



Proof of Evidence

Land at Chilmington Green, Ashford Road, Great Chart, Ashford, Kent

Against the failure to determine applications to modify or discharge obligations contained in the S.106 Agreement dated 27 February 2017 attached to planning permission ref: 12/00400/AS (as amended by a Supplementary Agreement dated 29 March 2019 and a deed of variation dated 13 July 2022)

LPA Ref: AP-90718 and AP-90647

**Appeal Ref: APP/W2275/Q/23/3333923 and
APP/E2205/Q/23/3334904**

Hodson Development Ltd

Prepared by:

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SLR Project No.: 425.066449.00001

5 February 2025

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1.0 Introduction

Witness Introduction

- 1.1 My name is Ian Gordon Dix. I have a degree in Geography with Computing from Lancashire Polytechnic (now the University of Central Lancashire) and a Master of Science degree in Transport Planning and Management from the University of Westminster. I am a Chartered Member of the Chartered Institute of Logistics and Transport and a member of the Institution of Highways and Transportation. I have over 34 years' experience in the design and assessment of highway and transport schemes.
- 1.2 I am a Director in Transport Planning at SLR Consulting Limited where have worked since 2021. Prior to this I was one of the Founding Directors of Vectos, consultants in traffic and transport, where I have worked since the company was established in October 2011. Before this I was a Director of Savell Bird & Axon, consultants in traffic and transport, where I worked for approximately 10 years. Prior to this I worked for Hertfordshire County Council, for over 11 years, with my final post as a Principal Engineer responsible for considering the highway and transportation aspects of major planning applications and local plans.
- 1.3 I have experience of working on a wide variety of development projects in both the public and private sectors including a large number of new residential areas which have been successfully implemented, three examples of which are set out below.
- 1.4 **Chilmington Green:** This scheme is under construction and will provide 5,750 new homes in three neighbourhoods, as well as retail, community, social and recreational facilities. Following the submission of the planning application a consortium of housebuilders commissioned Vectos to address transport planning concerns. Vectos' Supplementary Transport Assessment considered timing of major highway improvement works, implementation of site-specific traffic calming measures, bus priority, procurement of a dedicated bus service, and pedestrian and cycle connection to Ashford. The project received a resolution to grant planning permission by Ashford Borough Council's Planning Committee in October 2014, subject to finalising a Section 106 Agreement. This scheme is now under construction with various phases of development coming forward as Reserved Matters applications.
- 1.5 **Former TRL Site, Bracknell:** Preparation of a Transport Assessment Report and Travel Plan in support of a planning application for 1,000 residential units on the site with ancillary facilities. This also included the preparation of representations to the Local Development Framework to ensure that the site was allocated as a strategic housing site. This scheme now has the benefit of planning consent and Vectos prepared the detailed designs of the offsite highway works. This scheme is now within the implementation phase with several areas of new houses being occupied.
- 1.6 **Land East of Marshgate, Hertford:** This scheme is under construction with the benefit of planning consent for 375 residential dwellings and ancillary use including 2,220 sq m of employment. Planning consent was granted following a successful appeal in 2019. A Transport Assessment and Travel Plan were prepared to support the planning application and Evidence was prepared and given to the public inquiry.



- 1.7 **Possingham Farm:** This scheme for 655 residential dwellings was granted planning consent following an appeal in October 2024. The site is immediately to the west of the consented Chilmington Green development. A Transport Assessment and Travel Plan were prepared to consider the transport implications of the proposed housing. Given the close proximity of this site to the Chilmington Green development many of the transport issues are the same for both schemes. Evidence was prepared and given to the public inquiry.
- 1.8 I understand my duty to the Inquiry to help the Inspector on matters within my expertise and that this duty overrides any obligation to the person from whom I have received instructions or by whom I am paid. I have complied, and will continue to comply, with that duty. I confirm that the evidence in this note identifies all facts which I regard as being relevant to the opinions that I have expressed and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct.

Involvement in the Project

- 1.9 My original involvement with Chilmington Green was that I was commissioned in 2013 to prepare a response to the transport related comments that had been made in relation to the original planning application submission. I was then involved with the planning application through to the grant of planning consent.
- 1.10 I have then been involved in various transport related matters as the Chilmington Green development has progressed. For example, I provided advice on transport related matters to Hodson Homes Ltd in respect of the planning consent for the secondary school on the site and undertook Peer Review of the concerns raised by Kent County Council (KCC) as the local highway authority and subsequently had discussions with KCC to resolve the concerns.
- 1.11 I provided an input into the Explanatory Statement and Appendices dated October 2022 prepared by Quod on the transport related obligations (CD1/12).

Context for my Evidence

- 1.12 My evidence considers the proposed modifications that relate to transport.
- 1.13 In Mr Collins' evidence he identifies the two key tests for the modification of a S106 obligation. These are below for ease of reference:
- 1) Whether the obligation "no longer serves a useful purpose".
 - 2) Whether the relevant obligation "continues to serve a useful purpose but would serve that purpose equally well" if it had effect subject to a proposed modification.
- 1.14 Mr Collins also set out the tests for planning obligations from Regulation 122 and from the NPPF (CD5/1) which again are below for ease of reference. For an obligation to be a reason for granting planning permission then it must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and



- fairly and reasonably related in scale and kind to the development.

1.15 My evidence considers the transport related planning obligations where modifications have been proposed against the useful purpose test. However, I also note paras 3.2.10 to 3.2.13 of Mr Collins' evidence, which explains that he has also considered the obligations against the CIL tests given that viability is a key element of the Appellant's case; namely that where independently or collectively the effect of the obligations is to result in a development that is no longer viable or deliverable then such obligations cannot be seen to serve a useful purpose. In this way, I note that there is a measure of overlap between the useful purpose test and the CIL tests and have therefore also considered the latter, where relevant to my evidence

Structure of Evidence

1.16 The remainder of my evidence is structured as follows:

- Section 2 - Schedule 18 – A28 Improvement
- Section 3 - Schedule 19 - Off-Site Pedestrian and Cycle Links
- Section 4 - Schedule 20 – Provision of Bus Services
- Section 5 - Schedule 21 - Off-site Traffic Calming
- Section 6 - Schedule 22 – RIF Payment
- Section 7 - Summary and Conclusions



2.0 Schedule 18 – A28 Improvement

- 2.1 This section of my evidence will comment on the Bond being requested in relation to the A28 works and will support the removal of this requirement (request 91).
- 2.2 I do not present any evidence on the need for an A28 improvement scheme in relation to the Chilmington Green development or on the timing of the provision of the improvement scheme. Mr Wheaton presents evidence on viability in relation to the A28 improvements.

Bond

- 2.3 Paragraph 1 of Schedule 18 of the S106 Agreement (CD1/14) states:
- “The owners covenant with the Council not to Occupy nor bring into residential use any further Dwellings if a total of 400 Dwelling have been Occupied on the Site unless and until the bond required to be delivered to the County Council pursuant to the S.278 Agreement has been delivered to the County Council in the form required by the S.278 Agreement”*
- 2.4 The S278 agreement appended to the S106 Agreement requires the bond before KCC commences works (S106 clause 5.2; schedule 1 para 7). Clause 5.1 requires the letting of the construction contract by 2020 provided that a bond has been given.
- 2.5 While the wording of the S278 Agreement is not being explicitly considered, if the need for the Bond is removed from the S106 Agreement then it should also be removed from the S278 Agreement for consistency.
- 2.6 In my experience it is very unusual to include the requirement for a Bond relating to highway works within a S106 Agreement when there will be a separate S278 Agreement for the highway works. It is also unusual to link the provision of the Bond to the occupation of an identified number of units.
- 2.7 The purpose of the request for a Bond in relation to highway works undertaken under S278 Agreements is to ensure that when the work have commenced that they will be completed i.e. to ensure that the highway authority is not left in the position of a part finished highway works in the event of a Developer not completing the works for whatever reason. The amount covered by the Bond usually being only the construction costs of the works and it needs to be in place prior to the commencement of the highways works covered by the S278 Agreement.
- 2.8 The date or trigger by which a Bond needs to be in place is prior to the commencement of any works on the public highway. This means that the detailed design for the highway works needs to be completed, the land for the highway works needs to be available and the contract for the works needs to have been let. If this is not the case, then the Bond should not be required as it would be too early for it to be needed.
- 2.9 This is the usual, and in my view, correct approach as it ensures the delivery of the highway works and ensures that a highway authority does not have to fund the completion of works that have commenced in the event of a default.



- 2.10 The S278 Agreement included in the S106 Agreement (CD1/14) sets put a schedule of triggers for the payment of the contributions towards the costs of the A28 as follows:
- £4,754,800 – 31/03/2021
 - £2,868,700 – 31/03/2022
 - £2,868,700 – 31/03/2023
 - £2,868,600 – 31/03/2024
 - £2,868,700 – 31/03/2025
 - £2,868,700 – 31/03/2026
 - £2,868,600 – 31/03/2027
 - £2,868,700 – 31/03/2028
 - £2,330,400 – 31/03/2029
 - £1,822,900 – 31/03/2030
 - Total - £28,988,800
- 2.11 These triggers were based on a contract for the A28 works being let in 2020. However, the delivery of housing in the Chilmington Green development has been slower than anticipated, as detailed in the evidence of others. The SOCG between ABC and the Appellant which I believe will be signed imminently confirms that it is agreed that there are 364 dwellings currently occupied on the Site.
- 2.12 As set out above in my evidence, the requirement for a Bond in a S278 Agreement typically relates to the potential for a default by the Developer in completing the highway works covered by a S278 Agreement. However, in this instance, the S106 Agreement and S278 Agreement indicate that the Developer will not be undertaking the highway works. Therefore, no Bond of any form is needed.
- 2.13 Mr Wheaton will comment on the financial and viability implications of requesting this Bond before the proposed highway works on the A28 have commenced and a contract has been let. My view is that there is no need for a Bond in the event that the Developer is not undertaking the highway works.
- 2.14 For these reasons I do not believe that the requirement for a Bond in Paragraph 1 serves a useful purpose. If the proposed modification to remove this obligation is made, then the S278 Agreement should also be amended to reflect this change.



3.0 Schedule 19 - Off-Site Pedestrian and Cycle Links

- 3.1 This section of my evidence set out the justification for the removal of the payments to offsite pedestrians and cycle links (request 94).
- 3.2 Paragraphs 1 and 2 of Schedule 19 of the S106 Agreement (CD1/14) require the payment of a total of £532,000 in four equal payments prior to the occupation of the 1,001st, 1,501st, 2,000th and 4,000th dwellings.
- 3.3 The second Paragraph 2 (a numbering error in the S106 Agreement) states that:

“The County Council covenants with the Paying Owners to spend the monies received only on constructing two footways either side of Magpie Hall Road to the east of the Site (as indicatively shown as annotated and highlighted pink together with other unrelated works on the attached drawing 131065/A/25 Rev B); promotion of national cycle route 18 (including but not limited to as indicatively shown on the attached drawing 131065/A/102) and the following as indicatively shown on the attached drawing 131065/A/84: improving signage on the footpath/cycleway from the site through Great Chart to the Matalan roundabout; surfacing, widening and fencing Greensands Way, monitoring traffic flow in Bartlets Lane and surfacing works to byway AW245 (mistakenly referred to as “Signage of Byway” on the drawing).”

- 3.4 The remainder of this section of my evidence considers each aspect of these works:

- Magpie Hall Road
- National Cycle Route (NCR) 18
- Great Chart to the Matalan Roundabout
- Greensands Way
- Byway AW245

- 3.5 The two elements of this work to consider whether the obligations serve a useful purpose are:

- 1) What facilities do these routes link Chilmington Green residents to? i.e. is the provision of the routes necessary to make the Chilmington Green development sustainable?
- 2) The relationship of these routes to other planning consents and applications.

Magpie Hall Road

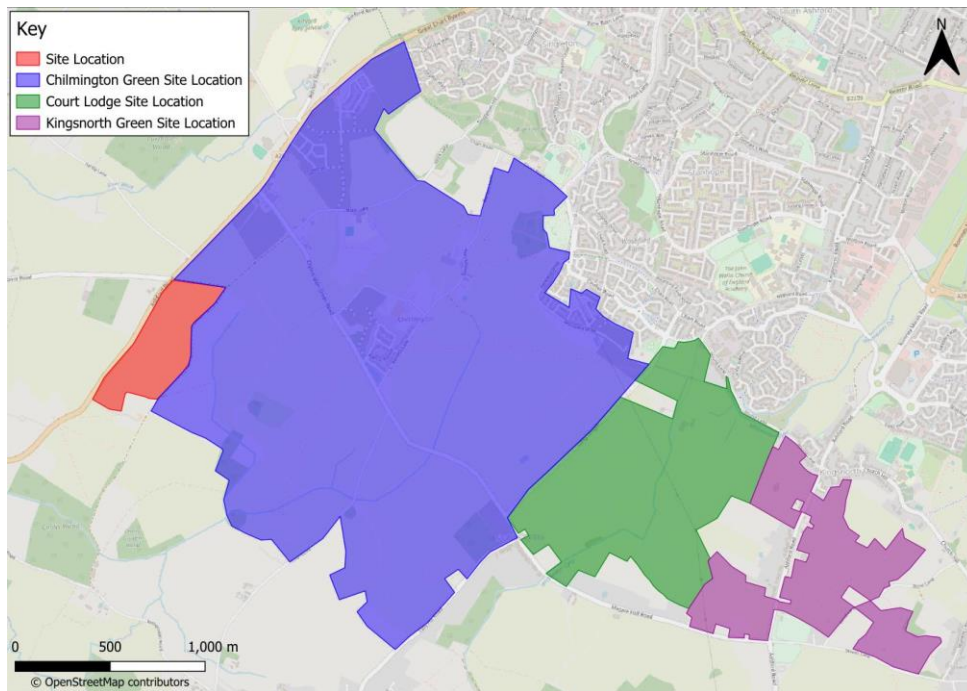
- 3.6 This elements of the works within the second Paragraph 2 of Schedule 19 would be to provide footways on either side of Chilmington Green Lane between the southern boundary of the Chilmington Green development and the housing along Magpie Hall Road to Stubbs Cross where this is feasible within the publicly adopted highway.
- 3.7 To be beneficial and therefore to serve a useful purpose these footways would need to connect the residents of Chilmington Green to local facilities that are not available within the Chilmington Green development.



- 3.8 The only facilities in Stubbs Cross are a Post Office and the St Francis of Assisi Mission Hall which is a small hall that could be used by the community.
- 3.9 There is likely to be Post Office facilities within the Chilmington Green Local Centre and there are community facilities provided within the Chilmington Green development that could be used by new residents.
- 3.10 The closest element of the Chilmington Green development is Phase 4 which is not expected to come forward until after 4,812 dwellings have been occupied and there would be links to the facilities in this and earlier phases of the development.
- 3.11 The proposed footways would not serve a useful purpose as they do not provide a connection to any facilities that will not be provided within the Chilmington Green development, therefore this requirement can be deleted.
- 3.12 In addition to this the proposed Court Lodge development (planning application reference 18/01822/AS) is bounded by Magpie Hall Road to the south and Long Lane to the northwest. This proposed development includes 1,000 residential units, a local centre with shops and employment opportunities, a primary school and a community hall. A new vehicular access is proposed onto Magpie Hall Road. In association with this development improvement will be made to connect it to Stubbs Cross.
- 3.13 The proposed Court Lodge development will provide new facilities for those living in Stubbs Cross.
- 3.14 The Kingsnorth development (planning application reference 15/00856/AS) and was granted following an appeal (APP/E2205/W/23/3320146) – (CD7/3). The proposed development includes 550 residential units, a primary school, shops and community facilities.
- 3.15 This development is to the south of Stubbs Cross and it should be noted that there is no requirement for a connection for pedestrians and cyclists to be made to Stubbs Cross.
- 3.16 No requirement for footway connections between the Court Lodge and Kingsnorth developments and Stubbs Cross have been required by ABC or KCC. This shows that they are not considered necessary in the context of the CIL tests with respect to these two developments. It should therefore follow, if a consistent approach is taken, that footway connections between the Chilmington Green development and Stubbs Cross are not needed. In fact, with the respect to the Chilmington Green development this should definitely be the case as it is a much larger development which will provide a much wider range of facilities as part of the development than will be provided within the Court Lodge and Kingsnorth development.
- 3.17 The location of the Court Lodge and Kingsnorth developments are shown on **Figure ID3.1** below in the context of the Chilmington Green and Possingham Farm developments.



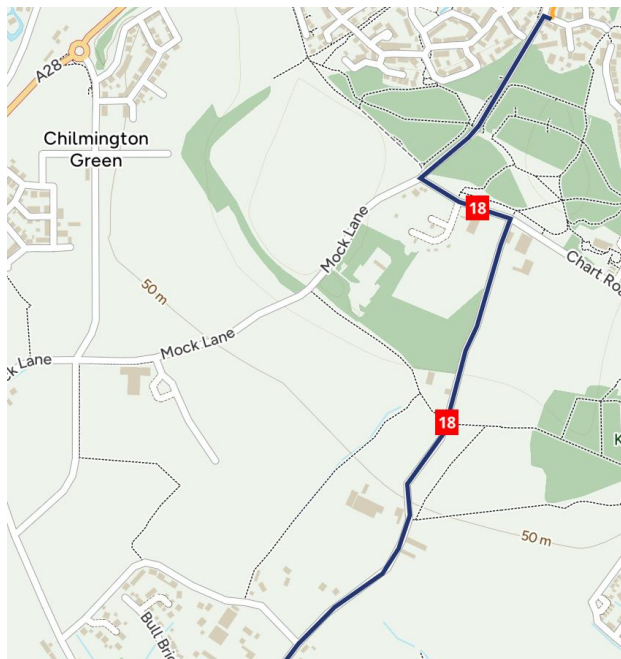
Figure ID3.1: Housing Schemes South of Ashford



National Cycle Route (NCR) 18

- 3.18 NCR18 runs along Singleton Hill then Great Chart to reach Bartlett Lane. The route between the Chilmington Green development and Ashford is shown on **Figure ID3.2** below.

Figure ID3.2: NCN18



- 3.19 Sustrans believe that the route is safe and attractive to use as demonstrated by it being identified as a National Cycle route. This is a clear indication it does not need to be improved.



- 3.20 NCN18 runs through the Chilmington Green development when it runs along Bartlett Lane. Bartlett Lane is included in condition 32 (set out in full in Section 5 of my evidence below) – (CD6/3) as a lane where the existing character is not to be changed. This will therefore mean the function of NCN18 is not affected. Connections to NCN18 will be made as part of the Chilmington Green development to allow residents to use this safe, established route into Ashford.
- 3.21 This is an existing route which is safe to use and already serves a useful purpose. There is no need for further enhancements to the route. Therefore, the requirement to improve this route can be deleted.

Great Chart to the Matalan Roundabout

- 3.22 This is not a route that would be used by pedestrians or cyclists from Chilmington Green as there are alternative, more direct routes that do not require crossing the A28. Travelling through Singleton would be a more attractive route.
- 3.23 The signage to the north of Great Chart will be amended as part of any improvements to the A28.
- 3.24 Therefore, this requirement does not serve a useful purpose and can be deleted.

Greensands Way

- 3.25 Greensands Way is a 108 mile long leisure route running through Surrey and Kent. Close to Chilmington Green the route runs along Bridleway 0105/AW244/4 along the southern edge of Singleton then along Mock Lane before joining the 0105/AW226/1 Footpath onto the 0105/AW225/1 Footpath then along Chilmington Green Lane and Bartletts Lane before joining the 0105/AW223/2. This route is partly on existing PROWs and partly on roads. It should be noted that there are no footways on the 3 roads in the area that the route follows.
- 3.26 Where the route passes through the Chilmington Green development a small section of the route it will be diverted, but the overall route is retained and enhanced as part of the development as shown on the approved Pedestrian and Cycle Route Parameter Plan (CD10/13).
- 3.27 This route does not provide connection from Chilmington Green to facilities and services in the wider area as this is not the function of this route.
- 3.28 Therefore, this requirement does not serve a useful purpose and can be deleted.

PROW AW245

- 3.29 This Byway is a route that runs parallel to the A28 between Chilmington Green Lane to Bethersden Road. Where the route passes through the Chilmington Green development it will be improved.



- 3.30 To the south of this the development at Possingham Farm (planning reference 22/00571/AS) which was granted consent following an appeal (reference AP/E2205/W/24/3345454) – (CD7/1) will provide funding to improve this PROW.
- 3.31 The improvement of AW245 both through the development and to the south is therefore provided for and a further contribution is not needed.
- 3.32 In addition to this, the route to the south provides a connection towards Shadoxhurst which has limited facilities and none that are not provided on the Chilmington Green Development.
- 3.33 For these reasons, this requirement does not serve a useful purpose and can be deleted.

Section Summary

- 3.34 Within this section of my evidence I have considered whether the contributions to the offsite pedestrian and cycle links would serve a useful purpose by considering each of the routes in detail.
- 3.35 I have concluded that as the contributions would not serve a useful purpose and that the proposed modification to delete these requirements can be made.



4.0 Schedule 20 – Provision of Bus Services

- 4.1 This section of my evidence provides a justification for the request for the modifications to the provision of bus services to bring them in line with the requirements recently approved at the Possingham Farm Appeal (request 95) and for the removal of the provision of bus vouchers to each household (request 96).

Summary of Existing Requirements

- 4.2 The following is a summary of the requirements of Schedule 20:

- Paragraphs 1.1 and 1.2 require the provision of a temporary bus stop in line with approved details with a maintenance scheme prior to the occupation of the 100th unit
- Paragraph 1.3 require a bus service to be in place prior to the occupation of the 100th unit with the following specification:
 - Between the Site and the town centre with a frequency of at least 30 minutes
 - Starting to connect with the first train from Ashford International Train to St Pancras and finishing to connection with the last train in the reverse direction
 - There is the potential to agree a lower level of service if no tenders are returned
- Paragraphs 1.4 and 1.5 requires the infrastructure to support the above, especially the requirements at bus stops including bus clearways, bus boarders, flags and real time information displays prior to the occupation of the 200th dwelling including a maintenance scheme
- Paragraphs 1.6 and 1.7 require the infrastructure to support the bus services for the main phase 1 prior to the occupation of the 1,222nd dwelling
- Paragraph 1.8 requires the frequency of the bus service to be increased to 20 minutes prior to the occupation of the 1,222nd dwelling
- Paragraphs 1.9 and 1.10 require the infrastructure to support the bus services for the main phase 2 prior to the occupation of the 2,772nd dwelling
- Paragraph 1.11 requires the frequency of the bus service to be increased to 13/14 minutes prior to the occupation of the 2,772nd dwelling
- Paragraphs 1.12 and 1.13 require the infrastructure to support the bus services for the main phase 3 prior to the occupation of the 4,107th dwelling
- Paragraph 1.14 requires the frequency of the bus service to be increased to 13/14 minutes prior to the occupation of the 4,107th dwelling
- Paragraph 1.15 require the infrastructure to support the bus services for the main phase 4 prior to the occupation of the 5,000th dwelling
- Paragraph 1.16 requires the frequency of the bus service to be increased to 13/14 minutes prior to the occupation of the 5,000th dwelling
- Paragraph 1.17 requires the provision of bus vouchers of £450 for each dwelling prior to the occupation of that dwelling
- Paragraph 1.18 requires the maintenance of the infrastructure in line with the approved maintenance scheme



- Paragraph 2 states that the subsidies for each phase should not exceed the following:
 - £900,000 prior to the occupation of the 100th Dwelling
 - £800,000 prior to the occupation of the 1,222nd Dwelling
 - £900,000 prior to the occupation of the 2,772nd Dwelling
 - £400,000 prior to the occupation of the 4,107th Dwelling

4.3 I note that the above financial figures all include reference to index linking.

4.4 One point I would make at this stage is that the approach of providing the infrastructure needed for each service through the phases of the development is a reasonable and commonsense approach i.e. the provision of the infrastructure needed to support the services is provided when the services come into operation.

Bus Services

4.5 At the Possingham Farm public inquiry there was extensive discussion of the bus services to the Site between the Inspector and the parties. In particular, on the need to balance the desire to trigger a modal shift, as against actual demand. The Inspector at Possingham was particularly keen to stress the need to ensure a sensible level of provision during the early stages of a development in order to avoid the risk of over providing the service and essentially wasting money through requiring too high a subsidy. This is relevant to the discussions on Chilmington Green as this service would also serve Phase 1 of the development.

4.6 The final agreed bus service (see CD7/2) being introduced prior to the occupation of the 100th unit and the description being:

- A service between the Site and the town centre/railway station at a frequency of every 30 minutes between Peak Hours (0700-1000 and 1600-1900) and 60 minutes outside of Peak Hours starting 0600 and finishing at 2000
- The use of the service would be monitored through surveys of residents and visitors and through monitoring the use of the services. A Monitoring Report would be submitted to the ABC/KCC every 6 months for the first 2 services and then annually up to the 10th anniversary of the bus service commencing
- Within the Monitoring Report where the bus service is being significantly over or underutilised a proposed revision to the bus service to either increase or reduce its service as appropriate for approval by ABC/KCC together with a timetable for implementing the revised bus service.

4.7 The Inspector at the Possingham Farm inquiry stated this approach found the balance between providing the bus service early, but not with too high a frequency so as to require an unnecessary and wasteful subsidy, with the monitoring in place to increase the frequency when needed.

4.8 The same approach is therefore recommended for the provision of the bus services for Chilmington Green, but from a practical perspective this would be prior to the occupation of the 500th dwellings as there are already circa 370 dwellings occupied on the site.



- 4.9 It is accepted that this is not an argument to remove the need for funding for the bus services. It is a practical solution to try to reach the position where it is economically feasible to provide bus services when they are required and at a level of provision that is both sustainable and a positive benefit to the new and existing residents in the area.
- 4.10 This would require the existing S106 Agreement to be modified.

Bus Infrastructure

- 4.11 This should continue to be provided in line with the provision of the services.
- 4.12 This would require the existing S106 Agreement to be modified so it is consistent with when bus services will be provided.

Bus Vouchers

- 4.13 The request for bus vouchers for new residents while seeking subsidies to provide bus services is double counting. Any bus vouchers used would reduce the subsidy needed.
- 4.14 The national bus fares cap was introduced on 1st January 2023 (some years after the S106 Agreement was signed) and while the cost of a single fare has risen the cap has been extended to the end of 2025 as part of the Government's commitment to encouraging the use of buses. This has assisted in making all bus services more affordable.
- 4.15 It is noted that ABC or KCC did not make this request for either the Kingsnorth or Possingham Farm developments.
- 4.16 It is therefore considered that this requirement does not perform a useful purpose and can be deleted as proposed in the modifications.

Section Summary

- 4.17 For the reasons set out above, it is proposed that the S106 Agreement is modified to be consistent with the recent bus service subsidies agreed in association with the Possingham Farm development.
- 4.18 The necessary infrastructure needed to facilitate the bus services should be provided as/when the service come forward and the S106 Agreement modified to require this.
- 4.19 The Bus Vouchers would not serve a useful purpose and that the proposed modification to delete this requirement can be made.



5.0 Schedule 21 - Off-site Traffic Calming

- 5.1 This section of my evidence will provide a justification for the delay of the traffic monitoring (request 97) and the delay/reduction of the contributions to traffic calming (request 98).
- 5.2 Paragraph 1 of Schedule 21 of the S106 Agreement (CD1/14) states that monitoring of traffic on the following roads is undertaken prior to the occupation of the 1st, 1,450th, 2,650th, 4,140th and the final dwelling plus one other number of dwellings that ABC or KCC may request.
- 5.3 The roads included being:
- Great Chart (north and south of the village)
 - Magpie Hall Road
 - Long Length
 - Mock Lane
 - Tally Ho Road
 - Woodchurch Road
 - Hornash Lane
 - Criol Lane
 - Pound Lane
 - Coulter Road
- 5.4 With the monitoring to be undertaken by Automatic Traffic Counts and the data passed to ABC and KCC.
- 5.5 Paragraphs 1.2 and 1.3 and 2.1 and 2.2 then require the payment of a total of £408,498 towards offsite traffic calming in two equal payments prior to the occupation of the 1,000th and 2,000th dwellings.
- 5.6 **Figure ID5.1** below shows the location of the roads identified.



Figure ID5.1: Housing Schemes South of Ashford



5.7 The proposed amendments to the S106 Agreement obligations are:

- 1) To undertake monitoring prior to the occupation of the 1st, 2,399th and 5,649th unit. This is not a change to the initial monitoring. It reduces the number of subsequent monitoring events with them being later in the progress of the development.
- 2) To delay the payment of the financial contributions of £204,249 until prior to the occupation of the 2,500th and 5,750th unit.
- 3) It adds that if the level of traffic on any of the identified roads is less than 10% above the level of traffic predicted on these roads when the S106 Agreement was signed in 2017 which used the information from the Supplementary Transport Assessment dated May 2014 that the overall contribution would reduce by £45,389 and the individual payments by £22,695 for each road below the 10% threshold.

5.8 The initial monitoring was undertaken prior to the occupation of the 1st unit and the results of the surveys were summarised in a technical note. (CD10/12)

Predicted Traffic Increases

5.9 The assessment of the highway implications of the Chilmington Green development was undertaken on the basis of agreed trip generation and traffic distribution. This was set out in



the Supplementary Transport Assessment (STA) dated May 2014 prepared by Vectos (CD10/10 and CD10/10/1) that was submitted in support of the planning application. This document refined the work undertaken in the Transport Assessment (TA) dated July 2012 prepared by WSP (CD10/11 and CD10/11/1) to respond to the comments raised by consultees, including KCC as the local highway authority.

- 5.10 The trip generation and distribution contained in the STA were agreed with stakeholders, including with KCC.
- 5.11 This agreed information is used in the consideration of the implications of the traffic associated with the Chilmington Green development.

Traffic Growth

- 5.12 The original assessment undertaken in the 2012 TA (CD10/11) was based on traffic data surveyed in 2010. In the STA (CD10/10) further traffic surveys were undertaken in 2013. DfT TEMPRO growth rates were applied to the surveyed traffic to predict future traffic levels.
- 5.13 The level of traffic growth that has occurred have been lower than predicted in 2013. During this period there has been the COVID pandemic, but this is not the only reason for lower traffic growth as this only affected traffic levels from around 2019 to 2022.
- 5.14 There has been a post COVID effect on traffic flows with more companies offering more flexible working and this has reduced traffic demand.
- 5.15 Lower traffic growth means that there is less traffic than was previously predicted on all of the roads around the Chilmington Green development and the overall future levels of traffic will be lower.

Implications of Traffic Calming

- 5.16 As a general principle, traffic calming should only be implemented if there is either an identified road safety accident issue where the causal factor is traffic speeds or there is rat running on a road where traffic should be using road at a higher level within the road hierarchy.
- 5.17 If this is not the case, then there is a question of why amendments would be made to the road network which would require the use of materials that could be used elsewhere and why traffic speeds would be reduced increasing journey times.

Great Chart

- 5.18 This is a parallel route to the A28 which consists of Ashford Road and The Street. The start of the route is between the A28 site accesses to Chilmington Green and connects into Matalan Roundabout.
- 5.19 In the STA (CD10/10) no traffic associated with the Chilmington Green development was assigned to use this route. This was also the case for the assessment of the Possingham



Farm development. This was agreed for both developments by KCC as the local highway authority.

- 5.20 Using data from the Crashmap website for the last 5 years there have been three slight accidents along the section of Great Chart that would be within the potential traffic calming scheme. There is not an accident cluster.
- 5.21 At all times it is quicker for vehicles to use the A28 to/from the development to travel north to Ashford and the M20.
- 5.22 As there is no traffic associated with the Chilmington Green development predicted to use this road there should not be any request for mitigation measures and the funding towards this route would not serve a useful purpose. Therefore, the requirements for monitoring traffic on Great Chart and for funding for traffic calming on this road could be deleted from the S106 Agreement. There is certainly a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modification.

Magpie Hall Road

- 5.23 In the agreed distribution of the traffic associated with Chilmington Green (CD10/10) 2% would use Magpie Hall Lane. This equates to only 53 vehicles in the AM Peak hour and 51 vehicles in the PM Peak Hour. This level of traffic will not cause a severe residual impact on this road.
- 5.24 Using data from the Crashmap website for the last 5 years there have been three slight accidents on Magpie Hall Road. There is no accident cluster.
- 5.25 The Court Lodge development will have larger impacts on Magpie Hall Road than the Chilmington Green development. Court Lodge has a new access directly onto the road in the form a roundabout which will reduce traffic speeds and proposes the closure of the junction with Long Length to vehicles. This will change the nature of Magpie Hall Road and means that traffic calming is not needed as it would not serve a useful purpose.
- 5.26 The Kingsnorth development is adjacent to the southern end of the road. No contribution towards traffic calming on this road was requested from the Kingsnorth development which is clear indication that there is not an issue to be addressed.
- 5.27 Given the level of traffic associated with the Chilmington Green development that would use this route and other planned developments in the area changing the nature of the road there is not a need for traffic calming on this road. Therefore, there is a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Long Length

- 5.28 In the STA (CD10/10) no traffic associated with the Chilmington Green development was assigned to use this route. This was agreed by KCC as the local highway authority.



- 5.29 Using data from the Crashmap website for the last 5 years there have been no personal injury accidents on this road.
- 5.30 In association with the Court Lodge development is it proposed to close the southern end of Long Length between the access into this development and Magpie Hall Road to vehicular traffic keeping it available for pedestrians and cyclists. Vehicular traffic currently using this section of Long Length would use the road though the Court Lodge development.
- 5.31 As there is no traffic associated with the Chilmington Green development predicted to use this road there should not be any request for mitigation measures and the funding towards this route would not serve a useful purpose. Therefore, the requirements for monitoring traffic on Long Length and for funding for traffic calming on this road could be deleted from the S106 Agreement. There is certainly a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modification.

Mock Lane

- 5.32 The majority of Mock Lane is within the Chilmington Green development and will be amended to provide access to the District Centre and has already been amended to provide access to the existing Primary School. Beyond this is not proposed to amend the road. This is in line with Condition 32 of the Planning Consent (CD6/3) which states:

Detailed plans and particulars of the Reserved Matters submitted to the Local Planning Authority pursuant to condition 10 in relating to Bartlets Lane, Criol Lane and Mock Lane (apart from that Section of Mock Lane that is shown on Parameter Plan OPA05R1 to be upgraded) shall show these lanes to retain their existing character, in accordance with Policy CG11 of the AAP, the Development Specification September 2013 and Parameter Plan OPA05R1, with vehicular access to development in their vicinity being provided primarily from new routes created by the development itself. The development shall be carried out in accordance with the plans and particulars as approved by the Local Planning Authority.

Reason: In order to retain their existing character as far as possible in accordance with Policy CG11 of the AAP.

- 5.33 This condition requires Mock Lane to maintain its existing character as a rural lane. The existing northern end of the road has the appearance of a rural lane and is approximately 4m wide with passing places. There is not a need for additional traffic calming to manage traffic flows.
- 5.34 Using data from the Crashmap website there has only been 1 personal injury accident on this road in the last 5 years.
- 5.35 There is not a need for traffic calming on this road and funding towards this would not serve a useful purpose. The requirements for funding for traffic calming on this road could be deleted from the S106 Agreement. Therefore, there is a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.



Tally Ho Road

- 5.36 The agreed level of traffic associated with the Chilmington Green development that would use this road is 80 movements in the AM peak Hour and 102 in the PM Peak Hour. This is reasonably balanced in both directions. This is a wider road which is 5.5m which accommodates two vehicles passing and can accommodate the traffic associated with the Chilmington Green development.
- 5.37 Using data from the Crashmap website for the last 5 years there have been three slight accidents on Tally Ho Road. There is no accident cluster.
- 5.38 This road is immediately to the south-west of the Court Lodge development and again no funding for traffic calming on this road has been requested from this development for traffic calming.
- 5.39 Given the level of traffic associated with the Chilmington Green development that would use this route and other planned developments in the area there is not a need for traffic calming on this road. Therefore, there is a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Woodchurch Road

- 5.40 The agreed level of traffic predicted to use this road is 26 vehicles in the AM Peak Hour and 25 in the PM Peak Hour. This level of traffic will not have a material impact on the operation of this road. This is a wider road which is 5.5m which accommodates two vehicles passing and can accommodate the traffic associated with the Chilmington Green development.
- 5.41 Using data from the Crashmap website there has only been 1 personal injury accidents on this road in the last 5 years.
- 5.42 Given the level of traffic associated with the Chilmington Green development that would use this route there is not a need for traffic calming on this road. Therefore, there is a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Hornash Lane

- 5.43 The agreed level of traffic predicted to use this road is 79 vehicles in the AM Peak Hour and 69 in the PM Peak Hour. This level of traffic will not have a material impact on the operation of this road. This is a wider road which is 5.5m which accommodates two vehicles passing and can accommodate the traffic associated with the Chilmington Green development.
- 5.44 Using data from the Crashmap website there has only been 1 personal injury accident on this road in the last 5 years.
- 5.45 Given the level of traffic associated with the Chilmington Green development that would use this route there is not a need for traffic calming on this road. Therefore, there is a clear



argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Criol Lane

- 5.46 The northern part of Criol Lane is within the Chilmington Green development and it is subject to condition 32 (CD6/3) which is set out earlier in this section of my evidence.
- 5.47 This is a narrow road which is between 3.5m and 4m with passing places. There is no need for traffic calming.
- 5.48 The agreed level of traffic predicted to use this road is 26 vehicles in the AM Peak Hour and 25 in the PM Peak Hour. This level of traffic will not have a material impact on the operation of this road.
- 5.49 Using data from the Crashmap website for the last 5 years there have been no personal injury accidents on this road.
- 5.50 Given the nature of Criol Lane and the level of traffic associated with the Chilmington Green development that would use this route there is not a need for traffic calming on this road. Therefore, there is a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Pound Lane

- 5.51 In the STA (CD10/10) no traffic associated with the Chilmington Green development was assigned to use this route. This was agreed by KCC as the local highway authority.
- 5.52 Using data from the Crashmap website there has only been 1 personal injury accident on this road in the last 5 years.
- 5.53 Given the level of traffic associated with the Chilmington Green development that would use this route there is not a need for traffic calming on this road. Therefore, there is a clear argument to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Coulter Road

- 5.54 There is an approved minor vehicular access to/from the Chilmington Green development directly onto Coulter Road. In agreeing this access KCC as the local highway authority must have believed that the road can accommodate additional traffic.
- 5.55 Using data from the Crashmap website for the last 5 years there have been no personal injury accidents on the section of this road where the need for traffic calming was considered.
- 5.56 Given the fact there is an agreed access from the Chilmington Green development to this road there is not a need for traffic calming on this road. Therefore, there is a clear argument



to delay the monitoring and have a mechanism to remove the need for funding to works on this road in line with the proposed modifications.

Section Summary

- 5.57 Within this section of my evidence I have considered whether the need for monitoring and the payment of contributions towards traffic calming on the identified roads around the Chilmington Green development would serve a useful purpose by considering each of the roads in detail. This being in the context of the proposed modifications to both delay/reduce the monitoring and the level of payments required.
- 5.58 I have concluded that the monitoring and contributions currently required would be unlikely to serve a useful purpose and that the proposed modifications to delay/reduce these requirements can be made.



6.0 Schedule 22 – RIF Payment

- 6.1 This section of my evidence considers the requests made for contributions to the works at Drovers Roundabout, Junction 9 of the M20 and Eureka Skyway Footbridge and the requested modification to delay these payments (request 99).
- 6.2 Paragraphs 1 and 2 of Schedule 22 of the S106 Agreement (CD1/14) require the payment of a total of £5,622,598 in four equal payments prior to the occupation of the 4,000th, 4,600th, 5,200nd and 5,600th dwellings.
- 6.3 Paragraph 3 confirms that these contributions would be spent towards infrastructure and road improvement work at Drovers Roundabout and junction 9 of the M20 and the Eureka Skyway footbridge including the repayment of forward funding of these works.
- 6.4 It should be noted that the above works have been completed therefore any contribution is the repayment of the forward funding. Other development schemes have made similar payments and contributions have been secured. There is a question of whether forward funding is needed, but this depends on the other contributions paid. While other contributions have been agreed they will only be paid when the developments proceed. Therefore, ABC will need to have an ongoing list of funds and only collect contribution up to the point when the forward funding has been fully repaid.
- 6.5 The requested contributions should only be collected if ABC can demonstrate that additional contributions are needed to repay all of the forward funding. If all of the forward funding has been collected, then further contributions are not needed. In this is the case, then the requested contributions would serve no useful purpose so the requested modification should be made.
- 6.6 At the time of writing my evidence the information on contributions secured under RIF from other developments had not been provided to the Appellant by ABC. Therefore, I have not been able to review this information. When the information has been provided then this can be reviewed in advance of the commencement of the inquiry.



7.0 Summary and Conclusions

7.1 My evidence considers the following transport related elements of the S106 Agreement and concludes the following:

- Schedule 18 - A28 Improvement – I have considered the Bond in the S106 Agreement and have concluded this is not needed. It does not serve a useful purpose so the requested modification 91 can be made. I have not considered the need for the A28 Improvements as this is considered by Mr Wheaton in terms of viability.
- Schedule 19 - I have considered the offsite pedestrian and cycle links and have concluded that they do not serve a useful purpose and so the requested modification 94 can be made.
- Schedule 20 - I have considered the provision of bus services and supporting infrastructure and believe this should be amended to be in line with the recent agreement on these matters for the Possingham Farm development which relates to requested modification 95. I have also considered requested modification 96 relating to the provision of Bus Voucher and believe this can be made as it does not serve a useful purpose.
- Schedule 21 - I have considered the monitoring of traffic and then need for off-site traffic calming and have concluded that as they do not serve a useful purpose that the requested modifications 97 and 98 to delay the monitoring and reduce/delay the contributions can be made.
- Section 6 - RIF Payments – I have considered the need for these contributions and these are only needed if ABC can demonstrate that monies are still required to repay the forward funding. If this evidence is not available, then requested modification 99 should be made as the contributions would no longer serve a useful purpose.

7.2 I believe that the transport related proposed modifications to the S106 Agreement considered in my evidence can be made as the current obligations either do not serve a useful purpose or, if modified, would continue to serve that purpose equally well. With the modifications made the Chilmington Green would remain a high quality development that is accessible by all modes of transport and the proposed amendments would not give rise to any residual cumulative severe impacts on the highway network.





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