

Supplementary Agenda Advice

Page 08 Minute 531 Land R/O 19-27 Byron Road, Gillingham

With delegated authority, the Head of Planning agreed the final wording of the refusal reason with the Chairman, Vice Chairman and Planning Spokesperson to read as follows:

- 1 The proposal by virtue of its height, roof design (particularly to the rear), number of units, limited amenity space and limited off street car parking provision, represents an unacceptable overdevelopment of the site that would be harmful to the character and appearance of the area (and thereby would not make a clear enhancement to the local environment) , the outlook of occupiers of neighbouring properties fronting Rock Avenue, and provide an unacceptably limited amenity for the prospective occupiers. The proposal is therefore contrary to the provisions of policies BNE1, BNE2 and H4 of the Medway Local Plan 2003 and paragraphs 124 and 127 of the NPPF 2019.

Page 09 Minute 533 1 Cazeneuve Street, Rochester

With delegated authority, the Head of Planning agreed the final wording of the refusal reason with the Chairman, Vice Chairman and Planning Spokesperson to read as follows:

- 1 The proposed hot food takeaway by reason of its location within this residential area, and lack of appropriate location for an extract flue, would result in a use that would have a significant detrimental impact on neighbouring and nearby residential occupiers in particular to those with balconies that face onto the site, by reason of odour, noise and general disturbance from the use, contrary to Policies BNE2 and R18 of the Medway Local Plan 2003.

Page 10 Minute 534 45 Laburnum Road, Strood

With delegated authority, the Head of Planning agreed the final wording of the conditions with the Chairman, Vice Chairman and Planning Spokesperson to read as follows:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing numbers: 20124 (01) 001 REV C, 20124 (01) 002 REV C, 20124 (02) 001, and Proposed block plan, received 14 October 2020.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The new parking area shall not be brought into use until it has been formed from permeable surfacing materials or has provided with drainage arrangements within the site which shall thereafter be retained.

Reason: To manage surface water in accordance with Paragraph 103 of the NPPF.

Page 11 Minute 535 43 Laburnum Road, Strood

With delegated authority, the Head of Planning agreed the final wording of the conditions with the Chairman, Vice Chairman and Planning Spokesperson to read as follows:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing numbers: 20140- 01-002 REV B, 20140- 01-003 REV B and 20140- 02-001, received 21 October 2020.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The new parking area shall not be brought into use until it has been formed from permeable surfacing materials or has provided with drainage arrangements within the site which shall thereafter be retained.

Reason: To manage surface water in accordance with Paragraph 103 of the NPPF.

Page 38 MC/19/0336 Gibraltar Farm Ham Lane, Hempstead

Update in respect to the granting of the Maidstone Borough Council planning permission 19/500765/OUT – referred to through the committee report.

The Maidstone Borough Council application 19/500765/OUT was granted planning permission on 25 November 2020 subject to a S106 agreement.

The s106 obligations reflect those as set out in this committee report.

The conditions secured reflect those as set out in this report other than a slight amendment to the wording in relation to the access to/from Lordswood.

The final condition wording (condition 6) reads:

“No commencement of works within the Borough of Maidstone shall take place until a link from the development site to the public highway at North Dane Way/Albemarle Road has been completed in accordance with details to be submitted to and approved by the Local Planning Authority. The detail will need to demonstrate that the link adequately facilitates future residents' connectivity by non-vehicular modes with services and facilities in Lordswood.

Reason: In the interests of sustainable access to local services”

Representations

2 additional representations have been received raising objections relating to:

- Inadequate school capacity
- Inadequate doctors' capacity
- Inadequacy of the road network to accommodate the additional traffic
- Increased pollution
- Loss of the valued countryside

1 further letter of objection sent direct to the Chairman, has been circulated in full to all Members of the Planning Committee. The objection relates to:

- The importance of greenspace which is particularly highlighted by COVID lockdown restrictions which is vital for health and wellbeing.
- Environmental disaster

Correspondence from the Applicant's Agent (officer response below)

Please refer to the items appended to this agenda.

On the 24 December 2020 the applicant's agent has also latterly provided a statement in relation to the proposed access to Lordswood, which is copied below:

1 General Context

Firstly, I would draw your attention to the references in the Design and Access Statement and approved masterplan which are referenced at planning condition 5 of the decision which are to inform the later reserved matters submission. Para 2.13 of the D&A references the byway as a key gateway between Capstone and Bredhurst and also that the proposals were to retain the existing byway which would become a "high quality and attractive route" with later references to the existing byway becoming an all-weather path.

We cannot agree with your assertion that the role of this byway link as a movement corridor for the approved scheme was likely to be limited. We show within the transport section of this e mail (below) that because of the shape of the site a high proportion of dwellings would have used this byway link for pedestrian and cycleway movements rather than utilise the footpath connection alongside the road connection to the end of North Dane Way.

On a more general level having reviewed the Secretary of State's decision again, paragraph 22 states.

"The Inspector also notes that the housing would be accessibly located, in close proximity to recreational facilities and local transport and concludes this would make economic sense in terms of reducing the need for private car travel. The Secretary of State agrees that these benefits significantly outweigh the disbenefits in economic terms of losing the site from agricultural use."

In the later MC/18/556 application a specific financial requirement was included in the S106 for a new wearing course to this and other routeways in the area some of which we have demonstrated are currently impenetrable. The S106 Plan attached to the decision also references resurfacing of the byway, sightlines, signage and horse gates.

We draw three conclusions from the above:

- The Secretary of State considered the site locationally to be a sustainable location and it shouldn't be forgotten that this proposal offers improved linkages to Hempstead compared with the extant scheme.
- Upgrades to the existing byway with signage and resurfacing to create a "gateway" to Capstone-Bredhurst as a movement corridor dates back to the Green Cluster Strategy in 2008
- There is a legal obligation placed on the applicant (via the S106 to LPA ref MC/18/556) to upgrade this section of byway. This would not have passed the Reg 122 tests unless it was regarded as an important means of connection.

I focus on these points because of your assertion that this link was never envisaged as a through route of any significance to serve the extant scheme which we strongly disagree with. Other points below prepared by the applicant's transport consultant seek to provide you with some perspective on the number

of likely non car movements along this short section of byway between the two adopted areas where street lighting either already exists or is proposed within the development.

2 Transport Movement Perspective

We have reviewed the potential utilisation of the byway in both the extant and proposed application. These have been based on the attached split, which shows a yellow line through the site where those to the west will find the route quicker via the byway and those to the east, for whom it would be quicker to use the extant vehicular access route via the approved North Dane Way (NDW) vehicular connection. The split is 41% to 59%.

Working these through the trip forecasting and making the very robust assumption that all non-car bases trips will generate ped/cycle demand out on to NDW (that includes those walking to bus stops as well as pedestrian and cyclists), the following demand on the byway would be generated:

Total Two-way Trips	Extant Scenario	Permission	Proposed Scenario
AM Peak Hour	36		87
PM Peak Hour	22		53
12hr daily	224		546

It is important to note that the levels of demand generation are comparably limited and the proposed byway upgrade would be more than adequate to accommodate this demand. The change, from an hourly peak of 36 to 87 movements, does not give rise to any specific increase in required parameters of the route, other than those already proposed. Outside of very congested urban environments, such as city centres or in the vicinity of major transport interchanges, it is rare for the physical capacity of pedestrian routes to be a determining factor. However, to assist we have examined the Transport for London guidance. This provides guidance on 'Pedestrian Comfort Level' related to the width of a pedestrian space. Here it can be seen that in our worst case scenario, we have 87 users per hour on a path with a minimum width of 3m. That equates, in PCL terms, to less than 0.5 ppmm (pedestrians per minute per metre width). This places it well within the very top level of comfort, or A+, which includes pedestrian environments. Demand on the byway would need to be 16 times higher (at around 1600 movements in the peak hour) than the level generated by the development to even fall outside of PCL A rating. To be considered less than recommended minimum width, the demand would need to be 35 times higher or over 3000 movements per hour. Below is an extract from the TfL guidance which we believe gives some further perspective.

Our transport consultants have concluded that there are no technical differences between the intended function of the byway upgrade for the extant or proposed schemes.

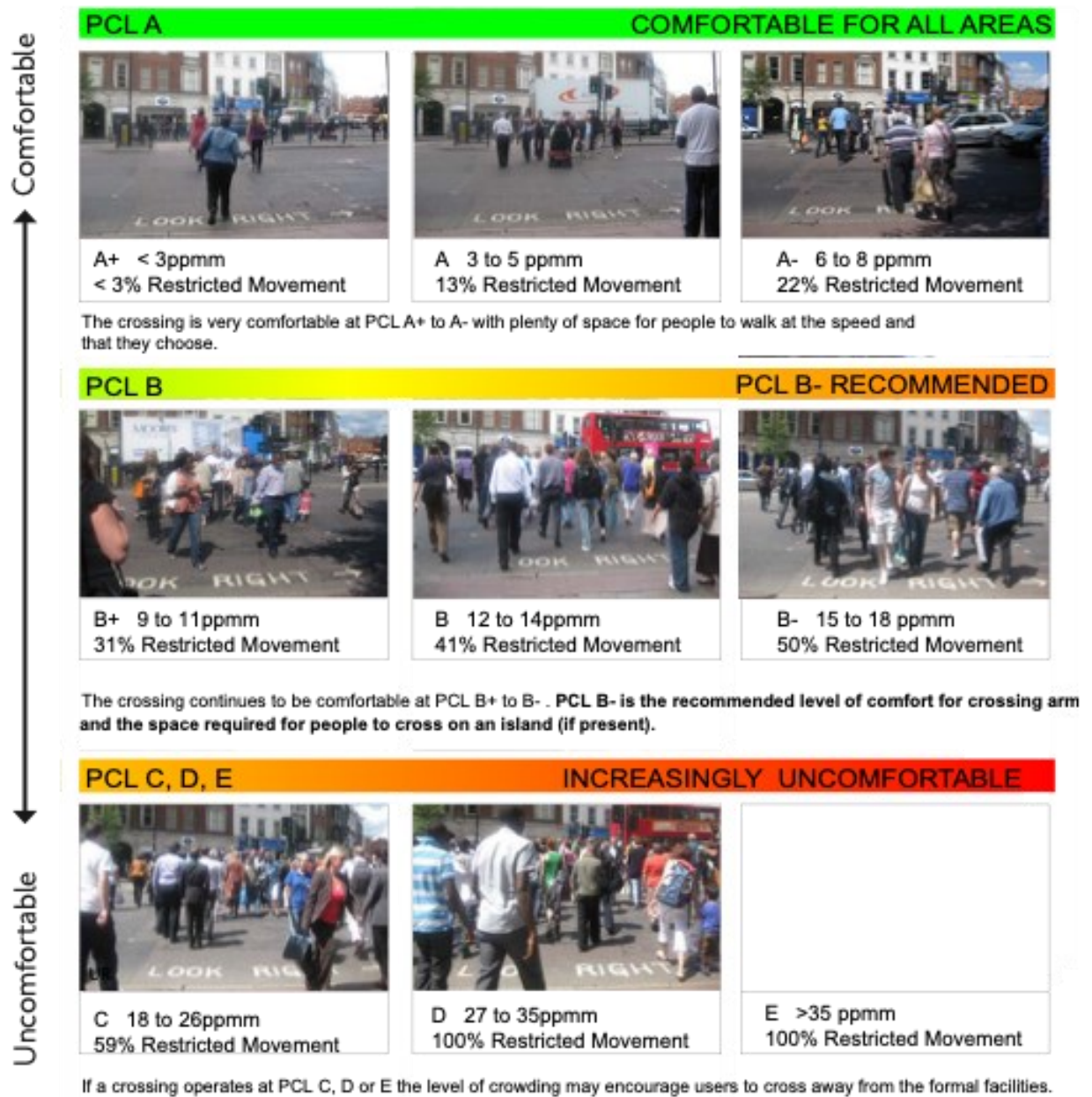


Figure 12 PCL for Crossing Arm & Space to Pass on Island

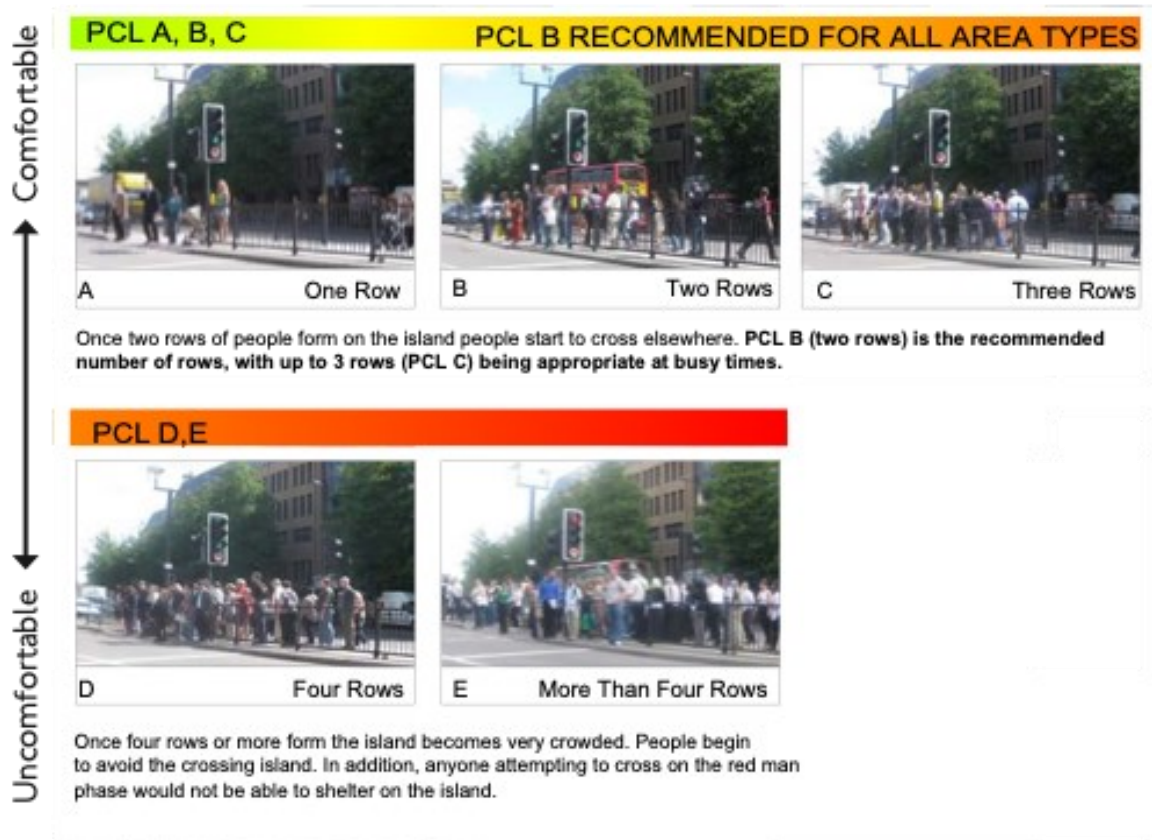


Figure 13 PCL for Queues on Crossing Islands

3 Lighting Update

Following the comments of your lighting colleague our consultant has taken the response in to account and updated the report (attached). The updated findings show the path can be adequately lit with little to no impact on the woodland and for ease the main comments and designer's responses are set out in the table below.

Item	Medway Engineer Review	Designer's Response 23/12/20
1	The 10m lamp column in North Dane Way they include in the lighting calculation will soon be having its lantern changed via our LED roll out. This will result in much reduced backspill of light due to leds superior optic control. Then add in, that it will fitted with a 5 degree tilt mounting, I think we will find the illumination to the path will be much more reduced than shown on calculation.	A calculation has been re-run with the an assumed Isaro Pro 48 LED lantern and there is still a significant level of contribution to the byway from the 10m column. The contribution is required for spill light assessment but can be removed at detailed design to demonstrate that the footpath is lit independently.
2	Lamp columns where there is no vehicle access for maintenance should be of a 5m fold down type. They are using new 6m columns.	Noted. This is not yet a detailed design and exact column details will specified at a later date. The use of 6m columns would be requested at detailed design to ensure minimum horizontal illuminance is achieved.
3	There is no Maintenance Factor entered with the AXIA lantern on their calculation, leaving it as 1.0. This is not realistic, and therefore should be changed as per BS.	The calculations reviewed are for spill light/ecology assessment only. The MF was set to 1.0 to simulate the installation at first switch on with no lantern degradation. The revised lantern outputs will ensure that illuminance values can still be achieved with the appropriate MFs for technical review.
4	Our 'standard' lantern is now the Thorn Isaro Pro with 7 pin Nema, and any new street light that will be Highways to maintain will need to be one of these.	At the time of this assessment, the Isaro Pro was not available with both front and rear shield photometry. I am happy to accommodate the standard spec as long as the photometry is in place to prove that the spill light will be contained. If the data is not available, I would request an exception is made for the Axia to comply with planning conditions.
5	I would expect a scheme using 5m fold down columns (where there is no vehicle access) rather than existing units on other roads where we cannot guarantee won't be changed/replaced and moved. In other words I would expect the footway to have its own dedicated lighting installation.	Clarification may be needed on this comment but the response to my interpretation is as follows: The footpath will be lit by two new columns with one located at each end from within the adopted highway boundary. Columns will not be installed on the byway itself. 6m columns will be required to ensure minimum illuminance is achieved without encroaching the byway land. The contribution from any existing lighting will be removed at detailed design to ensure the footpath is illuminated independently.

In addition, a short supplementary document entitled 'Lighting Assessment', has been provided which is attached.

A plan has also been supplied entitled 'Byway Trip Estimation', which has hand-written figures on a copy of a layout plan from the Reserved matters application MC/20/0347. This is also attached.

Planning Officer comment.

In respect to the first point raised, under the extant planning permission for the site – MC/18/0556 - the byway under discussion was not within the application site, as it is in the current application, and did not form part of the matter of 'Access' being proposed in that submission. As such no details of any works to that link were provided within the application submission.

The applicant's agent refers to the Design and Access Statement for the historic planning permissions.

Within the 'Evaluation' section, Section 2, of the Design and Access statement for MC/18/0556, at part 2.2 'Site Location and Connectivity' and the subsection 'Pedestrian and cycle connection' reference is made to the byway RC29 in respect to the part of the byway within the application site. This subsection concludes 'It is proposed that new development shall incorporate existing rights on way on their current alignment, supplemented by new routes reflecting new pedestrian desire lines.'

At part 2.13 is entitled 'Opportunities and Constraints' and in respect to the byway there is a plan (Figure 12 : Constraints plan), byway RC29 is incorrectly shown as RC27 and the various byway arms through and near the site are shown on this plan. There are no specific proposals for RC29 within this section, and nothing homing down to the 40m section byway under discussion, but under the title of 'Landscape and Visual Context' there is a list of seven points, one of which states at a high level 'retain the existing byway as a high quality and attractive route'.

Within that same DAS document, at section 4, are a number of Design Parameters and Development Strategies upon which the decision notice was tied.

At 4.1 the Design Parameter 'Site Access' there is no reference to the use of the section of byway under scrutiny or the byway network more generally.

At 4.2 the Development Strategies, Strategy One : Indicative Internal Strategy and Movement, there is a subsection 'Walking and Cycling' there is simply reference to footways and cycleways being designed to integrate with the location highway network and 'integrated within the network are retained public rights of way in accordance with saved Policy L10', which is related to development not prejudicing the amenity or cause closure of a PROW unless an acceptable alternative is provided.

From the file records for planning application MC/18/0556 (extant permission) the works to provide a contribution to improve a 280m length of the RC29 byway, which is outside of the application site and of which the 40m section is question is part, arose from a request from the PROW team within the council and has then been carried through to the S106 for that permission.

The related obligation request from the council's Public Rights of Way team under planning permission MC/18/0556 details *"RC27 footpath and part of the RC29 byway are incorporated into the masterplan of the development and assurance is sought that these will be surfaced appropriately and maintained as part of the management plan. However, it is also essential that there is mitigation against the considerable footfall that will occur on all of the adjacent footpaths, bridleways and byways as a result of this development."* And *"The part of the RC29 that forms the boundary on the north west of the site should also be considered for resurfacing to cope with the extra volume of byway traffic, 288 metres = £10,944"*.

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 in the winter months for all users, with the resultant increased footfall on the local PROW network once the development was built out.

It is also reiterated that the reason for the condition 25, related to the 40m length of RC29 in question, was in respect to the implementation of strategic cycle routes and was not to rely on this byway as an access to the development site under the matter of 'Access' that was being proposed for the development.

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.”

In respect to the second point, the committee report explains that there is a significant difference between the extant planning permission and the current planning permission in relation to the 40m section of the byway in question, providing sole access to/from Lordswood. Under the extant planning permission this route did not form part of the matter of 'Access' and while it may be used by some for access at sometimes there is formal (would be adopted) pedestrian and cycle access agreed as part of the matter of 'Access' via North Dane Way. Therefore, under the extant planning permission options are available to any resident/cyclist should they not wish to use the byway link in the dark, late at night or in inclement weather, for example. Under the current proposal the byway route would be the only access to/from the site with Lordswood. It would need to be used by all pedestrians and cyclists wishing to access to/from Lordswood at all times of the day or night and in all weathers.

In respect to the third point, this 'Lighting Assessment' document has been provided for relaying to committee members and not as a formal planning submission document. There has not been undertaken any review by Highway Lighting Engineers, the KCC Ecologist or Tree Officer however the lighting assessment supplied seeks to provide lighting to a Class P6 level for 'byway lighting' and not to Class P4 level, which is 'residential access roads'. The committee report explains that this is not considered to be an acceptable lighting Class for the proposed access to/from Lordswood.

Further Correspondence from the Applicant's Agent (officer response in italics)

Please refer to the item appended to this agenda.

In part the agent requests the deferral of the consideration of the planning application to allow for consultation on the items provided on 24 December 2020 in respect to lighting and trees.

However, as explained in the officer commentary in respect to those items the lighting scheme (supplied on 24 December 2020) is only proposing illumination a Class P6 level for 'byway lighting' and not to Class P4 level, which is for 'residential access roads' and is considered to be the appropriate illumination level for the proposed access. Without a scheme to the appropriate illumination level neither the lighting scheme submitted with the application nor that provided on the 24th December 2020 are acceptable against policy and guidance at that basic level. This matter is discussed more fully in the committee report.

The agent now confirms that the applicant would accept a Grampian condition to secure Traffic Regulation Orders (TRO) "to control use of the byway link by horses and motorised vehicles". The Agent states "The applicant had agreed to work with Medway Council Officers to help control motorised or horse use of the 40m byway path by funding and supporting a TRO order."

However, without an acceptable access proposal being submitted no conversation with the Council departments that would be involved in respect to the matter of any TRO amendments related to the byway and an acceptable access scheme have taken place. Legislation other than planning legislation would be involved in those considerations. For the purposes of planning matters Grampian conditions related to TROs to stop the use of the access to the housing site by horses and motorised vehicles would be acceptable.

Such a condition would also be required for a TRO to prevent access to the byways RC29 and RC27 by motorised vehicles. This would need to include any part of the byway that crosses through the residential area within the site, for reasons of the safety of other users.

In respect to the matter of the Ancient Woodland and the duty of consistency the Agent writes that in respect to the Secretary of States comments on the previous application and 'The report rightly acknowledges that the previous approval is a material consideration and refers to the case law relating to consistency of decision making.'

Within the committee report the duty of consistency is explained as follows:

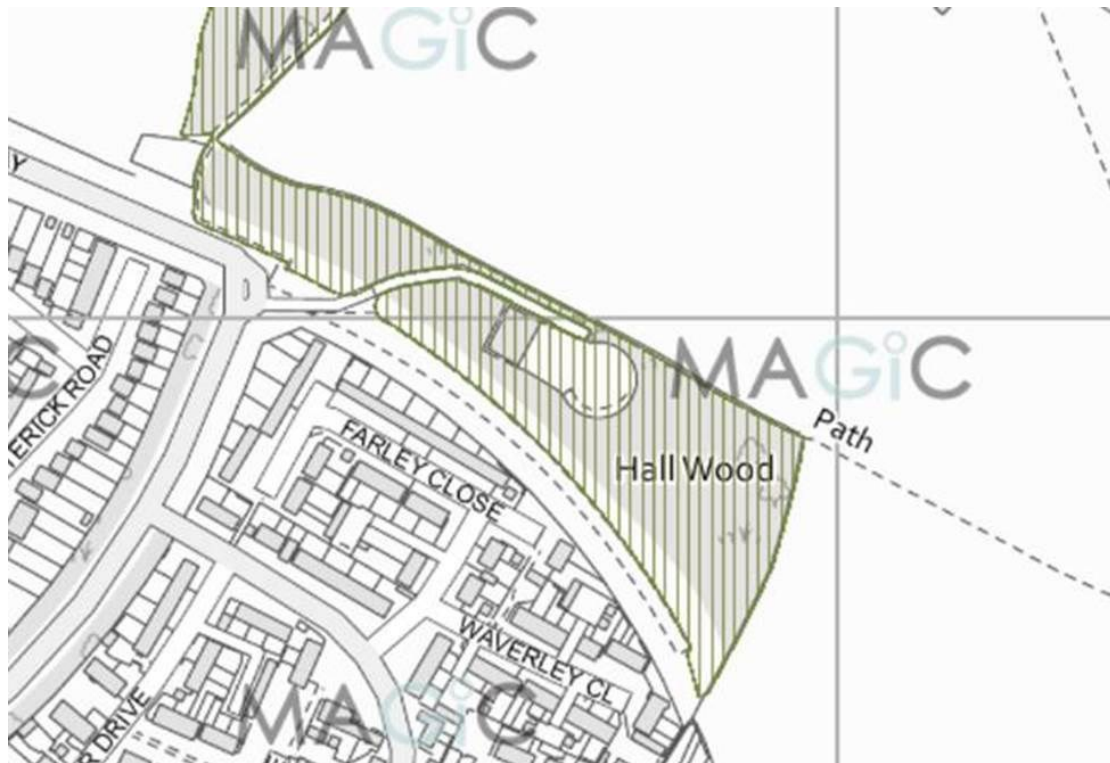
"However, the Council is also under a legal duty of consistency. This means that the Council has to have regard to previous relevant decisions, and that whilst the Council is free to reach a decision that differs from those decisions, before doing so it is required to have regard to the importance of 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 137.2 [page 52]

However, clearly the impacts of the current proposal on the Ancient Woodland will not be the same as those of the extant planning permission, as considered by the SOS as part of a 'titled balance' exercise for that alternate scheme. The current access proposal is not the access proposed in that previous application.

The details submitted to date for the current proposal, including those of the 24 December 2020, are not of an acceptable scheme and do not show lighting that would provide an acceptable illumination level for the access to this housing site. The committee report explains sufficient details are not available to be able to fully assess the impact on the Ancient Woodland against current policy and guidance.

The Agent also writes that “the proposed minor widening is on the highway channel side not the Ancient Woodland side and therefore does not involve any excavation closer to the Ancient Woodland than the existing cycleway/route way which is already fully constructed.”

However, the DEFRA magic map shows that the byway itself and the highway verge to North Dane Way are within the designation of ‘Ancient Woodland’. (Shown hatched on the plan below.)



Ancient Woodland designations are not only designated as such due to the trees but also the value of the ancient soil and terrestrial ecosystems, rhizomes, nutrients etc.

Planning Appraisal

Access/Highways Issues

Add bullet point to list of proposed works under heading (7) Hoath Way Roundabout on p.69

- Provision of pedestrian crossing to the south of Hoath Way roundabout on Hoath Way

Conclusions and Planning Balance

Historic Planning Permissions

Replace last sentence of the fourth paragraph on p.105 with the following wording:

The current proposal also includes a nursery and retail unit provided on site.

Page 130 MC/20/1886 7-11 Central Parage, Rochester

Correspondence from the Applicant's Agent has been received explaining that a temporary fence has been installed around the area where the cold-rooms are to be installed but to date have not installed the cold-rooms, which are two white boxes. The area behind the fence was used for overspill storage during the Christmas period. The fence provides a screen and security for staff when they come outside to collect stock. If permission is granted, they would, seek permission to retain this fence to protect and screen the cold-rooms. This could be addressed under Condition 3.