

MC/19/0336

Date Received: 5 February 2019
Location: Gibraltar Farm Ham Lane
Hempstead Gillingham
Proposal: Outline Application (with all matters reserved except access) for the erection of up to 450 market and affordable dwellings, nursery and supporting retail space up to 85sqm, with provision of main access to Ham Lane; estate roads; cycle and pedestrian routes; residential and community open space and landscaping; new junction for Lidsing Road/Hempstead Road and realignment and widening of Lidsing Road. Off site related highway works to Westfield Sole Road, Shawstead Road, Hempstead Road, Chapel Lane, Hempstead Valley Drive, Hoath Way roundabout, Hoath Way and M2 Junction 4.
Applicant Agent: F.D. Attwood & Partners
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Ward: Lordswood and Capstone Ward
Case Officer: Wendy Simpson
Contact Number: 01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 13th January 2021.

Recommendation - Refusal on the following grounds:

1. In relation to the matter of 'Access' for the proposed large scale housing development to and from the existing urban area of Lordswood, upon which the development relies for the day-to-day amenities. The proposal would fail to establish a well-lit, attractive, safe and secure access for pedestrians (including the elderly, disabled and those with young children), wheelchair users and cyclists. The proposal is contrary to Policies BNE1, BNE2, BNE5, BNE7, BNE8, T2, T3 and T4 of the Medway Local Plan 2003.
2. Without a suitable access provided to and from Lordswood the development does not constitute 'sustainable development'. The proposal represents urban development located on greenfield land, not allocated for the proposed use, and

would harm the character, function and appearance of the countryside and the Area of Local Landscape Importance in which it would be located. The proposal is contrary to policies S1, S2, BNE25, BNE34 of the Medway Local Plan 2003.

3. In relation to the matter of 'Access' and the connection to and from Lordswood, without the details supplied of an acceptable lighting scheme it is not possible to fully understand and assess the impact of the access on the known ecology interests in the locality. The proposal is therefore contrary to Policies BNE37 and BNE39 of the Medway Local Plan 2003.
4. In relation to the matter of 'Access' and the connection to and from Lordswood, a large proportion of the proposed access works are located on land designated as Ancient Woodland. Without the details of an acceptable lighting scheme, full details of the section 278 works within the ancient woodland designation, full tree survey and protection details it is not possible to fully understand and assess the impact of the works on trees within the ancient woodland and the ancient woodland as a whole. The proposal could result in the risk of loss of irreplaceable habitat without a wholly exceptional reason and no compensation strategy is proposed and is contrary to Policy BNE37 of the Medway Local Plan 2003 and paragraph 175 on the National Planning Policy Framework 2019 in relation to ancient woodland.

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

Proposal

The application has been submitted in outline form with only the matter of 'access' for consideration at this time, together with the proposed quantum and nature of the development. The matters of 'appearance', 'landscape', 'layout' and 'scale' are being reserved for future consideration.

The application proposes a development of:

- Up to 450 market and affordable dwellings, with a density in the region of 35 dwellings per hectare;
- A nursery (300sqm) on the site, of a size able to care for 50 children over the course of the day;
- A retail unit of the size suitable for top-up shopping, up to 85sqm;
- The provision of landscaping including strategic woodland planting to contain the development and create a consolidated edge to the new housing;
- Open space, including a 'community park' and a formal children's play area;
- The provision of a primary access point via Ham Lane with the widening of part of Ham Lane, its realignment at its eastern end and a new junction constructed where Ham Lane meets Lidsing Road

- The redundant section of Ham Lane and the existing junction being removed and the area landscaped;
- The widening and realignment of part of Lidsing Road, the creation of a new junction at Lidsing Road/Hempstead Road;
- Internal estate roads;
- Realignment and upgrading of some sections of Public Right of Way (PROW) and the provision of a footway/cycleway connecting through the site from North Dane Way, Lordswood to the western end of Hempstead Road;
- A package of off-site road improvement works including the remodelling of the junction of Chapel Lane junction with Hempstead Valley Road; the provision of traffic calming measures and a pedestrian crossing on Hempstead Road; works to the Hoath Way roundabout to add capacity; works to junction 4 access/exit to the M2 motorway; and the creation of formal passing bays on the Westfield Sole Lane.

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 Design and Access Statement accompanying the application indicates that the proposed houses would predominantly be two storeys in height, with ridge heights of around approx. 8.0m. However, some of the dwellings might be 2.5 storeys high and in particular locations within the site there are proposed 3 storey buildings, with a height of up to 11m.

Site Area/Density

Site Area: 27.45 hectares (67.83 acres)
 Area of the site for housing : 13.01 hectares (34.15 acres)
 Site Density: 34.59dph (13.18 dpa)

Relevant Planning History

- | | |
|------------|---|
| MC/20/0347 | Application for approval of reserved matters being appearance, landscaping, layout and scale pursuant to outline planning permission MC/18/0556 (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) together with application to discharge conditions 27 (drainage) and 29 (Air Quality).
Still under consideration |
| MC/18/3139 | Town and Country Planning Act (Environmental Impact Assessment) Regulations 2017 request for a screening opinion for the erection of up to 450 market and affordable dwellings, provision of access and estate roads and incidental open space |

Decision: EIA required 3 December 2018

MC/18/0556 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)
Decision : Approved 26 September 2018

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 16 December 2015
Appeal allowed 6 March 2017

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.

The Environment Agency, Natural England, Southern Gas Networks, EDF Energy, Sport England, Woodland Trust, Maidstone Borough Council, KCC Highways, NHS Medway, Rochester Airport, Royal Society for the Protection of Birds, KCC Biodiversity, Kent Wildlife Trust, Local Lead Flood Authority, Medway Fire Service, Kent Police, Southern Water, KCC Archaeology, Highways Agency, Kent Downs AONB Unit have also been consulted.

KCC Archaeology advise that a programme of archaeological work will be required by planning condition prior to commencement.

Sport England advises that the proposal should include an adequate contribution towards sport and physical activity.

Kent County Council Biodiversity advise that various species surveys have been carried out and reports provided and at least 12 ancient woodland indicator species have been recorded in the woodland. The site is adjacent to/within areas of Ancient Woodland, Local Wildlife Site and Roadside Nature Reserves. The KCC ecologist advises that the submitted Site Wide Ecological Mitigation Strategy provides limited information on the proposed mitigation within the site but instead it focuses on the enhancements and management of the site. However, no objection is raised subject to conditions requiring submission of a detailed Ecological Mitigation Strategy; a revised Site Wide Ecological Management Plan; a scheme of ecological enhancement across the site; and the submission of a lighting scheme(s) that is/are sensitive to bats and other species.

Kent County Council Biodiversity (in relation to Hoath Way roundabout works) advise that due to the small area of habitat to be impacted by the proposed works there is no

requirement for further ecological surveys to be carried out and that the impact on any protected/notable species can be avoided through the implementation of a precautionary mitigation approach, which can be secured by planning condition.

Kent County Council Biodiversity (in relation to the footway/cycleway/PROW link from the development site to Lordswood) advise that the LPA will need to be satisfied that the proposals will not result in a loss of Ancient Woodland and that if the lighting scheme resulted in lux levels of less than 0.4 within the Ancient Woodland there would be no concern in respect to the lighting.

Highways England do not raise object to the impact of the development on the Strategic Road Network subject to conditions in relation to:

- the agreement of a Construction Management Plan to avoid congestion building on the A2 and M2;
- the agreement of a phasing plan for dwellings, highways works, drainage and open/green space infrastructure to ensure infrastructure needs are provided in a timely manner;
- the agreement of a Travel Plan, in consultation with Highway England;
- the completion of the agreed improvement works at junction 4 of the M2 prior to the occupation of the 200th dwelling on the site, and the agreement of affordable housing provision (which forms part of the S106 agreement and not as a condition).

Natural England advise that a mitigation payment is required towards the cumulative impact of new housing on the Thames and Medway Marshes/RAMSAR to avoid significant harm to these sensitive areas.

Kent Downs AONB Unit no comments received.

Environment Agency do not raise objection subject to the use of conditions related to : the submission of a remediation strategy should unexpected contamination be discovered during the works; the agreement by the LPA of the details of any surface water drainage scheme.

Kent Police advise that they would welcome discussion with the applicant going forward on a number of matters related to Secure By Design.

Southern Water have provided a plan of their infrastructure in the area and highlight restrictions of works within 6m of existing public water infrastructure without their consent.

Southern Gas Networks/UK Power Networks provided copies of plans showing their equipment but provide no specific comments on the development.

UK Power Networks have provided copies of plans showing the location of their infrastructure.

Maidstone Borough Council (Maidstone BC). No formal comments have been received but Maidstone BC took their cross boundary application 19/500765/OUT, which forms part of this MC/19/0336 application, to planning committee on 25 June 2020. Whilst the decision has not yet been issued, as it is awaits the signing of the s106 agreement, details of the decision is set out in this report under the section '*Maidstone Borough Council planning application*'

1738 letters (including multiple letters from single households) have been received raising the following objections:

- The site is a 'green lung' within a heavily built up area
- Flooding concerns at Hempstead Road near Ham Lane in heavy rain and also in Capstone Road
- Increased air pollution from additional traffic and traffic queuing and its impact on human health, particularly on children
- Increased air pollution contributing to climate change
- The road to junction 4 of the M2 is already at a standstill at peak times
- The area is poorly served by public transport
- No additional retail space is needed
- There are not enough GPs, dentists or hospital beds and facilities to serve the development
- Traffic in the area is already severely congested
- There are no school places available for the additional population
- Harm to the local environment and wildlife
- Westfield Sole Road, Lidsing Road, Shawsted Road and Ham Lane are single track lanes and in a bad state of repair and cannot cope with additional traffic
- The Bluebell Hill roundabout cannot cope with additional traffic, particularly at peak times
- Junction 3 for the M2 is gridlocked most mornings and afternoons
- The rural landscape value of the site will be lost
- Police resources cannot accommodate the additional population
- Light pollution from the development will spoil the darkness of the Capstone Valley at night
- Water/drainage infrastructure cannot accommodate the additional population
- The south east is a water scarcity area
- Additional noise pollution will arise from the additional population and their activity
- Roads going towards Chatham, Capstone Road and Ash Tree Lane, Luton Road, around Luton recreation ground and also Walderslade Woods Road and Boxley Road are already heavily congested and problematic and cannot cope with the additional traffic from the development
- The destruction of one of the few areas of Natural Beauty in Medway
- Hempstead village and Bredhurst will become throughfares for the development impacting the lives of the local people
- Increased risk of accidents with the additional traffic
- Harm to archaeological potential

- Result in urban sprawl
- The trains to London cannot cope with additional commuter numbers
- The road network is not able to manage the construction traffic that the development would require
- The proposal will devastate parts of the Ancient Woodland in and around the development site
- The proposal will result in the loss of prime agricultural land
- The close location to the Asbestos First Ltd site would result in health and safety risk to the residents of the development
- Traffic in Hempstead will become gridlocked
- The proposal does not address the impact of the development on Capstone Road which is dangerous during rush hour as it is used to bypass congestion on Hoath Way and access to Chatham and Gillingham
- There are no works proposed to improve either Capstone Road or Ham Lane
- Capstone Road is used by cyclists, horses and walkers. To add more traffic to this road will prevent this existing use as it will be too dangerous
- The proposed passing spaces on Westfield Sole Lane are inadequate to provide a safe and free flow of traffic
- The proposed changes to localised junctions in Hempstead will add to queues and not ease congestion
- The Traffic Assessment estimates are unsound and underestimates rush hour movements
- Proposed changes to the Public Rights of Way are such that two roads will need to be crossed and from some routes views of the countryside are lost
- Lidsing Road is not suitable for increased traffic movements using it as a through road to Maidstone
- Light pollution will upset the natural behaviours of bats, owls and roosting birds
- The traffic calming measures proposed in Hempstead Road will increase 'chaos' at school drop off and pick up times
- The traffic calming measures on Hempstead Road will push the limited on street parking onto side roads
- Routing traffic from the development thorough Hempstead Road and Chapel Lane is unacceptable, as is the impact on Birch Grove
- Chapel Lane is already very difficult to cross as a pedestrian and will become impossible
- The Chapel Lane junction improvements do nothing to assist traffic turning right across Hempstead Valley Drive and resultant queues will block traffic trying to enter Chapel Lane from Almond Grove which will increase the problem experiences at school drop off and pick up times
- The proposed roadworks will erode the countryside feel of the area
- The additional housing will increase crime rates in the Hempstead area
- The proposed traffic calming measures on Hempstead Road, which has multiple bus stops and is also used by agricultural vehicles and HGVs will stop traffic flow at peak times

- No access to rail network so all residents will need to use the road in an already over-congested area
- Additional domestic waste would be produced but there is a lack of capacity for this
- The housing in this proposal is not required as part of Medway Council's housing quota
- Loss of public rights of way (byway) for access to Capstone Park from Bredhurst
- The transport and environmental effects have not been properly assessed and/or mitigated
- Waiting lists for allotments are already excessive – the plans do not include the provision of allotments
- Loss of agricultural land for crops
- Open spaces and library services are also at breaking point without additional housing development
- There are already significant traffic weight on Hempstead Village in order to access the M2, Hempstead Valley Shopping Centre, Gillingham Business Park and Wigmore
- Many of the surrounding rural roads do not have pavements making it necessary to drive which also would increase the risk of accidents on these roads
- The proposal is ill conceived with regular bootfairs through the summer held in Hempstead Road causing large traffic hold ups
- The proposal is contrary to the Council's Green Grid plan
- The proposed development is cut off from Hempstead as the pedestrian/cycleway stops at the bottom of Hempstead Road and from this point to Hempstead is no pedestrian footway or street lights, making it a serious safety issue for pedestrians attempting to walk to Hempstead
- The traffic calming measures proposed on Hempstead Road will impede residents' ability to exit their driveways with any vehicle larger than a car
- Various roads in Hempstead will become impossible for pedestrians to cross, exacerbating the current issue, and by adding dedicated slip roads at junctions so traffic travels unimpeded and doesn't slow will make this matter worse
- Localised air pollution from traffic stopped on Hempstead Road in the traffic calming scheme
- The applicant's belief that there will be little traffic from the development using Lidsing Road and then through Boxley and on to Maidstone is wrong and it is a reasonable assumption that with the road improvements this will be used by more cars as an alternative to the A229 and A249 roads and to avoid queues trying to get to the M2 at junction 4
- Lidsing Road is also used as a cut through to Walderslade Woods Road, turning off at the Harrow pub, and the link rural road is very narrow and incapable of supporting any increase in traffic
- Capstone Road narrows in various places and makes it extremely tight for vehicles to pass each other. This road needs to be widened to support any significant increase in traffic

- The land serves as part of an area of separation to prevent the joining of Walderslade/Lordswood with Hempstead
- Loss of privacy, loss of outlook and noise and disturbance to existing properties in the area
- Hempstead Road is a narrow lane close to the Ham Lane junction and with a limited visibility at its corner
- The speed limit in Capstone Road has recently been reduced to 30mph and HGVs have been banned which is an indication that it is already hazardous and cannot support additional traffic
- The proposed changes to Ham Lane will exacerbate the danger of this road that often has accidents
- The proposed changes to the road system will be ineffective for the amount of increase of traffic from this proposal
- PROW KH41 an RC29 are byways open to all traffic (BOAT) and are currently used by 'greenlaners' but can be used by all traffic as shortcuts to Lordswood, Lidsing and Walderslade and an increase in population will lead to an increase in misuse and damage to the surface and tree roots
- The additional jobs to be created by the nursery and retail uses proposed are negligible and construction jobs are short lived
- The inclusion of drainage basins are not adequate to address surface water problems in the area
- The site is not an allocated site in the Local Plan
- The proposal is not suitable given the proximity to the AONB
- Will result in the loss of valuable trees
- Harm to Area of Local Landscape Importance
- Impact on local Green Infrastructure
- The development will add more traffic into a bottleneck part of the M2
- S106 obligations for amenities in historic permissions will not be accessible with the proposed access on the Hempstead side of the site
- With the success of the HIF bid the provision of housing on this site is not required
- PROW RC29 is open to all traffic and may encourage use by cars, motorbikes and quad bikes to access the development site or countryside
- The access proposal along byway RC29 encroaches into the woodland and the removal of chestnut trees
- The access proposal along byway RC29 would result in danger to users of the childrens' play area
- More traffic will be routed towards the North Downs with severe impact on areas of scientific interest and historic buildings in the villages and hamlets
- Sound proof fencing is required along Hoath Way to mitigate increased traffic and the removal of trees at the roundabout
- The proposed lighting of the PROW RC29 will adversely effect the bat population
- The proposal requires its own new access road to the M2
- If quadbike and motorbike use of the PROW increases pedestrian, equestrian and cycle use will be reduced
- No vehicle access proposed to access North Dane Lane the schools in Lordswood

- Danger to cyclists and pedestrians as there is no footpath or street lighting 'from the proposed development to Hempstead Valley Shopping Centre'
- Increased traffic in Hempstead will encourage drivers to cut down Almond Grove and increase danger to school pupils
- Harm to the ecology of the ancient woodland
- Increased traffic will be dangerous for cyclists, runners, walkers, horseriders and outdoor recreationists and wildlife crossing roads
- Traffic calming on Hempstead Road will increase noise and pollution for residents
- The extant permission is not able to be implemented as the council has not sold their land to provide access
- No pedestrian connection is proposed from the development to Hempstead Road pavement to provide access to local facilities
- Shawstead Road regularly floods
- Roads in Walderslade is already extremely busy and the development traffic will result in havoc in this built up area

Rehman Chishti MP objects to the proposal as it will negatively impact on the wards of Hempstead and Wigmore; on the 'green lung' nature of the Capstone Valley and will lead to road congestion.

Tracy Crouch MP objects to the proposal as it will result in the loss of a much valued green space, add to pressure on local infrastructure, including roads and the M2 junction 3. More applications to develop in the Capstone area would follow.

The **Hempstead Residents Association** object on the grounds of:

- Shawsted Way is not suitable for additional traffic
- the bus extension proposal is not realistic
- the development would be car reliant and unsustainable
- the traffic calming measures on Hempstead Road are unnecessary and will increase congestion
- the proposed works on Sharstead Way will not reduce the build up of traffic for Hoath Way
- eroding of the visual separation between Lordswood and Hempstead
- local schools and doctors surgeries are already oversubscribed
- the proposed planting will not be effective in the short to medium term at mitigating the visual impact of the scheme
- the impact of construction traffic is of concern
- the extant planning permission is of no weight as it cannot be built out

Medway Countryside Forum comment that the proposed road changes will not be adequate for the additional traffic from the development.

The **Woodland Trust** object to the proposal on the basis of potential disturbance to Hall and Hooks Woods. To avoid harm to the ancient woodland the development should provide a buffer zone of at least 50m.

Bredhurt Woodland Action Group (BWAG) object on the grounds that:

- the success and improvement of the woodland, which is managed by BWAG, is dependent on the surrounding countryside offering suitable habitat to birds and animals which travel to the woodland areas
- the destruction of sensitive neighbouring habitat will have a severe detrimental impact on Bredhurst Woods
- the site is at the edge of the Kent Downs AONB, is a Site of Nature Conservation Interest and an Area of Local Landscape Importance and the proposal would severely impair and materially harm the landscape character and function
- the development would significantly close the gap between Lordswood, Hempstead and Bredhurst and the loss of identity of each community
- the development would erode the rural character of the village of Bredhurst
- the local rural roads are not able or suitable to support the increase in traffic movements and are unlit

Boxley Parish council object for reasons that the development:

- will detract from the countryside's appearance
- will impact on flora and fauna
- will place pressure on overstretched infrastructure
- the area's water supply and associated traffic movements will overload the local rural road network
- by creating more passing places on Westfield Sole Lane this will encourage more traffic to use this route to Junction 3 of the M2, which is already over capacity
- there are no road improvements proposed for the rest of Westfield Sole Lane and this road becomes completely congested at times
- traffic volumes on Lidsing Road will increase to unacceptable levels
- the changes of the roads will harm the character of the countryside
- the proposal will encourage rat running through in various directions

Councillors Wendy and Bob Hinder (Maidstone – Boxley Ward) object on the grounds that:

- the proposal will result in a severe detrimental affect Yelsted Lane, Gleamingwood Drive, Lidsing Road, Forge Lane, Harp Farm Lane, Walderslade Woods Road and Junction 3 of the M2
- there will result a severe detrimental impact on the Kent Downs AONB and will result in the loss of a substantial area of green field land
- the quality of life of local residents and visitors will be severely compromised
- flora and fauna will be impacted
- additional pressure will be placed on the area's water supply
- additional pressure will be placed on already overstretched community, education, health and recreational facilities

Councillor Bob Hinder (Maidstone – Boxley Ward) objects on the grounds of the exacerbation of existing traffic problems on Westfield Sole Lane and the improvements proposed are limited.

13 letters of support were received on the following grounds:

- Lovely part of the area to live
- Share the burden of new housing across Medway Council
- Sensible place for new housing as the infrastructure is already in place
- This is only one 'green lung' in Medway of many and it is fair for new houses to be spread across Medway area
- It is difficult to object when one lives on an estate and people need somewhere to live
- New housing is needed
- Support businesses in Hempstead

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies considered most relevant to the determination of this application are S1, S2, BNE1, BNE2, BNE3, BNE5, BNE7, BNE8, BNE34, BNE37, BNE39, T1, T2, T3, T4.

Site Description

The site is mostly in agricultural use. The parts of the site that are not within agricultural use are a limited area of ancient woodland and some existing roads and adjacent hedgerow/edge area.

The application site is approximately 27ha in size with the majority of the site being located within the Medway Council administrative area and a small part (about 1.5 ha) lying within the Borough of Maidstone administrative area. The south eastern boundary of the proposed residential parcel is not defined on site by any physical feature but follows the administrative boundary between Medway Council and Maidstone Borough Council across open arable fields.

The site lies immediately adjacent to the urban edge of Lordswood at its western side. The site's north boundary is formed by Gibraltar Farm and the remaining ancient woodlands of Holt Wood and Hook Wood. To the north east of the site is Ham Lane and Elm Court, a light industrial estate on which there are a number of small local businesses, a nursery, a garden centre and café. To the south is a small woodland called Roots Wood but mostly from the south to the east are open agricultural fields, which fall in part within the Maidstone Borough Council administrative district. Beyond the agricultural fields to the east are the urban areas of Hempstead/Wigmore.

An area of ancient woodland, Hall Wood falls within the western part of the site, which also forms part of the Hook Wood Local Wildlife Site (LWS). The site also falls within an area designated as an Area of Local Landscape Importance within the Local Plan.

In terms of topography the western side of the site is relatively flat with gentle slopes running from north to south. On the eastern third of the site, the gradients are steeper with the land sloping down to Gibraltar Farm.

Site lies within Flood Zone 1, as designated by the Environment Agency's Flood Risk Zone map.

Planning Appraisal

Main matters

The main matters for consideration are:

- Planning history in relation to this site
- Maidstone Borough Council planning application
- Principle of the Development
- Loss of Agricultural Land
- Quantum of Development/Layout/Design
- Landscape and Visual Impact
- Matters of Access/Highway works - background
 - o Additional Traffic Flows
 - o Access to Ham Lane and new Junctions at Ham Lane/Capstone Road and Lidsing Road/Hempstead Road
 - o Footway/Cycleway from new junction to Hempstead urban area
 - o Traffic calming and pedestrian crossing on Hempstead Road
 - o Junction Hempstead Valley Drive/Chapel Lane
 - o Hoath Way roundabout
 - o M2 roundabout – Junction 4
 - o Public Transport
 - o On-site Parking
 - o Access to/from Lordswood
- Impact on Amenities
- Noise
- Air Quality
- Contamination
- Archaeology
- Flood Risk and Drainage
- Open Space
- Ancient Woodland
- Ecology
- Tree removal at Hoath Way roundabout
- Bird Mitigation/Appropriate Assessment

- Appropriate Assessment
- S106 matters
- Affordable Housing
- Climate Change
- Five year housing land supply
- Conclusions and Planning Balance
- Local financial considerations

Planning history

There is an extant outline planning permission covering much of the current site under reference MC/18/0556 (“the 2018 planning permission”). That planning permission is for a development of up to 450 market and affordable dwellings with associated access, estate roads and residential open space and was granted by Medway Council (the Council) as Local Planning Authority on 26 September 2018. The 2018 planning permission a renewal of an outline planning permission granted under reference MC/14/2395, which was originally refused planning permission by the Council but permission but was subsequently granted through the appeal process by the Secretary of State on 6 April 2017, following a call-in and a public inquiry.

The access arrangement for the 2018 planning permission relies on primary access to and from the site from North Dane Way, in the Lordswood area, but to date no access has been secured, as part of the access would need to cross land that is not within the applicant’s ownership.

The 2018 planning permission relies on a small area of land, required to provide access, that is not within the applicant’s ownership. That land is in the ownership of the Council and is not highway land. The Council as landowner has declined to sell the land required to achieve the access to the applicant and therefore the 2018 planning permission is not able to be implemented at this time. As such the 2018 planning permission does not constitute a fallback position as there is not a realistic possibility of it being implemented.

However, the Council is also under a legal duty of consistency. This means that the Council has to have regard to previous relevant decisions, and that whilst the Council is free to reach a decision that differs from those decisions, before doing so it is required to have regard to the importance of the duty of consistency and give reasons for any departure from them: *North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P&CR 137*.

In this case, in light of that duty, the previous grants of permission at Gibraltar Farm, MC/14/2395 and MC/18/0556, and in particular the rationale for those grants of permission are clearly a material consideration in the assessment of the current application.

The current application has been submitted for a similar proposal to that allowed under the extant planning permission but with an alternate access arrangement, now seeking

sole motorised vehicular access to and from the site from Ham Lane/Lidsing Road in the Hempstead area.

The application also proposes access by footway and cycleway link to and from the Lordswood area along the route of the existing Public Right of Way (PROW) RC29, which is a Bridleway Open to All Traffic (BOAT). The applicant advises that this link is not for adoption as public highway. Section 278 works are then proposed to link the privately maintained footway/cycleway, to the adopted highway footway/cycleway network. Notwithstanding the status of the PROW RC29, no vehicular connection to the site is proposed from Lordswood in the current submission.

The access proposals have resulted in an enlargement of the application site boundary over that of MC/18/0556. The current application site boundary has also been enlarged to include Hall Wood, which lay outside of the previous planning applications site boundaries.

The key differences between the current application and the previous planning permission MC/18/0556 in summary relate to:

- the additional retail unit and nursery
- the additional site area/development within the countryside location and Area of Local Landscape Importance
- the site includes Hall Wood and the land to provide a footway/cycleway link to Lordswood
- the site includes additional land to provide for the access arrangement at the Hempstead end of the site
- off-site works to the highway network

Maidstone Borough Council planning application

The applicant has submitted dual applications as part of the site falls within the Borough of Maidstone. The element of the development in the Maidstone Borough Council administrative area are most of the vehicular access and highway works at the eastern end of the site and some off site highway works.

Maidstone BC considered their outline application 19/500765/OUT, and adjoining authority consultation 19/501988/AD, at a meeting of its Planning Committee on 25 June 2020 and resolved to approve the outline application subject to conditions and a S106 agreement. To date the S106 for the 19/500765/OUT application remains unsigned and as such that decision has not been issued and no formal comments have therefore yet been received from Maidstone BC in response to the Medway Council consultation on this planning application.

The 19/500765/OUT committee report advised that the following obligations were necessary to mitigate the part of the proposed application that falls within the Maidstone BC administrative area:

- Contribution of £100,000 towards environmental/traffic calming measures in the villages of Boxley and Bredhurst
- No construction traffic to use Westfield Sole Road or travel via the villages of Boxley or Bredhurst.
- Appropriate mechanism for funding of future maintenance of Pedestrian/Cycle Links
- Best Endeavours to secure the passing bays on Westfield Sole Road.
- Completion of a Stopping Up Order for the redundant section of Ham Lane
- Travel Plan monitoring fee to KCC of £1,422
- MBC s106 Monitoring Fee of £1500 for one obligation and £750 for each additional planning obligation

The minutes of the committee (copied below) details amendments to these obligations.

Conditions related to the following matters were also suggested in the committee report:

- No commencement until the reserved matter of 'Landscaping' is approved
- No implementation of highway works until planning permission MC/19/0336 is granted
- Site access provided prior to first occupation
- Scheme for permanent closure of redundant Ham Lane section
- No dwelling occupied until off site highway capacity improvements at Hoath Way/Sharsted Way and Hempstead Valley Drive/Chapel Lane have been completed and are open for use
- No dwelling occupied until a full footway/cycleway link from the public highway at North Dane Way/Albemarle Road to the public highway at Hempstead Road is completed
- No dwelling occupied until a site-wide Travel Plan agreed
- No dwelling above slab level until advance planting of tree screening buffer of at least 20m in width along the boundary with the Borough of Maidstone has been carried out
- The agreement of a landscape and ecological management plan (LEMP)
- No development within the Borough of Maidstone until details of earthworks within the Borough agreed
- No dwelling above slab level until a landscape scheme within the Borough of Maidstone agreed
- No occupation until agreed landscape scheme completed
- Programme of archaeological works
- No development above slab level until air quality (during construction) mitigation agreed
- Agreement of lighting
- Contamination
- Agreement of a Site Wide Ecological Management Plan
- Agreement of boundary treatment.

The minutes of the committee meeting (copied below) details amendments to these conditions.

The committee minutes from the Maidstone BC outline application advise that the voting was for the 19/500765/OUT application to be approved subject to :

- A. The prior completion of a legal agreement in such terms as the Head of Legal Partnership may advise to secure the Heads of Terms set out in the report with the amendment of the second Heads of Terms to include reference to Yelsted Lane; AND
- B. The conditions and informatives set out in the report, as amended by the urgent update report and by the Principal Planning Officer at the meeting, with further amendments regarding:
 - (i) The landscape treatment at the western part of the site to the west of Elm Court to achieve thicker buffer planting around the boundary, connecting the three Ancient Woodlands; and
 - (ii) The strengthening of the conditions relating to landscaping and biodiversity enhancements to clarify that the landscape scheme shall comprise native species, excluding Sycamore trees, and that the boundary treatments should include gaps under fences for movement of wildlife,

the Head of Planning and Development be given delegated powers to grant permission and to be able to settle or amend any necessary Heads of Terms in line with the matters set out in the recommendation and as resolved by the Planning Committee and to finalise the wording of the amended conditions and to amend any other conditions as a consequence.

Principle of the development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

Policies S1 and S2 of the Local Plan directs new development to the existing urban area and then strategically sustainable development using a sequential approach to location.

The scheme proposes up to 450 residential units, a nursery, retail unit, access and other works. The proposed scheme falls outside the urban boundary and in the countryside.

Policy BNE25 of the Local Plan directs that development in the countryside will only be permitted on a site allocated for that use; development essentially demanding a rural location, or the re-use or adaption of an existing built up area.

The site is not allocated for housing or any redevelopment within the Local Plan.

The proposal is for the development of a large proportion of an agricultural field. 'Agricultural land' is excluded from the definition of 'previously developed land' in the Annex 2 of the National Planning Policy Framework and as such the site is a greenfield site. A key element of national housing policy within the National Planning Policy Framework is to minimise the loss of greenfield sites for residential use by making the best use of development opportunities within existing urban areas.

It is considered that in light of those policies the proposal, as a predominantly residential scheme on an unallocated greenfield site is in principle unacceptable. It would be deemed contrary to the strategic direction of the Medway Local Plan 2003 highlighted in Policy S1 and S2. These direct development to brownfield sites, then sustainable sites, and are supported by Policy BNE25 that restricts development in the countryside.

Loss of Agricultural Land

Paragraph 170(b) of the NPPF states that planning decisions should recognise *'the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land...'*

The majority of the 27.45 hectares of the current application site is agricultural land which is classified on the Natural England's 'Agricultural Land Classification' map as Grade 3 - 'good to moderate'. The proposal will result in the loss of this agricultural land.

Natural England states that 'High quality agricultural land is valued because of its important contribution to food production, and it also offers much greater potential than poorer land for growing alternative fuel/energy crops'. Natural England observes that land protection policy 'is relevant to all planning applications, including those on smaller areas but it is for the planning authority to decide how significant are agricultural land issues ...'

Paragraph 170 requires a balancing of the value of 'the economic and other benefits of the best and most versatile agricultural land' in decision making.

Considering whether the loss of best and most versatile agricultural land is necessary, it is noted that Medway's housing land supply requirements are considerable and as such will certainly require the loss of agricultural land.

Specifically it should be noted that there is insufficient brownfield land within Medway to accommodate all, or even the majority of the Council's housing requirement over the coming years.

Finally considering whether there is alternative lower grade land available, it is noted that the MAFF 1:250,000 agricultural land classification map indicates that large parts of the

land adjoining the Medway urban area are likely to be best and most versatile agricultural land. It is therefore considered unlikely that meeting Medway's housing land supply requirements can be accommodated on agricultural land of Grade 3a or lower.

In summary, given the scale of Medway's housing requirement it is considered that the loss of agricultural land is necessary and this site comprises Grade 3 - 'good to moderate', agricultural land it is considered that the loss of agricultural land in this instance would not conflict with the objectives of the NPPF and is therefore not objectionable.

Quantum of Development/Layout/Design

Local Plan Policy BNE1 'General Principles for Built Development' requires the design of development to be appropriate in relation to the character, appearance and functioning of the built and natural environment. The Government attaches great importance to the design of the built environment. Paragraph 127 is key to the achieving well designed places.

Whilst the matter of 'layout' is reserved for consideration at a later time, an illustrative development layout has been submitted in support of the current application which seeks to demonstrate that the proposed quantum of development is able to be provided and function in an acceptable way on this site.

The applicant also proposes a series of 'design parameters' and 'design codes' within the supporting Design and Access Statement which they propose could be secured in any planning permission as a basis for detailed proposals, under subsequent 'reserved matters' applications. The 'Design Parameters' form the basis of the illustrative site layout plan submitted in support of the proposal and cover the following matters:

1. Site Boundary
2. Land Use and Amount
3. Building Heights
4. Site Access
5. Play Areas
6. Public Amenities and Facilities
7. Advanced Planting
8. Pedestrian and Cycle Routes

Design Codes have also been proposed which would secure:

1. Key Nodes and Frontages – with reference to Key Buildings, Key Views and Principal Frontages
2. Road Layout – hierarchy of streets within the main site area
3. Bus Route – to allow a loop within the site with a bus stop by the shop unit
4. Surface Water Attenuation – a series of swales and drainage basins
5. Indicative Housing Mix – based on 441 units – a mix of 2 bed (81no.) , 3 bed (191no.), 4 bed (65no.), 5 bed (11no.) houses, flats (93no.) of which 25% would

be 'social housing'. (The indicative layout has been provided based on this mix of units)

6. Flats and Housing Types – illustrating various house and flat types with their particular features and in the 4 character areas 'Woodland Edge', 'Farm Courts', the 'Avenue' and the 'Lanes'.
7. Housing Styles and Development Forms – how the development would address 'Main Streets', 'Shared Streets', 'Rural Edge', 'Courtyards';
8. Main Streets - design criteria;
9. Shared Streets - design criteria;
10. Rural Edge streets - design criteria;
11. Courtyards - design criteria.

The site area has increased at its edges to accommodate the inclusion of Hall Wood within the site, the cycle/pedestrian access to Lordswood with section 278 works, and the access works to the Hempstead side of the site. The previous and current proposals were for up to 450 dwelling houses and the current proposal additionally seeks to provide a nursery and retail unit. No issue was raised by the Inspector regarding the quantum/design/density of the proposed development when granting the 2018 permission. There is no particular reason to depart from the Inspector's decision in relation to this matter.

Subject to minor amendment controlled by suitably worded planning conditions, the illustrative layout, which is supported by the Design Parameters and Design Codes, is therefore considered to demonstrate that the proposed quantum of development of up to 450 dwellinghouses, a nursery and a shop, can be accommodated within the site.

In this respect it is considered that the proposal complies with Policy BNE1 of the Local Plan.

Landscape and Visual Impact

Policy BNE25 of the Local Plan states that development in the countryside will only be permitted if it is in accordance with one of seven criteria. The first of these criteria reflects directly paragraph 170(b) concern for the "intrinsic character and beauty of the countryside". Policy BNE34 relates to Areas of Local Landscape Importance and that development should not materially harm the character and function of the area or the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape.

The NPPF sets out at paragraph 170 that: "Planning...decisions should contribute to and enhance the natural and local environment by:

- (a) protecting and enhancing valued local landscapes...(in a manner commensurate with their statutory status or identified quality in the development plan)",
- (b) recognising the intrinsic beauty of the countryside, and the wider benefits from natural capital and ecosystem services...'

NPPF paragraph 171 states that Local Planning Authorities should ‘take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure...’

The application site remains as open agricultural fields and part of the Capstone Valley ALLI.

The proposal will result in harm both to the countryside and the ALLI by virtue of the urban development proposed. At the appeal against the refusal of planning application MC/14/2395, the Secretary of State’s Inspector concluded that the development would harm the character and appearance of the immediate area by virtue of the development and therefore failed to accord with the provisions of Local Plan policies BNE25 (countryside) and BNE34 (Area Local Landscape Importance). As such, he concluded that the proposal represented ‘environmental harm’.

The key differences between the current application and the 2018 planning permission (MC/18/0556) in terms of landscape and visual impact relates to: the increased site area within the countryside location and ALLI; the inclusion of Hall Wood and the land to provide a footway/cycleway link to Lordswood within the site; additional land within the site area to provide for the access arrangement at the Hempstead (eastern) end of the site; and off-site works to the highway network to the east and west of the site and within Hempstead and the rural road network.

A Landscape and Visual Impact Assessment Addendum has been submitted in support of the application. The existing landscape character within the immediate site context is predominantly that of farmland with a wooded backdrop and roads that are edged with hedgerows and intermittent tree groupings. The landscape framework generally remains similar to that of the 2018 planning permission but focusses on the proposed access revisions and resulting changes in landscape and visual terms. The Design Parameter for ‘Advanced Planting’ in the DAS shows a 15m to 20m wide wooded perimeter around the site which will form a new boundary to the farmland. The proposal seeks to extend this significant planted buffer to account also for the site area extension at its western end. In the short to medium term this new planting will not fully mitigate visual harm but in the longer term its value as mitigation increases.

However, despite these revisions, it is not considered that there is a significant change from the 2018 planning permission in relation to the visual impact of the main body of the development, including the Ham Lane widening and junction at Capstone Road/Lidsing Road.

However, certain other aspects of the development, which have not formed part of the previous applications, and are not subject to mitigation of their visual impact through tree screening are : the new junction at Lidsing Road/Hempstead Road; and, the proposed footway/cycleway link (without street lighting) from Lidsing Road to Hempstead, to be funded through a s106 obligation.

Both of these elements would result in the introduction of further urbanising effects to the immediate rural area and would increase the harm to the rural area and ALLI over that considered under previous applications.

The inspector was minded, in granting the MC/14/2395 permission, that *‘in terms of spatial function of the ALLI, the matter is one of whether the erosion of the gap between Lordswood/Princes Park and Hempstead would be so significant that the settlements began to appear or feel like they are merging’...‘Viewpoint EDP 4 on Ham Lane is assessed in the LVIA as having a ‘very high’ and ‘major/moderate adverse’ short term impact and a medium to longer term impact of ‘medium’ and ‘moderate/minor neutral’. This relies heavily on the landscape planting significantly filtering or screening views of the development behind. However, even with a planted boundary, the existing open rural/agricultural gap seen between the areas of Lordswood and Hempstead from the surrounding road and PRow network would be markedly altered. This would particularly be the case for views from Ham lane, Lidsing Road and Chapel Lane...However, that landscaping change does not indicate a merging of settlements. The landscaping combined with traffic flow which would be from the southern side towards Lordswood rather than onto the rural Ham Lane would mean that the neighbouring settlements would not appear to merge.’*

In conclusion the inspector states *“In this regard, the poor landscape condition does not render the appeal site of limited landscape value. Rather, I agree that its sensitivity in this part of the ALLI depends on the role it plays as part of the green wedge the ALLI creates, and in preventing coalescence. On these points I do not consider that the site is critical to maintaining separation between the settlements of Lordswoods and Hempstead. Further, when considered in more distant views (rather than those on the site or at its boundaries) does not have a particular prominence or importance in creating the sense of a green wedge. I conclude that the proposed development would harm the character and appearance of the immediate area and, therefore, fail to accord with the provisions of policies BNE25 and BNE34. However, that harm would not represent a critical harm to the function of the Capstone and Horsted Valleys ALLI taken as a whole.”*

As such it is considered that the level of environmental harm, in terms of the visual amenity, character and function of the countryside and the ALLI, notwithstanding the proposed landscaping, with the main access to the site being on the Ham Lane, Lidsing Road side of the site, will be greater under the current proposal than was identified by the Inspector in 2018. Some of the access works are not subject to mitigation of their visual impact through tree screening and overall there would result a further degradation of the separating function of the ALLI of the settlements of Lordswood and Hempstead. As such the proposal is considered to be contrary to Policies BNE25 and BNE34 of the Local Plan.

Access/highways issues

Saved Policy T1 of the Local Plan relates to the highways impact of new development. Policy T2 of the Local Plan requires that, where new accesses are being formed to the highway, that the access is not detrimental to the safety of vehicle occupants, cyclists and

pedestrians; or the access can be improved to a standard acceptable to the Council as Highway Authority.

Saved Policy T3 requires that new pedestrian routes should closely follow pedestrians' preferred routes and should be designed to provide an attractive and safe pedestrian environment, and ensuring they are accessible by people with disabilities.

Policy T4 relates to the implementation of strategic cycle routes. Policy T6 relates to the provision of access by public transport to new development. Saved Policy T13 relates to the council's adopted vehicle parking standards.

Paragraph 127 of the National Planning Policy Framework requires that new development functions well within the area in which it is situated. Paragraphs 108 of the NPPF require that: appropriate opportunities to promote sustainable transport modes are provided; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF clarifies that development should only be prevented or refused on highways grounds if:

1. there would be an unacceptable impact on highway safety; or
2. the residual cumulative impacts on the road network would be severe.

Paragraph 110 of the NPPF therefore seeks that applications for new development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.”

(a) Summary of differences between the 2018 scheme and the current proposals

The main differences between this proposal and that considered by the Inspector in 2018 relate to the matter of 'Access'. Access is a matter which is required to be considered at this outline stage.

The vehicle access to the site has changed from gaining vehicle access to/from the highway network in Lordswood via North Dane Way, to the west of site, to gaining vehicle access to/from the highway network in Hempstead to the east of the site under this application.

Under the 2018 planning permission all pedestrian and cycle access was also all to be from Lordswood. Under the current application there remains the need for both pedestrian and cycle connection to and from Lordswood for day-to-day amenities, as well as pedestrian/cycle access to Hempstead.

There is no direct vehicular connection to Lordswood as part of the current proposal. Access to/from the existing urban area of Lordswood, of which the development would be an urban extension, is proposed by way of a footway/cycleway from the northwestern part of the site, as the sole means of access and via the route of existing byway RC29.

Under the 2018 planning permission no connection was proposed along this route, as primary pedestrian and cycle access followed the route of the vehicle access along North Dane Way. However, a condition of planning permission MC/18/0556 required '*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 reason for this condition relates to the implementation of strategic cycle routes.

The current application also includes securing of a number of off-site highway engineering works in Hempstead and the Borough of Maidstone, as well as smaller works in Lordswood related to the footway/cycleway access.

The proposed access and offsite highway works for this application, to the east of the site and in Hempstead, are considerable. As discussed below, they include works that are properly considered as 'mitigation' and also works that are considered as improvements and therefore proposed benefits of the scheme.

It should be noted that it was originally proposed that a greater realignment of Lidsing Road take place, to the south of the Hempstead Road junction, and a re-prioritised junction at Lidsing Road/Forge Lane. However, these aspects were subsequently withdrawn from the application following objection from the Kent County Council highway officer and the Maidstone Borough Council planning officer that these works were not related to the proposed development.

Set out below are the various specific issues that fall for consideration when considering whether the proposed access arrangements and highways impacts are acceptable.

(1) Additional Traffic Flows

The supporting Transport Assessment details the changes in traffic flow and distribution in the area over time as a result of the development.

Both the council's consulting Transport Planner and Highway England have reviewed these figures and agreed that the methodology used to generate these assumed traffic movement figures to be acceptable.

Changes in traffic flow and distribution have directed the package of proposed highway measures, which in turn are designed to both mitigate the impact of the built development and create some areas of strategic betterment to the highway network intended to influence the traffic in the area to opt to use the improved traffic routes.

Overall, none of the increased or redistributed traffic flows are considered to be of a level that would result in unacceptable impacts on highway safety nor would the residual cumulative impacts on the road network be severe. As such, this aspect of the proposal is considered to comply with Policy T1 of the Local Plan.

(2) Access to Ham Lane and new junctions at Ham Lane/Capstone Road and Lidsing Road/Hempstead Road

The application proposes that the sole vehicle access to and from the site will be formed by its merger with Ham Lane travelling east and the widening of Ham Lane to two carriageway width, from its current restricted width. Ham Lane will diverge from its existing route, at its eastern end, across an area of open field to create a new junction point of Ham Lane/Capstone Road, about 50m from its current location. The junction would incorporate a dedicated right turn lane into Ham Lane.

The severed section of the existing Ham Lane, about 100m length, would be stopped up, hardsurface removed and planted. A Grampian style condition can be used to ensure that this remediation work is undertaken and completed in a timely manner.

Adjacent to the relocated junction of Ham Lane/Capstone Road is proposed a remodelled junction of Lidsing Road/Hempstead Road. The proposed Lidsing Road/Hempstead Road junction incorporates:

- the widening and realignment of Lidsing Road
- a dedicated right turn lane into Hempstead Road
- separate left and right turn lanes when exiting Hempstead Road onto Lidsing Road
- pedestrian /cycle crossing island on Lidsing Road from the development site
- short section of footway and cycle track on the northeastern side of Lidsing Road round into Hempstead Road on the northern side
- pedestrian crossing island at the western end of Hempstead Road
- new section of pedestrian footway on the southern side of Hempstead Road

It is also proposed that the existing 40mph speed limit on Capstone Road, which is in operation a little to the north of Ham Lane, is extended to incorporate the proposed new junctions.

It should be noted that the realigned Ham Lane and both of the junctions discussed above fall outside of the Medway Council administrative area and with the Maidstone Borough Council administrative area – although Hempstead Road itself falls within the Medway Council area, together with the existing Ham Lane section that is to be stopped up and remediated. Maidstone Borough Council therefore are in receipt of a planning application for the development works for this proposal within their administrative area under the reference 19/500765/OUT.

Whilst no planning permission has yet been issued for 19/500765/OUT, the application has been to Maidstone BC planning committee and resolved to be approved, subject to a S106. In relation to the matter of “*Access to Ham Lane and new junctions at Ham Lane/Capstone Road and Lidsing Road/Hempstead Road*” Maidstone BC as LPA decided the works were acceptable subject to S106 matters of:

- Contribution of £100,000 towards environmental/traffic calming measures in the villages of Boxley and Bredhurst
- Appropriate mechanism for funding of future maintenance of Pedestrian/Cycle Links
- Completion of a Stopping Up Order for the redundant section of Ham Lane

Together with conditions related to:

- No implementation of highway works until planning permission MC/19/0336 is granted
- Site access provided prior to first occupation
- Scheme for permanent closure of redundant Ham Lane section
- No dwelling occupied until a full footway/cycleway link from the public highway at North Dane Way/Albemarle Road to the public highway at Hempstead Road is completed
- No development within the Borough of Maidstone until details of earthworks within the Borough agreed
- Agreement of lighting

With a caveat in relation to the full footway/cycleway provision (see section ‘*Public Right of Ways (PROWs)/Access to and from Lordswood*’ of report below) this assessment is agreed and, subject to suitably worded planning conditions, the design and layout of the proposed works are acceptable and will not be detrimental to the highway safety or create a highway hazard and will not be detrimental to the safety of vehicle occupants, cyclists and pedestrians. The works are therefore considered to comply with Policies T1 and T2 of the Local Plan.

(3) Westfield Road passing bays

It is also proposed within the Maidstone Borough Council area that there would be the creation of three passing bays within Westfield Road– two on the north side of Westfield Road and one on the south. Whilst these passing bays are shown as part of a package

of works in support of this planning application it should be noted that they require planning permission in their own right as they are neither within the red line of the application site nor are they section 278 highway works as they are not proposed on highway land. However, the passing bays would be on land owned by the applicant and are in the location of three areas that are currently used informally as passing points. The Kent County Council Highway officer advises that “if a safety audit raises no substantive issues, these are supported in principle.” As such, if planning permission is granted for the current application, a Grampian style planning condition can be used to require these works (secured by a separate planning permission) prior to the commencement of development.

At the Maidstone BC Planning Committee it was considered that these works be subject to a planning obligation of:

- Best Endeavours to secure the passing bays on Westfield Sole Road.

Therefore subject to a Grampian style condition that no development shall commence until a separate planning permission has been granted for road improvements to Westfield Sole Lane, to provide three formal passing bays in the general locations and similar scale as shown on drawing 18-015-042, the development is acceptable in this aspect and will not be detrimental to the highway safety or create a highway hazard and will not be detrimental to the safety of vehicle occupants, cyclists and pedestrians. The works are considered to comply with Policies T1 and T2 of the Local Plan.

(4) Footway/cycleway from new junction to Hempstead Road urban area

Policy T3 requires that new pedestrian routes should closely follow pedestrians’ preferred routes and should be designed to provide an attractive and safe pedestrian environment, and ensuring they are accessible by people with disabilities. Policy T4 of the Local Plan relates to the implementation of strategic cycle routes. Paragraph 110 of the NPPF requires that developments: give priority first to pedestrian and cycle movements, both within the scheme and within neighbouring areas and create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

The applicant was initially of the view that as a direct pedestrian footway and cyclepath link is to be provided from the application site to Lordswood that the development would be highly sustainable and there is no policy need to provide a footpath/cycleway link to Hempstead, from the new Lidsing Road/Hempstead Road junction, to mitigate the impact of the development.

The vehicle access to the site is from the eastern side – from Hempstead. In addition to the motorised vehicle access, a new footpath/cycleway is to be provided through the whole site from Lordswood, at the northwest boundary of the site, through the site to the western end of Hempstead Road – at the new junction of Lidsing Road with Hempstead

Road. Crossing points and short sections of footway and cycleway are proposed to bring pedestrians and cyclists across Lidsing Road and Hempstead Road to the eastern side of the southern end of Hempstead Road.

The land on the eastern side of Hempstead Road is not within the applicant's ownership but that of Medway Council.

Therefore it is reasonable to consider that to travel from the site to Hempstead by foot or cycle, or even from Lordswood through the site to Hempstead by foot or cycle, would be very desirable.

As such the applicant has agreed to a monetary obligation contribution, as part of the S106, to allow for Medway Council to provide a footway/cyclepath on the council's land from the new junction to join the existing footway network in the urban part of Hempstead to the north of the junction. The applicant has proposed to pay an obligation of £400,000, to be split into two amounts to allow for design and then the works to be carried out. This money does not include for the provision of any street lighting on this element of the cycleway/footway but the crossings themselves, which would be the subject of s278 works, would require some form of lighting, likely in a bollard form.

The applicant will also need to apply for an amendment to the Traffic Regulation Order to reduce the currently applied national speed limit at the western end of Hempstead Road to 30mph, which is a betterment to the existing situation in the interim period before the provision of the footway/cycleway extension on council land.

These works would be within the Medway Council administrative area but it is noted that Maidstone BC intend to use a Grampian style condition that:

- No dwelling occupied until a full footway/cycleway link from the public highway at North Dane Way/Albemarle Road **to the public highway at Hempstead Road** is completed

This condition would not require the footway/cycleway provision along the council owned field edge currently being discussed but would allow for both pedestrians and cyclists to join the existing shared highway carriageway of Hempstead Road.

Subject to the provision of a monetary obligation and a Grampian style condition for an amended Traffic Regulation Order to reduce the speed limit, the connectivity of the site is considered to be acceptable in relation to the safety of cyclists and pedestrians and to address matters of connectivity of the development to Hempstead. In respect to these elements the proposal is considered to comply with Policies T2, T3 and T4 of the Local Plan.

(5) Hempstead Road - Traffic calming and pedestrian crossing

The applicant proposes a package of section 278 traffic calming works along Hempstead Road which would involve:

- signage at the northern and southern ends of the works identifying 'Traffic Calmed Area'
- insertion of a single chicane in Hempstead Road between the Harrow Road junction and Pear Tree Lane/Hempstead Valley Road junction
- insertion of three chicanes in Hempstead Road between Dukes Meadow/Pine Grove Road roundabout and junction with Chapel Lane
- creation of a pedestrian (toucan) crossing on Hempstead Road close to Hempstead Infant and Junior Schools

The applicant is of the view that this package of works are not to directly mitigate the impact of the development but, in association with the other section 278 works, will provide a benefit. The applicant considers that it will create an improvement to the current situation by encouraging the redirection of traffic movements in the area away from using Hempstead Road and Capstone Road when travelling north but instead opt to travel north along Hoath Way via Hoath Way roundabout, which is to be significantly upgraded as part of this development proposal.

Notwithstanding the applicant's view that the traffic calming works are not required to mitigate the impact of the development on the highway network, the works form part of a holistic package of intrusive highway works on which the Transport Assessment has been based and as such the works are considered to form a significant part of the proposal and their impact needs to be assessed against planning policy and guidance.

Local Highway Authority officers are of the view that, in principle, a scheme of traffic calming works and the pedestrian crossing are acceptable for Hempstead Road but the chicane approach is not necessarily the preferred form of traffic calming to the Local Highway Authority or residents. Concerns have been raised by residents of Hempstead Road in respect to the impact on their living conditions in terms of noise and disturbance by the stopping and starting of traffic and by the need to manoeuvre into and out of driveways around the proposed chicanes infrastructure. In terms of increased road noise, from the stopping and starting of vehicles at the proposed interventions, it has been taken into consideration that Hempstead Road is regularly used by traffic as a link to Gillingham and houses are set back from the road edge. Chicanes or other traffic calming measures are used in residential areas and it is not considered that increased noise levels from vehicles would be to such a degree within the dwellings or their rear gardens that would mean the traffic calming measures are wholly unacceptable.

There has been a significant level of public objection to these works at application stage, although the applicant advises that a scheme of traffic calming measures and the crossing were generally well supported at the public consultation exercise. The applicant has advised that they would be willing to alternatively provide a monetary obligation for

Medway Council, as the Local Highway Authority, to develop and provide a pedestrian crossing and traffic calming scheme on Hempstead Road within a reasonable time scale. A contribution of £320,000 has been agreed by the application to provide these elements as part of the section 106.

Maidstone BC do not intend that any grant of planning permission under reference 19/500765/OUT be subject to the provision of this package of traffic calming measures on Hempstead Road.

Subject to the securing of the s106 obligation the proposal is considered to suitably address matters of the potential increased traffic flow along Hempstead Road, by the introduction of traffic calming measures, and that these will provide an improvement for pedestrian safety by the provision of a pedestrian crossing. It is considered that the installation of such a scheme can be designed in such a way that neighbours' amenities are not harmed. This aspect of the proposal is therefore considered to comply with Policy T1 of the Local Plan, and the improvement in pedestrian safety is a material consideration weighing in favour of the scheme (Noise from road traffic is considered further later in this report.)

(6) Junction Hempstead Valley Drive/ Chapel Lane

The proposal includes highway works to the existing junction of Chapel Lane with Hempstead Valley Drive. This junction is currently of a standard T-junction design with one lane going either way out of and into Chapel Lane and with no turning lanes on Hempstead Valley Road.

The proposed revised junction design would provide dedicated right and left turn lanes when exiting from Chapel Lane onto Hempstead Valley Road. This would be achieved by the widening of the road, removing some of the existing green area on the southern side of the junction. The design would allow for vehicles waiting to turn right out of Chapel Lane onto Hempstead Valley Road to wait without blocking the road for traffic turning left onto Hempstead Valley Road. The junction change also incorporates a pedestrian crossing island.

The works are designed so that the traffic queuing at the junction in Chapel Lane, waiting to turn onto Hempstead Valley Road, would be no greater following the construction of the development than currently experienced without the development.

A reasonable green area with trees would remain adjacent to the junction and as such there are no objections on visual grounds to the works. Likewise no detrimental amenity impacts to residents would arise from these works as a result of their physical form.

(Noise from road traffic is considered further later in this report.)

Maidstone BC intend to impose a condition:

- No dwelling occupied until off site highway capacity improvements at Hoath Way/Sharsted Way and **Hempstead Valley Drive/Chapel Lane** have been completed and are open for use

The design and layout of the proposed works are acceptable in relation to the impact of the junction change on the highway network or highway safety at this location. This part of the proposed package of highway works is therefore considered to comply with Policy T1 of the Local Plan.

(7) Hoath Way Roundabout

The Hoath Way roundabout is a four-arm roundabout, Hoath Way (each way), Wigmore Road and Sharsted Way, with two entry lanes on each arm. The proposed works involve:

- the reduction of the central island on its western side
- the provision of three lanes on the roundabout to the western side of the central island
- the widening of the Sharsted Way junction and the provision of three lanes onto the roundabout
- the provision of a dedicated right turn lane from Sharsted Way to Hoath Way towards Gillingham
- the provision of three lanes from the roundabout onto Hoath Way towards Gillingham before merging back to two lanes to the north of the Maidstone Road underpass
- the provision of three lanes going onto the roundabout from the southern section of Hoath Way onto the roundabout by the reduction of the central reservation area

The applicant advises that when undertaking highway improvements to a complex junction such as a roundabout, in this case the Hoath Way roundabout, schemes tend to result in significant step changes in results. They are of the view that it is not always pragmatic to undertake a series of more minor interventions through time (likely removing earlier interventions and creating disruption to road users each time) but it makes sense to undertake greater stepped changes in terms of mitigation and betterment.

In this case the applicant proposes a greater stepped change to the Hoath Way roundabout than is required to mitigate the impact from the proposed development and acknowledges that the proposed works to the roundabout will result in a marked upgrade to the operation of the roundabout junction. They advise that the proposed scheme of improvement works, increasing capacity at the Hoath Way roundabout, would be such that it should/would encourage traffic from its development, and more generally in the area, to opt to using Hoath Way in preference to Capstone Road, Hempstead Road or the smaller rural roads within the Maidstone Borough Council area and to access both Gillingham and the M2.

Maidstone BC intend to impose a condition :

- No dwelling occupied until off site highway capacity improvements at **Hoath Way/Sharsted Way** and Hempstead Valley Drive/Chapel Lane have been completed and are open for use

A Stage 1 Safety has been undertaken and as such the provision of the works can be secured by planning condition. Subject to such a condition to secure the delivery of the works prior to the first occupation of any dwellings on the site the impact of the junction change on the highway network or highway safety at this location is acceptable and complies with Policy T1 the Local Plan.

(8) M2 roundabout – Junction 4

The proposed package of highway works are designed to take traffic from the development site, and more generally traffic in the area, to Hoath Way as a preferred route of travel, and then north to Gillingham or south to Junction 4 of the M2 motorway.

At the southern end of Hoath Way is a three-arm motorway roundabout with slips onto and from the M2 motorway travelling west and east. A package of works are proposed to this roundabout and would involve:

- the existing hatching on the western side of the roundabout be removed and a second circulatory lane introduced on this side of the roundabout;
- the existing parking area of the Hoath Way section brought into use as a dedicated left turn lane, together with an island to segregate this lane from the rest of the traffic lanes;
- the two outside lanes from the roundabout onto Hoath Way merging as traffic flows away from the motorway junction.

Highway England are the Statutory Authority in respect to the motorway junctions, which form part of the national Strategic Road Network.

A Stage 1 Safety Audit report has been submitted to Highway England for review, along with all of the Transport Assessment and traffic flow data in support of this planning application. Highway England advise that the proposed motorway junction improvement works are acceptable subject to planning conditions securing the provision of these Section 278 works prior to the occupation of the 200th unit on the site. Therefore it is considered that with suitably worded planning conditions the impacts of the development on the Strategic Road Network can be deemed to be acceptable in relation to the impacts of the junction change on the highway network or highway safety at this location. This part of the proposal is considered to comply with Policy T1 of the Local Plan.

(9) Public Transport

Policy T6 of the Local Plan relates to the provision of access by public transport to new development.

The Design Codes within the Design and Access Statement (DAS) propose to allow a bus accessible loop within the site, with a bus stop by the shop unit.

Given the rural location of the site and its lack of vehicular connection to Lordswood there are currently no bus services around the development area to serve the site. The applicant has agreed to a Section 106 contribution that could be used to reroute Arriva bus 113 to serve the development and increase frequency of its running or to go towards the provision of an alternative bus service. Subject to securing the bus route by condition through the Design Codes and the contribution to deliver a service to the site by planning obligation the proposal is considered to comply with Policy T6 of the Local Plan.

(10) On-site parking

Policy T13 relates to the council's adopted vehicle parking standards.

The illustrative layout drawing provided and supporting documentation illustrate that a scheme of up to 450 dwelling units can be provided on the site with parking provision which meets with the adopted vehicle parking standards and layout which allows for the manoeuvring of vehicles, of various types and sizes, throughout the site.

Subject to conditions requiring applications made pursuant to the reserved matter 'layout' providing parking in accordance with the adopted Interim parking standards and a final road layout allowing suitable vehicle manoeuvring the proposal is considered to comply with policy T13 of the Local Plan.

(11) Access to/from Lordswood

Access/to from Lordswood is considered to be a particularly problematic aspect of this proposed scheme and for that reason is dealt with in some detail below.

This section covers matters of:

- Policy
- Need for planning permission
- Designations/Land ownership
- Proposal
- Comparison with historic planning permissions
- Use of the PROW as sole access to/from Lordswood
 - o Surfacing/Width
 - o Status/function/character
 - o Continued Equestrian Use

- Continued Motorised Vehicle Use
 - Lighting
 - Impact on trees
 - Impact on ecology
 - Impact on Ancient Woodland
 - Conclusion
-

- Policy

Policy T3 requires that new pedestrian routes should closely follow pedestrians' preferred routes and should be designed to provide an attractive and safe pedestrian environment, and ensuring they are accessible by people with disabilities. Policy T4 of the Local Plan relates to the implementation of strategic cycle routes. Policy T1 of the Local Plan relates to the highways impact of new development and Policy T2 of the Local Plan requires that, where new accesses are being formed to the highway, that the access is not detrimental to the safety of vehicle occupants, cyclists and pedestrians; or the access can be improved to a standard acceptable to the Council as Highway Authority.

Paragraph 110 of the NPPF requires that developments: give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas and create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

In addition to these policies and guidance policy BNE7 (Access for All) requires new development, including external circulation areas, to be designed to meet the needs of people with disabilities, the elderly and people with young children.

Policy BNE8 of the Local Plan relates to 'Personal Safety and Security' and requires the design and layout of development to maximise personal safety and security of property. The preamble expands on the policy wording with the principles of personal safety and security including encouraging passive surveillance and self policing; avoid the isolation of pedestrians or the creation of dark or hidden areas in the design of footpaths, cycleways and roads; provide adequate lighting.

Section 8 of NPPF is titled 'Promoting Healthy and Safe communities' and seeks the provision of connectivity between new development and existing built-up areas, safe access for all to wider areas and facilities, by methods other than vehicular transport, is all intrinsic to good design of communities and sustainable development.

Policies S1 and S2 of the Local Plan, in terms of strategic planning, prioritise the delivery of significant development on land within the urban area and then sustainable development.

The “presumption in favour of sustainable development” is detailed in paragraphs 10 and 11 of the NPPF.

Paragraph 8 of the NPPF refers to the 3 overarching objectives of sustainable development, which need to be pursued in mutually supportive ways. One of those being:

“b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being”.

The proposed footway/cycleway access would be the only connection of the proposed housing development to/from Lordwood, which is the urban area of which the development would be an extension. Within Lordwood are the various day-to-day amenities that future residents would rely on, such as schools, shops, health facilities, bus stops, leisure centre etc. The delivery of this connection to Lordwood, in an acceptable form, is therefore critical to the ‘sustainable’ credentials of the proposal as put forward by the applicant in the supporting documentation.

Within the applicant’s recently submitted Technical Note, which accompanied the submission of the detailed access proposal, it is stated ‘*This pedestrian and cycle route was included in the proposals in order to accommodate Medway council’s aspirations for enhanced pedestrian and cycle connectivity between Lordwood and Hempstead*’ (point 2.1.3 – ‘Byway Enhancement Proposals’). Although the Note does go on to say ‘*Although it is understood that the facilities will provide pedestrian and cycle access from the development to the Lordwood area and it’s associated facilities and public transport services, and improve the sustainability of the site*’. This appears to be a strange emphasis in the light of the proposed works forming part of the matter of ‘Access’ for the planning application. The works require planning permission as part of that application, and this connection features throughout the supporting documentation for the application. Its provision also forms part of the key sustainable credentials offered for the proposal.

Description of proposed access works enabling access to Lordwood

The proposed access works run along the existing Public Right of Way (PROW) byway RC29 and then splits to run in a both a northwestern and southeastern direction on the highway verge. Both the PROW and the highway verge, in a southeastern direction from the byway junction, are within land that is classified as Ancient Woodland as shown on the Department for Environment, Food and Rural Affairs (DEFRA) ‘magic map’.

Byway RC29 is a Byway Open to All Traffic (BOAT) and therefore as well as its use by pedestrians and cyclists the byway is also legally open to use by horses and mechanically propelled vehicles (motorbikes, quad bikes, jeeps etc).

The access to Lordswood from the proposed housing development combines two aspects.

Firstly, the enhancement of an approximately 40m length of the PROW RC29, involving:

- the removal of the existing small area of asphalt surface (giving access to the playground)
- provision of a 3m wide shared surface for cyclists, pedestrians and other legal users of the PROW, offset from the playground fencing by 0.25m
- the 3m surface will involve no-dig construction with 100mm cellweb base, infilled with permeable material and finished with permeable asphalt
- future maintenance of this section of the byway would be met by the management company of the Gibraltar Farm housing development
- installation of bollards (in place of gate shown on the drawing)
- pruning works to adjacent trees
- the installation of low intensity directional lighting with a minimum lux level of 0.4 lux

Secondly, from the northwestern end of the PROW there would then be provided a footway/cycleway, within the highway verge, to a point at the exit road of the Lordswood Leisure Centre. From the same starting point, in a southeastern direction, a footway/cycleway would extend along the highway verge to a point opposite the southeastern side of Ablemarle Road.

These three elements of the access works would all fall within the red line of the application site.

Then outside of the application site is proposed a crossing island in the carriageway of North Dane Way and further short element of footway/cycleway on the opposite side of North Dane Way joining to the existing footway in Ablemarle Road.

These works would form part of the provision of a continuous footway/cycleway from Lordswood (at the northwestern corner of the site), through the site, and to the eastern corner of the site at the new Ham Lane junction, within the Maidstone Borough Council administrative area. Then there would be a new crossing point to take pedestrians and cyclists across Lidsing Road and into Hempstead Road. A planning obligation of £400,000 has been agreed by the applicant for the council to have the option to provide a cycleway/footway link on its own land to join the footway network in urban Hempstead.

In the original submission for this application detailed access arrangements were submitted for the eastern side of the site, towards Hempstead. In terms of access to Lordswood, at the northwestern corner of the site, no details were submitted.

Within the Design and Access Statement (DAS) an illustrative footway/cycleway link to Lordswood is now proposed as part of parameter 8 ('Pedestrian and Cycle') and

Parameter 4 ('Site Access'). A continuous footway/cycleway link is also shown through the site on the Illustrative site layout drawing 08418-A-L-(00)0203 rev X.

Parameter 4 (Site Access) of the DAS, under the heading of 'Sustainable Travel Enhancements', states *'The development would deliver a new, high quality pedestrian and cycle corridor linking Lordswood and Hempstead areas.'* In the drawing within Parameter 4 titled 'Connectivity at North Dane Way' is shown a footway/cycleway, of a continuous width and finish, running through the whole site, of around 5m width.

However, full details of the access arrangements to be provided for the route to Lordswood were requested by officers, which have been now been submitted as part of the application.

The detailed scheme submitted does not reflect the Parameter 4 drawing, but the access footway/cycleway proposed narrows from the illustrative wider footway/cycleway, through the main housing development area of the site, to become a 3m wide shared-surface path, as an enhancement of the rural Public Right of Way from the edge of the applicant's land to the existing highway path on North Dane Way. The footway/cycleway works then changes in form to an apparently more standard construction as part of the s278 works on the highway verge.

Acceptability of the use of the PROW as sole access to/from Lordswood

As the sole access from the proposed housing development to Lordswood, the urban area to which the development would be an extension, policy requirements are for:

- the provision of new pedestrian routes to provide an attractive and safe pedestrian environment, accessible by people with disabilities, the elderly and people with young children;
- not detrimental to the safety of vehicle occupants, cyclists and pedestrians;
- including external circulation areas, to be designed to meet the needs of people with disabilities;
- maximise personal safety and security of property;
- including encouraging passive surveillance and self policing;
- avoid the isolation of pedestrians or the creation of dark or hidden areas in the design of footpaths, cycleways and roads; and
- provide adequate lighting.

This is also the aspiration of the NPPF which at paragraph 110 seeks that developments : give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas and create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles. Furthermore, as part of the social aspect of sustainable development, there should be provided connectivity between new development and existing built-up areas, safe access for all to wider areas and facilities, by methods other than vehicular transport, which it

states is all intrinsic to good design of communities and sustainable development. (Paragraph 8 and Section 8 NPPF.)

In this case the access is in part proposed using the upgrading of an approximately 40m stretch of PROW RC29. Byway RC29 is a Byway Open to All Traffic (BOAT) and therefore as well as its use by pedestrians and cyclists the byway is also legally open to use by horses and mechanically propelled vehicles (motorbikes. Quad bikes, jeeps etc).

Currently this part of the byway is mostly an unmade rural path running alongside or between mature woodland. There is a small area of asphalt footpath providing access to a playground. There is a gate part way along the unmade section of the length under consideration. This gate has a lowered central section that allows horses theoretically to step over without having to open the gate and bikes can be lifted over and pedestrians can step over. However, the gate is not locked by the council and as such all users can simply open the gate. Its presence acts as a deterrent to larger motorised vehicles and is a suitable management for a primarily rural byway. Cyclists and pedestrians, and possibly motorbikes, also are seen to go round the side of the gate.

For clarification, the applicant's submission states that *'the byway can legally be widened to a maximum of 20 feet (6.1m), with the western edge of the corridor demarcated by the playground fence'*. However, upon investigation the Council considers that the legal width of the PROW at this section is fifteen feet (4.57m), not twenty feet. This has been determined by the age of the closest trees in Hall Woods to the footpath predating the adoption of the PROW RC29. Twenty feet is the legal width for other sections of the RC29 byway. However it is agreed that, at a width of 3m new surface and a 0.25m offset from the playground boundary fence, an enhanced PROW width of 3.25m (about 10 feet 8 inches) is under the fifteen feet legal width.

- Surfacing/Width

In respect to the provision of a 3m wide asphalt surface, with an offset 0.25m from the playground fence, this is considered to be the minimum acceptable width for solely pedestrian and cyclist access between the housing development and amenities in Lordswood. The hardsurfacing is considered to be an acceptable finish. Details would be required of how this surface would suitably grade into the unmade RC29 path crossing the surfaced footway/cycleway. Such details could be secured by the use of a planning condition.

Matters of other users of this surfaced path and lighting will be discussed in the report below.

- Status/function/character

At 4.2.1 ('Interaction of Proposed Resurfacing with Current Function') of the Technical Note submitted with the access details the applicant advises:

“As previously stated the purpose of the proposal [in relation to the access ‘link’ element] is to enhance the existing route and make it more attractive for cyclists and pedestrians – without changing its current status or function”.

The applicant’s reference above ‘*without changing its current status or function*’ appears to be seeking to address the Highways Acts considerations in relation to the upgrading of a public right of way but fails to address the planning merits of the proposed works as development requiring planning permission.

In relation to current planning policies and guidance, there is no objection in principle to the provision of a 3m wide hardsurfaced access, but the matter of the use and environment within the access and environmental impacts of such a path need to be considered further in respect to the status, function and character of the access.

The Technical Note goes on to say ‘**a partial resurfacing of the route is not considered to be detrimental to the continued use of the byway by all other user classes, while it is not imperative of the current proposals to upgrade the route for all users**’ (4.2.1) and ‘**on-going maintenance of the route should be limited, given the anticipated user demand. However, should such maintenance be required it would be within the local authority’s powers to do so**’...“Costs associated with such limited maintenance will be covered by the management company for the proposed development which will incorporate a long-term maintenance plan for non-adopted road, walkways and landscaping on the site and which will be extended to cover this short section of byway route” (5.3.6 and 5.3.7 ‘Improvements to the Byway’)

However, as the sole access between a large scale housing development and the existing urban area of which it would be an extension, and also with the provision of the opportunity to travel from directly Lordswood to Hempstead through the site, it is not agreed that the increase in the use of this ‘connection’ section of the byway, forming part of the matter of ‘Access’ of the outline planning application, would be as minimal as suggested in the Technical Note.

The appearance, nature, character and function of this primarily unmade section of the byway will significantly change under this proposal from its existing character of a partially enclosed rural, woodland/woodland edge path for leisure use. The proposed works to this part of the byway under this application would be such that it would no longer be in nature or function a rural path for leisure use but a hardsurfaced and lit ‘urban footway/cycleway’ with all of the pedestrian and cycle traffic associated with that urban use, as well as potentially the continued use for rural leisure pursuits by walkers, cyclists, horseriding and motorised vehicles accessing the remaining countryside beyond.

However there is the potential of the continued use of the access by horses and vehicles that would result in conflict and hazard with the increased numbers of pedestrians and cyclists who would be using the access as a result of this development. Planning policy requires the consideration of the access in relation to safety and security of all users – including elderly, disabled, children etc.

Under this proposal no Traffic Regulation Order is proposed to stop the use of the proposed site access route by either horse-riders or those driving motorised vehicles. (By retaining these uses the applicant states that the development can be carried out '*without changing its current status or function*' of the PROW, which appears to be seeking to address Highways Acts considerations in relation to the upgrading of a public right of way.)

For a sole access between large scale housing areas it would be expected that pedestrians and cyclists, including those with disabilities, wheelchair users, pushchairs etc would have an access that was DDA compliant as well as safe and secure. In principle therefore, should such a suitable access between the application site and Lordswood (and thereafter on to Hempstead) not be possible then the application would fail to meet the requirements of planning policy and guidance of sustainable development.

- Continued Equestrian Use

It is considered that there would arise an element of conflict between future residents of the proposed housing development seeking access to local amenities and equestrian users using this part of the access for pursuing leisure activities. In the proposed design of the access no segregated path for horse-riders has been provided but all users are to share a single 3m wide shared -surface path.

If the access works were to come forward for adoption as public highway a segregated path for horse users would be required. The Highway Code refers to the legal requirement that a person MUST NOT take a horse onto a footpath or pavement and that it is a criminal offence under the Highways Act 1935 to wilfully ride or lead or drive a horse on a footpath or causeway by the side of a road made or set apart for the use or accommodation of foot passengers.

In this case the fact the applicant has opted not provide a footway/cycleway to highway adoptable standards (as appears to be within the Design and Access Statement) does not take away from the danger highlighted by the Highway Code and as laid down in the Highway Act of horses sharing surfaces with pedestrians.

Conversely the proposed access proposal, seeking to retain full BOAT byway status, provides an inadequate provision for the needs of the leisure users, in this case horseriders, by not providing an adequate provision for their needs and horses using this route could be easily spooked by the increased number of bicycles, pushchairs and pedestrians using this part of the byway as a result of the proposal, or even motorised vehicles authorised to use the byway.

However, it is considered that suitable compensation works can be provided as part of a S106 for horse-riders, by the upgrading of other parts of the local PROW network to provide a circular route and therefore the proposal would comply with planning related to leisure use. As such, in conjunction with a suitable obligation provision in a S106, a

Traffic Regulation Order (TRO) could be required as part of a Grampian style condition to stop the use of this section of the byway by horse-riders. However, the applicant has made it clear that they do not wish to apply for any TRO in relation to the byway use, which would change its function.

As such the proposed design of the access works, by failing to provide a segregated path for horse-riders separate to the proposed footway/cycleway, fails to provide a safe and secure access for pedestrian and cyclist traffic resulting from this proposal.

- Continued Motor Vehicle Use

In respect to motorised vehicle use it has already been noted that byway RC29 current is a Byway Open to All Traffic (BOAT) and as such is legally allowed to be used by motorised vehicles such as motorbikes, quad bikes, jeeps.

Currently the unmade nature of the route means that only off-road vehicle might use the route. Use of the byway is also restricted by a gate, so the width of the route is only accessible, at this point, by vehicles narrower than the metal gate posts.

The applicant has agreed that the existing gate be removed and bollards installed that would be wide enough to allow wheelchairs through. However, any bollards would need to be spaced sufficiently widely apart to be able to let electric buggies travel through to be DDA compliant as there is no other route for buggy users to be able to access amenities in Lordswood.

The applicant has also advised that no Traffic Regulation Order (TRO) will be applied for to stop motorised vehicle access to the byway. The applicant's supporting documents consider that only a low increase in user demand would result for all users as a result of this development.

However, some motorised vehicles, such as motorbikes, would be able to pass between the bollards and utilise the 3m wide shared surface path. In a similar vein to the consideration of equestrian use above, the use of the proposed access by motorised vehicles in addition to pedestrians, cyclist and horseriders would fail to provide an safe and secure access for pedestrians and cyclists between the proposed housing development and the urban area and connection to Hempstead beyond to the east.

Additionally, it is noted that if users of vehicles larger than motorbikes, such as jeeps, insisted the bollards be removed so they could gain legal access to the byway route that would have to be carried out.

The applicant has been clear in their position that they would not apply for a TRO to stop access for motorised vehicles along this shared path. It is not appropriate to use a Grampian style condition requiring a TRO to be applied for and granted.

As such, by failing to secure the cessation of the use of this part of the byway by motorised vehicular traffic the proposal does not provide a safe and secure access for pedestrian and cyclist traffic resulting from this proposal.

- Lighting

Policy BNE5 of the Local Plan requires that external lighting schemes should demonstrate that they are the minimum necessary for security, safety or working purposes and should seek to minimise the loss of amenity from light glare and spillage, particularly that affecting residential areas, areas of nature conservation interest and the landscape qualities of countryside areas.

Policy BNE8 of the Local Plan relates to 'Personal Safety and Security' and the preamble expands on the policy wording with the principles of personal safety and security including avoiding the creation of dark or hidden areas in the design of footpaths, cycleways and to provide adequate lighting. Policy BNE2 relates to the amenities of current and future occupiers.

The applicant has provided a lighting assessment in support of the proposed details proposing a light column within the land owned by the applicant, at the northeastern end of the access, and is also relying on lighting contribution from the existing highway light column at the western end of the access. The new column would be for adoption by the Highway Authority as part a section 38 agreement.

The lighting assessment advises that it seeks to provide 'byway lighting' under P-Class P6 design classification using British Standard EN 13201:2015 (Guidelines on the selection of lighting classes). The average illuminance under P6 would be 2.0 lux and the minimum illuminance would be 0.40 lux.

However, this route would be the sole access between the proposed housing development and the existing urban area. Locationally it is also somewhat separated from housing within the existing urban area and will be screened from the proposed houses by woodland. The access route itself would run adjacent to or through mature woodland. As such, to only seek to light the proposed access to the level of a rural footpath is not appropriate. The access would feel unsafe to use if not well lit.

As the applicant's Technical Note itself states '*The lighting classification commonly associated with similar residential access roads is P4*'. The average illuminance under P4 would be 5.0 lux and the minimum illuminance would be 1.0 lux.

It is seen in the submitted illumination diagrams that both at the 1.0 lux and 0.4 lux level illumination areas there would be a central unlit length of the footway/cycleway under the proposed lighting scheme. The 1.0 lux level would be less than 50% of the length of the access from North Dane Way to the applicant's land. The diagrams do not provide the areas of the 'average lux' required under the British Standard but the proposed

illumination is understood to be inadequate to provide safe passage for all users of this sole urban access based on the lighting plans provided.

Furthermore, there is a scheme currently being rolled out by the council that would impact the 10m lamp column being discussed at the northwestern end of the access, in North Dane Way. This will involve the lantern being changed to LED. This will result in much reduced backspill of light due to LEDs superior optic control. Then in addition, with the fitting of a 5 degree tilt mounting, it is anticipated that even the illumination of the access, as shown in the applicant's calculation, will be much more reduced than shown.

It is therefore anticipated that the proposed access would need to have its own lamp columns to provide adequate illumination of the proposed access. As there is no vehicle access for the maintenance vehicle to those columns, which would need to be adopted, a scheme using 5m fold-down columns would be required along the route.

There are also few technical issues in relation to the lighting scheme provided: the use of P6 instead of P4 classification; no Maintenance Factor in the AXIA lantern on the applicant's calculation, as per the British Standard, and as such the lux level shown is not realistic; and the council's 'standard' lantern (Thorn Isaro Pro with 7 pin Nema) as not been used in the proposed scheme.

The applicant concludes in their lighting assessment that the '*clear line of sight*' between the two lit areas, which it refers to as '*wayfinding elements*', would provide '*both navigation and the ability to identify the presence of other pedestrians and cyclists*'. This is considered to fall significantly short of requirements of the Policies BNE8 and BNE5 of the Local Plan and the NPPF, in line with the principles of personal safety and security, to avoid the creation of dark or hidden areas in the design of footpaths, cycleways and to provide adequate lighting.

- Impact on Ecology

In respect to ecology Policy BNE37 of the Local Plan states that development will not be permitted unless: there is an overriding need for the development that outweighs the importance of these wildlife resources; and the development is designed to minimise the loss; and appropriate compensatory measures are provided. Policy BNE39 of the Local Plan states that "*Development will not be permitted if statutorily protected species and/or their habitats will be harmed*" and requires conditions or obligations to be attached to permissions to "*ensure that protected species and/or their habitats are safely guarded and maintained*".

In this case a byway as a BOAT is existing along the route where the access to the housing development is expected to run. The path infrastructure itself to the byway, and the s278 works, are not anticipated to harm the ecological interests of the area, outside of the impact on ancient woodland discussed later in this report. The activity on the route is expected to significantly increase in the area under this application, and as such increase noise and disturbance potential. But the application includes significant

ecological enhancement works and as such any negative impact from an increase in activity in this localised area is considered to be compensated in the wider proposed works.

However, more specifically, any lighting scheme associated with the use of this access would have the potential to harm the ecology in the area, given the route of the access adjacent to and through woodland and a rural environment, particularly in relation to bats that have been surveyed using woodland in the vicinity of the proposed access.

The proposed lighting plan shows illumination to be 1.0lux or less within the woodland area, and in their supporting documentation the applicant acknowledges the presence of bats and ancient woodland in the vicinity of the proposed access. The assessment conclusion implies that with a scheme providing less than 1.0 lux at canopy level, and with the use of shielding, no harm to these interests would result. However, at this time the lighting scheme proposed is not considered to be acceptable, as part of the requirement to provide a well-lit, safe and secure access.

In this case it is not considered to be suitable for the lighting scheme to be dealt with at reserved matters stage or by condition as without the understanding of the illumination from an acceptable lighting scheme the impact of that lighting on the local ecology cannot be understood nor any harm arising could be suitably mitigated or compensated.

Without such sufficient information the access proposal to Lordswood is contrary to Policies BNE37 and BNE39 of the Local Plan.

- Impact on the Ancient Woodland

In respect to the impact of the proposed access on the Ancient Woodland, Hall Wood is located within the application site boundary, at its western boundary, and includes byway RC29. The grass verge between North Dane Way and Hall wood is also within the ancient woodland designation, as shown on the Department for Environment, Food and Rural Affairs (DEFRA) 'magic map'.

Therefore both the access link to and from Lordswood along the RC29 PROW and the southeastern section of the s278 works are all proposed on land that is classified as ancient woodland, notwithstanding that the works to the byway are being proposed within a clear route between trees, and the s278 works on existing grassed highway verge.

Policy BNE37 states that development will not be permitted if it causes a loss of important wildlife habitats or features unless:

- there is an overriding need for that development that outweighs the need of these wildlife resources and
- no reasonably alternative site is (or is likely to be) available if ancient woodland..would be lost and
- the development is designed to minimise the loss involved and

- appropriate compensation measures are provided.

NPPF Paragraph 175 states that *‘development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;’* The related footnote clarifies in respect to ‘exceptional reasons’ *“For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of the habitat.”*

The ‘standing advice’ on Ancient Woodland published by the government states that *“For ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you’re likely to need a larger buffer zone.”*

In this case the application was originally submitted without the details of the access to Lordswood and the various supporting documents did not therefore account for the latterly proposed works to the byway. The applicant has therefore provided an ‘Arboricultural Method Statement’ related to this aspect of the proposal. There are also references to the ancient woodland in the Technical Notes provided but no assessment of the proposal against paragraph 175 of the NPPF has been provided and no compensation for the loss of ancient woodland proposed.

There are some technical issues within the submission that raise concern in relation to the proposed surfacing work and its impact on the ancient woodland trees.

The Arboricultural Method Statement shows some of the proposed hard surfacing is within 1m of trees (T3 & T4 at least). These are multi-stemmed trees but are not shown as such on the tree survey provided. The British Standard 5837 ‘Development in Relation to Trees’ recommends that hard surface should be set back from the stem of the tree and its above-ground root buttressing by a minimum of 500 mm to allow for growth and surface movement which could lead to deformation of hardsurface by tree roots, which if this occurred would create trip hazard for users.

There is some conflict within the Method Statement report with the tree schedule recommending no pruning work for trees T1 – T11, but paragraph 2.6 of the same report states that:

“All of the trees, with the exception of tree T1009, will require some minor access facilitation pruning works to allow for the construction of the widened Byway. No more than 3m crown lifting from ground level and no more than 2m crown reduction from the back edge of the current Byway will be required in order to facilitate these works. All works will be undertaken in accordance with BS 3998:2010”.

Whilst somewhat ambiguous this is taken to mean in part that a 2m clearance, by pruning, would be undertaken to the side of the ‘current byway’. However, it is not clear where ‘the

current byway' limit is being taken from and would this mean removing trees that are seen to be too close to the existing hardsurface or coppicing them to stumps? Both scenarios would impact trees within the ancient woodland.

No details have been provided in respect to the widening of the cycleway/footpath on North Dane Way but it seems likely that the construction would be of a conventional highway build for adoption, as opposed to the no-dig method proposed for the byway route, and within the Root Protection Areas of trees within the ancient woodland.

Furthermore, if new lighting columns would be required along the length of the access then there would be the requirements for below ground cabling that could again have impacts on the health and vitality of the trees within the ancient woodland.

At this time the impact on trees in the ancient woodland remains not wholly understood as insufficient information has been provide as detailed above.

Putting to one side the scale of loss of ancient woodland and the trees impacted, it remains the fact that surfacing over unsurfaced ground within the ancient woodland and the construction of the s278 works will result in the loss of some irreplaceable habitat and therefore the deterioration of the ancient woodland as a whole. Paragraph 175 of the NPPF directs that *'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...'*

In this case loss of ancient woodland could occur from the access development proposed to Lordswood. This loss would not meet the test of being for *'a wholly exceptional reason'* and no suitable compensation strategy has been proposed.

The access works are therefore considered to be contrary to Policy BNE37 of the Local Plan and paragraph 175 of the NPPF in relation to ancient woodland.

- Conclusion

The matter of 'Access' to/from Lordswood needs to be considered as part of this outline application.

The current proposal is considered to be significantly different to the 2018 planning permission in relation to the use of the PROW. The 2018 planning permission did not rely on PROW RC29 for access and the condition requirement to provide *'a shared footway/cycleway on the north side of North Dane Way to link the development site with the Lords Wood Leisure Centre'* was to achieve a strategic cycle route only, secondary to the primary pedestrian and cycle route that followed the line of the approved vehicle access. Therefore little weight should be applied to the condition attached to the 2018 permission.

It is considered that the sharing of the use of the proposed Access, from North Dane Way to the housing development land within the applicant's ownership, by multiple user groups : pedestrians, cyclists, horseriders and motorised vehicles, and with the proposed lighting scheme, that the proposal fails to provide a well lit, attractive, safe and secure environment for pedestrians (including the elderly and those with young children), wheelchair users, elderly and cycle traffic resulting from this proposal, as well as leisure users of the byway RC29 and travellers from Lordswood to Hempstead along this route. As such the proposal is contrary to Policies T2, T3, BNE2, BNE5, BNE7 and BNE8 of the Local Plan and paragraph 110 and Section 8 of the NPPF.

At this time, insufficient details have been provided to be able to fully understand or assess the impact of an acceptable lighting scheme for this access on the ecological interests in the vicinity. Furthermore, insufficient details have also been provided of the impact of the proposal, including by an acceptable lighting scheme, on the interests of the ancient woodland in which much of the access works are proposed. Notwithstanding this the proposed works within the ancient woodland, if they were to result in the loss of trees, do not meet the threshold of '*a wholly exceptional reason*' and no suitable compensation strategy for the loss has been proposed. As such the proposal is also contrary to Policy BNE39 of the Local Plan and paragraph 175 of the NPPF.

Without the access to/from Lordswood meeting the requirements of these policies and guidance the proposal as a whole cannot be considered to be 'sustainable development' as it fails to meet the 'social objective' overarching principle of sustainable development, as laid out in paragraph 8 of the NPPF :

Section 8 of NPPF (Promoting Healthy and Safe communities) considers that the provision of connectivity between new development and existing built-up areas, safe access for all to wider areas and facilities, by methods other than vehicular transport provision is *intrinsic to good design of communities and sustainable development*.

Without providing a well lit, attractive, safe and secure environment for access to and from the day-to-day amenities within Lordswood, for future residents of the proposed development as well as leisure users of the byway RC29 and travellers along the proposed continuous footway/cycleway between Lordswood and Hempstead, the proposal fails to meet the social objective of sustainable development under paragraph 8 of the NPPF as it fails to foster '***a well-designed and safe built environment, with accessible services....that reflect current and future needs and support communities' health, social and cultural well-being***'.

In failing to provide sustainable development the proposal is contrary to Policies S1 and S2 of the Local Plan which in terms of strategic planning prioritises the delivery of significant development on land within the urban area and then sequentially sustainable development.

Comparison to proposed works to Byway RC29 under the 2018 permission

The two applications are significantly different in this regard.

The applicant has referred to the 2018 planning permission and its legal agreement.

Within the cover letter submitted with the access details it is stated *“the S106 of the extant planning permission [MC/18/0556] places a legal obligation on the applicant to upgrade this section of the byway together with other footways, bridleways and byways in the locality.”*

However, the 2018 permission did not envisage works to this part of the byway which would change its character and function.

The PROW officer who made that request confirms that that the monies requested would have funded works by the Local Authority for a 288m length of the byway RC29 to be resurfaced with a simple type 1 to dust or hoggin style surface, to reduce muddiness of this rural path in the winter months for all users (not just for equestrian use), with the resultant increased footfall on the local PROW network once the development was built out.

Therefore, the function and character of the byway was not to change by virtue of these s106 works.

In this current application however the byway section under discussion is within the red line of the application site as it is proposed for use as the sole access to Lordswood from the application site, connecting the proposed large scale urban extension to the existing urban area, and there would result a material change to the function and character of the byway under the proposed scheme.

Although not referenced by the applicant, it should be noted that there is also a condition attached to the extant planning permission MC/18/0556 that relates to the byway section under discussion. In that case the 40m (approximately) length of byway was outside of the application site red line and did not form the proposed access to the site. That condition (condition 25) reads:

“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.”

Policy T4 of the Local Plan relates to the implementation of strategic cycle routes.

It is noted that the route that is the subject of condition 25 did not feature in the Principles and Parameters of the historic applications and did not form part of the matter of 'Access' for the 2018 planning permission.

However it is reasonable to conclude that the details of that secondary 'shared footway/cycleway' under condition 25 of MC/18/0556, to meet the reason for the condition, would not need to be delivered to the same specification as would be required if providing sole access to the housing development for all users.

In this way the 2018 planning permission and current application differ and the 2018 permission did not envisage works to this part of the byway which would change its character and function as is currently proposed.

Impact on Amenities

Policy BNE2 relates to the protection of the amenities of future occupiers of the development and of neighbours in terms of privacy, daylight, sunlight, noise, vibration, heat, smell, airborne emissions. Paragraph 127 of the National Planning Policy Framework requires that development functions well over its lifetime and provides a high standard of amenity for neighbours.

Neighbours' Amenities

The 'Advanced Planting' Design Parameter in the Design and Access Statement would provide a minimum of a 15m buffer around the perimeters of the site, widening to 20m in some places. The matter of 'Layout' is not being determined at this time but an illustrative layout plan, based on the Design Parameters, has been provided showing the housing built form located a significant distance from the closest residential properties.

The closest residential properties to the site would be 1 and 2 Gibraltar Cottages, Gibraltar Farm and The Granary to the north of the site. These properties are all located at a lower ground level to much of the site, due to the contours of the land. The site layout, as shown on the illustrative layout plan, provides a significant area of open space within the site adjacent to these dwellings with perimeter planting. Whilst clearly the proposal represents a significant change to the current isolated situation of these properties, with such a separation remaining the illustrative layout demonstrates that development can be brought forward without unacceptable harm to the living conditions of occupiers of these dwellings in terms of outlook, privacy or unacceptable daylight loss or overshadowing.

Other neighbouring residential areas are to the southwest of the site, on the opposite side of North Dane Way, and will not be directly impacted by the development by virtue of loss of privacy, daylight, outlook or overshadowing due to the separation from the site.

Matters of noise, air quality and impacts to residential amenity as a result of highway works and traffic movements are discussed later in this report.

Future Occupiers Amenities

At reserved matters stage all the dwelling units proposed will have to meet the National Technical Housing Standards and for control of garden spaces and balconies the Medway Housing Standards would apply. The proposal has an amount of flexibility as it is for up to 450 dwelling units and as such it can be ensured that these residential standards are met. It is considered possible for a development to come forward at Reserved Matters stage that would provide a good living condition for future occupiers.

Matters in respect to the amenity impact of works at the Hoath Way roundabout are considered in the section 'Tree removal at Hoath Way roundabout' later in this report.

In summary, it is considered that subject to the securing of the Design Parameters the proposal complies with the provisions of Policy BNE2 of the Local Plan.

Noise

Policy BNE2 (in part) of the Local Plan seeks to protect the amenities of neighbours in terms of noise, vibration and airborne emissions. Paragraph 127 of the National Planning Policy Framework requires that development functions well over its lifetime and provides a high standard of amenity for existing users (neighbours), which is reflected in the requirements of Paragraph 170 of the NPPF which refers to the need for planning policies and decisions to contribute to and enhance the natural and local environment in part by "e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality,..." and paragraph 180 also relates to noise impact from new development.

In respect to road traffic noise, a noise survey has been provided as part of the Environmental Statement. On the basis of that report and further clarification from the applicant it is considered that acceptable internal and external average noise levels for the future dwellings should be achievable with windows partially open and closed. Acceptable noise levels in external amenity spaces should also be achievable. As such a condition can be used to require a scheme of acoustic protection to ensure internal noise and amenity/garden noise meet acceptable levels for future occupiers of the development.

In relation to potential noise and disturbance to existing neighbours from the additional population on the site and their activity, including traffic noise, it is material that historic planning permissions for almost an almost identical quantum of development have been granted at the site. In those permissions the vehicle access to the site would be closer to the Lordswood housing than under the current proposal with the vehicular access to Ham Lane/Lidsing Road. Noise emanating from the occupation of the development is not considered to be of an unacceptable nature or volume and there is not considered to be sufficient justification to depart from the previous decision in relation to this matter.

As a result of the proposed access arrangements for the development, with the vehicle access joining the highway network in Ham Lane and to the east of the site in the Hempstead area, together with the package of off-site highway works, there will be changes to traffic flow and traffic distribution in and around the area. The proposal will alter traffic noise to some extent along various routes in the Medway and Borough of Maidstone areas.

The Environmental Statement looks at the road traffic noise implications related to the new population and package of highway works and concludes that changes in road traffic noise would not be of a level that would warrant the refusal of the proposal.

Both the council's consulting Transport Planner and Highway England have reviewed the traffic flow and distribution figures and agreed that the methodology used to generate these assumed traffic movement figures to be acceptable. The road traffic noise figures have also been reviewed and it is agreed that the level of road traffic noise along the various routes would not be of such an increase to result in an unacceptable pattern or volumes of noise that would be harmful to residential amenity.

The impact of noise on the natural environment will be considered under the 'Ecology' section of this report.

In respect to the highway works in Hempstead Road, subject to the securing of the s106 obligation, the proposal is considered to suitably address matters of the potential increased traffic flow along Hempstead Road and it is considered that the installation of such a scheme can be designed in such a way that neighbours' amenities are not harmed.

In summary, it is considered that subject to the securing of planning conditions in relation to a scheme of acoustic protection for future occupiers of the development and the securing of the package of highway works, the noise arising as a consequence of the proposed development would not harm residential amenity and complies with Policies BNE2 and BNE3 of the Local Plan.

Air quality

Policy BNE24 of the Local Plan states that *'Development will not be permitted when it is considered that unacceptable effects will be imposed on the health, amenity or natural environment of the surrounding area, taking into account the cumulative effects of other proposed or existing sources of air pollution in the vicinity'*. Paragraph 181 of the NPPF relates to air quality and that planning decisions should take account of improving air quality and mitigating identified impacts.

The matter of Air Quality is addressed within the submitted Environmental Statement and further to this the 'Emissions Mitigation Calculations' have since been recalculated in accordance with the updated Medway methodology and extra mitigation has been proposed. The Emissions Mitigation Calculation results in a Damage Cost of

£452,420.00. A set of mitigation measures have been proposed consisting of the use of Low NOx boilers, the installation of electric vehicle charging points (based on slow charging units for 293 houses and fast charging units for 10% of 157 flats) and the implementation of a Travel Plan. These mitigation measures have been allocated a monetary value and as that value exceeds the Damage Cost figure in the Emissions Mitigation Calculation the proposal is considered to comply with policy BNE24 of the Local Plan. Planning conditions can be used to secure the mitigation measures.

Contamination

Policy BNE23 of the Local Plan requires that proposals for development of land likely to be contaminated be accompanied by the findings of a site examination, which identifies contaminants. Policy BNE23 of the Local Plan and paragraphs 178 and 179 of the NPPF require that decisions should ensure that new development is appropriate for its location and takes account of the likely effects of pollution on health, living conditions and the natural environment.

In this case the former use of the site as farmland could have given rise to contamination. The application has been supported by a Phase 1 Desktop contamination report, which included preliminary geo-technical intrusive investigation. Additional investigation is proposed and potentially mitigation work. Officers agree that further investigation is required, including ground gas monitoring, and recommends that suitably worded planning conditions are used should planning permission be granted. Pollution from surface water is proposed to be mitigated through the use of tanked permeable paving, swales, filter strips and appropriate design of boreholes.

Therefore, subject to the use of suitably worded planning conditions the proposal is considered to comply with Policy BNE23 of the Local Plan.

Archaeology

Policy BNE21 of the Local Plan seeks to account for and protect/mitigate from harm/record findings at archaeological sites, from and during development, as do paragraphs 189 and 192 of the NPPF.

An Archaeological and Heritage Assessment has been submitted in support of the application. This assessment has identified that there are no designated archaeological (heritage) assets on the site or within its immediate vicinity. In relation to the potential for as yet to be discovered assets to be found, the site is of a scale for which there is a potential for some archaeological finds to arise during the course of the construction works. This matter can be addressed by an archaeological watching brief during construction which can be secured by planning condition.

Subject to a suitably worded planning condition to address the matter of the potential for archaeological discovery the proposal is considered to comply with Policy BNE21 of the Local Plan.

Flood Risk & Drainage

Paragraphs 155 to 160, 163 and 165 of the NPPF relate to flood risk and that new development should be both directed away from the areas at highest risk of flooding and should not increase flood risk elsewhere.

The site lies entirely within fluvial Flood Zone 1, as shown on the Environment Agency's (EA) Flood Zone map. There are some areas of low surface water flood risk throughout the site as shown on the most up to date Environment Agency flood risk mapping. These risk areas are limited to areas largely within the site associated with overland flow.

A Flood Risk Assessment and additional information have been submitted in support of the application. A pumping station would be constructed in the northern part of the site and would pump foul water to the southern water foul drainage infrastructure. The proposed drainage scheme presents a series of six sub catchments and proposes a number of sustainable drainage features (supported by Site Investigation) including; Landscaped swales; Drainage basins; Highway drainage (including gullies, catchpits, and permeable surfaces); Permeable paving driveways; Water butts.

It is seen that properties in the illustrative layout plan are located in areas at risk of surface water flooding and those properties finished floor levels would need to be raised to at least 300mm above ground level. This can be controlled by planning condition. Overall the drainage strategy for the attenuation of surface water is considered to be acceptable but a detailed scheme for the disposal of surface water will be required at reserved matters stage and can be secured by planning condition. Whilst the maintenance schedule submitted by the applicant for the drainage scheme is broadly acceptable but full details of ongoing management and maintenance, together with details of the maintenance, can be required by condition to be supplied with the detailed drainage scheme.

In summary, subject to the use of suitably worded planning conditions the proposal is considered to comply with the guidance in respect to flood risk, both on the site and in the vicinity, under paragraphs 155 to 160, 163 and 165 of the NPPF.

Open Space

Policy L4 of the Local Plan sets out the requirements for the provision of open space in new residential developments. Policy BNE6 of the Local Plan relates to the need for detailed landscape schemes to be submitted with applications for major development to enhance the character of the locality and relate to planting, maintainability, vistas, hard landscaping, retention of important existing features, supporting wildlife, management and maintenance.

Paragraph 96 of the NPPF recognises that *"Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and*

well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.”

The matter of ‘landscaping’ is not being determined at this time but the applicant has provided a Public Open Space plan which includes areas of parks and gardens, a Local Equipped Area of Play (LEAP) and natural greenspace.

The ‘Design Parameters’ in the DAS includes an ‘Advanced Planting’ parameter which is detailed in the submission as the provision of approximately 2.96 hectares (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 southeastern (open field) boundaries, varying between 15m and 20m in width. The ‘Land Use and Amount’ Design Parameter details the inclusion of a community park with play area of 400m².

A calculation has been agreed with the applicant with respect to the various open space typologies shown on the Public Open Space plan for the site – Parks and Gardens, Play, Amenity Greenspace, Natural Greenspace, Outdoor Sport, Allotments. Where there is a shortfall or no open space provision on the site of these various typologies a planning obligation will secure a payment for off-site provision. The submitted strategic plans showing landscaping strategy, public open space and illustrative layout, as well as the discussions and parameter plans in the Design and Access Statement, are considered to show an acceptable landscaping of the development at a strategic level but full landscaping details will be submitted at reserved matters stage under the matter of ‘Landscaping’.

In summary, subject to the use of planning conditions to secure the Design Parameters and planning obligations it is considered that the proposal complies with Policies L4 and BNE6 of the Local Plan.

Ancient Woodland/Buffer

Policy BNE37 states that development will not be permitted if it causes a loss of important wildlife habitats or features unless:

- there is an overriding need for that development that outweighs the need of these wildlife resources and
- no reasonably alternative site is (or is likely to be) available if ancient woodland..would be lost and
- the development is designed to minimise the loss involved and
- appropriate compensation measures are provided.

NPPF Paragraph 175 states that *'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;'* The related footnote clarifies in respect to 'exceptional reasons' *"For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of the habitat."*

The 'standing advice' on Ancient Woodland published by the government states that *"For ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you're likely to need a larger buffer zone."*

The Ancient Woodland, Hall Wood, is located within the site at its western boundary. Hook Wood is outside of the northwestern boundary of the site, separated by the RC29 byway.

The Design Parameter 'Advanced Planting' within the supporting DAS includes a 15m buffer to the ancient woodlands within and adjacent to the site and the illustrative layout supplied is based on the Design Parameters. The buffer proposed remains consistent with the approach within the previous permissions on the site and there is not considered to be sufficient justification to depart from the previous decision in relation to this matter on the whole - although in respect to the access works to Lordswood please refer to that section earlier in this report.

The buffer can be secured through a condition securing the Design Parameters and with such a condition in place the proposal, other than in relation to the access to/from Lordswood, is considered to mitigate the impact of the development in the Ancient Woodland and comply with paragraph 175 of the NPPF.

In relation to the access to/from Lordswood, as discussed earlier in this report, the impact on trees in the ancient woodland remains not wholly understood at this time as insufficient information has been provided as detailed above. Furthermore the surfacing over unsurfaced ground within the ancient woodland and the construction of the s278 works could result in the loss of some irreplaceable habitat and therefore the deterioration of the ancient woodland as a whole. This loss does not meet the test of being for *'a wholly exceptional reason'* under paragraph 175 of the NPPF and no suitable compensation strategy has been proposed.

The access works are therefore considered to be contrary to Policy BNE37 of the Local Plan and paragraph 175 of the NPPF in relation to the Ancient Woodland.

Ecology

Policy BNE37 of the Local Plan states that development will not be permitted unless: there is an overriding need for the development that outweighs the importance of these

wildlife resources; and the development is designed to minimise the loss; and appropriate compensatory measures are provided. Policy BNE38 of the Local Plan is concerned with the provision of wildlife habitats in new developments that link into wider wildlife networks. Consistent with the statutory duties Policy BNE39 of the Local Plan states that "Development will not be permitted if statutorily protected species and/or their habitats will be harmed" and requires conditions or obligations to be attached to permissions to "ensure that protected species and/or their habitats are safely guarded and maintained". Policy BNE6 of the Local Plan relates to the need for detailed landscape schemes to be submitted with applications for major development to enhance the character of the locality and relate to planting, maintainability, vistas, hard landscaping, retention of important existing features, supporting wildlife, management and maintenance.

Paragraph 175 of the NPPF states that 'the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.'

Within the Environmental Statement that accompanies this application are a Baseline Ecology Report, Ecology Appraisal, Ecology Addendum, Site Wide Ecological Mitigation Strategy, including Woodland Management Plan and Management and Maintenance Summary, Hoath Way Roundabout – Ecology Report. [The consideration of the Hoath Way Roundabout aspect is considered later in this report at the section entitled '*Tree Removal at Hoath Way roundabout*'.]

In relation to the site itself the following surveys have been carried out: Ecological Scoping Survey; Breeding birds (historic); Bat Activity ; Tree Assessment for bats ; Dormouse ; Badger Survey ; NVC (historic). The survey results detail that: at least 7 species of foraging bats within the site – particularly around the woodland/hedgerows; two trees (T13 and T1) have been identified as having roosting features for bats; breeding populations of dormouse; stag beetle; breeding/possible breeding birds – in particular skylark (ground nesting birds); at least 12 ancient woodland indicator species recorded in the woodland; the site is adjacent to/within areas of Ancient Woodland, Local Wildlife Site and Roadside Nature Reserves.

The KCC ecologist advises that the submitted Site Wide Ecological Mitigation Strategy provides limited information on the proposed mitigation within the site but instead it focuses on the enhancements and management of the site.

The site is adjacent to and contains areas of Ancient Woodland (Hall Wood and Hook Wood) and Local Wildlife Site. The submitted information and site plan concludes that the areas of Ancient Woodland and Local Wildlife Site will not be directly lost as a result of the proposed development but there is likely to be a negative impact from the construction/operational phase of the development and that impacts on the woodland areas can occur due to an increase in (but not limited to) dust, noise and recreational pressure. The submitted information has detailed that vegetated buffers between the development platform and the area of Ancient Woodland and Local Wildlife Site will be incorporated into the site landscaping to create a buffer to reduce access to and pressures

on these areas and the wildlife within them. The illustrative layout plan and the Design and Access Statement illustrate the inclusion of these vegetated buffers.

A Woodland Management Plan has been submitted which demonstrates that the intention is to carry out occasional management within the Hall Wood – measures include re-implementing coppicing, litter clearing and managing recreational pressure. Whilst these management proposals are supported, the KCC Ecologist advises that the Woodland Management should be included within a single updated Site Wide Ecological Management Plan document to ensure that all the management is carried out under one management plan and lower the risk of some parts of the management not being carried out as required. The applicant is in agreement to this and this can be controlled by planning condition.

In respect to the impact of the development on the Roadside Nature Reserve (RNR) at the Lidsing Road/Hempstead Road junction, the applicant is of the view that the development will not impact upon the RNR as the pedestrian/cycle connection is outside of the area. However currently there is no road edging to the rural lane and RNR but only a closely mown edge. The proposed works will introduce kerbing and associated modern drainage and the proposal at this time is not considered to sufficiently demonstrate that no impact to the RNR will occur with the level of detail supplied. The KCC Ecologist advises that measures will need to be included in the Construction Environmental Management Plan (which should be agreed by an ecologist and engineer) of what measures will be taken to ensure any impacts on the RNR, by the junction construction, are minimised and to ensure the measures are implementable. A further condition should be used for a post completion survey of the work by an ecologist to assess the works undertaken and detail any remedial measures required and when the works will be carried out.

In respect to bats, the majority of bat activity in the submitted survey was recorded within the site boundaries/woodland area and the majority of these features will be retained within the proposed development site. However, the development will result in a significant increase in lighting and lighting can have a negative impact on bats (and other species). The submitted Site Wide Ecological Mitigation Strategy details that there will be dark zones within the site, however the illustrative layout plan only indicates that they will be surrounding the woodland whereas the County ecologist would seek that all site boundaries and vegetated areas have minimal lighting. Therefore, details of the proposed lighting for the site is required and will need to minimise or avoid lighting impacts on the proposed and retained habitats. This can be controlled by planning condition.

The submitted bat survey details that two trees have suitable roosting potential and the information submitted by the applicant has confirmed that the trees will be retained within the site if planning permission is granted. Therefore, it is considered that there is no requirement for emergence surveys to be carried out on these trees. With regard to enhancement, if planning permission is granted there is a need for bat boxes/features to be erected throughout the site and not only limited to the erection of 20 bat boxes within the built area, as detailed within the submitted Site Wide Ecological Mitigation Strategy.

The houses and any flat blocks can be constructed with integrated bat boxes included within the buildings. This can be controlled by planning condition.

A breeding population of dormouse has been recorded within the habitats adjacent to the site. The proposed works will result in a small loss of suitable dormouse habitat however the illustrative Landscaping Strategy has confirmed that additional planting will be implemented along the site boundaries. Therefore, as there does appear to be capacity within the development to implement appropriate mitigation a planning condition can be used to require detailed mitigation information at Reserved Matters stage. Planting along the site boundaries should include dense thorny species to minimise access to the hedgerow and provide a level of protection of the dormice from domestic cats. The matter of 'Landscaping' is to be considered at Reserved Matters stage and landscape details submitted must clearly demonstrate this approach is carried through.

Stag beetle were recorded during the survey and if planning permission is granted there would be a need to ensure that any works carried out within or adjacent to the habitat do not negatively impact the species during construction or habitat management. None of the documents submitted provide mitigation details for this. However, the majority of the stag beetle habitats are to be retained, and details of how the site will be enhanced for stag beetles is supplied within the submitted Site Wide Ecological Mitigation Strategy. As such detailed mitigation information can be submitted as a condition of planning permission.

The submitted surveys have confirmed that breeding birds are present within the site, mainly within trees/scrub/hedgerows which is to be retained and enhanced. However, the proposed development will result in an increase in disturbance, including through recreational pressure, increased cat predation and increase in lighting. Therefore, there will be a need to ensure that retained and created habitat is managed appropriately to ensure that birds can continue to utilise the site. This matter can be addressed specifically within the revised Site Wide Management Plan already to be required by planning condition.

Ground nesting birds (including skylark) have been recorded within the site, but no mitigation measures are proposed for the loss of habitat. The applicant's ecologist is of the view that the birds will be displaced to the surrounding farmland. The KCC ecologist advises that whilst it is accepted that there is capacity within the surrounding farmland to support the ground nesting bird (particularly as none were recorded breeding on site) the incremental impact from the loss of ground nesting habitat from a number of developments could have a negative impact on the population. Whilst as a wider consideration this is far from ideal, this assessment is only considering the development before it and as such no objection is raised in respect to the impact on ground nesting birds.

Other than in respect to the matter of 'Access' to/from Lordswood, subject to conditions related to: the submission of a detailed Ecological Mitigation Strategy; a revised Site Wide Ecological Management Plan; a scheme of ecological enhancement across the site; and

the submission of a lighting scheme(s) that is/are sensitive to bats and other species and mitigation measures regarding the RNR, the proposal is considered to comply with Policies BNE37, BNE38, BNE39 and BNE6 of the Local Plan in respect to ecology matters.

In respect to the matter of 'Access' to/from Lordswood, discussed earlier in this report, without the submission of an lighting scheme that would provide sufficient safe and security for all users of the access, the impact of that lighting on the local ecology cannot be understood nor if such harm could be mitigated or compensated. Without such sufficient information the access proposal to Lordswood is contrary to Policies BNE37 and BNE39 of the Local Plan.

Trees removal at Hoath Way roundabout

Policy BNE6 of the Local Plan directs that in relation to major development important existing landscape features, including trees and hedgerows, should be retained and structural landscaping schemes should enhance the character of the locality. Policy BNE1 relates to the general principles for built development including respecting the spaces and visual amenities of the surrounding area. Policy BNE2 relates to the impact of development on the amenities of neighbours. Policy BNE37 of the Local Plan states that development will not be permitted unless: there is an overriding need for the development that outweighs the importance of these wildlife resources; and the development is designed to minimise the loss; and appropriate compensatory measures are provided. Policy BNE38 of the Local Plan is concerned with the provision of wildlife habitats in new developments that link into wider wildlife networks. Consistent with statutory duties Policy BNE39 of the Local Plan states that "Development will not be permitted if statutorily protected species and/or their habitats will be harmed" and requires conditions or obligations to be attached to permissions to "ensure that protected species and/or their habitats are safely guarded and maintained".

The proposed highway improvement works at the Hoath Way roundabout fall outside of the application site, but within the limits of highway land, and are proposed as mitigation and betterment and in that way are related to the proposed development.

The works include the widening of the carriageway width at the north-western side of the roundabout and also the reduction of the size of the central island of the roundabout. Both of these aspects will require the removal of some mature trees, both on the roundabout island and in the highway verge on the west side of Hoath Way, going north from the junction for a distance of about 190m. A total of 64 trees are proposed to be removed and other trees will require pruning. Lambs Frith Wood, which is behind the highway tree belt to be removed, will remain.

The applicant proposes a package of replanting in the remaining, cleared northwestern highway verge with new tree planting to be undertaken following completion of the highway improvement scheme at the roundabout. The scheme would involve a mixture of both 'light standard' trees and 'whip' planting along the verge. Given the space created

following the planned tree removal and pruning it would be expected that the replacement planting would establish well if implemented and maintained correctly.

The trees to be removed are in the form of a relatively thin tree line between residential properties and Hoath Way. The removal of this large number of trees is unfortunate and will result a some harm in the short to medium term in respect to the visual amenity of the area as Hoath Way is characteristically wooded/tree lined along most of its length from the M2 to Gillingham. Over time the new planting will ameliorate the loss of the existing tree line and the visual harm to the character of the area.

In terms of neighbours' living conditions the relatively thin tree line does not offer a significant level of protection from light or sound pollution, although the Hoath Way traffic and any pedestrians will be somewhat more apparent from residential properties that back onto Hoath Way, albeit at some distance from the neighbouring houses and flats themselves. Over time the new planting will replace removed treeline and will create a further buffer between the residential properties and the highway, in addition to the remaining trees of Lambsfrith Woods.

In ecological terms the application is supported by a standalone Ecology Report for the Hoath Way roundabout works. The Kent County Council ecologist advises that due to the small area of habitat to be impacted by the proposed works there is no requirement for further ecological surveys to be carried out and that the impact on any protected/notable species can be avoided through the implementation of a precautionary mitigation approach. The submitted information has detailed that only breeding birds and bats need to be considered as part of the precautionary approach however the KCC ecologist advises that reptiles and dormouse must also be included within a precautionary mitigation approach as these species/species groups have been recorded within the wider area and there is some connectivity - therefore the presence of these species cannot be ruled out. Any precautionary mitigation approach must clearly set out what mitigation will be implemented if planning permission is granted and can be secured by planning condition.

In summary it is considered that by the use of conditions to secure a precautionary mitigation approach in relation to protected species and that the replanting of the treebelt is undertaken, this aspect of the proposal complies with Policies BNE37, BNE38, BNE39, BNE1, BNE2 and BNE6 of the Local Plan.

Affordable Housing

Policy H3 of the Medway Local Plan sets out the proportion of affordable housing required in schemes for residential developments. In this case there is proposed to be provided a minimum of 25% affordable housing across the site, which is to be secured within the S106 agreement. The type and tenure of the affordable housing units will also be addressed in the legal agreement.

Subject to the legal agreement securing the 25% affordable housing the proposal is considered to accord with policy H3 of the Medway Local Plan 2003.

Climate Change

The submitted proposal proposes measures in order to achieve an energy efficiency within the buildings. The following measures are envisaged:

- All materials will meet the requirements of the latest Building Regulations and in particular Part L (Energy Use).;
- Energy consumption will be reduced through energy saving devices;
- Fixed light fittings will have energy efficient fittings;
- The use of energy efficient goods including all kitchens fridge, freezers, washing machines, dishwashers and tumble dryers to be A+ rated as far as possible;
- Taps, fittings and WCs to be low water consuming;
- All gas-fired boilers to meet a minimum standard of < 40 mg NO_x/kWh
- 1 Electric Vehicle charging point (best available technology) per dwelling with dedicated parking or 1 charging point per 10 spaces (unallocated parking)
- Travel plan including mechanisms for discouraging high emission vehicle use and encouraging the uptake of low emission fuels and technologies;
- All windows are double glazed and will achieve a u-value of 1.4W/m²K.

In addition to the above, there is the proposed use of green infrastructure, in particular tree planting, to absorb dust and other pollutants, biodiversity net gain, SUDs proposals and improvements to pedestrian and cycle routes between Lordswood to Hempstead.

Bird Mitigation/Appropriate Assessment

Policy BNE35 of the Local Plan requires that sites of international and national conservation should be given long term protection. Paragraphs 175 and 176 states that development which would have an adverse effect on a SSSI, SPA or RAMSAR site should not normally be permitted. Paragraph 177 of the NPPF indicates that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an Appropriate Assessment (AA) has concluded that the plan or project will not adversely affect the integrity of the habitats site.

As a 'competent authority' the Council as Local Planning Authority is required under the The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) to:

- (a) assess whether there would be likely significant effects (LSE) on a European Site;
 - (b) if so, undertake an appropriate assessment (AA) of the implications of the project;
- and,

- (c) cannot grant permission if, having undertaken the AA, there could be adverse impacts on the integrity of the European Site, unless there are imperative reasons of overriding public interest

In this case, as the application site is a little under 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.

In this case the applicant has agreed to the payment of an obligation to mitigate the cumulative impact of additional development on the Medway Estuary and Marshes SSSI, SPA and RAMSAR. As such the Appropriate Assessment concludes that the proposal would not have a significant effect on a habitats site.

As the applicants have agreed to pay this tariff (£111,052) as part of the Section 106 agreement the Local Planning Authority is satisfied that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the Medway Estuary and Marshes SSSI, SPA and RAMSAR and would comply with Policy BNE35 of the Local Plan and paragraphs 175 and 176 of the NPPF.

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 in to 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.

In this case the applicant has agreed to provide the following obligations:

- On-site provision of a 300m² nursery (to first fix level in lieu of a financial contribution to the value of **£605,515.50**)
- Contribution of **£1,486,264.50** towards primary education for the expansion at one or more of the following primary schools : St Benedicts RCP, Lordswood Primary, Kingfisher Primary, Walderslade Primary, a new free school in the Hempstead area
- Contribution of **£1,177,618.50** towards secondary education for the expansion of one of more of the following: Greenacre Boys, Walderslade Girls, Holcombe Grammar School, a new free school in the Hempstead area
- Contribution of **£75,987.00** toward waste and recycling requirements to service the development Including towards the provision of an additional compactor at Capstone Household Waste and Recycling Centre
- Contribution of **£106,911.00** towards repair and renovation of splashes leisure centre
- Contribution of **£365,575.71** towards the off-site provision of open space improvements in the area including Capstone Country Park and/or Princes Park, Ballens Road and/or Whimbrell Walk play space, allotment facilities at Chapel lane and/or Hutton Road allotments, Hook Meadow, Kings Frith and/ or Luton Recreation Ground
- Contribution of **£35,653.00** towards improvement of and new wearing course for Public Rights of Ways R24, RC25 and RC29
- Contribution of **£215,941.42** towards the provision of a new bus service to serve the development and/or the extension of an existing service to serve the development, to be agreed between the Local Planning Authority and Arriva buses
- Contribution of **£277,672.50** towards the improvement of Hempstead health/medical facilities/services
- Contribution of **£34,389.00** towards Youth Services in the locality

- Contribution of **£111,052** towards the provision of migrating bird disturbance mitigation measures within the Strategic Access Management and Monitoring Strategy (SAMMS)
- Contribution of **£400,000.00** to the Council towards the provision of link footway and cycle way between the junction with Lidsing Road and the residential area in Hempstead
- Contribution of **£320,000.00** to the Local Highway Authority towards the provision of a pedestrian crossing and scheme of traffic calming measures along Hempstead Road
- The provision of 25% affordable housing

Including the value of the nursery contribution this equates to **£11,583.51** per property if 450 units are achieved. (The previous planning permission MC/18/0556 financial obligations equated to **£8426.74** per dwelling based on 450 units.)

In addition the developer will pay for the proposed works to J4 of the M2 and this would be linked to a condition restricting occupation numbers rather than S106..

The applicants have confirmed the above contributions are acceptable. On this basis no objections are raised with regards policy S6 of the Medway Local Plan 2003 or paragraph 56 of the NPPF.

Other material considerations

Failure of the Council to demonstrate a Five Year Housing Land Supply ("5YLS")

Paragraph 11(d) of the NPPF states:

"d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. 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."*

At this time the Council cannot demonstrate *"a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement"* as required by paragraph 73 of the NPPF.

In understanding by how much there is an undersupply of housing, first the local housing need for Medway must be calculated using the standard method as required by the NPPF at paragraph 60.

Households in 2020	119,739
Households in 2030	132,768
Growth	13,029
10 year annual average	1,302
Affordability ratio	8.41
Adjustment	1.2756
Need figure	1,662

Using this need figure, and applying it to the latest supply figures in the Council's December 2020 AMR shows the following:

Requirement	
Annual Requirement	1,662
5 Year Requirement (1st April 2019 - 31 March 2024)	8,310
TOTAL Requirement (with 20% Buffer):	10,610
Supply	
Large site Applications	5,906
Small site Applications	341
Windfall Allowance (yrs 3-5)	603
TOTAL supply:	6,850
Years supply	3.23
Surplus/Deficit	- 3,760

The scale of the shortfall is considered to be significant, however the inclusion of alternative calculations which include SLAA sites have been provided to show the potential for further growth within the development 'pipeline'.

It is accepted that, due to the lack of a five year supply of housing, the development plan policies which seek to restrict or control housing land supply are deemed to be out of date. This means that paragraph 11(d) would ordinarily be engaged, a matter which is address further in the planning balance section below. However, the lack of a five-year land supply does not mean that all of the policies of the Development Plan should be simply dismissed. As explained above, weight should be applied relative to the conformity with the Framework and guidance.

However, it is considered that paragraph 11(d) of the NPPF is not engaged in this case as the development is not considered to fulfil the 'social' objective of sustainable development at paragraph 8 of the NPPF.

“b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being”.

Section 8 of NPPF (Promoting Healthy and Safe communities) considers that the provision of connectivity between new development and existing built-up areas, safe access for all to wider areas and facilities, by methods other than vehicular transport provision is *intrinsic to good design of communities and sustainable development*.

Without providing a well lit, attractive, safe and secure environment for access to and from the day-to-day amenities within Lordswood, for future residents of the proposed development as well as leisure users of the byway RC29 and travellers along the proposed continuous footway/cycleway between Lordswood and Hempstead, the proposal fails to meet the social objective of sustainable development under paragraph 8 of the NPPF as it fails to foster **‘a well-designed and safe built environment, with accessible services....that reflect current and future needs and support communities’ health, social and cultural well-being”**.

The proposal in principle is not considered to satisfy the ‘social’ objective of ‘sustainable development’ at paragraph 8 of the NPPF and as such the ‘presumption in favour of sustainable development,’ as described at paragraph 11 is not engaged.

Nonetheless, the fact that the Council is not meeting its 5YLS and the fact that this proposal will deliver 450 units is material consideration in favour of the scheme.

Conclusions and Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 177 of the NPPF indicates that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an Appropriate Assessment (AA) has concluded that the plan or project will not adversely affect the integrity of the habitats site. In this case the council has concluded, consistent with the advice of Natural England, that the proposal would put in place adequate measures to mitigate potential significant adverse effects on the Medway Estuary and Marshes SSSI, SPA and RAMSAR. This is regardless of the position under s.38(6).

Paragraph 11 of the NPPF, describes how the ‘presumption in favour of sustainable development’ should be applied. With particular reference to decision taking, where development accords with the development plan approval should be without delay (para 11(c)). Where it does not, and where and where there are no relevant development plan

policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: (i) the application of policies in the NPPF that protect areas or assets of importance provide a clear reason for refusal or (ii) or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (para 11(d)).

There are two important footnotes to paragraph 11 in the Framework. The first is footnote 6 which lists the policies which provide a clear reason for refusing development proposals, including: habitats sites. The second is footnote 7 which explains that where a local authority cannot demonstrate a five year supply of housing land or where they have not met the housing delivery test for the last three years; plans and policies can be considered to be out-of-date.

Turning to the planning balance of the proposal there need to be considered:

- the historic planning permissions
- the adverse impacts of the proposal
- the benefits of the proposal

Historic Planning permissions

Historical planning permissions MC/14/2395 and MC/18/0556 are material considerations in the assessment of the current proposal for this site. Many of the material matters in the current application are unchanged from these recent grants of planning permission by the Secretary of State (MC/14/2395) and its renewal (MC/18/0556).

The planning permission MC/18/0556 relies on a small area of land, required to provide access, that is not within the applicant's ownership. That land is in the ownership of the council and is not highway land. Therefore, planning permission MC/18/0556 is not able to be implemented at this time and these historic planning permissions do not constitute a fallback situation.

However, the Council is also under a legal duty of consistency. This means that the Council has to have regard to previous relevant decisions, and that whilst the Council is free to reach a decision that differs from those decisions, before doing so it is required to have regard to the importance of the duty of consistency and give reasons for any departure from them: North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P&CR 137.

The current application does differ significantly from these historic permissions, most particularly in relation to the matter of 'Access', with the site area differing to accommodate a different access proposal, together with a package of associated highway works, which are of a significant scale. The current proposal also includes a nursery provided on site.

In this case, the previous grants of permission at Gibraltar Farm (MC/14/2395 and MC/18/0556) and the rationale for those grants of planning permission are a material consideration.

Therefore, **significant weight** should be afforded to the historic planning permissions.

Adverse impacts of scheme

Adverse impacts will occur in both social and environmental terms.

In environmental terms, as this report has demonstrated, the proposal would adversely impact the appearance, character and function of the rural area and Capstone Valley ALLI by virtue of:

- an urban development being constructed in the countryside
- short to medium term harm while buffers establishing
- the introduction of unmitigated urbanising features into the countryside at the Lidsing Road/Hempstead Road junction and the footpath/cycleway from the junction
- degradation of the ALLI's function of preventing coalescence of the settlements of Lordswood and Hempstead

The proposed scheme falls outside the urban boundary in the countryside (Policy BNE25), and within an area of local landscape importance (BNE34). Notwithstanding the historic planning permissions on the site, the proposal fails to provide a suitable connection of the development to the immediate urban area, Lordswood, and as such does not constitute sustainable development on this basis. Therefore, in principle the proposal is contrary to the strategic direction of the Medway Local Plan 2003 highlighted in Policy S1. This policy directs development to brownfield sites and is supported by policy BNE25 that restricts development in the countryside.

The application of these policies, however, is compromised by the lack of a 5 year housing land supply.

Notwithstanding this, as noted above, the site lies outside of the urban boundary and so policy BNE25 applies. The Council has been challenged at appeal and by the Secretary of State for its rigid use of this policy. Therefore, an assessment of the conformity of this policy with the NPPF must be considered. The NPPF states at paragraph 170 (b) that:

“Planning policies and decisions should contribute to and enhance the natural and local environment by... ..recognising the intrinsic character and beauty of the countryside”

BNE25 can be used as a definition of the separation between the urban and rural areas or the “countryside” as described in the NPPF, but little more. Policy BNE25 can only

carry moderate weight in the consideration of this application, given the lack of housing land supply.

Turning to policy BNE34 this only permits development if “(i) *it does not materially harm the landscape character and function of the area; or (ii) the economic and social benefits are so important that they outweigh the local priority to conserve the area’s landscape.*” Specifically, regarding Areas of Local Landscape Importance (ALLI), the policy requires that proposed development is “*sited, designed and landscaped to minimise harm to the area’s landscape character and function.*”

BNE34 also accords with the NPPF at paragraph 170 where it states, with my emphasis:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)

BNE34 therefore, can carry full weight in the consideration of this application. The principle is to protect and enhance landscape areas identified through local plans for their “value” or importance. Moreover, BNE34 also provides a ‘balancing exercise,’ whereby should a proposal demonstrate that its economic and social benefits outweigh the value of an ALLI then it might be permitted, this too accords with national policy.

Under the current proposal the landscaping strategy that was proposed under the historic planning permissions is to be extended to account for the new access works up to the junction of Ham Lane with Capstone Road. The redundant section of Ham Lane is to be remediated and planted. In the short to medium term, before the planted woodland edges of the site have matured the development, up to the junction identified here, would be very apparent and by virtue of its built form the development would result in a greater harm to the rural character and function of the Capstone Valley, in appearance and in terms of preventing the coalescence of the two urban areas, than under the previous applications.

Whilst the provision of landscaping and open spaces may be considered as a benefit of one hand they are only necessary to make the development acceptable in planning terms and mitigate adverse impacts that have been identified in this report. If the development is not consented the landscape will remain valued and unimpacted as will the Public Right of Ways across the site which constitutes a recreational resource.

In the short to medium term, before the planted woodland edges of the site have matured, the development linking these two separated settlements, on either side of the valley, would be very apparent and by virtue of its built form the development would result in a greater harm to the function of the Capstone Valley, in preventing the coalescence of the two urban areas, that under the previous permissions.

However, the proposed junction of Lidsing Road with Hempstead Road and the footway/cycleway from that junction to the urban edge of Hempstead, to be provided through S106 obligation, would not be subject to mitigation of their visual impact through tree screening and as such would result in the introduction of further urbanising effects to the immediate rural area and a greater degradation of the separating function of the ALLI of the settlements of Lordswood and Hempstead.

Where the inspector was minded, in the consideration of 'environmental harm' of planning application MC/14/2395, that the site was not critical to the function of Capstone and Horsted Valleys in terms of preventing coalescence of urban areas, the main access for that development was to Lordswood. Under the current application with the main access on the Hempstead side of the site the development would involve a physical linking of Lordswood, on the western side of the Capstone Valley, with Hempstead, on the eastern side of the valley.

As such it is considered that the level of environmental harm, in terms of the visual amenity, character and function of the countryside and the ALLI, notwithstanding the proposed landscaping, with the main access to the site being on the Ham Lane, Lidsing Road side of the site, will be greater under the current proposal than was identified by the Inspector in 2018. Some of the access works are not subject to mitigation of their visual impact through tree screening and overall there would result a further degradation of the separating function of the ALLI of the settlements of Lordswood and Hempstead.

As such it is considered that the level of environmental harm, in terms of the visual amenity, character and function of the countryside and the ALLI, will be greater than was identified by the inspector in 2018. Overall, the proposal is considered to be contrary to Policies BNE25 and BNE34 of the Local Plan.

Furthermore, in relation to 'environmental impacts', unlike the previous planning permissions the proposal relies on access to/from Lordswood adjacent to/through Ancient woodland. The lack of details of an acceptable lighting scheme being provided for that access to Lordswood, to ensure that access is suitably well-lit to aid safety and security of that key access, means the impact on the ecological interests in respect to the access cannot be fully understood or assessed. These access works will also impact on the Ancient Woodland to a greater extent than the works to this route agreed in the previous permissions and will change both the character and function of this rural footpath to an urban connection. The proposal would also result in the removal of a tree belt at Hoath Way and there may also occur some limited impact to the RNR and the further loss of field edge and hedgerow through the provision of the footway/cycleway link to Hempstead.

Therefore, **significant weight** should be afforded to the impact of the development on the rural area and the ALLI.

In relation to harm to 'social' aspects arising from the development the proposal differs significantly from the historic permissions in regard to access. In respect to the connection to Lordswood, under the historic permissions the proposed access to the site was via North Dane Way. Under the current proposal there is no vehicular access to Lordswood but only a footway/cycleway connection to Lordswood, the urban area to which the proposal is an extension. Within Lordswood are the various day-to-day amenities that future residents would rely on, such as schools, shops, health facilities, leisure facilities, bus stops.

As detailed in the report above, it is considered that the sharing of the use of the proposed access by multiple user groups (pedestrians, cyclists, horseriders and motorised vehicles) and subject to the proposed lighting scheme, the proposal fails to provide a well-lit, attractive, safe and secure environment for pedestrians (including the elderly and those with young children), wheelchair users, elderly and cycle traffic resulting from this proposal, as well as leisure users of the byway RC29 and travellers from Lordswood to Hempstead along this route.

Without a suitable connection of the site to Lordswood, the proposal fails to meet the social objective of sustainable development under paragraph 8 of the NPPF.

Therefore, **significant weight** should be afforded to the lack of an acceptable access to/from Lordswood.

For all the reasons above it is considered that the proposal fails to accord with the development plan as a whole and, notwithstanding that the presumption in favour of sustainable development at paragraph 11(d) of the NPPF does not engage, that considerable weight should be attached to the conflict with the local plan policies identified above.

Benefits of the scheme

It is accepted that development will bring with it some benefits which are economic, social and environmental.

Historic planning permissions accepted that the provision of 450 homes has a **significant weight** in the determination of those applications.

In economic terms there would occur job creation from construction jobs (and apprenticeships), and from the operation of the nursery and the retail unit on the site. However agricultural land will be lost together with a low level of employment related to the use. Therefore, a **moderate weight** can be afforded to this argument in favour of the proposal.

In social terms the undersupply of housing in the district is significant as set out in this report. The delivery of new homes and the delivery of policy compliant levels of Affordable Housing can be considered to be a significant benefit.

The provision of landscaping and open spaces too, are only necessary to make the development acceptable in planning terms and mitigate adverse impacts that have been identified in this report. Therefore, these benefits are somewhat reduced. Moreover, if the development is not consented the landscape will remain valued and unimpacted and the Public Right of Ways across the site which constitutes a recreational resource.

Nevertheless, the housing supply position and affordable housing provision dictates that **significant weight** can be afforded to this argument in favour of the application.

In environmental terms, if planning permission were to be granted with a Grampian style condition related to a TRO to stop motor traffic along the RC29 byway PROW, (which is not a condition or action agreed by the applicant) this would be particularly beneficial in environmental terms through the Ancient Woodland.

Whilst the provision of landscaping, open spaces and woodland management may be considered as a benefit on one hand they are only necessary to make the development acceptable in planning terms and mitigate adverse impacts that have been identified in this report. If the development is not consented the landscape will remain valued and unimpacted as will the Public Right of Ways across the site which constitutes a recreational resource. The introduction of a large residential population and pets close to the ancient woodland and hedgerow will lead to increased pressure to these areas and increased predation but the majority of these adverse impacts will be very similar to those under the historic planning permissions.

In addition to environmental harms considered under the historic permissions the proposal will result in the removal of a tree belt at Hoath Way and there may also occur some limited impact to the RNR and the further loss of field edge and hedgerow through the provision of the footway/cycleway link to Hempstead.

Therefore, only **limited weight** can be afforded to these aspects in an argument in favour of the application.

Conflict with the development plan

As set out above, the proposed development would conflict with the following policies in the development plan:

- S1: Development Strategy. The site is not allocated and is in the open countryside.
- S2 : Strategic Principles. The development is not sustainable as there is no safe and secure access to Lordswood and day-to-day amenities.

- BNE25: Development in the countryside. The proposed scheme falls outside the urban boundary and in the countryside, where the Council resists development of this scale on principle.
- BNE34: Areas of Local Landscape Importance. The site is in Capstone Valley ALLI and is likely to result in moderate adverse landscape and visual effects when taking the historic planning permissions into account.
- T2 Access to the Highway. The formation of the new access to/from Lordswood would be detrimental to the safety of cyclists and pedestrians.
- T3 Provision for pedestrians. The proposal does not provide an attractive and safe pedestrian environment and access to and from Lordswood, fully accessible to people with disabilities.
- T4 The provision of strategic cycle routes. The proposed access to/from Lordswood does not secure an attractive, safe, secure and well-lit facility for cyclists.
- BNE1 General Principles for Built Development. The development fails to function appropriately in relation to the built and natural environment in relation to the access to/from Lordswood.
- BNE2 Amenity Protection. The proposal would fail to secure suitable amenities for future occupants of the development in relation to the proposed access to/from Lordswood. The access details would not provide an attractive, safe, secure and well-lit facility for pedestrians (including elderly, disabled, those with children), wheelchair users and cyclists.
- BNE5 Lighting. The lighting scheme for the access to/from Lordswood does not provide for a well-lit access.
- BNE7 Access for All. The proposed access to/from Lordswood does not secure an attractive, safe, secure and well-lit facility for pedestrians (including elderly, disabled, those with children), wheelchair users and cyclists.
- BNE8 Security and Personal Safety. The proposed access to/from Lordswood does not secure an attractive, safe, secure and well-lit facility for pedestrians (including elderly, disabled, those with children), wheelchair users and cyclists.
- BNE37 Wildlife habitats. The loss of ancient woodland without there being an overriding need outweighing the importance of the loss, the prospect of alternative sites being available (or likely to be) or appropriate compensation. Additionally insufficient details of an acceptable lighting scheme for the access to/from Lordswood measure full impacts on wildlife cannot be understood or assessed.

BNE39 Protected species. Insufficient details of an acceptable lighting scheme for the access to/from Lordswood measure full impacts on wildlife cannot be understood or assessed.

National policy

Without the provision of an acceptable lighting scheme, section 278 work details and full tree survey and protection details it is not possible to fully understand and assess the impact of the works on trees within the ancient woodland and the ancient woodland as a whole. The proposal could result in the risk of loss of irreplaceable habitat without a wholly exceptional reason or compensation strategy in place. The proposal is contrary to paragraph 175 on the National Planning Policy Framework 2019 in relation to ancient woodland.

Whilst it is accepted that the Council does not have a five-year supply of deliverable land for new homes, the Council is actively seeking to rectify the situation.

Nevertheless, as discussed in the report above, in this case, as the 'presumption in favour of sustainable development,' as described at paragraph 11 is not engaged.

Notwithstanding this matter, in a titled balance, the cumulative harms identified through this report and the significant breaches of local policy and non-conformity with national policy, would "significantly and demonstrably" outweigh the benefits of the scheme and thus it fails the in the balance of the presumption in favour if the development were considered to constitute sustainable development.

Summary on the planning balance

In summary, it is considered that the proposal fails to accord with the development plan and that there are no material considerations which outweigh that conflict.

Local Finance Considerations

No local finance considerations.

Conclusion and Recommendation

The proposal is considered to be significantly different to the previous planning permissions granted on a large proportion of the existing site, primarily in relation to the matter of access, with corresponding changes in the site outline, and associated highway works. The proposal also includes the provision of a nursery on-site.

Subject to conditions and obligations, many aspects of the proposal are considered to be acceptable. The quantum of housing proposed and the provision of an on-site nursery and retail unit. The access works to the Hempstead side of the site and the associated

package of off-site highway works in Hempstead and the rural highway network. Residential amenity, ecology and ancient woodland impacts, other than in relation to the access to/from Lordswood. Noise, air quality, contamination, flood risk and drainage, archaeology, open space, cumulative impact on the relevant SPA/Ramsar sites, affordable housing.

However, the proposal constitutes a large scale urban development within the countryside and located on greenfield land, which is not allocated for the proposed use. The proposal would harm the character, function and appearance of the countryside and the Area of Local Landscape Importance in which it would be located. The proposal fails to secure an acceptable access for the proposed large scale housing development to and from the existing urban area of Lordswood, upon which the development relies for the day-to-day amenities for pedestrians (including the elderly, disabled and those with young children), wheelchair users and cyclists. The route of the access through to/from Lordswood runs across Ancient Woodland land and in an area of known ecological sensitivity and as such it is not possible to condition the requirement of an alternate lighting scheme as the impact on these interests would need to be fully understood prior to determination, including the related section 278 works within the ancient woodland land. As such the proposal fails to meet the 'social' objective of sustainable development at paragraph 8 of the NPPF and the whole development cannot be considered to constitute sustainable development. Notwithstanding the council's lack of a five year housing land supply the 'tilted balance' in paragraph 11(d) of the NPPF is not engaged.

The proposal is therefore considered to be contrary to Policies S1, S2, BNE1, BNE2, BNE5, BNE7, BNE8, BNE25, BNE34, BNE37, BNE39, T2, T3 and T4 of the Medway Local Plan 2003 and particularly paragraph 175 of the NPPF and there are no material considerations which outweigh that conflict.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the number of representations received of the opposite opinion to the officers.

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 on Medway Council's Website <https://publicaccess1.medway.gov.uk/online-applications/>