



The Planning Inspectorate

---

# **Report to the Secretary of State for Communities and Local Government**

by **Robert Mellor** BSc DipTRP DipDesBEnv DMS MRTPI MRICS

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

Date 24 September 2014

---

**Town and Country Planning Act 1990**

**Thanet District Council**

**Appeal by**

**East Kent Opportunities and Rosefarm Estates Plc**

Inquiry held on 19 & 20 August 2014

Land at New Haine Road, Ramsgate, Kent CT12

File Ref: APP/Z2260/A/14/2213265

---

**File Ref: APP/Z2260/A/14/2213265**  
**Land at New Haine Road, Ramsgate, Kent CT12**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by East Kent Opportunities and Rosefarm Estates Plc against the decision of Thanet District Council.
- The application Ref OL/TH/11/0910, dated 9 November 2011, was made in outline and was refused by notice dated 23 October 2013.
- The development proposed was first described in the application as: 'Mixed-use development for up to 550 dwellings; up to 63,000sqm class B1 (business) floorspace and sui generis use; a new local centre comprising up to 2,000sqm convenience retail (Class A1, A2 and A3), community facilities up to 1,000sqm (Class D1/D2) and community healthcare up to 1,200sqm (Class D1) and associated highway works'.

**Summary of Recommendation: It is recommended that the appeal be allowed.**

CONTENTS	Page No.
Abbreviations used in this report	2
Procedural Matters	3
The Site and Surroundings	4
The Proposal	4
Local Planning Policy & Evidence	5
National Policy, Guidance and Law	6
Planning History	8
Other Agreed Facts	9
The Case for the Thanet District Council	9
Written Representations and Consultation Responses	11
The Case for East Kent Opportunities and Rosefarm Estates Plc	14
Conditions	16
Section 106 Agreement	17
Environmental Statement	17
<b>INSPECTOR'S CONCLUSIONS</b>	19
The Main Considerations	19
Other Matters	24
Conclusions and Recommendations	26
Schedule of Conditions	27
Appearances	38
Documents submitted at the Inquiry	38
Appellants Inquiry Documents	38
Council's Inquiry Documents	39
Other interested persons written submissions for the appeal	39

### **Abbreviations used in this Report**

DL	Decision Letter Paragraph
DPD	Development Plan Document
dph	Dwellings per hectare
EH	English Heritage
EIA	Environmental Impact Assessment
ES	Environmental Statement
FEI	Further Environmental Information
Framework	National Planning Policy Framework
ha	hectare
IR	Inspector's Report
km	Kilometre
LDF	Local Development Framework
LP	Thanet Local Plan 2006
LPA	Local Planning Authority
m	Metre
NE	Natural England
PPG	Planning Practice Guidance
PPS	Planning Policy Statement
RSS	Regional Spatial Strategy
SEI	Supplementary Environmental Information
SoS	The Secretary of State for Communities and Local Government
SoCG	Statement of Common Ground
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
TSHA	The Setting of Heritage Assets – English Heritage
XIC	Evidence in Chief
XX	Cross examination

## PROCEDURAL MATTERS

1. The planning application was amended in September 2013 to increase the floorspace for community facilities from 1,000sqm to 5,000sqm. This was to allow for the inclusion of a Special Education Needs (SEN) school of 4,500sqm which is to be relocated from Laleham Gap School. The sui generis use was identified as a car showroom.
2. The amended description in the Statement of Common Ground is: *'Application for outline permission for mixed-use development for up to 550 dwellings; up to 63,000sqm class B1 (business) floorspace; car showroom; a new local centre comprising up to 2,000sqm convenience retail (Class A1, A2 and A3), community facilities up to 5,000sqm (Class D1/D2) and community healthcare up to 1,200sqm (Class D1) and associated highway works with all matters reserved.'*
3. At the Inquiry the main parties agreed that:
  - Floorspace figures are gross external
  - The car showroom use is to be limited to 8,151sqm, to be subtracted from the B1 Business use
  - The residual amount of B1 business development floorspace would be 54,550sqm meaning that the total business floorspace including the car showroom would be 62,701sqm.
  - If the SEN school is implemented, then the amount of other business and/or residential development would need to be reduced by condition in order to limit the number of A.M. peak hour vehicle movements from the development as a whole to 644.
  - As convenience retail floorspace could not encompass A2 and A3 space, the relevant part of the description should be amended from '2,000sqm convenience retail (Class A1, A2 and A3)' to '2,000sqm Class A1 (Shops), Class A2 (Financial and Professional Services and Class A3 (Cafes and Restaurants)'. The Statement of Common Ground indicates that the convenience retail element would be up to 500sqm.
  - A separate planning permission has also been granted for the SEN school.
4. For the above reasons the appeal should be determined on the basis of the following revised description:
 

*'Mixed-use development for up to 550 dwellings; up to 54,550sqm class B1 (business) floorspace; car showroom of up to 8,151sqm; a new local centre comprising up to 2,000sqm Class A1 (Shops), Class A2 (Financial and Professional Services and Class A3 (Cafes and Restaurants)', community facilities up to 5,000sqm (Class D1/D2) and community healthcare up to 1,200sqm (Class D1), and associated highway works.'*
5. Apart from the principle of development all matters are reserved for subsequent determination. The only formal application drawing defines the boundaries of the application site with a red line. It is numbered WIPL 145486 Fig 1.2 and dated 12 July 2011. The application was also accompanied by a set of

illustrative drawings which indicate the suggested form, layout and scale of the development<sup>1</sup> but these may be amended at the reserved matters stage. These drawings are amplified by the Design and Access Statement<sup>2</sup>.

## **THE SITE AND SURROUNDINGS**

6. The site is an area of about 23.8ha of flat greenfield land that is in mainly agricultural use. The landowners comprise Rosefarm Estates PLC and East Kent Opportunities LLP. The latter is a joint venture partnership between Kent County Council and Thanet District Council which aims to bring forward economic growth and regeneration in East Kent.
7. The land is bisected by the A256 New Haine Road, a modern 2-lane single carriageway road that was built to support the development of this and adjacent land to the north and south for employment use. The road bypasses the older Haine Road which runs parallel to the west and is a narrower road of rural character. There is a scatter of houses and other development along Haine Road including Grade II listed farmbuildings at Rose Farm and the Grade II listed farmhouse at Haine Farm. In the development plan the defined built up area boundary includes the appeal site and the built development on Haine Road whilst excluding the open countryside beyond to the west.
8. To the north west, and also served off New Haine Road, is a recent free-standing office development occupied by a SAGA call centre. To the north is the recent extensive Westwood Cross retail and leisure development. That is occupied by many of the national retail chains including both Marks and Spencer and Debenhams department stores as well as numerous smaller shops, a multiplex cinema and other facilities. The complex is approximately equidistant from the town centres of Margate, Broadstairs and Ramsgate and it attracts custom from all three towns. There is free car parking and also frequent bus services including a circular link service which connects Westwood Cross and the 3 towns. A large Sainsbury's superstore is under construction on land adjoining the retail complex and served off a roundabout on New Haine Road.
9. To the east the site adjoins the extensive Jacky Baker's Sports Ground. To the south east, and adjoining the likely location of the proposed SEN school, is a modern secondary school known as the Marlowe Academy together with the adjoining Marlowe Innovation Centre. To the south and served off New Haine Road are modern business developments of offices and other units. Further south and east are residential areas including the large Newington housing estate that is not well connected to the Westwood retail and leisure facilities.

## **THE PROPOSAL**

10. The proposal is for a mixed development including business, residential and community uses as described above. It would be on greenfield land within the defined built up area. The application is accompanied by illustrative plans which suggest that the development fronting the New Haine Road spine road would be at higher density and would include both B1 office type buildings and the higher density housing. This would be flanked by housing at lower densities with the

---

<sup>1</sup> At folder 3 of the appeal submission.

<sup>2</sup> Folder 1 of the appeal submission

lowest density adjoining the existing development along Haine Road. There would be a local centre with community facilities towards the southern end of the development where it would also be accessible to residents in adjoining housing areas. The Special Educational Needs school would be built on land adjoining the Marlowe Academy. That is likely to be constructed using the separate planning permission that has been granted for that purpose.

11. Some Ordnance Survey base plans suggest that the development would include part of the Jacky Baker Sports Ground. However an area of land which was previously included in the sports ground has already been taken out of use in association with the previous planning permission for employment development. That land was replaced by land to the north of the sports ground with no overall loss of recreation provision.

## LOCAL PLANNING POLICY AND EVIDENCE

### *The Development Plan*

12. The Secretary of State is required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the appeal in accordance with the provisions of the development plan unless material considerations indicate otherwise. Such considerations may include national policy.
13. The only relevant development plan policies are those currently contained in the Thanet Local Plan 2006 (the LP). Whilst the Statement of Common Ground lists some 19 relevant policies, the most pertinent to the principle of the site's development are EC1, EC12, and H1.
14. LP Policy EC1 allocates several sites for economic development. The allocated Eurokent Business Park includes the appeal site and also some of the land to the north and south that has already been developed for business, leisure and retail purposes. The allocation related to 103,000sqm of employment generating floorspace. The same policy also allocated another large nearby site of 46ha for similar B1, B2 and B8 development at Manston Business Park adjacent to Manston Airport. That site is partially developed for those purposes and is also promoted by East Kent Opportunities LLP but it retains capacity for further such development.
15. LP Policy EC12 provides for the retention for employment use of the allocated EC1 sites and also other existing employment sites that are listed in the policy.
16. LP Policy H1 provides that permission for new residential development will only be granted on allocated sites or otherwise where there is no conflict with development plan policies. In particular permission for residential development on non-allocated sites will only be granted on previously developed land within built-up areas. The policy also requires that adequate infrastructure and access are available.
17. LP Policy H14 is referred to in the reasons for refusal and seeks affordable housing provision for developments of 15 or more units with a negotiation starting point of 30% provision.
18. LP Policy CF2 is also referred to in the reasons for refusal and seeks contributions to new and upgraded community facilities which are fairly and reasonably related in scale and kind to the proposed development.

19. Other LP policies set out requirements relating to design, transport and other matters.

*The Emerging Plan*

20. The Thanet Core Strategy reached the Issues and Options stage in October 2009 but did not progress further. It suggested the retention of 15.5ha of land at this site for Class B1 business floorspace (some of which has already been developed) together with the development on the appeal site of 400-600 houses. However, following changes to national policy and the revocation of the South East Plan, the Core Strategy was withdrawn.
21. The Council is now preparing a new Thanet Local Plan. An Issues and Options consultation was carried out in 2013. It suggests that only 30% of employment growth is expected to be in the traditional B use classes found on business parks and noted that 74 hectares of employment land was allocated in the LP whereas only 26ha would be needed by 2031 based on past take up rates and only 3-15ha based on a range of employment growth scenarios considered by consultants. However the document postulated that a choice of sites would provide flexibility, attract investment and accommodate unforeseen needs. Car showroom uses did not merit allocations but it was suggested that there should be flexibility to accommodate them on business parks.
22. The Issues and Options Paper published in 2013 discussed 5 dwelling forecast scenarios based on different levels of economic growth and migration. Whilst it did not specify the current housing requirement, the Paper confirmed that meeting future housing requirements to 2031 will almost certainly mean some greenfield land in the existing countryside will be needed.
23. The Issue and Options document did not include specific proposals for the appeal site. It is a material consideration but it is at an early stage and merits little weight.

*Local Evidence*

24. Base evidence for the emerging Local Plan includes: the Strategic Housing Market Assessment for the East Kent Sub-Region (SHMA)(Document 6), the Housing Topic Paper (Document 7); the Thanet District Council Employment Topic Paper (Document 8); and the Thanet District Council Employment Land Review and Appendices (Documents 10 and 10A). The Annual Monitoring Reports (AMR) are also relevant (Documents 4 and 5).
25. The SHMA concluded amongst other things that there is a local oversupply of flats in Thanet and that there is a need for more houses and family dwellings. There is also a large unmet need for affordable housing.
26. The Employment Land Review 2010 concluded amongst other things that most employment growth in the B use classes would take place in the B1 and B8 uses. B1 (offices) development is likely to occur in town centres and business parks or alongside residential development. B8 development would occur close to the strategic road network. According to the Employment Topic Paper, a subsequent Economic and Employment Assessment estimated the land and floorspace requirements as low. Moreover, only 30% of new jobs are expected to be created on business park type developments. Whilst the AMR 2011-2012 concluded that there was then a 7 year housing supply (141%) against the

South East Plan requirement, the AMR 2013-2013 did not include a housing requirement against which the assessed supply could be measured. According to the AMR 2012-2013, only a small proportion of the 117.34 ha of new employment land that was allocated in 2006 had since been taken up.

### National Policy, Guidance and Law

27. The National Planning Policy Framework (the Framework) sets out Government planning policy and replaces a number of previous policy statements. Amongst other things it includes policies on the natural and historic environment, design, and the use of planning conditions and it sets out a presumption in favour of sustainable development. Whilst it acknowledges the S38(6) duty in relation to the development plan, it is capable of being a material consideration. In that regard paragraph 215 provides that: *'due weight should be given to relevant policies in existing plans according to the degree of consistency with the Framework (the closer policies in the plan to the policies in the Framework, the greater the weight that may be given)'*.
28. Paragraph 14 of the Framework provides that where the development plan is out of date planning permission should be granted unless:
  - *'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole, or*
  - *specific policies in this Framework indicate development should be restricted'*.
29. Section 1 of the Framework at paragraph 20 provides amongst other things that local planning authorities should plan proactively to meet the development needs of business and support an economy for the 21st century. However paragraph 22 also provides that planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Paragraph 32 provides amongst other things that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are 'severe'.
30. Paragraph 47 of the Framework provides amongst other things that local planning authorities should use their evidence base to ensure that their local plan meets the full, objectively assessed needs for market and affordable housing in the housing market area and should identify, and update annually, a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements. Paragraph 134 provides that less than substantial harm to a heritage asset such as a listed building should be weighed with the public benefits of a scheme.
31. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up to date in the absence of a five year supply.
32. Planning Practice Guidance (PPG) was published in March 2014. It includes a range of other relevant topics. The PPG is guidance which amplifies, but does not change, national policy. It did not replace the PPS5 Planning for the Historic



Environment Practice Guide which currently remains material to the heritage considerations.

### Statute

33. A statutory duty separate from national policy is that S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides at subsection (1): *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

The Court of Appeal<sup>3</sup> has recently interpreted this to mean that considerable weight and importance should be accorded to preserving the setting of listed buildings.

### PLANNING HISTORY

34. Outline planning permission was granted in 1997 for the following development on the appeal site: *'Erection of buildings and layout of estate roads including diversion of public footpath TR26 in association with mixed use development for business and commerce. Comprising use classes A2 (financial and professional) premises in excess of 930sqm (10,000sqft); B1 (business), B2 General Industrial and B8 (storage and distribution) together with sport, leisure and recreation (outline application).'* Subsequent applications were submitted for the discharge of conditions and some development has taken place that relates to the discharge of conditions. The development which has occurred has included the road, the SAGA call centre, the SEEDA innovation centre business units to the south, and a car part supplier called Grupo Antolin to the north. However the latter premises were subsequently vacated and demolished and that site was included in the current Sainsbury's development site.
35. It appears that not all details for the 1997 permission were approved within the relevant time frame. The Appellant maintains that the permission has been implemented but does not rely on the permission as a fallback position. It has nevertheless been agreed between the main parties that the permission should be employed as a benchmark for the assessment of the traffic impact of the development now proposed.
36. The site remains allocated in the development plan for business development and as a site to be protected for employment use. However the planning application was submitted in 2011, after the Core Strategy Issues and Options Document had in 2009 suggested a mixed development for the site including both housing and employment.
37. The Council's officers were in negotiation with the Appellant on the development for almost 2 years after the submission of the planning application. The application was taken to committee in October 2013 with a recommendation that the committee undertake a site visit. But instead the Committee resolved to refuse planning permission for 2 reasons:

---

<sup>3</sup> East Northants DC, English Heritage & National Trust v SSCLG & Barnwell Manor Wind Energy Ltd [2013] EWHC 473 (Admin) [2014] EWCA Civ 137

1. *The application site does not constitute previously developed land and as such the proposed residential development would involve the release of greenfield land, where there is no identified need, contrary to policy H1 of the Thanet Local Plan 2006 and the National Planning Policy Framework, which seeks to concentrate development on brownfield land at appropriate locations within the confines of existing urban areas and rural settlements.*
2. *The proposed development, in the absence of a legal agreement to secure contributions for community facilities, measure to mitigate recreational impact on designated sites of ecological importance and the provision of affordable housing would be contrary to Thanet Local Plan Policies H14 and CF2 and guidance within the National Planning Policy Framework'.*

38. In June 2014, after the submission of the appeal, the Thanet District Council Planning Committee confirmed that the position of the local planning authority now is that the need for housing is such that the development would in principle amount to sustainable development in accordance with the National Planning Policy Framework. This was on the basis that the Council could not demonstrate a 5-year supply of housing land. It followed the case of *Hunston Properties Ltd vs St Albans District Council* which established that the Council could not rely on the housing requirement figures of the withdrawn South East Plan. The Council then withdrew the first reason for refusal and continued negotiations on a S106 agreement to address the second reason.

#### **OTHER AGREED FACTS**

39. A Statement of Common Ground was drafted by the Appellant and submitted before the Inquiry but was only agreed by the Council on the first day of the Inquiry (Document 3). Whilst it includes a list of 'appeal drawings', the plans listed there were agreed at the Inquiry to be only illustrative.

#### **THE CASE FOR THANET DISTRICT COUNCIL**

*[These submissions are edited from the Council's Closing Statement with some additions from the evidence to the Inquiry]*

40. The Council's case at this Inquiry is limited because it has formally withdrawn the first reason for refusal, and the second reason for refusal has been overcome by the provision of an executed S106 agreement, which provides for the various contributions explained in Mr Livingstone's proof and appendices.
41. In those circumstances, the Council considers that the refusal of planning permission cannot be sustained. The Council's position is that the Inspector should recommend to the Secretary of State that this appeal be allowed, and planning permission granted subject to conditions.

#### ***Principle of the development (former reason for refusal 1)***

42. The Council's first reason for refusal, now withdrawn, related to a conflict between the proposal and policy H1 of the Thanet Local Plan 2006. That policy seeks to restrict the locations in which new housing will be considered acceptable. It is not in dispute that the appeal proposal is contrary to policy H1.

43. However, paragraph 47 of the Framework states that LPAs should maintain a five year supply of housing land, meeting (so far as they can consistently with policies in the Framework) the full, objectively assessed needs for market and affordable housing in the area. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered up to date in the absence of a five year supply.
44. Following the Judgment of the Court of Appeal in *Hunston Properties Ltd v SSCLG [2014] JPL 599*, it became apparent to the Council that it could no longer rely upon a housing requirement in the Local Plan based upon the revoked South East Plan. Rather, the adequacy of its supply fell to be assessed against its objectively assessed needs for housing. As a result, the Council accepts that it cannot demonstrate a five year supply of housing. It follows that policy H1 is to be treated as out of date; and the principle of the development settled by reference to the test in paragraph 14 of the Framework, as Mr de Lotbiniere explained in his evidence in chief as the Appellant's planning witness.
45. Once policy H1 is treated as being out of date, the Council considers that the planning balance lies in favour of the grant of planning permission, there being no other reason for refusal, and certainly there being no consideration with significantly and demonstrably outweighs the benefits in terms of the provision of sustainable development.
46. In those circumstances, it is unnecessary to consider in detail the Council's housing requirement for the purposes of disposing of this appeal. The Council notes the report submitted by the Appellant from Pioneer Property Services Ltd but does not agree with elements of the analysis. As a result it does not agree with the conclusion that its housing land supply equates to a 1.9 year supply. However, given the agreement that there is a shortfall in housing land supply, the outcome should remain the same regardless of the quantum of the shortfall. As a result, it was unnecessary for the Council to cross-examine on the issue, and indeed Mr Livingstone was not cross-examined on the queries he raised in respect of the report. The resolution of that (limited) dispute is not necessary for the determination of the appeal.
47. As Mr Livingstone explained in evidence, the Council does not have a formal position as to its housing land supply. It is in the process of preparing its 2013/14 AMR. Whilst it does not fundamentally disagree with the Pioneer report, it would question some of the calibrations particularly with respect to job forecasts and vacancy rates. Mr Livingstone's evidence, which is not a formal position of the Council, is that the supply is probably around 2.5 years. However, as explained, the precise level of shortfall need not be identified in order to establish that policy H1 should be treated as out of date, in accordance with paragraph 49 of the Framework. Accordingly, the Inspector is invited to recommend that the Secretary of State find that the precise level of the shortfall has not been clearly established, but that there clearly is a shortfall.

***Section 106/conditions (former reason for refusal 2)***

48. The Inspector now has an executed S106 agreement which provides for the contributions referred to in Mr Livingstone's Proof of Evidence.

49. As to the justifications for the obligations in the S106 agreement (and hence compliance with regulation 122), these have been explained in Mr Livingstone's Proof and (so far as they relate to contributions payable directly to KCC), in KCC's written representations. They are not repeated here in full. The Inspector raised an issue as to the Youth Services contribution. The youth services contribution as defined in the S106 focuses on capital costs; as does App 5 to the KCC representation to this Inquiry. The staffing costs referred to in the Mouchel representation of August 2013 are not, on the basis of the definition in the S106 and in App 5, sought through this contribution. The contribution meets actual additional capital costs arising from the development.
50. Following discussion, a list of conditions is largely agreed. It seems that the only outstanding dispute between the parties relates to the time limit (draft conditions 4 & 5). The default position in S92 TCPA 1990 is that there should be a 3 year period for the submission of all reserved matters and that the development shall be begun within 2 years of the approval of the final reserved matter. The Appellant seeks a 7 year period for submission followed by a 2 year period for implementation (i.e. 4 years longer than the normal position). No clear justification has been advanced by the Appellant for a longer period. Indeed it is suggested that the scheme can come forward to address the Council's five year housing land supply shortfall, which is inconsistent with a permission which need not be begun in 9 years time. The PPG suggests that one reason for shortening the normal period is when *"it would encourage the commencement of development and non-commencement has previously had negative impacts"*. There is a history of failure to deliver the development of this site, and there is no justification for permitting its further delay.

### **Conclusion**

51. For the reasons outlined the Council, having reviewed its case, considers that this appeal should be allowed and permission granted subject to the conditions and contributions discussed at the Inquiry.

### **WRITTEN REPRESENTATIONS AND CONSULTATION RESPONSES**

52. The Officer Report to Committee on 23 October 2013 summarised the representations that had been received at the application stage. These included objections from 16 interested persons on grounds which included:
- Departure from the Thanet District Local Plan 2006 and/or prematurity to the emerging Thanet Local Plan
  - Potential increased traffic congestion
  - Loss of agricultural land and greenfield space
  - Lack of need for the housing or community facilities
  - Amenity impacts on Haine Road properties
  - Detriment to job creation
  - The A256 New Haine Road creates too much of a barrier to movement across it
  - There should not be development on the Jacky Baker's Sports Ground

53. **Ramsgate Town Council** and **Broadstairs & St Peters Town Council** had no objection. **Ramsgate Society** objected due to lack of need for greenfield housing, insufficient road capacity and prematurity to a Masterplan. **Manston Parish Council** objected due to traffic concerns and because of the need for jobs. The **Campaign for the Protection of Rural England** objected on grounds that the decision should be made through the Local Plan process. **Spokes East Kent Cycle Campaign** welcomed the indicated provision for cycling.
54. **Kent County Council Highway Authority** acknowledged that the appeal site is allocated for major development in the LP and that the construction of New Haine Road as part of the development has already mitigated local traffic impacts in the area. Whilst acknowledging that the site's development has the potential to make traffic congestion worse it would have an almost negligible additional impact compared to the allocated employment scheme. Further highway improvements are also proposed at Staner Court, Leigh Road and Sprating Lane that would mitigate impacts. The Highway Authority therefore did not object to the scheme.
55. The Officer Report summarises other internal and external consultation responses. Notably the Council's **Conservation Team** recognised a potential impact on the Grade II Listed Haine Farmhouse due to the potential massing, height and scale of the commercial element of the development adjacent to the listed building but considered that it can be mitigated through sensitive design and scale of adjacent buildings and by landscaping.
56. The Council's **Housing Services Manager** supported the proposal for the affordable housing provision and for its potential to support the regeneration and integration of the nearby Newington Housing Estate.
57. The **Kent Wildlife Trust (KWT)** objected that a Habitats Regulation assessment should be undertaken to consider the individual and in-combination impacts of the development and details of the green infrastructure and mitigation measures be provided to ensure appropriate mitigation to alleviate the impact on the integrity of the European Network. **Natural England** initially objected to a potential significant effect on the Thanet Coast and Sandwich Bay Special Protection Area. However Natural England confirmed in a letter to the Council dated 10 October 2013 that the proposed mitigation would avoid the likelihood of a significant effect on the SPA arising from this development and consequently it is unnecessary to undertake an appropriate assessment. An email of 8 January 2014 from the Council's case officer to the Appellant notes that KWT did not respond to the mitigation measures in writing but it was understood that Natural England had liaised with them directly before they responded that they had no objection.
58. Other consultee responses are summarised in the officer report.
59. At the appeal stage there were representations from 5 interested persons and one other request for a copy of the decision. There was support from the **Leader of Kent County Council** which has an interest in the development through its involvement in EKO, one of the Appellants. There was an objection from a **Mr Hibeer** on traffic infrastructure grounds. **Councillor Driver** (Green) of Thanet District Council objected due to traffic congestion, pollution and the loss of agricultural land. He considers that sufficient brownfield land is available

for an adequate housing stock but has provided no supporting evidence. **Kent County Council** submitted evidence in support of the need for infrastructure contributions of relevance to County services.

60. **CRG Thanet Ltd** are the developers of the nearby Richborough Gate housing allocation to the north west of Westwood Cross where there is outline planning permission for 1,020 dwellings and reserved matters approval for 3 of the 5 phases. Persimmon Homes is currently constructing the initial phase. CRG Thanet Ltd objects to the subject development on the grounds in summary that:

- The development is not required to meet local housing requirements in advance of the new Local Plan. This is on the basis that there is sufficient supply to meet the South East Plan Requirement and that delivery at Richborough Gate will be above the Council's estimate unless undermined by the appeal proposal. Forecast local needs in Thanet are being met and higher estimates of need depend upon in-migration that will not be met without sufficient employment provision
- Richborough Gate was allocated to support economic growth by providing housing to attract employment-led in-migration and investment
- The local housing market and interest from housebuilders is weak and dependent on subsidies such as Homebuy and cannot withstand significant injections of supply
- To allow the appeal would pre-determine what level of in-migration is appropriate and the distribution of employment land in the District
- In accordance with paragraph 22 of the Framework it had not been demonstrated that there is no reasonable prospect of the employment allocation being taken up
- The appeal site should be remarketed for employment and only be released for housing if after further time employment uses are not secured
- Richborough Gate needs to be progressed before the EKO development in order to ensure the required infrastructure is provided (e.g. the Westwood Link Road<sup>4</sup>)
- There would be duplication of community centre and healthcare facilities with viability and logic implications
- There should be EKO contributions towards the Westwood site facilities including the primary school
- The development is not considered to be sustainable in relation economic and social roles due to the likely harm to the housing market and employment provision and to uncertainty over social infrastructure provision

---

<sup>4</sup> The Westwood Link Road has now been constructed and is in use.

## **THE CASE FOR EAST KENT OPPORTUNITIES AND ROSEFARM ESTATES PLC**

*[These submissions are edited from the Appellant Company's Closing Statement with some additions from the evidence to the Inquiry]*

### **Section 1 - Introduction**

61. The planning system is tasked with bringing about beneficial, sustainable development for the benefit of the economy and the population in the vicinity of the site. Policy can establish the framework for consideration of such development but what really matters is action, action that actually brings about change. Unfortunately the LPA in this case have taken a remarkably long time to consider whether to grant planning permission for a development which should go ahead. Therefore the application took two years to be considered, resulted in a refusal and now this year the LPA have come to the view that planning permission should be granted. That is correct.
62. But the important point to concentrate on for the Inspector and the Secretary of State is that development needs to come forward by action - i.e. the actual grant of planning permission. This is particularly important in a district such as Thanet which has high levels of deprivation for the South East. What is needed is action through investment and that is what this development will do if permitted.
63. That is also the aim and aspiration of EKO and Rosefarm who are intent on bringing about beneficial development. Indeed EKO is an organisation solely tasked by Kent County Council and Thanet District Council to bring about beneficial regeneration.
64. This is a rare appeal indeed:
  - This appeal site is very large and significant;
  - The development is very large and significant;
  - The principle of development of this land has been accepted for nearly 20 years.
  - The LPA agree that planning permission should be granted;
  - There is almost no third party objection to the grant of planning permission.
65. The application has been subject to many months of scrutiny by the LPA and other statutory consultees. There is now no difference between the Appellant and the Local Planning Authority in that planning permission should be granted, as confirmed in the Council's closing submissions.
66. The overarching aim of Government Policy is to bring forward sustainable development in order to bring about economic growth and the proper and full provision of housing as required after an objective assessment of the up to date 5 year requirement. A Housing Requirements Report was commissioned by the Appellants from Pioneer Housing and Development Consultants. It points out that the 2011-based CLG household projections suggested a need for 707 additional homes each year and that the higher economic growth scenarios and the identified high level of need for affordable housing would suggest a higher

overall requirement which Pioneer suggests should be 830 dwellings per annum. On that basis Pioneer estimate that there is only a 1.9 year's supply.

***Section 2 - Why planning permission should be granted***

67. The view of the Appellants is that planning permission should be granted for the following reasons:
68. Reason 1 - The land needs a use - There is a problem with this land which needs to be solved namely there is an underutilised and large parcel of land in a very sustainable location which is suitable for development and the owners seek to see it developed.
69. Reason 2 - The planning system seeks to build sustainable economic development in accordance with the Framework. This development will bring forward a very large sustainable mixed use development and could not be more compliant with the Framework. The different elements of use are acceptable and also in combination will ensure a properly planned development which will enable people to live, work and shop in the one location. It is a powerful combination.
70. Reason 3 - The site has been considered acceptable for development by the LPA for nearly 20 years in both development control decisions and development plan decisions. The land received planning permission in 1997. That decision was reinforced by various development plans - 1998 Local Plan, 2006 Local Plan and the Emerging Core Strategy 2009. Those judgments were right namely this land can contribute to the economic health of this district and should continue to do so.
71. Reason 4 - Development of this site will represent sustainable development as strongly suggested by the Appellant's planning witness. That is correct. The LPA does not make any allegation that the site is not sustainable. That is important. If each three criteria are examined then the development meets the aspirations to aid economic, social and environmental sustainability. The proposal will bring significant investment into the district. The proposal will bring forward much needed new houses and up to 165 affordable housing units. The proposal will have no material harm on environmental issues.
72. Reason 5 - Paragraph 14 of the Framework is engaged and there is a presumption in favour of the grant of planning permission which clearly indicates that the government's starting point is that planning permission should be granted unless those benefits are outweighed by adverse impacts.
73. Reason 6 - There is a pressing need for additional housing in Thanet DC - paragraph 47 is a key if not the key component of the Framework. The LPA have not got a five year Housing Land Supply. Pioneer Housing and Development Consultants have looked at this issue in great depth (Document APP7). They are one of the leading consultancies in the field. Their view is that there is a strong and urgent need for additional housing. The LPA accepts largely that evidence save for a couple of minor points. Therefore the evidence before this inquiry shows it to be between 1.9 to 2.5 years. That is a compelling shortfall that is required to be addressed now. That amounts to a compelling need for further housing.



74. Reason 7 - There is a pressing need for additional affordable housing in Thanet DC. There are many thousands on the affordable housing waiting list in Thanet. There is a compelling need for additional affordable housing. This development will contribute up to 165 houses which will greatly assist that need.
75. Reason 8 - The site will provide important employment land. There is nearly 54,000 square metres of B1 employment floorspace. It will be considered in the context of a mixed use development, a new local centre and the Westwood Cross centre ~~all of which will~~ assist in bringing forward the employment floorspace.
76. Reason 9 - There are no site specific issues that justify refusal of planning permission - this application has been scrutinised for many years and all matters have been considered such as air quality, traffic, car parking, noise, landscaping, impact on listed building, design and archaeology. Now in August 2014 there is no objection to the development which justifies refusal.
77. Reason 10 - There are no adverse impacts within the terms of paragraph 14 that justify refusal - therefore there are no matters which lie on the other side of the paragraph 14 balancing exercise. Every relevant authority has been consulted and no consultee has alleged that planning permission should be refused on this basis. This inquiry has addressed in particular the impact on Listed Buildings on Haine Road. The view of the LPA and the relevant authorities is that there will be no harm to the setting of such listed buildings if planning permission is granted.
78. Reason 11 - There is therefore a compelling case in the public interest for the grant of planning permission - The benefits of the proposal are very significant. A problem site will be beneficially developed and that amounts to a compelling case in the public interest.
79. Reason 12 - The consequences of a refusal are serious - The effect of a refusal would be very powerful. This very significant area of land would remain undeveloped and underutilised. Consequently this land will be subject to much uncertainty and neglect if permission is refused. It is very difficult to envisage when and what type of use will be found for it in the future. That would represent material harm. The land instead of bringing about material benefits would remain as a testament to the planning system and its inability to find constructive solutions.
80. Reason 13 - The position of the LPA is not to oppose the grant of planning permission - the LPA have sensibly and importantly reviewed their position and concluded that planning permission should be granted. This should be given very significant weight by the Inspector and the Secretary of State. S106 LPA now says it is adequate and appropriate in all respects. It satisfies the Regulation 122 requirements and would also afford benefits to the wider community.
81. Reason 14 - The balancing exercise is overwhelming in favour of the grant of planning permission. There are very many benefits from the grant of planning permission and no identifiable harm. Therefore the balancing exercise is compellingly in favour of granting planning permission for the appeal

82. For those 14 powerful and compelling planning reasons the Appellant asks that the Inspector recommends to the Secretary of State the grant of planning permission for this development.

### **CONDITIONS**

83. In the event that the Secretary of State decides to allow the appeal and grant planning permission than a recommended schedule of planning conditions is attached. The conditions were discussed at the Inquiry and minor changes have been made to the suggested conditions. Reasons for each condition are included in the schedule. One condition to be highlighted is Condition 32 which provides that the amount of business or residential development may need to be reduced if the SEN school is built in order to control the amount of peak hour traffic.
84. There is a dispute between the parties as to how much time should be allowed for the submission of all reserved matters (Document 11). This is addressed below in the reasoning on other matters.

### **SECTION 106 AGREEMENT**

85. There is a completed S106 Agreement between Thanet District Council, Kent County Council, East Kent Opportunities LLP, and Rosefarm Estates PLC (Document 16). This provides variously for:
- The provision of 30% affordable housing of which 70% would be for affordable rent and 30% shared ownership
  - A bus service contribution to support new bus services serving the development
  - A community learning contribution to support the expansion of adult education services to serve the development
  - An education contribution for the construction of a new primary school at Westwood or within 2 miles of the site
  - A highway contribution, mainly to provide additional capacity at junctions on the A256
  - A landscape management plan
  - A contribution to additional bookstock at Broadstairs library
  - The creation of a management company
  - An open spaces and play area scheme
  - A PCT contribution for the development and expansion of new primary care health services infrastructure within 2 miles of the site
  - A Special Protection Areas mitigation contribution towards off-site mitigation and a warden scheme within the SPA and the Sandwich Bay and Hacklinge Marches and Thanet Coast SSSIs

- A sports and recreation contribution for the improvement and enhancement of recreational and sporting facilities at the adjacent playing fields
- A green travel plan
- A youth services contribution for use in youth outreach work centred on the Westwood Richborough Gate Community Building or which may include other outreach services including a youth bus.

## **ENVIRONMENTAL STATEMENT**

86. The application was accompanied by an Environmental Statement (ES) prepared in accord with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, as amended, and comments from statutory consultation bodies and representations duly made about the ES and the likely environmental effects of the proposed development<sup>5</sup>. Following the amendment of the application to include a special educational needs school, further environmental information (FEI) was submitted and subject to further consultation before the application was determined and was also subject to consultation. The ES and FEI are considered to be in satisfactory and in accordance with the requirements of the regulations.

---

<sup>5</sup> Folder 1 of the Appeal submission

## INSPECTOR'S CONCLUSIONS

*Figures in square brackets [ ] refer to other paragraphs in the report.*

### The Main Considerations

87. The application was recovered for the decision of the Secretary of State for Communities and Local Government (SoS). Although no specific reasons have been given to me for the recovery, this type of case is often recovered if it would be a development of major importance having more than local significance or because it includes residential development of over 150 units, or a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
88. The SoS is required to determine the application in accordance with the development plan unless material considerations indicate otherwise. National policy is an important material consideration.
89. At the Inquiry, and having regard to the reasons for refusal and to local and national policy, I have identified the main considerations to be: whether this would be a sustainable development having regard to the economic, social and environmental roles of sustainable development and in particular:
- i. whether, having regard to the supply of housing land, there is a social or economic need for the housing (including affordable housing)
  - ii. whether considerations of economic viability and/or the availability of other employment land and any economic benefits support a mixed development such that the land no longer need be protected by the development plan for solely employment use.
  - iii. whether the proposal including any S106 obligation provides adequate mitigation or compensation for any adverse environmental effects, including any effects on wildlife and heritage.
  - iv. whether the proposal makes adequate and justified provision for affordable housing and for the social and other infrastructure that is needed to support the development (including, education, health, transport, recreation, libraries, community learning and youth services).

### *Housing Need*

90. The Framework includes a requirement to maintain a 5-year supply of housing land [30, 31]. The Officer Report to the Planning Committee in October 2013 did not make any reference to the housing supply position at that time. However the most recent Annual Monitoring Report (AMR) then was the AMR 2011-2012 which had concluded that the supply of deliverable housing was 141% of the requirement as defined by the South East Plan; the equivalent of about 7 years supply [26].
91. The South East Plan housing requirement of 7,500 homes over a 20 year period to 2026 equated to an average of 375 homes per annum. This had been typically been exceeded each year in Thanet. However the Strategic Housing Market Assessment in 2009 had identified that a high proportion of recent

housing had been developed as flats and there was a comparative lack of family housing as well as a substantial need for affordable housing [25].

92. The AMR 2012-2013 established the supply position at April 2013 but was not published until February 2014. Whilst it confirmed that the annual strategic housing requirement up to 2011 had been based upon the South East Plan it did not define any requirement for the subsequent period against which the estimated supply could be assessed. It said that this would be a matter for the emerging Local Plan, which however remains at a very early stage. The Issues and Options Paper published in 2013 discussed 5 dwelling forecast scenarios based on different levels of economic growth and migration.
93. The national Planning Practice Guidance chapter on '*Housing and Economic Land Availability Assessment*' advises that where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government (DCLG) should be used as the starting point. A Housing Requirements Report was commissioned by the Appellants from Pioneer Housing and Development Consultants (Document APP7). It points out that the 2011-based DCLG household projections suggested a need for 707 additional homes each year in Thanet. The Report concluded that the higher economic growth scenarios and the identified high level of need for affordable housing would suggest a higher overall requirement which Pioneer suggests should be 830 dwellings per annum. On that basis Pioneer estimate that there is only a 1.9 year's supply [66].
94. The Council accepts that, having regard to the outcome of *Hunston Properties Ltd v SSCLG [2014] JPL 599*, they can no longer rely on the revoked South East Plan figure [44]. Whilst they dispute the Pioneer calculation and suggest that the supply position could be better than 1.9 years, they cannot offer any specific alternative housing requirement against which to assess supply. The Council nevertheless accepts that it cannot now demonstrate that there is 5 year's supply [38,44]. Neither can CRG Thanet Ltd demonstrate that there is a 5 year supply since they also rely on South East Plan figures [60]. LP Policy H1 must thus be regarded as out of date (as the Council accepts [44]) in the terms of its ability to provide sufficient housing land to achieve a 5 year supply.
95. Policy H1 provides that housing development on unallocated land should only be on previously developed land within the built up area [16]. However the Issues and Options Paper confirmed that meeting future housing requirements to 2031 will almost certainly mean some greenfield land in the existing countryside will be needed. In this case the land is greenfield but it is not within the defined countryside as it is within the built-up area [22]. Moreover the appeal site has already been allocated for other built development by LP Policy EC1 [34].
96. Should the SEN school development go ahead, as is likely, this could potentially reduce the amount of housing to be provided if the combined traffic generation from all development on the site is to be kept to levels that would not result in undue congestion in the area in the morning peak hour [38]. However the formula agreed between the parties means that the necessary reduction in traffic movements would be more readily achieved by a modest reduction in business floorspace rather than the proportionately greater reduction that would be required if this were to be achieved by a reduction in dwelling numbers.

97. It is concluded on this matter that the provision of housing, including family and affordable dwellings (the latter in accordance with LP Policy H14), and the school and community facilities, would all contribute positively to the social role of sustainable development. The activity of developing the site would also contribute to the economic role. There are thus significant social and economic benefits need for the housing. The need for housing has increased as compared to the former South East Plan requirement. That and the associated lack of a 5 year supply of housing land outweighs the literal conflict with LP Policy H1, which is out of date in this respect, as the Council accepts [44].

#### *Employment*

98. The Framework requires local planning authorities to plan proactively to meet the development needs of business [29]. The proposal would be in literal conflict with the provisions of LP Policies EC1 and EC12. However these were not cited in the reasons for refusal and this was not part of the Council's case at the inquiry [14,15]. In this case the appeal site has been available for almost 20 years to provide large level sites for B1, B2 and B8 development. Whilst there has been some development for B1 use, the take-up of the site for B2 and B8 purposes has been very limited [26]. Other land remains allocated and available nearby at Manston Business Park for very similar development [14].

99. Subject to traffic generation limits the proposed mixed development could still provide up to more than half the 103,000sqm of business floorspace originally allocated [14], whilst also releasing land within the built up area for needed housing. The retained B1 floorspace is likely to be occupied more intensively than other types of business use, particularly B8 storage, and thus the site would still remain capable of providing a substantial amount of employment. That would continue to complement the provision of new housing nearby at Richborough Gate [60]. Changes in the character of the surrounding area since the land's allocation for employment, and in particular the expansion of the Westwood Cross shopping and leisure centre, have made the area less suitable for B2 and B8 development in terms of the noise and other impacts of B2 development and heavy vehicle movements serving both types of development.

100. There has already been some B1 development at New Haine Road in the form of the SAGA call centre and the smaller B1 developments at the southern end of the site [34]. Retail and leisure developments at Westwood Cross have also provided significant employment. But the longstanding allocation of the site for A2, B1, B2 and B8 employment has not been effective in delivering and/or retaining jobs in B2 or B8 businesses. The Grupo Antolin car components business proved very short lived [34]. It is concluded in the terms of the Framework that there is no reasonable prospect of securing B2 and B8 development at this location and that the LP policies are out of date in that regard [29, 60]. Moreover any such inward investment requiring large level greenfield sites is likely to be capable of being accommodated at the large nearby Manston allocated site which has ample available land and better vehicular access to the strategic road network [14].

101. There is evidence to support the view that there will remain sufficient employment land in Thanet if this site is partially developed for other purposes including housing [26]. The inclusion of substantial B1 employment provision within the mixed use development would retain the potential to provide

significant numbers of new jobs with a significant contribution to the economic role of sustainable development, even if some floorspace reduction proved necessary to limit traffic generation and associated congestion in the morning peak hour [83].

102. I consider that the slow and partial take up of this site for B2 and B8 development, the continued availability of other employment land for those purposes and the economic benefits from the retained B1 provision support a mixed development such that the land no longer need be protected by the development plan for solely employment use.

### *Environment*

103. The appeal site is mainly farmland with few landscape features. There would be the opportunity at the reserved matters stage to retain and enhance some features such as the small amounts of hedging in the detailed design and layout of the scheme. The identified need for housing and the other development, and the facts that the site: lies within the defined built up area in the development plan; is in a sustainable location close to complementary facilities and transport links; and is already allocated for built development, outweigh the loss of greenfield agricultural land [6, 52, 59].
104. There is some evidence that, unless mitigated, the additional residents to be accommodated in the scheme would generate recreational demands elsewhere that could potentially affect sites of nature conservation interest in the wider area [57]. However the Council and the Appellant have negotiated an SPA Mitigation Contribution towards such off-site mitigation as part of the S106 Agreement and Natural England [85]. This should provide adequate mitigation and avoid a significant effect arising from the development.
105. There are four Grade II listed buildings close to Haine Road to the west of the site. These comprise a barn, a coach-house and a cart shed at Rose Farm and the early 18<sup>th</sup> century farmhouse at Haine Farm. The Environmental Statement concluded that there would be a moderate adverse impact on the setting of the Rose Farm buildings of moderate/large magnitude. This was because the farm buildings would no longer be understood within an agricultural landscape. For Haine Farmhouse there was assessed to be a minor adverse impact on setting of moderate slight magnitude on the basis that notable development had already occurred around the farm. That development includes the large SAGA office building. The ES considered that these impacts could be mitigated by scheme design and the Appellant has suggested that this could include siting lower density housing in the western part of the development and using separation and planting to moderate the effects. Nevertheless the ES concluded that there would still be an adverse impact on setting of moderate adverse magnitude. As the setting of the listed buildings would not be preserved in the terms of the S66 duty [33], this merits considerable weight and importance in the planning balance. The parties' planning witnesses agreed at the Inquiry that the effect on significance of the heritage assets would be less than substantial in the terms of paragraph 134 of the Framework [30].
106. On my site visit I saw that Haine Farmhouse is screened from the appeal site in most views by mature trees and by other unlisted buildings, including barns with corrugated sheet roofing and unsightly silos. Where it can be seen from the appeal site in glimpsed views this is in the context of the large modern

SAGA office building. Some intervening screen planting reduces direct intervisibility between those premises. The most prominent public elevation of Haine Farmhouse, and from where its significance can best be appreciated, is on its west side fronting Haine Road where the farmhouse faces open fields and from where the appeal development would be less apparent. From Haine Road the farmhouse is partially screened by trees and a tall boundary wall. The open fields lie outside the defined built up area and this aspect of the setting of the farmhouse would not be affected by the proposed development.

107. Of the Rose Farm buildings, the barn is an attractive 17<sup>th</sup> century thatched and timber framed building which is in use as a farm shop. Its setting, and that of the adjacent dilapidated coach-house, is already compromised by the siting by an adjacent shipping container and a number of unsightly mobile homes on the eastern side of the barn adjoining the appeal site. The cart shed to the south is also in a dilapidated condition and it appears that the active agricultural use of all 3 buildings may already have ceased. In any event they are likely to require a new use whether the farmland on the appeal site is developed for its proposed use or for the employment use allocated in the development plan (and previously permitted) which would likely have required the development of larger scale buildings on the adjacent land than the houses now proposed.
108. The Inquiry was informed that there are no relevant saved policies in the development plan concerning listed buildings.
109. It is concluded that the setting of the listed buildings is already compromised. The development would result in the loss of their agricultural setting (as would the allocated use of the site) with an associated (less than substantial) adverse impact on the significance of these agricultural buildings in the terms of the Framework. The effects on setting can be mitigated by design measures at the reserved matters stage to ensure that new buildings are not out of scale and that some open land is retained between the listed buildings and new built development to retain some of their open setting. Planting near the site boundary would reduce intervisibility. The allocated use would likely result in large scale buildings similar to the SAGA building. In these circumstances it is concluded that the setting would not be preserved (which merits considerable weight due to the S66 duty), and the harm to setting and significance could not be fully mitigated. However the residual harm after mitigation would be limited in extent and at most only moderate in the sense that there would be a change in setting leading to a slight loss of heritage significance.

### *Infrastructure*

110. Various local plan policies such as LP Policy CF2 seek provision for necessary community infrastructure to support new development [18]. The S106 agreement makes extensive provision for education, recreation, library, health and other services to support the development and its social role [85]. Whereas the Richborough Gate developers were critical of the potential for duplication of services with their scheme [60], the wording of the agreement allows that most contributions can typically be used off-site, including by way of contribution to facilities to be developed at Richborough Gate itself.
111. Some of the original supporting evidence from Kent County Council and its agents Mouchel had suggested that contributions to some services may be used to fund staff costs [59]. That would not be appropriate to meet on-going