matters stage it

must be concluded that the appeal scheme is the best case scenario informed by the design process.

18. At paragraph 156 Mr Smith re-states the point made in the SLR LVA that *all green field residential developments will result in at least some degree of localised landscape and visual harm*. I have dealt with this point in my main Proof of Evidence at paragraphs 6.7 and 6.8. In paragraph 156 he goes on to reference the 5 year housing land supply and concludes that *it is likely that the Council will need to identify new sites outside of the settlement boundary*. This is not something I feel can be reasonably concluded without a full understanding of all the issues which inform the housing land supply issue and I defer to the evidence of Lindsay Goodyear on behalf of the Council on this matter. I do however feel it is important that whether or not there is a demand for housing land on settlement edges should be immaterial to the assessment of the landscape and visual effects of a proposed development.

Footpath AB70

19. At paragraph 137 Mr Smith concludes that the revised Site Plan (21037-RFT-00-00-ZZ-DR-A-003 -P01) shows that *proposed footpath AB70 could be accommodated within a layout for 141 homes, without any significant impact upon the spatial layout of the development*. In my main Proof of Evidence I comment on the changes to the character and experience for users of AB70 that there would be in the event the appeal scheme is approved. The evidence of Kate Beswick questions whether the alignment shown on 003 could be delivered:

The route shown on 0003 would appear to be the applicant's proposal for a TCPA diversion, however this proposed route would not be approved by KCC PROW and Access as it would not mitigate against loss of public enjoyment and does not consider user safety. Part of the route also appears to be on an estate footway which KCC PROW do not accept as it effectively extinguishes that section of the PROW, due to the footway being adopted by Highways at a later date. Thus, there is no demonstration of deliverability of the scheme to accommodate the PROW

20. I agree with this conclusion as to the deliverability of the proposed route and the comments in relation to public enjoyment, which are consistent with my conclusions as to the effects of development on potential users of Footpath AB70.

Mitigation for the loss of tree T43

21. I present my assessment of the importance and character of the tree avenue on Appledore Road and the impact on the avenue as a consequence of the removal of T43 in my main Proof of Evidence. In his PoE Mr Smith sets out the potential mitigation for the loss of T43, (mainly in Paragraph 142). As I note in my main Proof of Evidence, Kent County Council as the Highway Authority are actively managing and replanting this avenue. There is no evidence that the proposals set out in Paragraph 142 of Mr Smith's PoE could be delivered. Any works would be subject to agreement with, and implementation by, Kent County Council Highways, which in my understanding has not been obtained. It may be possible to reinstate some trees on the avenue as proposed, but this would be at the expense of the removal of an existing mature tree in a location where the avenue is particularly well defined. This tree (T43) could not be replaced in this location and the need for sight lines to the junction would constrain any replacement in the immediate vicinity. The value of the existing mature tree is set out in the Proof of Evidence by Philip Cook on behalf of the Council (see in particular his paragraph 6.5). I agree with his conclusions. The argument presented by the appellant (and I also reference the evidence prepared by Mr Jones on trees) is that since the character, appearance and integrity of the avenue is *being eroded* (Mr Jones Paragraph 4.2.16) this justifies further harm and that by reinstating parts of the avenue in other areas this compensates for harm and damage to the mature avenue elsewhere. This approach cannot have any justification in terms of conserving the integrity and character of the tree avenue.

Assessment of Landscape Value (Table T1 Page 48)

22. In Table T1 Mr Smith includes an assessment of landscape value against the criteria set out in the recent Landscape Institute guidance TGN 02/21. I set out my assessment in paragraph 4.13 of my Proof of Evidence. Key areas where I would disagree with Mr Smith are his conclusion on Landscape Condition that the existing settlement edge to the Appeal Site is in some way a *detractive feature*. This is not a conclusion that has been drawn elsewhere in his PoE and it is not a conclusion of the LVA. I also draw conclusions as to the value of the land as part of the overall settlement pattern and the transition from settlement to open countryside.
23. We do, however, both conclude that the value of the land is largely at a local or community level. This, in my opinion does not logically lead to a conclusion that the Appeal Site should not be considered as a Valued Landscape as defined by Section

174(a) of the NPPF. As I set out in my Proof of Evidence (in particular Paragraphs 4.13 and 4.14) there are many aspects associated with the Appeal Site which I consider demonstrate that this is a Valued Landscape at a local level.

24. The proposal to designate the Appeal Site as a Local Green Space as part of the Tenterden Neighbourhood Plan further demonstrates the local value attributed to the land by the local community. I consider that the landscape value assessment would support the assessment of the land against the Local Green Space criteria at Paragraph 102(b) of the NPPF, with regard to the land being *demonstrably special to a local community*. I do not think that there can be any doubt the land is *in reasonably close proximity to the community it serves* (NPPF Paragraph 102(a)) or *local in character and is not an extensive tract of land* (NPPF Paragraph 102(c)).

Overall Assessment of Landscape and Visual Effects

25. In drawing overall conclusions as to the landscape and visual effects of the appeal proposals Mr Smith states at Paragraph 260 *I have noted that whilst it is best practice in LVA terms to acknowledge the negative landscape and visual effects of introducing new buildings to green field sites, this does not take into account the positive attributes of the appeal proposals*. Whilst I would agree with this to a large extent the key issue should be that if the LVA concludes significant or major harm on landscape and visual issues this should then be reviewed and sought to be addressed through the design process. In this case the LVA concludes major/moderate negative effects associated with the appeal scheme on a number of landscape and visual issues with no indication as to how these might be addressed in possible future iterations of the scheme as Reserved Matters.

Comparative Assessment with the Tenterden Southern Extension

26. A comparative assessment of the anticipated landscape and visual effects associated with the Tenterden Southern Extension is provided in Section 4.5 of the PoE by Mr Smith. I was not involved in the allocation of the Southern Extension through the local plan process (I am not aware that SLR had any involvement either) so I do not believe either witness can provide any detailed evidence as to the process of assessment and local consultation which led to the allocation of the Southern Extension. It is important to note that the Southern Extension forms part of the allocations described in the Tenterden Neighbourhood Plan and I would therefore

conclude that this is a proposal which has been accepted and agreed by the local community and has the support of the local Parish Council.

27. I also include views towards Tenterden from the High Weald Landscape Trail which runs through the centre of the Phase B allocation at the end of this Rebuttal Proof. The Phase A allocation has been completed and the settlement edge viewed is associated with the recently completed Phase A allocation. The bulk of the Phase B allocation site comprises two flat arable fields separated by a managed hedgerow (See Views SE 1 and SE2 below). The High Weald Landscape Trail runs on the western side of this hedge. The southern most part of the Phase B allocation mainly comprises a nursery growing area, separated from the arable fields by managed hedgerows (see View SE3).
28. At Paragraph 249 Mr Smith notes *that the site is of similar character to the nearby High Weald AONB, and there is intervisibility between the AONB and the site itself.* Whilst this might be correct to some extent it is important to note that the land does not reflect any of the defining components of the character and natural beauty of the AONB, as described in the High Weald AONB Management Plan. Whilst the land is under arable farming, which is essentially a rural land use, there is a strong contrast with the character and appearance of the Appeal Site and this land. The Appeal Site has an undulating character, a network of hedges and hedgerow trees, is under a pastoral use and supports a network of ponds, watercourses and wetlands. It is important to consider each site on its merits and whilst this assessment of the Southern Extension is high level, based on one site visit, I consider that the Appeal Site reflects many attributes of rural character not evident on the Southern Extension site.
29. At paragraph 251 Mr Smith states that *Given the largely rural character of the site it is likely that development of the allocation will therefore result in at least localised major/moderate and negative landscape effects.* There are two points I would raise here. If Mr Smith concludes that the land to form part of the Southern Extension has a *predominantly rural character* it must be reasonable to draw a similar conclusion in relation to the Appeal Site. I would also disagree with the conclusion that development on the Southern Extension would result in *at least localised major/moderate and negative landscape effects.* Although any conclusions must be caveated with the fact that a full assessment has not been carried out, I consider that an assessment would conclude minor to moderate negative or adverse effects. No views are included from the AONB so no conclusion can be drawn as to effects on

the AONB, although from my site visit it is evident that the AONB land beyond the Southern Extension is largely at grade or rises gently, so I would not anticipate that extensive views to the land could be gained from the AONB.

Perception of the Settlement Edge

30. I would also draw a comparison between the character and appearance and perceptions of the settlement edge from PRoWs from within the two sites. In my opinion the settlement edge to the Phase B Southern Extension is open and exposed (see my Views SE1 to SE3). Built form on the settlement edge is clearly visible from the Phase B area and, therefore, influences the character and appearance of the neighbouring land. It is important to note that the current settlement edge is not proposed as the final settlement edge. It forms the link between the Phase A and B areas. I consider the current settlement edge to be in stark contrast to the character and appearance of the settlement edge on the Appeal Site as perceived from the Footpath AB12. Mr Smith includes two images of the settlement edge to the appeal site (Plates II and III on pages 40 and 41 of his PoE respectively). Neither of these images is taken from publically accessible viewpoints. In my opinion perception of the settlement edge should focus on how and where the settlement edge can be viewed from publically accessible viewpoints. I have included views from Footpath AB12 of the settlement edge to the Appeal Site taken on the same day as the views of the settlement edge to the Southern Extension to ensure comparable conditions at the end of this Rebuttal Proof. These images reinforce the conclusions described in my Proof of Evidence as to the transitional, wooded character of the settlement edge of the Appeal Site and the importance of the land to the landscape setting to Tenterden, in contrast to the current exposed settlement edge to the Southern Extension.

Reasons for Refusal

31. Mr Smith addresses the specific landscape related Reasons for Refusal in Section 5 of his PoE. I have also addressed these in my Proof of Evidence.

Reason for Refusal 2

Large scale, intensive residential development” (also “scale, form and intensity”)

32. Mr Smith draws parallels with the Southern Extension as to whether the appeal scheme constitutes a large scale development. I agree that such a judgement should take into account local context. The Southern Extension (including the

existing Phase A) adjoins the town centre and was the subject of an involved planning and consultation process. In terms of quantum it does, of course, constitute a larger number of dwellings than proposed on the Appeal Site (although the original proposal for the appeal site was also for 250 homes). I have made comments on the density of development associated with the appeal proposals in the local context and conclude that, in the local context, the appeal proposals would constitute *intensive* development.

Strongly rural edge

33. I have dealt with this matter extensively in my Proof of Evidence and my assessment concludes that the Appeal Site does form part of a strongly rural edge to the settlement and that the appeal proposals would be detrimental to the character and appearance of the rural edge.

Contributes positively to the landscape setting of the south-east side of Tenterden

34. I have dealt with this matter extensively in my Proof of Evidence. I conclude that the Appeal Site contributes positively to the landscape setting and overall settlement pattern to Tenterden. Whilst I would agree with Mr Smith that there is something of a gradient across the site, I disagree with the conclusion that the western parcel is strongly influenced by the existing settlement edge and that this in some way means that the land is in poorer condition than other parts of the Appeal Site. I feel that the statement at paragraph 275 that the boundaries to Woodchurch Road and Appledore Road are marked by *fences and garden vegetation* fails to reflect the levels of mature wooded vegetation clearly evident on all boundaries which filters views to the neighbouring residential areas. As I state elsewhere in this rebuttal, perception of the settlement edge from publically accessible land is also an important consideration.

Would not sit sympathetically within the wider landscape

35. The wider landscape in the context of the Appeal Site must take account of the impacts and effects of the proposals on the character and appearance of the settlement edge, which constitutes part of the wider landscape. It is agreed that the impacts and effects are relatively localised, but this should not diminish the significance and levels of harm which would be a consequence of the appeal proposals. I have set out my reasons why I consider that the proposed development would not sit sympathetically within the landscape of the Appeal Site, would contrast

with the character of the neighbouring residential areas and harm the character of the settlement edge and as a consequence would not *sit sympathetically within the wider landscape*.

Would not preserve or enhance the setting of the settlement

36. I have set out my arguments as to the character and appearance of the setting of the settlement and the effects of the appeal proposals on the attributes associated with the existing settlement edge. I disagree with Mr Smith's conclusion that the appeal proposals would *conserve* or might in some way *enhance the setting of the settlement*.

Reason for Refusal 3

37. My concern as to the approach taken on the assessment of the effects of the removal of T43 relates both to the assessment of the contribution the avenue as a whole and T43 specifically make to the landscape and visual character of Appledore Road and the conclusion that it is therefore acceptable to further damage the character and appearance of the avenue. I conclude that Appledore Road retains a strong and coherent avenue character and T43 is a mature tree of the original avenue species (horse chestnut) and is therefore an important and integral part of the avenue. The creation of the access and sight line requirements would prevent a replacement tree being planted in this location. For these reasons I do not agree that removal would not alter the *character, distinctiveness and sense of place* associated with the avenue.

Reason for Refusal 8

38. I agree with the evidence of Kate Beswick on the matter of Footpath AB70, fundamentally that despite the submission of the revised Site Plan there is still no evidence that the route of AB70 could be accommodated within the appeal proposals without the need for a footpath diversion, which Kent County Council would resist (Kate Beswick Proof of Evidence Paragraph 8.1).

Views to the Settlement Edge to the Southern Extension from the High Weald Landscape Trail



Viewpoint SE1



Viewpoint SE2



Viewpoint SE3

Views to the Settlement Edge to the Appeal Site from Footpath AB12 (Walking north to south)





