



Statement of Case of Kent County Council (Rule 6 Party)

Appeal by: Hodson Developments Ltd (“**Appellant**”)

Appeal Site: Land north of Possingham Farmhouse, Ashford Road, Great Chart,
Kent TN26 1JR (“**Appeal Site**”)

Appeal against refusal to grant outline planning permission for:

The development of up to 655 residential dwellings (including 30% affordable dwellings) to consider access only (excluding internal circulation routes), will all other matters reserved (“**Proposed Development**”)

Appeal Reference: APP//E2205/W/24/3345454 (“**Appeal**”)

Planning Application Reference: 22/00571/AS (“**Application**”)

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1. INTRODUCTION

1.1 Kent County Council (“KCC”) makes these representations in its role as the authority responsible for highways, education, SEND, libraries, community learning, adult social care, Integrated Children’s Services, waste disposal and public rights of way (PROW) and the lead local flood authority.

1.2 The Application under appeal is for the Proposed Development which comprises:

An outline application for the development of up to 655 residential dwellings (including 30% affordable dwellings) to consider access only (excluding internal circulation routes), with all other matters reserved.

1.3 This Appeal has been made by the Appellant following the refusal of the Application by Ashford Borough Council (“the Borough Council”) on 14th December 2023.

1.4 The Application for planning permission was refused for the following reason(s):

- (1) The development would constitute an overly dense and urban form of development that would visually encroach on the countryside and harm the landscape character of the area. The density of the development would fail to accord with the character of the permitted adjacent Chilmington Green development and would consequently harm the setting of that development. The density of the development would also result in a failure to provide a good standard of public amenity for future residents of the development.
- (2) The development would be located in a presently unsustainable location where future residents of the development would not have access to appropriate local services and facilities that are convenient and accessible by sustainable modes of transport.
- (3) In the absence of a comprehensive and robust assessment of the impact of the development on the strategic and local highway network and highway safety, the applicant has failed to demonstrate that the development would not have a severe impact on the highway network and/or an unacceptable impact on highway safety, and/or a requirement to contribute to the repayment of forward-funding secured and used by the Council to provide highway capacity at Drovers roundabout and/or M20 Junction 9.
- (4) In the absence of appropriate surveys and a robust assessment of the cumulative impact of development in the vicinity of the site, the applicant has failed to demonstrate that the development would not cause harm to protected species. The applicant has

also failed to demonstrate that appropriate mitigation measures can be secured.

- (5) In the absence of appropriate information about the impact of the development on flood risk and the delivery of a sustainable drainage system as part of the development, the applicant has failed to demonstrate that the development would not result in a risk of flooding or that an appropriate sustainable drainage solution would be proposed.
 - (6) The applicant has failed to demonstrate that public benefits would be delivered by the development that would outweigh the less than substantial harm to the setting of an adjacent listed building (Possingham Farmhouse).
 - (7) The applicant has failed to demonstrate that the development would be resilient to, and help mitigate against, the effects of climate change.
 - (8) The applicant has failed to demonstrate that the development would not add to the deterioration of the water quality at the Stodmarsh European designated site, thereby harming internationally-protected habitats.
 - (9) In the absence of a legal agreement to secure planning obligations, including affordable housing provision, Building Regulations M4(2) and M4(3) compliant dwellings, custom and self-build housing, and financial contributions to mitigate the impact of the development on local services and infrastructure, together with the costs of monitoring and reporting, the application fails to secure the infrastructure and facilities required to meet the needs generated by the development.
- 1.5 The reasons for refusal that are relevant to their responsibilities set out at 1.1 above are RfR2, RfR3, RfR5 and RfR9 (in part). Accordingly, this Statement of Case (SoC) addresses each of these in turn.

2. APPEAL SITE CONTEXT

KCC refers to Section 2 of the Borough Council's SoC which sets out the Appeal Site and context.

3. RELEVANT PLANNING POLICY

KCC refers to Section 3 and paragraphs 6.1, 7.1, 9.1 and 13.1 of the Borough Council's SoC which set out the relevant planning policies. KCC does not repeat this information but where there are additional planning policies and documents that are relevant, these are set out in the relevant sections below.

4. RESPONSE TO THE APPELLANT'S STATEMENT OF CASE

KCC submits this SoC in support of RfRs 2, 3, 5 and 9 (in part). These are dealt with in turn below.

5. RFR2 – UNSUSTAINABLE LOCATION AND RFR3 – IMPACT ON THE STRATEGIC AND LOCAL HIGHWAY NETWORK AND HIGHWAY SAFETY

RfR2 The development would be located in a presently unsustainable location where future residents of the development would not have access to appropriate local services and facilities that are convenient and accessible by sustainable modes of transport.

RfR3 In the absence of a comprehensive and robust assessment of the impact of the development on the strategic and local highway network and highway safety, the applicant has failed to demonstrate that the development would not have a severe impact on the highway network and/or an unacceptable impact on highway safety, and/or a requirement to contribute to the repayment of forward-funding secured and used by the Council to provide highway capacity at Drovers roundabout and/or M20 Junction 9.

5.1 KCC's responses to the Borough Council in respect of the Application in its role as Highway Authority were made on 25 April 2022, 23 August 2022 and 21 July 2023 and are attached to this SoC as Appendix 1.

5.2 The final representation dated 21st July 2023 recommended refusal of the Planning Application on the following grounds:

(1) The proposal, located remote from services, employment opportunities and not being well served by public transport, is contrary to the aims of the National Planning Policy Framework (paragraphs 105, 110 and 112) which seeks to support reductions in greenhouse gas emissions, reduce congestion and minimise journey lengths, KCC's Local Transport Plan and Ashford Borough Council's Local Plan policy SP1, which seeks to focus development at accessible and sustainable locations and to promote access to a wide choice of easy to use forms of sustainable transport modes including bus, train, cycling and walking to encourage as much non-car based travel as possible and to promote healthier lifestyles.

(2) The proposed development is likely to generate an increase in pedestrian and cycle traffic on highways lacking adequate footways and cycleways with consequential additional hazards to all users of the highway. The proposal is therefore contrary to the aims of the National Planning Policy Framework (paragraph 112), KCC's Local Transport Plan and is contrary to Ashford Borough Council's Local Plan policies TRA5 and TRA6 which seeks to promote walking and cycling links to wider footway and cycleway network.

- (3) The proposals will have a severe impact on the A28 corridor resulting in increased travel times, delay and congestion. This will lead to increased driver frustration and subsequent risk to highway safety. The proposal is therefore contrary to the aims of the National Planning Policy Framework (paragraph 111), KCC's Local Transport Plan and is contrary to Ashford Borough Council's Local Plan policy TRA7 which states that proposals which would generate levels and types of traffic movements, beyond that which local roads could reasonably accommodate in terms of capacity and road safety will not be permitted.
- 5.3 This resulted in RfRs 2 and 3 as set out in the Application refusal notice.
- 5.4 To date the Appellant has not submitted any formal documentation seeking to address the second and third representations made by KCC and RfRs 2 and 3. Furthermore, KCC has not agreed any Statement of Common Ground with the Appellant in respect of highway matters.
- 5.5 KCC does not agree with paragraph 3.4.3 of the Appellant's SoC due to the lack of a robust Transport Assessment having been submitted to enable KCC to be able to properly assess the impact of the Proposed Development on the local highway network. KCC's concerns with the Transport Assessment submitted by the Appellant are set out in our planning consultation responses. The Appellant's Transport Assessment only assesses the impact on the Matalan Roundabout and is based on a flawed trip distribution and assignment using 2021 National Traffic survey data (which was undertaken in a COVID-19 lockdown). This does not properly consider the impact of the Proposed Development on the A28 corridor and has failed to demonstrate that the Proposed Development would not have a severe impact on the highway network and/or an unacceptable impact on highway safety.
- 5.6 Furthermore, the Appellant has still not demonstrated how the Proposed Development is sustainable by providing safe walking and cycling links to the wider area such as Great Chart and Singleton and adequate public transport provision to reduce the reliance on the private motor vehicle. This is especially important as the only community facility current available at Chilmington Green is a primary school with all other facilities available either within Great Chart or Singleton which are currently inaccessible by sustainable modes of transport as the A28 currently has no footway / cycleways and there are no other safe walking or cycling links to Great Chart or Singleton.
- 5.7 KCC will continue to engage in discussions with the Appellant to narrow the areas of disagreement and reserves the right to respond to any information that the Appellant may provide at a future date in respect of these points, including the Transport Assessment Addendum that has been requested as part of the discussions with the Appellant.
- 5.8 KCC will submit a proof of evidence in respect of RfRs 2 and 3 if agreement cannot be reached on all matters relating to these RfRs.

6. RFR5 – RISK OF FLOODING AND LACK OF AN APPROPRIATE SUSTAINABLE DRAINAGE SYSTEM

RfR 5 In the absence of appropriate information about the impact of the development on flood risk and the delivery of a sustainable drainage system as part of the development, the applicant has failed to demonstrate that the development would not result in a risk of flooding or that an appropriate sustainable drainage solution would be proposed.

6.1 KCC's response to the Application as lead local flood authority (RfR5) was made on 16 May 2022 and is attached as Appendix 2.

6.2 Whilst KCC was generally accepting of the principles proposed for dealing with surface water, KCC requested a holding objection be placed on the Application pending clarification of the catchment areas used to calculate the greenfield run off rates and additional analysis undertaken to understand the flooding implications for a greater climate change allowance of 35% for the 3.3% AEP event and 45% for the 1% AEP event in line with the allowance requirements set out in [Flood risk assessments: climate change allowances - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/flood-risk-assessments-climate-change-allowances)

6.3 KCC has now agreed the further information that will be provided by the Appellant (comprising an updated Flood Risk Assessment and Drainage Strategy) in order to allow KCC to assess the potential impact of the Proposed Development on flood risk and sustainable drainage. It is intended that following an assessment of this further information a statement of common ground will be entered into in respect of this RfR.

6.4 If a statement of common ground and suitably worded conditions are agreed then KCC would withdraw its objection in relation to flood risk which would lead to the withdrawal of RfR 5.

6.5 KCC's standard conditions are as follows:

Condition: No development shall take place until the details required by Condition 1 (assumed to be reserved matters condition for layout) shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

Condition: No development shall take place until the details required by condition 1 (assumed to be reserved matters condition for layout) demonstrate that an effective outfall for surface water is provided for the development layout. This information may include details of surveys of watercourses and culverts [between the development and xxxxxxxxx] and / or details of any works that may be necessary to deliver an effective outfall for surface water.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water.

Condition: Information shall be submitted to (and approved in writing) by the Local Planning Authority that demonstrates that off-site surface water drainage works are appropriately secured and protected and subsequently implemented prior to the occupation of any phase of the development.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water.

Condition: Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the [insert FRA Ref.] and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of [within the curtilage of the site] without increase to flood risk on or off-site.

[The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths can be accommodated and disposed of without increase to flood risk on or off site].

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.*
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.*

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

Condition: No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 175 of the National Planning Policy Framework.

6.6 KCC will submit a proof of evidence in respect this RfR if agreement cannot be reached on all matters relating to this RfR.

7. RFR9 – FAILURE TO SECURE THE INFRASTRUCTURE AND FACILITIES REQUIRED TO MEET THE NEEDS GENERATED BY THE DEVELOPMENT

RFR9 In the absence of a legal agreement to secure planning obligations, including affordable housing provision, Building Regulations M4(2) and M4(3) compliant dwellings, custom and self-build housing, and financial contributions to mitigate the impact of the development on local services and infrastructure, together with the costs of monitoring and reporting, the application fails to secure the infrastructure and facilities required to meet the needs generated by the development.

7.1 KCC's response in respect of education and community facilities (RfR9 (part)) was by letter to the Borough Council dated 17th May 2022 attached to this statement as **Appendix 3**.

7.2 The following section sets out the legislative and policy drivers for the provision of KCC's services, together with details of the contributions

sought and the proposals for the expenditure of the contributions collected. The legislative context is relevant because it sets out the duties upon and powers available to KCC. The relevant policies are set out in national and KCC policy documents, plans and programmes. They are material because they represent the official position of the Government and KCC as service providers.

- 7.3 KCC will work with the LPA and the Appellant to complete a s106 agreement in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) to secure the necessary contributions set out in this SoC. KCC will also submit a CIL Compliance Statement to assist the Inspector with their assessment under Regulation 122 and 123 of the CIL Regulations.
- 7.4 Policies COM1 ('Meeting the Community's Needs') and IMP1 ('Infrastructure Provision') of the [Ashford Local Plan 2030 \(adopted February 2019\)](#) ("Ashford Local Plan") confirm that the Borough Council will continue to seek financial contributions through the use of s106 Agreements to secure the delivery of infrastructure where it is justified to do so in line with the NPPF and The Community Infrastructure Levy Regulations 2010 (as amended). This refers to infrastructure and facilities required to meet the needs generated by new development such as education and community (including Integrated Children's Services and Community Learning).
- 7.5 KCC has adopted the [Kent County Council Developer Contributions Guide 2023 \("the Guide"\)](#) which sets out the developer contributions which may be required by KCC to support growth and mitigate any adverse impacts on its infrastructure from new development. Whilst not a statutory planning document, it is a material consideration and forms the basis for KCC's re-assessment of the Proposed Development in order to provide an up-to-date response to this Appeal.

The use of developer contributions links to KCC's Strategic Statement '[Framing Kent's Future: Our Council Strategy 2022-26](#)'. This includes the key priority - 'Infrastructure for Communities', which contains several commitments and supporting objectives to improve the county's infrastructure, including: "Our 'Infrastructure First' commitment seeks to ensure that new development provides the appropriate physical and social infrastructure necessary to support new and existing communities' quality of life".

(1) **Education**

- (a) KCC is the Statutory Authority responsible for education and is the Strategic Commissioner of Education Provision. KCC policy is set out in a number of documents including the [Commissioning Plan for Education Provision in Kent 2024 - 2028](#) (updated annually). The impact of the Proposed Development on

the delivery of KCC's education services is assessed in **Appendix 3**.

- (b) The Department for Education guidance on [Securing developer contributions for education](#) dated August 2023 (Para 47) recommends that a preferred and contingency school expansion project is identified in a planning obligation to enable local authorities to respond to changing circumstances and new information.
- (c) The Proposed Development has been assessed in accordance with the Guide methodology of assessment. This assessment starts with the forecast capacity of existing schools, taking in to account existing cohorts, the pre-school aged population, historic migration patterns and new residential developments in the locality. Contributions are sought based upon the additional need required, where the forecast pupil product from new developments in the locality results in the maximum capacity of local schools being exceeded.

(2) **Secondary Education**

- (a) The Proposed Development will give rise to 86 additional secondary school pupils from the date of full occupation of the Proposed Development as set out in the assessment at **Appendix 3**. This need, cumulatively with other new developments in the Planning Groups, can only be met through a new secondary school at Chilmington Green and/or the provision of a secondary school extension project or projects for the existing secondary schools in the district in order to provide additional secondary school places to accommodate secondary school pupils from this Proposed Development.
- (b) Based on the outcome of the above-mentioned assessment a Secondary Education Contribution of **£5,587.19 per applicable house and £1,396.80 per applicable flat** is required towards the provision of additional places. Note : the term "applicable" means all dwellings except 1-bedroom dwellings of less than 56 sqm.

(3) **SEND**

- (a) KCC has responsibilities to improve services, life chances and choices for vulnerable children and to support families under the Children and Families Act

2014. The Act extends the special educational needs and disabilities (SEND) system from birth to the age of 25 where appropriate, giving children, young people and their parents/carers greater control and choice in decisions and ensuring their needs are properly met.

- (b) KCC's [SEND Strategy 2021-2024](#) has been developed jointly by KCC and the NHS, in conjunction with children, young people, parents and carers, Kent Parents and Carers Together (PACT) and other key stakeholders.
- (c) Children with more complex needs are supported through an Education, Health and Care Plan (EHP) which sets out the provision they are entitled to. School-age pupils with EHPs are educated in mainstream school classes, in Specialist Resourced Provisions (SRPs) on mainstream sites and in stand-alone special needs schools.
- (d) All SEND infrastructure in Kent is currently at capacity. KCC will therefore, seek proportionate contributions from all housing proposals that generate pupils and meets the (contributions) threshold to mitigate this demand.
- (e) A proportionate contribution of **£559.83 per applicable house** and **£139.96 per applicable flat** (in accordance with the Guide) is therefore required to mitigate the impact from the Proposed Development through the provision of additional SEND places and/or additional SEND facilities to serve the needs of the Proposed Development within the District. Note: The term 'applicable' means all dwellings except 1-bedroom dwellings of less than 56 sqm.

(4) **Libraries, Registrations and Archives Service**

- (a) KCC is the statutory library authority. Accordingly KCC has a statutory duty under [section 7 of the Public Libraries and Museums Act 1964](#) to provide 'a comprehensive and efficient library service'. The Local Government Act 1972 also requires KCC to take proper care of its libraries and archives.
- (b) National Guidance in relation to this service can be found in:

- [Building Better Libraries for the Future](#) (updated 2017),
 - [Libraries as a statutory service](#) (July 2019),
 - [Libraries Deliver: Ambition for Public Libraries in England 2016 to 2021](#) and
 - [Government Policy on Archives \(1999\)](#).
- (c) KCC policy drivers are contained in the Kent County Council [Framing Kent's Future – Our Council Strategy 2022-2026](#) and the [Libraries, Registration and Archives Strategy 2019-2022](#).
- (d) The Proposed Development will generate additional clients and library users and additional resources are required to cope with this additional demand. The Library Service is a universal non-discriminatory service statutorily required to be available to all.
- (e) The impact of the Proposed Development on the delivery of KCC's services is assessed in **Appendix 3**.
- (f) Based on the above-mentioned assessment borrower numbers are in excess of capacity, and bookstock in Ashford Urban Area at 583 items per 1000 population is below the National standard of 1,532.
- (g) As such, KCC require a Library Contribution of **£62.63 per dwelling** (in accordance with the Guide) to address the direct impact of the development on these services. The contribution will be put towards the additional resources, equipment and stock (including digital infrastructure and resources and reconfiguration of space) at local libraries serving the development, including Ashford Gateway and Stanhope Libraries, to meet the demands of the additional borrowers which will be generated by the Proposed Development.
- (5) **Community Learning and Skills**
- (a) KCC provides community learning and skills (CLS) facilities and services for further education in line with KCC policies as set out in its [Framing Kent's Future – Our Council Strategy 2022-2026](#) and [Strategic Statement Increasing Opportunities, Improving Outcomes](#) (adopted Spring 2015). Community Learning and Skills helps people moving to a new development overcome social isolation and encourages community

cohesion, as well as improving skills in a wide range of areas.

- (b) KCC has assessed there to be a shortfall in the provision for this service with the current adult participation in both District Centres and Outreach facilities being in excess of current service capacity, as shown in **Appendix 3**, along with the costs of mitigation.
- (c) As such, KCC requires a Community Learning Contribution of **£34.21 per dwelling** (in accordance with the Guide) to mitigate the impact of the Proposed Development on KCC's adult education service. The contribution will be put towards additional equipment and resources for the new learners at Adult Education Centres (AECs) and outreach provision in the Borough serving the development, including Ashford Gateway and Homewood School AECs.

(6) **Integrated Children's Services - Youth and Early Years Services**

- (a) KCC has a statutory duty to provide Youth Services under [section 507B of the Education Act 1996](#) which requires KCC, so far as reasonably practicable, to secure sufficient educational leisure-time activities for the improvement of young persons' well-being and sufficient facilities for such activities for persons aged 13 to 19 and certain persons aged 20 to 25 who have additional needs.
- (b) KCC is also required to comply with statutory guidance issued by the UK Government entitled '[Working Together to Safeguard Children](#)' which requires KCC to safeguard and promote the welfare of children, to assess their needs and provide help through inter-agency working from pre-birth to 19 years (or up to 25 for young people with additional needs).
- (c) KCC has assessed there to be an increased demand on the Integrated Children's Service at Appendix 3, along with the costs of mitigation relating to the increased demand from the Proposed Development.
- (d) In order to mitigate the impact the Proposed Development will have on KCC's Youth and Early Years Services, KCC requests an Integrated Children's

Services Contribution of **£74.05 per dwelling** (in accordance with the Guide) to be put towards additional resources and equipment for the Integrated Children's Services in Ashford Borough to enable expansion of capacity within the hubs and provision of outreach work in the vicinity of the Proposed Development.

(7) **Adult Social Care**

- (a) KCC's Adult Social Care (ASC) services comprise social work, personal care, and practical support for adults (18 years+) with a physical or learning disability, or physical or mental illness. It also includes safeguarding for those at risk of harm and abuse, and support for unpaid carers.
- (b) A key priority of ASC is enabling residents to live safely and independently in their local communities for as long as possible. [Making a difference every day – Our strategy for Adult Social Care 2022 to 2027](#) (April 2022) sets out KCC's ASC strategy, in conjunction with Framing Kent's Future – Our Council Strategy 2022-2026, Priority 4: New Models of Care and Support.
- (c) ASC services operate in the context of the UK Government's and KCC's aspirations and operates in collaboration with District and Borough Councils. ASC services look to build upon Government publications over the last few years, particularly in relation to KCC's statutory responsibilities under the Care Act 2014, Mental Health Act 1983, Mental Capacity Act 2005, Human Rights Act 1998 and Equalities Act 2010.
- (d) The Proposed Development will result in additional demand upon the Social Care services for elderly people and adults with learning and/or physical disabilities and/or mental health problems.
- (e) KCC has a statutory duty to provide Social Care services. However, all available Social Care capacity is fully allocated and there is no spare capacity to meet additional demand arising from this, or any other, developments. Additionally, the KCC Social Care budgets are fully allocated, therefore no spare funding is available to address the capital costs for social care clients generated from new developments.
- (f) KCC ASC services will direct contributions towards the following infrastructure areas to meet its priority of supporting independent living, including: specialist

housing (extra care and supported living accommodation); digital technology systems and home adaptation equipment; adapting community facilities to make them accessible for all; sensory facilities, such as technology to reduce stress and anxiety or encourage sensory development and social engagement; and Changing Places. In accordance with CIL 122, KCC is intending to apply the contributions to the most pressing needs at the time of receipt, and whilst specialist housing remains part of the package of assistance given to social care clients, it is requested the contributions may be applied to all or any of the wider basket of care outlined above.

- (g) As set out in the assessment at **Appendix 3**, in order to mitigate the impact of the Proposed Development KCC would require an Adult Social Care Contribution of **£180.88 per dwelling** (in accordance with the Guide) to be put towards specialist housing provision, adaption of community facilities, technology to promote independence, multi sensory facilities and Changing Places within the Borough.
- (h) Furthermore, the Ministry of Housing, Communities and Local Government (now the Department for Levelling Up, Housing and Communities) identified in June 2019 guidance entitled [Housing for Older and Disabled people](#) that the need to provide housing for elderly and disabled people is critical.
- (i) Accessible and adaptable housing enables elderly and disabled people to live more independently and safely by providing safe and convenient homes with suitable circulation space and suitable bathrooms and kitchens. This is supported by paragraph 135(f) of the NPPF which states planning policies and decisions should ensure developments *“create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”*.
- (j) Footnote 52 of the NPPF provides that “Planning policies for housing should make use of the Government’s optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties.”
- (k) The UK Government’s [Housing: Optional and Technical Standards](#) states that *“Local planning authorities should*

take account of evidence that demonstrates a clear need for housing for people with specific housing needs and plan to meet this need.”

- (l) As such KCC requires that the dwellings within the Proposed Development are built to **Building Reg Part M4(2) standard** to ensure they remain accessible through the lifetime of the occupants to meet any changes in the occupant’s requirements.

- (m) KCC therefore requests that the following condition be part of any planning permission granted on appeal:-

“Accessible and Adaptable Dwellings

Condition: All Dwellings are to be built to Wheelchair Accessible and Adaptable Standard in accordance with Building Regulations Part M4(2).

Reason: To ensure the housing is suitable for elderly and disabled residents in line with the NPPF and the Government’s Housing: Optional and Technical Standards guidance and Housing for Older and Disabled People guidance.”

(8) Waste Disposal and Recycling

- (a) KCC is the statutory ‘Waste Disposal Authority’ for the area in question under the Environmental Protection Act 1990 and is responsible for the safe and final disposal of all household waste and the provision of both Household Waste Recycling Centres (HWRCs) and Waste Transfer Stations (WTSs).

- (b) KCC’s [Kent Waste Disposal Strategy 2017-2035](#) sets out the current position, identifies future pressures and outlines how KCC will maintain a sustainable waste management service. It includes population and housing growth, budget pressures, market provision, current performance, legislation, and performance targets.

- (c) KCC currently operates five Waste Transfer Stations (WTS) under contract for the deposit and bulk loading of waste collected by district councils with another three non-KCC WTS under contract. KCC also operates 19 household waste recycling centres (HWRC), providing Kent residents with facilities for reuse, recycling, and safe disposal of a range of materials. Each household produces an average of 0.26 tonnes of waste per year

which is processed at HWRCs and 0.82 tonnes per year of waste processed at WTSs.

- (d) The existing HWRCs and WTSs are over capacity and additional housing is having a significant impact on the manageability of waste within Kent.
 - (e) Waste contributions are requested on a 'per dwelling' basis. The methodology for calculating the contribution per dwelling is based upon the total cost of the build cost per tonne of infrastructure capacity, multiplied by the tonnage of waste produced by a household. The per dwelling rate for new WTS infrastructure is £142.13 and for HWRC infrastructure it is £52.00 per dwelling.
 - (f) When determining planning applications for non-waste development, decision-makers should ensure that the likely impact of proposed, non-waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities.
 - (g) The [Kent Minerals and Waste Plan 2013-30](#) Policy CSW 4, Strategy for Waste Management Capacity, includes recycling/composting and other recovery targets to be met for Local Authority Collected Waste over the Plan period.
 - (h) In addition, Policy CSW 3 of the Kent Minerals and Waste Plan on Waste Reduction requires that planning applications for new non-waste development include "... detailed consideration of waste arising from the occupation of the development including consideration of how waste will be sorted, collected and managed".
 - (i) The Proposed Development will place an additional pressure on KCC's WTS infrastructure and pursuant to its assessment set out at **Appendix 3**, KCC requests a Waste Contribution of **£142.13 per dwelling** (in accordance with the Guide) to be put towards the provision of a new WTS within the Folkestone & Hythe District.
- (9) **PROW Contributions**
- (a) KCC's PROW and Access Service provided their consultation response to the Borough Council on 18 May 2022 (Appendix 4). KCC has a duty under the Highways Act 1980 to keep the surface of highways, including

footpaths and other public rights of way, in a suitable condition and fit for the type of traffic expected to use it.

- (b) Paragraphs 104 and 124(a) of the NPPF provide that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks and that decisions should encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains such as developments that would enable new habitat creation or improve public access to the countryside.
- (c) National guidance for Local Authorities on Public Rights of Way is contained within the Department for Transport's [Rights of Way Circular \(1/09\)](#). KCC's policies on Public Rights of Ways are set out in its [Rights of Way Improvement Plan 2018 - 2028](#)
- (d) The Proposed Development will directly impact Public Footpaths AW237 and AW220 and Byway Open to All Traffic AW245 as there will be increased use generated by the Proposed Development.
- (e) To mitigate this impact KCC requires a **Footpath Contribution of £35,000** to be paid prior to any occupation of the Proposed Development to ensure connectivity is in place to and from the site and is of quality to match the proposals within the site
- (f) The contribution will be utilised as follows:

Public Footpaths AW237 and AW220 in terms of vegetation clearance, new signage and improved junctions with Ashford Rd and Chilmington Green Road respectively : **£10,000.**

Byway Open to all Traffic AW245, for 340m to the south of the development red line boundary (also its junction with AW220), to junction with AW237, in terms of new improved all weather surface, edging, clearance, new signage, (quote of £70 per square metre) to ensure the route matches the improvements that we would expect to come forward from the developer as the route goes North along the eastern boundary and is within the site : **£25,000.**

(10) **Indexation and Monitoring Fees**

- (a) All KCC contributions should be index linked in accordance with the provisions in the Guide.
- (b) KCC's fee for monitoring of the s106 agreement/unilateral undertaking is £300 per payment trigger.

8. RELATIONSHIP TO THE WIDER CHILMINGTON GREEN DEVELOPMENT

- 8.1 The Appellant has indicated in their SoC (paragraphs 3.11.1 -3.11.3) that the Proposed Development *“will contribute to supporting the delivery of the wider development through the release of an accessible and unconstrained area of land aiding housing delivery; investment in local infrastructure (through S106); increased affordable housing provision (compared to the wider Chilmington Green development); and supporting the establishment of services (through population growth at Chilmington). It will be explained how the appeal proposal can benefit from infrastructure to be provided at Chilmington Green and it will be explained how the appeal proposed can help to facilitate delivery of some facilities”*.
- 8.2 The Appellant also notes that they will explain and demonstrate *“that this adds to the “sustainability” credentials of the Appeal proposals and is a matter that should be weighed heavily in favour of the development”*.
- 8.3 KCC notes that the Appellant has two separate joined appeals pursuant to S106B TCPA 1990 in respect of the Chilmington Green development under appeal references 3333923 & 3334094. Through these appeals, the Appellant is seeking to discharge a number of obligations that form part of the current s106 agreement for that development. These include the proposed discharge of the obligations to provide the highways works to the A28 and the proposed discharge of a number of obligations related to education and community facilities including the reduction in the number of primary schools from 4 to 3, the discharge of the requirement to pay the stage 2 second secondary school contribution and the discharge of the requirements to provide contributions to community facilities (libraries, community learning, youth, social care)
- 8.4 KCC does not consider that the statements in the Appellants SoC are sufficiently clear and evidenced and reserves the right to respond to any information that the Appellant may provide in future in respect of these points.
- 8.5 KCC again reserves its right to respond to any information that the Appellant may provide at a future date in respect of this point.

9. STATEMENT OF COMMON GROUND AND PLANNING CONDITIONS

- 9.1 KCC has had initial discussions with the Appellant in relation to draft Statement(s) of Common Ground. KCC will continue to work with the Appellant to agree the final draft(s).
- 9.2 KCC will also work with the LPA and the Appellant to agree draft Planning Conditions for the Inspector's consideration in the event that the Inspector decides to allow the Appeal.

10. WITNESSES

- 10.1 KCC will provide a list of expert witnesses who will give evidence on behalf of KCC. Provisionally KCC proposes that expert evidence will be provided on the following matters:

RfR2 Unsustainable location and RfR3 – Impact on the strategic and local highway network and highway safety;

RfR 5 – Risk of flooding and lack of an appropriate sustainable drainage system; and

RfR9 – Failure to secure the infrastructure and facilities required to meet the needs generated by the Proposed Development.

11. APPENDICES

1. Letters dated 25 April 2022, 23 August 2022 and 21 July 2023 – Highways and Transportation
2. Letter dated 16 May 2022 – Flooding and Drainage
3. Letter dated 17th May 2022 and supporting assessments
4. KCC Public Rights of Way Response dated 18 May 2022.