**APPEAL A: APP/E2205/W/20/3259450
APPEAL B: APP/E2205/W/20/3259462
APPEAL C: APP/E2205/W/20/3259465**

**APPEALS A AND B BY TELEREAL TRILIUM**

**APPEAL C BY TELE PROPERTY INVESTMENTS LTD**

**SECTION 78 TOWN AND COUNTRY PLANNING ACT 1990**

**LAND AT:**

**APPEAL A: FORMER WYE COLLEGE BUILDINGS, WYE, ASHFORD**

**APPEAL B: OCCUPATION ROAD, WYE, ASHFORD**

**APPEAL C: FORMER ADAS SITE, OLANTIGH ROAD, WYE, ASHFORD**

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**OPENING STATEMENT ON BEHALF**

**ASHFORD BOROUGH COUNCIL**

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**Introduction**

1. There are three conjoined appeals before this inquiry:
	1. Appeal A: the conversion of the former Wye College Buildings, Wye to provide 38 dwellings and community space together with two new dwellings;
	2. Appeal B: residential development of 40 dwellings at Occupation Road, Wye; and
	3. Appeal C: residential development of 20 dwellings at the former ADAS site, Olantigh Road, Wye.

**Appeal A: former Wye College Buildings**

1. As many will be aware, on 18 January 2021 the Council wrote to PINS to provide an update in relation to Appeal A.
2. The Council’s case on Appeal A has always been limited to two points. The first related to financial contributions to infrastructure in the locality. It is agreed that such contributions that would ordinarily be justified would render the scheme unviable as a result of the need to bring back into use the listed buildings.
3. However, the Council sought a mechanism through which the viability of the development and its capacity to provide greater infrastructure contributions could be re-assessed at a point in time closer to completion in order to ensure that the development contributes to the infrastructure need it gives rise to as much as it reasonable can whilst remaining viable.
4. Such a mechanism has now been agreed in principle and is no longer in issue between the Appellant and the Council. The parties have been working hard to finalise the section 106 agreement and are now close to doing so. The Council do not anticipate any problems in this regard.
5. The second issue related to the resolution of the Planning Committee in June 2018 through which the Council sought to retain the Latin School in community use. This issue has been subject to ongoing discussion between the Council and Appellant since the committee resolution. The Council has continued to keep its case under review. As set out in the letter to PINS, following the exchange of evidence and a further review at that stage, the Council has determined that it will not pursue this issue at the inquiry.
6. In consequence:
	1. The Council no longer allege a conflict with policy COM1 of the Ashford Local Plan;
	2. Those parts of Lesley Westphal’s proof of evidence identified in CD/26/t are no longer relied on;
	3. The Council will not call Jeremy Fazzalaro nor rely on his written evidence (which addressed only the heritage impacts of keeping the Latin School in community use); and
	4. There remains no issues as between the Appellant and the Council in relation to Appeal A.
7. The Council does not therefore propose to say anything further directly in relation to Appeal A (of course, general comments made in relation to Appeals B and C on, for example, housing land supply or the Stodmarsh issue may also be relevant the Inspector’s consideration of Appeal A).

**Main issues in relation to Appeals B and C**

1. The main issues between the parties as identified in the Inspector’s Note of the Case Management Conference, dated 8 December 2020, on Appeals B and C are as follows:
	1. Whether or not the proposal would provide a suitable location for housing, having regard to the provisions of the development plan;
	2. The effect of the proposal on the Kent Downs Area of Outstanding Natural Beauty and on the character and appearance of the area generally;
	3. Whether the proposal would make adequate provision for the infrastructure needed to support the development; and
	4. the effect of the proposal on sites designated for nature conservation at Stodmarsh lakes.
2. The third main issue will be addressed by the provision of a section 106 agreement in relation to each appeal. The parties have been working hard on this issue and have now finalised the agreements on each appeal. The Council has submitted CIL Regulation 122 statements to sit alongside the section 106 agreements. I do not propose to say anything further in relation to this issue at this stage.
3. By way of opening the Council comments briefly on each of the remaining issues.

**Main issues (i) – in relation to both Appeals B and C – the principle of development**

1. As set out in the statements of common ground the Council does not contest the principle of residential development on these sites.

**Main issues (iv) – in relation to both Appeals B and C – Stodmarsh Lakes**

1. The Council received advice from Natural England during the course of 2020 that increasing levels of nitrates and phosphates at the nationally and internationally designated protected sites at Stodmarsh lakes, east of Canterbury, are having an adverse affecting the integrity of the habitat of the lakes.
2. In consequence, it advised, in line with the precautionary principle, that applications for certain types of development – including housing – within the Stour river catchment and/or which discharge to particular Waste Water Treatment Works within the catchment should be the subject of an Appropriate Assessment prior to any decision to grant planning permission given that it is not presently possible to conclude such types of development would not have a likely significant effect on the designated sites.
3. The Inspector is now the competent authority for the purposes of the Conservation of Habitats and Species Regulations (England and Wales) Regulations 2017 (as amended) and is therefore responsible for carrying out any appropriate assessment. The Appellant and Natural England have provided information to assist in this process.
4. As explained previously, the Council is in the process of recruiting specialist advice in relation to this issue. This remains in train and, accordingly, the Council has not sought to adduce any evidence on this issue nor does it propose to make any submissions in relation to it. Clearly, however, the Inspector will need to be satisfied that there is no adverse effect on integrity on the designated sites.

**Main issues (ii)**

1. This is a case where many matters are agreed and the remaining issues between the Council and Appellant are limited in number and nature but that should not diminish their importance.
2. The points in issue on Appeals B and C in essence relate to the design of the proposals. Design is a clear priority for the Government. This can be seen in the Planning White Paper – Planning for the Future. The introduction to the White Paper rues the lack of focus on design in the current planning system. A central plank of the White Paper – Pillar Two (of three) – is entitled *Planning for beautiful and sustainable places*. The desire is to create a system that results in a high quality environment of which local people can be proud and which reflects what is special about the local area. The intent is that a reformed planning system should place a higher regard on quality, design and local vernacular than ever before.
3. High quality design is now a key aspect of sustainable development under the NPPF. Paragraph 130 is clear that planning permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area.
4. There is often a temptation to diminish the importance of issues in relation to design and to focus on more technical issues. However, it would be wrong to succumb to such temptations.
5. This is the opportunity to get the redevelopment of the former Wye College buildings and land right. These are detailed applications and provide the only opportunity to ensure that the developments meet development plan and national policies which demand high standards of design. The Government’s clear direction of travel – seeking to place even greater emphasis on the importance of good design – only serves to emphasise the importance and weight to be given to any development plan conflict in this regard.
6. The minutiae of the design points are best explored in evidence. In opening it is only necessary to identify the principal elements of harm that the Council relies on in relation to each of Appeals B and C.

Appeal B

1. The Council’s main concerns arise principally from the density of the proposed development. Taking the developable area, which the Council regards as giving a fairer picture of the density of the scheme, the density is 20dph.
2. This gives rise, *inter alia*, to the following issues:
	1. The site sits at an entrance to Wye (albeit a pedestrian but nonetheless important one). At the other entrances to the village development is less dense. The scheme is more reflective of development nearer the centre of the village and does not reflect the existing relationship and transition between Wye and the surrounding countryside;
	2. Whilst there is a drop in density across the site from West to East, the house types at the Eastern end of the site, adjacent to the countryside beyond, are generally larger buildings with sizeable garages which mean that the drop in density is not reflected in a concomitant drop in built form;
	3. The scheme fails properly to integrate the proposed open space; and
	4. The layout of the housing and road layouts are suburban and not appropriate to the location.
3. In short, the scheme as proposed would amount to over-development of the site. A less dense scheme could, in the Council’s view, provide more opportunity to bring the countryside into the site, as envisaged by the Kent Downs AONB Management Plan and the Masterplan, to mitigate the impacts of the scheme upon the wider AONB, including views around the site. As proposed, the scheme would cause harm to the natural beauty of the AONB.

Appeal C

1. Again, the underlying issue is that the scheme proposed is too dense and of too a suburban style for a site which does not even adjoin the village boundary and which is separated from the rest of the village.
2. It is clear from the Design and Access Statement that the design deliberately sets out to be suburban – being, as the author of the Design and Access Statement sees it, a characteristic of development in Wye. This is – to the Council’s mind at least – an obviously flawed approach to a site which sits on its own outside the village.
3. All these factors will be explored in detail in evidence. The Council submits the design issues lead to very material planning harm.

**The planning balance**

1. As set out in the evidence of Miss Westphal and the statements of common ground, the Council accept that there is no 5 year housing land supply and in consequence paragraph 11d) of the NPPF is engaged. However, the titled balance does not apply as the impacts on the AONB provide a clear reason for refusal.
2. Whilst the Council recognise that the redevelopment of the Appeal B and C sites would deliver a number of important benefits, this does not mean that a key element to Government policy – high quality design – the need for which is reflected in the relevant development plan policies – can be set aside. The design issues cause material harm. The appropriate course of action is to refuse on this basis. This is a singular opportunity to ensure the redevelopment of a highly sensitive village is done to the high standards of design demanded by the development plan, national policies and the Government.

**Conclusion**

1. For these reasons, the Council will in due course invite the Inspector to dismiss Appeals B and C.

**MARK WESTMORELAND SMITH**

**28 January 2021**

**Francis Taylor Building,**

**Inner Temple,**

**London, EC4Y 7BY.**