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## Appeal Decision

Inquiry held on 27 and 28 April 2016

Site visit made on 29 April 2016

**by Peter Rose BA MRTPI DMS MCM I**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 June 2016**

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**Appeal Ref: APP/U2235/W/15/3131945**

**Land west of Ham Lane, Ham Lane, Lenham, Maidstone ME17 2PZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Jones Homes against the decision of Maidstone Borough Council.
  - The application Ref: 14/502973/FULL, dated 21 August 2014, was refused by notice dated 12 March 2015.
  - The development proposed is erection of 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane in accordance with the amended terms of application Ref: 14/502973/FULL, dated 21 August 2014, as set out below, and subject to the conditions set out in the attached schedule.

### Procedural Matters

#### *Matters raised at the Inquiry*

2. The application determined by the Council is a full and detailed submission for 82 dwellings and related works, and the appellant remains content for the appeal to be considered on that basis. Prior to the Inquiry, however, the appellant requested two possible alternative bases for consideration of the appeal.
  3. The appellant's preferred approach was to replace the original appeal scheme with an outline application for 67 dwellings. A similar application had been previously submitted to the Council but was withdrawn prior to the Inquiry and without determination. I indicated my concerns at the Inquiry that I did not consider this to be an appropriate way forward for this appeal. In particular, that application is not before the Secretary of State as an appeal, the proposal has not been publicised as an appeal, and full particulars of that scheme, including its history, are not before me. I also noted the concerns of third parties and of the Council regarding the lateness of the suggestion relative to the timing of the Inquiry. The proposal had also not been formally placed before the relevant decision-making body of the Council and which would have included a further opportunity for consideration of third party representations.
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4. The appellant's second suggestion was to consider the existing appeal proposal not as a full application but as an application for outline planning permission for up to 82 dwellings. Part of the rationale would be to afford me greater flexibility as part of my decision should I conclude that aspects of the detailed scheme may be unacceptable. The description of the development would remain substantively the same as considered by the Council and publicised for the purposes of the appeal. The key differences would be that the status of the submitted details would change from a formal submission for approval to illustrative, and the description of 'up to' 82 dwellings would allow for a lesser number of units should that be appropriate in light of the objections previously raised and future consideration of reserved matters. Indeed, the appellant indicated, in any case, a wish to proceed with a less intensive development of the site and the amendment would accommodate that possibility without recourse to a new application and accompanying delay.
5. By reducing the level of detail for formal approval and by deferring its consideration to future reserved matters with accompanying statutory publicity at that time, I am satisfied that no interests would be prejudiced. This second possibility was also raised with the Council in March and no objection has been raised by the authority, and I also heard the views of third parties who elected to speak at the Inquiry. I find this suggestion would also be consistent with Annex M of The Planning Inspectorate's Procedural Guide Planning Appeals - England 23 March 2016 and with the principles set out in *Bernard Wheatcroft Ltd v SSE* (JPL, 1982, p37).
6. At the Inquiry, I offered an interim ruling that I was minded to consider the application on the outline basis as proposed, but wished to defer my decision until after I had heard and considered all the evidence and could be satisfied regarding any possible implications arising, but particularly to ensure that no interests would be prejudiced in this regard.
7. Having now considered all matters, I confirm that I find the appellant's second alternative approach to be both reasonable and appropriate. Accordingly, I propose to consider this appeal on the basis of an outline application for the erection of up to 82 new residential dwellings together with access onto Ham Lane, internal roads, parking, landscaping and ancillary works on land at Ham Lane and with all matters reserved except access. All drawings and other particulars accompanying the application are treated as illustrative, except for drawing Ref: 3605/2.00/2B, to the extent that it defines the site boundary in red, and drawing Ref: 3605/2.10N, to the extent that it defines details of proposed access. Both these drawings are submitted for approval on the limited terms indicated, but all other details would remain for further formal consideration as reserved matters. A further drawing Ref: 3605/2.00/2 also remains relevant for reference purposes.
8. The Inquiry was adjourned on 28 April 2016 for further actions including, amongst other matters, re-working of detailed wording of a tabled draft Unilateral Undertaking. A completed Unilateral Undertaking dated 12 May 2016 has since been submitted and which has been seen by the authority. The Inquiry was formally closed in writing on 17 May 2016.
9. At the Inquiry, there was a degree of uncertainty regarding the precise boundary of the adjacent Area of Outstanding Natural Beauty. This was subsequently addressed by the appellant's email dated 6 May 2016. I note,

however, that historic records indicate a more detailed definition of the AONB boundary in specific regard to the public footpath on the northern side of the A20 is not available.

10. I consider the appeal on the above basis.

*Further matter raised post-Inquiry*

11. At the Inquiry, it was agreed common ground between the parties that the Council was unable to demonstrate a five-year housing land supply. The Council's witness indicated that he hoped the authority would be able to demonstrate a five-year supply later in the year at the point at which the authority's new draft local plan is presented for examination. Nevertheless, the Council's evidence indicated this situation was not likely to change in the near future, and no detailed evidence was offered.
12. On 23 May 2016, after the Inquiry had closed, the Council informed the Planning Inspectorate that its draft local plan had been submitted for examination on 20 May and that the Council now considers it has a five-year housing land supply. The Council referred to an accompanying Maidstone Borough Local Plan Housing Topic Paper 2016 in evidence. The Council has advised that it considers its new position to have connotations for paragraphs 14 and 49 of the National Planning Policy Framework but confirmed it did not consider it necessary to re-open the Public Inquiry and is not requesting that takes place.
13. The observations of both the main parties have been sought in relation to this new information, and I have also received further separate representations from Lenham Parish Council in support of the Council's new position.
14. The appellant has raised questions regarding the substance and merits of the new evidence submitted and has requested that, should I conclude this evidence to have anything other than very limited weight or am minded to agree that a five-year supply has been demonstrated, the Inquiry should then be re-opened in order to allow for this new evidence to be properly tested. The appellant has also indicated a proposed application for costs against the authority for unreasonable behaviour in that event.
15. Given the positions taken by the main parties as recorded above, and the matters on which my decision in this appeal turns as explained below, I have concluded that there was no basis to justify re-opening the Inquiry.

**Main Issues**

16. The main issues are matters of character and appearance, in particular:
  - (a) whether the proposed scheme would constitute good design with specific regard to its layout, landscaping and scale, and;
  - (b) whether the proposed scheme would thereby be harmful to the open countryside, including to the setting of the Kent Downs Area of Outstanding Natural Beauty (the AONB).

## Reasons

### *Proposed layout, landscaping and scale*

17. The appeal site comprises an enclosed field some three hectares in area and is located to the west of Ham Lane and to the south of Ashford Road (the A20). To the north-east of the site on the opposite side of the A20 is the Kent Downs AONB. The AONB is separated by Pilgrims Way from a designated Special Landscape Area (the SLA) which directly overlooks the appeal site from the north.
18. Whilst land to the north, west and south is predominantly open, and playingfields also lie to the east of Ham Lane, Ham Lane itself is of mixed use and character and accommodates built development, including a number of post-war housing developments. These include The Cloisters, which overlooks the appeal site from the east, and Westwood Grange, which overlooks the site from the south. Ham Lane also serves a storage and distribution operation and further housing lies to the east around Cherry Close adjacent to Swadelands School. To the west of the site is a large detached building at The Grange, and an area of semi-natural ancient woodland, Dickley Wood, lies beyond.
19. The appeal site has no specific allocation in the Council's development plan, it lies outside the settlement boundary of Lenham, and the Council confirmed it had no specific proposals for allocation.
20. My assessment is that the site does form part of the open countryside and, notwithstanding the intervening SLA, has a visual and physical relationship to the AONB by virtue of its proximity. The site also has a similar relationship to other developments in Ham Lane and, given its immediate proximity, the location is undoubtedly edge-of-settlement.
21. Whilst the site shares some physical similarity with the surrounding countryside, the wider character and appearance of this part of Ham Lane and of adjacent sites display little overall distinctiveness. Built development comprises various piecemeal schemes of contrasting styles which I do not consider contribute to any particular physical uniformity or gateway impression relative to the surroundings. By virtue of the peripheral location adjacent to post-war housing, I also do not consider the principle of developing the site to have specific adverse implications for the important and more historic forms and character of Lenham elsewhere.
22. The site has significant exposure in views from the south and west, but such views are predominantly from private land. To the north, however, the land rises and contains a number of Public Rights of Way (PRW's), including Pilgrims Way, and the nationally important North Downs Way, and from which at various points the site is clearly visible.
23. The illustrative drawings show a significant expanse of residential development across the site, excepting a narrower strip of land to the west shown on drawing Ref: 3605/2.00/2 which would remain open and be landscaped. This would include a community orchard, a pond and informal play facility. Some further landscaping would be provided along the A20 frontage.
24. Unlike the Parish Council, the local planning authority, in common with the AONB Unit's position as clarified at the Inquiry, does not oppose the principle of development but objects to the specific scheme set out in the illustrative

- details. These particularly include concerns that the scheme would fail to provide an adequate landscaped buffer to the A20, that provision of structural landscaping within the site would be inadequate, and specific concerns regarding the intensity of development at the north-east corner closest to the AONB where a three-storey signature building is indicated.
25. Whilst noting the confirmation given by the Council to the Inquiry that the scheme would accord with the authority's requirements for residential density, I share all these misgivings. I am particularly concerned about the key relationship of the site's northern frontage to the SLA and AONB and, notwithstanding variations in ground levels, more specifically, the impact of the proposed feature building. Whilst I can appreciate a case for a feature development in appropriate circumstances, the priority for the A20 frontage and, more particularly the north-east corner closest to the AONB, should be a sensitive and sympathetic transition to the open landscape and scenic beauty of areas to the north. A relatively prominent built form would not achieve that and would appear incongruous relative to the sensitive, open setting.
  26. In response to the Council's concerns, the appellant is proposing to re-cast the design and layout within the context of a minimum landscape buffer of 15 metres to the A20 frontage, to delete the three-storey building, and to ensure that no buildings would be higher than two-storeys. Whilst the appellant has indicated that a development of 82 dwellings could still be accommodated through smaller units and a different housing mix to that previously proposed, it also advised the Inquiry that, for commercial reasons, it would, in any event, be looking to develop a significantly lower number of dwellings, possibly 67.
  27. Layout, landscaping and appearance are all reserved matters and, should this appeal be allowed, it would be incumbent upon the appellant to satisfy the Council, in consultation with other interested parties, in such regards relative to the particular number of dwellings up to 82 which may be proposed.
  28. The Council remains unconvinced that the depth of the landscape buffer would be adequate at 15 metres and instead recommends 50 metres. Reference was made by the appellant at the Inquiry to the effectiveness of comparable landscaping around the nearby Marley Works and to that at the nearby school and which, in the context of contrasting built forms, I observed at my visit. I also noted the significant presence of existing mature planting along the appeal site's main A20 frontage and the presence of established hedges enclosing both the A20 and Ham Lane frontages. The appellant indicated at the Inquiry possibilities for further screening by allowing managed growth of the hedges pending establishment of more mature planting behind.
  29. In all these circumstances, I consider a minimum depth of 15 metres to be reasonable, particularly given deletion of the three-storey building. Subject to an appropriate quality and density of planting, I find the scheme should provide a sensitive relationship to open land to the north in this regard. The revised terms of the scheme would also afford the opportunity for improved structural planting within the site and for strengthening existing established planting, particularly around its publicly exposed boundaries.
  30. Taking the above factors together, I therefore conclude that the proposed development, in the outline and further amended terms as proposed, would not, by reason of likely form and extent, be harmful to the character and appearance of the appeal site. Whilst the development would be contrary to

aspects of Policy ENV28, it would not be contrary to Policy ENV33 of the Maidstone Borough-Wide Local Plan 2000 (the saved Local Plan).

31. Policy ENV28 seeks to ensure, amongst other matters, that development will be resisted in the countryside which harms the character and appearance of the area and should be confined to specific circumstances. The countryside is defined to be all those parts of the plan area not within the development plan boundaries shown on the Proposals Map. Nevertheless, although outside the defined development boundaries for the purposes of Policy ENV28 and contrary to accompanying criteria, I do not find the scheme to be significantly harmful for the reasons described.
32. Policy ENV33 states that, within the Kent Downs AONB, the conservation of the natural beauty of the landscape will be given priority over other planning considerations, but the appeal site lies outside the AONB, and in any case, for the reasons given, would not be significantly harmful to the appeal site by virtue of form and extent.
33. I also find the scheme would accord with the general expectations of the National Planning Policy Framework (the Framework) which places great importance upon high quality design and the significance of local distinctiveness.
34. Given the outline terms of the application now before this appeal, and the significant modifications as proposed in response to the Council's and other parties' objections, I conclude the application would offer the potential for a scheme which would constitute good design with particular regard to its layout, landscaping and scale.

*Character and appearance of the open countryside, including the setting of the Kent Downs AONB*

35. The original detailed application was accompanied by a Landscape and Visual Assessment dated August 2014 (the LVA). The appellant's evidence addresses both landscape and visual impacts and assesses the site and its immediate surroundings as being of overall medium landscape quality, and the degree of landscape change proposed to be low to medium. It concludes that the landscape sensitivity of the site relative to the type of development proposed to be low to medium, and that the overall landscape effects would be slight to moderate adverse at their greatest which would occur in winter soon after completion. The LVA also identifies a relatively limited visual envelope to the development, suggests some low level visual effects for users of the PRW's to the north, and that the effects would be expected to decline over time as proposed landscaping becomes established. It concludes that the effect on views from within the AONB would be no more than slight adverse.
36. No dispute is raised by the Council regarding the methodology of the appellant's assessment. The Council assesses the actual impact to be more severe, however, and refers to a number of documents in evidence, including the Maidstone Landscape Capacity Study: Site Assessments January 2015 (undertaken by independent consultants, Jacobs), the Maidstone Landscape Character Assessment 2012 as amended (the LCA), and the Kent County Council Landscape Assessment of Kent 2004. The LCA identifies the site as part of the Harrietsham to Lenham Vale Landscape Character Area and key characteristics are seen to include its proximity to the AONB to the north and

an upwards sloping topography towards the foothills and lower slopes of the North Downs. The site is also part of a broader Wealden Greensand National Character Area.

37. The Jacobs' assessment identifies the site's landscape character sensitivity to be moderate, its visual sensitivity to be moderate and its landscape value to be high. It further concluded the site had a low capacity to accommodate housing. In short, the Council contends the appellant's LVA to under-estimate the scheme's overall impact.
38. Reference is made by the Council and other parties to the appeal site's location within the setting of the AONB. Although the term 'setting' is not expressly defined in the Framework as it may relate to an AONB, the relative proximity is clear and the resulting relationship is a significant consideration for the assessment of any future development of the appeal site. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) also places a general duty upon public bodies, in exercising or performing any function in relation to land in an AONB, to have regard to the purpose of conserving and enhancing its natural beauty.
39. The Council's witnesses accepted at the Inquiry that the site had no specific landscape features of particular significance. The site is a field forming part of pleasant countryside adjacent to the settlement. It contributes to a wider pattern of open countryside and of other development but, in itself, I find is physically unremarkable in terms of its landscape and visual qualities.
40. From key views to the north, the site forms part of a wider panorama including both open countryside and built forms such as Swadelands School and the residential developments in and around Ham Lane. In this wider context, I find the presence of houses would not appear as uncommon or incongruous features at the edge of the settlement.
41. I saw at my visit that the site and its surroundings would be visible adjacent to the settlement from various points along the PRW's to the north but the main views from within the AONB would, by virtue of their respective locations and accompanying distances, be limited and already include built forms in and around Lenham and the A20. Such views would be experienced at relatively short intervals and, in themselves, I do not find they would be so intrusive as to be inconsistent with the wider existing panoramas in and around the site.
42. Given the location and extent of the intervening SLA, and the absence of public views from within the appeal site, I find the direct contribution of the appeal site as part of the viewed foreground to the AONB to be limited.
43. At the more immediate, local level the presence of dwellings would be more directly apparent, but the transition now proposed from adjacent open land is likely to be sufficiently sensitive given the landscape buffer and other modifications as identified.
44. Reference has also been made by third parties to historic views from within the appeal site. Little specific detail has been provided, but the appeal site is private land with no public rights of way. By contrast, if developed as proposed, the likelihood is of greater public access by the very nature of the use. Further, safeguarding of any significant views would be a matter for

detailed consideration by the appellant and the Council in considering possible future reserved matters.

45. Accordingly, as with the first main issue, I find the development would be contrary to Policy ENV28 of the Saved Local plan insofar as it would lie outside the Plan's development boundaries, but the development would not otherwise be significantly harmful. The development would also not be contrary to Policy ENV33 of the saved Local Plan which refers to land within the Kent Downs AONB and does not thereby directly apply. Reference has also been made to Policy ENV34. This policy refers to Special Landscape Areas, and the need for particular attention to be given to the protection and conservation of scenic quality and distinctive character in such areas. Again, the site does not form part of the SLA and that designation is not being carried forward through the emerging Local Plan.
46. Policy SP 17 of the Maidstone Borough Local Plan - Publication (Regulation 19) February 2016 (the emerging Local Plan) seeks to protect the character and appearance of the countryside and the distinctive character of the Kent Downs AONB and its setting, and I find the scheme would accord with that aim.
47. Whilst the site is identified in the Strategy Plan to the Lenham Neighbourhood Plan (the Neighbourhood Plan) as part of countryside to be protected extending west from Ham Lane, the plan has yet to be examined and made, and this aspect appears inconsistent with the emerging Local Plan. Given the amendments to the scheme and its outline form, I do not consider the scheme would offend other policies of the Neighbourhood Plan, including Policy LNP2 which seeks to ensure that new housing development would contribute to landscape enhancement and be sympathetic to the setting of the AONB, and Policy LNP5 which requires design of new development to be mindful of the outstanding natural and built quality of the parish.
48. The Kent Downs AONB Management Plan April 2014 (the Management Plan) is also a further significant material consideration. Policy SD1 seeks to conserve and enhance the natural beauty of the AONB, and Policy SD3 to oppose development which runs counter to this primary purpose. Policy SD8 opposes development which would negatively impact on the distinctive landform, landscape character, special characteristics and qualities of the AONB, and upon its setting, and views to and from the AONB unless they can be satisfactorily mitigated. For the reasons described, I consider the scheme would provide for satisfactory mitigation in accordance with Policy SD8, and similar possibilities for mitigation are acknowledged by the Management Plan in Policy SD11.
49. At the national level, paragraph 115 of the Framework requires great weight to be given to conserving landscape and scenic beauty in the AONB. The AONB is a landscape with the highest status of protection in relation to landscape and scenic beauty, and I am satisfied the scheme responds accordingly, and to the expectations of section 85 of CROW insofar as the AONB would be conserved.
50. Paragraph 116 of the Framework indicates that planning permission should be refused for major developments in AONB's, but the site lies outside the AONB.
51. The Framework further states at paragraph 109 that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Notwithstanding the evolving



Neighbourhood Plan, the appeal site carries no formally adopted designation, and no objection is raised by the authority on that basis. In this regard, I am also mindful of the findings of *Stroud v Secretary of State for Communities and Local Government and Gladman Developments Ltd* (2015) EWHC 488 which concurred with the Inspector's view that, in order to be valued, a site had to show some demonstrable physical attribute rather than just popularity. Even so, I also have regard to the Minister of State for Housing and Planning's affirmation by letter dated 27 March 2015 of the importance of the impact of development upon landscapes outside designated areas and which I note post-dated the Stroud decision.

52. The government's Planning Practice Guidance (the Guidance) further advises that, in exercising any of their functions, relevant authorities have a duty to have regard to the purposes of the AONB. I note the Guidance advises that this duty is still relevant in considering development proposals that are situated outside AONB boundaries but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.
53. Taking all the above factors together, however, I conclude that the revised terms of the proposed development would not be harmful to the character and appearance of the open countryside, including the setting of the Kent Downs AONB.

### **Other Matters**

#### *Five-year housing land supply*

54. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing.
55. The Inquiry heard it was agreed common ground that, as of April 2014, the Council had a housing land supply of 2.1 years and the authority accepted it remained unable to demonstrate a five-year supply. The Council indicated at the Inquiry that, based upon April 2015 data, the supply had increased to 3.3 years relative to an objectively assessed need for some 18,560 dwellings, and that it was hopeful to be able to demonstrate a five-year supply as part of the forthcoming Local Plan examination later this year. Be that as it may, little evidence was placed before the Inquiry regarding the basis for that contention and the fact remained that the Council had not sought to demonstrate a five-year supply.
56. In the absence of a five-year supply of deliverable housing land, it would follow, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing would be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework would also be engaged.
57. Notwithstanding the Council's assertion post-Inquiry that it is now able to demonstrate a five-year housing land supply, as the authority's up-to-date full objectively assessed housing needs have yet to be formally demonstrated, tested and endorsed through the thoroughness and robustness of the local plan

process, I cannot be satisfied that a five-year housing land supply exists. Accordingly, I consider that paragraphs 49 and 14 are engaged.

58. In accordance with the judgment of the Court of Appeal in *Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016* (EWCA Civ 168), I find that Policy ENV28, Policy ENV33 and Policy ENV34 of the saved Local Plan, Policy SP 17 of the emerging Local Plan, and the accompanying settlement boundaries, and the Strategy Plan and associated policies of the Neighbourhood Plan all, to varying degrees, create or constrain housing supply and, accordingly, are to be considered out-of-date.
59. Reference was also made by the Parish Council at the Inquiry to possible development of further housing sites as part of the Neighbourhood Plan process. The Parish Council advised the Inquiry that not all relevant discussions were yet in the public domain and such details were not therefore available for testing as part of the appeal.

*Future development strategy for Lenham*

60. Policy SP 5 of the emerging Local Plan identifies the principle of Rural Service Centres (RSC's) as a focus for new housing and employment development, subject to allocation of sites and other criteria. Policy SP 8 more specifically identifies the Lenham Rural Service Centre as where key services will be retained and supported in conjunction with development of 165 new dwellings on two allocated sites, additional to redevelopment of appropriate sites in accordance with Policy SP 5. More generally, Policy H 2(3) identifies Lenham as a broad location for housing growth both east and west of the settlement. It identifies development of up to 1,500 dwellings towards the end of the Local Plan period (post-2026) and the possibility of earlier development if required by the Council's housing land supply position. This is also broadly consistent with Policy LNP1 of the Neighbourhood Plan which seeks to deliver a significant number of dwellings over the Local Plan period.
61. My attention has also been drawn to previous decisions to allocate the appeal site for housing development (previous emerging Local Plan Ref: H1(31)) and to its subsequent deletion. The Committee report to the appeal proposal indicates the reason for deletion related to its impact upon local character. The merits or otherwise of individual allocations remain to be addressed as part of a future Local Plan examination but I acknowledge the evidence regarding the contrasting characteristics of a retained allocation at nearby Tanyard Farm (previous emerging Local Plan Ref: H1(29), now H1(42)). In particular, I note the evidence submitted that the retained site appears to have a more sensitive relationship to the AONB. In the emerging Local Plan, the appeal site had also been identified to have an approximate net capacity for 80 dwellings, Tanyard Farm for some 155 dwellings.

*Coalescence between Lenham and Harrietsham*

62. The Council's reason for refusal does not make specific reference to concerns towards coalescence between the two settlements but, at the Inquiry, the authority suggested this was implicit.

63. The appellant's evidence suggested the existing gap between the settlements to be some 1.3 kilometres in extent and that was not disputed by the Council. Any development within the gap would physically reduce the existing separation. The scheme would involve a westward expansion of Lenham measured by the parties along the A20 frontage to be some 162 metres, some 143 metres of the appeal site remaining undeveloped.
64. Coalescence is about sightings of settlements as one development in the same view, about the extent to which such views may occur, and about what this may mean for their respective identities. This would significantly reflect matters of scale, distance, exposure and perspective.
65. Although few specific details have been provided, such occurrences where the two settlements might appear as one would seem likely to be very limited, and the remaining relative distance between the two settlements perceived by any viewer would be considerable. I am satisfied that both settlements would generally remain visually distinct.

*Lenham Neighbourhood Plan*

66. The first of twelve core planning principles set out in the Framework is that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of their area. The Neighbourhood Plan, whilst progressing and subject to significant community engagement, remains at a relatively early stage of preparation and, at the Inquiry, the consultant acting for the Parish Council in this specific regard indicated that examination is unlikely before the autumn.
67. Concerns have been expressed by the Parish Council that this appeal is a serious challenge to the integrity of the Neighbourhood Plan. My decision is about assessing the possible effects of the proposed development relative to the policies, not only of the Neighbourhood Plan, but also with regard to the other constituent parts of the development plan taken as a whole, and relative to the national requirements of the Framework and section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act). It is not just about the particular merits or otherwise of the Neighbourhood Plan itself, and the provisions of the Framework as they relate to sustainable development and the implications of the Council's lack of five-year housing land supply, as presented to the Inquiry, necessarily relate to all components of the development plan, including the Neighbourhood Plan. If this appeal were to be allowed, it would be for the Neighbourhood Plan to respond and adjust accordingly as part of its preparation.

*Unilateral Undertaking*

68. The submitted planning obligation provides for contributions in relation to both the full application for 82 dwellings and for an outline application of up to 82 dwellings.
69. Commitments are made to various matters to mitigate the impact of the development, including contributions to various community facilities. A commitment is also made to provide 40% of the dwellings as affordable units in accordance with Policies DM 13 of the emerging Local Plan and Policy LNP8 of the Neighbourhood Plan.

70. The local planning authority, in conjunction with other relevant services, has provided evidence of compliance with the relevant provisions set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I have also had regard to the Framework, and to the relevant advice of both the Guidance, and of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published 23 March 2016.
71. The Council indicated at the Inquiry that it was satisfied with the form and content of the draft agreement as a deed, and has since confirmed it has no further comment in relation to the final document. Kent County Council has also indicated the Undertaking satisfies its requirements.
72. I find the agreement to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

*Other considerations*

73. I have had regard to all other matters raised in relation to the appeal, both at the Inquiry and in written evidence, and including references made to various other planning and related decisions. In this regard, whilst recognising the importance of consistency for fairness and other considerations in planning decisions, the particular planning circumstances of all cases will be different, and each balance of judgement will vary accordingly.
74. I have had particular regard to appeal decision Ref: APP/U2235/A/04/1144519 dated 23 September 2004 relating to Westwood, Ham Lane, Lenham, Kent ME17 2LP, which I note pre-dated the Framework, and to appeal decision Ref: APP/U2235/W/15/3119223 dated 30 November 2015 relating to an outline application for 40 dwellings at Land south of Court Lodge Road, Harrietsham, Kent ME17 1AS. Whilst the appeal relating to land in Court Lodge Road was dismissed, I note that, unlike the appeal site, the land formed part of a designated SLA and had a different physical relationship to the AONB, and that the decision reached different conclusions regarding the particular impacts of landscaping and relationships to local views.
75. Objections have been raised by residents to the east in The Cloisters and to the south in Westwood Close. These particularly concern implications for their living conditions arising from loss of views across a currently open field. I also noted at my visit the presence of viewing panels to the northern boundary fence of Westwood Close and the presence of balconies. Nevertheless, whilst I acknowledge the amenity of these dwellings would undoubtedly be affected through the change in outlook, the Courts have generally held that private views are not in themselves regarded as a planning matter even though they may be of significance to occupiers and there may be a financial impact upon the value of properties from where such an outlook may be lost.
76. A number of other matters have been raised by third parties, including traffic impacts, implications for local services and infrastructure, possible consequences in connection with flooding, air quality, loss of agricultural land, and other implications for the living conditions of neighbouring residents. These and other matters have not been raised as objections by the Council, and I have considered the relevant evidence submitted by all the parties. I have little reason to conclude that such matters represent grounds to preclude

development. Besides, this is an outline application with all matters other than access reserved for subsequent consideration should the appeal be allowed.

77. Matters of ecology and wildlife would be further addressed by planning conditions should the development otherwise be found to be acceptable, and I note that Kent County Council Highways and Transportation raises no objection to the principle of the development. The Unilateral Undertaking also provides for mitigation to address various matters raised, including school capacity. Reference has been made to local bus capacity, but little evidence is before me of an issue in that regard.
78. I have also noted the planning history of the site and the various references made to pre-application and other discussions and consultations, and including the appellant's Statement of Community Involvement.

*Sustainable development*

79. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. The Framework further identifies economic, social and environmental dimensions to sustainable development.
80. The scheme would undoubtedly provide considerable and much needed housing benefits, in terms of both affordable and market provision, and such benefits would be consistent with the social dimension of sustainable development. The investment represented by the development would also be consistent with the economic dimension. The economic benefits would include investment in construction and related employment for its duration, an increase in local household expenditure and demand for services, and financial contributions to the Council through New Homes Bonus payments. The local economic context also includes the development plan's recognition of Lenham as a suitable location for growth.
81. In environmental terms, however, the scheme would incur loss of an open field and implications for some public and private views, and these need to be assessed relative to the Framework's aspirations for planning to recognise the intrinsic character and beauty of the countryside.
82. In relation to section 85 of CROW, I am clear that the scheme would not fail to conserve the AONB, but I also recognise it would not enhance the designation. Nevertheless, I consider the extent to which this expectation applies to the appeal scheme has to be qualified by the location of the site outside the boundaries of the AONB, but in the setting in which it lies. In particular, I find it reasonable to acknowledge that the opportunity for any development to enhance the AONB is limited when the site does not form part of the AONB in the first instance. Further, and in any event, the implications of this duty must be reflected in paragraph 115 of the Framework which, although not having the status of a statutory instrument, post-dates CROW and would have been drafted in that context. It tells us that great weight should be attached as part of my decision to conserving landscape and scenic beauty in the AONB.

83. In summary, the scheme would offer considerable economic and social benefits consistent with the Framework, and adverse environmental implications would be limited.

### **Overall planning balance**

*As based upon the evidence submitted to the Inquiry*

84. Paragraph 12 of the Framework reminds us of the statutory status of the development plan as the starting point for decision-making. It explains that proposed development which accords with an up-to-date Local Plan should be approved, and that proposed development that conflicts should be refused unless other material considerations indicate otherwise.
85. The saved Local Plan has an end date of 2006, but I have little information before me regarding its current relevance to local housing needs. Whilst the emerging Local Plan, working to a possible adoption in Spring next year, and the Neighbourhood Plan, are more contemporary, their preparations are on-going and they have yet to be subject to formal examination. Paragraph 216 advises that decision-takers may give weight to relevant policies in emerging plans according to, amongst factors, the stage of preparation of the emerging document. Accordingly, the weight to be attached to these documents is relatively limited except to the extent to which particular policies may be consistent with the terms of the Framework. The Management Plan, albeit a management document, remains a significant material consideration but only to the extent to which it is also consistent with the same provisions of the Framework.
86. It is clear to me that the outline application now subject to this appeal would offer a number of important additional enhancements relative to the originally submitted scheme. In particular, the proposal would:
1. delete a three-storey 'gateway' building from the key north-east corner of the site;
  2. accommodate a landscape buffer along the A20 to a minimum depth of 15 metres, significantly more substantial than the limited landscaping of the previous detailed scheme;
  3. the combined effect of 1. and 2. would be to provide the opportunity to create a far more physically sensitive transition from the AONB to the appeal site at its closest point, and from the SLA;
  4. ensure no buildings would be more than two storeys high;
  5. ensure land to the west of the main built area and fronting the A20 would be retained and enhanced in open form and would preclude future built form;
  6. afford the possibility of a lesser number of dwellings than 82 should the Council not be satisfied in relation to subsequent reserved matters, and in accordance with the developer's stated revised commercial aspirations for the site;
  7. afford the opportunity for appropriate structural landscaping integral to the development, and;

8. enable a scale and form of development to be agreed reasonably commensurate with the available space.
87. Further, both the Council's witnesses confirmed they had no objection to the principle of an appropriate housing development but opposed the specific nature of the full application considered by the authority, and I can appreciate the conclusions previously reached by the Council that, in some acceptable form, allocation of the site for a housing development may be appropriate.
88. I accept the relationship of the proposed scheme to the AONB and other open land to the north to be critical. Whilst not enhancing the AONB, I have given great weight as part of my decision to the need to conserve its landscape and scenic beauty, and am satisfied that the scheme would not cause significant harm and would thereby not fail to conserve the AONB.
89. Furthermore, not only does the authority have an immediate and pressing need for new housing, including affordable dwellings, but Lenham is itself being promoted through the Council's development plan as a broad strategic location for considerable growth and including land to the west of the settlement. This need becomes more significant in the planning balance given the Council's inability to demonstrate a five-year housing land supply.
90. At the Inquiry, the Council sought to question the extent to which the contributions set out in the Undertaking should be regarded as benefits over and above minimal mitigation compliant with Regulation 122. There is no doubt that the proposed affordable housing is a benefit insofar as it confers a provision over and above what may otherwise arise from market housing and in specific response to a local need. The emerging Local Plan indicates an annual need to accommodate some 322 households between 2013 and 2031. Further, provision in conjunction with development of market housing is a primary means of delivery and each such site has a particular premium given that the authority is unable to demonstrate a five-year supply of housing.
91. In other respects, I accept the degree of benefit conferred by the Undertaking will vary but, as with the example of library books cited at the Inquiry, the availability of such books and other services to be funded would not just be confined to residents of the up to 82 new dwellings but would be generally available, in economic terms, to the local community as a public good.
92. Hence I find that that the parameters of the outline scheme now proposed represent an appropriate and pragmatic response to the constraints and sensitivities of the site. Given the outline terms of the application now before me, and the significant modifications as proposed in response to the Council's and other parties' objections, I find the revised proposal would offer the opportunity for a detailed scheme which would constitute good design with particular regard to its layout, landscaping and scale and which would create a sensitive relationship to the AONB and surrounding sites. I am satisfied that the scheme reasonably addresses the concerns set out in the Council's decision notice whilst allowing the significant benefits of development to be realised.
93. The presumption in favour of sustainable development set out in paragraph 14 of the Framework states that, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a

whole, and unless specific policies in the Framework indicate development should be restricted.

94. This is further qualified by Footnote 9 to the Framework which would disengage the weighted planning balance test to land designated as an AONB. The Council submits the Footnote must apply to a site which forms part of the setting of the AONB given its very close proximity, but Footnote 9 expressly refers to 'land designated' as an AONB. The appeal site does not form part of the AONB, is not designated as such, and carries no other designation within the Council's development plan.

95. I therefore conclude that the proposed scheme would constitute sustainable development, and that the weighted planning balance required by paragraph 14, as clarified by the rebuttal presumption set out in Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin), is such that planning permission should be granted. Further, and in any event, even if the weighted balance would not apply by virtue of Footnote 9, I am satisfied that, in applying section 38(6) of the Act, the same overall conclusion in favour of the scheme would be reached having regard to the development plan, to the Framework and to all other material considerations.

*As reflecting further information post-Inquiry*

96. At the Inquiry, the Council and the appellant agreed that the local planning authority could not demonstrate a five-year housing land supply and, on that basis, I have found that the appeal should be allowed for the reasons given above.

97. Post-Inquiry, the Council has said that it does now have a five-year housing land supply. The appellant disagrees. Nevertheless, I have considered what the situation would be if the Council were to be correct in its assertion.

98. If the authority were able to demonstrate a five-year housing land supply, it would mean that relevant policies for the supply of housing would not be automatically out-of-date by virtue of paragraph 49. Even so, I do not consider that the scheme would be contrary to the countryside aspirations of Local Plan Policy ENV28 insofar as it would not harm the character and appearance of the area. Nor would it be contrary to Policies ENV33 or ENV34 for the reasons indicated. Hence, even if these policies were not to be out-of-date, significantly greater harm would not weigh against the scheme such as to change the overall planning balance.

99. Relevant policies of the Neighbourhood Plan would no longer be constrained in their weighting through the absence of a five-year land supply, but would still attract only limited weight given their emerging status.

100. The availability of a five-year housing land supply would, however, reduce the weight to be attached to the housing benefits of the scheme as part of the planning balance given the new availability of other solutions to addressing local need.

101. Nonetheless, the housing benefits of the scheme would still be considerable, and other benefits as identified, including the various economic and social dimensions of a sustainable development, would remain. The adverse impacts of the scheme would still not out-weigh the benefits.



102. Section 38(6) of the Act requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. Notwithstanding some limited conflict with aspects of the development plan as it relates to protection of the countryside, the approach to be followed pursuant to section 38(6) leads me to the clear conclusion that other considerations, principally the benefits of the scheme, would still outweigh remaining contrary aspects of the development plan. I find, with regard to the development plan as a whole and regardless of whether the weighted balance of paragraph 14 applies, that the scheme would be sustainable development for which permission should be granted.

### **Conditions**

103. I have considered the largely agreed list of conditions put forward by both parties to the Inquiry. In assessing such matters, I have regard to the advice set out in the Guidance and in the Framework in terms of both the need for individual conditions and of appropriate wording.
104. As proposed at the Inquiry by the appellant, I attach conditions requiring a landscaped buffer no less than 15 metres deep at any point along the site's northern A20 boundary, and ensuring that no building shall be more than two storeys in height, and a condition ensuring that the land to the west of the proposed main built area be retained in open form and shall not be used to accommodate any proposed dwellings.
105. For the avoidance of doubt and in the interests of proper planning, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings.
106. To safeguard the relationship between the character and appearance of the appeal site and surrounding countryside, a condition requires retention of existing planting and a specific management plan in relation to the boundary hedges. An Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP) are required to safeguard existing planting.
107. In view of the significance of views in and around the AONB during the hours of darkness, a condition requires details of external lighting to be agreed. This also has implications for maintaining highway safety. I gave possible consideration to further restrictions upon future lighting within the curtilages of individual properties but, in view of the scale and level of detail likely to be involved, I conclude this would not be reasonable.
108. To safeguard any heritage value of the site, a scheme of archaeological investigation is necessary. To safeguard the ecological value of the site, a condition requires a specific scheme of mitigation. To promote sustainable transport, a condition requires implementation of a Travel Plan and, in the interests of the free and safe movement of vehicles and pedestrians, a further condition requires arrangements for works to the public highway to be approved. Specific reference is also made to the need for the arrangements for access to be implemented in accordance with an agreed programme and for sightlines to be retained.
109. To ensure the creation of satisfactory living conditions, and to contribute to a sustainable development, conditions require details to be submitted and be approved by the local planning authority relating to surface and foul water

drainage, and for the development to accord with the submitted noise assessment. Whilst I have little clear evidence of site contamination, it is still necessary to safeguard the living conditions of future occupiers of the development by ensuring that appropriate arrangements are made for identification and treatment of any on-site contamination which may be present. To protect the living conditions of future and neighbouring occupiers, a condition requires details of arrangements for refuse to be approved.

110. I am concerned about the potential implications of construction work for the immediate living conditions of neighbouring occupiers in Ham Lane during development. To protect the living environment of those occupiers, it is necessary for the works to be undertaken in accordance with a Construction Method Statement, the precise terms of which remain to be agreed.

111. I note that Kent Police made recommendations in relation to Crime Prevention Through Environmental Design and other matters in response to the original detailed application. Whilst undoubtedly relevant to the final development, such issues would be for consideration as part of the subsequent reserved matters. Reference was also made at the Inquiry to the importance of external materials and of a detailed design sensitive to the AONB but, again, such issues would be reserved matters not before this appeal.

### **Conclusion**

112. For the above reasons, the appeal is allowed subject to the conditions set out in the attached schedule.

*Peter Rose*  
INSPECTOR

Richborough Estates

## **SCHEDULE OF CONDITIONS**

### **General**

1. Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and be approved in writing by the local planning authority before any development begins and the development shall be carried out as approved, and such matters shall include full details of the number of dwellings not exceeding 82.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the approved drawings Ref: 3605/2.00/2B, Ref: 3605/2.10N and Ref: 3605/2.00/2, but only to the extent that drawing Ref: 3605/2.00/2B defines the site boundary in red and drawing Ref: 3605/2.10N defines details of proposed access and, in respect of those two drawings, all other details as indicated thereon are not hereby approved.

### **Pre-commencement**

5. The reserved matters to be submitted pursuant to Condition 1 shall include details of a landscaped buffer no less than 15 metres deep at any point along the entire length of the site's northern A20 boundary. This buffer shall be retained as such after completion and shall not accommodate any dwellings.
6. The reserved matters to be submitted pursuant to Condition 1 shall not include any building more than two storeys in height.
7. Subject to the details as approved in relation to the proposed access, all existing trees and hedges within the site shall be retained unless otherwise agreed in writing by the Local Planning Authority. This shall include the existing hedges along the site boundaries to both the A20 and Ham Lane. Further, a management plan for maintenance of the existing boundary hedges shall be submitted to and be approved in writing by the Local Planning Authority prior to the commencement of any development indicating arrangements to ensure retention and appropriate growth of the hedges as permanent screening of the development.
8. No development shall take place until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), which shall include details of any tree and hedge works that would be necessary to implement the proposal and details of all trees and hedges to be retained and the proposed measures for protection, have been submitted to and been approved in writing by the Local Planning Authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable construction, and full details of foundation design for all

buildings within root protection zones where the AMS identifies that specialist foundations are required. The measures to be approved pursuant to the TPP shall be implemented before any equipment, machinery or materials are brought onto the site and shall be retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the prior written consent of the Local Planning Authority.

9. No development shall take place until an archaeological investigation of the site has been carried out in accordance with a specification to be submitted to and be approved in writing by the Local Planning Authority. The specification shall include proposals for an initial trial investigation and for mitigation of damage to deposits of importance thus identified. The investigation shall be undertaken by an appropriately qualified archaeologist in accordance with an agreed programme, and shall include the recording of findings and subsequent publication of results.
10. No development shall take place until full details of a scheme for proposed sustainable surface water drainage have been submitted to and been approved in writing by the local planning authority, and including arrangements for subsequent management. The scheme shall include appropriate flood mitigation measures and shall be implemented in accordance with the approved details, and in accordance with an agreed programme.
11. No development shall take place until full details of a scheme for foul water sewerage disposal have been submitted to and been approved in writing by the local planning authority, and the details shall be implemented as approved and in accordance with an agreed programme.
12. No development shall take place until full details of ecological mitigation and other measures in accordance with the submitted Aspect Ecology Ecological Assessment Ref: ECO3565.EcoAs.vf2 dated August 2014, and including precautionary strategies for breeding birds, dormice, reptiles and badgers, have been submitted to and been approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with an agreed programme.
13. The arrangements for access shown on drawing Ref: 3605/2.10N shall be implemented in accordance with a programme to be submitted to and be approved in writing by the Local Planning Authority, and the sightlines indicated shall thereafter be maintained free of all obstructions to visibility to a height of 1.0 metre above ground level.
14. No development shall take place until arrangements for associated works to the adjacent public highways, including a programme for implementation and arrangements for emergency access to the site, have been submitted to and been approved in writing by the Local Planning Authority, and the works shall be undertaken in accordance with the details and programme as agreed.

- 15.No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and in accordance with an agreed programme. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and be approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures in accordance with details and a programme of works to be approved in writing by the Local Planning Authority.
- 16.No development shall take place until a Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The approved Statement shall be implemented and adhered to throughout the construction period. The Statement shall include details and arrangements for the following matters:
- (i) parking of vehicles of site operatives and visitors;
  - (ii) loading and unloading of plant and materials;
  - (iii) storage of plant and materials used in constructing the development;
  - (iv) erection and maintenance of security hoardings;
  - (v) provision of wheel washing facilities and other measures required to mitigate the impact of construction upon the public highway;
  - (vi) measures to control the emission of dust and dirt during construction;
  - (vii) management of waste;
  - (viii) location of any site huts/cabins/offices, and;
  - (ix) details of public engagement both prior to and during construction works.

### **Other**

- 17.No part of the development shall be occupied until details of satisfactory facilities for the storage of refuse on the site have been submitted to and been approved in writing by the Local Planning Authority and the relevant approved facilities shall be provided before the first occupation of each dwelling and be retained thereafter.
- 18.No part of the development shall be occupied until a Travel Plan has been submitted to and been approved in writing by the Local Planning Authority. The Travel Plan once approved shall thereafter be implemented as specified within the agreed document. The Travel Plan shall accord with the principles set out in the submitted Transport Statement dated August 2014 and shall be implemented in accordance with an agreed programme.

19. The area of land shown shaded green on drawing Ref: 3605/2.00/2 shall be retained as open land and shall not accommodate any dwellings.
20. The development shall not be occupied until details of external lighting to be placed or erected within the site, and including a programme for implementation, have been submitted to and been approved in writing by the Local Planning Authority. The proposals shall include details of measures to shield and direct light from the light sources so as to prevent light pollution and shall be designed to minimise any implications for ecology. The works shall be carried out in accordance with the approved details and be retained thereafter.
21. The development hereby permitted shall be carried out in accordance with the recommendations of the submitted Grant Acoustics Noise Assessment Ref: GA-2013-0062-R1-RevC dated 13 August 2014.

Richborough Estates

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert of Counsel	Instructed by Head of Mid-Kent Legal Services
She called:	
Deanne Cunningham	Team Leader, Heritage, Landscape and Design
Tony Ryan	Principal Planning Officer

### FOR THE APPELLANT:

Paul Tucker of Queen's Counsel	Instructed by Jonathan Buckwell
He called:	
Jon Etchells	Jon Etchells Consulting Ltd
Jonathan Buckwell	DHA Planning

### INTERESTED PARTIES:

Kingsley Hughes	Designscape Consultancy Ltd on behalf of the Parish Council
Paul Buckley	Campaign to Protect Rural England (Kent)
Katie Miller	Kent Downs AONB Unit
Henny Shotter	Local resident, Parish Councillor and member of Neighbourhood Plan team
Michael Cockett	Local resident, Parish Councillor and member of Neighbourhood Plan team
Michael Jerrett	Local resident, Parish Councillor and member of Neighbourhood Plan team

## **DOCUMENTS SUBMITTED TO THE INQUIRY**

### **By the Council:**

1. Opening submissions by Emmaline Lambert of Counsel
2. Compendium of Core Documents and Proofs (as previously provided)
3. Summary proof of evidence of Tony Ryan
4. Email from Deanne Cunningham to Richard Elder dated 29 February 2016
5. Email from Emmaline Lambert to Dana Saduka dated 28 April 2016 and accompanying plans relating to site boundary of AONB
6. Closing submissions by Emmaline Lambert of Counsel

### **By the appellant:**

7. Opening submissions by Paul Tucker of Queen's Counsel
8. Landscapes of Local Value, report to Council's Strategic Planning, Sustainability and Transport Committee on 8 September 2015
9. Landscapes of Local Value, Urgent Update Report to Council's Strategic Planning, Sustainability and Transport Committee on 8 September 2015
10. Plan of Landscapes of Local Value
11. Extracts from Maidstone Landscape Capacity Study: Site Assessments January 2015
12. Spatial Strategy Key Diagram p23, Maidstone Borough Local Plan - Publication (Regulation 19) February 2016
13. Key Diagram p132, Maidstone Borough Local Plan - Regulation 18 Consultation 2014
14. Policy ENV32 Maidstone Borough-Wide Local Plan 2000
15. Site plan of Court Lodge Road, Harrietsham
16. Landscape Proposals drawing Ref: JEC/357/100 Revision B
17. Location Plan Ref: 3605/2.00/2B
18. Site Plan Ref: 3605/2.10N
19. Letter from Chris Sparks, Managing Director, Jones Homes (Southern Ltd) dated 28 April 2016
20. Draft Unilateral Undertaking
21. Closing submissions by Paul Tucker of Queen's Counsel, and including Court decisions relating to Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin), and relating to Jones and Mordue and the Secretary of State for Communities and Local Government and South Northamptonshire Council [2015] EWCA Civ 1243
22. Email and enclosures dated 6 May 2016 relating to AONB boundary



23. Final Unilateral Undertaking signed and dated 12 May 2016, and accompanying local planning authority comments submitted by email dated 13 May 2016, and from Kent County Council dated 18 May 2016

**Jointly by the main parties:**

24. Section 106 Schedule: Policy context and CIL test summary for obligations/contributions sought (and as subsequently updated by emails dated 10 and 11 May 2016)
25. Commentary in relation to compliance with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010
26. Suggested draft list of conditions for full planning permission
27. Suggested draft list of conditions for outline planning permission
28. Suggested itinerary for site visit prepared in consultation with third parties
29. Suggested wording for conditions submitted by email dated 6 May 2016 relating to the land to the west shown shaded green on drawing Ref: 3605/2.00/2 and which is proposed to remain undeveloped, and for Travel Plan

**By other parties:**

30. Lenham Neighbourhood Plan Regulation 14 Submission February 2016 (and supporting publications) (from Neighbourhood Plan team)
31. Appeal decision APP/U2235/W/15/3119223 dated 30 November 2015 and relating to Land south of Court Lodge Road, Harrietsham, Kent ME17 1AS (from Mr Buckley)
32. List of SHLAA/Neighbourhood Plan references (from Henny Shotter)

**Other documents post-Inquiry**

Maidstone Borough Local Plan Housing Topic Paper 2016 and accompanying representations from the Council, and submissions from the appellant, and on behalf of Lenham Parish Council