

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

ABC Planning Application Reference 21/00790/AS

Land between Appledore Road and Woodchurch Road, Tenterden,  
Kent

Appeal submitted on behalf of Wates Developments Limited

Response to Statement of Case

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Kent  
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The information presented is subject to the best available  
information at the time of writing.

While I have taken every effort to present accurate information for  
your consideration, I cannot accept any responsibility for  
unintentional errors or omissions.

## Introduction

This application relates to 2 pieces of Land in separate ownership.

(1) The main part consists of Fields 1 to 12 of the attached plan. This land was purchased from a local farmer, Mr Jesse Millen in August 1963. The bank who were the purchasers transferred the land to the family of the current joint registered owners in 1983. The property was known as Limes Land Farm and this remained the description until around 2006, when due to a change in ownership details the title description was altered to Land to the North and East of Rose Cottage. The reference to Limes Land Farm will be discussed later in this document. For centuries this land has been used for grazing under tenancy agreements and this has continued until recently. Grazing has been continuous except for a few weeks every year. Mainly it has been grazed by sheep, but it has been used in the past for cattle and horses. This land is classified as Agricultural.

(2) The second part consists of Fields 13 and 14. This land was purchased from Mr Millen in 1932 by Kent County Council (KCC) for educational purposes.

In 1936 plans were published to erect a school on the site.

In 1947 Homewood on Ashford Road, Tenterden was purchased by Kent County Council and this became the main Senior School. The Land in Appledore was designated as Playing Fields and for many years the two fields were used for as a football pitch F13 and a Cricket pitch F14.

In recent years the school have used Field 14 for grazing both sheep and cattle.

In 1994 the registered ownership was transferred to Homewood School due to the new grant maintained status and this has continued to date and more recently become incorporated in the Tenterden Schools Trust.

F13 and F14 are classified as Playing Fields although F14 has been used for grazing for number of years. There is restriction in place in favour of the Secretary of State for Education which

requires consent prior to disposal of this land. This restriction is specified on the Land Registry Title document for K984450

The Hybrid Application by Wates is in 2 parts.

The first part is an outline application for 145 dwellings with the creation of access points, associated roadways and other features as described in 1.2 (a) of the statement of case. This covers Field numbers F1 to F7 and F13, ie part privately owned and part school land. F1 to F7 would require a change of use from Agricultural Land at a future Reserved Matters application. As regards F13 any planning consent cannot overturn the need for the Secretary of State for Education consent.

The second part is for full planning permission for the change of use from agricultural land to be used as a Country Park and land to be used as formal sports pitches together with pavilion as other features as described in 1.2 (b) of the statement of case.

Note. Wates have sought post submission to amend the description from Country Park to Country Open Space but this has not been currently acknowledged by Ashford Borough Council. The Country Park covers F 8,9,11 and 12 and will be subject of the change of use, F10 is for a sports pitch and again is subject of a change of use. F14 is designated as school playing field, not agricultural, and is subject to the consent of Secretary of State for Education as per F13.

Any planning consent will be subject to further consent by Secretary of State for Education relating to the disposal of F13 and F14 and this has not been made clear in the application. At present no application for consent for disposal of this land has been made and this will have a serious impact on the deliverability of this site and could prevent it altogether. An application was made at the time of the previous application 19/01788/AS but no evidence was offered and the case was subsequently closed.

This issue is of concern to local residents and has been the subject of a number of objections but no reference has been made to this subject by the applicants in any of their documents.

The area of the school land is calculated as 3.42 Ha. This is designated as playing field. Approaches were made to the

Homewood School from the Tenterden Town Council in March 2018 to lease the land which is the current football pitch.

See Link:- <https://www.kentonline.co.uk/tenterden/news/shock-as-school-seals-deal-161644/>

This was rejected due to a Promotion Agreement between Wates and the Schools Trust dated February 2018 which inhibited this opportunity to use the land for the Community.

The proposal by Wates is offering 3.3Ha of sport provision which is less than currently exists within the school land. As it stands the current proposal does not demonstrate how the sports provision associated with the development is achieved.

There is potential to use the existing school land by reinstating the existing pitch to a useable condition from its neglected state. This would be funded by TTC along with changing facilities and parking. The area currently used for grazing could be used as part of the National Education Nature Park recently announced by UK Government at COP summit.

Thirdly the Army Cadets could retain their existing location and not be forced to share the proposed pavilion

Whilst the retention of the existing pitch will be benefit to Tenterden, it is not clear how the extra smaller pitches would benefit to the Borough if sited in Tenterden which would create extra journeys.

2.3 refers to the latest application as an appeal scheme. The second application was never referred to as an appeal scheme.

The information received from ABC was that there was no pre application dialogue with Wates. The decision to submit a new application was theirs and whilst it differs from 19/01788/AS, it must be considered on its merits alone. Therefore any views of consultees are based on the evidence presented. With 16 months between the applications it would not be surprising that information drawn to the attention of consultees by representations of residents will have informed consultees and therefore influenced any comments made.

2.3 also refers to tree loss. This new application concentrates on trees in Appledore Road. The tree loss on site remains at the same level and the loss of hedgerows has increased. This loss represents

almost 10% of trees and over 10% of groups of trees and this is described as negligible by the consultants. With the importance of climate change and carbon storage, the loss of this many trees and hedgerows would represent significant harm and should be given significant weight in the appeal.

### 3.1 The Planning History of the Appeal Site

The referenced history of the site is limited to a 1987 Application 87/00259/AS by Hillreed Homes. This application was refused by Ashford Borough Council and then granted on appeal. The Appeal was subsequently quashed by order of the High Court. An Inspector was appointed by The Secretary of State for the Environment to predetermine the appeal. The applicants opinion is that this was over 30 years ago and its relevance and weight are extremely limited.

The inspector made the following comments before refusing permission for the development.

" 13. The public footpath runs at a higher level than the site at a distance from between 100m and 240m and permits views across the site towards Tenterden. I saw on my visit that these views particularly from the more northerly end of the footpath were very attractive, the predominant impression being of the church and other buildings set in a swathe of trees rising above the fields and hedgerows in the foreground. Neither the dip which marks the appeal site nor the hedgerow forming its boundary which has gaps and is of varying thickness would in my view satisfactorily screen the development from the footpath and the site. I consider that the housing development which would be of relatively intense nature would appear as a substantial intrusion into the views of Tenterden and the conservation Area. This would clearly be detrimental to the character and appearance of the area.

14. It has been suggested that the proposed housing would merely round off the edge of Tenterden with the proposed development contained in a pocket behind existing housing, but this is not an assessment with which I can agree. Tenterden has largely linear form and it appears to me that a significant element of its character

derives from the close proximity of the countryside to the heart of town. The Local Plan is in my view rightly concerned to protect this aspect of its character which I consider would be damaged were the appeal proposal to be permitted.

16. I have taken account of all the other matters raised, including the retention of the existing pond within the development and the likely quality of the housing to be provided on a phased basis by a local builder. However, they do not alter my conclusion that the development would result in a significant intrusion into the countryside in conflict with the structure and local plan policies and it would detract from the character and rural setting of a very attractive small town. It cannot therefore be permitted."

Although planning policy at a National and Local Level have altered, the primary reasons for refusal are the same. Development of this site will cause significant harm to the Character of the area and is in conflict with the adopted Ashford Borough Local Plan.

I wish to draw attention to my objection raised on 4th June 2021 which describes all of the history of planning applications on this land.

Link:- “ <https://planning.ashford.gov.uk/Planning/IDOX/default.aspx?docid=1972847>”

This objection details a full history of the various attempts by developers to build on this site. This includes Hillreed Homes in 1996 and Countryside Properties in 2007 submitted in the Tenterden and Rural Sites Development Plan.

In all cases various different inspectors have referred to the harm which would be caused to this rural setting.

I believe these inspectors views should carry significant weight in the appeal.

3.2 This section deals with the cumulative impacts of development and lists outstanding applications, allocations and planning permissions.

Permission for a retirement home has been granted on Smallhythe Road which should be included.

3.3 Refers to previous application 19/01788/AS on this site and claims that this is of most relevance.

I agree that it is relevant. It was refused for the reasons identified. Many of these reasons are repeated in the refusal of the latest application 21/00790/AS. Other reasons were cited which are entirely relevant to the new application leading to refusal.

4.3 Refers to the fields on site as shown on the site Ariel view as Fields 1 to 14. As explained earlier in this statement Fields 1 to 12 are Limes Land, the main part of the site. The owners have signed a promotion agreement with Wates until 2029.

The whole of Limes Land has been continually grazed as a single space for centuries. For many years there has been a tenancy agreement with a farmer who was notified under article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

To describe 'some fields' and 'occasional grazing' is misleading.

Fields 13 and 14 are owned by Homewood School and Sixth Form Centre, more recently part of Tenterden Schools Trust.

Both fields are designated as playing fields. Field 13 is a football pitch which has been sadly neglected for several years. Field 14 has been used for grazing for several years. Note part of this field is subject of a Tenancy Agreement with South East Reserve Forces and Cadets Association who have also been notified under article 13.

Tenterden Schools Trust similarly signed a promotion agreement with Wates in 2018 which lasts until 2029. As stated before in this statement, the disposal of school land is subject to a restriction which requires consent of Secretary of State for Education and is therefore not available.

5.16 This paragraph deals with the sports pitches.

It states:-

"The DAS also explains that design of the pitches takes account the need to comply with relevant sports body design guidance whilst

also giving the appearance, so far as possible, that they form part of the landscape. This would be achieved by a careful and judicious cut and fill exercise.”

TGMS Sports Surface Consultants, in their Report to Wates, define cut and fill as:-

‘Cut and fill – Cut and fill involves significant earthmoving using large plant machinery e.g. dozers, excavators and dumper trucks. The nature of the works invariably changes the soil structure which can become compacted, in turn offering very low infiltration rates. With any cut and fill operations it is important that a drainage scheme is designed to mitigate the impact that over-consolidation and loss of soil structure may have on natural infiltration rates.’

Prior to cultivation and seeding the following would be required:-

1. Removal of existing vegetation – prior to topsoil strip the vegetation should be cut and collected and then sprayed off using a total herbicide. Area F10 exhibited a high level of thatch within the upper profile therefore, the surfaces in these areas should be planed off to remove the high organic matter content.
2. Primary cultivations – to incorporate remaining organic matter.
3. Strip topsoil – strip existing topsoil to stockpiles in preparation for earthworks and re-use.
4. Cut and fill earthworks – the subsoil shall be re-graded to provide playing surfaces which conform to Sport England’s recommendations for playing gradients.
5. Topsoil return – the stripped topsoil shall be placed to the same grade as formation.

In particular the planing of Field 10 is alarming. To suggest these operations as careful and judicious is misleading.

7.8.67 refers to 3.3ha of land set aside for sports pitches and a pavilion building. The Draft Heads of Terms for 106 Agreement appears to confirm this view. The question remains who pays for and delivers these pitches.

## Density

5.22 Based on a developable area of 5.25 hectares, the density is calculated as an average of 27.62 dph.

In my objection dated 7th June 2021, I calculated that the average density of the properties adjoining the site along Appledore Road and Woodchurch Road is 10.22dph. Therefore the proposed development is disproportionate to the surroundings.

As an outline application, the density could significantly increase under reserved matters if the principle of development on this site is established. The original application for 250 dwellings was the desired outcome on this site for Wates.

## 5.25

Access/ Parkland Road is 5.5 metres wide. Not sure if this is minimum width as set down for residential access roads. This will be difficult to negotiate for larger vehicles and with the inevitable on street parking by delivery vehicles will lead to localised traffic chaos. Our property will have a direct view from our kitchen and bedrooms which is close to the road.

6.11 - 6.13 deals with the Strategic Housing and Economic Land Availability Assessment 2017/18.

The two sites which make up the appeal site are identified as TS3 and TS11. It is evident that these have been mixed up in the statement made.

TS11 relates to Homewood School Land which was filtered out in part 1 of the screening of sites as "Not Available and therefore not suitable or Achievable."

TS3 relates to Land at Appledore Road and Woodchurch Road and was described as "The site is relatively peripheral to the town centre. Development here could have a significant impact on the existing rural character of this part of Tenterden and the AONB. Access to the site is limited with potentially a major impact on the

character of Appledore Road. However, a full assessment is required of these issues.”

TS3 was omitted from the list of sites for development.

TS11 is subject of a Promotion Agreement with Wates but is restricted from disposal without the consent of the Secretary of State for Education. It is not therefore evident by virtue of the appeal that this part of the site is now available. This statement is misleading.

7.5.2 -7.5.4 deal with the first reason for refusal.

The main points to emphasise here is that this development was fully considered in the local plan process. Wates sent representatives to the hearings to demonstrate that Tenterden could take more growth. In the event the Planning Inspectors accepted that the planned growth of Tenterden was appropriate.

This application runs counter to the adopted Local Plan. Reference is made to the housing land supply situation. Government Guidance describes 5 Year Housing Land Supply as:-

A 5 year land supply is a supply of specific [deliverable](#) sites sufficient to provide 5 years' worth of housing (and appropriate buffer) against a [housing requirement](#) set out in adopted strategic policies, or against a local housing need figure, using the standard method, as appropriate in accordance with paragraph 73 of the National Planning Policy Framework.

The important word here is deliverable. This application is in outline and it has been demonstrated that there are many constraints and infrastructure issues which indicate that this site is not likely to be delivered within the next 5 years. eg. Consent for disposal of school land, Promotion Agreement to market the land to other housebuilders/ partners, Insufficient capacity in sewage and electricity systems, reserved matters application, requirements of Archaeological, Surface Water and Contamination conditions. Ecological mitigation and Arboricultural protection needs to be addressed before any earth moving works can be carried out.

The remediation of the surface water system in Appledore Road should be a prerequisite before any works on site.

Requirements of the Construction Codes of Practice need to be applied.

This site is extremely sensitive with many historical features which must be protected including hedgerows, ditches and ponds.

Archaeological Conditions requiring investigation will impose significant delays.

7.5.5 - 7.5.15 focuses on the Landscape and Visual Assessment (LVA) conducted by SLR.

Whilst this is a theoretical and technical report packed with jargon, diagrams and tables, all of which are subjective views of the landscape and visual impacts, it is impossible to escape the conclusions which are drawn from it in the following statements:-

### **Landscape Effects**

Major/moderate landscape effects resulting from the proposed development would be focused on the western end of the application site, where new homes would be introduced to the enclosed pasture fields

### **Visual Effects**

Residents immediately adjacent to the site also have potential to experience major/moderate effects in the first few years following completion of the development. For many residents these effects would reduce over time once proposed new hedgerows on the site boundary reach semi-maturity.

For those residents who currently have no screen from the site because they have chosen to view the countryside as part of their daily experience, will definitely suffer major effects which will be unlikely to be mitigated by a hedgerow which takes between 5 -10 years to reach semi maturity.

Also, there is no mention in the LVA of the construction period which could last 4 or more years. This will impact all local residents

adjoining the site or living on Appledore Road. For those properties on the southern boundary including Rose Cottage and Marne House which will have a main access route close to their boundary, they will experience severe disruption due to construction activities of noise, dust, machinery and traffic.

It is also of concern that the LVA have not chosen Rose Cottage and Marne House as a viewpoint. These are the closest to the site and the value attached to the view would be high, magnitude of visual change would be large and remain so. There is no mitigation for this change for these properties and to suggest this is disingenuous. The only potential mitigation would be to significantly increase the buffer in line with other properties on the site.

7.5.16 (v) in the context of HOU5 states:-

‘ it would protect the amenity of nearby residents by providing broad stand offs with additional native structure planting around the edges of the site’

This is definitely not the case with respect to the closest properties on the southern boundary.

The decision to remove the access adjoining the farmhouse and the redesign on site, will have a significant impact on existing properties on site. Hence solving one issue is creating another.

The impact of this proposed development is summed up in the SLR statement titled Design Appraisal

‘The proposed masterplan seeks to address concerns expressed in relation to the previous application. However, all green field residential developments on the settlement edge will result in at least localised landscape and visual harm, and this proposal is no different; there would be changes in local views and landscapes caused by the proposed new built forms, and some of these would be negative in nature.’

This view has been taken by a number of Government Appointed Inspectors over many years with regard to this site and the overall majority have rejected it.

This harm should carry considerable weight in the decision making process. In our view the second reason for refusal is fully justified.

7.5.28 addresses the detrimental impact on TPO trees 381, 312 and 313, and claims to address these three arboricultural issues in turn.

7.5.29 - 7.5.40 provides arguments in relation to trees 381 Field Maple and 312 English Oak. However, there is no discussion regarding 313 English Oak which would suffer irreparable damage as a result of the proposed swales which are part of the SUDS system on site. The current proposed SUDS features would cut straight through the Root Protection Area of this tree.

Wates through their consultants have consistently ignored off site trees and other features such as ponds in their documents.

This is just another example of this approach.

This demonstrates why reason for refusal no4 is fully justified.

In reason 6 of the refusal ABC have stated:-

‘The proposals have not provided sufficient information regarding general need, community provision, community engagement and management of the sport, community and open space facilities. Accordingly, the proposals are not considered to fully satisfy the requirements of Policy IMP4 of the adopted Ashford Local Plan 2030.’

7.5.54 - 7.5.72 of the Wates Statement of Case argues why this is unjustified. We expect ABC to vigorously defend their position, however we need to highlight what we believe to be misleading information which is presented and requires examination.

The area of land to be provided as sports pitches is 3.3ha.

As stated previously in our statement, the existing school land covers approximately 3.42 ha and is designated playing fields. In 2007 this land was submitted by Homewood School as a site in the Tenterden and Rural District Development Plan Document. It was rejected as ‘Not Available and therefore not suitable or Achievable.’

The football pitch, Field 13, continued to be maintained during the following years and the goal posts were retained. Following the agreement between Wates and the Tenterden Schools Trust in 2018 the land has been allowed to deteriorate to its current condition.

In the same year Tenterden Town Council offered to lease this pitch for Community Use and would have put in place the infrastructure to make it available., This offer was rejected because of the Agreement with Wates. Freedom of information requests have been made to the Trust regarding this agreement, but apart from limited information indicating that Wates Developments Ltd could promote the development of the site, including any planning application and the agreement will expire on 31st December 2029. It was also accepted that any disposal was subject to the consent of Education and Skills Funding Agency.

The remainder of the document was declared as confidential and full disclosure of its terms would be detrimental to a third party. Without access to this agreement it is uncertain how Wates believe that this land is now available as expressed in 6.13. and this should be examined at the inquiry.

Field 14, although still designated as a playing field, Homewood School have chosen to use it for grazing. This could be brought back to playing field use or sports facilities if the school wished to lease it, however given the government initiative to create a National Education Nature Park , this land owned by the school would be well placed to be included. Perhaps this alternative use of the land should be examined in the inquiry.

7.5.56 indicates that Field 10 , the proposed site of the adult sports pitch is currently arable farming. This is incorrect and is pasture land. As noted earlier in this document this will be subject to considerable disruption to create a fully drained football surface . This also applies to Field 14.

In terms of their overall impact these pitches are as harmful to the landscape as the developed area and should be classed as such.

7.5.72 There needs to be more clarity on the subject of delivery and funding of the Sports Facilities and the Country Open Space. We would expect ABC to vigorously examine the statements made by Wates Developments in order to establish how and when these facilities will be delivered. We suggest that a critical path analysis is produced which shows how all the necessary steps will be achieved. These include the funding arrangements and the

necessary consents required. eg. Consent from Department for Education for disposal of School Playing fields. Delivery of these facilities is a major part of the application and a clear and detailed plan should be provided before any planning permission is given.

7.5.73 - 7.5.83 relate to reason 7 of the refusal.

There has been ongoing dialogue between RSK( Wates drainage consultants) and KCC Lead Local Flood Authority.

RSK provided a response to KCC concerns on 2nd September 2021

Disappointingly this information provided by RSK was not uploaded to the planning portal until 12th November 2021.

In the meantime KCC have provided a further response on 24th September 2021 which contains the following statement:-

‘From this review, the issues which were identified have been addressed but any planning approval would require specific conditions to ensure the surface water drainage strategy is delivered as stated’.

Due to the limited time to provide a statement to the inquiry, and the lack of the available information it has not been possible to make detailed comments on the documents submitted, however there are a number of issues that have been identified.

There are 3 existing network outfalls from this site.

Network 1 crosses Appledore Road at the farmhouse (No13 and 15). There appears to be no information provided about the destination of this outfall.

Network 2 outfall is via a culvert to the east of Rose Cottage, 43 and 45 Appledore Road in Briar Court and crosses the Appledore Road to the south of 45 Appledore Road. Again no reference is made to the destination of this outfall, but is likely to be ultimately at Tilden Gill.

Network 3 outfall is in the south west corner of field 13. This surface water is directed west along the surface water system in the verge along Appledore Road. This water then joins the outfall of Network 2

to the east of 45 Appledore Road and again flows across Appledore Road.

It has been identified that the surface water system in verges adjacent to Appledore Road is in very poor condition with debris and root damage. This is impacting its performance. This is an issue, whether or not this development is granted permission. To date there has never been a comprehensive survey of this system to establish its route, links to land drainage and highways drainage. Consequently there is no clear ownership of this sewer. Is it Southern Water, Kent County Council, Land Drainage or Riparian Owners along Appledore Road?

Wates have stated that they will carry remedial works and repairs to these sewers. If there is no clear ownership of these systems, who will specify this work, who will manage the contract and who will sign off its completion to a satisfactory standard.

The improvement of this system is key to the reduction of risk of flooding in Appledore Road and should be included in any obligation under the 106 Agreement.

A condition of planning permission should be that any remediation of the surface water sewer in Appledore Road should be completed before any onsite works are carried out. This will ensure that the risk of flooding is reduced in the local area.

The management of surface water should be treated as a whole. It is particularly perturbing that the Proposed Surface Water Drainage is shown on separate drawings from the Critical Hydrological Drainage Features.

This makes interpretation of the interconnection of all these systems very difficult.

The Proposed Surface Water General Arrangements show  
PROPOSED SURFACE WATER SEWER (PIPE),  
SURFACE WATER SuDS FEATURE (SWALE/POND etc) and  
EXISTING SURFACE WATER SEWER

The first and second of these features are shown to be linked. Prior to any development all of the surface water runs off the site using the existing ponds and ditches via the current outfalls.

The proposal creates a separate surface water sewer to take all of the surface water running off the developed areas ie. Roofs, paved areas and roads. Run off from the green area is expected to be via existing ditches. These runoffs are shown to be linked before leaving by the same outfall. The run off from the developed areas will inevitably be quicker than the green field runoff and will be controlled by some form of flow restrictor.(hydrobrake) It is not at all clear what happens when the surface water exceeds the restricted flow. It must find its way into the green areas by routes which may be unpredictable.

I as a member of Limes Land Protection Group met with Land Drainage Engineer from KCC providing a dossier of evidence of flooding history on the site. Many photos and videos were supplied showing that happens in extreme rain events. This will be made available at the inquiry.

The whole system becomes overloaded leading to a rising water level in the field to the north of Rose Cottage. This rising water overflows into the natural pond in the garden of Rose Cottage. There is an overflow from this pond to the outfall to the east at node 15 on Drawing Ref 133187 RSK C ALL 05 03 02.

Effectively the pond in Rose Cottage is an existing SUDS feature. KCC Drainage Engineer stressed that this overflow should be retained in any design of the system. However, there is no reference to this overflow in any of the drawings. It appears that all off site features such as this pond are excluded from any designs proposed by Wates/ RSK. This is not acceptable.

The Critical Hydrological Drainage Features Drawing No.133187-C-ALL-05-07-01 shows a number of features ie. Proposed cellular storage, proposed swale/ditches, proposed attenuation ponds, possible attenuation feature for sports pitches and existing ditches to be retained and form part of the site wide drainage strategy

There is concern that cellular storage is not suitable for clay. This will need to be examined.

It is noted that the attenuation basin on the southern boundary has been shortened to avoid the root protection area of TPO Oak Tree 313. Until the RPA of this tree has been properly assessed it is not clear that this reduction of this basin is sufficient to prevent damage to the tree.

It is noted that there are possible attenuation features for sports pitches. These are additional features. It is assumed that this is to address known water logging of these fields which makes them difficult to drain for football pitch use. No explanation is given for these extra features. Also the attenuation feature in Field 10 is through the proposed car park.

Given that most of the detail of the SUDS detail is based on an outline plan, there can be no guarantee that any of this proposed design will be implemented. In this event the information supplied by RSK is academic.

The assumption made when designing SUDS is that these will reduce the risk of flooding. Concern has been expressed by residents who live in close proximity to the site that the ground works and redesign of the surface water system from a natural one to an engineered solution may lead to unintended flooding to property. In these circumstances, the developer should be prepared to indemnify residents against property damage caused by flooding. This would apply to Rose Cottage and Marne House which have never been flooded during previous extreme weather events. This obligation should be included in the S106 agreement.

One of the specific conditions applied any planning permission would ensure that any change of design under reserved matters would require a full reassessment of the SUDS system to ensure that it is fit for purpose and will reduce the risk of local flooding.

Given more time to review the new information provided we may wish to provide further comment at the inquiry stage.

## 7.6

Table 6 offers a table of benefits. I have produced a table of harms to counter this.

### Biodiversity Net Loss

Replacing a Natural Wonderful Landscape with a housing estate

Significant loss of trees and hedgerows.

Untold potential damage to Veteran and Ancient Trees

Airbrushing Gallows Green from the site despite Historical Map

Evidence

Significant impact on residential amenity of neighbouring properties and Appledore Road residents

Major loss of unimproved and grassland.

Potential disruption of natural surface water system which should be maintained by land owners, KCC and Southern Water

Etc.

Significant weight should be given to the harms caused by this proposal.

### 7.6.7

#### Economic Role

Wates claim ' As set out above we believe the proposed development complies with policy HOU5, and that the appeal site would constitute the right type of land, in the right place at the right time to support growth.'

To claim this is the right type of land is in conflict with recent government statements with respect to building land.

The government appointed inspectors at the Ashford Borough Local Plan Inquiry disagreed that this site was either in the right place or the right time when they confirmed Ashford Growth strategy for Tenterden.

## 7.8.18

'The Heritage Statement also explains that other heritage assets have been excluded on the basis of a lack of intervisibility or known historic association with the site.'

This Heritage Statement fails to recognise Limes Land farmhouse (13 -15 Appledore Road). This property dates back to early 18th Century.

These cottages are identified as 1684 of the Tenterden Tithe Map of 1843. These were the cottages referred to in the Marriage Settlement of Thomas Manclark and Elizabeth Hyland Weston 1822.

Reference EK/U844/T131 held in Kent History and Library Centre  
This property is recorded in Kent Historic Environment Record  
TQ 83 SE 310.

This property has all the original features including the front door which was photographed by Architectural Historian Nathaniel Lloyd in the early part of 20th century which is published by Historic England. The owners refer to original inglenooks inside the property and many other features. There are the remains of an historic track to the south side of the property. This is recorded on the 1843 Tithe Map. The cat slide roof to the rear of the property is of architectural significance.

This property should be listed by Historic England in order to protect it from this proposed development. It is of special architectural and historic interest. The proposed access is within 12 feet of this property and any groundworks could undermine it. Proposed attenuation ponds are in close proximity to the property and will almost certainly impact on the foundations.

If this property was listed then listed building consent would need to be sought. It is our view that the proposed work would be subject to significant scrutiny. The status of this property should be examined. It is our intention to submit further evidence to the inquiry.

Wates and their consultants have paid no attention to this property and consistently dated it between 1822 and 1843. These dates are linked to John Adams Map and Tenterden Tithe.

The current owners of the farmhouse are of the opinion that this property dates back to the very early part of the 18th Century and are attempting to find documents to confirm this date. It is hoped to be able to present this to the inquiry.

7.8.31 states:-

'The HLA also suggests that the area of Gallows Green, which also gave its name to a group of cottages and two fields as recorded in the Tithe Map, has been identified as lying outside of the study site in the area alongside the present Appledore Road, and will not be impacted by the proposed scheme. In essence Gallows Green, and the likely site of the gallows themselves, has already been redeveloped for housing.'

Limes Land Protection Group, (LLPG) refute all of this statement in full and have presented evidence to show that part of Gallows Green lies within the application site as clearly shown on the Tenterden Tithe Map of 1843.

At the presentation to the public of their proposals in May 2019, Wates had predetermined that the Gallows was likely to lie outside the application site. A Key Facts document which was available to Wates representatives at the presentation confirms this view. The subsequent reports by RPS have sought to reinforce this view.

7.8.38 of the Statement of Case states:-

'RPS, (the appellants landscape heritage consultant) and the scheme's objectors, have undertaken a considerable amount of research into this issue of the siting of the gallows and what can be construed as 'Gallows Green'. The evidence all points to the area of the gallows, and thus the 'green' on which the gallows sat, as lying outside of the appeal site, within an area that has already been built over.'

LLPG evidence shows that Gallows Green definitely covers a large area which crosses into the application site to the north of Rose Cottage. The key evidence is drafted into the Tenterden Tithe Map of 1843 by Thomas Thurston. The Tithe maps were the most accurate surveys carried out at that period and must be respected as the most authoritative documents of the time. In particular the

Thomas Thurston maps were considered as first class by the Tithe Commissioners.

LLPG have analysed all of the information presented by RPS and found that it included many errors. We will be very interested to view any further evidence submitted.

### Medieval Ridge and Furrow

7.8.40 refers to a potential medieval ridge and furrow in Field 3. This area should be the subject of an archaeological evaluation under a condition of any planning permission.

### Trackway Drove Road on Southern Boundary

7.8.42 refers to the drove road/track in Field 5 and claims that the developed area is set back away from it. The Critical Hydrological Drainage Features Drawing 133187 RSK C ALL 05 07 01 shows an attenuation pond and a cellular storage feature at this location. Presumably these features will require the use of large earth moving equipment. What protection zones will be prescribed along the trackway and will any of the propose SUDS features impact on the trackway?

### Ancient Ponds

Whilst it is accepted that the existing ponds are retained as part of the Masterplan, LLPG have specifically requested that these ponds should be assessed archaeologically and ecologically by experts in their survey and protection. These ponds are noted on the Tenterden Tithe Map of 1843 and their origin whether natural or man made needs to be established. These are of significant and historic importance to this land and should be treated as such. There should be a specific condition created to protect these ponds and ensure that surface water runoff from the developed areas does not make its way into these ponds with the potential for contamination.

## Privacy and Amenity of Adjacent Residents

7.8.47 Refers to the spatial separation between the existing properties at the end of Briar Court, namely Rose Cottage and Marne House and refers to back to back distances of 30 -45 m. and also refers to the 21m back to back distance normally accepted on new developments. It is not clear how this distance is arrived at, but this is not a normal situation. The proposed new dwellings are front facing and are looking straight into the rear gardens of Marne House and Rose Cottage. Because of a planning condition Marne House was forced to be lower than ground level and this would result in an increase in spatial separation. The children's play area will be viewed directly from the new dwellings. The spatial separation should begin at the boundary of Marne House. The rear of Rose Cottage is close to the boundary and will suffer a significant loss of privacy.

There is no reference here to the main access road which has been designed between the new build properties and southern boundary. The decision to create a single access through the school land has led to a main access road along the southern boundary. As a main access to the western part of the site it will take all construction traffic including heavy machinery for the duration of the build, which will be several years. Following construction it will continue to be an arterial route around the site taking all residential and deliveries lorries which will direct view into the gardens and children's play area of these properties.

An extract of a planning document from East Staffordshire County Council proposes the following guidelines for Separation Distances and Amenity which might be more appropriate in this situation.

New housing developments should ensure a layout and design that provides high standards of privacy and outlook for both existing and proposed residents. Proposals should avoid the following in order to encourage high levels of amenity and privacy:

1. Siting new dwellings close to existing properties such that overlooking of existing windows and gardens occurs, significantly reducing existing levels of amenity.

2. Significant overbearing impacts on existing properties and their private amenity space.
3. The intensification of vehicular and pedestrian activity close to the boundary with existing residential properties or their gardens.

Particular note should be taken of point 3 which should be applied to this application.

7.8.48 refers to boundary vegetation, of which there is none, supplemented by further planting which would take between 5 -10 years to reach semi maturity, would somehow resolve the privacy and amenity issue of adjacent residents. This is disingenuous and cannot be acceptable.

In order to reinforce their opinion Wates have quoted paragraph 95 and 96 of the officers report. These have treated the issue of spatial separation and access road separately. Neither of these statements properly reflects the impact on these residents.

To add another three dimensions to the privacy and amenity issue, (1) In order to facilitate the access road Wates intend to remove and 30m of ancient hedgerow which starts at the northern boundary of Rose Cottage and runs north towards ancient pond 1680 of the Tenterden Tithe Map of 1843. The Illustrative Landscape Masterplan shows this hedgerow intact, but the Tree Protection Plan, included in the Arboricultural Implications Report, indicates the removal of this section of the hedgerow which includes a pair of field maples, 309 and 310. These are described as semi mature Aerodynamic group with meshing crowns providing companion shelter, of high quality and moderate landscape value; of long term potential.

The loss of this hedgerow will expose Rose Cottage to the housing estate to the east which will have a major impact on our property.

(2) The Tithe Map of 1843 shows that the area to the north of Rose Cottage and Marne House forms part of Gallows Green, the site of the Gallows for centuries. Wates have attempted to airbrush this from the application site and LLPG have consistently argued the location of Gallows Green in line with the historic maps. This is a

disputed area and no evidence apart from opinion has offered to prove otherwise.

(3) Rose Cottage and Marne House are located at the end of Briar Court adjoining Limes Land. This location with the houses to the south has shielded us from the road noise and is a location of peace and tranquility with the exception of the presence of our grandchildren playing in the garden. The arrival of a major building site, with all the noise, disturbance and dust, and future access road will create an intolerable environment that no amount of hedging will mitigate.

The combined impact of the dwellings, access road, loss of hedgerow, loss of heritage asset and destroying the peace and tranquility of one of the oldest recorded properties in the area will cause considerable harm to the character of this area.

From the beginning of their proposed plans for this site as far back as 2017, Wates have not sought to contact individual residents regarding their design. The claim of substantial buffers rings very hollow for Rose Cottage and Marne House.

The privacy and amenity of these properties will be destroyed and should this appeal succeed, the buffer around these properties should be the subject of serious review.

### Foul Water Drainage

7.8.52 and 7.8.53 refer discussions with Southern Water Services. It is clear that there is insufficient capacity in the existing system which will require a feasibility study and network reinforcement. Whilst it is agreed that Southern Water discuss phasing it is important to note that the timescales for delivery of a suitable network are defined by the following statement which could be extremely protracted and would severely affect the delivery of this site.

‘Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of any works required.

Southern Water endeavour to provide reinforcement within 24 months of planning consent being granted (Full or Outline) however for large developments our assessment of the timescales needed will require an allowance for the following which may result in an extension of the 24 month period:

- Initial feasibility, detail modelling and preliminary estimates. - Flow monitoring (If required).
- Detailed design, including land negotiations.
- Construction.

Note that Planning consent will be trigger for any further work to facilitate this development. ‘

This statement does not suggest a quick resolution to this issue.

#### Ground Contamination

7.8.60 refers to the previous site investigations as per the Ground Appraisal report. This had recommended some further testing for ground gases should be undertaken.

Following a review, the Environmental Officer had identified that the further gas monitoring results had not been submitted and had therefore added a further condition EP15 Contamination (Land or Groundwater)

This requires the following:- Prior to the commencement of the development, a scheme to deal with contamination of land and/or groundwater shall be submitted to and approved in writing by the Local Planning Authority and no development shall commence until the measures approved in that scheme have been implemented.

The investigation report shall be conducted and presented in accordance with the guidance in CLR11 “Model Procedures for the Management of contaminated land” published by the Environment Agency.

Note that this condition was not highlighted in the Statement of Case and should be examined in the Inquiry.

This condition is likely to be more onerous for the developer and will ensure that any contamination of the site is discovered and remediated prior to any commencement of development.

This will also impact on deliverability.

The overall planning balance

Wates have presented a table of benefits and disbenefits.

I am offering an alternative table.

Issue	Benefit/Harm
Major residential, amenity and privacy impact on residents bordering the site	Harm
Major impact on landscape character of the area	Harm
Manicured Open Space to replace Natural Open Space	Harm
Sports Pitches encouraging increased car journeys within Borough	Harm
Further public access to natural open space will be damaging to wildlife	Harm
Limes Land with innate natural characteristics should be part of AONB	Harm
Significant intrusion into the countryside and Detracting from the character and rural setting of Tenterden ' Planning Inspector comments'	Harm
Removal of substantial number of trees and Ancient hedgerows	Harm
Destroying Natural rare and semi improved grasslands	
Significant Biodiversity Net Loss, Kent Wildlife Trust	Harm
Disruption of Natural surface water features	Harm
Potential for increased flooding of local properties	Harm

Encouraging extra short car journeys into Tenterden	Harm
Noise and Construction Activities (Est 5 years)	Harm
Major impact on views from footpath AB12	Harm
Increased light pollution	Harm
The intensification of vehicular and pedestrian activity close to the boundary with existing residential properties or their gardens	Harm
Backland development	Harm
Market Housing counter to Ashford adopted Local Plan 2030	Harm