

**MC/21/1296**

**Date Received:**

5 May 2021

**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 - Re-submission of MC/19/0336.

**Applicant Agent**

F.D. Attwood & Partners  
Hume planning Consultancy Ltd  
Alister Hume  
Innovation House  
Discovery Park  
Innovation Way  
Sandwich  
Ct13 9ND

**Ward:**

Lordswood and Capstone Ward

**Case Officer:**

Mary Smith

**Contact Number:**

01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 28th August 2024.**

**Recommendation - Approved Subject to:**

**A A S106 agreement being entered into to secure the following:**

- (a) The provision of 25% affordable housing
- (b) Financial contributions as follows:
  - i. Provision of an on-site nursery to the value of **£829,561.50** or if a potential nursery operator cannot be reasonably found before the start of its construction, a contribution of this amount towards mainstream nursery education within a radius of 2 miles from the development site
  - ii. Contribution of **£1,047,188.83** towards mainstream nursery/ primary education within a radius of 2 miles from the development site, and/or SEND education within Medway

- iii. Contribution of **£1,613,349** mainstream or SEND secondary/sixth form education within Medway
- iv. Contribution of **£380,416.50** to support the creation of additional health service capacity
- v. Contribution of **£47,115** towards Youth Services for programme delivery for young people (ages 8-19 and up to 25 for with additional needs) in the Gillingham area, which may include facilities, providing access, supplies, equipment, and/or instructors
- vi. Contribution of **£500,843.11** to enhance off-site open space in the vicinity of the development
- vii. Contribution of **£107,000** towards improvement of paths in the vicinity
- viii. Contribution of **£146,470.50** towards indoor sports facilities in Medway
- ix. Contribution of **£260,000** towards the provision of a new bus service to serve the development and/or the extension of an existing service to serve the development
- x. Contribution of **£460,000** to the Council towards the provision of link footway and cycle way between the junction with Lidsing Road and the residential area in Hempstead
- xi. Contribution of **£370,000** to the Local Highway Authority towards the provision of a pedestrian crossing and scheme of traffic calming measures along Hempstead Road
- xii. Contribution of **£104,103** toward waste and recycling requirements for the provision, improvement and promotion of waste and recycling services
- xiii. Contribution of **£147,721.50** towards the provision of migrating bird disturbance mitigation measures within the Strategic Access Management and Monitoring Strategy (SAMMS)
- xiv. Contribution of **£110,232** towards community facilities
- xv. Contribution of **£171,265.50** towards heritage sites and museums
- xvi. Contribution of **£99,351.00** towards libraries to improve equipment and facilities at Lordswood Library and/or Hempstead Library
- xvii. Contribution of **£110,250** towards public realm, to assist with the development of public realm improvements to Gillingham and/or Rainham town centre
- xviii. Contribution of **£10,000** for mitigating against vehicular traffic on the PROW link between North Dane Way and the main part of the site, should it be required
- xix. Contribution of **£10,000** towards the Councils costs of advertising and administering any traffic regulation order required for removing horses and motorising vehicles from parts of the public right of way network, should it be required

**B The imposition of the following conditions**

1 Reserved matters

Approval of the details of the layout, scale and appearance of the buildings, and the landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the terms of the submitted application and to ensure that these details are satisfactory.

2 RM timings - first phase

Application for approval of the reserved matters relating to the first phase of the development shall be made to the local planning authority not later than eighteen calendar months from the date of this permission.

Reason: To comply with Section 92(2) of the Town and Country Planning Act 1990.

3 RM - other phases

Application(s) for approval of the reserved matters on all the remaining phases of the development shall be made to the local planning authority no later than 3 years from the date of this permission.

Reason: To comply with Section 92(2) of the Town and Country Planning Act 1990.

4 Undertake works - timing

The development hereby permitted shall begin no later than 12 months from the date of approval of the last of the reserved matters relating to the first phase to be approved. Development on any subsequent phase must commence within 12 months of approval of the last of the reserved matters relating to that phase.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

5 Drawings

The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 4 May 2021  
08418-A-L-(00)-0206 Rev G Overall Site Plan  
08418-A-L-(00)-0400 Illustrative Street Scene A  
08418-A-L-(00)-0402 Illustrative Street Scenes B & C

18-015-002 Rev O Proposed Site Access Option 1  
18-015-027 Rev F Proposed Junction 4 Improvements  
18-015-028 Rev G Proposed Hoath Way Roundabout Improvements  
18-015-029 Rev D Proposed Chapel Lane Improvements  
18-015-042 Proposed Westfield Sole Road Improvements  
18-015-049 Rev H Proposed Pedestrian and Cycle Route Improvements

Received 2 February 2023

08418-A-L-(00)-0203 Rev X Proposed Site Plan

08418-A-L-(00)-0207 Site Location Plan

Received 27 February 2023

08418-A-L-(00)-0201 Rev A Site plan showing public right of way

08418-A-L-(00)-0202 PL3 Proposed site plan showing buffer zones

Received 14 March 2023

18-105-039 Rev C Land Ownership Plan

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

6 Phasing Plan (prior to reserved matters submissions)

Prior to the submission of the first application for reserved matters, a phasing plan for the development of the entire site shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall demonstrate how the development of the entire site can be brought forward to secure development in a timely manner in accordance with following elements and quantum's and the development shall be carried out in accordance with the approved details:

- 450 houses/units maximum
- Children's nursery
- Retail unit (including trigger for its provision)
- New strategic woodland 3.9ha minimum
- 15m landscape buffer area/zone minimum where the development abuts the adjoining ancient woodland
- LEAPs and LAPs in accordance with Fields in Trust guidance
- 6.3ha as open space including identified areas for informal play
- Drainage infrastructure
- Highways infrastructure including road layout, cycle way and footpaths and associated open space/green infrastructure

Reason: Required prior to commencement of development to ensure that the key elements of each phase of the development is completed in an order which ensures that infrastructure needs, community facilities, landscaping/open space and access are in place relevant to each phase before further development is undertaken, in the interests of good planning.

## 7 Sustainable drainage site wide scheme

Prior to the submission of the first application for reserved matters, a site-wide scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. Those details shall include (if applicable):

- a) information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- b) a timetable and construction method statement for its implementation (including phased implementation where applicable);
- c) appropriate operational, maintenance and access requirements for each sustainable drainage component; and
- d) proposed arrangements for future adoption by any public body, statutory undertaker or management company.

The development shall be undertaken in accordance with the approved details.

Reason: Required prior to commencement to manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 175 of the NPPF.

## 8 Design Code

Notwithstanding the submitted Design and Access Statement, the first Reserved Matters application under condition 1 shall include an overarching Design Code document for the development of the entire site. The Design Code shall include consideration of character areas, parameter matters, principles of sustainable urban drainage, strategic landscaping, 'materiality' in respect to the buildings and hard and soft surface treatments, dwelling mix, matters of sustainability including measures to support and encourage safe pedestrian and cycle movement within and out from the site, aspirations towards energy efficiency, and measures to combat climate change and shall be approved in writing by the Local Planning Authority before any works on site commence. Each reserved matters application shall be accompanied by a statement to demonstrate how the approved Design Code has been adhered to or provide a coherent and justified argument relative to why there is any departure. The development shall be undertaken in accordance with the approved details.

Reason: Required prior to commencement to ensure compliance with the requirements of the NPPF to deliver a development of the highest quality, appropriate for its setting and incorporating energy efficiency and measures to combat climate change and with regard to Policies S4, BNE1, BNE2, BNE4, BNE25, BNE34, T3 and T4 of the Medway Local Plan 2003.

## 9 Construction Environmental Management Plan (CEMP)

No development shall commence within each phase or subphase until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include details of:

- hours of construction working
- measures to control noise affecting nearby residents
- dust, dirt and loose material control measures to avoid any airborne contaminants passing beyond the site boundaries, including sheeted loads and dampening stockpiles where necessary
- pollution incident control and site contact details in case of complaints
- the anticipated number, frequency, types and timing of vehicles used during construction (construction vehicles should avoid the network peak hours of 0800-0900 and 1700-1800 where practicable)
- measures to prevent access for unauthorised vehicles
- measures to ensure footways are open and unobstructed at all times and that suitable diversions are provided if required
- measures to minimise the impact of vibration and disruption to utilities;
- ingress, egress and parking arrangements of vehicles by site operatives and visitors
- loading and unloading of plant, materials and waste
- storage of plant and backfilling materials to be used
- the impact of any site illumination
- a vehicular (and pedestrian if required) signage strategy
- the erection and maintenance of security hoarding or other appropriate security or screening barriers, signs and scaffolding
- provision of wheel/chassis cleaning facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)

The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan.

Reason : Required prior to the commencement of development to protect neighbouring residential amenity with regard to Policy BNE2 of the Medway Local Plan 2003 and to ensure that construction of the development does not result in avoidable congestion on the M2 and A2, to ensure that they continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

## 10 Construction Surface Water Management Plan (CSWMP)

No development shall commence within any phase until details of a Construction Surface Water Management Plan (CSWMP) for that phase detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) has been

submitted to and approved in writing by the Local Planning Authority, in consultation with the Lead Local Flood Authority. The CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

- Temporary drainage systems
- Measures for managing pollution / water quality and protecting controlled waters and watercourses
- Measures for managing any on or offsite flood risk associated with the development

The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

Reason: Required prior to commencement to manage surface water during construction with regard to Paragraph 175 of the NPPF.

#### 11 Construction Environmental Management Plan (CEMP): Biodiversity

No works shall commence on each phase or sub-phase (including ground works and vegetation clearance) until a detailed Construction Environmental Management Plan: Biodiversity (CEMP: Biodiversity) for that phase has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following:

- Review of existing survey data and its relevance to the phase proposed
- Overview of mitigation required for that phase
- Details of habitat creation works required for that phase and timings to establish
- Detailed methodology to implement mitigation for that phase
- Timings of works for that phase - where required the mitigation requirements must align with the habitat creation works
- A map showing the areas where habitat is required to be protected during construction and areas which require mitigation to be implemented (including fencing to protect the Roadside Nature Reserve)
- The times during construction when specialist ecologists need to be present on site to oversee works agreed for that phase
- Responsible persons and lines of communication
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- Use of protective fences, exclusion barriers and warning signs
- Details of ecological enhancements to be incorporated into the open space and built area
- Interim management plan prior to management plan required as part of condition 54 commencing

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

Reason: Required to be agreed pre-commencement in each phase to safeguard the ecological interests of the site before works commence that could cause irrevocable harm and to ensure adequate maintenance for the protection of landscape and habitat with regard to Policies BNE2 and BNE37 of the Medway Local Plan 2003 and paragraph 186 of the NPPF.

12 Detailed Ecological Mitigation Strategy

No works hereby permitted (including ground works and vegetation clearance) shall take place until a detailed site wide Ecological Mitigation Strategy (EMS) including for woodland areas has been submitted to and approved in writing by the Local Planning Authority, to be informed by updated species/habitat surveys as appropriate and to include a timetable for implementation of the mitigation. The works on site shall take place in accordance with the approved EMS and timetable.

Reason: Required to be agreed pre-commencement to safeguard the ecological interests of the site before works commence that could cause irrevocable harm to them and to ensure adequate mitigation for the protection of habitat with regard to Policies BNE2, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 186 of the NPPF.

13 Detailed Ecological Management Plan (including Woodland Management Plan)

No works hereby permitted (including ground works and vegetation clearance) shall take place until a detailed site wide Ecological Management Plan (including a Woodland Management Plan) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be for the lifetime of the development and shall include details of on-going regular monitoring of the site to ensure that management is being successfully implemented and to identify any damage which may have been caused (including due to residents using the woodland), details to secure the implementation of any remedial measures found to be required and details of who would be responsible for ensuring compliance with/implementing the approved Plan. The Plan shall be implemented as approved for the lifetime of the development.

Reason: Required to be agreed pre-commencement to safeguard the ecological interests of the site before works commence that could cause irrevocable harm to them and to ensure adequate management measures are in place for the protection of habitat to accord with Policies BNE2, BNE37 and BNE39 of the Medway Local Plan 2003 and paragraph 186 of the NPPF.

14 Contamination 1

Unless otherwise agreed by the Local Planning Authority, development within each phase or subphase, other than that required to be carried out as part of an approved scheme of remediation, must not commence until conditions 15 to 17 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by

the Local Planning Authority until condition 17 has been complied with in relation to that contamination.

Reason: Required prior to commencement in the interests of health and amenity, this area is prone to fly-tipping and therefore it is anticipated that as yet unidentified contamination may exist on site and with regard to Policy BNE23 of the Medway Local Plan 2003.

#### 15 Contamination 2

Applications made pursuant to condition 1 for each phase or subphase shall be accompanied by an intrusive site investigation, in addition to any assessment provided with the planning application, which must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
  - adjoining land
  - groundwaters and surface waters
  - ecological systems
  - archaeological sites and ancient monuments
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: Required prior to commencement in the interests of health and amenity, this area is prone to fly-tipping and therefore it is anticipated that as yet unidentified contamination may exist on site and with regard to Policy BNE23 of the Medway Local Plan 2003.

#### 16 Contamination 3

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria,

timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required prior to commencement in the interests of health and amenity, this area is prone to fly-tipping and therefore it is anticipated that as yet unidentified contamination may exist on site and with regard to Policy BNE23 of the Medway Local Plan 2003.

17 Contamination 4

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of any development (other than development required to enable the remediation process to be implemented) unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: Required prior to commencement in the interests of health and amenity, this area is prone to fly-tipping and therefore it is anticipated that as yet unidentified contamination may exist on site and with regard to Policy BNE23 of the Medway Local Plan 2003.

18 Foul Drainage

The development hereby approved shall not commence until a foul drainage strategy, detailing how the developer intends to ensure that appropriate foul drainage is implemented (with a connection to foul sewer), has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in line with the agreed detailed design and recommendations of the strategy. No occupation of any premises shall take place until the installed scheme meets the agreed specifications for that premises (and connections are made to the Southern Water network).

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line the NPPF.

19 Arboricultural method statement

Notwithstanding submitted details, no development shall commence within each phase or sub-phase until an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP), which shall include details of all trees to be retained

and removed, any facilitation pruning required and the proposed measures of protection, undertaken in accordance with BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction-Recommendations' has been submitted to and approved in writing by the Local Planning Authority. The AMS shall include;

- full details of areas of hard surfacing within the root protection areas of retained trees, which should be of permeable, no-dig construction;
- full details of foundation design, where the AMS identifies that specialist foundations are required; and
- details of any below ground services infrastructure for the relevant each phase/sub-phase which is proposed to run through any identified Root Protection Area(s).

All approved barriers and/or ground protection measures shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority. The measures set out in the AMS and TPP shall be adhered to in accordance with the approved details.

Reason: Required to be agreed pre-commencement to each phase to safeguard the arboricultural interests of the site before works commence that could cause irrevocable harm and with regard to Policies BNE2, BNE37 and BNE43 of the Medway Local Plan 2003.

## 20 Archaeology

No development shall commence in any phase or subphase until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the agreed specification and timescale.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on any archaeological interest and to ensure that features of archaeological interest are properly examined and recorded with regard to Policy BNE21 of the Medway Local Plan 2003.

## 21 Foot/Cycleway to Lordswood

Notwithstanding drawing 18-015-049 rev H no development shall commence until details of a footway and cycleway access to/from the development site and Lordswood, based on the Arboricultural Impact Assessment, and the lighting scheme associated with that access have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- a) plans, sections drawings and infrastructure/furniture details; and
- b) a lighting scheme for the footway/cycleway including details of positions, service trenches, height, external appearance, any shielding, light intensity, colour, spillage (lux level plans showing the proposed levels), horizontal and vertical illumination and consideration of bats.

The approved details, including all lighting, shall be completed prior to the first occupation of any of the dwellings or buildings of other uses hereby approved on the site and they shall be retained as approved at all times thereafter (including the detailed specification of the lighting, to avoid harm to bats).

Reason: Required prior to commencement to ensure that a safe and well-lit access to and from the site is secured without harm to ecology with regard to Policies BNE1, BNE2, BNE5, BNE7, BNE8, BNE37, BNE39, BNE41, T1, T2, T3, T5 of the Medway Local Plan 2003.

## 22 Road Noise

No development shall commence above ground level within a phase or sub-phase, until a scheme of acoustic protection for dwellings within that phase or subphase has been submitted and approved in writing by the Local Planning Authority. The scheme shall include details of acoustic protection sufficient to ensure internal noise levels (LAeq,T) no greater than 30dB in bedrooms and 35dB in living rooms with windows closed and a maximum noise level (LAm<sub>ax</sub>) of no more than 45dB(A) with windows closed. Where the internal noise levels will be exceeded with windows open, the scheme shall incorporate appropriate acoustically screened mechanical ventilation. The scheme shall include details of acoustic protection sufficient to ensure amenity/garden noise levels of not more than 55dB (LAeq,T). All works, which form part of the approved scheme, shall be completed before the relevant dwelling is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To protect residential amenity with regard to Policy BNE2 of the Medway Local Plan 2003.

## 23 AQMA 1

No development shall commence above ground level until an Air Quality Emissions Mitigation Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall be prepared in accordance with the Medway Air Quality Planning Guidance (2016) and shall specify the measures that will be implemented as part of the development to mitigate the air quality impacts identified in the approved Air Quality Assessment. The development shall be carried out in accordance with the approved Mitigation Statement.

Reason: To ensure a suitable living condition for future occupiers of the permitted dwellinghouses with regard to Policy BNE24 of the Medway Local Plan 2003.

24 AQMA 2

No development shall commence above ground level within any phase or subphase until a schedule of measures to be incorporated into that development has been submitted to and approved in writing with the Local Planning Authority demonstrating compliance with the agreed Air Quality Emissions Mitigation Strategy. The development shall be implemented, and thereafter maintained, in accordance with the approved measures.

Reason: To ensure a suitable living condition for future occupiers of the permitted dwellinghouses with regard to Policy BNE24 of the Medway Local Plan 2003.

25 Boundary treatments including hedgehog holes

Prior to the first occupation of any dwellings in any phase or subphase details of all fencing, walling and other boundary treatments within that phase or sub-phase shall be submitted to and approved in writing by the Local Planning Authority. The details shall include provision of 'hedgehog holes' to aid wildlife permeability through the site. The development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling within the relevant phase or sub-phase and shall be maintained as such thereafter.

Reason: To ensure future occupiers amenity, for visual amenity within the site and to safeguard wildlife interests within the site with regard to Policies BNE1, BNE2 and BNE37 of the Medway Local Plan 2003.

26 Sustainable drainage management

Prior to the first occupation or use of any of the buildings or uses hereby permitted within any phase or sub-phase, a Sustainable Drainage Management and Maintenance Plan for the lifetime of the development, within that phase or sub-phase, shall be submitted and approved in writing by the Local Planning Authority (which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime) and the Plan shall be implemented in accordance with the approved details and maintained as such thereafter.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 175 of NPPF.

27 Drainage Verification Report

Prior to first occupation (or within an agreed implementation schedule) of any phase, sub-phase or dwelling, a signed verification report carried out by a qualified drainage engineer (or equivalent) shall be submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The

report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed. The unadopted parts of the drainage infrastructure shall be thereafter maintained in accordance with the approved scheme.

Reason: In accordance with paragraph 175 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

28 Hempstead side access lighting

Prior to the first occupation or use of any of the buildings hereby approved details of a lighting scheme for the pedestrian crossing to Lidsing Road, shown on drawing 18-015-002 rev O, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and completed prior to the first occupation or use of any of the buildings hereby approved.

Reason: To ensure pedestrian safety while crossing the road with regard to Policies BNE2, T1 and T3 of the Medway Local Plan 2003.

29 Severed Ham Lane

Notwithstanding the submitted details prior to the first occupation or use of any of the buildings hereby approved details of a scheme for the remediation of the redundant, stopped up section of Ham Lane, as shown on drawing 18-015-002 rev O, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include scope of remediation works, details of surfacing edging, other hard landscaping, soft landscaping, implementation and management of any planting and a timetable for the scheme of remediation works to take place. The development shall take place in accordance with the approved details.

Reason: To ensure the redundant section of Ham Lane is remediated in a timely manner and to safeguard the visual amenity of the area with regard to Policies BNE1, BNE25 and BNE34 of the Medway Local Plan 2003

30 Prior to the first occupation or use of any of the buildings hereby approved a Traffic Regulation Order(s) shall be in place to amend the speed limits on Ham Lane, Capstone Road and Lidsing Road, as shown on drawing 18-015-002 rev O and a copy of the Traffic Regulation Order shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To increase safety for pedestrians and cyclists using the carriage way to access from the new junction to the urban area of Hempstead with regard to Policies T1, T3 and T4 of the Medway Local Plan 2003.

31 TRO Hempstead Rd

Prior to the first occupation or use of any of the buildings hereby approved a Traffic Regulation Order shall be in place to reduce the speed limit to 30 miles per hour on Hempstead Road from the urban boundary at the western end of Hempstead Road to the approved junction works at Lidsing Road/Hempstead Road, as shown on drawing 18-015-002 rev O and a copy of the Traffic Regulation Order shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: To increase safety for pedestrians and cyclists using the carriage way to access from the new junction to the urban area of Hempstead with regard to Policies T1, T3 and T4 of the Medway Local Plan 2003.

32 Hoath Way roundabout

Notwithstanding the submitted details, prior to the first occupation or use of any of the buildings hereby approved:

- a) updated details of the highway works at the Hoath Way roundabout including updated Road Safety Audit(s) and further consideration of pedestrian improvements; and
- b) an update to the related 'Pre-development Tree Survey and Report' (Invicta Arboriculture, ref IA19 363 Rev B, dated September 2019) including any ground retaining details (in place of a retaining wall) and tree removal plan and tree protection plans

Shall be submitted to and approved in writing by the Local Planning Authority and the works shall thereafter be completed in accordance with these approved details.

Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority. All approved barriers and/or ground protection measures shall be erected before any equipment, machinery or materials are brought into this area in connection with these works and shall be maintained until all equipment, machinery and surplus materials have been removed from this area.

Reason: To ensure that current road safety matters and pedestrian safety are fully considered as part of the package of highway works upon which the proposal has been assessed, for protection of visual amenity, to avoid unnecessary harm to trees and with regard to Policies BNE1, BE43 and T1 of the Medway Local Plan 2003.

33 Replanting at Hoath Way roundabout

Prior to the removal of any vegetation as part of the works at the Hoath Way roundabout a scheme for replanting following the removal of trees within

highway land shall be submitted to and approved in writing by the Local Planning Authority. The details shall include soft landscaping, implementation and management of planting and a timetable for the scheme of replanting works. The development shall take place in accordance with the approved details.

Reason: To ensure the highway woodland is replaced to safeguard the visual amenity of the area, with regard to Policies BNE1 and BNE43 of the Medway Local Plan 2003.

34 Ecology at Hoath Way Roundabout

No works shall commence at the Hoath Way roundabout as hereby approved (including any ground works, site or vegetation clearance) until an ecology mitigation strategy including a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The mitigation strategy shall be implemented as approved in accordance with the approved timetable.

Reason: To ensure protection of the ecological interests of the location and enhancement of biodiversity with regard to Policy BNE37 of the Medway Local Plan 2003 and paragraph 186 of the NPPF.

35 Westfield Sole Lane

No dwelling or building hereby approved shall be occupied or any use of any of the buildings commenced until the 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 have been secured and implemented.

Reason: To secure the package of highway works upon which the proposal relies with regard to Policy T1 of the Medway Local Plan 2003.

36 Travel Plan

No dwelling hereby approved shall be occupied within any phase or subphase until a travel plan for that phase or subphase, based on the Framework Travel Plan, has been submitted to and approved in writing by the Local Planning Authority (in consultation with Highways England). The travel plan shall thereafter be implemented and maintained in operation (with updates as appropriate) as approved at all times.

Reason: To ensure that the M2 and A2 continue to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and with regard to Policy T14 of the Medway Local Plan 2003.

37 Retail unit/nursery unit acoustic scheme

Prior to the occupation of the E(a) (retail) or children's nursery units hereby permitted, a scheme to minimise the transmission of noise from the respective use of the relevant premises shall be submitted and approved in writing by the Local Planning Authority. Noise from the premises should be controlled, such that the noise rating level (L<sub>A,r</sub>,T<sub>r</sub>) emitted from the development shall be at least 10dB below the background noise level (L<sub>A90</sub>,T) at the nearest residential facade. All measurements shall be defined and derived in accordance with BS4142: 2014. All works which form part of the applicable approved scheme shall be completed before the respective unit is occupied and shall thereafter be maintained in accordance with the approved details.

Reason: To protect residential amenity with regard to Policy BNE2 of the Medway Local Plan 2003.

38 Energy efficiency and climate change

Applications submitted pursuant to condition 1 matters of 'layout' 'scale' and 'appearance' of the buildings shall for each phase or subphase, include a schedule of the measures to address energy efficiency and climate change to be included within the development. Prior to the first occupation of any phase, sub-phase or dwelling/building, a verification report prepared by a suitably qualified professional shall be submitted to and approved in writing by the Local Planning Authority confirming that all the approved energy efficiency and climate change measures have been implemented for that part of the development.

Reason: In the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 157 and 159 of the NPPF 2023.

39 Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 15, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 16, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 16 are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 17.

Reason: This area is prone to fly-tipping and therefore it is anticipated that as yet unidentified contamination may exist on site and with regard to Policy BNE23 of the Medway Local Plan 2003.

40 Surface Water Infiltration

No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the NPPF. The site is within a SPZ of a principal aquifer unit.

41 RM in accordance with phasing plan

Applications submitted pursuant to condition 1 for each phase or subphase shall provide a schedule showing both the phase/subphase provision of the elements and quantum and the cumulative provision to date within the agreed site wide phasing plan in condition 6. The development shall be carried out in accordance with the approved details with each element delivered in accordance with the approved timescale.

Reason: To ensure adequate infrastructure, community facilities, landscaping/open space and access to the development including with regard to Policies BNE1, BNE2, BNE37, L4 and T1 of the Medway Local Plan 2003.

42 Management of Open Space

The first application submitted pursuant to condition 1 matter of 'landscaping' shall be accompanied by a site wide management and maintenance strategy for the public realm, excluding streets, and the management and maintenance of the public realm shall take place in accordance with the approved details and be maintained as such thereafter.

Reason: To ensure a satisfactory external appearance and provision for landscaping with regard to Policies BNE1, BNE2 and BNE6 of the Medway Local Plan 2003.

43 Levels

Applications submitted pursuant to condition 1 matters of 'layout', 'landscaping' and 'scale' shall include, for each phase and subphase, details of existing and proposed site levels across that phase or subphase as well as in relation to the land adjacent to that particular phase or subphase of the development site. The development in that phase or subphase shall thereafter be carried out in accordance with those approved details.

Reason: To enable assessment of the proposal with regard to Policies BNE1, BNE2 and BNE43 of the Medway Local Plan 2003.

44 Drainage details - phase or subphase

Applications submitted pursuant to condition 1 matters of 'landscaping' and 'layout' shall, for each phase or subphase, be accompanied by sustainable surface water drainage details for that phase or subphase which shall accord with the approved site-wide scheme and include details of the disposal of surface water, a timetable for implementation and proposed arrangements for future adoption by any public body, statutory undertaker or management company. The development of that phase or subphase shall thereafter be carried out in accordance with those approved details.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at paragraph 175 of the NPPF.

45 Landscape/buffer areas

Applications submitted pursuant to condition 1 matters of 'landscaping' and 'scale' shall, for each phase and subphase, include full details of both hard and soft landscape works, details of how they will comply with the approved Ecological Mitigation Strategy for the site, any artefacts to be located within the public space of that phase or sub-phase and a timetable for implementation. These details shall include existing and proposed finished ground levels; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; all paving and external hard surfacing; decking; and minor artefacts and structures (play equipment, seating, refuse receptacles, planters, tree grilles, any other decorative feature(s)). Soft landscape works shall include details of planting plans; written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); and schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate. The development within that phase or subphase shall be carried out in accordance with those approved details and any trees or plants within that phase or subphase which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping taking into account ecology and with regard to Policies BNE1, BNE6, BNE37 and BNE39 of the Medway Local Plan 2003.

46 Detailed Ecological/Biodiversity Enhancement Plan

A detailed Ecological/Biodiversity Enhancement Plan including a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority at the same time as application(s) made pursuant to condition 1 matter of 'landscaping'. The approved Plan(s) shall be implemented in accordance with the approved timetable.

Reason: To ensure biodiversity enhancement and co-ordination with landscape plans with regard to paragraph 180 of the NPPF.

47 Bat sensitive lighting

Applications submitted pursuant to condition 1 matters of 'layout' for each phase and subphase shall include a "bat sensitive lighting plan" for the site boundaries for that phase or subphase . The lighting plan shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory; and
- b) show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory.

All external lighting installed in the bat sensitive areas of the site shall be in accordance with the specifications and locations set out in the plan and shall be installed prior to the first occupation of any dwelling or building within the relevant phase or sub-phase and shall be maintained thereafter in accordance with the approved plan.

Reason: To ensure protection of the ecological interests of the site with regard to Policy BNE37 of the Medway Local Plan 2003 and paragraph 186 of the NPPF.

48 Parking

Applications submitted pursuant to condition 1 matter of 'layout' for each phase or subphase, shall show land reserved for parking in accordance with the adopted Parking Standards with the exception of any garage which shall not be counted towards meeting the adopted parking requirement. None of the buildings shall be occupied within the relevant phase or subphase until these areas have been provided surfaced and drained for that relevant phase or subphase in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to those reserved vehicle parking areas.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking and with regard to Policies T1 and T13 of the Medway Local Plan 2003.

49 EV charging

Applications submitted pursuant to condition 1 matter of 'layout' for each phase or subphase, shall include details for the provision of electric vehicle charging

points (EVCP) at a ratio of one EVCP per private driveway and EVCPs at 10% of communal parking areas. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development in that phase or subphase shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 116E of National Planning Policy Framework.

50 Lighting level for link to Lordswood

In relation to condition 21 all lighting for the access to/from the development site and Lordswood must be to P4 lighting level (BS EN 13201:2015 'Guidelines on the selection of lighting classes') with P4 level illumination along the whole length of the access and the lighting scheme operational from dusk until dawn without any dimming.

Reason: To ensure that a safe and well-lit access to and from the site is secured with regard to Policies BNE1, BNE2, BNE5, BNE7, BNE8, BNE37, BNE39, T1, T2, T3, T5 of the Medway Local Plan 2003.

51 No occupation before roads provided

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

Reason: This condition is required to ensure access, pedestrian and cycle and vehicular access is available for each dwelling before it is occupied with regard to Policies T1, T3 and T4 of the Medway Local Plan 2003.

52 Access - Ham Lane/Capstone Road/Lidsing Road/Hempstead Road

Prior to the first occupation or use of any of the buildings hereby approved the scheme of highway works at Ham Lane, Capstone Road, Lidsing Road and Hempstead Road, as shown on drawing 18-015-002 rev O, shall be completed.

Reason: As part of the package of highway works upon which the proposal has been assessed, in the interests of safety and amenity and with regard to Policies BNE1, BNE2 and T1 of the Medway Local Plan 2003.

53 Chapel Lane junction

Prior to the first occupation/use of any of the dwellings or uses hereby permitted the highway works at the junction of Chapel Lane with Hempstead Valley Drive, as shown on drawing 18-015-029 rev D, shall be completed. Tree Protection measures as part of these works shall take place in accordance with the 'Arboricultural Method Statement and Tree Protection Plan' in the 'Pre-

development Tree Survey and Report' document (Invicta Arboriculture, dated 20th June 2019; ref. IA19/342). Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority. All approved barriers and/or ground protection measures shall be erected before any equipment, machinery or materials are brought onto that highway works site and shall be maintained until all equipment, machinery and surplus materials have been removed from that site.

Reason: As part of the package of highway works upon which the proposal has been assessed and for protection of visual amenity with regard to Policies BNE1, BNE43 and T1 of the Medway Local Plan 2003.

54 Highway improvements M2 Junction 4

No more than 200 dwellings on the site as hereby permitted, shall be occupied until the improvement works at M2 Junction 4 have been completed and are opened in full to traffic as shown on approved drawing 18-015-027 Revision F (Proposed Junction 4 Improvements).

Reason: This is to ensure that the M2 Junction 4 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety with regard to Policy T1 of the Medway Local Plan 2003.

55 Low NOx boilers

All gas fired boilers installed in the dwellings hereby approved shall meet a minimum standard of <40mgNOx/kWh.

Reason: To ensure air quality standards are not detrimentally impacted by the development with regard to Policy BNE24 of the Medway Local Plan 2003.

56 Retail unit - no change of use

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification) and the Town and Country Planning (Use Classes) Order 1987 (or any order amending, revoking and re-enacting that Order with or without modification) the approved retail unit shall only be used in Use Class E(a).

Reason: To enable the Local Planning Authority to control the use, to enable suitable retail provision on the site and with regard to Policy R13 of the Medway Local Plan 2003.

57 Nursery unit - no change of use

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) and the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) the approved nursery unit hereby permitted shall only be used as a children's nursery.

Reason: To ensure that the nursery provision remains on site to provide adequate facilities for the local population, to enable the Local Planning Authority to control the use and its impact on residential amenity and the adjacent protected open space with regard to Policies S6, BNE1 and BNE2 of the Medway Local Plan 2003.

58 Retail unit/nursery unit deliveries

No commercial vehicles related to the Class E(a) (retail) or children's nursery uses hereby permitted shall arrive or depart or the associated handling of goods take place outside the hours 07:00 to 19:00 Monday to Friday, 08:00 to 18:00 Saturday or at any time on Sunday or Bank Holidays.

Reason: To protect residential amenity with regard to Policy BNE2 of the Medway Local Plan 2003.

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

### **Proposal**

This is an outline application with all detailed matters except access reserved for future consideration. The application is a re-submission of previous application MC/19/0336 which was refused and dismissed at appeal. The main elements of the proposal are:

- up to 450 dwellings (including 25% affordable)
- a children's nursery on the site (299sqm internal floorspace indicated)
- a small retail unit for everyday goods and possibly a café (up to 85sqm)
- open space and landscaping including a 15m buffer to the ancient woodland to the west and south of the western part of the site
- primary vehicular access on to Ham Lane between Gibraltar Cottages to the west and the development on the opposite side of the road at Elm Court to the east
- a second access onto Ham Lane to the east of Elm Court
- a package of highway measures including the widening of part of Ham Lane and passing bays, the realignment of Ham Lane at its eastern end and a new junction where it meets Lidsing Road, with the removal of the existing junction
- the widening and realignment of part of Lidsing Road with the provision of an upgraded junction between Lidsing Road and Hempstead Road

- the realignment of some sections of the public right of ways through the site and the provision of a footway/cycleway connecting through the site from North Dane Way 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 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. Illustrative street scenes are also provided showing mainly two storey housing but also with some three storey blocks. The application is also accompanied by supporting information/documents including an Environmental Statement and a Statement of Community Involvement.

### **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/21/1778 & MC/23/0752

(consultations on original application and on amended and additional information)

Consultation from Maidstone Borough Council on revised details concerning application reference 21/502751/OUT - 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 (Resubmission of 19/500765/OUT).

Under consideration

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).

Under consideration

- MC/19/1573 Consultation from Maidstone Borough Council on an outline application for proposed development (with all matters reserved except access) for the erection of up to 450 market and affordable dwellings, children's nursery and supporting retail space up to 150sqm, with provision of access; estate roads; cycle and pedestrian routes; residential and community open space and landscaping; off-site highway improvements including new junction for Lidsing Road/Hempstead Road, realignment of Lidsing Road, change to prioritisation of the junction of Lidsing Road/Forge Lane and passing bays at Westfield Sole Road (19/500765/OUT).  
Withdrawn (dealt with under reference MC/19/0492)
- MC/19/0492 Consultation from Maidstone Borough Council on an outline application for proposed development (with all matters reserved except access) for the erection of up to 450 market and affordable dwellings, nursery and supporting retail space up to 150sqm, with provisions of access; estate roads; cycle and pedestrian routes; off-site highway improvements; residential and community open space and landscaping (19/500756/OUT).  
No objections raised  
5 March 2021
- MC/19/0336 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.  
Refused 21 January 2021  
Appeal Dismissed 25 March 2022
- 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.  
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).  
Approved 26 September 2018
- MC/14/2395 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.  
Refused 27 January 2016  
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, KCC Archaeology, KCC Biodiversity, Kent Downs AONB Unit, Kent Police, Kent Wildlife Trust, Maidstone Borough Council, Medway Fire Service, NHS Medway, National Highways, Natural England, Rochester Airport, the Royal Society for the Protection of Birds, Southern Water, Sport England and UK Power Networks have also been consulted.

**Boxley Parish Council (3 representations) objects** in summary on the following grounds:

- Medway Gap location, greenfield land, urban sprawl in green lung on agricultural land
- Contrary to policy and harmful to Area of Local Landscape Importance (ALLI)
- Negative effect on Capstone Country Park, loss of open green space
- Harm to Ancient Woodland
- Contrary to Local Plan policies
- Increased traffic on poor roads, congestion, safety and impact on infrastructure concerns including during construction and for pedestrians and cyclists
- Impact on local footpath network
- Additional pressure on overstretched local services
- Harm to neighbouring properties
- Must be considered alongside other large developments in the area
- Lack of consultation from applicant
- Safety concerns due to close proximity to the asbestos first waste transfer station.

**Bredhurst Parish Council (2 representations) objects** in summary on the following grounds:

- Increased traffic through the village, already congested and used as a rat run
- Traffic issues on safety of primary school users
- Noise and pollution from additional traffic
- The proposals will not solve the traffic issues, at the very least a revised junction arrangement and new safety audit are required
- AONB, spoil the rural character
- Cumulative impact of other developments should be considered.

The **Environment Agency** consider that planning permission **could be granted** subject to conditions regarding the treatment of unsuspected contamination, the restriction of infiltration of surface water drainage into the ground and the agreement of a foul drainage strategy, together with an informative regarding the Development Industry Code of Practice.

**Highways England** are content that the proposals, if permitted, would not have an unacceptable impact on the safety, reliability, and/or operational efficiency of the Strategic Road Network (SRN) in the vicinity of the site (M2 Junctions 3 and 4), provided that their recommended conditions are imposed.

They are concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case, particularly within the vicinity of the M2 including Junctions 3 and 4. Applications MC/21/1296 and 21/502751/OUT (submitted to Maidstone BC) include a Transport Assessment (2021 TA) prepared by Charles and Associates Consulting Engineers Ltd, (18-015-013 Rev A) dated May 2021 which has been reviewed in relation to previous agreements reached regarding trip generation, distribution and subsequent mitigation.

The development site is linked to M2 junction 4 to the east via Lidsing Rd, Hempstead Rd and Hoath Way and is approximately 1.8km straight line distance from junction 4. Data was obtained from Medway Council for the M2 Junction 4, using 2016 surveys which were collected to inform a strategic transport model for the area. The 2021 TA notes that from site observations, significant queues were observed on the westbound off-slip at M2 Junction 4 during the AM peak.

As per the previous applications TA (MC/19/0336 & 19/500765/OUT), following a detailed Junctions 9 assessment of the transport impacts on M2 Junction 4, a mitigation scheme was proposed to alleviate reported queues along the M2 J4 M2 SB off-slip to mitigate the development impact. No change is made to the overall trip generation and distribution for the site within the latest 2021 TA compared to the previous application for the site and therefore the conclusions from the modelling exercise remain the same.

They have reviewed the proposed mitigation drawing for M2 Junction 4 (Drawing Number 18-015-027 Rev F). No changes have been made to the proposed mitigation from the previous Transport Assessment Drawing (18-015-027 Rev E), however Rev F helpfully includes geometries and swept path analysis for an articulated vehicle.

Highways England were consulted on the earlier applications and following provision of an additional addendum to respond to their comments, a conditional response was issued covering the following matters:

- 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).

The additional information supplied has been reviewed and it is concluded that the proposed amendments to the pedestrian and cycle network connections to improve access to Lordswood do not alter their previous conclusions.

**KCC Biodiversity** have reviewed the ecological information and this is a summary of their most recent response. They confirm that the following surveys have been carried out:

- Ecological Scoping Survey (2022)
- Breeding birds (historic)
- Bat Activity (historic and 2022)
- Tree Assessment for bats
- Dormouse
- Badger Survey
- NVC (historic)

The survey results have detailed the following:

- At least 8 species of foraging bats within the site – particularly around the woodland/hedgerows
- 2 trees (T13 and T1) which 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
- Presence of Himalayan cotoneaster (*Cotoneaster simonsii*) a schedule 9 species in the Wildlife and Countryside Act 1981 (as amended).

The survey data ranges from between 2 and 10 years old. As part of this resubmission an updated site visit was carried out in 2022 assessing the habitats currently present within the site to assess if the existing survey data is still valid or if additional updated surveys are required.

From previous site visits and reviews of the aerial photos they acknowledge the conclusions that the habitats within the site have not significantly changed and therefore do acknowledge it is likely that the conclusions of the ecological reports are unlikely to have changed.

A Site Wide Ecological Mitigation Strategy has been submitted however the document

provides limited detail on the proposed mitigation within the site, instead it focuses on the enhancements and management of the site.

### ***Ancient Woodland/Local Wildlife Site***

The redline boundary is adjacent to and/or contains areas of ancient woodland and Local Wildlife Site. The submitted information and site plan has confirmed that the areas of Ancient Woodland/Local Wildlife Site (AW/LWS) 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. 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 AW/LWS will be incorporated into the site – to try and minimise the impacts as referred to above. The site plan clearly demonstrates that buffer areas have been included however it was not clear what size the buffer areas are. Information has been submitted clearly demonstrating that the AW buffer area will be 15m which is in-line with NE standing Advice. We advise that Medway Council (MC) must be satisfied that the buffer areas on the plans are at least 15m.

A simple management plan has been submitted which demonstrates that the intention is to carry out occasional management within the woodland – measures include re-implementing coppicing, litter clearing and managing recreational pressure. We are supportive of the management proposals however we recommend that if planning permission is granted that a site wide ecological management plan (including the woodland areas) is produced – this will ensure that all the management is carried out under one management plan. If there is more than one management plan for a site, they are concerned that all the management may not be carried out as required. The applicant has confirmed that only one management plan will be produced.

They advise that there is a need for regular monitoring of the AW (and open space areas) to ensure that the management is being successfully implemented AND identify any damage that may have occurred due to residents utilising the woodland. The submitted information has detailed that monitoring will occur for the first 15 years and then every 5 years – the need for monitoring beyond the first 15 years must be based on the results of the monitoring. This can be addressed within the detailed management plan.

They note that that woodland management plan only refers up to year 10 and advise that there is a need for management to be carried out for the lifetime of the development and not cease after 10 years. This can be addressed within the site wide management plan.

### ***Roadside Nature Reserve***

Previous comments raised concerns that there would be a loss of an area of the Roadside Nature Reserve (RNR) to enable a cycle/footpath to be created and no information had been provided detailing how the loss of the grassland will be mitigated for. The works would have resulted in the loss of an area of chalk grassland which is a scarce resource within Kent.

The Site Wide Ecological Mitigation Strategy has detailed that the development will not result in a loss of an area of RNR as pedestrian / cycle connection has been redesigned to avoid this area. A plan has been submitted demonstrating that the RNR will be retained. They advise that if planning permission is granted a fence must be erected adjacent to the RNR to ensure that it protected at all times during construction. This requirement must be included in the Construction Management Plan.

### **Bats**

*Site* - The majority of bat activity 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).

From reviewing the indicative plans it appears that roads will be located directly adjacent to the majority of the existing features/proposed landscaping. Therefore, there are opportunities to design the lighting to minimise /avoid lighting on the proposed/retained habitats.

They have reviewed the additional information provided regarding the anticipated dark zones. The additional information submitted is more realistic about types of light spill the dark zone areas may receive and in particular the lighting on the area of AW will be minimal. They agree that the majority of the species recorded were more light tolerant species and therefore do agree that it is appropriate that the detailed lighting specification can be provided at the reserved matters stage. They agree with the approach the applicant has proposed with regard to the lighting condition.

The submitted survey detailed 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, they are satisfied that there is no requirement for emergence surveys to be carried out on these trees.

The submitted information has detailed that the site currently has limited opportunities for roosting bats – therefore they advise that if planning permission is granted there is a need for bat boxes/features to be erected throughout the site. An updated enhancement plan has been provided and confirmed that 24 bat boxes will be erected in the open space and 125 bat roosting features established within the built area.

*Footpath* - Bat activity surveys, static surveys, vantage point surveys and trapping in Hook Wood/Hall Wood was undertaken in 2021/2022. At least 8 species of bats were recorded during the surveys and predominately common pipistrelles were recorded within the site. The bat report has concluded the following with regards to the lighting impacts on bats:

*It is not considered that the proposed lighting would significantly affect the local distribution of any of the species recorded within the site. In the short term the lighting could result in a small number of bats altering their flight patterns to take account of the lighting, however, the lighting is not going to create an impenetrable barrier across the woodland join from Halls Wood to Hook Wood. Bats will be able to continue to commute through moving between the woodland in the north-west and the woodland*

*in the east either by flying through the tall tree canopy above the 6m high light columns or by moving through the darker corridor.*

They have reviewed the bat survey report and advise that they agree with the conclusions. However, they understand that the lighting proposed to ensure the lighting impact is minimal is not the standard lighting adopted by MC Highways team and advise that MC must be satisfied that if installed the lighting can be maintained and will not be changed for cheaper/more standard lighting.

### **Dormouse**

A breeding population of dormouse has been recorded within the habitats adjacent to the site. The works will result in a small loss of suitable dormouse habitat. However the illustrative site plan has confirmed that additional planting will be implemented along the site boundaries and therefore they are satisfied that there is capacity within the development to implement appropriate mitigation - however they highlight that none of the documents provide an overview of the mitigation which will be implemented if planning permission is granted. However, they accept that as the majority of the suitable habitats are to be retained the detailed mitigation information can be submitted as a condition of planning permission.

The increase in housing will likely result in an increase in the number of cats within the area – these can have a negative impact on dormouse populations. The illustrative site plans indicate that additional planting is proposed along the site boundaries and recommend that dense thorny species are planted along the site boundaries to try to minimise access to the existing hedgerows. Paragraph 3.29 of the Site Wide Ecological Mitigation Strategy has confirmed that native thorn species will be planted adjacent to existing vegetation – the detailed landscaping plans to be submitted with the reserve matters application, if granted, must clearly demonstrate that it will be implemented.

There is a need to ensure that there is ongoing monitoring of the habitats within the open space both during establishment and maintenance phase to ensure that where damage/non establishment is identified it can be rectified immediately.

The points made on lighting within the bat section are also relevant to dormouse.

### **Stag Beetle**

Stag beetle was recorded during the survey and as the majority of the habitat for stag beetle will be maintained they are satisfied that it's likely the population can be maintained within the proposed development site. There is 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.

They note that none of the documents provide an overview of the mitigation which will be implemented if planning permission is granted. However, as details of how the site will be enhanced for stag beetles are in the Site Wide Ecological Mitigation Strategy and as the majority of the habitats are to be retained, the detailed mitigation information can be submitted as a condition of planning permission.

### ***Breeding Birds***

The submitted surveys have confirmed that breeding/possible breeding birds are present within the site. They acknowledge that the majority of birds recorded within the site are birds which build nests within trees/scrub/hedgerows etc and this habitat will be retained and enhanced as a result of the proposed development.

However, they highlight that the proposed development will result in an increase in disturbance (recreational pressure/increased cat predation/ increase in lighting) and therefore there will be a need to ensure that retain/created habitat is managed appropriately to ensure that that birds can continue to utilise the site – this point can be addressed within a site wide management plan.

Ground nesting birds (including skylark) have been recorded within the site and they previously recommended an off-site mitigation approach be implemented as the incremental impact from the loss of ground nesting habitat from a number of developments could have a negative impact on the population within the wider area.

The submitted information has confirmed that an off-site skylark mitigation scheme will be implemented as part of the planning application. They are supportive of this approach and advise that it must be agreed as part of the S106 if planning permission is granted.

### ***Mitigation Strategy***

There is a need for a detailed ecological mitigation strategy to be produced to ensure that the works do not result in a negative impact on protected/notable species. If planning permission is granted there is a need for a detailed mitigation strategy to be informed by updated species/habitat surveys to be submitted as a condition of planning permission. The requirements of the mitigation strategy must be demonstrated within the landscaping plan to be submitted with any reserved matters applications.

### ***Management Plan***

The illustrative site plan has confirmed that the majority of existing habitats have been retained and enhanced. However, the proposed increase in housing will result in increased pressure within these habitats and there will be a need to ensure that they will be managed appropriately for the lifetime of the development.

Information on the proposed management plan has been produced but they highlight the need for a detailed management plan to be produced if planning permission is granted to ensure that the site will be managed appropriately in the long term. This must provide details of on-going monitoring of the site to ensure that it can be demonstrate that any appropriate management can be implemented. The applicant has confirmed that this will be implemented.

### ***Ecological Enhancements***

One of the principles of the NPPF is that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”.

They acknowledge that the illustrative landscaping plan demonstrates that there will be an increase in planting and it's likely that if these areas are managed appropriately, it will enhance the site. The Site Wide Ecological Mitigation Strategy has detailed the following will be incorporated into the site:

- 20 Dormouse box
- 24 Bat box
- 24 Bird box
- 20 Invertebrate habitat
- 75% of buildings with integrated bee bricks
- 125 bat roosting features on buildings
- 124 bird nesting features on buildings

Since they previously commented the number of enhancement features within the site have significantly increase and they are supportive of this. If planning permission is granted, a detailed ecological enhancement plan should be submitted as a condition of planning permission. The enhancements must be incorporated into the reserved matters plans.

### ***Designated Sites***

The development includes proposals for new dwellings within the zone of influence (6km) of The Medway Estuary and Marshes Special Protection Area (SPAs) and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Medway Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMM) to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A recent decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Therefore, they advise that due to the need for the application to contribute to the North Kent Strategic Access Management and Monitoring Strategy there is a need for an appropriate assessment to be carried out as part of this application.

### ***Biodiversity Net Gain***

The submitted report has detailed that the onsite habitat enhancement and creation results in an anticipated BNG for habitats of 17% and 356% for hedgerows. They have reviewed the submitted metric and the accompanying report and advise that they accept the conclusions of the report and the anticipated BNG.

The anticipated BNG for habitats has been reviewed and updated and is lower than previously proposed and this is due to the downgrading of the grassland habitat from fairly good to moderate condition. As the proposal is for up to 450 dwellings it's likely that the open space areas will be frequently used by residents and therefore due to the recreational pressure, they believe it's more likely that an overall condition of moderate of the grassland habitat is more likely.

They note that the trading rules have not been achieved due to the loss of arable field margin within the site. However, as part of the ground nesting breeding bird mitigation there will be a need to create Skylark Plots at an off-site location. Therefore, they highlight that there is an opportunity through the ground nesting breeding bird mitigation to carry out some arable field margin habitat creation.

**Kent Fire & Rescue Service** confirm that their emergency access requirements under the County of Kent Act 1981 have been met. Fire Service access and facility provisions are also a requirement under the Building Regulations and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to them, and they have a statutory obligation to consult with the Fire & Rescue Service.

**Kent Police** have reviewed with regard to Crime Prevention Through Environmental Design (CPTED) and the NPPF. Their previous comments on planning application MC/19/0336 remain valid and they request a CPTED planning condition if the application proceeds.

**Kent Wildlife Trust** required further information in order to determine impacts to biodiversity including a suitable metric to assess the biodiversity losses and gains, an assessment of the cumulative impacts to South Woods Local Wildlife Site (LWS) Darland Banks LWS and Kent Wildlife Trust (KWT) reserve accounting for this development and other planned developments within the Capstone Valley, a suitable mitigation strategy to reduce recreational impacts to LWSs and KWT reserves within the Capstone Valley (likely to require a joined up approach to green infrastructure to promote sustainable use of green spaces and to promote on site recreation) and a mitigation and compensation strategy for the loss of an area of Roadside Nature Reserve R011. In addition, they do not consider the minimum 15m buffer between development and Hook Wood LWS and ancient woodland to be sufficient to mitigate the impacts of residential development. Following a review of additional information, they note in a further response that a number of these concerns are not addressed, and further information is needed.

In summary they remain disappointed that only a 15m buffer is proposed between the development and the Hook Wood LWS and Hall Wood ancient woodland and believe a larger buffer zone is needed to prevent damage from the indirect impacts of development, such as increases in artificial lighting, noise and dust pollution during construction and light, noise and cat predation during the operational phase, referring to Woodland Trust guidance of a minimum 50m buffer unless there is clear demonstration why a smaller buffer would suffice.

In addition, they consider that South Wood LWS, approximately 0.7km northeast of the application site, the Baseline Ecology Report identifying likely impacts to it, should be considered within a clear mitigation strategy to manage increased recreational pressures whereas it is not currently mentioned in the Site Wide Ecological Mitigation Strategy. Similarly, Darland Banks LWS and KWT Reserve approximately 1.9km north of the application site and connected by footpaths should be considered and included within the Site Wide Ecological Mitigation Strategy.

They are pleased that Roadside Nature Reserve R011, chalk grassland, will no longer be lost and support the advice in the Site Wide Ecological Mitigation Strategy that plans should clearly demonstrate it will not be impacted by the works, recommending protection during construction. They are also supportive of the biodiversity net gain proposed but would need to review the full metric calculation to determine whether the 22.06% proposed can be delivered.

**Natural England** advise that subject to the appropriate financial contribution being secured through the agreed strategic solution for this, the proposal will mitigate against potential recreational impacts of the development on the coastal SPA and Ramsar sites. A Habitats Regulations Assessment will need to be carried out by the Council as competent authority before making a decision, which must also consider any other likely significant effects identified on this or other protected sites which require consideration by way of appropriate assessment. Their Standing Advice can be used to assess the impact on protected species, and they advise the use of national and local policies together with local landscape expertise and information to determine the impact on the Kent Downs AONB. They encourage the incorporation of green infrastructure provision into the development.

**Rural Planning Limited** has no comments due to the site history, which includes an approval and refusal reasons which do not relate to the loss of agricultural land.

**Southern Water** provide general advice regarding their equipment and the need for separate consent from them, which associated information. They request an informative be attached to any approval requiring details of foul sewerage and surface water disposal to be agreed in consultation with them before any development starts. They also advise that the development would lie within a Source Protection Zone and that the Environment Agency should be consulted to ensure the protection of the public water supply.

In a further response (23 June 2022) they confirm they do not object subject to conditions requiring a Karst Risk Assessment including a walkover study to inform site specific risk, the installation of oil interceptors prior to soakaway discharge points, no pile foundations and a CEMP to be reviewed by them.

**Sport England** confirm that the occupiers of new development, especially residential, will generate demand for sporting provision. The existing provision within an area may not be able to accommodate this increased demand without exacerbating existing and/or predicted future deficiencies. Therefore, Sport England considers that new developments should contribute towards meeting the demand that they generate through the provision of on-site facilities and/or providing additional capacity off-site. The level and nature of any provision should be informed by a robust evidence base such as an up-to-date Sports Facilities Strategy, Playing Pitch Strategy or other relevant needs assessment.

The proposal is a resubmission of refused application MC/19/0336. In connection with that application Sport England had indicated in its responses that it could not support the proposal as it made no provision for onsite provision or an adequate financial contribution towards meeting the demand resulting from the new population on new or existing sport and recreation facilities. Notwithstanding our comments then based

on the information contained within the application, Sport England acknowledges that financial contributions were negotiated between the applicant and Council officer's towards improvements to local sport and recreation facilities, being £106,911.00 towards repair and renovation of splashes leisure centre; and £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.

Although in combination these contributions do not amount to the indicative sum indicated by Sport England's Sports Facility Calculator provided in our response to the previous application, and it is also unclear how the second contribution is divided between amenity open space and sport and recreation improvements, Sport England recognises that as part of a wider package of obligations these contributions would make a significant contribution towards helping to mitigate the impact of the increased population on existing local sport and recreation facilities. Therefore, if it were proposed to secure the same or equivalent financial contributions through a S106 agreement attached to the current application, Sport England would have no objection to the application.

In response to further consultation, they confirm that the Sport England Sports Facility Calculator figures in calculating an appropriate updated contribution towards sport and recreation facilities identify a cost of £494,606 for the estimated new population of the development of 1080 (14 June 2022 response).

The **Woodland Trust** object due to the potential disturbance and detriment to Hook and Hall Woods which are ancient semi natural woodlands unless the applicant can provide the ancient woodlands bordering the site with an adequate buffer of 50m in line with Natural England's Standing Advice. The proposal would be contrary to the NPPF as it would result in the deterioration of irreplaceable habitat and there is no wholly exceptional reason for the development. Regard should also be had to Local Plan Policy BNE37 (Wildlife Habitats) and Natural England Standing Advice. Their concerns focus on intensification of recreational activity, fragmentation of habitats, noise light and dust pollution, threats to long-term retention of trees where overhanging public areas, adverse hydrological impacts from hard-standings and run-offs, non-native/invasive colonisation of woodland, and harmful pressures accessible/abutting gardens to woodland.

They note the proposal to widen byway access adjacent to Hall Wood and ask that it takes place away from the ancient woodland edge and outside of root protection areas, and no-dig methods are used during construction as outlined in the Arboricultural Method Statement.

Detrimental edge effects have been shown to penetrate woodland causing changes in ancient woodland characteristics that extend up to three times the canopy height in from the forest edges. As such, it is necessary for mitigation to be considered to alleviate such impacts and examples are provided.

A buffer of at least 50m should be provided to avoid root damage and allow for the effect of pollution. The Council should ensure the width of the proposed buffer is

adequate to protect the adjacent ancient woodland. The buffer should be planted before construction commences on site, with HERAS fencing fitted with acoustic and dust screening measures put in place during construction to ensure that the buffer zone does not suffer from encroachment of construction vehicles/stockpiles, and to limit the effects of other indirect impacts.

They confirm that the additional information submitted has not overcome their concerns.

**789 objections** (including 250 after re-consultations in March 2023), including one from former Maidstone Borough Councillor Heidi Bryant, one from former Medway Councillor Wendy Purdy and some from the same addresses, in summary raising the following concerns:

- Contrary to Local Plan policies and NPPF
- Unsustainable green field site, contrary to Local Plan policies and reliant on private car travel
- Overdevelopment, overcrowded local area/infrastructure, greed, cannot support this number of people and need to prioritise existing residents
- Impacts added to adverse effects of other development in this area
- Not for Medway, for more overspill from London, immigration and property speculators, would not benefit the local community
- Not affordable for locals, more social and affordable housing needed for locals
- Should be addressing deprivation in Medway before increasing the housing stock
- Poor appearance and design, soulless, out of keeping in this setting
- Inadequate local medical facilities: GP's, hospital, dentists, care, staff, chemists and vets
- Inadequate local education facilities and staff for them, a new nursery will not solve this, developer contributions are not clear
- Extra strain on all local services including the police, fire, ambulance
- Inadequate local roads and local road network including lack of footways and cycle lanes, poor condition of roads
- Increased traffic (including HGV's), congestion and accidents, already horrendous/gridlocked/chaos due to volume of traffic, accidents and weather events
- Highway safety concerns especially to children
- Traffic is ruining local villages
- Proposed changes including passing bays will not solve traffic problems and would create other issues, major changes would be needed, traffic surveys do not accurately predict, Transport Assessment does not understand local use/routes, out of date information and flawed
- Contributions towards road impact mitigation would not work as there is no appropriate mitigation
- Impact of construction period on highways must be considered
- Encouraging walking and cycling is unlikely to be successful, lack of safe routes, details are not thought-through
- Loss of and harm to public rights of way

- Inadequate access for residents to travel to and from Lordswood
- Topography has not been fully considered, steep gradients would lead to more car journeys
- Car dependent development, also inadequate parking on site
- Local bus services are unreliable and expensive, no clear solution to this, distance to bus stops
- Too far from a train station, commuter belt location will encourage car use, additional parking/congestion near stations, trains already crowded
- No improvement to town centre transport hubs
- Increased parking issues in Hempstead Valley area
- Services for older generation not considered
- Increased pollution, already poor air quality, public health and safety risk
- Increased CO2 levels
- Increased light pollution
- Increased noise levels
- Increased crime and anti-social behaviour
- Increased litter
- Loss of amenity, wellbeing and quality of life
- Adverse impact on mental health
- Lack of provision to young people's recreation
- Loss of privacy
- Loss of views
- Loss of natural beauty, harm to landscape character and function of the AONB and ALLI, social and economic benefits do not outweigh this
- Loss of green belt, countryside, green lung, strategic gap, rural amenity and open space vital to wildlife, the environment and local residents (including mental health and anti-obesity benefits), once gone it is lost forever
- Pandemic showed the importance of greenspace for mental and physical health
- Effect on conservation area
- Harm to AONB
- Harm to Capstone Country Park and access to it
- Climate change emergency, should not lose green space
- Harmful impact on users of footpaths, popular walking route, for cycling and horse riders, strategic link for pedestrians and cyclists within the AONB
- Closing the gap between different communities, losing their identity and diminishing local community feel, engrossing/harmful to Hempstead and other distinct areas, joining Medway and Maidstone
- Environmental damage
- Harm to flora, fauna and habitat (including protected species, Red Listed Skylarks, bird of prey, loss of trees and hedgerow), abundance of wildlife and natural history, inadequate mitigation
- Loss of/harm to Ancient Woodland and priority habitat including from light, noise and air pollution
- Harm to nearby SSSI and habitats of special European Importance
- No effective mitigation for recreational impact for HRA/Zone of Influence
- Negative effect on biodiversity
- Ecology surveys insufficient/inadequate

- Issue of impact on lighting on bats has not been overcome
- Contrary to Medway Landscape Assessment Character guidance
- Local woods are a memorial to two local young men who took their lives in them
- UK is one of the most nature-depleted countries in the world
- Japanese knot weed on the land
- Loss of prime agricultural land needed for food production (especially post-Brexit), also carbon storage
- Extra burden on utilities/infrastructure such as electric, gas, drains, sewage removal and water supply, already issues with these, not enough water, no additional water storage proposal, already over-abstraction
- Greater risk of sewage discharge to the River Medway, harm to wildlife
- Should include green energy such as solar panels and water recycling
- Disruption from construction and installation of new utilities including to ecology and visual impact
- Detrimental impact on water catchment area/rivers/groundwater pollution
- Local flooding already and sink hole in 2018, flooding will worsen and also flood risk for proposed houses
- Contamination risks on the land so how can houses be built there?
- Asbestos transfer station will be surrounded by housing, potential disaster, also close to refuse tip
- No evidence of recycling/renewable energy proposals, impacting constrained reserves
- Lack of waste disposal provision, already an issue
- Limited/lack of employment opportunities, less jobs for existing residents
- Greater shopping and leisure facilities would be required including for youth, people will have to drive to access them elsewhere
- No respite from traffic, noise and pollution during years of construction period
- Devaluation of properties, already local houses for sale
- Poor legacy for future generations
- Would be better as a natural park
- Final layout is not defined, could lead to changes/further impact, space reserved for public facilities is rarely developed for that purpose
- Combination with other major development nearby would be too much, must be considered together, vast swathe of devastation to countryside
- Other more suitable sites, Capstone Valley is not needed to meet housing targets, brownfield sites should be used/promoted and land-banked sites developed first, town centres and vacant buildings used
- Levelling up - should be in the north not the southeast
- Medway will pay for services and Maidstone will collect taxes
- S106 will not cover the costs to the public purse
- Lack of consultation and public consultation by the developers was just a PR exercise
- Repeat applications and revisions do not overcome the objections, previous concerns remain
- Previous permission can be changed in view of changed circumstances
- Precedent for further development

- Documents are out of date, years old
- Unlawful, fraudulent legislative system, Medway Council does not have lawful authority to act in this matter
- No local support for this development

**Rehman Chishti, Former MP for Gillingham and Rainham, objects (2 letters)** in summary on the following grounds:

- Adverse impact on local road network and more air pollution
- Exacerbate pressure on local services including schools and healthcare
- Cherished green lung, open space and farmland lost
- Unsustainable development, also of wider Capstone Valley
- Largescale development without local community support in advance of new local plan is unacceptable.

**Tracey Crouch, Former MP for Chatham & Aylesford, objects** in summary on the following grounds:

- Encroachment on Capstone Valley
- Previous objections not overcome
- Encroachment on Capstone Valley, loss of green space
- Impact on local infrastructure
- Also objects to East Hill and Lidsing proposals

**Two letters of objection from Helen Whately, MP for Faversham and Mid Kent,** in summary on the following grounds:

- Destruction of countryside separating Hempstead from Walderslade/Lordswood
- Cumulative impact with East Hill and Lidsing, merging villages into a large urban conurbation, loss of green lung
- Overdevelopment
- Overwhelming local roads, already heavy congestion
- Too much strain on local school and health services

**The British Horse Society Medway Access Rep/Medway Access Forum objects** in summary on the following grounds:

- Unsuitable area, AONB and vital green space
- Increased traffic on lanes used by walkers, cyclists and horse riders
- Public rights of way should be preserved and increased
- Destruction of habitats and green space used for outdoor pursuits
- Lack of infrastructure

**Hempstead Residents Association objects** in summary on the following grounds:

- Consistently opposed proposals here
- Inadequate rural lanes, also unsuitable for buses
- Unsustainable development reliant on private car use

- Cannot be considered in isolation from other proposed development/East Hill
- Revised access arrangements have a greater impact
- Off-site highways works do not reflect daily issues for residents, will add to congestion
- Landscape impact of new road
- No weight to previous approved schemes as undeliverable
- Improved housing supply position and local plan progressing, this is not a preferred location for development
- No developer agreement for this site so may not come forward quickly anyway
- Local schools and GP's already oversubscribed
- Unlikely to mitigate landscape impacts in short to medium term with landscaping
- Adverse impact of construction traffic, including due to other local development at the same time.

**Local Ramblers Group objects** in summary on the following grounds:

- Adverse impact on the nature of the byways through the property
- Nothing to enhance the natural landscape (such as connecting areas of woodland to benefit wildlife)
- Time taken to development, 7 years adverse effects of building works
- Need more social rented housing for affordability.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework December 2023 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

## **Planning Appraisal**

### *Background*

Outline planning permission for the development of this site for up to 450 dwellings was originally refused planning permission in 2016, reference MC/14/2395, primarily on the ground of inappropriate development within a locally valued landscape. An appeal against this refusal was allowed by the Secretary of State in 2017 following a Public Inquiry and the subsequent consideration of the Planning Inspector's report. The Secretary of State found that the overall positive balance for the economic and social strands of sustainability from the development contrasted with the environmental role where there would be clear harm to this area of countryside which is locally designated for protection, but that the development would not lead to coalescence between Lordswood and Hempstead or critical harm to the ALLI's function. The Secretary of State therefore concluded that the sustainability of the appeal scheme along with the fact that the relevant policies for the supply of housing

land in Medway were out of date outweighed the landscape harm and other harm, and that the adverse impacts of the scheme did not significantly and demonstrably outweigh its benefits when assessed against the policies of the NPPF taken as a whole.

An application for the renewal of outline permission MC/14/2395 was submitted and approved in 2018, reference MC/18/0556. In 2020 application MC/20/0347 was then made for the approval of reserved matters pursuant to this outline planning permission, and a decision on this application has not yet been made.

These previous applications rely on the use of a small area of land owned by the Council to provide the main access to the development, from the end of North Dane Way. The Council as landowner has previously declined to sell this land and without this means of access it is not possible for this permission to be implemented. However, the grant of these permissions is still a significant material consideration in the assessment of subsequent applications, the development of the land for residential purposes having been accepted in principle. In addition, whether the applicant has ownership of the entire site at the time of submission or determination of the application is not a planning consideration. The only requirement is that the correct ownership certificate be submitted with the application and notice be served on the owner and this has been done.

In view of the difficulty securing the land for the access, application MC/19/0336 was submitted for a similar scale of development but with an alternative access, the vehicular access to be from Ham Lane only, not from North Dane Way, with associated on and off-site highway works including to the Ham Lane/Lidsing Road junction area. The application also included a small retail unit and a nursery in addition to the proposed housing. This application was refused for four reasons, all relating to access

- poor pedestrian/wheelchair/cycle access to Lordswood;
- unsustainable development without suitable access to Lordswood;
- potential impact of access lighting on ecology; and
- the impact of access on Ancient Woodland.

This decision was appealed and a six-day Public Inquiry was held. In the decision, the Inspector gave significant weight to the provision of market and affordable housing provided by the scheme. However, whilst not raising an overriding objection on any other grounds, including the revised vehicular access proposals, the Inspector found that it had not been demonstrated that the scheme would not adversely affect the local distribution of bat species, contrary to Local Plan Policies BNE37 and BNE39. The adverse impacts of granting planning permission were therefore found to significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole and the appeal was dismissed on this ground.

The current application is for the same development as this recent scheme which was dismissed at appeal but includes additional information to address the reason in relation to the adverse impact on the local bat population.

It is noted that as part of the application site falls within the Maidstone Borough Council area, applications have also been submitted to them. This primarily relates to access

and highways works, including some off-site highway works. The associated application for the proposal subject of this current planning application has not yet been determined by Maidstone Borough Council.

### *Principle*

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. The site is located outside of the confines of the urban area, within an Area of Local Landscape Importance (ALLI) in the Local Plan, with the wood at the south of the western area of the site also shown as a Site of Nature Conservation/Local Nature Reserve. Policies S1 and S2 of the Local Plan seek to prioritise development within the existing urban area and to use a strategic sustainable approach to new development. Policy BNE25 says that development in the countryside will only be permitted in given circumstances, none of which apply to the current scheme, and Policy BNE34 refers to development in an ALLI, with Policy S4 giving strategic advice on landscape and urban design.

The site is located in the countryside and the development would be contrary to Policy BNE25, being a greenfield site. However, the Local Plan is of some age, having been adopted in 2003, and the Council does not currently have a five-year land supply. Paragraph 11 of the NPPF confirms that planning decisions should apply a presumption in favour of sustainable development, and that where the policies which are most important for determining the application are out-of-date (such as a lack of five-year housing land supply), permission should be granted unless the policies within the NPPF provide clear reasons for refusing development, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole.

The development of this site, albeit with a different access arrangement, already has planning permission. At the appeal against the refusal of application MC/14/2395 the Secretary of State noted the aims of Policy BNE25 to restrict development in the countryside, but confirmed that this policy was out of date, the Council not having a five-year housing land supply, and finding it inevitable that greenfield land would have to be developed in order to meet the required housing levels. The Secretary of State also found that the development would be contrary to Policy BNE34 in respect of harm to the ALLI but that this would not represent critical harm to the function of the ALLI as a whole. Significant weight was given to the provision of 25% affordable homes and to the economic benefits of the development, including against the loss of agricultural land, and the social benefits were also stated to weigh heavily in favour of the proposal. The positive economic and social strands of sustainability contrasted with the environmental role as there would be clear harm to this area of countryside which is designated for protection. However, the development would not lead to coalescence between Lordswood and Hempstead or critical harm to the ALLI's function and the Secretary of State concluded that the sustainability of the scheme, coupled with the out-of-date housing land supply policies, outweighed the landscape harm and other harm when assessed against the policies of the NPPF as a whole, therefore granting permission.

At the subsequent appeal against MC/19/0336, a similar scheme with a different means of vehicular access to MC/14/2395, the Inspector noted that the previous permissions, both MC/14/2395 and its renewal MC/18/0556, accepted the principle of residential development in the location of the appeal site. The Inspector gave limited weight to conflict with Policies S1, S2 and BNE25 of the Local Plan in view of the lack of a five-year housing land supply and in respect of Policy BNE34 noted that there would be social and economic benefits and that the overall function of the ALLI would be retained. The loss of agricultural land was stated as necessary given the housing requirement in Medway and, overall, no objection was raised in principle, although the appeal was dismissed due to the potential impact on bats.

It is not considered that there is any material change in circumstances such that a different conclusion can be reached on the acceptability of the scheme in principle, including with regard to the revised NPPF in 2023, the Council not being able to demonstrate an adequate housing land supply and with paragraph 11d of the NPPF continuing to apply.

It is noted that the emerging Medway Local Plan 2041, currently at Regulation 18 consultation, includes the site as a growth area in each of the three options, urban focus, dispersed growth and banded strategy, and that it is included on the Suburban Expansion Sites map. The related Sustainability Appraisal confirms that the site has been selected as the development would help to deliver the vision and strategic objectives of the new Local Plan, with the principle of development established through planning consent.

In summary, there is no objection in principle to the proposed development, including with regard to the loss of agricultural land and the recognised harm to the ALLI.

### *Landscape and Visual Impact*

As stated above the site is within the Capstone, Darland and Elm Court ALLI. The Kent Downs National Landscape (AONB) is not far away, on the other side of the M2 to the south/east, and the site is within the Elm Court character area of the Medway Landscape Character Assessment 2011 (MLCA) and the Capstone Downs in the Kent Landscape Assessment 2004. The harm to the landscape was identified and considered in detail as part of the previous appeals. Most recently, the Inspector for the appeal against the refusal of MC/19/0336 noted that the scheme would be highly visible and result in the loss of features that the area is assessed as having, including that users of the rights of way would have significant adverse effects from walking in the countryside to in a new residential area. However, this conflict, including with Local Plan Policies BNE25 and BNE34, was not found to be critical to the ALLI, with the social and economic benefits outweighing the local priority of landscape in light of the lack of a five-year housing land supply. It is not considered that there is any significant material change in circumstances such that this conclusion should no longer be reached.

In reaching this conclusion it is noted that there has been legislative change to the protected landscaped, including AONBs, now National Landscapes, such that there is a stronger duty to seek to further the purpose of conserving and enhancing the natural beauty of these nationally protected areas. However, in the current case, due to the

distance and limited relationship of the site with the Kent Downs National Landscape, it is not considered that the change alters the conclusions previously reached on this matter, including with regard to paragraph 182 of the NPPF.

### *Quantum of Development, Design & Layout*

This is an outline application with only the means of access to be considered in detail at this stage, although an indicative layout has been submitted to seek to demonstrate how the development set out in the proposal section of this report could be suitably accommodated within the site. No concerns regarding this quantum of development were specifically raised as part of the previous appeal decisions on the site and it is not considered that there has been any change of circumstances which would alter this finding.

### *Ecology*

As stated above the only reason for the dismissal of the last appeal, reference MC/19/0336, was that it had not been demonstrated that the scheme would not adversely affect the local distribution of bat species, contrary to Local Plan Policies BNE37 and BNE39, outweighing the benefits when assessed against the policies of the NPPF as a whole. In more detail this related to a proposed footway/cycleway between the site and the built area of Lordswood, through Hall Wood and along its boundary to North Dane Way along the route of an existing byway. This part of the proposed scheme would be a very important link to provide access from the site to the services and facilities in Lordswood and would need to be adequately lit to ensure that cycles, pedestrians and other users could use it during the hours of darkness. The lighting has the potential to disrupt bats and the Inspector found that the bat surveys which had then been undertaken did not provide the necessary certainty on the use of the byway as a commuting habitat by bats and whether the development would affect the local distribution of species within the site. It was found that a 'P4' level lighting scheme would be needed to adequately light the route for people, and it would be necessary to ensure that this level of lighting was fully taken into account having regard to adequate bat surveys in order to avoid the risk that bats would stop using the commuting habitat, but that this had not been demonstrated.

The current application has sought to address this issue by further detailed submissions, and these have been assessed with the Council's specialists on ecology and lighting. A 'P4' level of lighting would be achieved by two, 6m high lighting columns operating from dusk until dawn. KCC Biodiversity confirm that bat activity surveys, static surveys, vantage point surveys and trapping in Hook Wood/Hall Wood were undertaken in 2021/2022 (additions to the information available for the Inspector at the time of MC/19/0336). At least 8 species of bats were recorded during the surveys and predominately common pipistrelles were recorded within the site, with the bat report concluding that the proposed lighting would not significantly affect the local distribution of any of the species recorded within the site. In the short term it could result in a small number of bats altering their flight patterns to take account of the lighting, however the lighting would not create an impenetrable barrier across the woodland join from Halls Wood to Hook Wood and bats would be able to continue to commute through moving between the woodland in the north-west and the woodland in the east either by flying through the tall tree canopy above the 6m high light columns

or by moving through the darker corridor. However, KCC Biodiversity note that the proposed lighting is not standard street lighting and therefore that measures would need to be put in place to ensure that it was maintained as approved at all times thereafter, which could be secured by condition.

With regard to the impact on other species, the Inspector confirmed that the ecological appraisals accompanying the application provided a reasonable analysis in relation to birds and plants and that the conclusions were adequate in these respects, noting that a condition could be attached relating to a Site Wide Ecological Mitigation Strategy. KCC Biodiversity concur with this view (their most recent detailed response is summarised in the representations section above), including after consideration as to any changes which may have taken place since the time of this previous appeal decision.

In summary, the previous concern regarding the potential impact of the lighting of the non-vehicular link between the site and the main built-up area of Lordswood on bats has now been adequately addressed, subject to a condition to ensure that the detailing of the lighting would not be altered post-installation. Subject to further conditions, including in relation to a Site Wide Ecological Mitigation Strategy, the impact on other protected species, flora and fauna, including the local Roadside Nature Reserve, is also considered acceptable as at the time of previous decisions. Although the application is not subject to the recently introduced requirements for a minimum of 10% biodiversity net gain (it was submitted prior to this requirement), it is also anticipated that there would be ecological/biodiversity enhancements including a substantial improvement for hedgerows. For habitats the enhancements would be much less, however there would be an opportunity to achieve some arable field margin habitat off-site as part of the creation of skylark plots for ground nesting breeding bird mitigation off-site.

In conclusion, subject to conditions the ecology impacts of the development are now considered acceptable including with regard to Policies BNE36, BNE37, BNE38 and BNE39 of the Local Plan and paragraphs 180 and 186 of the NPPF.

### *Ancient Woodland*

The Inspector at the last appeal, MC/19/0336, confirmed that the proposed pedestrian/cycle route would not result in any direct loss of ancient woodland or removal of trees, with conditions to address surfacing and infrastructure installation such as lighting cables. No other issue with regard to the potential impact of the development on Ancient Woodland was raised including with regard to Policy BNE37 of the Local Plan or (now) paragraphs 135 and 186 of the NPPF.

It is noted that since the time of this appeal decision additional guidance on ancient woodlands has been issued and that there is now a requirement to consult the Secretary of State on any application recommended for approval if that development would result in the loss or deterioration of ancient woodland, where the local planning authority considers that potential adverse effects cannot be mitigated. KCC Biodiversity have confirmed that there would be no direct loss as a result of the development but that there is likely to be a negative impact from the construction and operational phases of the development including from dust, noise and recreation

pressure. Vegetated buffers of 15m in depth are shown to run alongside the ancient woodland within and bordering the site, which is the minimum recommended distance for mitigation. Some management and monitoring details have been provided but further details would be required by condition, including the need for monitoring for the lifetime of the development. In these circumstances, and as this is an outline application with full details of layout not for decision at this stage, it is considered that the potential adverse effects on the ancient woodland could be mitigated and that there would be no need to refer to application to the Secretary of State on this basis.

### *Amenity*

As at the time of the previous application it is recognised that the development would result in a major change to the local area and also that there are a number of other housing developments proposed/under construction in the locality including at Lidsing. The Inspector for appeal MC/19/0336 found that access to the wider countryside would remain and that the proposal would incorporate a large amount of open space, landscaping and areas of parks and gardens, as well as play space, concluding that the scheme would not significantly adversely affect the health and well-being of existing residents and future occupiers of the site. Subject to conditions the potential impact of noise on amenity was not considered to be unacceptable either.

Consideration was/has also given to the more direct impact on the closest residential properties to the site, to the north at a lower land level, and to the southwest including across North Dane Way. The illustrative site layout continues to show open space and planting adjacent to the properties to the north, with a swath of woodland and undeveloped land within the southwest boundary of the site. In these circumstances it is considered that a detailed scheme could avoid harm to neighbours by reason of loss of light, loss or privacy or overbearing impact. With regard to noise and general disturbance, it has been accepted as part of previous decisions on the site that this would not result in unacceptable harm to existing local residents.

The amenities of future occupants of the site itself would be addressed at the reserved matters stage if outline permission is granted. Regard would need to be had to the Technical housing standards – nationally described space standard and well as the Medway Housing Standards in respect of balcony/garden space.

In summary, as at the time of the previous decision MC/19/0336, the amenity impacts of the proposal are considered acceptable including with regard to Policy BNE2 of the Local Plan and paragraph 135 of the NPPF.

### *Air Quality*

At the appeal for MC/19/0336 the Inspector addressed air quality, confirming that it had been addressed in the Environmental Statement with mitigation measures proposed such as low NOx boilers and electric vehicle charging points together with a travel plan to help reduce reliance on the private car. Subject to securing the mitigation by condition the development was therefore found to be in accordance with Policy BNE24 of the Local Plan and paragraph 192 of the NPPF, avoiding unacceptable effects on health. It is recognised that in view of the time passed, and with possible off-site changes, that a further review would be preferable, to ensure that the mitigation

would remain adequate to address air quality concerns. This would therefore be secured by condition.

### *Flood Risk*

The site is within Flood Zone 1 which is at the lowest risk of flooding. A Surface Water Drainage Strategy has been submitted with the application. There are some areas of low surface water flood risk throughout the site associated with overland flow and this would be mitigated and managed by the use of SuDs. Further detailed information regarding drainage would be required by conditions, including for the construction period. Subject to these, and as concluded by the Inspector at appeal MC/19/0336, the development would be in accordance with the NPPF in respect of flood risk, including with reference to paragraphs 165, 173 and 175.

### *Climate Change and Energy Efficiency*

This is an outline application with only means of access to be considered in detail at this stage. Details of climate change and energy efficiency measures to be incorporated into the development would need to be provided as part of any reserved matters submission if outline permission is granted, with regard to paragraph 159 of the NPPF.

### *Highways*

The revised access and highways proposals subject of the last appeal, MC/19/0336, which also form part of the current application were assessed in considerable detail at the time of MC/19/0336. They include the change in location of the site vehicular access from Lordswood via North Dane Way to Ham Lane on the Hempstead side of the site, with a number of associated highways works to the local road network. The proposed access to the site from Ham Lane would necessitate associated changes to Ham Lane/Capstone Road and Lidsing Road/Hempstead Road junctions including pedestrian crossings and islands and an extension of the 40 miles per hour speed limit on Capstone Road. Passing bays would be provided on Westfield Sole Road and the Hoath Way roundabout would be improved to increase capacity and encourage its use, with the roundabout at Junction 4, M2 also to be improved. Subject to conditions and a legal agreement to secure the necessary works, the vehicular access and associated changes to the local highway network were found to be acceptable including with regard to Policies T1, T3, T4, T6 and T13 of the Local Plan and the sustainable transport measures of the NPPF.

At the appeal for MC/19/0336 the Inspector referred to the concerns raised by local residents about the impact of the proposed development on the local roads in the area. The Inspector found that the methodology used to assess increased traffic movements was adequate and that the changes to how traffic would flow as a result of the package of highway and transport measures had also been assessed. The residual cumulative impacts would not be severe, paragraph 115 of the NPPF saying that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. No detailed evidence had been presented to indicate

that the conclusion of the Transport Assessment and package of measures were deficient, and the traffic and highway safety implications were found to be acceptable.

The appeal decision for MC/19/0336 was issued in 2022 and consideration has been given to any changes in the potential highways impact of the development since that time.

Site vehicle access arrangements – These remain as accepted previously via Ham Lane. More recent traffic incident data has been interrogated and does not indicate any new concerns on Lidsing Road which would need to be resolved through revising the access arrangements.

Sustainable Transport Access - The site's existing public transport links are limited, with Abinger Drive bus stops located a few minutes' walk from the link to North Dane Way, clearly too far a walk for many units on the north and east of the site. The proposals include providing bus stops on-site and a contribution towards changes to the bus route would be secured as part of a S106 agreement, being essential to ensuring the site is sufficiently accessible by non-car modes.

Existing Highway Safety Concerns - The Transport Assessment collision analysis constitutes an update on the collision analysis conducted in the previous Transport Assessment for MC/19/0336 and shows a clear safety concern at the Hoath Way roundabout, especially on the southern arm heading northbound, and at the junction of the eastern arm with the roundabout. In addition to this, even more recent traffic incident data for 2022 is now available, showing that in 2022 alone, there have been seven further traffic incidents around this roundabout. The proposals include improvements to the Hoath Way roundabout however in their current form they do not appear to have been audited, which is especially important given the high level of traffic incidents exhibited at the junction. Updated Road Safety Audits will need to be conducted that reflect the layouts of all proposed highways alterations, including reference to addressing the existing highway safety issues at the Hoath Way roundabout. This would be secured by condition, including to ensure that the exact nature of the proposed improvements at this roundabout give additional consideration towards safety improvements.

Trip Generation and Junction Modelling – The trip generation methodology reflects the previous Transport Assessment for MC/19/0336 with updated TRICS outputs provided and no concern is raised by the distribution exercise. Other committed developments are also addressed robustly, as are background traffic levels and growth factors. The modelling shows that the development would cause the Chapel Lane priority and the Hoath Way roundabout to exceed capacity (although Hoath Way roundabout operates in excess of capacity prior to the introduction of development traffic). Improvements are proposed to these junctions, to be secured by conditions, which would see the Chapel Lane priority operating within capacity. The changes to the Hoath Way roundabout demonstrate a proportionate level of improvement to the impact of the development, improving capacity and reduce queueing significantly (it would not be reasonable to require all current issues here to be resolved by this development alone). However pedestrian accessibility is not ideal here and, if possible, improvements to this will be sought as part of the detailed design of the changes to the roundabout to be secured by condition.

### *Non-Vehicular Access*

As stated above the reasons for refusal of MC/19/0336, the previous application for this development, relate to access concerns, including the poor pedestrian/wheelchair/cycle access to Lordswood. At appeal the Inspector found the proposed footway/cycleway between the site and Lordswood through Hall Wood to North Dane Way to be a very important part of the scheme in terms of its links to the nearest built area. It would be a shared route, not entirely straight and with no natural surveillance and would need to be lit for use during hours of darkness. There had been some disagreement about the level of lighting needed to ensure safety and security for future users, the Inspector agreeing with the Council that a (brighter) 'P4' level scheme would be needed to adequately light the route for its intended function and concluding that precise details could be secured by condition to provide a safe and suitable access, including with regard to Policies BNE1, BNE2, BNE3, BNE8, T2, T3 and T4 of the Local Plan. The potential issue of this level of lighting on bats has now been addressed (see above) and it is not considered that there has been any material change in circumstances such that the Inspector's conclusions on this matter should no longer apply.

As part of the previous proposal, it was proposed to secure a change to the legal status of this access route, from a byway used by all traffic to a more limited use by cyclists and pedestrians only. This was in recognition of it being vital that this link is safe and attractive for use by cyclists and pedestrians, to directly link the development to Lordswood in the interests of sustainability and amenity. However, there is now some concern that this would disadvantage local interest groups and that a legal change to the public right of way should not necessarily be pursued in the first instance. It is also noted that the proposed removal of the existing gate on the route may make it more difficult to enforce such a change. In these circumstances it is no longer proposed to require a Traffic Regulation Order to prevent use by horses and motor traffic prior to the first occupation of any of the development. Alternatively, a S106 contribution to enable the review of this situation in the future is proposed, making provision for further works to address this matter should any conflict in the use of the public right of way materialise, as well as meeting costs for the administration of securing a Traffic Regulation Order if this becomes necessary. It is also noted that a contribution towards improvements to a horse loop to the northwest of the site would be secured through the S106, as well as a contribution towards the upgrade of the public right of way.

### *Bird Mitigation*

As much of the application site is within 6km of the North Kent Marshes SPA/Ramsar Sites, the proposed development is likely to have a significant effect, either alone or in-combination, on the coastal North Kent Special Protection Areas (SPAs)/Ramsar sites from recreational disturbance on the over-wintering bird interest. Natural England has advised that an appropriate tariff of £328.27 per dwelling (excluding legal and monitoring officer's costs) should be collected to fund strategic measures across the Thames, Medway and Swale Estuaries. This tariff should be collected for new dwellings, either as new builds or conversions (which includes HMOs and student accommodation).

These strategic SAMMS mitigation measures are being delivered through Bird Wise North Kent, which is the brand name of the North Kent Strategic Access Management and Monitoring Scheme (SAMMS) Board, and the mitigation measures have been informed by 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. Further information regarding the work being undertaken is available at The Bird Wise website which can be found at <https://northkent.birdwise.org.uk/about/>.

The applicant has agreed that a SAMMS Mitigation Contribution would be paid as part of a S106 Agreement and therefore no objection is therefore raised under Policies S6 and BNE35 of the Local Plan and paragraphs 187 and 188 of the NPPF.

A decision from the Court of Justice of the European Union detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full 'appropriate assessment' is needed under the Habitats Directive. Given the need for the application to contribute to the North Kent SAMMS, there is a need for an appropriate assessment to be carried out as part of this application and this has been undertaken.

### *S106 Matters*

The Community Infrastructure Levy Regulations 2010 provide that in relation to any decision on whether or not to grant planning permission to be made after 6 April 2010, a planning obligation (a S106 agreement) may only be taken into account if the obligation is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The obligations proposed comply with these tests because they have been calculated based on the quantum and location of the proposal and are directly related to the development.

The following contributions are sought through a S106 agreement in accordance with Medway Council's Developer Contributions Guide:

- (a) The provision of 25% affordable housing

Based on 450 homes, this would be 113 Affordable Homes. It is anticipated that the 113 units would include 25% First Homes and 60% Affordable Rent with the remaining units to be Intermediate Affordable Housing (Shared Ownership is the preferred option). The tenure mix is therefore likely to be 28 First Homes, 68 Affordable Rent and 17 Intermediate Affordable Housing (Shared Ownership is the preferred option).

- Due to the size of the site, a phased release of the Affordable Housing units is desirable to ensure a consistent distribution of

tenure mix. The Affordable Housing units should therefore be distributed throughout the site.

- To reflect local housing need, there should be a mix of unit sizes consisting of more family sized homes (including 4 bed houses) and fewer 1 bed units.
- All the homes must meet the Nationally Described Space standards as a minimum.
- 5% of the Affordable Housing (preferably the Affordable Rent units) should be delivered as wheelchair user dwellings as per part M4 (3) of the Building Regulations.

(b) Financial contributions as follows:

- xx. Provision of an on-site nursery to the value of **£829,561.50** or if a potential nursery operator cannot be reasonably found before the start of its construction, a contribution of this amount towards mainstream nursery education within a radius of 2 miles from the development site
- xxi. Contribution of **£1,047,188.83** towards mainstream nursery/primary education within a radius of 2 miles from the development site, and/or SEND education within Medway
- xxii. Contribution of **£1,613,349.00** mainstream or SEND secondary/sixth form education within Medway
- xxiii. Contribution of **£380,416.50** to support the creation of additional health service capacity required as a result of the increase in housing and resulting patient registration
- xxiv. Contribution of **£47,115.00** towards Youth Services for programme delivery for young people (ages 8-19 and up to 25 for with additional needs) in the Gillingham area, which may include facilities, providing access, supplies, equipment, and/or instructors
- xxv. Contribution of **£500,843.11** to enhance off-site open space in the vicinity of the development (likely to be £58,904.61 towards play space/equipment at Capstone Country Park and/or Ballens Road; £65,190.16 towards amenity greenspace at Capstone Country Park and/or Princes Park; £31,607.35 towards the provision of allotment facilities within the vicinity; £50,797.53 towards the provision of formal parks and gardens at Capstone Farm Country Park; and £294,343.46 towards outdoor sport improvements at Kings Frith, Hempstead Recreation Ground, Luton Recreation Ground, Hook Meadow, and/or Wigmore Park)
- xxvi. Contribution of **£107,000.00** towards improvement of paths in the vicinity (the improvements will include but not be limited to signage, lighting, surfacing and accessibility)
- xxvii. Contribution of **£146,470.50** towards indoor sports facilities in Medway
- xxviii. Contribution of **£260,000.00** 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 the bus provider

- xxix. Contribution of **£460,000.00** to the Council towards the provision of link footway and cycle way between the junction with Lidsing Road and the residential area in Hempstead
- xxx. Contribution of **£370,000.00** to the Local Highway Authority towards the provision of a pedestrian crossing and scheme of traffic calming measures along Hempstead Road
- xxxi. Contribution of **£104,103.00** toward waste and recycling requirements for the provision, improvement and promotion of waste and recycling services to cover the impact of the development
- xxxii. Contribution of **£147,721.50** towards the provision of migrating bird disturbance mitigation measures within the Strategic Access Management and Monitoring Strategy (SAMMS)
- xxxiii. Contribution of **£110,232.00** towards community facilities
- xxxiv. Contribution of **£171,265.50** towards heritage sites and museums
- xxxv. Contribution of **£99,351.00** towards libraries to improve equipment and facilities at Lordswood Library and/or Hempstead Library
- xxxvi. Contribution of **£110,250.00** towards public realm, to assist with the development of public realm improvements to Gillingham and/or Rainham town centre
- xxxvii. Contribution of **£10,000.00** for mitigating against vehicular traffic on the PROW link between North Dane Way and the main part of the site, should it be required
- xxxviii. Contribution of **£10,000.00** towards the Councils costs of advertising and administering any traffic regulation order required for removing horses and motorising vehicles from parts of the public right of way network, should it be required

Other matters:

A package of off-site road improvement works, not within the red line area, would be secured by conditions, and would include the remodelling of the junction of Chapel Lane with Hempstead Valley Drive, 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 (requiring a separate planning permission).

**Conclusions and Reasons for Approval**

As concluded by the Inspector at the most recent appeal, MC/19/0336, limited weight can be attached for the conflict of the proposed scheme with Policies S1, S2 and BNE25 of the Local Plan as, with regard to paragraph 11(d) of the NPPF, they are out of date by virtue of the significant lack of a five-year housing land supply. Further, the Inspector found that in respect of Policy BNE34, there would be social and economic benefits in terms of the provision market and affordable homes, and the overall function of the ALLI would be retained, concluding that the proposal would comply with this element of BNE34. They also found that subject to an appropriate P4 scheme for lighting the pedestrian/cycle route to Lordswood (which is proposed), the scheme

would not cause harm in respect of providing a safe and suitable access in order to make the development sustainable.

Significant weight was given to the provision of market and affordable housing separately provided by the scheme. There would be economic benefits during the construction period by the provision of jobs and it would also contribute to the economy over the lifetime of the development through local household expenditure. These benefits were given moderate weight as they would apply to all relevant schemes within the area. The scheme would provide a nursery and a small retail unit on the site, these would be benefits which would mainly serve the residents of the development and were given limited weight.

Contributions and the additional provisions other than affordable housing were found to be neutral considerations because they are mitigation and needed to make the development acceptable. Landscaping and open space would be provided, and limited weight was attached to these. The proposals to manage the woodland and to improve the quality through the provision of a Woodland Management Plan was given moderate weight.

The only matter that the Inspector found against was that it had not been demonstrated that the scheme would not adversely affect the local distribution of bat species and it would therefore not comply with Policies BNE37 and BNE39, concluding that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. Additional information has now been submitted to demonstrate that the local distribution of bat species would not be adversely affected by the proposals, including the need for the essential link to North Dane Way to be lit to 'P4' level. The development would therefore be acceptable with regard to Policies BNE37 and BNE39, this sole concern having been overcome. There are not considered to be any material planning considerations which alter the conclusion reached by the Inspector since this appeal decision was made and approval of the current application is therefore recommended.

In considering the application, account has been taken of the environmental information included the Environmental Statement and associated information, the National Planning Policy Framework and the Development Plan, the documentation accompanying the application and all other material considerations including representations made including the views of statutory and non-statutory consultees. The consultation on proposed reforms to the NPPF and other changes to the planning system published 30 July 2024 including the importance of planning to meet housing needs and the clarification of the presumption in favour of sustainable development in paragraph 11 has also been considered and do not alter the recommendation, although they hold limited weight at present, being at an early stage.

The application would normally be determined under delegated powers but is being referred for Committee determination due to the site history and the number of

representations received expressing a view contrary to officer's recommendation for approval.

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## **Background Papers**

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

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