

**IN THE MATTER OF
THE TOWN AND COUNTRY PLANNING ACT 1990**

AND IN THE MATTER OF:

‘APPEAL A’: FORMER WYE COLLEGE, WYE, ASHFORD

‘APPEAL B’: LAND OFF OCCUPATION ROAD, WYE, ASHFORD

‘APPEAL C:’ FORMER ADAS SITE, WYE, ASHFORD

OPENING SUBMISSIONS

**ON BEHALF OF
THE APPELLANTS**

1. These Opening Submissions are made on behalf of the Appellants. They are made in respect of the three con-joined appeals:

Appeal A: Former Wye College, Wye, Ashford

Appeal B: Land off Occupation Road, Wye, Ashford

Appeal C: Former ADAS site, Wye, Ashford

2. Former Wye College comprises previous developed land within the settlement of Wye, including significant and nationally important Grade I and Grade II* buildings, as well as unlisted buildings of various ages and merit. It is proposed to be restored and re-used as a mixed-use residential and community development. It has the support of English Heritage, SPAB and – now – the local planning authority, Ashford Borough Council [‘the Council’].
3. The works the subject of Appeal A already have the benefit of listed building consent, as the Council was always supportive of the scheme from a heritage perspective. The

two matters which had prevented the Council from granting the associated planning permission (a ‘clawback’ clause and the use of the ‘Latin School’) have now been resolved. The Council is satisfied that the clawback mechanism agreed is suitable, and it now accepts that the proposals accord with policy on community provision (there is a net improvement qualitatively and quantitatively on the current provision). As such, it does not resist the grant of planning permission for Appeal A.

4. Land off Occupation Road comprises part previously developed land embraced by the settlement boundary for Wye, as drawn in the draft Wye Masterplan which the Council resolved to adopt in October 2019. It is proposed for 40 dwellings and significant open space and planting. The site is identified for residential development and the principle of its proposed re-development is agreed. The site lies within the Kent Downs AONB, as does the whole of Wye, and is seen in the context of the existing settlement and as already developed; no objection is raised by the AONB Unit.
5. Although the Council alleges a landscape impact on the AONB, it does so without any expert evidence or analysis, and contrary to the supportive conclusions of the AONB Unit, as noted. In truth, when the ‘landscape’ objection is examined, it is a detailed ‘design’ objection to the layout of the proposal. Evidence will be led as to the misconceived nature of this design objection, but in any event, none of the narrow design points properly sound in either landscape character or visual amenity.
6. The Former ADAS site is also previously developed land. It was proposed in the draft Wye Masterplan in 2018 for 20 dwellings, but in 2019 the Council resolved to reduce the figure to 15 dwellings. Once more, the AONB Unit raise no objection to the scheme of 20 dwellings proposed. Indeed, a site visit – particularly to view the site from the higher land to the East – reveals just how inconspicuous development in this location both is and will be. This is shown, also, in the CGIs in the evidence, produced at the request of the AONB Unit.
7. Once more, the Council does not oppose the principle of redevelopment for residential use, and has resolved to support 15 dwellings on the site. Once again, there is a ‘landscape’ objection raised but, as with the Occupation Road site, Appeal C is opposed without the benefit of expert evidence or analysis and against the positive position of

the AONB Unit. Once more, when analysed, the ‘landscape’ objection is, in truth, a detailed design objection. It is not considered that 15 as opposed to 20 dwellings would have any materially different effect in landscape character or visual amenity terms.

8. All of the above needs to be set in the context of the adopted development plan policies and the agreed absence of a 5 year housing land supply in the Borough.
9. The Wye Neighbourhood Plan (2016) contains specific policies WNP6 and WNP11 allocating the three appeal sites and other land for redevelopment subject to a Masterplan to be drawn up and adopted. The WNP was formulated in the context of the now superseded Tenterden and Rural Sites DPD 2010 and the Ashford Core Strategy, replaced by the Ashford Local Plan (2019). The WNP was responding to TRSDPD policy WYE3 which identified the whole former Imperial College Campus for mixed use re-development.
10. Pursuant to WNP6, the Appellants produced a Masterplan, in consultation with the Parish and other stakeholders, which the Council resolved twice to adopt (with some amendments – eg to reduce the ADAS site from 20 to 15 units) as informal planning guidance. A threatened procedural challenge by the Parish Council stalled that process (the Parish argued that the Masterplan should have a DPD or SPD status), but it does not remove the Council’s expression of support for the proposals within the draft Masterplan.
11. Mr Fidget’s evidence explains how the three appeal proposals fit within the framework of the draft Masterplan and the requirements of WNP11 as well as how the whole former WYE3 site has been or is being delivered in accordance with policy. As such, the three appeal proposals can be seen as development-plan policy compliant individually, and part of the broader jigsaw for the re-development of this part of Wye. It benefits, therefore, from the presumption in s.38(6) and that in para. 11(c) of the NPPF.
12. In addition, the Council cannot demonstrate a 5 year housing land supply and accepts that Footnote 7 engages para. 11(d) of the NPPF by making the ‘most important’ determining policies ‘out of date’. No heritage objection is made by the Council in respect of any of the three appeals (indeed Appeal A is recognised to be a positive

intervention in the historic environment). No AONB objection is raised in respect of Appeal A. For the reasons given in the evidence, no AONB objection is sustainable in respect of Appeals B or C. The issue of NE's position on nitrogen neutrality and the Stodmarsh SPA I cover below, but it is not an arena in which the Council engages. As such, there is no factor in para. 11(d)(i) and Footnote 6 to take the proposed appeals out of the presumption in para. 11(d)(ii).

13. The benefits to the historic environment of Appeal A are worthy of great weight. Much of that site is nationally important Grade I and Grade II*. In addition, the provision of housing is a significant positive social and economic factor for Appeals A, B and C, not least in the context of a failed 5 year housing supply, the sustainability of the location in Wye village and the fact that the Council actually rely on a contribution from these sites in what land supply it can show. Furthermore, all three sites are previously developed land in/adjacent to the village and are opportunities for improving the AONB and its housing stock not to be missed.
14. Against these, such design points as the Council does make (even if valid) would not justify the withholding of permission for these highly beneficial schemes. Indeed, to argue for 15 against 20 at the ADAS site is to miss an opportunity for providing much needed homes, without achieving any materially different impact on the landscape, let alone any benefit for the dwellings foregone.
15. As such, the Appellant will be submitting in due course that permission for all three appeals should, be granted – and without delay.
16. Three further matters need to be touched on.
17. First, the position of the Parish Council. Having formulated the Neighbourhood Plan (made in 2016), it has failed to institute a review of it since, nor itself to promote the Masterplan envisaged under policy WNP6 and WNP11. It was on the steering group which produced the draft Masterplan twice supported by the Council, but then chose to threaten legal proceedings in respect of the very draft Masterplan which was seeking to deliver its own NP. Thus, the Parish Council itself has caused the policy hiatus which it now seeks to pray in aid as alleging the 'prematurity' of the appeal proposals – all the while, the nationally important listed building complex sits in mothballs and the

residential sites are prevented from making their due contribution to local and national social needs.

18. Miss Wedd for the Parish Council wrongly identifies heritage harm in respect of Appeal A, when the local planning authority, the Government's adviser on heritage and the statutory amenity society responsible for buildings of this vintage are all in accord: there are significant heritage *benefits* as a result of Appeal A and the public interest demands that the works should be achieved as soon as possible.
19. Similarly, Mr Goodwin for the Parish Council wrongly identifies material breach of planning policy when he, on behalf of the Parish, should be eagerly welcoming the delivery of policy WNP6 and WNP11. These three sites, alongside the other constituent parts of old WYE3, are important to the social and physical fabric of the village. It is little short of perverse of the Parish Council to resist practical attempts to deliver the policy aspirations of the development plan.
20. The parish's objection to the principle of housing on the ADAS site is not supported by the local planning authority (seemingly an important motivation in the threatened legal challenge); nor is it supportable in planning terms, given the sustainability credentials of that location.
21. The second matter – and the two may well be related – is the position of WyeCRAG, a single-issue pressure group, who would like to use the Wye College site for something other than the Appeal A proposal. Specifically, it proposes a hotel – imagining thereby to secure more public access to the listed buildings, although this is debatable (the rest of the complex, it seems, is to be given over to a housing scheme as per the Appeal A proposals). The proposals are sketchy and have no support from the relevant statutory bodies.
22. Quite apart from the questionable realism of the proposal, and the potential for very real heritage harm arising, there is the simple matter that WyeCRAG has no interest in the land in question. That it might wish to see x, y or z happen on the site is not a material planning consideration. The Appeal proposal for the former Wye College is more than unobjectionable; it is positively to be welcomed in planning terms, providing heritage and social benefits, with a net improvement in community floorspace provided.

The existence (if such can be claimed) of an alternative scheme by a third party with no interest in the site is not a reason for withholding permission – even if it were ‘better’, which is not a claim the WyeCrag scheme can justifiably make for itself.

23. The third matter is NE’s position on nutrient neutrality and the Stodmarsh SPA. There is now no objection in respect of Appeal A. In respect of Appeals B and C, the matter turns entirely on assumptions on net nutrient calculations and, specifically, the extent to which one can take account of on-site Package Treatment Plants (‘PTPs’) in those calculations.
24. There is a very real, on-going debate as to whether NE’s general advice is correct on this matter. And it must be remembered that it is only *advice*, not determination. It is the ‘competent authority’ which must make the decision, on all of the evidence available. Fortunately, for these appeals, however, the Inspector does not have to resolve the dispute over the general advice as the specific circumstances of Wye WWTW mean that it does not apply in this case. Miss Cameron’s evidence clearly explains the local position; an ‘appropriate assessment’ can be concluded in favour of the appeals and para. 177 of the NPPF does not remove the presumption otherwise to be found at para. 11.
25. We will shortly proceed to the evidence, but suffice it to say at this stage that each of these appeals should be allowed on their own merits as in the public interest – according with the material parts of the development plan as well as delivering significant planning benefits across all three of the dimensions of sustainable development.

CHRISTOPHER BOYLE QC

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