

REFERENCE NO - 18/505455/REM		
APPLICATION PROPOSAL Approval of Reserved Matters for Access, Appearance, Landscaping, Layout, and Scale, pursuant of 15/503359/OUT - Outline application with all matters reserved for residential development (approx 89 dwellings) plus open space, biomass plant and access road (plus emergency access).		
ADDRESS Land East Of Gleamingwood Drive Lordswood Kent		
RECOMMENDATION Application Approved		
SUMMARY OF REASONS FOR RECOMMENDATION The scheme benefits from outline planning permission granted on appeal, which established the principle of the development of this countryside site with housing and which also established the principle of creating an access with its consequent impacts upon the Ancient Woodland. A Tree Preservation Order on the site has been served in the interests of amenity, but this does not override the planning permission granted on appeal. Whilst the NPPF (in paragraph 175 (c)) requires wholly exceptional reasons for development that would result in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees), this is not engaged because an application for reserved matters approval is not an application for planning permission and so there is no scope to re-assess the principle of development. Case law establishes that reserved matters approval cannot not be withheld on a ground that has already been decided in principle at the grant of outline planning permission as that would be to reopen an issue already decided and frustrate the permission granted. The outline planning permission secures ecological mitigation and enhancement measures that acknowledge the importance of the site as Ancient Woodland that possesses high habitat and nature conservation value. The layout now proposed is the optimal in terms of ecological mitigation, bearing in mind that the alignment of the accesses through the Ancient Woodland were established by the Planning Inspector in the outline planning permission. The Inspector also considered the outline scheme to be acceptable in terms of landscape impact. The detailed Landscape Masterplan now before Members is sound and achieves the necessary level of screening practicable and provides significant levels of amenity space, land for landscaping and ecological mitigation/enhancement. Developer Contributions have already been secured in the outline planning permission and the applicants are already committed to delivering policy compliant affordable housing. Traffic and Highways issues were all dealt with at outline stage. The design of the scheme scores well when assessed against the criteria in Building for Life 12-Maidstone Edition 2018.		
REASON FOR REFERRAL TO COMMITTEE At the request of Boxley PC		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT McCulloch Homes And Palm Developments Ltd AGENT Tetlow King Planning
TARGET DECISION DATE 05/06/19		PUBLICITY EXPIRY DATE 23/11/18

Relevant Planning History

13/1797

Outline application for residential (approximately 89 dwellings) Refused 2014

15/503359/OUT

Outline application for residential development (approx 89 dwellings) Appeal Refused 2015

18/500346/FULL

Erection of 115 dwellings together with associated infrastructure, open space, landscaping and access works. Refused 2018

Appeal History:

14/500114/REF

Outline application for residential (approximately 89 dwellings) Dismissed 2015

15/500128/NONDET

Outline application for residential development (approx 89 dwellings) plus open space, biomass plant and access road (plus emergency access) Appeal Allowed 2015

TPO History

TPO Woodland Order No TPO ref 5008/2018/TPO

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is close to the boundary with Medway Council district. It is outside the urban confines of Lordswood and is thus in the designated countryside. It comprises an area of 4.28ha mainly being 2 open agricultural fields with some Ancient Woodland.
- 1.02 It is sited to the east of Lordswood, a residential area that spans the Borough boundaries, which was developed in the 1960s and 70s. The red line application site includes a main access through the woodland to Gleamingwood Drive, plus land needed either side for visibility splays. Also provided are an emergency access to the south to Westfield Sole Road and a non-vehicular link to the northernmost extent (Sindals Lane).
- 1.03 To the east, the site is bounded by Sindals Lane, an unmade track, to the North by Roots Wood and the site of Gibraltar Farm. Gibraltar Farm has an outline planning permission for up to 450 homes (originally allowed on appeal).
- 1.04 The M2 motorway forms a boundary to the southern edge of Lordswood and separates it from the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 1.05 The site has been used for horse related purposes in the past and comprises 2 fields that are separated visually from open agricultural land to the east and south by a small bund planted with a mixture of deciduous trees and an inner row of mature coniferous trees.
- 1.06 Gleamingwood Drive follows the perimeter of the built up area and on its eastern side is lined with mature trees designated as Ancient Woodland owned by the applicant. This adjoining woodland is known as Reeds Croft and Cowbeck Woods and has an area of approx. 7 ha. These two woodland parcels are believed to have

remained more or less continuously wooded since at least 1600, although part of Reeds Croft Wood was replanted in the 19th or 20th Century.

- 1.07 The Appeal Inspector accepted that a new access road would be created through the Ancient Woodland from Gleamingwood Drive and that another section of roadway through Ancient Woodland would link the 2 fields. The reserved matters are consistent with the details required by the inspector. The housing units themselves and a landscaped buffer area would be entirely contained within the open fields sections of the application site.
- 1.08 The site lies on the edge of countryside which forms a gap between Lordswood and Hempstead to the east, but the gap between these settlements has no specific landscape policy protection. It does fall within the Local Landscape Character Type of "Dry Valleys and Downs" and the "Bredhurst and Stockbury Downs Landscape Character Area" in the Maidstone Landscape Character Assessment. The Ancient Woodland within the site is acknowledged to have been maintained by coppicing in the past but there is currently no active management.
- 1.09 A public right of way (PROW) runs along the NE boundary (PROW KH37). The Ancient Woodland forms a strong visual barrier between suburban development and open farmland. The woods themselves do not have a PROW through them but there are informal paths and hence there is some informal use of the application site and the adjacent wooded area for recreation such as dog walking.
- 1.10 A woodland TPO ref 5008/2018 has been confirmed on this site and adjoining woodland.

2. PROPOSAL

- 2.01 These reserved matters are pursuant to the outline planning permission for 89 dwellings.
- 2.02 The outline planning permission is subject to a s106 unilateral undertaking which addresses:
 - Payment of £44 647.20 towards Primary healthcare at Lordswood Community Healthy Living Centre
 - 40% affordable housing, mix and tenure to accord with MBC policy
 - A Woodland and Structural Landscaping Management Plan with 18 specific objectives
 - A Biomass Energy Delivery Plan with a 30 year maintenance schedule and details of funding
 - A biomass plant of minimum 300kW for heating and hot water by some or all of the dwellings
 - Scheme of £17,000 for Employment Training and Workforce development
 - Payment of £202 243 for secondary school education (ie classrooms and dining rooms) at Greenacre Boys School and Walderslade Girls School.
 - £80, 0000 for equipment at Lordswood Leisure Centre
 - £76,954 for a greenway open space (although the Inspector considered that not to be justified).
 - £12 167.19 for IT and Education facilities at Hook Meadow Community Centre
- 2.03 Matters that are addressed by conditions imposed on the outline planning permission and which do not need to be repeated on these reserved matters include:

- The access route through Ancient Woodland to be as per 2 specific drawings referenced
 - In accordance with 3 indicative plans showing the extent of development vis a vis the Ancient Woodland
 - An Arboricultural Method Statement and Tree Protection Plan
 - A Woodland Management Plan
 - Removal of some residential permitted development rights
 - Ecological Design Strategy and ecological enhancement
 - Construction Environmental Management Plan
 - Air Quality report/mitigation
 - Details of the Biomass plant
 - Emergency access
 - Archaeology
- 2.04 Generally the new houses are detached and semi detached with a few terraces. They are mainly 2 storeys but there are some 2.5 storey dwellings, the latter have eaves heights of 7m and ridge heights of 10.5m. The mix is 2, 3 and 4 bed properties. There are to be 36 affordable units comprising; 13 x 2 bed; 18 x 3 bed; 5 x 4 bed. The Tenure split is to accord with the Council's policy, currently 70% affordable rented and 30% shared ownership.
- 2.05 In the centre of the site is an open space with a Locally Equipped Area for Play (LEAP). This is shown to contain 9 items of play equipment on brown rubber mulch safety surfacing in a black bow topped fenced compound with 2 self closing gates to match.
- 2.06 In terms of renewable and low carbon design, the design is said to incorporate high quality sustainability elements in terms of energy consumption and production. The dwellings will also be highly sustainable in terms of the technologies incorporated in the fixtures and fittings as well as the construction techniques, giving them exceptional energy performance when measured against Building Regulations. These design elements include passive solar design and orientation, high quality roof, wall and floor insulation, air tightness and the use of energy efficient appliances and lighting throughout the development.
- 2.07 The proposals provide family housing of contemporary appearance and form, utilising vernacular materials.
- 2.08 The biomass plant is shown to be in the northernmost part of the site. It measures 12.5m by 8m with a simple gable pitched roof with fibre cement roof, 2 small chimneys and timber cladding to the elevations. Half of the building is indicated to be the boiler room and the other half the fuel store.
- 2.09 The foul water pumping station is also in the northernmost part of the site.
- 2.10 The perimeter is predominately surrounded by trees. The dwellings are arranged in outward facing perimeter blocks such that they provide a natural surveillance of open spaces, with the living conditions, outlook and aspect of occupants respected.
- 2.11 The lighting scheme has been designed to be sympathetic to foraging bats and mitigate any potential adverse impacts to their foraging habits.
- 2.12 The ecological appraisal submitted with the application seeks to demonstrate that the development will improve the ecological value and potential of the site, and woodland adjacent to the site, through a range of landscape and ecological

management and enhancement measures. This will include new landscape features such as trees, green corridors (the perimeter thicket).

- 2.13 The appeal decision was in outline subject to a Unilateral Undertaking, with all matters reserved, but the Inspector specifically approved the access from Gleamingwood Drive and the link access between the 2 housing parcels as per the submitted drawings.
- 2.14 Consistent with the scheme allowed on appeal, the development would have a single access from Gleamingwood Drive, with a secondary emergency access onto Westfield Sole Road using an existing entry point. Westfield Sole Road is narrow with passing points at regular intervals but it has no pedestrian access so is not suitable as a main access.
- 2.15 The landscape masterplan proposes the retention, enhancement and management of the existing locally distinctive landscape features of the site - ancient woodland, tree belts and hedgerows, including:
- reinstatement of coppicing within the ancient woodland, as part of a long-term management plan.
 - creation of an appropriate ancient woodland buffer zone.
 - enhancement of perimeter tree belts through appropriate planting and management to improve species diversity, screening value and age structure.
 - reinforcement of hedgerow along Westfield Sole Road with additional native planting.
 - removal of alien features within the local landscape - the rows of conifers to the north-east and south-east boundaries.
 - creation of a high quality landscape setting to the development through strong landscape structural planting and provision of useable public open space.
 - removal of the conifer tree belt
 - a 15m Ancient Woodland Buffer Zone with native thorny shrub planting to the woodland edge and mown grass paths through species-rich meadow grassland
 - to restore and improve the woodlands within the area by improving management within historical coppice and introducing greater woodland structural diversity.
 - compact, upright tree species for street planting creating green routes through the development
- 2.16 Foul drainage is intended to connect to the main sewer via a pumping station and surface water to infiltration to ground via infiltrating cellular storage tanks, as part of SuDs scheme.

3. POLICY AND OTHER CONSIDERATIONS

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Maidstone Borough Local Plan 2017 (MBLP) SS1; SP17; SP19; SP20;
SP23; DM1; DM3; DM6; DM8; DM12; DM19; DM20; DM21;DM23;DM30;
H1; ID1
Supplementary Planning Documents: Air Quality; Public Art.

4. LOCAL REPRESENTATIONS

Ward Members

This application relies heavily on the Inspector at appeal giving much weight to the fact of a biomass unit being built for the site. However, there are no supporting documents regarding this and the management of the ancient woodland in order to run the boilers.

There have also been significant changes to the NPPF since the original application of 2015 and I firmly believe that these carry much weight and should feature in any decision taken. The loss of ancient woodland in creating an access to the site should not be allowed.

The comments submitted by Boxley Parish Council are fully endorsed.

Local Residents:

4.01 30 representations received from local residents raising the following (summarised) issues

- Highway danger / junction is on a bend on fast road
- Traffic congestion
- Removal of parking facilities in Gleamingwood Drive
- Access should be via Westfield Sole Road
- Bus routes limited
- Poor cycling provision
- Cumulative impact of housing proposals in Medway and Maidstone
- Government has banned building on ancient woodland
- Loss of countryside/woodland as an amenity for exercise and dog walking
- Loss of green wedge
- Loss of trees and wildlife
- More Trees should be planted not removed
- Woods stop the noise from the M2
- Water is already in seriously short supply during periods of drought
- Will overload sewers
- Schools and infrastructure overloaded
- GP surgeries and hospitals overstretched
- Increases air pollution from traffic and congestion
- Smell and air pollution from the biomass boiler and fuel deliveries to it
- Noise/dust during construction
- More litter in the woodlands

Issues such as water supply are not material planning considerations and therefore cannot be taken into account in the determination of this application. The other matters raised by Ward Members, neighbours and other objectors are discussed in the detailed assessment below.

5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

Boxley PC:

5.01 Object on the following grounds:

- The applicant has failed to prove that this development is sustainable. No clear business plan for the operation of the biomass unit nor details of the Management Plan for the Ancient Woodland, which is to be managed to provide fuel to the bio-mass
- Question whether the bio-mass boiler is viable.
- Reiterate their previous objections submitted for 15/503359/OUT
- Since the outline Planning Permission there has been a significant change regarding protection for Ancient Woodland (NPPF 118) and Boxley Parish Council considers the change must be a material consideration
- The policy framework by which the impact is assessed differs greatly from the situation in 2015.
- Consider that the traffic survey needs revisiting as it is now 5 years out of date
- If MBC is minded to approve then the following conditions are requested: Proof, that a bio mass unit is sustainable and can be funded and maintained by the current scheme and a legal requirement that the bio mass unit is funded to remain in operation for 30 years; Approval of the Ancient Woodland Management Plan, fully costed and cross referenced to the bio mass feasibility study.

Woodland Trust

5.02 The Trust strongly objects to this application on the basis of loss and deterioration of Reedscoft Wood, an area designated as both ancient semi-natural woodland (ASNW) and plantation on ancient woodland site (PAWS) on Natural England's Ancient Woodland Inventory (AWI). In particular the Trust make the following comments:

- Despite the previous outline application having been approved they consider that the recently updated protection afforded to ancient woodland within the National Planning Policy Framework (NPPF) must be strongly considered.
- Advise that ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat.
- Both types of Ancient Woodland are given equal protection in the National Planning Policy Framework (NPPF) regardless of their condition.
- National Planning Policy Framework states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. There is no wholly exceptional reason for the development in this location and as such it should be refused on the grounds it does not comply with national planning policy.

5.03 The Trust considers that whilst the proposed development has been granted outline approval, the proposals would result in significant loss and damage to ancient woodland. In particular the Trust is concerned about:

- Direct loss of ancient woodland from the proposed access road
- Fragmentation

- Disturbance by noise, light, trampling and other adjacent activity from construction processes and use of the site
- Dust deposition as a direct result of construction processes
- Intensification of recreational activity of humans and their pets eg disturbance to fauna, vegetation damage, soil compaction, littering, removal of deadwood and fire damage
- Hydrological changes will result in changes to the characteristics and quality of adjacent woodland's water sources from pollution, contamination etc.
- Any effect of development can impact cumulatively on ancient woodland - this is much more damaging than individual effects.
- damaging or destroying all or part of them (including their soils, ground flora, or fungi); roots and understorey; compacting soil; polluting the ground around them; changing the water table or drainage ; damaging archaeological features or heritage assets
- Nearby development can also have an indirect by breaking up or destroying connections between woodlands and veteran trees; reducing the amount of adjacent semi-natural habitats; increasing the amount of pollution, including dust; increasing disturbance to wildlife; light pollution, damaging activities like fly-tipping and the impact of domestic pets; changing the landscape character of the area
- The direct loss of ancient woodland will lead to the deterioration and long-term degradation of Reedscoft Wood. In turn this is likely to result in a loss to local biodiversity; from resident and migrating wildlife, to site endemic soils and their associated flora. Natural England's standing advice provides guidance in relation to buffer zones to ancient woodland, stating: "For ancient woodlands, you should have a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distance, you're likely to need a larger buffer zone."
- The siting of this large housing development will largely surround and fragment this area of ancient woodland, as such a suitable buffer in this instance should be at least 30m between any developed area and ancient woodland. Ideally planted with at least 50% native tree cover to allow it to develop into a semi-natural habitat and must also be established and fenced off before any construction work commences.
- Despite outline permission having been granted for this site it is of paramount importance that ancient woodland is protected from damage and loss, as per the recently strengthened national planning policy for ancient woodland. At present, this application will inevitably result in adverse impacts on the ancient woodland. Any proposed planting or proposed management of the woodland cannot possibly mitigate for the loss of ancient woodland; only avoidance of irreplaceable habitat constitutes mitigation of impact. Any such proposals would only constitute compensation, and should not be taken into account as part of considering the merits of the development, as per Natural England's standing advice: "Ancient woodland, ancient trees and veteran trees are irreplaceable. Consequently you should not consider proposed compensation measures as part of your assessment of the merits of the development proposal."
- Until the applicant has rerouted access roads to avoid loss of ancient woodland and implemented minimum 30m buffers between development and ancient woodland, the Trust will maintain its strong objection to this application.

KCC Highways and Transportation

- 5.04 The Local Highway Authority considers that this point should be an emergency access point only as encouraging pedestrians onto a narrow country lane without

footways, would be undesirable. Details should be submitted regarding a suitable gated design for consideration.

Natural England

- 5.05 Confirm that they maintain their previous position where they made no objection to the original proposal and consider that the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Forestry Commission

- 5.06 Confirm that ancient woodland is an irreplaceable habitat and direct the Council to joint standing advice prepared with Natural England on ancient woodland and veteran trees.

KCC(Flood and Water Management)

- 5.07 Note that within the planning statement it is proposed to deal with surface water via infiltration and as such have no objection to the reserved matters application.

Kent Police

- 5.08 Met with the applicant/agent at the early design stages regarding CPTED for this proposal and note the inclusion of the Secured By Design (SBD).

Southern Water Services

- 5.09 SWS suggest a condition requiring a drainage strategy detailing the proposed means of foul disposal and an implementation timetable, and advise that where a SUDS scheme is to be implemented, the drainage details submitted should specify a management and maintenance plan for the lifetime of the development.
- 5.10 Advise that due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15m to the boundary of a proposed pumping station site.

Medway Council

- 5.11 No response

KCC Ecology

- 5.12 No objections: the submitted site plans demonstrate that the minimum size buffer area has been included within the site (in some areas it is larger).
- 5.13 Garden areas are not directly adjacent to the buffer area and there is a path running through the buffer area - both of these inclusions will minimise the risk of garden grabbing occurring within the site. We are supportive of the use of the buffer area as recreation however there is a need to ensure that the dense scrub area is sufficiently dense to ensure that it will prevent access in to the woodland (access should only be at the designated points). Some areas within the landscape plan do suggest that the scrub is very narrow and the buffer is mostly meadow.
- 5.14 There is a need to ensure that the scrub will be planted as soon as possible to ensure that it is established by the time the development is occupied.
- 5.15 Information about lighting will be submitted as part of a separate condition but there is a need to ensure that there is minimal light spill from the lighting. If it is not intended to use lighting on the road we strongly recommend that the houses are provided with security lights to ensure that the external lighting can be designed to minimise light spill. Not including lighting will not stop residents from installing external lighting.

- 5.16 A condition was included requiring the submission of a management plan for the site and woodland - so there is a need to ensure that it is implemented for the lifetime of the development. In particular it will ensure that the buffer area is replanted if it's damaged (for example the creation of gaps for direct access in to the wood).

6. APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:

- Principle of Development
- Ancient Woodland
- Ecology
- Landscape Impact
- Design and Layout
- Traffic and Highways
- Developer Contributions

Principle of Development

- 6.02 The scheme has outline planning permission granted on appeal.
- 6.03 The appeal decision is an extant planning permission that can still be implemented because all outstanding details of access, appearance, landscaping, layout and scale were submitted before 30 November 2018. The appeal decision therefore establishes the principle for development of this countryside site with housing and the creation of an access with its consequent impacts upon the Ancient Woodland. These principles are not for review as part of this reserved matters submission.
- 6.04 The section 106 Unilateral Undertaking (UU) included a commitment for a biomass boiler of minimum 300kW capacity. The time trigger for submission of the Biomass Energy Delivery Plan is before implementation and the time trigger for the operation of the biomass boiler is first occupation.

Ancient Woodland

- 6.05 A TPO on the site has been served in the interests of amenity but cannot override the planning permission granted on appeal. Therefore no objection can be raised to the loss of any TPO trees arising from the housing and access.
- 6.06 Policy DM3 of the Local Plan requires new development to protect and enhance the natural environment by incorporating measures where appropriate to protect areas of Ancient Woodland and to enhance, extend and connect fragmented Ancient Woodland; supporting opportunities to enhance, restore and connect other habitats, including links to habitats outside Maidstone Borough, where opportunities arise.
- 6.07 Ancient Woodland is irreplaceable and an important ecological resource. The Standing Advice for Ancient Woodland and Veteran Trees published by Natural England and the Forestry Commission sets out aims in relation to Ancient Woodland and veteran trees. As a requirement of the outline planning permission arboricultural information needs to be submitted in the future pursuant to a condition on the outline planning permission.

- 6.08 The Inspector who allowed the appeal in 2015 regretted the loss of some trees and soil under the access roads. Nonetheless, he said that less than 2% of Ancient Woodland on the site would be removed to provide the access and that the harm was outweighed by the benefits of management to the overall area of Ancient Woodland. He said that, where necessary, roots could be bridged to ensure that trees could continue to thrive. Some coppice stools would need to be relocated and that was to be ensured by planning condition. Therefore, in the Inspector's opinion, overriding the direct loss and impact on the Ancient Woodland was the benefit that the remainder would be managed and maintained, a low density form of development and that access through the woodland facing Gleamingwood Drive and a footway along a small part of that road, would not seriously compromise the perception of the woodland as an attractive feature.
- 6.09 The Inspector formed the view that as the Ancient Woodland had not been managed for a considerable time, selective coppicing and felling on a rotational basis would be beneficial for its long term health and future biodiversity. That the products of woodland management would be used in a biomass installation (serving a 6 of the houses) was mentioned by the Inspector as a sustainability benefit.
- 6.10 The main impact on the Ancient Woodland remains the creation of a bellmouth with visibility splays onto Gleamingwood Drive with the access road with footpaths. These layouts have been conditioned in the outline planning permission and it is not open for the Council to re-visit any of the Inspector's assessments of impact.
- 6.11 A second section of the Ancient Woodland will be removed in order to link the northern and southern housing parcels. Again, this was specifically conditioned by the Inspector in the appeal decision.
- 6.12 As has been highlighted by the Woodland Trust and other objectors, the appeal decision was made before the change in emphasis in the recently published NPPF 2019 which can be interpreted as giving a very substantial level of extra weight to preservation of the Ancient Woodland over that of the original NPPF from 2012.
- 6.13 The new NPPF in paragraph 175 (c) states:
- "Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists".*
- 6.14 What could constitute a "wholly exceptional reason" is given in a footnote as "For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat".
- 6.15 Unlike the recent full application that was refused planning permission based on the above, it is the legal situation that a reserved matters application is not subject to para 175 (c) in the same way and cannot be refused on that issue.
- 6.16 An application for reserved matters approval is not an application for planning permission and so there is no necessity to decide if the development is in accordance with the development plan as a whole. In this case, advice in paragraph 175 of the NPPF is not engaged.
- 6.17 In allowing the appeal in 2015, the Secretary of State expressly found that the harm caused by the access roads through AW was clearly outweighed by the need for and benefits of development in this location. Case law establishes that reserved matters approval cannot not be withheld on a ground that has already been decided in principle at the grant of outline planning permission as that would be to reopen an issue already decided and frustrate the permission granted.

- 6.18 It follows that if the Committee were to refuse reserved matters approval on the basis of the new NPPF para 175, it would have taken into account irrelevant considerations and it would not be likely to succeed at an appeal against the refusal of reserved matters approval.

Ecology

- 6.19 The outline planning permission secures ecological mitigation and enhancement measures which acknowledge the importance of the site as Ancient Woodland having high habitat and nature conservation value.
- 6.20 Paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued sites of biodiversity and soils, recognising the wider benefits from natural capital and ecosystem services of trees and woodland; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 6.21 As the principle of the development has been established, the objective in assessing the Reserved Matters details is to ensure that the impact on biodiversity is minimised within the available parameters. The submitted site plans demonstrate that the minimum size buffer area of 15m has been included within the site (in some areas it is larger). This accords with current Standing Advice from Natural England. The submitted drawings show the detail of the landscaping of the buffer. The 15m buffer is also covered by the need for the Woodland and Structural Landscaping Management Plan required to be submitted before implementation by the s106 obligation. Fencing and other boundary treatment details are required by a condition on the outline planning permission.
- 6.22 As the layout of the scheme has been revised to perimeter blocks with outward facing units, this has the advantage that private garden areas are not directly adjacent to the buffer area. Together with the path running through the buffer area, the layout and the degree of public domain supervision of the buffer minimises risk of garden grabbing occurring within the site which can be a problem where rear gardens abut woodland buffer zones. There is a need to ensure that the dense scrub area is sufficiently dense to ensure that it will prevent access in to the woodland except at designated points and this is a detail that would be addressed when the relevant conditions on the outline planning permission are submitted and KCC's Ecology officers will be consulted at that time.
- 6.23 Similarly, details of external lighting are not part of this application but a condition on the outline planning permission and the need to minimise pollution and biodiversity harm will be dealt with at the time the condition is discharged.
- 6.24 Paragraph 175 of the revised NPPF states: planning permission should be refused if significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated, or, as a last resort, compensated. I am satisfied that in the context of the outline permission, the layout proposed is acceptable in terms of ecological mitigation and allows the scheme overall to comply with the NPPF.

Landscape Impact

- 6.25 The application sites lies outside the identified built up area of Lordswood, as defined by the outer edge of Gleamingwood Drive. The developed areas of the application site are set, on average, just over 100m back from the road with dense woodland intervening. It is accepted that it would be an isolated pocket of suburban development because of the general need to site the housing units in the open fields and thus secure some protection of the Ancient Woodland.

- 6.26 Policy DM30 requires that for development in the countryside, impacts on the appearance and character of the landscape are appropriately assessed and mitigated. The Inspector said that this specific site did not warrant landscape protection. Essentially, this accords with other decisions from appeal Inspectors which have clarified that it is necessary to assess landscape harm on a site by site basis ie. being in the countryside is not, in itself, an objective basis on which to assign any particular landscape value.
- 6.27 The outline planning permission establishes that the Inspector considered the scheme to be acceptable in terms of landscape impact. In terms of the Landscape Masterplan, the principles are sound and achieve the necessary level of screening practicable, such that the requirements of Policy DM30 are met.
- 6.28 There would be landscape screening augmentation of the existing mixed planting on the bunds with local tree species (Field Maple, Oak, Beech), Hornbeam Wild Cherry and the conifers removed. Hedge and scrub planting would be Field Maple, Hazel, Hawthorn, Holly and Spindle.

Design and Layout

- 6.29 Policy DM 30 relates to design principles in the countryside and as this site is outside of the settlement boundaries, there is an expectation for high quality design in terms of the type, siting, materials and design, mass and scale of development.
- 6.30 The houses all fall within the same development envelope as the appeal scheme. The proposed indicative layout provides sufficient detail to demonstrate that the two housing parcels can be developed in a manner that achieves acceptable spacing, privacy, amenity space, parking and road layout standards. In addition the site will be developed at a modest density of 27 dph which is comparable to existing development fronting Gleamingwood Drive. It cannot meet the minimum recommended rural housing density in policy DM12 (30dph) due to the woodland buffer and the need for landscape screening on the perimeter and to respect the woodland setting.
- 6.31 It is therefore considered that the site has been well designed in terms of the style and layout to accommodate for this number of houses in an acceptable manner. There is a need for a condition on this approval for large scale details of joinery and other constructional details such as rain water goods, eaves and verges to ensure the design quality is acceptable.
- 6.32 Regarding design, the details show contemporary 2 and 2.5 storey pitched roof (gabled/skillion/lean-to) housing of an attractive appearance with the use of materials of vernacular appearance; thus ensuring sensitivity to the locality in terms of reducing long range visual impact.
- 6.33 The scheme layout has been revised since originally submitted. There are a number of dual aspect house designs in corner locations. Corner plots will have large glazed feature bays that will add visual interest and help to break up side aspect of the buildings. The access road will meander through a series of plot configurations which will create separate neighbourhoods, intended to have their own individuality. The public open spaces have also been significantly landscaped and there is screened parking. These new layouts will provide better passive surveillance and are intended to respond to comments expressed in the Kent Police representation in terms of being 'Secured-by-design'.
- 6.34 The central amenity open space would meet needs for children's play in accordance with open space policy DM19. It will assist in providing an attractive setting and outlook for the dwellings that front it. The majority of the dwellings will face outwards onto the perimeter trees. The layout and landscaping ensure that the

Woodland punctuates through the development and there is an emphasis placed on the woodland setting. This further assists in addressing Policy DM30.

- 6.35 Policy DM8 of the Local Plan refers to lighting. In terms of the potential for public and private artificial lighting to detract from the character of the area, it was stated by the Inspector that this would not make a significant difference in the context of the M2, traffic generally, residential areas, farm buildings and other semi-industrial and retail uses that exist in the area.

Traffic and Highways

- 6.36 These issues were all dealt with at outline stage and in the circumstances it is considered that there is no sustainable objection to the proposal on highway or parking grounds as the scheme complies with policies DM21 and DM23. Notwithstanding the appeal decision at nearby Gibraltar Farm, there will not be a cumulative severe impact on highway safety as confirmed by KCC as Local Highway Authority.

Developer Contributions

- 6.37 These have already been secured in the outline planning permission as listed above and cannot be amended or added to in this type of application.

The applicants are already committed to full compliance with policy SP20 of the MBLP, with the provision of 40% affordable housing and have submitted a tenure mix of 70% social rent and 30% shared ownership.

Building for Life 12- Maidstone Edition 2018

- 6.38 The NPPF has a chapter dedicated to design ("12. Achieving well-designed places") and there is specific reference to the design assessment framework 'Building for Life 12'. Maidstone BC has now published its own version and this application has been carefully considered against this assessment framework, with particular emphasis on:

- vernacular materials and architectural detailing;
- landscaping being integral to design;
- ecological corridors;
- streets which are not dominated in design terms to cater for the car;
- sustainable design principles;
- biodiversity.

- 6.39 In response to BfL12, the scheme offers potential pedestrian/cyclist connections in addition to the main access road in order to achieve integration and permeability. It is close to the urban area of Lordswood with its range of facilities and services including public transport.

- 6.40 In terms of character and well-defined streets and spaces, the key design feature that gives the proposed layout structure and distinctiveness are the pockets of perimeter blocks set amongst generous open space and the backdrop of the Ancient Woodland. Outward looking dwellings provide an acknowledgement to the site's setting within ancient woodland.

- 6.41 The road layout allows easy legibility and waymarking and is traffic calmed with raised tables at junctions to encourage low vehicle speeds and encourage pedestrian and bicycle flows.

- 6.42 Design techniques such as dual aspect buildings turning corners along the most publicly visible corners define and add interest.
- 6.43 Distinct 'green ecological corridors' are proposed around the boundaries and the intervening open space, shown to be landscaped with indigenous species incorporating positive biodiversity features.
- 6.44 Sufficient amenity space is proposed. Private gardens are intended to be the location of bin and recycling storage (except for day of collection points).
- 6.45 In terms of architectural detailing, both vernacular materials and façade treatment are proposed in a modern idiom. It is therefore considered that the reserved matters respond positively to the guidance within BfL 12 including the Maidstone edition. As mentioned above, a condition is suggested to ensure the detail is of acceptable quality.

Other Matters

- 6.46 Whilst the Public Art threshold is exceeded as this is reserved matters, it cannot be insisted upon but could be the subject of an informative.
- 6.47 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved.

7. CONCLUSION

- 7.01 The scheme has outline planning permission granted on appeal which establishes the principle for development of this countryside site with housing development and an access with their consequent impacts upon the Ancient Woodland.
- 7.02 A TPO on the site has been served in the interests of amenity but cannot override the planning permission granted on appeal.
- 7.03 The NPPF paragraph 175 (c) test in relation to the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) is not engaged because an application for reserved matters approval is not an application for planning permission and so there is no necessity to decide if the development is in accordance with the development plan as a whole.
- 7.04 The outline planning permission secures ecological mitigation and enhancement measures that will acknowledge the importance of the site as Ancient Woodland having high habitat and nature conservation value. Overall, the layout proposed is appropriate ecological mitigation bearing in mind the alignment of the accesses through the Ancient Woodland are conditions in the outline planning permission.
- 7.05 The Inspector considered the scheme to be acceptable in terms of landscape impact. In terms of the detailed Landscape Masterplan now before Members, the principles are sound and achieve the necessary level of screening practicable. Developer Contributions have already been secured in the outline planning permission and the applicants are already committed to making full compliance for affordable housing. Traffic and Highways issues were all dealt with at outline stage. The design of the scheme scores well in comparison to the criteria in Building for Life 12- Maidstone Edition 2018.

8. RECOMMENDATION

APPROVE Reserved Matters subject to the following condition

- 1) Unless otherwise approved in writing, the development shall include the following materials: profiled Larch cladding, Black stained profiled Larch cladding; Black rainwater goods Joinery: pale grey aluminium windows and doors. The roof shall be natural slate or composite (ie slate waste) roof slates. Development shall not commence above damp proof course level until full details of the following matters have been submitted to and approved in writing by the Local Planning Authority:-
 - a) new external joinery in the form of large scale drawings.
 - b) details of eaves, verges and roof overhangs in the form of large scale drawings
 - c) details of balconies, projecting bays and porch canopies
 - d) details of rain water goods
 - e) details of the cladding to all plots to accord with the elevational drawings hereby approved.

The development shall be carried out in accordance with the approved details.

Reason: To ensure the appearance of the buildings accord with the appeal decision whereby the buildings blend as far as possible into the woodland setting and include a high proportion of recycled products.

INFORMATIVES

- 1) You are invited to consider the inclusion of Public Art within the scheme with reference to Maidstone Borough Council's Public Art Guidance 2017.
- 2) You are advised that the 15m buffer will be expected to include scrub sufficiently dense to ensure that it will prevent access in to the woodland (access should only be at the designated points). The scrub should be planted as soon as possible to ensure that it is established by the time the development is occupied.

Case Officer: Marion Geary