

MAIDSTONE BOROUGH COUNCIL

Town and Country Planning Act 1990 – Section 78

Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2020

**PROOF OF EVIDENCE
ON BEHALF OF
MAIDSTONE BOROUGH COUNCIL**

Outline application (all matters reserved other than principal means of access to the highway) for the removal of existing polytunnels on land north of Kenward Road and the erection of up to 112no. dwellings (Class C3), associated infrastructure and landscaping, together with the change of use of land south of Kenward Road to provide informal/recreational open space, sustainable urban drainage features, landscaping, and ancillary works/infrastructure

Land North & South of Kenward Road, Yalding, Kent, ME18 6JP

Appeal by Hallam Land Management Ltd.

20 August 2024

Planning Inspectorate Reference: APP/U2235/W/24/3344070

Maidstone Borough Council Reference: 23/505139/OUT

Date of Inquiry: 17 September 2024

1. INTRODUCTION

1. My name is Sean Scott. My qualifications are BSc (Hons) Geography and Environmental Management and MA Urban and Regional Planning. I am also a Chartered Member of the Royal Town Planning Institute.
2. I have over 14 years of experience in town planning working for local authorities and the private sector. I am presently a Principal Planning Officer for Maidstone Borough Council (MBC) ("**the Council**"). For the past eight years I have advised on and determined applications for major developments, mainly large-scale housing and commercial developments.
3. I was the case officer for the application the subject of this appeal ("**the Application**"). I am familiar with the Appeal Site (as defined below) and surrounding area and have undertaken several detailed site inspections.
4. I provide evidence in this appeal on behalf of the Council on planning matters.
5. This Proof of Evidence should be read in conjunction with the evidence provided by Mr Stephen Kirkpatrick of Scarp Landscape Architecture on landscape matters. I draw on Mr Kirkpatrick's evidence in this Proof of Evidence. My evidence covers *inter alia* planning matters not covered by Mr Kirkpatrick.
6. In my evidence, I cover:
 - 6.1. The Appeal;
 - 6.2. Site Description;
 - 6.3. Planning History;
 - 6.4. Planning Policy Context and Relevant Legislation;
 - 6.5. The Main Issues for the Inquiry;
 - 6.6. Conclusion on main issue 1; and
 - 6.7. Planning Balance;
7. The evidence which I have prepared and provided for this appeal is given in accordance with the guidance of my professional institution. The opinions expressed are my true and

professional opinions. Further, I understand my duty to the Inquiry and have complied, and will continue to comply, with that duty. I confirm that this evidence identifies all facts which I regard as being relevant to the opinions that I have expressed. The Inquiry's attention has been drawn to any matter which would affect the validity of that opinion. I believe that the facts stated within this proof are true and that the opinions expressed are correct.

2. THE APPEAL

8. Hallam Land Management Ltd (“**the Appellant**”) appeals pursuant to section 78 of the Town and Country Planning Act 1990 (“**TCPA 1990**”) against the failure of the Council to determine the Application (“**the Appeal**”). By the Application, the Appellant sought planning permission for the following description of development (“**the Proposed Development**”) at land north and south of Kenward Road, Yalding, Kent ME18 6JP (“**the Appeal Site**”):

“Outline application (all matters reserved other than principal means of access to the highway) for the removal of existing polytunnels on land north of Kenward Road and the erection of up to 112no. dwellings (Class C3), associated infrastructure and landscaping, together with the change of use of land south of Kenward Road to provide informal/recreational open space, sustainable urban drainage features, landscaping, and ancillary works/infrastructure”.

3. SITE DESCRIPTION

9. A fuller description of the Appeal Site and its surroundings is provided by Mr Kirkpatrick. In the following paragraphs I provide a brief description of the Appeal Site.
10. The Appeal Site comprises two parcels of land. One on the north-eastern side of Kenward Road measuring 4.87 ha and the other on the south-western side of Kenward Road measuring 4.36 ha – the sites are referred to hereafter as “Site A” and “Site B”, in that order (these terms accord with the annotations for LPRSA248 of the Local Plan Review Proposals Map).
11. Site A is a roughly rectangular plot in agricultural use, and it is evident that it was most recently used for growing soft fruit. The topography of this part of the Appeal Site notably slopes upwards from south to north. This part of the Appeal Site is predominantly covered with polytunnels. At the time of my site visits the polytunnels were mostly covered in plastic. However, it is clear that these structures lack permanence, noting that they could be moved, and the covers can be removed/replaced to suit agricultural needs throughout the year. Residential development along Kenward Road is located adjacent to the site, to the south.

12. Site B comprises mostly open fields which appear to be fallow. Further to the south of this parcel is an area of scrub and trees which straddle the River Beult, a tributary to the River Medway, approximately 150 metres to the west.
13. The site lies at the base of the Greensand Ridge. The designated Greensand Ridge is a Landscape of Local Value, located approximately 50 metres to the north of the site. Flood Zones 2 & 3 are located within Site B only.

4. PLANNING HISTORY

14. 16/503772/OUT – On 2 August 2016 the Council refused an application for outline planning permission for the construction of up to 60 no. bungalows, houses and starter home apartments, inclusive of self-build plots for sale, with 40% affordable housing and new vehicular access from Kenward Road with all matters reserved for the following reason:

“The development would represent an unjustified and unacceptable development which would adversely harm the character of the countryside contrary to policy ENV28 and the core principles of the NPPF. The development would cause significant landscape harm by way of its urbanising effects and would represent an unacceptable extension of the village into the countryside. The development would be contrary to policy ENV28 of the Maidstone Borough Council Local Plan 2000, Policy SP16 and SP17 of the submitted Maidstone Local Plan 2011-2031 and the National Planning Policy Framework.”

15. There is a dispute with the Appellant as to whether this decision is relevant. In my view this is a relevant decision: the form of development was similar (i.e. residential development); and it concerned the same land. I acknowledge that there have been changes in planning policy since 2016, but this does not prevent the decision being relevant. I draw attention to this previous decision because – consistently with the Allocation, as defined below – it demonstrates a need to have careful regard to the impacts of development at the Appeal Site on the character and appearance of the area.

5. PLANNING POLICY CONTEXT AND RELEVANT LEGISLATION

16. I note and I am familiar with the provisions of sections 70 and 79 TCPA 1990, as well as section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”). These provisions are well known and as such I do not repeat them here.

17. The adopted development plan comprises:
 - 17.1. the Maidstone Borough Local Plan Review (March 2024) (“**the LPR**”) [CD2.1];
 - 17.2. the adopted Kent Minerals and Waste Local Plan 2013-30, as amended by the Early Partial Review (2020) [CD2.2]; and
 - 17.3. Kent Mineral Sites Plan (2020).
18. In accordance with paragraph 5.3 of the Statement of Common Ground dated 19 July 2024 (“**the SOCG**”) [CD11.1], only the LPR is relevant to the determination of the Appeal. The relevant policies in the LPR are listed in paragraph 5.6 of the SOCG. Of those policies, I consider that the most relevant policies for the determination of this appeal are:
 - Policy LPRSS1 – Maidstone Borough Spatial Strategy;
 - Policy LPRSP7 – Larger Villages;
 - Policy LPRSP7(D) – Yalding;
 - Policy LPRSP14(A) – Natural Environment;
 - Policy LPRSP15 – Principles of Good Design;
 - Policy LPRSA248 – Land at Kenward Road, Yalding (“**the Allocation**”); and,
 - Policy LPRHOU5 – Density of Housing Development.
19. The LPR is recently adopted. All of the relevant policies were found sound against the NPPF (2021). Full weight should be given to these policies in the determination of the Appeal.
20. The relevant parts of the NPPF are listed in the Council’s Statement of Case at paragraph 21.

6. THE MAIN ISSUES

The putative reasons for refusal

21. Had the Council determined the Application it would have been refused. The putative Reasons for Refusal (“**RfRs**”) as set out in the Council's Statement of Case, are as follows.

22. RfR 1:

'The built coverage of the proposal by reason of the quantum of development, its layout and form, and together with the introduction of significant areas of hard landscaping and roads will have a dominant and urbanising effect which is inappropriate in this edge of settlement location with the adjoining residential development being of a significantly lower density and built coverage. The development will therefore be harmful to and fail to respond positively to the rural setting of Yalding and the prevailing pattern of development, and therefore harmful to the setting of the Greensand Ridge Landscape of Local Value.'

23. RfR 2:

'The proposal would result in as a car focussed development which fails to embrace the notion of sustainable transport. In particular, a lack of support for alternative modes of transport, to reduce car uses to mitigate concerns around increased traffic and highway safety, namely in the Town Bridge Area.'

24. RfR 3:

The proposal fails to include sufficient details for 'Access' (not a reserved matter) with respect to pedestrian accesses, crossing and footway details and in addition safe and accessible access has not been demonstrated.

25. RfR 4:

'The development will result in significant additional pressure on Kent County Council infrastructure including Primary, secondary and SEND education, which is unlikely to be fully mitigated in the absence of a s106 legal agreement providing supplementary financial contributions to the Local Education Authority.'

26. RfR 5:

'The proposed development has failed to secure an appropriate tenure mix of affordable housing within a Legal Agreement.'

27. I expect that RfRs 2, 3, 4 and 5 will fall away as they are matters that can be resolved through a planning obligation or condition, subject to the agreement of all parties. Therefore, my

evidence relates to issues raised within RfR1 which remain uncommon ground between the principal parties to this appeal.

The Inspector's Main Issues

28. The Inspector's Summary Note of the Case Management Conference (CMC) [CD18.4] confirms that there are three likely main issues which include:
- 28.1. The effect of the appeal scheme on the character and appearance of the area including the setting of the Greensand Ridge Landscape of Local Value.
- 28.2. The effect of the appeal scheme on highway safety, with particular regards to pedestrian safety and sustainable travel.
- 28.3. Whether or not the proposed development makes appropriate provision with regards education and affordable housing.
29. Given the progress made on resolving the RfR and the degree of agreement in the SOCG since the CMC, the focus of my evidence will be solely on the first of these main issues.

Main Issue 1 - The effect of the appeal scheme on the character and appearance of the area including the setting of the Greensand Ridge Landscape of Local Value

30. I adopt the findings of my colleague Mr Kirkpatrick in respect of these matters [CD11.5]. In light of those findings, I consider the degree of compliance with the two policies cited in RfR1, namely Policies LPRSA248 and LPRS15.

Policy LPRSA248 – Land at Kenward Road, Yalding

31. **Context.** I start by considering the context to the Allocation. More specifically:
- 31.1. The LPR establishes the framework to guide future development of the borough.¹ The LPR plans for (amongst other matters) homes and the environment.² In particular, the LPR sets out the scale and distribution of development; identifies, by site, where development will be located; identifies where development will be constrained; and explains the infrastructure required to help deliver the plan.³

¹ CD2.1 - LPR at paragraph 2.5.

² CD2.1 - LPR at paragraph 2.5.

³ CD2.1 - LPR at paragraph 2.9.

- 31.2. The formulation of the LPR has required the Council to balance a number of factors, some of which are conflicting, including the goal of building more homes, as well as supporting the environment, including the substantial rural hinterland to the Borough.⁴ This reflects the strategic objectives underpinning the LPR, for example embracing growth and conserving the natural environment.⁵ In particular, spatial objective 10 (meeting housing need) explains that:

*'The plan supports new housing in villages that meet local needs and is of a design, scale, character and location appropriate to the settlement and which supports the retention of existing services and facilities, a better mix and balance of housing will be provided, while the density and location of development will also be carefully considered.'*⁶

- 31.3. Yalding is a larger village which can provide for a limited amount of housing development.⁷ Accordingly, the spatial strategy for the Borough, as set out in Policy LPRSS1, identifies Yalding as a location *'for limited housing development consistent with the scale and role of the [village]'*.⁸ The LPR affirms this in supporting text: the larger villages, including Yalding, *'are considered sustainable locations for limited new housing development provided that it is of a scale in keeping with [its] role, character and size'*.⁹
- 31.4. Policy LPRSSP7 concerns larger villages, including Yalding, and provides that the new development will be focussed within settlements on allocated sites.¹⁰ In turn, Policy LPRSP7(D), concerning Yalding specifically, identifies the Appeal Site as an allocation for *'approximately 100 new dwellings'* with housing development on Site A and supporting infrastructure, such as open space and drainage on Site B.¹¹
- 31.5. Notably, the settlement boundary for Yalding has been extended to encompass the Appeal Site (as, in the earlier Local Plan, the Appeal Site was entirely within the Open Countryside, outside of the settlement boundary). Accordingly, the settlement

⁴ CD2.1 - LPR at page 11 and paragraph 3.1.

⁵ CD2.1 - LPR at pages 18 – 19 and paragraph 4.6.

⁶ CD2.1 - LPR at paragraph 4.17.

⁷ CD2.1 - LPR at paragraph 5.35.

⁸ CD2.1 - Policy LPRSS1 at paragraph 11.

⁹ CD2.1 - LPR at paragraph 6.119.

¹⁰ CD2.1 - Policy LPRSP7 at paragraph 1.

¹¹ CD2.1 - Paragraph 2 of Policy LPRSP7(D).

boundary for Yalding now follows the northern, western and southern boundaries of the Appeal Site.¹²

32. I have set out this context at some length because it is important to understand that the Allocation is one example of how the Council has balanced competing factors, in particular (1) housing growth and (2) the protection of the character and appearance of the area. There is a tension between such matters, particularly given the Borough's characteristics. Accordingly, the terms of the Allocation are particularly important as they represent the balance that the Council has struck in the development plan and the conditions in the Allocation ensure that the development of the Appeal Site respects that balance.
33. At this point I also deal with a relatively minor point of dispute with the Appellant. The Appellant takes issue with the relevance of the policy history to the Appeal Site, i.e. the fact, as I have explained above, that the settlement boundary for Yalding has been extended to encompass the Appeal Site (as, in the earlier Local Plan, the Appeal Site was entirely within the Open Countryside, outside of the settlement boundary). The Proposed Development must only be assessed against the policies of the LPR. However, this does not mean that one must ignore the relevant policy history. In my view it is relevant to understand the policy history to the Appeal Site and the Allocation. The Allocation reflects a specific decision by the Council to release the Appeal Site for development. That decision was part of the balancing exercise that I have described and it was taken on the basis that the Appeal Site would be developed in accordance with the terms of the Allocation, including its conditions. A failure to comply with those conditions undermines and fails to reflect the important strategic plan making decisions of the Council.
34. **The Allocation.** The Allocation is set out in detail in Policy LPRSA248. The Allocation should be read as a whole (as should the development plan), but the following parts are particularly material.

34.1. Paragraph 1 of the Allocation states:

'Land at Kenward Road as identified on the Policies Map, is allocated for the development of approximately 100 dwellings at an average density of approximately 30 dwellings per hectare, together with associated open space and infrastructure on land south of Kenward Road. The following conditions are considered appropriate to be met before development is permitted.'

¹² See Figure 6-18 on p. 122 of the LPR.

- 34.2. Paragraphs 2 - 7 of the Allocation concern design and layout. Paragraphs 2 – 5 are of particular relevance to the Appeal:

'2. The development shall provide approximately 100 dwellings, only to be provided on land north of Kenward Road at an average density of approximately 30 dph.

3. The land south of Kenward Road shall be laid out as a new community open space, and BNG area, together with SuDS measures to mitigate the residential element, plus pedestrian crossing / access measures.

4. The development shall be subject to a single masterplan which demonstrates phasing and delivery of both built development and open spaces.

5. The layout and form of the housing element shall be informed by an LVIA and incorporate both boundary and internal structural landscaping that responds to the site's topography.'

- 34.3. Paragraphs 8 – 15 of the Allocation concern landscape and ecology. Paragraph 15 is of particular relevance to the Appeal:

'The development proposals shall be designed to take into account the results of a landscape and visual impact assessment undertaken in accordance with the principles of guidance in place at the time of the submission of an application.'

35. **Approach.** I note the approach to the Allocation which the Council set out in its Statement of Case:

- 35.1. The Allocation establishes that the Appeal Site – and specifically Site A – is an appropriate location for residential development.

- 35.2. The Allocation supports residential development *'of approximately 100 dwellings at an average density of approximately 30 dwellings per hectare'* on Site A. Notably, this is reiterated both in paragraph 1 (as a description of the allocated development) and paragraph 2 (as a condition of granting planning permission). A proposal which is not for *'approximately 100 dwellings'* (or at approximately 30 dwellings per hectare) is not in accordance with the Allocation.

- 35.3. Paragraphs 2 – 27 of the Allocation specify *'conditions'* which are *'to be met before the development is permitted'*. These conditions must be satisfied (bearing in mind that the Application is for outline planning permission) before planning permission can be granted. A failure to satisfy these conditions will cause a proposal to be in conflict with the Allocation, even if it is for *'approximately 100 dwellings'*.

- 35.4. During the plan-making process the Council did not undertake landscape sensitivity testing or detailed capacity testing by reference to landscape and visual effects. Instead, the detailed assessment of quantum was left for the application stage – i.e. now – within the parameters set by the Allocation. The conditions within the Allocation support this approach: see, in particular, paragraphs 5 and 15 of the Allocation.
- 35.5. It follows that it is through the application process that the acceptable quantum of development must be established within the parameters of the Allocation, in particular the parameter of *'approximately 100 dwellings at an average density of approximately 30 dwellings per hectare'*. The fact that the parameter is *'approximately 100 dwellings'* means that an acceptable quantum may be above or below 100 dwellings (whilst always remaining approximate to that number).
- 35.6. It further follows that whilst the Allocation anticipates a change in the character of the Appeal Site this is only to the extent necessary to accommodate *'approximately 100 dwellings'* (bearing in mind that the precise number may be above or below 100 dwellings); and whilst ensuring that a landscape led approach is adopted so that the adverse impacts of any development on the character and appearance of the area are minimised and mitigated so far as possible and the beneficial impacts on the character and appearance of the area are maximised.¹³ This is particularly important given the sensitive location of the Appeal Site; as well as the broader strategic imperatives to balance growth with the protection of the environment.
36. **Assessment.** I have identified the following conflicts with the Allocation.
- 36.1. The Proposed Development does not comply with the description of the Allocation, i.e. the allocated development, or paragraph 2. The Allocation permits residential development *'of approximately 100 dwellings at an average density of approximately 30 dwellings per hectare'* on Site A.¹⁴ The Proposed Development seeks up-to 112

¹³ I note by way of an example APP/U2235/W/22/3302571 & 3323246 – on this draft allocation, notwithstanding compliance with the envisaged amount of floorspace, the design was unacceptable.

¹⁴ This density is of particular importance as it is a site specific reflection of the strategic objective in Policy LPRHOU5. Paragraph indicates that for Larger Villages (including Yalding) residential development will be expected to achieve a net density of 30 dwellings per hectare (dph) 'where that is compatible with the individual

dwellings at a density of 33 dwellings per hectare (dph). This quantity and density of development is above what I consider to be approximate (i.e. close to) the specified dwelling number and density. ‘*Approximately*’ is not defined within the LPR. However, considering the context, it is my view that exceeding the indicative site capacity by 12% is not an ‘*approximate*’ quantity of development. So too with the exceedance of the approximate density by 10%. Therefore, I do not consider that the Proposed Development is in accordance with the Allocation. In this regard, I note that:

36.1.1. The Council advised the Appellant to reduce the quantity of dwellings during the course of the Council’s determination of the Application. The Appellant did not follow this advice.

36.1.2. Having regard to the evidence of Mr Kirkpatrick, the exceedance of the Allocation causes additional harm to the character and appearance of the area, as I set out below.

36.1.3. The Appellant has not provided a robust justification for the additional dwellings and increased density. In particular, I note that there has been no evidence of a viability issue presented by the Appellant. To the contrary, the Council’s viability testing during the preparation of the LPR indicates that the Allocation is viable if developed for 100 dwellings.

36.2. A Proposed Parameters plan has been provided [CD 5.18]. However, this does not represent a successful masterplanning approach, as required by paragraph 4 of the Allocation, given the deficiencies identified by Mr Kirkpatrick.

36.3. The Application was accompanied by an LVA but there is no evidence that the layout and form of the housing element (as fixed by the parameters plans) was informed by the LVA and/or that the Proposed Development was designed to take into account the results of the LVA. The Design and Access Statement describes a design evolution process without reference to the LVA (or any other LVA) and in any event that process did not respect the parameters of the Allocation.¹⁵ Accordingly, the Proposed

settings’ of sites. The Allocation reflects this by balancing growth and impact on character and appearance. This is another example of why the excess harm caused by breaching the Allocation is of particular importance.

¹⁵ See the DAS at pp. 24 – 25 and 27. The single reference on p. 38 to the LVA does not overcome this deficiency.

Development fails to accord with the conditions in paragraph 5 and 15 of the Allocation.

36.4. Further or alternatively, the LVA is deficient both in its methodology and assessment of the effects of the Proposed Development for the reasons explained by Mr Kirkpatrick. Again, this results in a failure to accord with the conditions in paragraph 5 and 15 of the Allocation.

36.5. Finally, for the reasons explained by Mr Kirkpatrick, the Proposed Development does not incorporate sufficient or adequate boundary and internal structural landscaping that responds to the Appeal Site's topography. Accordingly, the Proposed Development fails to accord with the conditions in paragraph 5 and 15 of the Allocation. In this regard, I note that:

36.5.1. The Examining Inspector identified that main modifications to the Allocation were necessary *'to identify that landscaping would be an integral aspect of the Area A site for housing both around its boundary and within the development itself'*.¹⁶ Similarly, in its pre-application advice the Council advised the Appellant that the northern (Greensland Ridge) and western (village approach) boundaries are highly sensitive and effective margins needed to be included. However, the Proposed Development has been designed contrary to both the Inspector's concern and the Council's advice.

36.5.2. The Appellant has not demonstrated that more effective boundary and internal structural landscaping could not be incorporated into the Proposed Development if the quantum of development was reduced to (or closer to) 100 dwellings). In my view, consistently with Mr Kirkpatrick's evidence, greater and more effective boundary and internal structural landscaping could have been incorporated into the Proposed Development if such a reduction in quantum was made. Further, I repeat that there is no good reason for the Appellant not to have reduced the quantum of the Proposed Development in order to effect this change to the Proposed Development's design.

¹⁶ Examiner's Report into the LPR at paragraph 311. This was consistent with the Sustainability Appraisal.

36.6. It follows that I do not consider that the Proposed Development accords with the Allocation.

Policy LPRSP15 – Principles of Good Design

37. Policy LPRSP15 states that, '*proposals should create high quality design*' in accordance with certain specified criteria.

38. I acknowledge that the Application sought outline planning permission and that issues of detailed design would be considered through the process of approving reserved matters. However, even acknowledging the outline nature of the Application, I do not consider that the Proposed Development complies with Policy LPRSP15, having regard to the evidence of Mr Kirkpatrick. In particular:

38.1. Pursuant to paragraph 2 of the policy, development should respond positively to, and where possible enhance, the local, natural, or historic character of the area. Particular regard should be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage. The Proposed Development does not comply with this criterion as it does not enhance the local or natural character of the area; rather it results in excessive harm, as explained by Mr Kirkpatrick. This is in large part because of the extent of site coverage and the restrictions that the parameters plan places on the development of the Appeal Site.

38.2. Pursuant to paragraph 5 of the policy, development should respect the topography and respond to the location of the site and sensitively incorporate natural features such as natural watercourses, trees, hedges, and ponds worthy of retention within the site. Particular attention should be paid in rural and semi-rural areas where the retention and addition of native vegetation appropriate to local landscape character around the site boundaries should be used as positive tool to help assimilate development in a manner which reflects and respects the local and natural character of the area. The Proposed Development does not comply with this criterion as it does not respect the topography, respond to the location of the Appeal Site or assimilate appropriately. As Mr Kirkpatrick explains, the additional dwellings and density restricts the ability to sensitively design to the topography and location of the Appeal Site. As a result, the assimilation of the Proposed Development is undermined. These

effects are the consequence of the departure from the Allocation in terms of the quantity of dwellings and density.

38.3. Paragraph 7: Development should provide a high-quality design which responds to areas of heritage, townscape and landscape value or uplifts an area of poor environmental quality. For similar reasons I conclude that the Proposed Development is not high-quality design, as required by this paragraph. Further and in particular, there is a poor response to the setting of the Greensand Ridge which is a landscape of particular value.

38.4. Paragraph 17: Account should be taken of Character Area Assessments, and the Maidstone Borough Landscape Character Guidelines SPD. The deficiencies in the Appellant's approach to the design of the Proposed Development indicate that it has not taken proper regard of the Character Area Assessments and the Maidstone Borough Landscape Character Guidelines SPD.

39. The explanatory text to the policy indicates at paragraph 7.175 that :

'In establishing the use and designing the layout and site coverage of development, landscaping shall be integral to the overall design of a scheme and needs to be considered at the beginning of the design process. In appropriate locations, local distinctiveness should be reinforced and natural features worthy of retention be sensitively incorporated. [...]'

40. It is apparent from the explanatory text that Policy LPRSP15 is seeking to ensure a landscape-led approach. However, having regard to the conflict with the policy that I have identified, as well as Mr Kirkpatrick's evidence, I do not consider that the Proposed Development reflects a landscape-led approach.

41. For these reasons, I conclude that the Proposed Development does not comply with Policy LPRSP15.

Consequential breaches of the development plan

42. As the Council explained in its Statement of Case, the above breaches of the development plan are sufficient to lead to the conclusion that there is conflict with the development plan, read as a whole.

43. The Allocation is the site-specific translation of a number of different policy objectives within the LPR. Accordingly, the failure to comply with the Allocation, as I have explained, also gives rise to consequential conflicts with other policies.
44. **Policy LPRSP14(A).** This policy is a strategic policy that seeks to retain a high quality of living and protect and enhance the environment, and to be able to respond to the effects of climate change. Part 1(b) of the Policy speaks of the need for development to ensure the protection of positive landscape character, including Landscapes of Local Value, from inappropriate development and avoid significant adverse impacts as a result of development through the provision of adequate buffers and in accordance with national guidance. The policy also specifies that where appropriate, development proposals will be expected to appraise the value of the borough's natural environment through the provision of a landscape and visual impact assessment to take full account of the significance of, and potential effects of change on, the landscape as an environmental resource together with views and visual amenity. There is a consequential breach of this policy given the harm to the Greensand Ridge LLV arising from the failure to accord with the Allocation and Policy LPRSP15.
45. **Policy LPRSS1.** Paragraph 14 of this policy sets out the objective of preserving landscapes of local value, such as the Greensand Ridge LLV. Again, there is a consequential breach of this policy given the harm to the Greensand Ridge LLV arising from the failure to accord with the Allocation and Policy LPRSP15.

National Planning Policy Framework & National Design Guide

46. Having regard to Mr Kirkpatrick's evidence and the matters that I have set out above, I also consider that the Proposed Development fails to accord with the following paragraphs of the NPPF:
- 46.1. The Proposed Development does not deliver an appropriate density for the purposes of paragraph 128, given it does not maintain the area's prevailing character and setting (sub-paragraph d) and is not well designed or beautiful (sub-paragraph e). My conclusion in this regard is supported by paragraphs 16, 20, 21, 35, 36, 40, 41, 43, 61 and 68 of the National Design Guide, as well as the guidance on pp. 20, 34, 48, 59 and 102 of the Kent Design Guide.
- 46.2. Paragraph 135 (c) places emphasis on the need for development to be sympathetic to local character and history and this includes *'the surrounding built environment and*

landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)'. The Proposed Development is not sympathetic to local character. The Allocation recognises the potential for an uplift in density on the Appeal Site, but this is exceeded by the Proposed Development without appropriate sympathy to local character.

46.3. Paragraph 180(b) states that planning policies and decisions should contribute to and enhance the natural and local environment by: *'recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland'*. As to this:

46.3.1. The Appellant contends that this paragraph is not relevant because the Proposed Development is within the settlement boundary for Yalding. I disagree. Even if the Appeal Site itself is not considered to be countryside (which I disagree with in itself), nevertheless, Mr Kirkpatrick has identified effects beyond the boundaries of the Appeal Site relating to land that is outside the settlement boundary, e.g. visual impacts and impacts on the Greensand Ridge LLV.

46.3.2. The Proposed Development does not recognise the intrinsic character and beauty of the countryside, particularly having regard to the excessive development of the Appeal Site which demonstrates an absence of appropriate recognition for the Appeal Site's location and surroundings.

47. These conflicts with the NPPF are material considerations which weigh against the grant of planning permission.

Conclusion on main issue 1

48. For the reasons above, the Proposed Development results in an unacceptable impact on the character and appearance of the area, including the setting of the Greensand Ridge LLV, particularly as a result of the parameters proposed by the Appellant, as well as the excessive quantity of dwellings and excessive density.

49. The Proposed Development fails to accord with the Allocation (Policy LPRSA248) and Policy LPRSP15. There is consequential conflict with policies LPRSS1 And LPRSP14(A).

7. OTHER MATERIAL CONSIDERATIONS RELIED ON BY THE APPELLANT

50. In support of its case for the Proposed Development, the Appellant sets out the following matters within the Planning Statement [CD5.11] (section 3 and more specifically the table at 3.13) which they assert are benefits:

50.1. Economic

“A significant capital investment to the local area”.

50.2. Social

“Generate Council tax revenue;

Increased spending by new residents in local shops, businesses and other services;

New housing to underpin existing and support new economic activity;

Provision of direct and indirect construction jobs. Social

Up to 112 new homes; including up to 45 new affordable homes;

Creation of a high-quality physical environment with Green Infrastructure in the form of children’s play provisions, recreational and informal open space, riverside landscaping and SuDS;

Through establishing a high-quality framework for good, detailed design, a reduction in the fear of crime, opportunities for crime and anti-social behaviour.”

50.3. Environmental

“An opportunity to provide a visually attractive development with enhanced landscaping and an obvious extension;

Limiting and improving surface run-off to existing greenfield rates to avoid any increase of flood risk on or off site;

Provision of public open space, which will be available to both future residents of the development and the wider community;

Delivering new and enhanced ecological habitats, and an overall Biodiversity Net Gain.”

51. I have considered these matters. Where I consider them to be a benefit, I have attributed weight using a scale from low to high as follows: Limited – Moderate – Significant – Substantial.

Economic Benefits

52. In terms of the economic benefits, and as agreed in the SOCG [CD10.1] it is noted that some benefits could be generated to the benefit of the local area from the Appeal Development. The benefits include:

- short-term employment benefits through the direct creation of construction jobs; and
- additional household expenditure in the local area.

53. There is little supporting evidence. In particular, there is no evidence which addresses local business needs and/or wider opportunities for development.

54. There is no identification of the specific benefit arising from the additional 12 dwellings. Economic benefits will still be generated from 100 dwellings.

55. The matters identified by the Appellant in the planning statement also feature the inclusion of council tax revenue. I do not consider it appropriate to count any uplift in council tax as a benefit, as this is not a source of ‘revenue’, and it is unlikely that the payment of Council tax cover the services and amenities that the development and its residents will need.

56. Given these matters, I afford the economic benefits (in totality) limited weight. If the contribution from the additional 12 dwellings was identified in isolation (which the Appellant has not done) then this benefit would be very small and I would give it very limited weight.

Social Benefits

57. With respect to social benefits, the NPPF outlines at paragraph 8(b) the social objective of sustainable development is *“to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible*

services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being."

58. The Appeal Development would result in the delivery of up to 112 new homes, contributing to planned housing growth on a site allocation within the Borough. More specifically, it seeks to provide a policy compliant level of affordable homes and first homes, to accord with Policy LPRSP10(B) to deliver 40% affordable homes, of which 75% would be social and affordable rented, 25% intermediate or affordable home ownership. Where 25% of First Homes will not be adequate to meet the minimum 10% Affordable Home Ownership target set by the NPPF, any shortfall can be met through the provision of First Homes or an alternative Affordable Home Ownership product. As set out in the SOCG, the "Appellant's objective" is to achieve a policy compliant scheme secured by way of a section 106 agreement which is still to be agreed, but the negotiations to-date are positive. Therefore, it is expected that a Policy compliant quantum of affordable housing products will come forward, that will meet the housing need as set out in the Local Plan.
59. The inclusion of open space within Site B is supported and there are no conflicts with that aspect of the proposal which delivers the policy requirements set out in the Site Allocation.
60. The provision of open space on Site A also requires consideration. The proposal includes limited open space provision comprising peripheral greenspace corridors, a structure of relatively narrow internal greenspace corridors and two small greens: one at the site entrance one in the southern central part of the site. The green by the entrance is likely to be subdivided by the road as well as a location for vegetation which would include screening.
61. Given the Council's track record of (over) delivery and positive housing land supply position, as well as the deficiencies in terms of open space on Site A, I afford the provision of market housing moderate weight, the provision of affordable housing moderate weight and limited weight to the provision of open space.
62. Again, it is important to note that these conclusions reflect the social benefits as a whole. If the 12 additional dwellings were considered in isolation, I would not give any of these benefits any more than limited weight.

Environmental Benefits

63. With respect to Environmental benefits, biodiversity net gain is a LPR Policy requirement for residential development to achieve a minimum gain of 20%. Due to doubts raised by KCC Ecology about the potential for a net gain of 27.54%, the position is that it would not be possible to secure higher net gains than the minimum quantum required by policy. The Section 106 Agreement is being drafted to reflect this and the SOCG will also need to be updated to reflect this.
64. If the development was scaled to deliver housing more closely in alignment with the Site Allocation, there would be more scope to achieve BNG benefits above the minimum policy requirement. Accordingly, there appears to be a missed opportunity.
65. Environmental benefits by way of creating an attractive development, reducing surface run-off rates (flood risk prevention) and enhancements to ecological habitats are noted. However, I disagree with the identification of design as a benefit, rather this is a harm, as I have explained. As to the other matters, these are, at least in part, mitigation rather than benefits.
66. Therefore, in the round, I afford these matters limited weight. Further, there does not appear to be any part of these matters which can be isolated as being referable to the additional 12 dwellings.

8. PLANNING BALANCE

67. It follows that the Proposed Development would fail to accord with the Allocation, i.e. Policy LPRSA248, and Policy LPRSP15.
68. I have given these conflicts significant weight each, given their strategic importance and the analysis I have set out above.
69. As a result of either or both of these development plan conflicts the Proposed Development fails to accord with the development plan, read as a whole. In reaching this conclusion, I have considered all of the relevant policies as agreed in the SOCG and I acknowledge that the other putative RfR are likely to be overcome such as to lead to additional compliance with policy. Nevertheless, given the importance of the Allocation – the site specific policy which mediates the other objectives in the LPR – as well as the strategic importance of Policy LPRSP15 given the Appeal Site's location, I am of the view that there is conflict with the development plan read as a whole.

70. Although not necessary to reach my conclusion of conflict with the development plan as a whole, this conclusion is also supported by the conflict with policies LPRSS1 (paragraph 14) and LPRSP14(A) (paragraph 1b).
71. In addition, I note that there are a number of breaches with paragraphs in the NPPF that are relevant to the first putative reason for refusal. These breaches are other material considerations which weigh against the grant of planning permission. I also attach significant weight to these breaches given the importance of the objectives to which they relate, as set out in the NPPF.
72. Taking these matters together, I consider that the adverse impacts outweigh the benefits of the Proposed Development advanced by the Appellant and as a result planning permission should be refused because the other considerations do not indicate a basis for departing from the development plan. I reach this conclusion both by considering the Proposed Development in the round and by focussing in on the 12 additional dwellings: on either approach I reach the same conclusion.