



ASHFORD
BOROUGH COUNCIL

Statement of Case of the Local Planning Authority in respect of:

Land north of Possingham Farmhouse, Ashford Road, Great Chart, Kent

Appeal by:

Hodson Developments Ltd

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), with all other matters reserved

Appeal Reference: APP/E2205/W/24/3345454

Planning Application Reference: 22/00571/AS

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Appeal Reference: APP/E2205/W/24/3345454
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Appendices

- A Chilmington Green Residential Density Parameter Plan OPA03R4 P4
- B Chilmington Green Storey Heights Parameter Plan OPA04R1 P1

1.0 Introduction

1.1 This Statement of Case is submitted on behalf of the Local Planning Authority (the “LPA”), Ashford Borough Council (“the Council”).

1.2 An application for outline planning permission (ref; 22/00571/AS) was made, on 8 April 2022, for the following development:

“Outline application for the development of up to 655 residential dwellings (including 30% affordable dwellings) provision of new roads, footpaths, cycleways, installation of appropriate utilities, infrastructure (including Sustainable Drainage System (SuDS), car parking spaces, landscaping, within land north of Possingham Farmhouse, Ashford Road, Great Chart, Ashford’.

1.3 To more accurately reflect that the application had been submitted in ‘outline’ the description was amended, with the appellant’s agreement, to the following:

‘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’.

1.4 Outline planning permission was refused by the Council’s Planning Committee on 13 December 2023 for the following reasons:

‘The application is contrary to policies SP1, SP2, SP6, HOU1, HOU5, HOU6, HOU14, HOU18, TRA4, TRA5, TRA6, TRA7, TRA8, ENV1, ENV3a, ENV6, ENV8, ENV9, ENV12, ENV13, COM1, COM2 and IMP1 of the Ashford Local Plan 2030, the Council’s Climate Change Guidance for Development Management and guidance contained in the NPPF for the following reasons:

- 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 decision notice (CD1/3) was issued on 14 December 2023. A copy of the Planning Committee report ("the Committee report") (CD1/2), the supplementary update report and the minutes of the meeting have already been sent to the Planning Inspectorate ("PINS") with the Appeal Questionnaire (CD1/4).
- 1.6 The Committee report provides details of the statutory and non-statutory consultations and publicity undertaken under the application and the responses

received. Copies of all the representations received have already been sent to PINS with the Appeal Questionnaire.

2.0 Appeal Site Context

- 2.1 A description of the appeal site (“the Site”) and its surroundings is provided in the Committee report (paragraphs 2-8). There has been no material change to the Site and its surroundings since the Committee report was drafted.
- 2.2 The planning history of the Site and land adjoining is also set out in the Committee report (paragraphs 12-19). At the time of drafting this Statement, the status of the applications referred to as ‘pending decision’ has not changed. However, the following applications not referred to in the Committee report are also relevant to this appeal.
- 2.3 Full planning permission was refused on 7 May 2024 for the construction of a Wastewater Treatment Plant, associated landscaping, and proposed vehicular access from Chilmington Green Road (ref: PA/2023/0715). The appellant submitted an appeal to PINS on 31 May 2024 (ref: APP/E2205/W/24/3345453). At the time of drafting this Statement, this appeal had not yet been determined.
- 2.4 The appellant applied to the Council, under s106a of the Town and County Planning Act 1990 (as amended), to discharge and/or modify over 100 of the planning obligations within the s106 agreement associated with the outline planning permission for the Chilmington Green development (ref: 12/00400/AS). The Council considered that this application had not been submitted correctly and was therefore invalid. The appellant has subsequently submitted an appeal against non-determination to PINS, who has made the appeal valid and requested further information from the appellant. At the time of drafting this Statement, the Council is waiting for confirmation from PINS about how this appeal will proceed, including a timescale for publicising the appeal and details of the Inquiry timetable. The LPA reserves the right to refer to this appeal, where it is relevant to the Possingham Farm appeal.
- 2.5 It is also relevant that the appellant sought pre-application advice from the LPA in April 2019 for the development of circa 500 homes on land north of Possingham Farm. The LPA advised that the principle of development would not be acceptable at the present time (it would be contrary to Local Plan policy HOU5) because the site would not be within easy walking distance of day to day services within the nearest settlement (either Great Chart or Ashford) or any current facilities at Chilmington Green itself and would not, at present, sit sympathetically within the landscape on this approach to Ashford.

3.0 Relevant Planning Policy

- 3.1 The status of the Development Plan on the date the planning application was refused is set out in paragraphs 48-49 of the Committee report. Since then the status of the following neighbourhood plans, referred to in paragraph 49 of the Committee report, has changed:
- (i) The Tenterden Neighbourhood Plan has progressed to Regulation 18 of the neighbourhood plan making process.
 - (ii) The Pluckley Neighbourhood Plan Review has passed Referendum.
 - (iii) The Aldington & Bonnington Neighbourhood Plan has progressed to Regulation 18 of the neighbourhood plan making process.
- 3.2 There are no Neighbourhood Plans relevant to this appeal.
- 3.3 The planning policies and guidance relevant to this appeal are set out in the reasons for refusal under paragraph 1.4 above and are referred to in the LPA's response to the appellant's Statement of Case ("SoC") below.

4.0 Response to the appellant's Statement of Case

- 4.1 The following sections set out the LPA's response to the appellant's SoC referring to each of the reasons for refusal ("RfR") in turn. For ease of comparison and reference the LPA has adopted the same format as that taken by the appellant in their Statement.
- 4.2 Following PINS Guidance, this Statement does not repeat or duplicate the Committee report, therefore this Statement should be read alongside the Committee report, with both documents forming the LPA's SoC.
- 4.3 The County Council, a Rule 6 party for this appeal, will submit its own SoC in support of RfR 3, 5, and 9 (in part). Likewise, National Highways will make their own submission in respect of RfR3. The LPA defers to these two statutory consultees in respect of these RfR and supports their reasons for objecting to the planning application.

5.0 RfR1 – Density of development / encroachment on the countryside / impact on landscape character / standard of public amenity.

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.

5.1 The planning policy and guidance relevant to RfR1 are:

National Planning Policy Framework (NPPF) December 2023

- Section 2 Achieving sustainable development
- Section 5 Delivering a sufficient supply of homes
- Section 8 Promoting healthy and safe communities
- Section 11 Making effective use of land
- Section 12 Achieving well-designed and beautiful places
- Section 15 Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

- Design: process and tools
- Effective use of land
- Healthy and safe communities
- Natural environment

Ashford Local Plan 2030

- Policy SP1 Strategic Objectives
- Policy SP2 The Strategic Approach to Housing Delivery
- Policy SP6 Promoting High Quality Design
- Policy HOU5 Residential Windfall Development in the Countryside
- Policy HOU18 Providing a Range and Mix of Dwelling Types and Sizes
- Policy ENV3a Landscape Character and Design
- Policy COM1 Meeting the Community's Needs

Policy COM2 Recreation, Sport, Play and Open Space

Other Material Considerations

- National Design Guide, 2021
- Chilmington Green Area Action Plan, 2013
- Landscape Character SPD, 2011
- Landscape Character Study, 2005
- Public Green Spaces and Water Environment SPD, 2012

- 5.2 The appellant's SoC states that "*RfR1, does not raise issue with the principle of housing development in this location*". The LPA does not agree with this statement. The proposed development does not meet several of the criteria listed in Local Plan policy HOU5 which must be met for the principle of residential windfall development to be acceptable in the countryside. RfR1 refers to the density, form, and visual impact of the development – points that are relevant to criteria (e) and (f) of policy HOU5. RfR1 does therefore raise an issue with the principle of housing development on the Site. For the avoidance of doubt, RfR2 also comprises an objection to the principle of development.
- 5.3 The Committee report (section 'b') sets out why the proposal "*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*".
- 5.4 The Committee report (paragraph 67) describes why the proposed landscape buffer is not appropriately sized and designed. The LPA will demonstrate that the proposed development fails to incorporate a sufficient landscape buffer and that this failure would result in the encroachment of development on the countryside.
- 5.5 The Committee report (paragraphs 64 & 68) describes out how the proposed density and scale of the development does not have regard to the parameters agreed for the neighbouring Chilmington Green development. The LPA will demonstrate that the proposed development has not been designed with regard to the layout of the Chilmington Green development, including the area of land within the Site that also forms a part of the Chilmington Green site. Particular reference will be made to the Chilmington Green residential density parameter plan and storey heights parameter plan (refer to Appendices A & B) and the Chilmington Green AAP (CD7/3).

- 5.6 The LPA will demonstrate that the existing boundary character of the Site, alongside the insufficient green buffer proposed, would not be sufficient to mitigate the harm that would be caused to the landscape character of the local area by the scale and density of the development.
- 5.7 The appellant has included annotated drone images in Appendix E of their SoC. There is no key included with these images to identify what the annotations represent. The LPA is concerned that, without a key, the annotations could be misinterpreted as indicating that built development within the proposed Chilmington Green development is proposed to extend right up to the eastern boundary of the Site, which it is not.
- 5.8 'There is a lack of information provided by the appellant in their planning application and SoC to demonstrate that the proposed development would provide a sufficient amount of meaningful publically accessible open space and play space, and the land use parameter plan does not appear to show sufficient space. Consequently, the LPA is not satisfied that the proposed development would provide a good standard of amenity for future residents, in accordance with Local Plan policies SP1(e), COM1, COM2, and the Public Green Spaces and Water Environment SPD, 2012.
- 5.9 The appellant states in their SoC (paragraph 3.2.2) that the scheme accords with Local Plan policy HOU5 and provides a significant number of economic, social, and environmental benefits, however, the appellant has not described what these economic, social, and environmental benefits are. The LPA will demonstrate that the proposed development does not accord with Local Plan policy HOU5. The LPA will also demonstrate that any economic, social, and environmental benefits of the development would not be sufficient to outweigh the harm that would be caused by the density and scale of the development.
- 5.10 The appellant's SoC (paragraph 3.2.2) refers to the contribution the development would make to meeting the Council's housing requirement, including affordable housing. A statement in respect of the Council's 5 year housing land supply is provided in Section 15 below. The LPA acknowledges that there is a requirement for housing, including affordable housing, in the Borough. However, the LPA will demonstrate that the harm caused by the development would not be outweighed by this requirement for housing.
- 5.11 The appellant's SoC (paragraph 3.2.2) states that the "*proposals will assist in bringing forward elements of the wider Chilmington Green development*". No detail has been provided by the appellant in their planning application or appeal about how the proposed development would assist in bringing forward the wider Chilmington Green development. The LPA reserves the right to respond to any information the appellant may provide at a future date in respect of this point.

6.0 RfR2 – Unsustainable location

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.

6.1 The planning policy and guidance relevant to RfR2 are:

National Planning Policy Framework (NPPF) December 2023

- Section 2 Achieving sustainable development
- Section 5 Delivering a sufficient supply of homes
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land

National Planning Practice Guidance (NPPG)

- Effective use of land
- Healthy and safe communities
- Travel Plans, Transport Assessments and Statements

Ashford Local Plan 2030

- Policy SP1 Strategic Objectives
- Policy SP2 The Strategic Approach to Housing Delivery
- Policy HOU5 Residential Windfall Development in the Countryside
- Policy TRA4 Promoting the Local Bus Network
- Policy TRA5 Planning for Pedestrians
- Policy TRA6 Provision for Cycling
- Policy ENV12 Air Quality

Other Material Considerations

- Chilmington Green Area Action Plan, 2013
- Ashford Cycling and Walking Strategy 2019 – 2029
- Ashford Strategic Housing and Employment Land Availability Assessment (SHELAA) 2017/18

6.2 The LPA will demonstrate that the proposed development cannot presently be regarded as sustainable development.

6.3 As described in the Committee report (paragraphs 56-57), the Site is partly located within and partly located adjacent to the consented Chilmington Green development site. The Site is also referred to in the Ashford Strategic Housing and Employment Land Availability Assessment (SHELAA) 2017/18 which was prepared as part of the evidence base for the Ashford Local Plan 2030. The SHELAA identified that the Site was ‘available’, ‘suitable’ and ‘developable’ but ‘not achievable’ and concluded the following:

“this site is not suitable for development in the short term as it is isolated from an existing settlement, and has limited access to services. However, in the long term, once development has commenced on the Chilmington Green area, this site may have potential for development as there are no environmental constraints.”

6.4 The LPA acknowledges that a small part of the Site would form part of the wider Chilmington Green development and the remainder of the Site may have the potential, in the future, to form an extension to the Chilmington Green development.

6.5 Notwithstanding this, the LPA will demonstrate that the majority of the appeal site, which lies outside the Chilmington Green development boundary, remains unsuitable for development at the present time as it is isolated from an existing settlement and has limited access to day to day services. The proposed development, as a whole, does not meet the requirements of Local Plan policy HOU5 and would therefore not presently represent a sustainable form of development.

6.6 Paragraph 3.3.2 of the appellant’s SoC indicates that the provision of infrastructure either on or off site could secure the sustainable development of the Site. However, it is not clear from the appellant’s planning application or SoC what form of infrastructure is proposed. The LPA reserves the right to respond to any information the appellant may provide at a future date in respect of this point.

- 6.7 The LPA does not dispute that the layout of the proposed development could be designed to promote walking and cycling within the site and could, in the future, be designed to connect, via walking and cycling routes, to the consented Chilmington Green development. However, the LPA will demonstrate that these routes would not presently be sufficient to access essential amenities and facilities within a reasonable distance.
- 6.8 In paragraph 3.3.4 of their SoC, the appellant refers to evidence that “*will clearly detail the availability of each amenity on Opening Year of the Appeal Site, as well as the additional amenities which will be implemented in the future as the wider Chilmington Green phases are implemented*”. The appellant has not provided this information in their planning application or appeal submission. The LPA therefore reserves the right to respond to any information the appellant may provide at a future date in respect of this point.
- 6.9 In addition, the appellant refers to “*proposed new bus service provision*”, but does not provide any details about when this would start and the route it would take. In addition, no evidence has been provided to demonstrate with sufficient certainty that a bus service operator would consider a route to the Site to be viable and therefore whether a bus service is deliverable.
- 6.10 In their SoC (paragraph 3.3.6) the appellant states that “*the proposals will help to deliver the wider Chilmington Green Development and vision*” and will contribute “*in bringing forward community infrastructure that would otherwise be delayed due to matters relating to the existing “Chilmington Green S106”, the Stodmarsh Nutrient Neutrality issue and the general downturn in the UK economy, which is making delivery of units at Chilmington very challenging.*” These statements are vague and unclear. In particular, it is not explained how the proposals will help deliver the wider Chilmington Green development and vision, or how the proposals will contribute to bringing forward community infrastructure that would otherwise be delayed. More detail should have been provided on these issues at this stage. These statements were not made by the appellant in their planning application. The LPA reserves the right to respond further on these issues if and when detail is provided by the appellant.

7.0 RfR3 – Impact on the strategic and local highway network and highway safety.

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.

7.1 The planning policy and guidance relevant to RfR3 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2 Achieving sustainable development

Section 5 Delivering a sufficient supply of homes

Section 9 Promoting sustainable transport

Section 11 Making effective use of land

National Planning Practice Guidance (NPPG)

- Travel Plans, Transport Assessments and Statements

Ashford Local Plan 2030

Policy SP1 Strategic Objectives

Policy HOU5 Residential Windfall Development in the Countryside

Policy TRA7 The Road Network and Development

Policy TRA8 Travel Plans, Assessments and Statements

Other Material Considerations

- Department for Transport Circular 01/2022 Strategic road network and the delivery of sustainable development, 2022
- Kent County Council Local Transport Plan 4: Delivering Growth without Gridlock 2016-2031
- Chilmington Green Area Action Plan, 2013

7.2 When the planning application was determined there remained objections from Kent County Council as local highway authority and National Highways as strategic highway authority. The LPA defers to these two statutory consultees in respect of this RfR and supports their reasons for objecting to the planning application.

7.3 It is understood that the appellant intends to discuss and agree statements of common ground with both parties and that both parties will represent themselves at the Inquiry, with the County Council registered as a Rule 6 Party.

The LPA will therefore not comment further on the appellant's SoC in respect of reason for RfR3.

8.0 RfR4 – Impact on protected species.

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.

8.1 The planning policy and guidance relevant to RfR4 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2 Achieving sustainable development

Section 15 Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

- Design: process and tools
- Light pollution
- Natural Environment

Ashford Local Plan 2030

Policy SP1 Strategic Objectives

Policy HOU5 Residential Windfall Development in the Countryside

Policy ENV1 Biodiversity

Policy ENV3a Landscape Character and Design

Other Material Considerations

- Conservation of Habitats and Species Regulations 2017 (as amended)
- Chilmington Green Area Action Plan, 2013
- Dark skies SPD, 2014

- 8.2 When the planning application was determined there remained an objection from Kent County Council concerning the potential impact of the development on protected species. The LPA supports this non-statutory consultee's reasons for objecting to the planning application.
- 8.3 It is understood that the appellant intends to discuss and agree a statement of common ground with the County Council to address all matters relating to this RfR. The County Council has advised the LPA that this RfR is capable of being addressed, however, at the time of drafting this Statement, the appellant had not been in touch with the County Council.
- 8.4 The LPA notes the appellant's intention, however, if agreement cannot be reached on all matters relating to this RfR then the LPA will submit a proof of evidence in respect of this RfR.

9.0 RfR5 – Risk of flooding and lack of an appropriate sustainable drainage system.

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.

- 9.1 The planning policy and guidance relevant to RfR5 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2 Achieving sustainable development

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-design and beautiful places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment

National Planning Practice Guidance NPPG

- Climate Change
- Flood risk and coastal change

Ashford Local Plan 2030

Policy SP1	Strategic Objectives
Policy ENV3a	Landscape Character and Design
Policy ENV6	Flood Risk
Policy ENV9	Sustainable Drainage

Other Material Considerations

Sustainable Drainage SPD, 2010

Chilmington Green Area Action Plan, 2013

9.2 When the planning application was determined there remained an objection from Kent County Council concerning the potential impact of the development on flood risk and sustainable drainage. The LPA defers to this statutory consultee in respect of this RfR and supports their reasons for objecting to the planning application.

9.3 It is understood that the appellant intends to discuss and agree a statement of common ground with the County Council in respect of this RfR. However, if agreement cannot be reached on all matters relating to this RfR before the Inquiry opens then the County Council will represent themselves at the Inquiry as a Rule 6 party. The LPA will therefore not comment further on the appellant's SoC in respect of reason for RfR5.

10.0 RfR6 – Impact on heritage assets.

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).

10.1 The planning policy and guidance relevant to RfR6 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2	Achieving sustainable development
Section 11	Making effective use of land
Section 12	Achieving Well-Designed and Beautiful Places

Section 16 Conserving and enhancing the historic environment

National Planning Practice Guidance (NPPG)

- Effective use of land
- Historic environment

Ashford Local Plan 2030

Policy SP1	Strategic Objectives
Policy SP6	Promoting High Quality Design
Policy HOU5	Residential Windfall Development in the Countryside
Policy ENV13	Conservation and Enhancement of Heritage Assets

Other Material Considerations

- Planning (Listed Buildings and Conservation Areas) Act 1990
- Chilmington Green Area Action Plan 2013

- 10.2 The Committee report (paragraphs 96-99) describes the proximity of the Site to nearby heritage assets and sets out the LPA's consideration of the extent of the impact of the development on these assets. The appellant states that a Heritage Report (CD2/2) was submitted with the planning application. Unfortunately, the LPA did not receive this Report when the application was submitted and instead, a copy was received on the day the application was presented to the Planning Committee for decision. This meant that it was too late for the LPA to consider this Report in its assessment of the planning application.
- 10.3 The LPA has now reviewed the appellant's Heritage Report, and with the benefit of this additional information, agrees with the appellant's conclusion, in Section 6.0, that "*the proposed development is considered to incur only a very low degree of harm, at the lowest end of the spectrum of less than substantial harm, to the significance of Possingham Farmhouse through the general erosion of its wider agricultural landscape setting. No potential adverse impacts have been identified in relation to the Lodge Place group of listed buildings*".
- 10.4 RfR6 refers to the 'balancing' exercise that is required under Local Plan policy ENV13 and paragraph 208 of the NPPF to justify development that would lead to less than substantial harm to the significance of a designated heritage asset.

10.5 The appellant's SoC (paragraphs 3.7.3 -3.7.4) indicates that "*the public benefits of the proposals will outweigh the harm to the designated heritage asset*", however, no information has been submitted, as part of the planning application or appeal, about what, in the appellant's view, these public benefits would be in the context of the required balancing exercise.

10.6 In drafting this SoC, when weighing the benefits of the delivery of housing, in particular affordable housing, against the less than substantial harm to the significance of Possingham Farmhouse of the level identified, the LPA concludes that these benefits would outweigh the harm to the significance of the listed building, and would not justify refusal of the development if in all other respects the development was found to be acceptable. The LPA has therefore concluded that RfR6 should no longer be maintained. The LPA confirms that RfR6 is withdrawn.

11.0 RfR7 – Resilience to and mitigation against the effects of climate change.

The applicant has failed to demonstrate that the development would be resilient to, and help mitigate against, the effects of climate change.

11.1 The planning policy and guidance relevant to RfR7 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2 Achieving sustainable development

Section 12 Achieving well-design and beautiful places

Section 14 Meeting the challenge of climate change, flooding and coastal change

National Planning Practice Guidance (NPPG)

- Climate change

Ashford Local Plan 2030

Policy SP1 Strategic Objectives

Policy SP6 Promoting High Quality Design

Policy ENV7 Water Efficiency

ENV9 Sustainable Drainage

ENV12 Air Quality

Other Material Considerations

- Chilmington Green Area Action Plan, 2013
- Ashford Climate Change Strategy and Action Plan, 2022
- Climate Change Guidance for Development Management, 2022

11.2 Paragraphs 112-114 of the Committee report provide the reasoning for RfR7, namely that the planning application failed to address the requirements of the Council's Climate Change Guidance for Development Management, 2022. The appellant has set out in their SoC (paragraph 3.8.2) how they intend to address this RfR via evidence. The LPA has advised the appellant that if they can satisfactorily address the requirements of the Climate Change Guidance and the concerns raised by the County Council in respect of flood risk, and suitably worded conditions can be agreed, then the LPA would be willing to enter into a Statement of Common Ground in respect of RfR7, which would lead to the withdrawal of RfR7.

12.0 RfR8 – Impact on the Stodmarsh European designated site.

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.

12.1 The planning policy and guidance relevant to RfR8 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2 Achieving sustainable development

Section 15 Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

- Appropriate assessment
- Natural environment
- Water supply, wastewater and water quality

Ashford Local Plan 2030

ENV1 Biodiversity

ENV8 Water Quality, Supply and Treatment

Other Material Considerations

- Conservation of Habitats and Species Regulations (England and Wales) 2017 (as amended)

- 12.2 During the assessment of the planning application it was not clear to the LPA how the appellant intended to provide suitable mitigation to ensure that waste water from the development would not add to the deterioration of the water quality at the Stodmarsh European designated site, thereby harming internationally protected habitats, as explained in paras 118 & 120 of the Committee report. Following the publication of the Committee report the appellant provided a statement, published in the supplementary update report, to clarify their position. This referred to capacity being made available to treat waste water from the development at a waste water treatment plant (“WwTP”) proposed on the neighbouring Chilmington Green site. This proposal is reiterated in the appellant’s SoC. As set out in para 119 of the Committee report, mitigation to deliver nutrient neutrality is not required for the surface water associated with the development.
- 12.3 Planning permission for the proposed Chilmington Green WwTP was refused by the Council’s Planning Committee on 7 May 2024 and, as explained in paragraph 2.3 above, the appellant has submitted an appeal to the Planning Inspectorate, which to date is undetermined. The LPA agrees that new WwTP’s can be an appropriate way to deliver nutrient neutrality for housing developments. Therefore, a new WwTP could be an appropriate form of mitigation for the proposed development. However, there remains uncertainty about how the proposed development would deliver nutrient neutrality given that the appeal for the WwTP is not yet determined. The appellant has not referred to any alternative proposal in their SoC. In addition, even if the appeal for the WwTP is allowed there would remain some uncertainty about whether it could be delivered as the WwTP would require a permit from the Environment Agency.
- 12.4 Notwithstanding the outcome of the WwTP appeal, the LPA is concerned about the appellant’s intention to utilise the proposed Chilmington Green WwTP to serve their Possingham Farm development. The LPA understands that the proposed WwTP would have the capacity to deal with the waste water from 2700 homes, therefore, if the WwTP delivered the mitigation for the Possingham Farm development then this would significantly reduce the capacity for the WwTP to deliver nutrient neutrality for the Chilmington Green development. This could undermine the delivery of the Chilmington Green

development, a large allocated site proposed for 5750 new homes which benefits from outline planning permission, but where no more than 763 homes can currently be built due to the impact that waste water from these homes would have on the Stodmarsh European designated site.

- 12.5 The appellant has provided no evidence to demonstrate with sufficient certainty that their proposed nutrient neutrality mitigation, a WwTP, can be delivered, nor that the connection of the Possingham Farm development to the WwTP would not undermine the delivery of the Chilmington Green development.
- 12.6 In addition, the appellant has not submitted a copy of their completed Natural England calculator, therefore the LPA has not been able to view and comment on the assumptions included within their calculator, for example concerning existing and proposed land use.
- 12.7 Under Regulation 7 of the Conservation of Habitats and Species Regulations (England and Wales) 2017 (as amended), the Inspector is now the competent authority decision-maker in respect of the acceptability of the appellant's scheme to address nutrient neutrality. The Inspector, having taken Natural England's advice into account, will need to be satisfied that there is no adverse effect on the integrity of the designated sites. The Inspector will also need to be satisfied that the mitigation measures necessary to achieve nutrient neutrality can be fully implemented and secured in perpetuity.

13.0 RfR9 – Failure to secure the infrastructure and facilities required to meet the needs generated by the development.

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.

- 13.1 The planning policy and guidance relevant to RfR9 are:

National Planning Policy Framework (NPPF) (December 2023)

Section 2 Achieving sustainable development

Section 4 Decision making

Section 5 Delivering a sufficient supply of homes

Section 8 Promoting healthy and safe communities

Section 9 Promoting sustainable transport

National Planning Practice Guidance

- Open space, sports and recreation facilities, public rights of way and local green space
- Planning obligations
- Self-build and custom housebuilding
- Travel Plans, Transport Assessments and Statements

Ashford Local Plan 2030

Policy SP1	Strategic Objectives
Policy SP6	Promoting High Quality Design
Policy HOU1	Affordable Housing
Policy HOU6	Self and Custom Build Development
Policy HOU14	Accessibility Standards
Policy TRA4	Promoting the Local Bus Network
Policy TRA5	Planning for the Pedestrian
Policy TRA6	Provision for Cycling
Policy TRA7	The Road Network and Development
Policy TRA8	Travel Plans. Assessments and Statements
Policy COM1	Meeting the Community's Needs
Policy COM2	Recreation, Sport, Play and Open Space
Policy IMP1	Infrastructure Provision
Policy IMP4	Governance of Public Community Space and Facilities

Other Material Considerations

- The Community Infrastructure Levy (CIL) Regulations 2010 (as amended)
- Chilmington Green Area Action Plan, 2013
- Public Green Spaces and Water Environment SPD, 2012
- Affordable Housing SPD, 2009

13.2 The Committee report (paragraph 131 and Table 1) provides details of the planning obligations that would be sought if the proposed development was acceptable. If these obligations were agreed by the appellant and secured in a S106 obligation this would lead to the withdrawal of RfR9. The LPA will work with the appellant to complete a S106 agreement in accordance with the CIL Regulations 2010 (as amended). The LPA will also submit a CIL Compliance Statement to assist the inspector with their assessment under paragraphs 122 and 123 of the Regulations.

13.3 Kent County Council is the authority for adult social care; community learning; education; strategic highways; sustainable travel; libraries; public rights of way; and youth services. The County Council will submit its own statement in respect of these matters.

14.0 Relationship to the Wider Chilmington Green Development

14.1 The appellant has stated in paragraphs 3.11.1 and 3.11.2 of their SoC that this appeal is “*important to the ongoing delivery of market and affordable housing at Chilmington, alongside supporting the delivery of community infrastructure*” and that the “*proposal will contribute to supporting the delivery of the wider development through the release of an accessible and unconstrained area of land*”. The appellant also indicates, in paragraph 3.11.2, that the development can help to facilitate the delivery of some facilities to be provided as part of the Chilmington Green development. As indicated in paragraph 6.10 above, the LPA considers that these statements are insufficiently clear or evidenced (noting that they were not made by the appellant in the submission of their planning application). The LPA reserves the right to respond to any information the appellant may provide at a future date in respect of these points.

14.2 The appellant, in paragraph 3.11.3 of their SoC explains 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*”. The appellant has not provided any supporting evidence to substantiate this statement. Again, the LPA reserves the right to respond to any information the appellant may provide at a future date in respect of this point.

15.0 Five Year Housing Land Supply

- 15.1 The Council's housing land supply position at the time the planning application was refused is set out in paragraphs 121-123 of the Committee report. The Council intends to publish an updated position later this summer. The LPA will therefore provide the Inspector and the appellant with its updated position as soon as possible, however, the LPA can confirm now that the Council's position will remain that a five year housing land supply cannot be demonstrated.
- 15.2 As the Council cannot demonstrate a five year supply of deliverable housing sites, paragraph 11(d) of the NPPF (referred to as the 'titled balance') is engaged. However, paragraph 188 of the NPPF sets out that the presumption in favour of sustainable development does not apply for development that is likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the development will not adversely affect the integrity of the habitats site (e.g. Stodmarsh).
- 15.3 The applicant has failed to demonstrate that the development would not have an adverse effect on the integrity of the Stodmarsh SAC, SPA and Ramsar Site, and is relying on the construction of a WwTP that is the subject of a separate appeal, which at the time of writing this Statement has not been determined. Unless the appellant can demonstrate with certainty that the WwTP will be delivered and retained in perpetuity, criterion (i) of paragraph 11(d) of the NPPF applies. Therefore, at present, the presumption in favour of sustainable development does not apply.
- 15.4 Further and in addition, the Council considers that the harm from the adverse planning impacts of granting planning permission for the proposed development, as described above, would significantly and demonstrably outweigh the planning benefits when assessed against the NPPF read as a whole, such that criterion (ii) of paragraph 11(d) also indicates that planning permission should be refused.

16.0 Planning Balance

- 16.1 As set out in RfR1 and RfR2, the LPA will demonstrate that the proposed development would comprise an overly dense and urban form of development that would harm the landscape character of the area and the character of the adjacent Chilmington Green development and would fail to provide a good standard of public amenity. The site is presently located in an unsustainable location, with no access to sustainable modes of transport, which would mean that future residents would be reliant on the private motor vehicle to access day to day services and facilities.

- 16.2 Due to the uncertainty about the deliverability of the appellant's proposed WwTP, as well as whether it is sufficient to serve both the appeal scheme and the Chilmington Green development, the appellant has failed to demonstrate that the development would not add to the deterioration of the water quality at the Stodmarsh European designated site.
- 16.3 RfR4 in respect of ecology currently comprises an objection to the scheme, although the LPA anticipates that it should be capable of resolution.
- 16.4 The LPA withdraws RfR6, as set out above.
- 16.5 If the appellant can satisfactorily address the requirements of the Council's Climate Change Guidance and the concerns raised by the County Council in respect of flood risk then this would lead to the withdrawal of RfR7.
- 16.6 The benefits resulting from the delivery of housing, including affordable housing, in addition to any economic, social, and environmental benefits that the appellant may identify would not outweigh the harm that would result from the proposed development for the reasons identified above. Indeed, the harms would significantly and demonstrably outweigh the benefits. The appeal should therefore be dismissed.

17.0 Statement of Common Ground and Planning Conditions

- 17.1 The LPA has had an initial discussion with the appellant and provided initial comments on their draft Statement of Common Ground. The LPA will continue to work with the appellant to agree the final draft.
- 17.2 The LPA will also draft a set of Planning Conditions for agreement with the appellant to submit for the Inspector's consideration in the event the Inspector decides to allow the appeal.

18.0 Witnesses

- 18.1 Before the start of the Inquiry, the LPA will provide a list of the Expert Witnesses who will give evidence on behalf of the LPA. However, the LPA provisionally proposes that expert evidence will be presented on the following matters.

Planning

- RfR1 – Density of development / encroachment on the countryside / impact on landscape character / standard of public amenity
- RfR2 – Unsustainable location

- RfR7 – Resilience to and mitigation against the effects of climate change
- RfR9 – Failure to secure the infrastructure and facilities required to meet the needs generated by the development

Landscape

- RfR1 – impact on landscape character

Ecology

- RfR4 – Impact on protected species

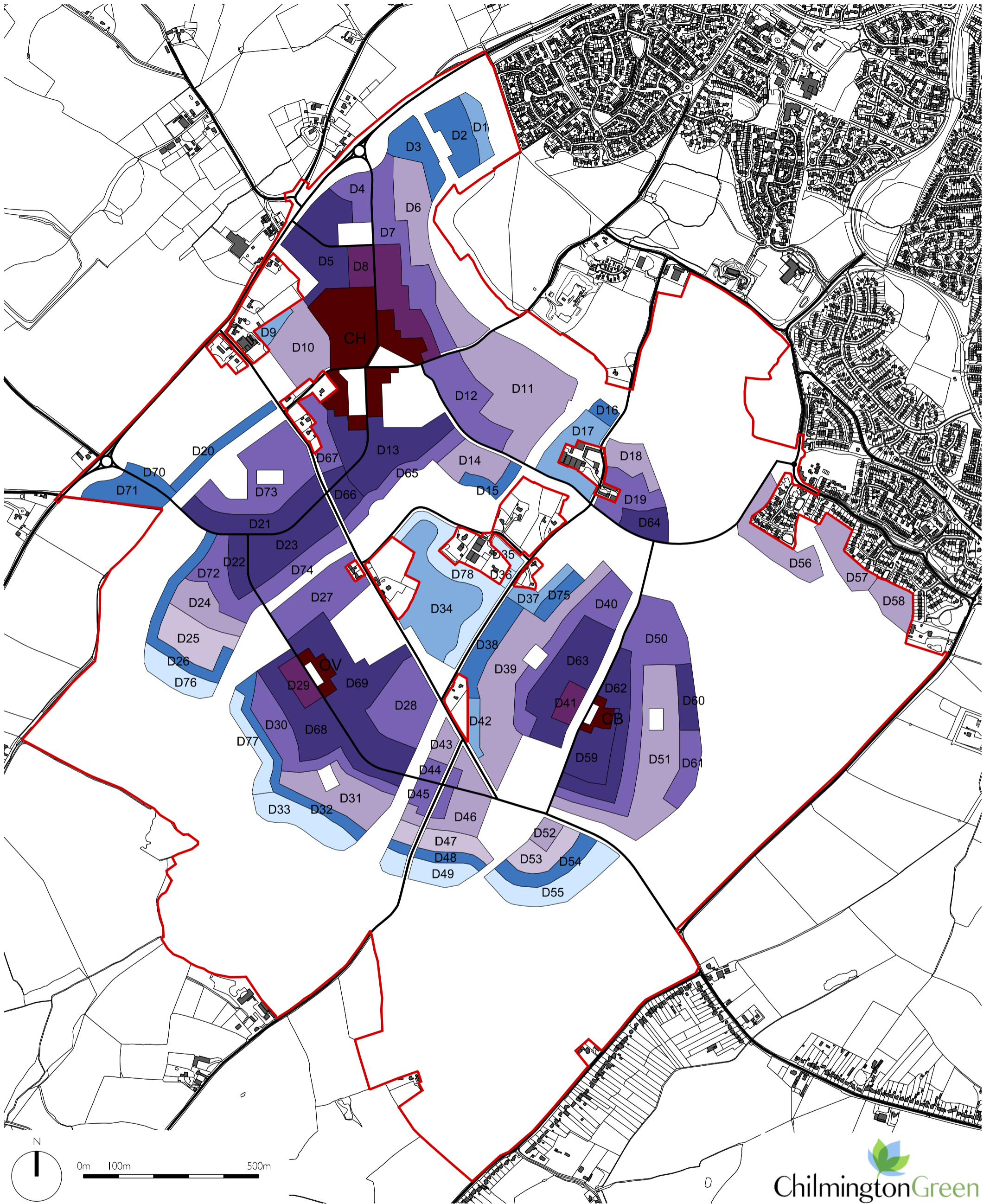
Nutrient Neutrality

- RfR8 – Impact on the Stodmarsh European designated site.

Appeal Reference: APP/E2205/W/24/3345454
Application Reference: 22/00571/AS

Appendix A

Chilmington Green Residential Density Parameter Plan OPA03R4 P4



NOTES

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- Site boundary
 - 10 d/Ha or less
 - 15 d/Ha or less
 - 16-25 d/Ha (21d/Ha average)
 - 21-30 d/Ha (25d/Ha average)
 - 31-40 d/Ha (35d/Ha average)
 - 36-45 d/Ha (40d/Ha average)
 - 41-50 d/Ha (45d/Ha average)
 - 57-66 d/Ha (62d/Ha average)
 - Mixed Use (29.6 d/Ha average)
 CH - Chilmington High Street
 OV - Orchard Village Neighbourhood Centre
 CB - Chilmington Brook Neighbourhood Centre
- Note: refer to Development Specification for Residential Density Calculations Schedule*

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Project
JOHN THOMPSON & PARTNERS

Chilmington Green, Ashford Job Ref. 00122 PLH.CG SM Drawn SM Checked By CSM

Drawing Title
OPA03R1: Residential Density Plan

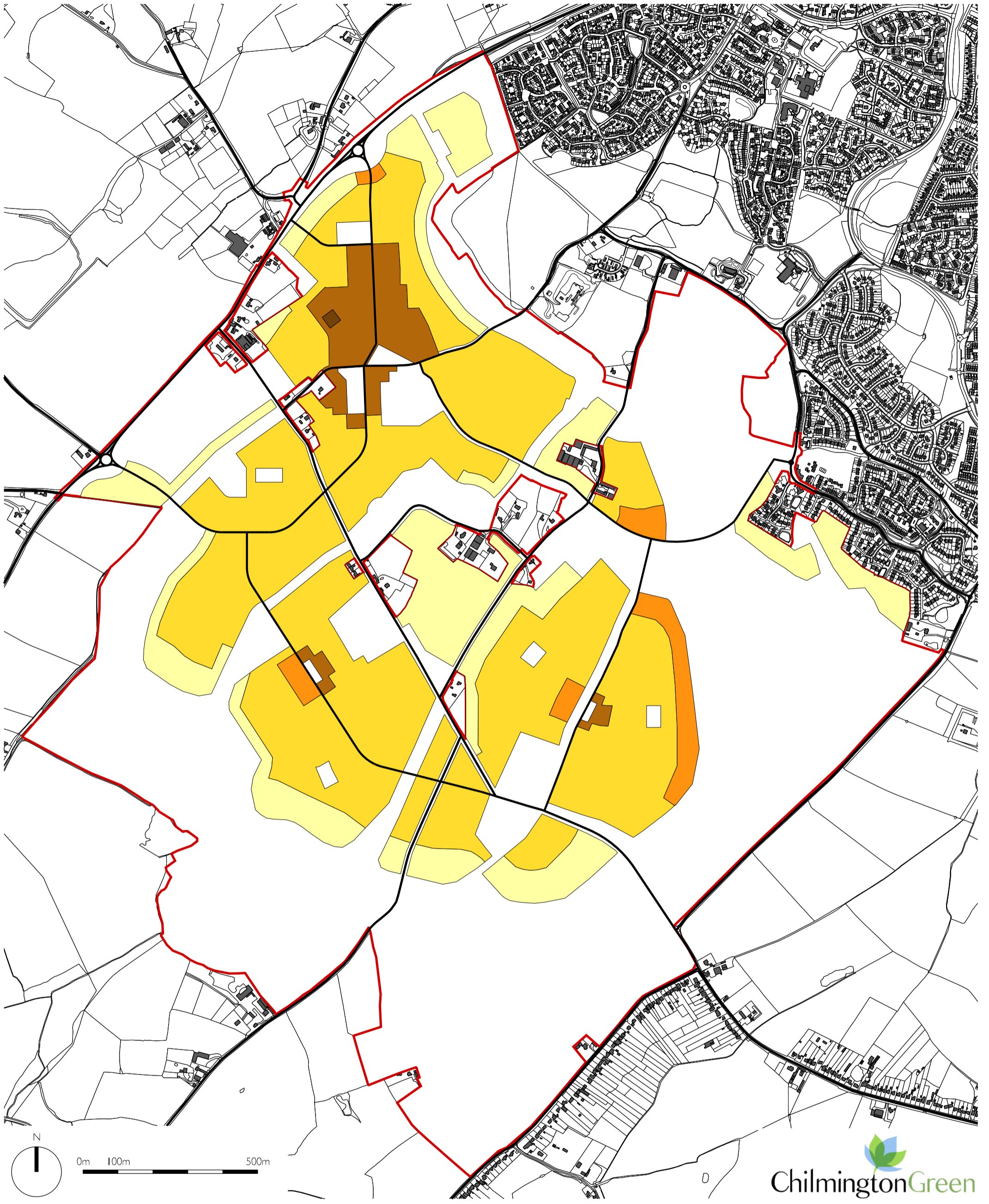
Scale @A3 1:10,000 Date 17/02/2015
 Drawing No. 00122_OPA_03R1 Revision P1



Appeal Reference: APP/E2205/W/24/3345454
Application Reference: 22/00571/AS

Appendix B

Chilmington Green Storey Heights Parameter Plan OPA04R1 P1



NOTES

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- Site boundary
- Residential: up to 2.5storeys (up to 10m to top of ridgeline)
- Residential: up to 3 storeys (up to 13m to top of ridgeline)
- Residential: up to 4 storeys (up to 16m to top of ridgeline)
- Mixed use: up to 4 storeys (up to 18m to top of ridgeline)
(Mixed use = District & local centres)
- CHP: up to 2 storeys (up to 12.5m to top of ridgeline and up to 21m for chimneys)

Note: all heights subject to limit of deviation of plus or minus 1m

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Project
Chilmington Green, Ashford **JOHN THOMPSON & PARTNERS**

Job Ref. 00122 PLH.CG SM	Drawn SM	Checked By CSM
Scale @A3 1:10,000	Revision P1	Date 17/02/2015
Drawing No. 00122_OPA_04R1		

Drawing Title
OPA04R1: Storey Heights Plan