

MC/18/0556

Date Received: 16 February 2018

Location: Gibraltar Farm Ham Lane Hempstead Gillingham

Proposal: Outline application with some matters reserved (appearance, landscaping, layout, scale) for construction of up to 450 market and affordable dwellings with associated access, estate roads and residential open space (Renewal of Planning Permission MC/14/2395)

Applicant Messrs. KD, JC & MC Attwood

Agent Hume Planning Consultancy Ltd. Innovation House  
Discovery Park  
Innovation Way  
Sandwich  
CT13 9ND

Ward: Lordswood And Capstone Ward

Case Officer: Majid Harouni

Contact Number: 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 6th June 2018.**

**Recommendation - Approval subject to;**

- A. The applicants entering into agreement under Section 106 of the Town and Country Planning Act to ensure:
- i. a minimum of 25% affordable housing equating to 112 dwellings.
  - ii. £411,840.00 towards Nursery provision
  - iii. £1,010,880.00 towards primary education
  - iv. £1,022,580.00 towards secondary education
  - v. £269,100.00 towards Sixth Form

- vi. £73,514.08 toward waste and recycling
- vii. £305,760.04 towards Open space (sports, allotment and park improvement)
- viii. £56,227.5 toward the Great Lines Heritage Park (£51 per person – 2.45 persons per home on average)
- ix. £35,653.00 towards improvement and new wearing course for PROW R24, RC25 and RC29
- x. £212,133.32 towards public transport (measures to improve evening service, Sunday service and diversion).
- xi. £221,312.60 toward the improvement of local doctor surgeries.
- xii. £108,374.50 (£239.61 per dwelling plus £550 monitoring costs toward Habitats Regulations (mitigation against Wintering Birds)
- xiii £64,655.88 towards community facilities.

B. And the following 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 begins except that authorised by condition 4 below and the development shall be carried out as approved.

Reason for the condition: As required to be imposed by Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission. The development hereby permitted shall begin not later than 12 months from the date of approval of the last of the reserved matters to be approved.

Reason for the condition: For the avoidance of doubt and to ensure the satisfactory and prompt development of the site.

- 3 No development shall take place until a scheme of phasing for the dwellings and highways and drainage infrastructure and associated open space / green infrastructure has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme of phasing.

Reason for the condition: This pre-commencement condition is required to ensure that the key elements of each phase of the development is completed in an order which ensures that infrastructure needs, landscaping/open space and access are in place relevant to each phase before further development is undertaken, in the interests of good planning.

- 4 The development of Phase One as agreed by condition 3 above shall begin not later than 12 months from the date of the approval of reserved matters applications relating to that phase.

Reason for the Condition: To ensure a prompt start on site.

- 5 The development hereby approved shall be carried out in accordance with drawing numbers EDP1995\_74d (application boundary) submitted 16 February 2018 and Parameter Plan 2 Access Plan (Amended) Ref. 1661-SK-006 Rev A , submitted 16 February 2018

Reason for the condition: in order to ensure the development is carried out as approved.

- 6 All reserved matters and details required to be submitted pursuant to condition 1 shall be in accordance with the principles and parameters described and identified in the Illustrative Masterplan Ref. EDP1995\_125 submitted 16 February 2018 and the Design and Access Statement submitted 16 February 2018. A statement shall be submitted with each reserved matters application, demonstrating how the submitted reserved matters comply with the Design and Access Statement and the indicative Masterplan documents.

Reason for the condition: For the avoidance of doubt and to ensure the satisfactory development of the site. Trees and Landscaping and Ecology.

- 7 No more than 450 dwellings shall be constructed on the site

Reason for the condition: For the avoidance of doubt and given all the assessments have been on the basis of this figure such that it is necessary to ensure the satisfactory development of the site.

- 8 The plans and particulars required to be submitted in accordance with the condition 1 shall ensure that no less than 2.96 ha of the site is set aside as woodland, 0.531 ha as open space and play space and where the development abuts the adjoining ancient woodland a clear minimum of 15m landscape buffer area/zone shall be maintained.

Reason for the condition: To ensure adequate open space for future occupiers of the development and to accord with Policy BNE37 of the Medway Local Plan 2003.

- 9 The development shall not commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), which shall include details of all trees to be retained and removed, any facilitation pruning required and the proposed measures of protection, undertaken in accordance with BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction-Recommendations' has been submitted to and approved in writing by the local planning authority. The AMS shall include full details of areas of hard surfacing within the root protection areas of retained trees which should be of permeable, no-dig construction and full details of foundation design, where the AMS identifies that specialist foundations are required. The approved barriers and/or ground protection measures shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. The measures set out in the AMS and TPP shall be adhered to in accordance with the approved details.

Reason for the condition: This condition is required and to be agreed pre-commencement to safeguard the arboricultural interests of the site before works commence that could cause irrevocable harm and to accordance with Policies BNE2 and BNE37 of the Medway Local Plan 2003.

- 10 A Landscape and Ecology Management Plan (LEMP), including long term design objectives, management responsibilities and maintenance schedules with timetable(s) for works for all landscape areas, other than domestic gardens, shall be submitted to the local planning authority for approval in writing prior to the first occupation of the development. The LEMP shall be carried out as approved in accordance with the approved timetable(s).

Reason for the condition: To safeguard the landscape and ecological interests of the site in accordance with Policy BNE37 of the Medway Local Plan 2003.

- 11 No dwelling shall be occupied until a Woodland Management Plan (WMP) for the existing and proposed woodland areas has been agreed in writing by the local planning authority. That part of the WMP for Hall Wood Ancient Woodland shall be in accordance with EDP's Heads of Terms for a WMP (EDP report ref: C\_EDP1997\_07).

The WMP shall include the following:

- a) Review of existing constraints and opportunities;
- b) Management objectives and associated practical measures;
- c) Details of initial enhancements and long term maintenance;

- d) Extent and location/area of management works on scaled maps and plans at a scale which shall have first been agreed by the local planning authority in writing;
- e) Timetable for implementation demonstrating that works are aligned with the proposed programme of development;
- f) Details for monitoring and remedial measures; and
- g) Persons responsible for implementing the works.

The measures set out in the WMP shall be implemented in accordance with the approved details and timetable(s).

Reason for the condition: This condition is required to safeguard the woodland and to ensure adequate management for the protection of landscape and habitat in accordance with policies BNE2 and BNE37 of the Medway Local Plan 2003.

- 12 The development in any phase shall not be first occupied until details of all fencing, walling and other boundary treatments, to include hedgehog holes relating to that phase have been submitted to and approved in writing by the local planning authority. The landscaping areas and buffer zones shall be implemented in full in accordance with the approved details before the first occupation of any of the dwellings as hereby approved, or in accordance with a programme to be agreed in advance in writing by the local planning authority. All boundary treatments and buffer zones to be installed in or adjacent the ancient woodland shall be carried out in accordance with the approved details.

Reason for the condition: To accord with policies BNE2 and BNE37 of the Medway Local Plan 2003

- 13 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons for the phase to which it relates following the occupation of the first dwelling on that phase or the completion of that phase of development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of that phase of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason for the condition: In order to accord with policies BNE2 and BNE37 of the Medway Local Plan 2003

- 14 No works shall take place (including ground works and vegetation clearance) until an updated species survey has been carried out to inform production of an Ecological Design Strategy (EDS) addressing all species mitigation for all species recorded within the site and the EDS has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works;
- b) Review of site potential and constraints;
- c) Detailed method statements to achieve stated objectives for each species;
- d) Extent and location/area of proposed mitigation for all species on appropriate scale maps and plans;
- e) The location of bat and bird boxes and/or bricks and their specifications;
- f) Type and source of materials to be used (including whether or not they are native species and local provenance);
- g) Timetable for implementation demonstrating that works are aligned with the proposed programme of development;
- h) Persons responsible for implementing the works;
- i) Details of initial aftercare and long term maintenance;
- j) Details for monitoring and remedial measures; and,
- k) Details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and retained thereafter.

Reason for the condition: This condition is required and to be agreed pre-commencement to safeguard the ecological interests of the site before works commence that could cause irrevocable harm and to ensure adequate maintenance for the protection of landscape and habitat in order to accord with Policies BNE2 and BNE37 of the Medway Local Plan 2003.

- 15 No part of the development hereby granted (including ground works and vegetation clearance) shall take place until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP: Biodiversity shall include the following:

- a) Details of the areas where ancient woodland soil and coppiced stools are to be translocated and method statement for translocation;
- b) Risk assessment of potentially damaging construction activities;
- c) Identification of biodiversity protection zones;
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- e) The location and timing of sensitive works to avoid harm to biodiversity features;
- f) The times during construction when specialist ecologists need to be present on site to oversee works;
- g) Responsible persons and lines of communication;
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- i) Use of protective fences, exclusion barriers and warning signs; and,

j) Cordwood above 20cm in diameter from the site should be retained and placed within the site in locations and quantities to be agreed with the local planning authority prior to any tree felling take place.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason for the condition: This condition is required and to be agreed pre-commencement to safeguard the ecological interests of the site before works commence that could cause irrevocable harm and to ensure adequate maintenance for the protection of landscape and habitat to accord with Policies BNE2 and BNE37 of the Medway Local Plan 2003.

- 16 No external lighting fixtures or fittings shall be attached to any building or structure hereby approved and no free standing lighting equipment shall be erected on the site, other than those shown on the plans approved for condition 17 below or as may be agreed on a temporary basis under condition 15 during the construction period.

Reason for the condition: To accord with Policy BNE37 of the Medway Local Plan 2003.

- 17 No dwelling shall be occupied until a Lighting Strategy for Biodiversity, including a timetable for its implementation has been submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats, dormice and otters and that are vulnerable to light disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason for the condition: To accord with Policy BNE37 of the Medway Local Plan 2003

- 18 The access to the site shall be from North Dane Way Drive as show in drawing 186-SK-006 Rev A and the emergency vehicular access shall be from Ham Lane.

Reason for the condition: To accord with policies BNE1, T1 and T12 of the Medway Local Plan 2003.

- 19 Prior to first occupation of any dwelling details of the proposed emergency access shall be submitted to and approved in writing by the local planning authority. The approved emergency access shall be made available prior to the first occupation of any dwelling and thereafter retained for the purpose intended.

Reason for the condition: To accord with Policy T12 of the Medway Local Plan 2003.

- 20 No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) wheel washing facilities;
- v) measures to control the emission of dust and dirt during construction; and,
- vi) a scheme for recycling/disposing of waste resulting from construction works.

Reason for the condition: This condition is required to be addressed pre-commencement as it relates to activities which would be likely to have an impact immediately upon first works on the site and it relates to the interests of highway safety and the protection of the environment.

- 21 No development hereby permitted shall commence until such time as the improvement works to the junction of North Dane Way and Albermarle Road and the link access road to the site as shown in the drawing 1661-SK-001 Revision A within appendix H of the Transport Assessment Report have been completed in accordance with details which shall first have been approved in writing by the local planning authority in writing.

Reason for the condition: This condition is required pre-commencement as it is essential that safe access is provided to the site before activities commence on site in order to accord with Policies T12 and T1 of the Medway Local Plan 2003.

- 22 No dwellings on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the cycle and footway(s) to surface course level.



Reason for the condition: This condition is required to ensure pedestrian and cycle and vehicular access is available for each dwelling before it is occupied in order to accord with policies T3 and T4 of the Medway Local Plan 2003.

- 23 No dwelling shall be occupied until details of the proposed arrangements for management and maintenance of the public realm, including streets, footways and other non-private open space within the development have been submitted to and approved in writing by the Local Planning Authority. The public realm shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason for the condition: To accord with BNE1, BNE2 and T12

- 24 No dwelling hereby approved shall be occupied until a travel plan based on the Framework Travel Plan has been submitted to and approved in writing by the local planning authority.

Reason for the condition: To accord with policy T14 of the Medway Local Plan 2003.

- 25 Details submitted pursuant to condition 1 shall include a shared footway/cycleway on the north side of North Dane Way to link the development site with the Lords Wood Leisure Centre with associated improvements and street lighting. The details shall also include a timetable for its provision. The shared footway/cycleway shall be provided in accordance with the approved details and timescales.

Reason for the condition: To accord with Policy T4 of the Medway Local Plan 2003.

- 26 No development shall take place within any phase of the development until a programme of archaeological work has been secured and implemented in accordance with a written scheme of investigation for the relevant phase, which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason for the Condition: To accord with Policy BNE21 of the Medway Local Plan 2003.

- 27 The first application for the approval of reserved matters on the site shall be accompanied by a sustainable surface drainage strategy for the entire application site. No dwelling hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority as part of the reserved matters applications for the phase within which the dwelling is situated.

Before these details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in DEFRA's non-statutory technical standards for the design, maintenance and operation of sustainable drainage to drain surface water (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason for the condition: To accord with NPPF paragraph 103.

- 28 No development above slab level shall be undertaken on any dwelling until an acoustic appraisal specifying attenuation measures (where necessary) has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved attenuation measures have first been installed in accordance with the approved details. The approved attenuation measures shall be maintained and retained thereafter.

Reason for the condition: To ensure acceptable living conditions for future occupiers of the site in accordance with Policy BNE2 of the Medway Local Plan 2003.

- 29 The development shall not be commenced until an Air Quality report has been submitted to and approved in writing by the local planning authority. Such a report shall accompany the reserved matters application under condition 1. The report shall contain and address the following:

- i) An assessment of air quality on the application site and of any scheme necessary for the mitigation of poor air quality affecting the residential amenity of occupiers of this development.
- ii) An assessment of the effect that the development will have on the air quality of the surrounding area and any scheme necessary for the reduction of emissions giving rise to that poor air quality. The assessment should quantify the measures or offsetting schemes to be included in the development which will reduce the air pollution of the development. Any scheme of mitigation set out in the subsequently

approved report shall include a timetable for implementation. The development shall be implemented and managed in accordance with the approved scheme.

Reason for the condition: This condition is required as a pre-commencement condition as air quality needs to be initially assessed prior to any works of development commencing as they could alter background air quality levels and this condition is required in the interests of the environment and living conditions of future occupiers and to accord with Policy BNE2 of the Medway Local Plan 2003

- 30 If during the course of development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for a remediation strategy detailing how the contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the local planning authority.

Reason: This area is prone to fly-tipping and therefore it is anticipated that as yet unidentified contamination may exist on site and to accord with Policy BN23 of the Medway Local Plan 2003.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

The application has been submitted in outline form with only means of access being for consideration at this time. Details relating to appearance, landscape, layout and scale have all been reserved for future consideration. The application proposes a development of up to 450 market and affordable dwellings, with 25% of these dwellings being affordable. The Design and Access Statement (D&A) accompanying the application indicates that the proposed houses would predominantly be two storeys in height, with ridge heights of around approx. 8.0m although some of the dwellings might be 2.5 storeys high (up to approx. 10.0m) and provide three floors of accommodation including within the roof space.

Although all matters other than means of access have been reserved for future consideration, the application is accompanied by an illustrative masterplan which shows the intended general distribution of development across the site.

The proposed development would involve:

- The provision of a primary access point via the North Dane Way spur and an emergency access via Ham Lane;
- Internal estate roads;
- Approx. 5.67 hectares (approx. 14.0 acres) of open space, including a

- 'community park' and a formal children's play area of approx. 400 sqm;
- The provision of approx. 2.96 hectares (approx. 7.31 acres) of new strategic woodland planting to contain the development and create a consolidated edge to the new housing, most particularly along the site's northern (Ham Lane) and eastern (open field) boundaries. This new shelter belt planting is described within the application documents as being a strategic woodland buffer of approx. 20m or more in width and it is submitted that this tree planting would be provided in the first planting season after the commencement of the development. This new planting would comprise a mixture of native and local indigenous tree and shrub species.

No details have been provided for the anticipated type and mix of dwellings. However, the D&A suggests that the scheme density would be in the region of 35 dwellings per hectare, with the dwellings occupying approx. 13.01 hectares of the application site area.

The proposed access would via the North Dane Way spur road to the south of the North Dane Way and Albemarle Road junction, approx. 320m to the south-east of the aforementioned junction. The spur road having been constructed as part of the now abandoned Medway Towns Southern Peripheral Road. The proposal would also involve an emergency access off Ham Lane, just to the south of southern extremity of the Elm Court complex.

### **Site Area/Density**

Site Area: 23.93hectares (59.1 acres)

Site Density: 34.6 dph (14 dpa)

### **Relevant Planning History**

MC/14/2395                      Outline application for the development of up to 450 dwellings with all matters (appearance, landscape, layout and scale) reserved except for the means of access.  
Decision: Refused 27/01 2016  
Appeal: allowed 06/04/2017.

MC/14/0324                      Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2011 - request for a screening opinion as to whether an Environmental Impact Assessment is necessary for Residential Development of up to 500 market and affordable dwellings with the provision of access, estate roads and incidental open space.

Decision EIA Not required  
Decided 24/02/2014

## Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

Maidstone Borough Council, The Environment Agency, Natural England, the Highways England, the Kent Downs AONB Unit, Kent Police, Medway Fire Service, NHS Property Services, Bredhurst Parish Council, Boxley Parish Council, the Royal Society for the Protection of Birds, the Kent Wildlife Trust, Southern Water, Southern Gas Networks, National Grid Plant Protection, ED, the Hempstead Residents' Association, Sport England, the Open Space Society, the Ramblers Association, the British Horse Society, Protect Kent, the Medway Towns Sports Council, have also been consulted.

**148 letters** of objection have been received expressing the following comments:

- Loss of farmland, woodland and countryside
- Damage to character and adverse visual impact.
- Damage to wildlife and ecology.
- Lack of infrastructure.
- Danger of flooding.
- Traffic congestion.
- Noise and air pollution.
- Loss of privacy for neighbours.
- Coalescence of Lordswood/Princes Park/Walderslade and Hempstead.

**1 letter** of support stated: need for more housing and site not currently well used.

**Tracey Crouch MP** has written to state that her previous objection still stands: the loss of green space, ecological impact and negative impact on local infrastructure.

**Highways England** has written to advise that it has no objection.

**Environment Agency** has written to advise that it has no objection subject to the imposition of condition on any approval.

**KCC Ecology** written to advise that it has no objection.

**Boxley Parish Council** – object on the following grounds:

- Loss of farmland, woodland and countryside
- Damage to character and adverse visual impact.
- Coalescence of Lordswood/Princes Park/Walderslade and Hempstead.
- Damage to wildlife and ecology.
- Lack of infrastructure.
- Danger of flooding.
- Traffic congestion, exacerbated by recent housing permissions.

- Noise and air pollution.

**Kent County Council's Heritage Conservation Group** have written to advise that they have no objection subject to the imposition of a condition on any approval.

**NHS Property Services** has written requesting a contribution of £210,577 based on a sum of £467.95 per dwelling towards healthcare.

**Sport England** has written requesting a financial contribution £510,813 towards sports.

**Kent Fire & Rescue Service** has written to advise that it has no objection subject to the imposition of a condition on any approval

**Natural England** has written drawing attention to the sites proximity to the Kent Downs AONB and ancient woodland.

**Southern Water** has written advising that flooding and waste water problems would occur without the provision of a drainage strategy, which should be conditioned on any approval

**Woodland Trust** has written to object on the grounds of direct loss and disturbance to two ancient woodlands.

**Kent Police's Crime Prevention Design Officer** has written recommending a Crime prevention condition on any approval.

**The Hempstead Residents Association** has written to object on the basis that:

- Proposal is inappropriate development in an unsustainable location.
- Travel plan is unrealistic.
- Adverse impact on highways network.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2012 and are considered to conform.

## **Planning Appraisal**

### *Background*

The original application, MC/14/2395, for the erection of 450 dwellings was refused by Planning Committee in January 2016 for the following reason:

*“The development would result in an inappropriate form of development within a locally valued landscape and Capstone, Darland and Elm Court Area of Local Landscape Importance, resulting in harm to the landscape and rural character and appearance of the area contrary to the objectives of Policies S4, BNE25(i) and BNE34 of the Medway Local Plan 2003; the Medway Landscape Character Assessment 2011; National Planning Policy Framework, in particular, the fifth Core Planning Principle referred to in paragraph 17 and paragraph 109 of the National Planning Policy Framework.”*

An appeal was lodged against the Council’s decision and a public inquiry was held into the case. The inspector recommended to the Secretary of State that the appeal be allowed and planning permission be granted. The Secretary of State considered the case and agreed with the Inspector’s assessment of the case and conclusion. As a result, The Secretary of State on 06 April 2017 allowed the appeal and granted planning permission.

### *Principle*

Having regard to the Secretary of State’s decision and notwithstanding the planning permissions that Medway Council has granted for housing development around the borough since the Secretary of State’s decision just over a year ago, Medway Council is not able to demonstrate a 5 year housing land supply. As such no greater weight can be afforded to the Policies BNE25 and BNE34 of the Local Plan, relevant to the supply of housing land than at the time of the public inquiry.

As such Paragraph 49 of the NPPF will apply. This paragraph states:

*“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This was the same position as when the Inspector (and Secretary of State) considered the previous application and formed the view that the proposal represented Sustainable development.

Paragraph 7 of the NPPF sets out that there are 3 dimensions to Sustainable development- economic, social and environmental.

The Secretary of State concluded that the development would harm the character and appearance of the immediate area and therefore fails to accord with the provisions of BNE25 and BNE34. As such, the proposal represented environmental harm. He considered though that this harm was not critical to the function of Capstone and Horsted Valleys as a whole and that the considerable social and economic benefits of the proposal (housing as a whole, affordable housing, jobs and training, woodland management, improvements to play and transport and structural landscaping) outweighed the negative environmental impacts.

That decision is still considered to be recent and relevant, based on the fact that the Council cannot demonstrate a 5 year housing land supply and the application of paragraphs 49 and 7 of the NPPF. The permission is still capable of being implemented subject to compliance with the conditions imposed by the Secretary of State and therefore great weight must be attached to that decision and the balance of the planning merits set out in the Inspectors report and Secretary of States decision. Therefore, the Secretary of State's arguments with regard to the significant economic and social benefits of the proposal that outweigh the environmental harm and that the site is situated in a sustainable location are still relevant and on this basis, the principle of the proposal for residential development is considered to be acceptable.

#### *Other material consideration*

In view of the recent Secretary of State's decision referred to above; no objection comments received from Highways England and other consultees; and no new issues being raised by the representations received from the local residents compared with the 2014 application approved by the SOS, no objection is raised to the application under the provisions of Policies BNE1, BNE2, BNE21, BNE23, BNE24, BNE25, BNE34, BNE37, BNE39, S6, H3, T1, T2, T3 and T4 of the Local Plan and paragraphs 7, 14, 17, 35, 56, 57, 58, 61, 109 and 112 of the NPPF.

#### *Bird Mitigation*

As the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £239.61 per dwelling (excluding legal and monitoring officer's costs, which separately total £550) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. The strategic measures are in the process of being developed, but are likely to be in accordance with the Category A measures identified in the Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy (SAMM) produced by Footprint Ecology in July 2014. The interim tariff stated above should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation), in anticipation of:

- An administrative body being identified to manage the strategic tariff collected by the local authorities;
- A memorandum of understanding or legal agreement between the local authorities and administrative body to underpin the strategic approach;
- Ensure that a delivery mechanism for the agreed SAMM measures is secured and the SAMM strategy is being implemented from the first occupation of the dwellings, proportionate to the level of the housing development.

The applicants have agreed to pay this tariff and have agreed that this is included in the S106 process. No objection is therefore raised under Paragraphs 109 and 118 of the



NPPF and Policies S6 and BNE35 of the Local Plan.

### *S106 Matters*

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a s106 agreement) may only be taken into account if the obligation is (a) necessary to make the development acceptable in planning terms;(b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

The obligations proposed, comply with these tests because they are necessary to make the development acceptable in planning terms, they are directly related to the development and are fair and reasonable in scale and kind.

### *Changes to S106 Contributions*

The contributions put forward to cover improvements to PROWs and Great Lines Heritage Park are in addition to those agreed as part of the previously approved scheme. These new contributions are considered to meet the above tests.

Other contributions are as previously agreed or adjusted to reflect more recent needs data and indexation. The contribution sought by Sport England has not changed from the previous application and was taken into account in the previously agreed open space contributions. It is not considered appropriate to alter that requirement at this stage.

The following contributions are sought:

- i. Secure a minimum of 25% affordable housing equating to 112 dwellings.
- ii. £411,840.00 towards Nursery provision (St Benedicts RCP, Lordswood Primary, Kingfisher Primary, a new free school in the area.)
- iii. £1,010,880.00 towards primary education (St Benedicts RCP, Lordswood Primary, Kingfisher Primary, a new free school in the area.)
- iv. £1,022,580.00 towards secondary education (Expansion at one or more of Greenacre Boys, Walderslade Girls, Holcombe Grammar School, a new free school in the area.)
- v. £269,100.00 towards Sixth Form (Expansion at one or more of Greenacre Boys, Walderslade Girls, Holcombe Grammar School, a new free school in the area.)
- vi. £73,514.08 toward waste and recycling
- vii. £305,760.04 towards open space (sports, allotment and park improvement)

- viii. £56,227.5 toward the Great Lines Heritage Park (£51 per person – 2.45 persons per home on average)
- ix. £35,653.00 towards improvement and new wearing course for PROW R24, RC25 and RC29
- x. £212,133.32 towards public transport (measures to improve evening service, Sunday service and diversion).
- xi. £221,312.60 toward improvement of local doctor the Lords Wood Community Health Living Centre, Matrix Medical Practice, Hempstead Medical Centre, Princes Park Medical Centre, Walderslade Medical Centre, Walderslade Village Surgery, DMC Walderslade Surgery and Tunbury Avenue Surgery
- xii. £108,374.50 (£239.61 per dwelling plus £550 monitoring costs toward Habitats Regulations (mitigation against Wintering Birds)
- xiii. £64,655.88 towards community facilities

#### *Local Finance Considerations*

None

#### **Conclusions and Reasons for Approval**

The principle of the development is considered acceptable in the context of delivering sustainable development as required by the NPPF. This proposal will deliver a much-needed mix of market and affordable dwellings of different sizes, types and tenure required to meet the needs of a mixed community in a quality and attractive environment and will assist in delivering and enhancing infrastructure in the locality.

Whilst the development would have an impact on the local ecology and open character of the area, it is not considered that this would be significant having regard to the proposed mitigation measures and the developer contributions agreed.

The proposal is considered to be in compliance with Policies S1, S6, BNE1, BNE2, BNE3, BNE6, BNE21, BNE22, BNE23, BNE24, BNE25, BNE37, BNE39, BNE43, BNE48, H3, H10, L2, T1, T2, T3, T4 of the Local Plan, and paragraphs 7, 8, 14, 17, 35, 47, 49, 56, 57, 58, 61, 73, 109, and 112 of the NPPF.

This application would normally be determined under delegated authority but is being reported to planning committee due to the extent of local interest expressing a view contrary to the recommendation.

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## **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>