

Ref: HPC/1042

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Dear Wendy,

**Re: Gibraltar Farm LPA REF MC/19/0336**

We have reviewed the committee report and the balancing assessment within it, which focuses principally on the suitability of the 40m stretch of byway link close to North Dane Way. It is clear that the additional technical information (which addresses the referencing to a lack of information and uncertainty on the lighting point and impact on nearby trees to this byway link) must be properly evaluated by your colleagues given the importance of the application. It is therefore important that the application is not determined until the report is updated to reflect the necessary internal consultation with your tree and lighting colleagues together with the updated position of my client set out in this letter. I would therefore request that the application is presented instead to the February Committee when the position of these officers is known and the content of this letter considered.

Firstly Maidstone Borough Council issued the decision notice on 25 November 2020 and your report on Pages 6, 15 and 26 needs to be updated to reflect this.

It is also important to clarify that the applicant will accept a Grampian condition to secure a TRO to control use of the byway link by horses and motorised vehicles, as explained later in this letter. This removes the conflict point between users of this section of the link and on this basis the report confirms an acceptance of the 3m width for this short (40m) section of the overall link which should be reflected in an updated assessment of the overall balance. The committee report refers to this Grampian condition on Page 72 as "particularly beneficial" and this change is therefore of influence to your conclusion on the social balance and the Council's position on the overall "tilted balance".

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Page 33 of the report suggests 'Access to/ from Lordswood is considered to be a particularly problematic aspect of this proposed scheme....'. The only reason this is a point of issue for this submission is that the earlier permission (approving access from North Dane Way) has not been able to be delivered because of Medway Council's decision to block the sale of a narrow ransom strip serving the development from North Dane Way. The financial offer to Medway Council at the time was £7 million, which was a sum in addition to all agreed S106 contributions following the Secretary of State's decision to grant planning permission after a Public Inquiry. It is no secret that Medway Council did not like the decision of the Secretary of State and chose to block the site coming forward. Medway Council rejected the significant financial offer of the applicant and this is the origins of this submission which proposes an alternative vehicular access and this background is relevant.

As is reflected in your report the current proposal is very similar to the approved scheme in other respects and there are no technical issues with respect to access and connectivity to Hempstead. Maidstone Borough Council (decision attached) has also approved the highway improvement works within their borough. In fact the access connections in this direction are significantly improved compared with the approved scheme which allowed only for an emergency access to Ham Lane.

The report states at Page 35 that 'The proposed footway/cycleway access would be the only connection of the proposed housing development to/from Lordswood which is the urban area of which the development would be an extension.' This is not correct as there are a number of informal and formal linkages, (including a permissive passage across the ransom strip referred to above to the tarmaced surface of the North Dane Way spur). There are also bridleway connections to Lordswood Leisure Centre that the council do not maintain and are blocked, which the applicant has offered to fund clearance and contribute to maintaining in the future.

The report then undermines the strength of the linkage between Lordswood and Hempstead, focusing on perceived shortcomings within a 40m stretch of a total distance between Lordswood and Hempstead of some 1,350m, i.e under 3% of the total cycleway/pedestrian route length between these two parts of the urban area which can be funded and delivered by the scheme as a whole. The improvements to cycleway/footway connections, (both existing and proposed) around and within the development to serve this linkage between Hempstead and Lordswood are agreed as a significant wider improvement of this development. This wider focus of positive benefits flowing from this strategic link are not conveyed in the report nor the ability to deliver the housing, economic and social benefits recognised by development in this area previously by the Secretary of State. This conclusion is justified within the Committee report because of shortcomings of the 40m byway link in terms of control, lighting and tree impact, all of which the further information and clarification recently submitted and hereby confirmed addresses.

Focusing on the 40m length, as is acknowledged on Page 36, there are improvements proposed to the unmade up section of byway RC29 and the applicant welcomes the acceptance of a 3m wide hard surfaced access at Page 39. The applicant agrees that more pedestrian and cyclists will use this 40m link, but the referencing of an urbanising and negative effect on the character of

the path (Page 39 of the report) is less clear given a) all of this section of link is visible from North Dane Way, b) no change is proposed (because of the proposed 3m width) to the Hall Wood tree boundary which screens it and also c) there is an equipped enclosed play park visible for most of the 40m length which already influences the character of this section of the link.

With respect to conflict with horses, it has been accepted by the Horse Society that a byway outlet to North Dane Way, where there is no crossing point of the road, is not a "desire line" for horse riders. The applicant has agreed to fund the clearance and to improve existing bridleway links that will connect with an underpass of North Dane Way to the west of the Lordswood Leisure Centre. This has been agreed with the Horse Society and therefore the issue of potential conflict with horse riders is overplayed by Officers (Page 39 and Page 40.) 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. The officers report makes clear that a Grampian condition should be imposed and the applicant will accept this requirement so the conflict point would no longer be relevant.

Further lighting information has been provided relating to this 40m link which is proposed to be lit at each end from North Dane Way and also the adopted section of the proposed housing development. The lighting specialist acting for the applicant demonstrates that the lighting is adequate and we have addressed the points raised at Page 43 of your report. Lighting was minimised to reduce any perceived ecological impacts and we are pleased that there is acceptance of the lighting approach that is proposed in ecological terms (Page 44 of the report), if the additional lighting information is reviewed and accepted by your colleague. Other matters raised at Page 41 of the report would be addressed by the imposition of a Grampian condition which can be accepted by the applicant.

The commentary on the Ancient Woodland at Page 45 misses the wider context that the Secretary of State accepted that the overall benefits of a housing development in this location, which justified a vehicular access connection involving the loss of Ancient Woodland for the connection to North Dane Way, is now proposed to be retained by this proposal. Woodland planting and landscaping is proposed in place of the earlier approved road connection on this eastern side of the Ancient Woodland. The report rightly acknowledges that the previous approval is a material consideration and refers to the case law relating to consistency of decision making.

As the 3m width of the 40m length byway link is accepted and subject to the additional lighting information being accepted with the imposition of the grampian condition to cover the TRO, this upgrade section would simply involve the resurfacing of an existing (40m length) informal (and already worn/trodden) and cleared byway channel. It is important that your report reflects the updated detail of the cellweb and use of permeable surfacing material that is proposed, which it is asserted will have no greater impact (in either visual/urbanising terms or in terms of tree root impact) than the proposed works (with a Type 1 or "hoggin" finish) advanced by your own PROW Officer within the report and which was secured by the S106 Agreement for the already approved scheme.

With respect to the widening of the current cycle way pedestrian link heading south east which runs adjacent to North Dane Way (not the 40m byway link that runs at right angles to it referenced above), 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. This section was in any event accepted to be addressed by planning condition under the earlier approved scheme and this ( a condition) should continue to be acceptable where the widening runs parallel to North Dane Way.

The ambiguous response from the Tree Officer on Pages 46 and 47 of the report is particularly frustrating given the amount of technical information supplied for an outline application of this type. We are not clear from the comments of the Tree Officer if there is any clear justification of harm that is perceived to exist for the 40m byway link. An updated tree response is critical for the members decision making and this response should reflect a) that the comments take account of all the detailed information submitted by our consultants b) acknowledges that by removing the vehicular access from the North Dane Way spur, this proposal will have a significantly reduced overall impact on the trees and Ancient Woodland compared with the approved scheme and c) that the comments take account of the submitted Hall Wood Woodland Management Plan which will deliver a framework of benefits to the Ancient Woodland which like some of the bridleways and byways in the area (some of which are completely impenetrable) suffer from a lack of management. These factors collectively serve to address the requirements of paragraph 175 of the Framework. Again it is reemphasised that if the additional lighting information proposed is accepted, then all that the applicant is proposing to this 40m section of byway is to create a more hardwearing surface along its existing "worn down" channel. A treatment visually and in terms of tree root impacts that would be directly comparable if not superior to what your PROW Officer describes (within your report ) would be provided under the approved S106 Agreement.

It is concluded that sufficient lighting and tree information has been submitted to allow a definitive final assessment by your Tree and Lighting Officers recognising the now accepted 3m width (with Grampian TRO condition) as a suitable footpath/cycleway link to serve the development corridor and subject to the ecological impacts being accepted on the basis that the lighting details proposed by the applicant are acceptable (following the additional technical work.)

I would therefore request that the application is not determined until the clear position of your Tree and Lighting Officers are established, given the reliance you place on these factors for the social and environmental balances affecting your overall recommendation.

Yours Sincerely,

Alister Hume  
Hume Planning Consultancy Ltd