

BLEAN PARISH COUNCIL



Sheet 2297

Prior to the April Parish Council meeting the Annual Parish Assembly was held to which all residents were invited. This took place in the Community Area of the village hall with refreshments provided. Thirty residents attended.

The speakers were Elysia Barker-Davies, who is the Wilder Engagement Manager of Kent Wildlife Trust, who, along with her colleague, gave a very interesting and informative talk and presentation on the update of the Wilder Blean Project.

There followed a talk by Jo Gilham from the Fire Service who spoke about fire safety in the home and provided the latest advice which again was very informative.

Minutes of the Parish Council Meeting held on Monday 17th April 2023

Those Present: Cllr. P. Hutt (Chairman); Cllr. G. King; Cllr. J. Russell; Cllr. H. Samuelson; Cllr. A. Jeffers and Clerk Mrs D. Horswell.

Also present: Seven members of the public.

1. Apologies for absence: Ward Cllr. A. Ricketts; Ward Cllr. D. Smith and County Cllr. R. Thomas – All attending CCC full council meeting.

The Chairman welcomed everyone to the meeting.

2. Changes to DPI's & Declarations of Interest in matters to be discussed:

No changes were reported with Cllr. King declaring an interest in any matters relating to the village hall.

3. To Approve: Minutes of the last Meeting: of 13th March 2023.

Proposed Cllr. Samuelson, Seconded by Cllr. Jeffers and AGREED by all Members present.

These being approved the Minutes were signed by the Chairman as a true record.

4. Finance:

4.1: (Banking Report circulated to Cllrs. prior to the meeting.)

DD	Lili Waste Services	Waste Collection April	£102.38 (Vat £17.06)
Bacs	Mr K Waddington	Handyman Wages March	£164.83
Bacs	Mrs D Horswell	Clerk Salary March	£824.26

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Bacs HMRC	PAYE & NIC March	£199.45
DD XLN	Telephone & Broadband April	£81.13 (Vat £13.52)
Bacs KALC	Annual Subscription	£631.24 (Vat £105.21)
Bacs Blean Village Hall	Hall Hire 17/4/23	£36.00

Total Paid Out: £2,039.29

Bank Statement as at 31st March 2023 - Current Account £30,878.20

(This does not include all the outgoing transactions in this banking report).

All Members present **APPROVED** and **AGREED** the payments.

It was noted that the Internal Audit for 2022/2023 had been carried out by Mr. Lionel Robbins on 11th April. The report will be presented at the May meeting with the 2022/2023 AGAR documents.

5. Planning: (Planning Report for discussion circulated to Cllrs. prior to meeting)

Planning Applications:

23/00504 - Single-storey rear extension, porch to front, together with alterations to roof to include dormers to both sides - **105 Blean Common – comments by 21st April.**

23/00502 - Change of use of land from open field to a dog walking field together with the erection of fence with timber posts and a metal gate - **Field To The East Of The Gas Distribution Centre And South Of The Private Access Track Leading Off Honey Hill Road A290 - comments by 21st April.**

23/00437 | Application for lawful development certificate for existing use of cabin as a dwelling. | **Brook Farm Cabin Denstroude Lane**

23/00527 - Change of use of field for use as riding arena - **The Hay Barn, Denstroude Lane - comments by 28th April.**

23/00613 - Two-storey rear extension following demolition of existing single-storey extensions - **25 Honey Hill, Blean – Comments by 12th May.**

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23/00521 - 6 detached dwellings consisting of 3 no. one and a half storey, 2 no. two and a half storey and 1 no. 2 storey dwelling together with formation of access and associated hardstanding following demolition of existing industrial buildings - **Butlers Court Farm, Blean Common** - **Comments by 12th May.**

23/00680 - First floor extension and new roof - **135 Blean Common** - **Comments by 12th May.**

Decision Notices by CCC:

23/00168 - Dormer to front elevation - **16 Trueman Close – GRANTED**

23/00242 - T.P.O No 3 1987, Coppice whole area of coppice woodland - **Blean Woods, Rough Common Blean - GRANTED**

Gladmans Blean Common Inquiry

The appeal is allowed and outline planning permission is granted.

The full report from the Planning Inspector is attached to these Minutes.

A discussion was had on the requirements of the village in the outline planning considerations.

6. Reports from County Cllr. and Ward Cllrs:

6.1 In his absence County Cllr. R. Thomas had sent the following report:



Councillor
Robert Thomas

April 2023

robert.thomas@kent.gov.uk 07740347419

An update on Special Educational Needs and Disabilities provision:

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Sheet 2300

Message sent on behalf of Rory Love, Cabinet Member for Education and Skills

Dear Colleagues,

I am writing to let you know that we have now agreed the proposal by the Department for Education (DfE) to enter into a Safety Valve agreement for the High Needs Funding Block of our Dedicated Schools Grant.

As part of this agreement, we successfully negotiated a £140 million contribution from the Department for Education towards eliminating the cumulative deficit arising from existing and forecast overspends on High Needs Funding for schools for children and young people identified as having special educational needs or disabilities (SEND).

Under the agreement, KCC undertakes to control and reduce the cumulative deficit by contributing a further £82 million over the next five years.

This will mean Kent's SEND services and council taxpayers will be protected from cuts to repay the overspends that have accumulated.

The agreement allows the council to continue to focus on improving SEND services within the money available.

The DfE have today published the [agreement on the GOV.uk website](#).

We have also [published a summary of the agreement on our website](#) and will be sharing news with key stakeholders, including staff, schools, post-16 settings and parents through our regularly-scheduled channels during the next two weeks.

Yours sincerely,

Cllr Rory Love OBE

Cabinet Member for Education and Skills

NEWS

1. Success for the city council with grant funding for energy efficiency improvements at Kingsmead Leisure Centre <https://news.canterbury.gov.uk/news/major-boost-to-energy-efficiency-at-kingsmead-leisure-centre/>
2. Tenants to move into new council housing at Kingsmead <https://news.canterbury.gov.uk/news/families-set-to-move-into-new-council-houses-packed-with-green-technology/>

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3. New rules came into effect on the coast on 1st April
<https://news.canterbury.gov.uk/news/rules-refreshed-to-make-sure-everyone-has-a-great-time-at-the-coast/>
4. A scheme to buy solar panels has reopened for applications
<https://news.kent.gov.uk/articles/group-buying-scheme-to-help-kent-residents-invest-in-renewable-energy-opens-again>
5. A planned closure of the Thanet Way to enable improvement works has been revised <https://news.kent.gov.uk/articles/kcc-media-release2>

7. Reports and Updates:

7.1 Village Hall Report: - Cllr. King

A number of new hirers have begun to use the hall with private hirers also increasing again. Running costs continue to increase so hiring fees have had to be increased, which users fully understand.

Summer fete arrangements are beginning to be formulated, with a wide range of different stalls and arena events planned.

7.2 N.H.W:

All reports are circulated to Cllrs.

7.3 Footpath Report: Cllr. Samuelson and Cllr. Russell.

Nothing to report.

7.4 Highways Report: Cllr Jeffers.

Cllr. Jeffers spoke about the disappointing response from KCC regarding the Crab & Winkle/Tyler Hill Road crossover. The Parish Council's disappointment will be conveyed to County Cllr. Thomas.

7.5 Speedwatch Report: Cllr. Akers and Cllr. Russell.

Cllr. Russell has been in touch with Rough Common volunteers as only three residents have volunteered for Blean. It is hoped that the two villages can work together.

7.7 Clerks Report:

Nothing further to report that is not already on the agenda.

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8. Matters raised by the Public:

No matters raised by the public present.

9. Matters to be discussed: (Any relevant papers circulated to Cllrs. prior to the meeting).

9.1 Crab & Winkle/ Tyler Hill Road crossover.

This item had already been discussed at agenda item 7.4.

10. Councillors' Reports:

10.1 Cllr. King said that people had asked him when the village sign will be re-instated on The Green. The clerk replied that the sign itself has been repaired and is looking very good. The suppliers have been instructed to supply the six inch square x 14ft oak post, clear remains of the broken post, prepare the site and erect the sign.

11. Any Other Business:

The Chairman said that this was the last meeting before the Annual Parish Council meeting which is on **Monday 15th May at 7.30pm** in the Committee Room of the village hall.

He reminded everyone of the need for proof of I.D. for the election on 4th May.

He also reminded everyone of the Celebration of Barbara's life which is taking place on Sunday 23rd April 1pm – 4pm in the village hall.

There being no further business the meeting closed at 9.11pm.

These Minutes remain as draft minutes until approved by the Parish Council at the next meeting.

Date _____

Signature _____

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Gladmans Blean Common Inquiry Decision

The Planning Inspectorate

<https://www.gov.uk/planning-inspectorate>

Appeal Decision

Inquiry held on 22-24 and 28 February 2023

Site visit made on 2 March 2023

by G D Jones BSc(Hons) DipTP DMS MRTPI

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

Decision date: 6 April 2023

Appeal Ref: APP/J2210/W/16/3156397

Land at Blean Common, Blean, Kent •

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.

- The appeal is made by Gladman Developments Limited against the decision of Canterbury City Council.
- The application Ref CA/15/02523/OUT, dated 20 November 2015, was refused by notice dated 19 February 2016. •

The development proposed is the erection of up to 85 residential dwellings (including 30% affordable housing), structural planting and landscaping, informal public open space, surface water attenuation, vehicular access point from Blean Common and associated ancillary works.

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 85 residential dwellings (including 30% affordable housing), structural planting and landscaping, informal public open space, surface water attenuation, vehicular access point from Blean Common and associated ancillary works at Land at Blean Common, Blean, Kent, in

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accordance with the terms of the application, CA/15/02523/OUT, dated 20 November 2015, subject to the schedule of conditions appended.

Preliminary Matters

2. The proposals are for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the schemes, I have treated the details relating to these reserved matters submitted with the appeal application as a guide as to how the site might be developed.

3. A legal agreement, dated 15 March 2023, made under s106 of the Town and Country Planning Act 1990 (the Legal Agreement) was submitted shortly after the Inquiry closed in accordance with an agreed timetable. I have had regard to it in my consideration and determination of the appeal.

4. Since the time that the appeal planning application was determined in 2015 there have been a number of changes in circumstances, including the adoption of the Canterbury District Local Plan in 2017 (the Local Plan). These changes are reflected in the evidence of the appellant and the Council. Indeed the Council opted not to maintain its case regarding the effect of the proposed development on the character and appearance of the area. Blean Parish Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 2 Council opted to rely on the written evidence submitted to the previous Inquiry held in respect to this appeal only and not to call any witnesses. I have taken that material, along with all other written evidence, into account in making my decision.

Main Issues

5. The main issues are:

- Whether the proposed development would accord or conflict with the existing and emerging development plan policies for the area; and
- The planning balance, including having regard to matters relating to housing delivery.

Reasons

Plan Policy

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6. As far as the development plan is concerned there are two policies in dispute between the Council and the appellant, Policies SP4 and HD4 both of the Local Plan. The evidence also refers to policies of the Draft Canterbury District Local Plan to 2045 (the DCDLP). It is common ground between the Council and the appellant that the appeal development would conflict with Policies SS3, R2 and R28 of the DCDLP and that at this stage the policies of the DCDLP at large can only be afforded limited weight. I have found no good reason to disagree.

7. Local Plan Policy SP4 concerns the 'strategic approach to location of development'. Part of its explanatory text sets out that the Local Plan continues the previous settlement hierarchy, with new housing to be primarily located in the urban centres and new development in the rural settlements limited, proportionate in their scale and position to the settlement hierarchy. It also says that new housing sites in rural settlements should reflect the settlement patterns.

8. Policy SP4 itself states, amongst other things, that the urban areas of Canterbury, Herne Bay and Whitstable will continue to be the principal focus for development, with a particular focus at Canterbury, together with development at the rural service centres and local centres. It, therefore, establishes a settlement hierarchy. Blean is in the second tier of that hierarchy as one of the 'rural service centres'.

9. Notwithstanding the appellant's submissions on this matter and having had regard to the other appeal decisions that have been put to me, when the Local Plan is read as a whole, it is clear that Policy SP4 admits development within settlements such as Blean. The decision-maker's task is made a little more challenging in this regard than it might have been because the Local Plan does not delineate settlement boundaries with a line on a map. It is, nonetheless, evident that the appeal site is adjacent to Blean, but not within it.

10. Accordingly, the site should be treated as being in the 'open countryside' for the purposes of Policy SP4, such that the appeal scheme does not accord with the Policy. My reasons for coming to these conclusions broadly align with the Council's evidence on the matter. I have not found it necessary to elaborate further given that, for the reasons set out in the planning balance section below, the outcome of this main issue,

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even when the Council's best position on the matter is applied, does not alter the outcome of the appeal overall. Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 3

11. Local Plan Policy HD4 concerns 'new dwellings in the countryside'. It states that planning permission for new dwellings in the countryside will only be granted in a series of specific circumstances, none of which are applicable to the development under consideration here. On this basis, therefore, given my conclusions regarding Policy SP4, the proposed development would conflict with Policy HD4.

12. In summary, therefore, the appeal development would be at odds with the existing and emerging development plan policies for the area, namely Policies SP4 and HD4 of the Local Plan, and Policies SS3 (Development strategy for the district), R2 (Rural service centres) and R28 (Countryside) of the DCDLP.

Other Matters

Planning Obligations

13. In the event that planning permission were to be granted and implemented the Legal Agreement would secure the provision of on-site affordable housing at a rate of 30%, with a split of 70% Affordable Rent, 25% First Homes and 5% Shared Ownership, and of on-site open space and provisions for its management; payments to improve local public rights of way, bus stops in the vicinity of the site, signage and cycle storage in Blean and the community sports pitches at Blean Primary School, and to cover the cost of managing and monitoring the Legal Agreement; and measures to mitigate the effects on European Sites, as discussed in the following subsection.

14. The Council has submitted a detailed statement (the CIL Statement), which addresses the application of statutory requirements to planning obligations and also sets out the relevant planning policy support / justification. I have considered the Legal Agreement in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the planning obligations therein would be required by and accord with the policies set out in the CIL

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Statement. Overall, I am also satisfied that all of those obligations are directly related to the proposed development, and in each case are fairly and reasonably related to it and necessary to make it acceptable in planning terms.

Appropriate Assessment

15. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as competent authority I am required to undertake an Appropriate Assessment of the appeal development on the basis of its Likely Significant Effects on European Sites regarding: • Disturbance generated from recreational pressure during occupation (in-combination) in respect to the Swale Special Protection Area (SPA) and the Thanet Coast and Sandwich Bay SPA; and • Air quality (dust emitted during construction) in respect to the Blean Complex Special Area of Conservation (SAC).

16. A suite of mitigation is proposed to address these effects, which having regard to the comments of Natural England made in response to consultation on the proposals I consider would adequately mitigate the effects of the proposal so that there would be no adverse effect upon the integrity of any European Sites. Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 4 Moreover, the mitigation would be secured and managed via a combination of the planning obligations within the Legal Agreement, as outlined above, and of planning conditions.

17. In summary, the mitigation measures would include: •

- Payment related to the Bird Wise North Kent Strategic Access Management and Monitoring Scheme (SAMMS) to deliver mitigation in respect to the Swale SPA, to be secured by planning obligation; •
- Separate payment to the SAMMS for Thanet Coast to deliver mitigation in respect to the Thanet Coast and Sandwich Bay SPA, to be secured by planning obligation; •
- A Green Space Access Management Plan in respect to the proposed on-site green space and footpaths, and information for homeowners of the development in respect to both the Swale SPA

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and Thanet Coast and Sandwich Bay SPA, to be secured via planning conditions; and •

- The implementation of a Construction Environmental Management Plan, including measures to prevent and control dust, to secure mitigation in respect to the Blean Complex SAC, to be secured via planning condition.

Housing Land Supply

18. I have concluded that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites in the terms of the Framework (the Framework). The principal reasons for this are discussed below.

19. Notwithstanding the Council's evidence on this matter, the Framework and the advice in the national planning practice guidance (PPG) are clear that in circumstances where the adopted strategic policies of the development plan are more than 5 years old and have not been reviewed / found not to require update, as is the case here, the 5 year supply of deliverable housing sites should be measured against the local housing need calculated using the Standard Method.

20. I recognise that the base date agreed between the Council and the appellant is 1 April 2022 and that at that time the Local Plan was not yet 5 years old. Nonetheless, the words where the strategic policies are more than five years old within para 74 of the Framework are unambiguous. There is also no doubt that the strategic policies are more than 5 years old.

21. The effect of the approach advocated by the Council would be to assess the 5 year supply of deliverable housing sites against the adopted housing requirement for almost 6.5 years from the adoption of the Local Plan and only then, after the publication of its next Annual Monitoring Report in December 2023, would it be assessed against the Standard Method. This would clearly be at odds with published government policy on the matter.

22. There is, of course, nothing in policy or guidance that requires the Council to publish interim updates or to bring the timing of its Annual Monitoring Report in line with the date of the adoption of the Local Plan.

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Equally, it was and remains open to the Council to do so, notwithstanding the associated challenges. Moreover, any decision about whether or not to do so could have been made in the context of Framework para 74. Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 5

23. As the Inspector in her Malvern Hills District decision regarding Land South of Bransford Road (Core Document 10.12) stated, the appeal falls to be determined now, it would not be correct to rely on the now more than 5-years old adopted strategic policies. Moreover, as a further Inspector observed in his decision regarding Land off Claphill Lane, in the same District, (Core Document 10.13) there is no reference in either the Framework or the PPG to a scenario whereby the most recent annual update figures based on the housing requirement in the strategic housing policies can still be used 5 years from their adoption.

24. In the circumstances, therefore, while I note the Council's wider evidence on this matter, including the other appeal decisions by other Inspectors and by the Secretary of State that have been brought to my attention, I see no compelling case to deviate from national policy in this regard. Accordingly, I have employed the figure of 1,142 dwellings per year for local housing need calculated using the Standard Method. Once the buffer of 20%, which is agreed by the Council and the appellant, is applied it gives a figure of 6,852 homes over the 5 year period in question.

25. The Council's best position on supply over that 5 year period is 6,873 homes. When set against need calculated using the Standard Method this equates to an oversupply of only 21 homes. However, my assessment of the wider evidence indicates that supply will in practice be significantly less than the need figure. Bearing in mind the small margin of oversupply based on the Council's figure, I have not found it necessary to go through all of the disputed sources of potential supply. Nonetheless, I shall deal with a few sites to illustrate the point.

26. 'The Estuary View Business Park' site is for 203 bedspaces, which in the Council's view should equate to 133 units, applying a ratio of 1:8. Nonetheless, 101 of the total bedspaces are proposed for an Integrated Community Healthcare Centre. The evidence indicates that this element of the use is to provide a short term course of rehabilitation and treatment,

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and that stays would last a maximum of three weeks unless an extension is agreed. While I recognise that the planning permission may permit longer term use of these 101 bedspaces, there is no evidence to suggest that that would happen in practice during the 5 year period. Indeed, the contrary seems far more likely given the applicant's stated intentions regarding the operation of the permitted use.

27. Accordingly, the Council's claimed 133 units should be reduced by 56 units. This alone is sufficient to bring supply below the 5,852 homes requirement.

28. The Council also claims that the 'Land south of Canterbury' and 'Land north of Hersden' sites will yield a total of 480 homes over the 5 year period, 300 and 180 homes respectively. However, neither site has planning permission yet and it is unclear when permission will be granted.

29. 'Land south of Canterbury', at a total of 4,000 units, is a very large site. It is a hybrid planning application with 140 of the total units being for detailed consent and the balance for outline planning permission. The application also seeks permission for 70,000m² of employment floorspace and two primary schools. While the Council has resolved to grant permission subject to a legal agreement, permission has still not been issued. There is no clear evidence that firm progress has been made in relation to pursuant reserved matters Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 6 application/s or to discharge pre-commencement conditions. Nor is there any written agreement / statement of common ground this year between the Council and the developer. The development also requires major infrastructure works which also brings uncertainty regarding delivery and timing.

30. There can be very little doubt that planning permission will be granted at some point for the 'Land south of Canterbury' application. However, there remain significant doubts about when the site will deliver homes to the point that, on the evidence before me, it cannot be considered to be deliverable during the 5 year period in question.

31. 'Land north of Hersden', at 900 units, is a reasonably large site and subject to similar circumstances and issues to those effecting the 'Land

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south of Canterbury' site. For instance, it does not have planning permission and it is not known when the planning permission will be granted as there are outstanding issues. The evidence is unclear regarding timescales and build out rates. Overall, for similar reasons to the 'Land south of Canterbury' site, there is also insufficient evidence that it is deliverable in the 5 year period.

32. Like the 'Estuary View Business Park' site, the omission of either of these two sites is sufficient to cause the Council's claimed supply to fall significantly below the identified requirement. On this basis, therefore, that the Council cannot currently demonstrate a 5 year supply of deliverable housing sites in the terms of the Framework.

33. Before leaving this topic, bearing in mind that it was a significant area of dispute between the Council and the appellant which, reasonably, occupied quite a lot of Inquiry time, it is worth mentioning how student accommodation should be treated. The guidance in the PPG is clear on this matter and the Council has applied it correctly. In contrast, the appellant appears to have read much into the guidance that simply is not there. This has led the appellant to adopt an unjustified approach, so its suggested deduction is unwarranted. Nonetheless, this does not alter my wider assessment of housing land supply.

34. In conclusion on housing land supply, for the reasons outlined above, the Council has failed to demonstrate a 5 year supply of deliverable housing sites as a consequence of not having properly applied Government policy and guidance regarding the use of the Standard Method, whereas the wider evidence indicates that there is not currently a Framework compliant supply of deliverable housing sites.

Other Considerations

35. There is a range of wider issues beyond the case made by the Council at the Inquiry. The Parish Council has maintained its opposition to the appeal scheme, including in respect to drainage and highways/transport issues.

36. Nonetheless, overall the drainage/flooding evidence indicates that the development would not have any significantly detrimental effects. Indeed

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there is likely to be a modest betterment in terms of restricting rates of discharge from the site.

37. Regarding highways and transport the appellant's evidence reasonably demonstrates that, subject to mitigation, there would be no significant effects. The local highway authority has raised no objections to the scheme subject to Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 7 matters that can be controlled via the Legal Agreement and conditions. There would also be some benefits for the wider community in this regard in terms of improvements to rights of way, bus stops and cycle storage.

38. Additionally, concerns have been expressed locally including by those who spoke at the Inquiry. These include matters concerning the development's effect on the character and appearance of the area, on wider highway/pedestrian safety and capacity, on biodiversity, on air quality, on living conditions in terms of noise, disturbance, privacy, outlook/views and overshadowing/light, on the ancient woodland, and on archaeology; infrastructure, services and facilities as existing and proposed, including medical, educational, utilities, drainage, sewerage, cycling, telecommunications, internet, emergency services, bus services, recreational, green space, pedestrian infrastructure, lack of post office and ATM in the village; and the quantity and affordability of the proposed affordable housing, it may not be occupied by local people and concerns regarding tenure.

39. Other issues raised include the loss of agricultural land; overdevelopment of the site; the creation of a potential precedent if planning permission were to be granted; the sustainability of the site; drainage, flooding and sewerage; water pollution; safety and public health associated with the drainage and sewage arrangements; impact upon the population dynamics of Blean and integration with the community; student lets and buy to lets; it is prejudicial to and premature in terms of the local plan-making process; the proposals should not be determined until full details have been submitted; sustainable modes of transport / promotion of non-car travel; the proposed layout, including that garden sizes should be larger instead of providing a communal space; odour from the sewage management system; and that proposals for a hedge are in respect to property outside the appellant's control.

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40. These matters were largely identified and considered within the Council officer's report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the recent Inquiry, and are largely addressed in its evidence and in the statements of common ground. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to the respective planning obligations of the Legal Agreement and the imposition of planning conditions.

Planning Balance

41. Although the Council is confident that once published by the Government the next Housing Delivery Test results for the area will show that the tilted balance is not engaged as a result of housing delivery. However, as things stood at the time of the recent Inquiry and as they still stand now at the time of my decision the most recently published results are such that the so-called tilted balance, as set out in para 11 of the Framework, applies to the determination of the appeal.

42. I have also found that the Council cannot currently demonstrate a Framework compliant supply of housing sites. Consequently, notwithstanding the Housing Delivery Test position, the 'tilted balance' is engaged. It provides that planning permission should be granted unless any adverse impacts of doing so would Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 8 significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

43. The Council's evidence is that if I find that it cannot demonstrate a 5 year supply of deliverable housing sites or the published Housing Delivery Test results at the time of my decision are below 75%, the tilted balance will be engaged. The Council also accepts that, if that is the case, the adverse impacts of the development would not significantly and demonstrably outweigh its benefits. I have found no reason to disagree with the Council in this regard.

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Conditions

44. A final schedule of suggested conditions, agreed between the Council and the appellant, was supplied to me shortly after the Inquiry closed in accordance with an agreed timetable. It includes the standard time limit / implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. My conclusions are summarised below.

45. In order to provide certainty in respect to the matters that would not be reserved for future consideration, a condition requiring that the development would be carried out in accordance with the approved plans would be necessary. For that reason and to protect the character and appearance of the area, a condition limiting the number of dwellings permitted would be necessary as would a condition to control details to be submitted with each pursuant reserved matters application. Again in the interests of protecting the character and appearance of the area and in the interests of biodiversity, a condition would also be necessary to control the implementation and maintenance of the landscaping works.

46. A condition would be necessary to ensure that features of archaeological interest would be properly examined, recorded and, where necessary, preserved. A condition requiring adequate remediation of any contamination affecting the site would be necessary to safeguard the health and well-being of future occupiers. Conditions to control the details of surface water drainage and management, would be necessary to reduce flood risk, to control surface water run-off and in the interests of biodiversity. To protect the character and appearance of the area and in the interests of biodiversity a condition to protect trees and hedgerows to be retained would also be necessary.

47. A condition would be necessary to ensure that the living conditions of occupiers of the development would not be unacceptably affected by noise. A condition to control the delivery of the proposed access, including visibility splays, would be necessary in the interests of highways safety and to ensure that the development would be served by appropriate means of access. To promote sustainable transport and in the interests of biodiversity, a condition to secure the implementation of a Travel Plan

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would be necessary. To help ensure that the homes would meet local needs, conditions would also be necessary to control the details of housing mix for the market and affordable dwellings.

48. To promote inclusivity and ensure suitable accommodation for all members of the community, a condition would be necessary to ensure provision of at least 20% of the homes permitted meet suitable accessibilities standards. To help ensure that the scheme represents sustainable development in the terms of the Framework, a condition to secure compliance with a sustainability statement Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 9 would be necessary. To safeguard residents' living conditions and to protect wildlife and their habitat, a condition to protect air quality would be necessary. A condition to control the details of sewage arrangements for the development, would also be necessary in the interests of biodiversity and public health.

49. To protect wildlife and their habitat, conditions would be necessary to secure precautionary mitigation for reptiles and to control details of lighting. To protect the character and appearance of the area and in the interests of biodiversity, a condition to secure and maintain a Landscape and Ecological Management Plan would be necessary. In the interests of highway safety, to safeguard residents' living conditions and to protect wildlife and their habitat, a condition would be necessary to ensure that the construction works proceed in accordance with a Construction Environmental Management Statement. As discussed above, conditions to secure a Green Management Access Plan and its implementation as well as the details and distribution of a Homeowner Information Leaflet regarding the relevant European Sites, would also be necessary in the interests of biodiversity.

Conclusion

50. In conclusion, the appeal scheme is at odds with the existing and emerging development plan policies for the area. However, as recognised by the Council as Local Planning Authority, its combined adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the appeal scheme would represent sustainable

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development in the terms of the Framework, which is a material consideration that, in the particular circumstances of the case, outweighs the conflict with the development plan as a whole.

51. Accordingly, subject to the identified conditions, the appeal is allowed.

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<https://www.gov.uk/planning-inspectorate>

10 APPEARANCES¹ FOR THE APPELLANT: John Barrett – Counsel for the appellant Instructed by Christien Lee, Emery Planning He called Ben Pycroft BA(Hons), DipTP, MRTPI Housing Delivery Matthew Travis BSc(Hons), MSc, C.WEM, M.CIWEM, CSci, CEnv Drainage Benjamin Jackson BEng(Hons), MSc, MCIHT Highways Gary Holliday BA(Hons), MPhil, FLI Landscape and Visual Impact Suzanne Mansfield BSc(Hons), Ph.D., MCIEEM, CMLI Biodiversity Guy Laister MSc Eng, BSc Eng(Civil), CEng, CEnv, C.WEM, MCIWEM Nutrient Neutrality Christien Lee BSc(Hons) MCD MRTPI Planning **FOR THE LOCAL PLANNING**

AUTHORITY: Isabella Tafur – Counsel for the Local Planning Authority Instructed by Canterbury City Council She called Louise Randall BSc(Hons), MUPR Housing Delivery Andrew Gambrill BSc(Hons) MPPP Planning

INTERESTED PERSONS: June Parks Paul Parks David Hellyar Tim Bentley Jim Wiles Elizabeth Appleyard Local Resident Local Resident Local Resident Local Resident Local Resident 1 Blean Parish Council did not appear at the Inquiry although it was a Rule 6(6) party Appeal Decisions APP/J2210/W/16/3156397

<https://www.gov.uk/planning-inspectorate> 11 **INQUIRY DOCUMENTS**
Opening Statement on behalf of the Appellant Opening Statement on behalf of the Council Draft Legal Agreement and Plan Revised Council position on student deliverable supply Note on revised Council's position in relation to student accommodation Housing Land Supply Statement of Common Ground – Land at Claphill Lane Housing Land Supply Statement of Common Ground – Land south of Bransford Road Updated 'Scott Schedule' on Housing Land Supply Updated Housing Land Supply Statement of Common Ground Closing Submissions of the Council Closing Submissions of the Appellant Updated Highways Statement of Common Ground Final Schedule of Conditions Final Legal Agreement Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning->

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inspectorate 12 **APPEAL REF APP/J2210/W/16/3156397 - SCHEDULE OF CONDITIONS:**

1. Details of the appearance, landscaping, layout, and scale (hereinafter called "the Reserved Matters") shall be submitted to, and approved in writing by, the Local Planning Authority before any development takes place and the development shall be carried out in accordance with the details approved.
2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than 2 years from the date of this permission.
3. The development hereby permitted shall be commenced not later than 1 year from the date of approval of the last of the Reserved Matters to be approved.
4. The development hereby approved shall be carried out in accordance with the following drawings:
 - Location Plan - 6581-L-01 A
 - Site Access Design - 1463/01/C
5. The development hereby approved shall comprise a maximum of 85 dwellings.
6. No development shall take place until a Masterplan for the entire site, which shall broadly be in accordance with the indicative Development Framework Plan No. 6581-L-02-AA, has been submitted to, and approved in writing by, the Local Planning Authority. Reserved Matters applications pursuant to Condition 1 shall be broadly in accordance with the Masterplan approved.
7. Each Reserved Matters application shall be accompanied, as appropriate, by the following documents and/or information:
 - A Design Statement that demonstrates how the proposals accord with the approved Masterplan under Condition 6; In relation to the matter of layout a Reserved Matters application shall include:
 - Details of the siting and orientation of the proposed buildings and any relevant roads, as well as the location of any landscaped or open space areas;

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- Details of any necessary temporary layout associated with boundary treatment between the sub-phases;
- Details of parking areas in accordance with the standards set out in the Kent Design Guide Interim Guidance Note 3 (or any superseding Note), and of servicing areas and plant areas;
- Details of cycle parking in accordance with the standards set out in the Kent Design Guide Interim Guidance Note 3 (or any superseding Note);
- Details of any public rights of way affected by the proposal, as well as details of proposed footpath/cycle links as shown for illustrative purposes on the Development Framework Plan, No 6581-L-02-AA;
- Details and specification (including cross sections if necessary) of proposed earth modelling, mounding, re-grading or changes of level to be carried out including spot levels; Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 13 In relation to scale and appearance a Reserved Matters application shall include:
 - Details of building heights and massing;
 - Details of housing mix including the mix and location of affordable housing, which shall meet the local housing needs, as set out in the Council's Housing and Homelessness Strategy 2018-2023 or any superseding Strategy;
 - Details of the internal layout of buildings with space standards indicated;
 - Details of the external treatment and design of the buildings;

In relation to the matter of landscaping a Reserved Matters application shall include:

- Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works, including materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns/brackets, private and communal areas, open spaces (including details of the quantum of each open space typology that shall be provided), edges, boundary treatments, public rights of way and roads;
- Tree planting details and specification of all planting in hard and soft landscaped areas;
- Provision for a planted buffer zone on the site's northern boundary, to protect the adjacent ancient woodland. The buffer zone shall be located generally as shown on the Development Framework Plan, No 6581-L-02-AA; and

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- Details of the programme for implementing and completing the planting.

8. All hard and soft landscape works approved pursuant to Condition 1 shall be carried out in accordance with the approved details and shall be implemented in accordance with a programme of works to be submitted to, and approved in writing by, the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

9. No development shall be commenced until an archaeological field evaluation has taken place, in accordance with a scheme of archaeological investigation, and has been submitted to and approved in writing by the Local Planning Authority. If the field evaluation indicates a need for any further investigation or safeguarding measures for important remains, those works shall be carried out in accordance with a timetable, which shall be submitted to and approved in writing by the Local Planning Authority, prior to the start of development or any other works.

10. No development shall be commenced until a Phase 2 contamination study has been carried out, in accordance with the recommendations set out in Section 6 of the Ground Conditions Desk Study by Hydrock Consultants, dated November 2015. Any such contamination found to be present shall be removed or rendered harmless, in accordance with details and a timetable Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 14 that shall be submitted to, and approved in writing by, the Local Planning Authority. In addition:

- i. If during the course of construction, any contamination is found which has not been identified previously, no further work shall take place until that contamination has been removed or rendered harmless, in accordance with additional measures to be submitted to and approved in writing by the Local Planning Authority; and
- ii. If any contamination has been found to be present at any stage, either before or during construction, no dwelling shall be occupied until a verification report has been submitted to, and approved in writing by, the Local Planning Authority, showing that all contamination has been treated, and the site rendered safe for occupation, in accordance with the contamination study and any further measures subsequently approved.

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11. Development shall not begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to, and approved in writing by, the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment by Enzygo dated September 2022 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of at a rate no greater than Q_{bar} without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters; and
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker. The drainage scheme shall be implemented in accordance with the approved details.

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

13. No development shall take place until a tree and hedgerow protection scheme has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall contain details of measures for the retention of Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 15 all of the existing trees and hedgerows on and adjacent to the site, and for their protection during construction, except those identified for removal on the Tree Retention

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Plan contained in the Arboricultural Assessment report by FPCR, dated September 2022. In addition:

- i. The measures to be contained in the tree and hedgerow protection scheme shall include protective fencing. All such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site;
- ii. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made; and
- iii. No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned other than with the written consent of the Local Planning Authority. If any retained tree is removed, uprooted or destroyed during construction, or dies within 2 years after the completion of development, replacement planting shall be carried out in accordance with details that have been submitted to, and approved in writing by, the Local Planning Authority.

14. No development shall be commenced until a detailed scheme for protecting future occupiers from external noise has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall incorporate the measures recommended in Section 5 of the Noise Assessment Report by Wardell Armstrong, dated November 2015 and shall demonstrate that the target levels for bedrooms and living rooms can be met in accordance with BS8233. No dwelling shall be occupied until the approved measures relevant to that dwelling have been implemented.

15. No dwelling on the site shall be first occupied until the proposed site access has been constructed at least to base course level, with the visibility splays shown on the submitted plan, drawing No 1463/01/C, provided with no obstructions over 0.6m above carriageway level within the splays. The gradient of the access shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter. Once provided, the access shall be maintained as such thereafter.

16. The development shall be carried out in accordance with the measures, initiatives and actions identified in the submitted Travel Plan by Ashley Helme Associates dated June 2021. The Travel Plan shall be put

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into action and adhered to throughout the lifetime of the development, or that of the Travel Plan itself, whichever is the shorter.

17. The market and affordable mix of dwellings in the development hereby approved shall be in accordance with the Council's Housing and Homelessness Prevention Strategy 2018-2023 (or any superseding Strategy).

18. 20% of new homes within the development shall meet the accessibility and adaptable dwellings Regulation M4(2) of the Building Regulations (as amended). Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 16

19. No development shall commence until a Sustainability Statement, as required by Policy DBE1 of the Canterbury District Local Plan 2017, has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall demonstrate how the proposal has responded to the objectives of sustainable development and had regard to the 'sustainable design and construction measures' listed at Table D1 of the Canterbury District Local Plan 2017 (or any superseding development plan policy/ies).

20. Prior to the commencement of development, an air quality mitigation report shall be submitted to, and approved in writing by, the Local Planning Authority. The report shall provide details of the mitigation, demonstrating that the total cost is no less than the air quality damage calculation figure, and timescales for implementation. The report shall be based upon the Wardell Armstrong Air Quality Assessment (November 2021) (Report no - 0002). The approved measures shall be implemented in line with the approved report and thereafter retained.

21. No development shall commence until details of the proposed means of foul sewerage disposal for that Phase, including a timetable for implementation, have been submitted to, and approved in writing by, the Local Planning Authority. The details submitted shall demonstrate that no foul waste water from residential dwellings shall be disposed to a wastewater treatment works that discharges directly or indirectly into the Stodmarsh Special Protection Area / Special Area of Conservation

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catchment. The development shall not be carried out other than in accordance with the details as approved.

22. From the commencement of works (including site clearance), all precautionary mitigation measures for reptiles shall be carried out in accordance with the details contained in sections 6.49 through to 6.54 of the Ecological Appraisal (FPCR July 2022).

23. Alongside the first Reserved Matters application pursuant to Condition 1, a lighting design plan for biodiversity shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall show the type/location of external lighting, as well as expected light spill in lux levels, to demonstrate that areas to be lit shall not adversely impact biodiversity. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and shall be maintained thereafter.

24. With the first detailed Reserved Matters application, a Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- i. Description and evaluation of features to be established and managed, which includes a native species-only planting schedule;
- ii. Ecological trends and constraints on site that might influence management;
- iii. Aims and objectives of management;
- iv. Appropriate management prescriptions for achieving aims and objectives; Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 17
- v. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- vi. Details of the body or organisation responsible for implementation of the plan; and
- vii. Ongoing monitoring and remedial measures. The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan shall be secured by the developer with the management body(ies) responsible for its delivery. The approved LEMP shall be updated and submitted with each subsequent detailed application.

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The final LEMP shall be implemented in accordance with the approved details.

25. No development shall commence, including any works of demolition, until a site-wide Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall include and provide for:

- i) The management and routing of construction traffic including: the location of access points for site traffic, routes within the site to be kept free of obstruction, details of the routing of construction traffic for other areas of the allocated site, parking of construction vehicles and vehicles of site operatives and visitors, wheel washing facilities, a scheme for the prevention of surface water discharges onto the highway, a travel plan for construction workers and directional signage on and off site;
- ii) Loading and unloading of plant and materials;
- iii) The location and size of site compounds and areas for storage of plant and materials to be used in constructing the development;
- iv) The location and form of temporary buildings and temporary lighting, and details of the erection and maintenance of security hoardings;
- v) Details for the safe storage of any fuels, oils and lubricants;
- vi) A scheme to control surface water run-off, prevent pollution and manage flood risk;
- vii) Details of temporary pedestrian and cycle routes;
- viii) A scheme for the handling and storage of topsoil;
- ix) Measures, including the construction of exclusion zones, to prevent soil compaction in large scale planting areas and measures to remediate soil compaction;
- x) Details of measures to protect trees, hedgerows and water features;
- xi) A scheme for the protection of areas of ecological interest and mitigation of any harm to such areas, including timing of works and precautionary work practices;
- xii) Measures to control the emission of dust and dirt during construction;
- xiii) Measures for the control of noise and vibration during construction, including delivery, demolition and construction working hours;
- xiv) A scheme for recycling/disposal of waste resulting from demolition and construction works; and Appeal Decisions APP/J2210/W/16/3156397 <https://www.gov.uk/planning-inspectorate> 18
- xv) Procedures for maintaining good public relations, including complaint management procedures, community consultation and liaison.

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The development shall be carried out in accordance with the approved site-wide CEMP throughout the construction period of the development.

26. No dwelling on the site shall be first occupied until a Green Space Access Management Plan as set out within the shadow Habitat Regulations Assessment (August 2022) has been submitted to, and approved in writing by, the Local Planning Authority. This Green Space Access Management Plan shall include details of the circular footpath routes and surfacing, clearly identifying areas for exercising dogs off leads and show locations of facilities such as dog bins, to act as alternative green space to that found within any European Sites. The Plan and green space referred to shall be implemented in accordance with the approved details thereafter.

27. No dwelling on the site shall be first occupied until a Homeowner Information Leaflet in accordance with the details set out within the shadow Habitat Regulations Assessment submitted (August 2022) has been submitted to, and approved in writing by, the Local Planning Authority. The leaflet shall detail the importance of the habitats within the surrounding area, with focus on the designated sites, detailing their sensitivity, impacts, importance, and measures that can be taken to avoid disturbance. Information about alternative recreational areas, with public facilities, located within the wider area shall also be provided to encourage residents to use other sites instead of any European Sites. The approved Leaflet shall be provided to each household prior to first occupation.