

Friday 25th October 2019
543/A3/JJA

Lorraine Gamble
National Planning Casework Unit
5 St Philip's Place
Colmore Row
Birmingham
B3 2PW

By Email Only

Dear Sirs

**Re Wates Developments Limited
Land at Appledore Road/ Woodchurch Road Tenterden, Kent
EIA Screening
Ashford Borough Council Reference 19/00007/EIA/AS**

I write with reference to the above. I act for Wates Developments Limited ("Wates") who as you will be aware requested that Ashford Borough Council ("the Council") adopt a screening opinion in relation to a proposal to develop land at Appledore Road/Woodchurch Road, Tenterden, Kent ("the Site").

On 23rd August 2019 the Council adopted a negative screening opinion. In adopting that screening opinion the Council:

- a. Took into account consultation responses received from Kent County Council ("KCC") Ecological Advice Service, and KCC Heritage Conservation service. KCC advised that the proposal was unlikely to have significant effects on biodiversity or on heritage interests.
- b. Took into account the matters identified at regulation 5(4) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").
- c. Stated the main reasons for their conclusions and identified mitigation and avoidance measures (in accordance with regulation 5(5) of the EIA Regulations).

By a letter dated 17th September 2019, Samantha Reed requested, pursuant to regulation 5(6)(b) of the EIA Regulations, that the Secretary of State make a screening direction.

Paragraph 18 of the PPG on Environmental Impact Assessment notes that "*..while there is no requirement to use a screening checklist, they can help to ensure that the relevant issues are considered and to provide a clear audit trail*"¹.

In order to assist the Secretary of State in making a screening direction, Judith Ashton Associates, based on the information available at this stage, and taking into account the precautionary principle, and the degree of uncertainty which exists² have completed the checklist. That checklist is attached and may be of assistance to the Secretary of State when considering whether or not to make a screening direction.

In completing the checklist account has been taken of the matters raised by Samantha Reed in her letter dated 17th September 2019. It is important to note that, in relation to the main issues raised by Ms Reed, including potential impact on biodiversity/ecology, landscape, amenity, heritage, agricultural and cumulative effects, all those matters were considered by the Council when adopting their screening opinion. In relation to biodiversity/ecology, and heritage, the Council had the benefit of consultation responses from KCC, which indicated that the proposal was not likely to have

¹ Paragraph: 018 Reference ID: 4-018-20170728

² See **Loader v. Secretary of State** [2013] PTSR 406 at paragraph 43

significant effects on the environment by virtue of factors such as nature, size or location. At page 5 of her letter, Ms Reed raises other matters which she contends have been overlooked by the Council. As with many of the issues raised by Ms Reed, on the facts of this case, they have little or no bearing on whether the development is likely to have significant effects on the environment:

- a. Woodland Priority Habitat: this designation is addressed in the attached matrix.
- b. Woodland- Water Quality Area and Woodland Flood Risk Area: these designations relate to land management practices under the Countryside Stewardship regime. This is not an issue of significance in relation to the site under consideration as it is not subject to intensive agriculture, and being pasture is subject to low rates of surface water run-off.
- c. Keeping Rivers Cool (England): there are no relevant rivers.
- d. Climate Change Vulnerability Buffer: There will be no significant effect as the retained habitats will be more resilient to potential changes to the climatic environment.
- e. Agri-Environment Scheme: the site is not managed under such a scheme.
- f. Fertile Soils Woodland: the site is not included in any woodland planting initiative.
- g. Landscape character: the fact that the site falls within in area assessed in the Council's landscape character assessment (as referred to at page 2 of Ms Reed's letter) does not indicate that it has any special or sensitive character.

We understand that a copy of a letter sent by Albert Poole headed 'Statement to Tenterden Town Council' may also have been sent to the Secretary of State in support of Ms Reed's application under regulation 5(6)(b) of the EIA Regulations. Mr Poole raises five specific matters which he alleges that the Council failed to take into account when adopting their screening opinion (landscape and visual impact, cumulative impact, listed buildings, risk of major accidents, characteristics and location of the development, and flooding). Mr Poole does not address the question under consideration, namely whether the schedule 2 development proposed is likely to have significant effects on the environment by virtue of factors such as its nature, size or location. The matters so far as relevant to the issue to be determined by the Secretary of State, are covered in the attached 'Checklist'.

It is the view of Judith Ashton Associates that, when the relevant matters are considered, the proper conclusion to reach is that the proposed development is not likely to have significant effects on the environment by virtue of factors such as its nature, size or location having regard to the selection criteria contained in schedule 3 to the EIA Regulations This is not one of the relatively small number of cases³ where EIA is required.

We trust you will have regard to the above and enclosed in coming to your decision.

Yours sincerely



JUDITH ASHTON
Judith Ashton Associates

Enclosures:

- (i) Screening Matrix

C.c. Rio Daniels – Wates Developments Limited
Mark Davies – Ashford Borough Council

³ See *Bateman v. South Cambridgeshire DC* [2011] EWCA Civ 157 at paragraph 20