

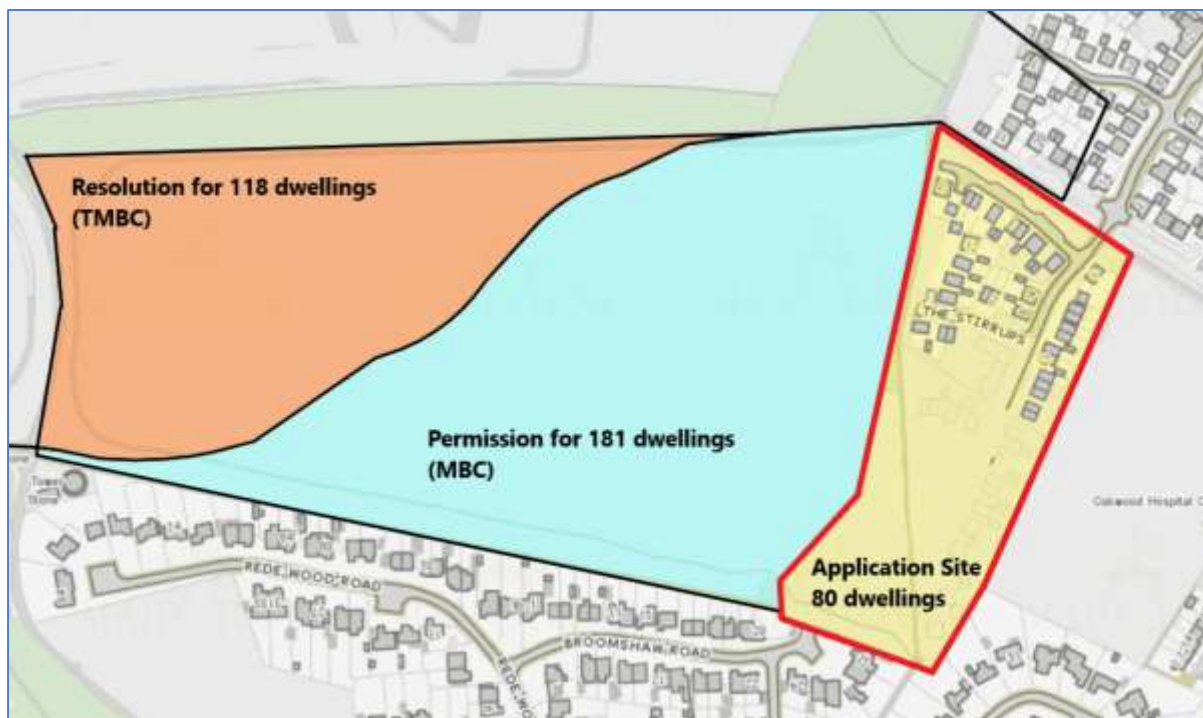
<b>REFERENCE NO - 21/505249/REM</b>			
<b>APPLICATION PROPOSAL</b>			
Section 73 - Application for amendment to approved plans condition 1 (amendment to layout to facilitate a secondary access) and variation of condition 8 (to amend the emergency access arrangements) pursuant to 18/506068/REM (Approval of Reserved Matters for Access, Appearance, Landscaping, Layout and Scale pursuant to Outline application 13/2079 for the erection of 80 dwellings including affordable housing, associated landscaping, infrastructure and earthworks)			
<b>ADDRESS</b> Land South West of Oakapple Lane, Barming, Maidstone			
<b>RECOMMENDATION – APPROVE WITH CONDITIONS</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
<ul style="list-style-type: none"> <li>• A secondary access off Broomshaw Road has already been approved in connection with application 20/501773 (181 dwellings) to the west of the site subject to a legal agreement requiring the applicant to pursue a Traffic Regulation Order for a 20mph speed limit between Broomshaw Road and Hermitage Lane before commencement of development.</li> <li>• As such, the proposed change to condition 8 to allow the secondary access to open (following the requirements of legal agreement in connection with application 20/501773 being met) is acceptable from a highway safety, traffic, and amenity perspective.</li> <li>• The proposed changes to the layout plans to facilitate the secondary access off Broomshaw Road are acceptable in terms of design and appearance.</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
<ul style="list-style-type: none"> <li>• Barming Parish Council strongly objects and requests the application is considered by the Planning Committee for the reasons outlined in the report.</li> <li>• Councillor Gooch has requested the application is considered by the Planning Committee for the reasons outlined in the report.</li> </ul>			
<b>WARD</b> Barming and Teston	<b>PARISH COUNCIL</b> Barming	<b>APPLICANT</b> Taylor Wimpey South East <b>AGENT</b> Barton Willmore	
<b>DECISION DUE DATE:</b> 31/03/22	<b>PUBLICITY EXPIRY DATE:</b> 11/11/21	<b>SITE VISIT DATE:</b> Various in 2021/2022	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
21/504417	Non-material amendment: Adjustment to approved scheme and removal of condition 8 of application 18/506068/REM.	REFUSED	06/09/21
20/503176	Non-material amendment: substitute 2no. wheelchair accessible one bedroom apartments with 2no. two bedroom apartments.	APPROVED	03/09/20

18/506068	Approval reserved matters for access, landscaping, layout and scale pursuant to outline application 13/2079 for the erection of 80 dwellings.	APPROVED	27/02/19
17/500031	Proposed new access road off Oakapple Lane.	APPROVED	30/06/17
13/2079	Outline planning application with all matters reserved for the demolition of existing structures and erection of up to 80 dwellings with associated works for access, parking, infrastructure, open space and landscaping.	APPROVED	01/12/15
20/501773	(Site to the west) Erection of 181 dwellings, together with associated works for Access, Parking, Infrastructure, Open Space, Earthworks, Surface Water Drainage Systems and Landscaping.	APPROVED	15/07/21

## **1.0 DESCRIPTION OF SITE**

1.01 The application relates to the southern part of the 'West of Hermitage Lane' housing allocation site (H1(3)) which has permission for 80 houses that are under construction and nearing completion. It is accessed off Hermitage Lane via Fullingpits Avenue and Broke Wood Way to the north. It is west of the 'Oakwood Cemetery' area of open space and north of Broomshaw Road. PROW KM12 runs north/southwards through the site and KM11 runs along the south boundary.

1.02 To the west is allocated housing site H1(4) which has permission for 181 dwellings under application. To the west of this and beyond the Borough boundary there is a resolution to approve outline permission for 118 dwellings by Tonbridge & Malling Borough Council. The site and these applications/permissions are shown below for context.



## 2.0 PROPOSAL

2.01 This is a 'section 73' application to change two conditions on the approved permission for the 80 dwellings.

2.02 The first change is to the 'approved plans condition' 1 to make amendments to the layout to facilitate full vehicular access off Broomshaw Road to the south, rather than just emergency access as was originally approved. These changes have already been implemented so this element of the application is retrospective.

2.03 Condition 1 states as follows and the proposed change would be to substitute the approved layout plans:

***The development hereby permitted shall be carried out in accordance with the drawings listed in the 'Full Schedule of Documents and Drawings' dated 04.02.19 but excluding drawing nos. 200 Rev G and 201 F.***

***Reason: To clarify which plans have been approved.***

2.04 The reason the applicant is applying for this is because following approval of the 80 dwellings (with only emergency access) in 2019, permission was granted for 181 dwellings to the west in 2021 and this included 'full' vehicular access off Broomshaw Road. 'Full' access was needed and approved as it was a specific requirement of the site allocation policy for that site in the Local Plan based on the number houses approved from sites H1(3) and H1(4) at that point totalling 511 dwellings.

2.05 This approved 'full' access has a slightly wider road with pavements either side. Whilst the applicant can implement this access in connection with the '181 dwelling' permission, this requires changes to the layout approved for the 80 dwellings.

2.06 Therefore changes to the layout near to Broomshaw Road are proposed to align with the approved 'full' access. This is basically a wider road (by 0.6m) flanked by pavements; setting plots 59-64 and their frontages 1m further back with marginally smaller rear gardens; and the road linking to Broomshaw Road without the provision of bollards.

A comparison of the approved and proposed plans is shown below.

Approved Layout



Proposed Layout



2.07 The second change is to condition 8 which secures the emergency access.

2.08 Condition 8 states:

***No development above slab level shall take place until details of the bollards or measures to prevent use of the emergency access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists have been submitted to and approved in writing by the Local Planning Authority. The***

***approved measures shall be installed prior to any occupation of the development and thereafter retained, and this access shall not be open to general vehicular traffic.***

***Reason: This access has been assessed and approved on the basis of only being used for these purposes.***

2.09 The applicant is seeking changes to this condition to allow for 'full access' but only after obligations relating to the permission for 181 dwellings to the west have been met. Under this permission which allowed 'full access', the legal agreement requires the use of reasonable endeavours to secure a Traffic Regulation Order for a 20mph speed limit between Broomshaw Road and Hermitage Lane before commencement of development. The applicant is not proposing to use the access for all traffic until this obligation has been met. So, they would retain bollards until this time and the applicant's proposed wording for condition 8 is as follows:

*"Timber bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to that access being brought into use. Thereafter they shall be maintained until the obligations regarding pursuing a Traffic Regulation Order, as set out in the S106 accompanying permitted application 20/501773/FULL or any subsequent amendment to that permitted application have been satisfied. Once those obligations have been satisfied the wooden bollards are to be removed."*

### **3.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP2, SP23, H1, H1(3), H1(4), DM1, DM21
- Kent Waste and Minerals Plan (amended 2020)
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

### **4.0 LOCAL REPRESENTATIONS**

4.01 **Barming Parish Council: Strongly object** for the following (summarised) reasons:

- Significant departure from the approved plans and should be a standalone application.
- Will become a main thoroughfare and serve as a shortcut to the detriment of local amenity and highway safety.
- Will cut across a very well used PROW raising pedestrian safety issues.
- Broomshaw Road, Redewood Road, North Street, North Pole Road and Beverley Road are not suitable to accommodate two-way traffic flow.
- Will create a rat run.

4.02 **'Give Peas a Chance' residents group: Strongly object** for the following (summarised) reasons:

- Only emergency access is allowed under policy H1(3).
- Increased construction traffic through residential areas.
- TRO has never appeared in any previous applications or conditions.

- Broomshaw Road and Redewood road are not suitable for traffic.
- If approved, it should only be opened when 20/501773 (181 dwellings) is complete.

**4.03 Local Residents:** 36 representations received raising the following (summarised) points:

- Access should not be opened until Pea Field (181 dwellings) is completed.
- Broomshaw Road and Redewood road are not suitable for the traffic, including construction traffic, and were not designed for this purpose.
- There is no requirement for the access under policy H1(3).
- Highway safety.
- Rat running will occur.
- Harm to amenity from additional traffic.
- Should only be emergency access.
- Increased pollution.
- Increased noise.
- Sinkholes.
- Strain on infrastructure.
- Sight lines are not shown.
- Bollards should be in place already so applicant is in breach.
- If approved, it should only be opened when 20/501773 (181 dwellings) is complete.
- Should be weight restriction on Broomshaw Road.
- The TRO does not relate to this application site.
- How will timber bollards allow emergency vehicles through.
- Disagree with KCC Highways comments.

**4.04 Borough Councillor Gooch: Strongly objects** for the following reasons and request consideration by the Planning Committee:

*"I formally request that this proposal is called in for consideration by the Members of the Planning Committee because of the weight of opposition from local residents and because I fully support and agree with the comprehensive objections from Barming Parish Council.*

*The proposed amendment - which is effectively to open up the emergency access to through traffic - would be so significant, and its impact on new and particularly existing communities, would be so great, that it warrants a separate planning application.*

*It is totally out of keeping with the concept, design and spirit of the Oakapple Place development, and is too late in its build out for such a fundamental change. Crucially, the intended Fountain Lane/Tonbridge Road junction improvements are nowhere near becoming a reality due to, among other hurdles, lack of funding. Therefore, the pressure and the likelihood to rat run between Fullingpits Avenue, Broomshaw Road, Tonbridge Road to escape the relentless traffic congestion on Hermitage Lane would very soon become a reality. I urge that this application is refused."*

## **5.0 CONSULTATIONS**

### **5.01 KCC Highways: No objections.**

*"As highlighted in Kent County Council (KCC) Highway's responses to MBC reference 20/501773/FUL the provision of a secondary all purpose vehicular access is acceptable, given the substantive scale of development that would otherwise be served by a singular point of access onto Hermitage Lane. Provision of a secondary access is considered necessary for network resilience, as well as emergency access reasons.*

*The provision of a secondary access is also consistent with the requirements of policy H1 (4) of the adopted Local Plan, as well as the Kent Design Guide (KDG), which requires all developments in excess of 300 dwellings to be served by 2 all purpose vehicular accesses.*

*It is explained within the applicant's covering letter that consistent with the proposals submitted as part of the most recent planning application the previously proposed emergency access will be amended to accommodate the 2-way flow of traffic. Appropriate pedestrian connections and crossing points, in the form of dropped kerb crossing points, are to be provided. These arrangements are considered suitable for the development's likely operational demands, in the context of the larger development that it will now serve.*

*Whilst KCC Highways acknowledge how the proposed amendments will change the function of Broomshaw Road, from a cul-de-sac to a through road, given the proposals compliance with planning policy, as well as technical design standards, there are no sound or sustainable grounds that KCC Highways could object to the principle of Broomshaw Road being used as a route of access to the development."*

## **6.0 APPRAISAL**

6.01 Planning permission has already been granted for the development and this application proposes to make changes to conditions 1 and 8. In line with section 73 of the Town and Country Planning Act 1990, the local planning authority can only consider the consequences of the proposed changes to the condition and cannot re-visit the principle of the development or any other matters relating to the permission.

### Design Considerations for Site Layout Changes

6.02 The proposed changes are minimal with the main difference being a slightly wider road with pavements either side. The road would be widened from 4.7m to 5.3m with the houses set back by around 1m on both sides of the road.

6.03 Front gardens would still be provided as would the space for landscaping on the corners of the junction with 'Street 3' to the north. For these reasons the changes to the layout are acceptable and in accordance with policy DM1.

6.04 The rear gardens would be marginally smaller but would still be of sufficient size, and a reduction of the separation distance from the rear of plots 59-61 to the east by 1m would still be acceptable and not result in any harmful impacts in terms of privacy or outlook in accordance with policy DM1.

### Highways Considerations

- 6.05 As already stated, use of Broomshaw Road as a secondary access for all traffic has been approved in connection with application 20/501773 to the west. In approving this, MBC and the Highways Authority decided that the use of Broomshaw Road by a total of 511 dwellings within MBC (and a potential additional 118 in TMBC) was acceptable in terms of highway safety and traffic impacts, and also because it is a requirement of policy H1(4). As such, there is no objection to the applicant aligning the older permission with the more recent approval from a highway safety or traffic impact point of view. KCC Highways also take this stance and raise no objections.
- 6.06 As stated at paragraph 2.09 the approval of the 'full' access under application 20/501773 is subject to the applicant using reasonable endeavours to secure a Traffic Regulation Order (TRO) for a 20mph speed limit between Broomshaw Road and Hermitage Lane before commencement of development under the legal agreement. The legal agreement requires the following:
- Prior to commencement of development apply to KCC for the TRO; and
  - Use reasonable endeavours to secure the TRO and engage with KCC to provide any necessary information to assist in its progression.
- 6.07 Therefore it would only be appropriate for the full access to be 'open' once these requirements have been met and the TRO is implemented (if successful). Condition 8 should be varied as follows to reflect this:

***Bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to the access being open for this use. Thereafter, the bollards shall only be removed once the obligations regarding pursuing a Traffic Regulation Order, as set out at Schedule 3, Part 6 of the Section 106 Agreement accompanying permitted application 20/501773/FULL (or any formal amendment to that permitted application) have been satisfied, and either the Traffic Regulation Order has been successful and implemented, or has failed.***

### Representations

- 6.08 Representations in general relate to traffic congestion, highway safety, and impacts upon amenity relating to the secondary access. These matters were all fully considered under application 20/501773 where permission for 'full' access was approved and no objections have been raised once more by KCC Highways.
- 6.09 Concern has been raised regarding construction traffic using the Broomshaw Road entrance from approved application 20/501773 to the west but that permission/development is not under consideration. A construction management plan was not required in connection with that permission, and it is not possible to retrospectively require one or control that development through this application as they are separate permissions/sites. However, the



applicant has confirmed that Broomshaw Road will not be used for construction traffic.

- 6.10 Some representations consider that if the application is approved, the access should only be opened when permission 20/501773 for 181 dwellings is complete. Under this permission there is no trigger point for allowing the access to open as there is no sound reason to do this/delay its opening. The access was judged to be suitable so it is therefore acceptable for it to be open as soon as possible for new residents to use subject to the TRO process having been complied with under the s106. Moreover, it is not possible to retrospectively control that development through this application as they are separate permissions/sites.

## **7.0 CONCLUSION**

- 7.01 For the above reasons it is considered acceptable to change the approved plans condition 1 in respect of the layout adjacent to Broomshaw Road and to amend condition 8 to allow the full access to open following the TRO process being complied with under permission 20/501773/FULL.

- 7.02 The new conditions would read as follows:

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

***Drawings listed in the 'Drawing Schedule' dated March 2022***

***Reason: To clarify which plans have been approved.***

***Bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to the access being open for this use. Thereafter, the bollards shall only be removed once the obligations regarding pursuing a Traffic Regulation Order, as set out at Schedule 3, Part 6 of the Section 106 Agreement accompanying permitted application 20/501773/FULL (or any formal amendment to that permitted application) have been satisfied, and either the Traffic Regulation Order has been successful and implemented, or has failed.***

***Reason: To ensure the traffic regulation order process is exhausted prior to implementing the access.***

- 7.03 An approval will create a new planning permission and so all conditions must be re-attached. These are set out below where some refer to details already approved.

## **8.0 RECOMMENDATION**

**GRANT PLANNING PERMISSION subject to the following conditions** with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

Conditions:

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

Drawings listed in the 'Drawing Schedule' dated March 2022

Reason: To clarify which plans have been approved.

2. The development shall be carried out in accordance with the ragstone details approved under application 19/504466/SUB.

Reason: To ensure a high quality design.

3. The development shall be carried out in accordance with the external details (meter cupboards, vents, or flues) approved under application 19/504466/SUB.

Reason: To secure a high standard of design.

4. The development shall be carried out in accordance with the electric vehicle charging points approved under application 19/504466/SUB and shall thereafter be retained for that purpose.

Reason: To promote the reduction of CO2 emissions through the use of low emissions vehicles.

5. The development shall be carried out in accordance with the solar PV panels approved under application 19/504466/SUB and shall thereafter be retained for that purpose.

Reason: In the interests of sustainable development.

6. The development shall be carried out in accordance with the wildlife fencing gaps approved under application 19/504466/SUB which shall thereafter be retained.

Reason: In the interests of biodiversity.

7. Bollards to prevent use of the access onto Broomshaw Road other than by emergency vehicles, pedestrians, or cyclists shall be installed prior to the access being open for this use. Thereafter, the bollards shall only be removed once the obligations regarding pursuing a Traffic Regulation Order, as set out at Schedule 3, Part 6 of the Section 106 Agreement accompanying permitted application 20/501773/FULL (or any formal amendment to that permitted application) have been satisfied, and either the Traffic Regulation Order has been successful and implemented, or has failed.

Reason: To ensure the traffic regulation order process is exhausted prior to implementing the access.

8. The children's play area shall be carried out in accordance with drawing no. 102 RevD (Play Strategy) approved under application 18/506068/REM and fully implemented prior to the occupation of the 80th housing unit and maintained thereafter unless the local planning authority gives written consent to any variation.

Reason: To ensure satisfactory public open space.

9. The approved landscaping scheme shall be carried out before or during the first planting season (October to February) following occupation of the development to which it relates. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.

10. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

Case Officer: Richard Timms