

REFERENCE NUMBER: 21/502751/OUT

APPLICATION 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. Offsite 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)

ADDRESS: Gibraltar Farm Ham Lane Hempstead Gillingham Boxley Road Walderslade Kent ME7 3JJ

RECOMMENDATION: Grant subject to a S106 legal agreement

SUMMARY OF REASONS FOR RECOMMENDATION

This is a resubmission of a cross boundary planning application of which a small area of 1.7ha (comprising 6% of the overall site area) is in MBC district.

Planning Permission was granted by MBC for an identical scheme under ref 19/500765/OUT in 2020. Medway Council refused the linked cross boundary application. However, Medway Council has recently resolved to approve the resubmitted application under their ref MC/21/1296 at its Planning Committee of 28 August 2024. This is why the application has been outstanding for a considerable period of time.

Given that this Council permitted the same scheme in 2020, then the only considerations are those policies post 2020, in particular, the Local Plan Review (adopted March 2024) and the current NPPF (December 2023). In addition, changes to planning legislation such as Biodiversity Net Gain (BNG) and the new duty to protect and enhance National Landscapes.

The impacts of the access onto the Maidstone BC highway network have previously been considered and judged by the Local Highway Authority to be acceptable subject to the early timing of off-site highway capacity improvements. A s106 contribution of £100,000 (indexed from July 2020 equates to £117,611.94) was secured for the villages of Boxley and Bredhurst to mitigate any residual impact. Enhanced or diverted bus services are being secured by Medway Council.

There is proposed mitigation to visual impact and landscape harm in the form of advance planting of tree screening.

Adequate information has been provided to demonstrate no direct harm to ecological interests in the Borough and there is scope for enhancement.

REASON FOR REFERRAL TO COMMITTEE:

Recommendation is contrary to the views of Boxley and Bredhurst Parish Councils

WARD: Boxley Downs	PARISH/TOWN COUNCIL: Boxley	APPLICANT: F D Attwood & Partners AGENT: Hume Planning Consultancy Ltd
CASE OFFICER: Marion Geary	VALIDATION DATE: 26/07/21	DECISION DUE DATE: 30/11/24
ADVERTISED AS A DEPARTURE: No		

Relevant Planning History

19/500765/OUT

Outline Application (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 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.

Approved 25.11.2020

Medway Council Applications

MC/21/1296

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.

Approved subject to s106 legal agreement

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/18/0556

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 39 affordable dwellings with associated access, estate roads and residential open space.

Refused 27 January 2016 Appeal Allowed 6 March 2017

MAIN REPORT

1. BACKGROUND

- 1.01 This application is a resubmission of an application ref 19/500765/OUT approved in November 2020 following a Planning Committee resolution of 2 July 2020 to approve subject to a legal agreement.
- 1.02 However, that planning permission has not been implementable because it is a cross boundary application and the duplicate application (MC/19/0336) submitted to Medway Council (MC) was refused.
- 1.03 The appeal against MC's decision was dismissed on 25 March 2022 with the **only** matter being it had not been demonstrated that there was no adverse effect on the local distribution of bat species for the bridleway link to North Dane Way Lordswood (which needed to be lit for pedestrian and cyclist accessibility to Lordswood).
- 1.04 All other issues were concluded by the Inspector to be acceptable bearing in mind the weight to be given to MC's significant lack of a five-year housing land supply. He found social and economic benefits in terms of the provision of market and affordable homes, and considered that that the overall function of the Area of Local Landscape Importance would be retained.
- 1.05 This resubmitted application includes additional information to demonstrate that the local distribution of bat species would not be adversely affected by the lighting scheme. Medway Council (MC) resolved to approve the duplicate application (MC/21/1296) at its meeting of 28 August 2024.
- 1.06 MC's resolution to approve will cover all 450 housing units and other buildings and will include a number of conditions and a legal agreement to secure 25% affordable housing and financial contributions totalling over £6.9m including:
- **£3.49m** towards education
 - **£380,416.50** toward health facilities
 - **£260,000** towards a new or extended bus service
 - **£460,000** towards the provision of link footway and cycle way between the junction with Lidsing Road and the residential area in Hempstead
 - **£370,000** to the Local Highway Authority towards the provision of a pedestrian crossing and scheme of traffic calming measures along Hempstead Road

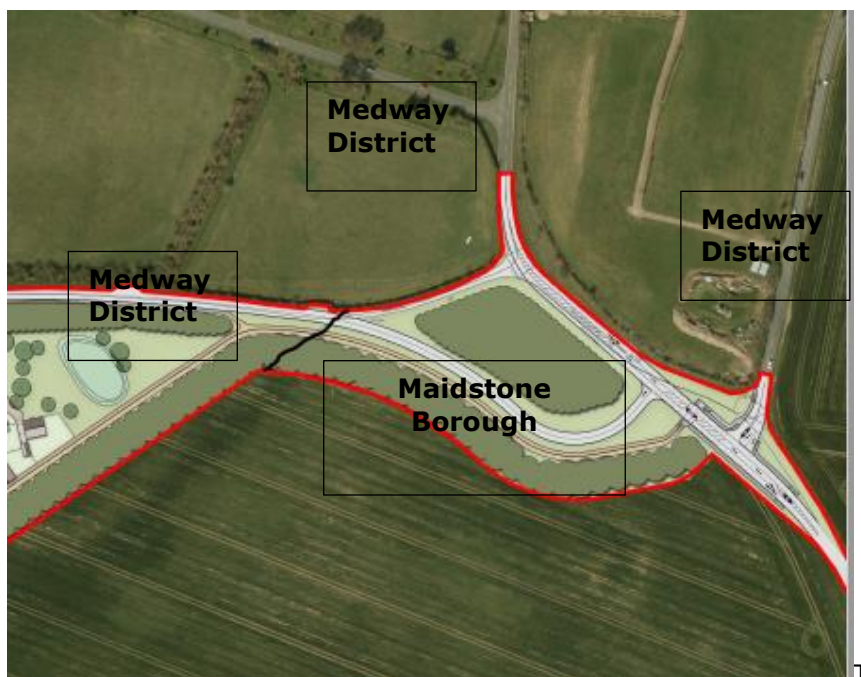
2. DESCRIPTION OF SITE

- 2.01 The application site is 27 ha of agricultural land situated to the south of the Capstone Valley. The vast majority lies in Medway. A small part (approx 1.5 ha) lies in the Borough of Maidstone.
- 2.02 The main part of the site lies immediately adjacent to Lordswood, situated to the south of the Capstone Valley. To the east, separated by agricultural land, is further residential development in Hempstead/Wigmore with their existing services, employment, transportation links and community facilities.
- 2.03 The application site within the MBC area is 800m from the Kent Downs National Landscape which lies south of the M2 Motorway.

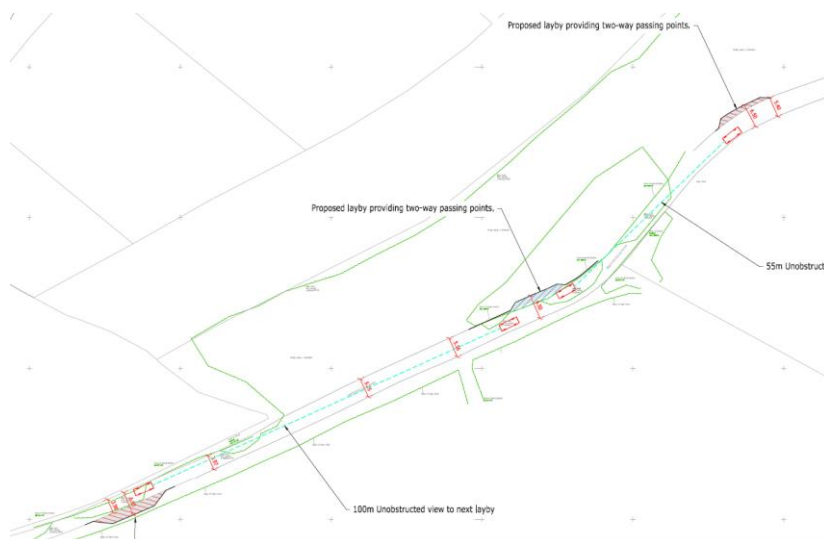
- 2.04 Part of Ham Lane is within MBC and comprises a single track lane. Part of the eastern side of Lidsing Road in MBC is a "Roadside Nature Reserve".
- 2.05 The topography of the area is that site slopes down from south-west to the north-east.
- 2.06 It lies over SPZ3 (Aquifer) and in an Area of Archaeological Potential. PROWs KH34 and KH41 are affected where they cross the proposed housing area in Medway district. There is also an Ancient Woodland in Medway's part of the application site.

3. PROPOSAL

- 3.01 Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, the application is EIA development, being a Schedule 1 project under development type 10 (urban development)
- 3.02 Consequently, the application is subject to Environmental Impact Assessment (EIA) and an Environmental Statement (ES) has been submitted.
- 3.03 This an outline application to MBC because part of the site lies in its administrative district. The developer needs planning permission from both Local Planning Authorities on a cross boundary application in order to proceed.
- 3.04 The current application is again in outline form with only the means of access being for consideration at this time. The application proposes a development of up to 450 dwellings (approx. 35dph) and community uses. It includes new strategic woodland planting intended to contain the development and create a consolidated edge to the new housing, along the site's northern and eastern boundaries.
- 3.05 The illustrative landscape strategy shows that on the SE edge which aligns on the Borough boundary, there will be an advance planted screen of trees/woodland indicated to be 15m wide (mix of field maple, sycamore, hornbeam, hazel, hawthorn, beech, small leaved lime).
- 3.06 The proposed development's main impact on Maidstone Borough arises from the main vehicular access.



- 3.07 The applicant secured an earlier planning permission to build 450 dwellings on this land totally within Medway. However, Medway Council, was not agreeable to some of its land being purchased by the developer to provide vehicular access to Lordswood. The decision by MC (as landowner rather than LPA) has resulted in this alternative scheme with vehicular access into in the Borough of Maidstone.
- 3.08 The works proposed in MBC district in this application are identical to those approved under 19/500765/OUT:
- re-configuration/re-alignment of 2 junctions: Ham Lane/Capstone Road and Lidsing Road/Hempstead Road.
 - extension of the existing 40mph speed restriction
 - eastern most section of Ham Lane will be "stopped up"
 - new section of Lidsing Road with waiting lanes plus a traffic refuge island
 - crossing for pedestrians and cyclists (uncontrolled and unlit)
 - separate cycleway/footway towards the facilities of Hempstead
- 3.09 On land near Westfield Sole Road (which is in MBC district), the applicant has indicated an intention to provide 3 laybys to improve vehicle passing utilising farmland he owns. This route leads towards Walderslade and thereafter to the M2. This will require the removal of a limited amount of hedgerow. These works will need separate planning permission and will need to pass a safety audit. Medway Council has resolved to secure these by a Grampian style condition.



- 3.10 In Medway, further road engineering works aimed at increasing highway capacity are proposed at key junctions:
- Chapel Lane: additional lane to enter Hempstead Valley Drive (Medway Council will secure by a Grampian style condition with no occupations before completion)
 - Hoath Way roundabout: additional lane to add capacity (Medway Council will secure by a Grampian style condition with no occupations before completion)

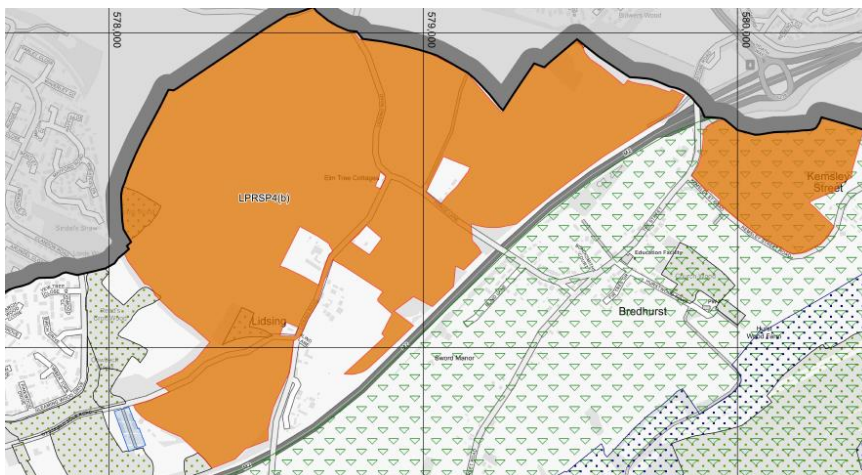
- Junction 4 of the M2: a segregated left turn to A278 (Medway Council will secure by Grampian style condition based on no more than 200 occupations as requested by National Highways).
- 3.11 The traffic analysis from the applicant's consultant states that the junction capacity improvements proposed along the route between the site and Junction 4 are to encourage use of that route, ie the assumption is that most traffic to and from the proposed development will use Hempstead Road via Hempstead rather than use Lidsing Road via Bredhurst and/or Boxley. That is, the offsite highway works in Medway reduce congestion and therefore it is claimed that there is less incentive to travel via inappropriate routes (rat runs). The applicant's consultant states that there will be negligible traffic impact beyond the intended traffic flows via Hempstead but, as before, has offered £100,000 (index linked) to KCC to fund traffic calming measures or similar enhancements in the villages of Boxley and Bredhurst.

4. POLICY AND OTHER CONSIDERATIONS

Maidstone Local Plan Review 2024

Maidstone Borough Local Plan Review: LPRSP4(b); LPRSP13; LPRSP14(A); LPRTRA1; LPRQD2; LPRTRA2
Kent Waste and Minerals Plan (amended 2020):
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Supplementary Planning Documents Air Quality
Maidstone Landscape Character Assessment 2012 (Updated 2013)
Kent Downs AONB Management Plan 2021-2026 (Third Revision)
Supplementary Planning Documents: Maidstone Building for Life 12 (2018); Air Quality Guidance (2017);

- 4.01 The LPR allocates a 2000 dwelling Garden Community at Lidsing under policy LPRSP4(b) and the application site is at the northernmost extent of (the allocation (orange annotation below). The allocation fully subsumes the proposed highways works in MBC district but not the main part of the Gibraltar Farm site because that lies outside the administrative district of MBC.



- 4.02 The main housing site in the Medway district is not within the Masterplan for Lidsing Garden Settlement and this planning application should be considered as a stand alone scheme as was 19/500765/OUT.

LOCAL REPRESENTATIONS

Local Residents:

4.03 Objections have been received from local residents in both MBC and MC raising the following (summarised) issues.

[Officer note The application was initially consulted on in Sept 2021 (over 400 objectors commented). A reconsultation was carried out in March 2023 (over 170 objectors) and a final consultation was carried out in September 2024 (24 objectors)]

- Loss of woodland/countryside heritage/green lung of Capstone Valley- area of local landscape importance
- Affects setting of national Landscape
- objective is developer profit
- inadequate affordable housing
- inadequate infrastructure including education and health
- air quality
- Access should be off North Dane Way
- traffic gridlock and pollution
- traffic calming measures unworkable
- redevelopment of Hempstead Valley Shopping will put an increasing burden on the road system
- Surrounding road infrastructure is inadequate, narrow and with poor visibility and no lighting or footpath provision
- passing places in wrong location
- unclear impact on Public Rights Of Way
- rat runs and congestion via Bredhurst and Boxley
- The traffic analysis does not provide an accurate representation of the severe traffic issues around this area.
- local Bus and train services and station car parks are inadequate
- harm to wildlife
- harm to water catchment area; surface water floods/sinkholes
- Inadequate local employment
- Reduces property values
- noise, light pollution
- Housing targets are not realistic
- Wrong type of housing proposed
- diminish the community feel of both Hempstead and Lordswood
- street lighting on the surrounding roads
- loss of prime agricultural land which cannot be replaced
- schools are not within walking distance

- other more suitable brownfield sites in Medway/Maidstone
- loss of open space

Boxley PC (Comments received July and Sept 2021)

4.04 Object for the following reasons:

- Coalescence
- Cumulative impact with other development schemes
- Traffic safety
- Needs clear route for HGV's
- health and safety of other road users
- harms countryside and Area of Local Landscape Importance
- impact on Ancient Woodland in Lordswood
- Inadequate infrastructure
- Inadequate community involvement and consultation

Bredhurst PC (Comments received July 2021 and September 2024)

4.05 Object for the following reasons:

- Traffic
- Noise
- Pollution
- Harms rural character
- Coalescence
- Cumulative impact with East Hill plus Lidsing.

Tracey Crouch (when MP for Chatham and Aylesford in 2021)

4.06 Objection for the following reasons:

- Inadequate infrastructure
- Loss of green space
- Encroachment of Capstone Valley

4.07 Issues of developer profit and reduced property value are not material planning considerations and therefore cannot be taken into account in the determination of this application. The other matters relevant to the part of the site in MBC's area raised by neighbours and other objectors are discussed in the detailed assessment below.

5. CONSULTATIONS

5.01 (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)

5.02 Officer note: The application was initially consulted on in Sept 2021. A reconsultation was carried out in March 2023 and a final consultation was carried out in September 2024.

Medway Council (Response August 2024)

5.03 No objection: Medway Council Planning Committee resolved to grant planning permission subject to completion of a s106 legal agreement on 28 August 2024.

CPRE (Response August 2021)

5.04 Objection for the following reasons

- Loss of green spaces for nature recovery, habitat corridors, recreation
- merging of Maidstone and Medway
- strategic unbuilt area of Capstone Valley will disappear
- impact on the Ancient Woodland
- increased traffic congestion
- air pollution
- surface water polluting the underlying aquifer
- loss of dark skies for insects, owls and bats

Woodland Trust (Response July 2021)

5.05 Objection for the following reasons:

- detrimental impact to Hook and Hall Woods (ancient semi natural woodland)
- buffer zone of at least 50 metres needed

National Highways (Response April 2023 and October 2024)

5.06 No objection subject to conditions

- Construction Management Plan
- Phasing plan
- Travel plan
- Minimum 15% affordable dwellings
- M2 Junction improvements prior to occupation of 200 dwellings

Forestry Commission (Response July 2021, April 2023)

5.07 No objection but refer to Standing Advice on Ancient Woodland

Environment Agency (Response June 2021, April 2023 and Sept 2024)

5.08 No objection subject to conditions on:

- decontamination
- no infiltration
- no piling

Southern Water Services (Response July 2021, April 2023)

5.09 No objection subject to conditions on:

- A Karst Risk Assessment be completed to identify, assess, and mitigate risk of karst features
- Hydrocarbon treatment systems (oil interceptors or similar) are installed prior to soakaway discharge points.

- Piled foundations to be excluded from design and construction.
- CEMP to be issued to Southern Water for review.

KCC (Highways and Transportation) (Response July 2021, Sept 2021, Dec 2021, June 2023 and Oct 2024)

5.10 No objection subject to s106 contributions and conditions on:

- no occupation of the development until mitigation completed at key junctions
- Completion of a Stopping Up Order for the redundant section of Ham Lane;
- a financial contribution for measures to deter through traffic movement and improve highway safety in Bredhurst and Boxley
- Provision of a financial contribution to improve local bus services;
- a site-wide Travel Plan and monitoring fee
- Construction Environmental Management Plan

KCC Archaeology (Response May 2023)

5.11 No objection subject to conditions on:

- archaeological field evaluation works

KCC (Flood and Water Management) (Response July 2021, April 2023, Sept 2024)

5.12 No objection

KCC (Ecology) (Response July 2021, May 2023)

5.13 No objection subject to conditions on:

- ecological mitigation plan
- enhancement measures of bird and bat boxes and log piles within the area round the roundabout
- additional Dark buffer zones should be used to separate habitats or features from lighting and where 'complete darkness' on a feature or buffer is required, we will consider this to be where illuminance is below 0.2 lux on the horizontal plane and below 0.4 lux on the vertical plane
- that the RNR along Ham Lane will not be impacted by the works.

KCC (PROW) (Response May 2021, April 2023)

5.14 No objection subject to conditions on:

- The proposed 'Pedestrian/Cycle Links' need appropriate funding or mechanism for likely future maintenance.
- Pedestrian and cycle routes should be overlooked within open and welcoming environments.
- an access gap where the Definitive Alignment of Public Footpath KH34 connects with the proposed development site.
- The site layout should ensure that the route indicated on the plans reflects the Definitive Alignment of BOAT KH41.

Kent Police (Response July 2021, April 2023, Sept 2024)

5.15 No objection subject to a condition to address designing out crime.

MBC Environmental Protection (Response July 2021, May 2023, Oct 2024)

- 5.16 No objection subject to conditions on contamination, lighting, noise and travel plan and air quality.

6. APPRAISAL

Main Issues

- 6.01 The key issues are:

- Consistency with the Medway Council resolution and the previous planning permission
- Character and Appearance
- Highways and Traffic
- Cycling and Walking
- Ecology

Consistency with the Medway Council resolution and the previous planning permission

- 6.02 Medway Council Planning Committee resolved to approve their duplicate application, reference MC/21/1296, subject to the completion of a S106 Agreement and conditions, at their meeting on 28 August 2024. The main s106 contributions will total over £6.9m and were summarised above.
- 6.03 MC have resolved to impose a number of conditions reflecting that over 93% of the application site and all the residential units proposed are in that district.
- 6.04 As a cross boundary application, this application is a duplicate of the application now resolved to be approved by Medway Council.
- 6.05 The only significant change in this application compared to the previous planning permission granted by MBC in November 2020 relates to a 40m byway pedestrian and cycle link to link connection between the site and North Dane Way in Lordswood (in Medway district).
- 6.06 The resubmission includes a full seasonal record of bat surveys from which an understanding of the existing bat flight and species activity has been gained allowing a revised a lighting strategy to be designed along the byway link.
- 6.07 Whilst this byway is in Medway and over 500m from the boundary with MBC, the useability of this link by pedestrians and cyclists during hours of darkness is important for Maidstone's consideration of the application because the environmental sustainability of the whole residential development is reliant on a convenient non-vehicular route for residents to access the nearest local services and facilities in Lordswood.
- 6.08 KCC Ecology are now satisfied that the Inspector's concerns are overcome: the revised lighting design would allow the bats to continue to commute. Accordingly, it is reasonable to impose a Grampian style condition so that no dwelling shall be occupied until a full footway/cycleway link across the whole width of the site from the public highway at North Dane Way/Albemarle Road to the public highway at Hempstead Road has been completed. This non-vehicular route is key for environmental sustainability as discussed above.

6.09 Due to the length of time this scheme has taken to be reported to this Committee, updates to the application have been submitted where relevant. For MBC area these are:

- Revised Overarching Ecology Document and Revised Site Wide Ecological Mitigation Strategy which responds to early consultation responses from KCC Ecology and other stakeholders.
- Updated Archaeology and Heritage Statement
- Revised Planning Statement
- Updated Statement of Community Involvement (SCI)
- Revised Updated Road Safety Audits
- Revised Updated Travel Plan
- Additional Biodiversity Net Gain Report

6.10 The proposed on and off site highways works are unchanged from the 2020 planning permission by MBC.

Character and Appearance

6.11 The decision of this Council under 19/500765/OUT and of MC under MC/21/1296 established that visual impact is acceptable to both Local Planning Authorities. This was also the conclusion of the Inspector who determined the appeal in 2022 as he dismissed the appeal solely on the matter of impact on protected bat species on a Byway and not on wider visual landscape harm or other harm to character and appearance.

6.12 In December 2023, a new statutory duty was placed on all public bodies that they must seek to further the purpose of conserving and enhancing the natural beauty of the Areas of Outstanding Natural Beauty (now known as a National Landscape).

6.13 It is still considered that the proposal does not materially impact on the setting of the National Landscape (NL) due to its distance from it and the NL being south of the M2 and thus separated from the application site by significant engineering and road infrastructure. It is concluded that approving this application would not breach the new statutory duty.

Highways and Traffic

6.14 In term of Boxley and Bredhurst, these villages already have some traffic calming. However, KCC have commented that there would be scope for additional elements or other environmental improvements. It is therefore recommended that the s106 contribution of 19/500765/OUT of £100,000 to KCC, secured for these types of measures, be carried forward with indexation (which would equate to £117,611.94 today). The money would be received by KCC which would implement measures to deter through traffic movement and improve highway safety in the communities of Boxley and Bredhurst in its capacity as local highway authority. This money would be paid before commencement of development and would need to be spent within 5 years of being received.

6.15 The changes proposed by the applicant to Westfield Sole Road are formalising the points at which vehicles currently pass. The changes would require both a safety audit to be passed and a separate planning application to be made to Maidstone Borough Council because the land needed to be engineered to enlarge the bays is privately owned and not adopted highway.

- 6.16 Medway Council have resolved to require these works before any occupation. However, there is first an essential need for a road safety audit to be met which is not a matter under the sole control of the applicant. It may transpire that altering the laybys fails a safety audit and KCC Highways may recommend refusal of the passing bay changes due to concerns on highway safety. It is concluded that these works are more appropriately secured by a legal agreement that would require "best endeavours" which would be the seeking of planning permission if the road safety audit is acceptable and thereafter the construction.
- 6.17 Other road improvements from the development in the Medway area include direct creation of extra road capacity plus a sizeable contribution towards the creation of a cycleway link along part of Hempstead Road and traffic calming on Hempstead Road. These need to be secured prior to occupation of any new dwellings by a Grampian style condition to mitigate impact on this Borough.
- 6.18 National Highways is agreeable to improvements to the M2 slip road to be the subject of a Grampian style condition limiting to 200 occupations and a suggested condition is included below.

Cycling and Walking

- 6.19 The application was submitted prior to the requirement to consult Active Travel England for advice on connections with established networks and general compliance with national cycle guidance.
- 6.20 However, there is scope for a comprehensive pedestrian and cycle routes which will link to local services in Lordswood which was endorsed by Medway Council in its recent resolution to approve the scheme. This is concluded to accord with guidance on active travel.

Ecology and Biodiversity Net Gain

- 6.21 Planning Permission 19/500765/OUT was judged to be acceptable in ecological terms.
- 6.22 The original survey data is at least 4 years old but an updated Preliminary Ecological Appraisal from March 2023 confirms the site has not significantly changed since the original survey was carried out. Therefore, the conclusions of the original survey data are concluded to still be acceptable.
- 6.23 Due to the small area of development within the Maidstone Borough, KCC Biodiversity Officers advise that the proposed mitigation and habitat creation within the Borough is appropriate and this advice is accepted.
- 6.24 The ecological mitigation plan needs to be secured by condition and there needs to be enhancement measures such as bird and bat boxes and log piles.
- 6.25 The external lighting strategy in the Ecological Mitigation Strategy states that a wildlife-sensitive lighting scheme can be devised to avoid or minimise light spill where development is located in close proximity to retained foraging habitats (particular regard to bats and dormice). Elsewhere, light spill is to be minimised, the colour temperature will be a yellow tone; and sensitive timing of street lights etc. Furthermore, it is necessary to secure additional "dark buffer zones" to separate habitats or features from lighting where illuminance is below 0.2 lux on the horizontal plane and below 0.4 lux on the vertical plane. A condition is suggested.
- 6.26 Details should be secured of a Landscape and Ecological management Plan (LEMP) condition that will require evidence that the Roadside Nature Reserve along Ham

Lane will not be detrimentally impacted by the proposed highway alternations. The suggested condition on the Construction Management Plan also seeks to protect the Roadside Nature Reserve from impact during construction.

- 6.27 The application is exempt from statutory Biodiversity Net Gain as it was submitted before the implementation date of the legislation. The adopted LPR has a policy LPRSP14(A) that requires 20% BNG on residential developments. This is to be secured by condition for the MBC part of the site and a 30 year monitoring fee required by legal agreement.

Other Matters

- 6.28 As with 19/500765/OUT, points raised by KCC's PROW section can be the subject of informatives as the layout of the housing scheme is not yet defined and so the alignment issues would be resolved at reserved matter stage.
- 6.29 The site is outside the Council's Air Quality Management Area but an air quality assessment monitoring on site is needed by condition to comply with policy LPRTRA1 of the Maidstone Borough Local Plan Review 2024.
- 6.30 s106 agreements with Medway Council will cover contributions to, inter alia, Health, Community and Education Services within its area.
- 6.31 New LPR policies on water saving, technical standards and private open space are not relevant as no houses are proposed in MBC district.

PUBLIC SECTOR EQUALITY DUTY

- 6.32 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

Community Infrastructure Levy

- 6.33 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. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

Environmental Impact Assessment

- 6.34 It is incumbent on the Council to be satisfied on the environmental information relating to an EIA application. On the basis of the only outstanding environmental matter from the 2022 appeal decision being lighting impact on bats (which now has an acceptable lighting design solution), MBC is satisfied on the environmental information.
- 6.35 EIA Regulation 18(3)(d) outlines that the Environmental Statement is required to include a description of the reasonable alternatives studied by the developer. The ES contains information that the site has an extant outline planning permission from 2018 for 450 units. This scheme differs in proposing vehicular access into Maidstone Borough because of land ownership constraints with the gaining access to the West to North Dane Way. This revised scheme was considered in the 2022 Appeal decision and allowed in principle as site for 450 dwellings.
- 6.36 It is concluded that the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 have been adequately met.

- 6.37 Due to the longer re-consultation requirements for EIA development, the site and press notice will not expire until 19th October 2024. Therefore the recommendation to grant of planning permission subject to a legal agreement is dependant on no representations being received before 22.10.24 raising issues not already assessed.

7. CONCLUSION

- 7.01 This is a cross boundary planning application of which a small area of 1.7ha (comprising 6% of the overall site area) is in MBC district.
- 7.02 It is a resubmission of 19/500765/OUT granted by MBC in November 2020 subject to conditions and a s106 legal agreement with MBC and KCC. Medway Council refused the equivalent application for the main part of the development (ie all the dwellings) within its boundaries. It won the appeal only on the issue of harm to bats from a proposal to light a bridleway leading to Lorsdwood.
- 7.03 However, Medway Council recently resolved to grant planning permission for the resubmission on the basis of an adequate bat mitigation scheme having been negotiated.
- 7.04 There is still proposed to be mitigation to visual impact and landscape harm in the form of advance planting of tree screening. The Inspector for the Medway appeal accepted the visual impact and landscape harm.
- 7.05 KCC Highways do not object to the overall development proposal in terms of unacceptable impact on highway safety, nor the residual cumulative impacts on the road network being severe. However, the early timing of off-site highway capacity improvements is essential. A s106 contribution of £100,000 indexed from November 2020 should be secured to KCC to use in the villages of Boxley and Bredhurst to mitigate any residual impact. New or enhanced bus services are to be secured by Medway Council.
- 7.06 Adequate information has been provided to demonstrate no direct harm to ecology interests in the Borough and there is scope for enhancement with appropriate suggested conditions including seeking 20% BNG on the part of the site in Maidstone Borough.
- 7.07 Overall, there is no justification for a different decision on this outline planning application from that established by the grant of 19/500765/OUT.

8. EIA Screening

EIA Development	Yes
Comments	Environmental Statement submitted and EIA processes followed.

9. RECOMMENDATION

SUBJECT to no representations being received before 22.10.24 raising issues not already assessed, GRANT planning permission subject to the following conditions and the prior completion of a s106 legal agreement to secure the heads of terms set out below with delegated authority to the Head of Development Management to be able to settle or amend any necessary Heads of Terms, planning conditions and/or informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee:

- s106 planning obligation to require prior payment of MBC s106 Monitoring Fee of £1,759.50
- HEADS OF TERMS
- Contribution of £100,000 to KCC towards environmental/traffic calming measures in the villages of Boxley and Bredhurst (indexed from July 2020 equates today to £117,611.94 to deter through traffic movement and improve highway safety in the communities of Boxley and Bredhurst (this money would be paid to KCC before commencement of development and would be spent within 5 years of being received).
- Submit to MBC a construction traffic approved routes plan prior to implementation of the planning permission such that no construction traffic to use Westfield Sole Road, Yelsted Lane or through the villages of Boxley or Bredhurst.
- To submit to KCC details of an appropriate strategy or mechanism for funding of future maintenance of Pedestrian/Cycle routes
- Best Endeavours to KCC to secure the passing bays on Westfield Sole Road.
- Best Endeavours to KCC for completion of a Stopping Up Order for the redundant section of Ham Lane
- Travel Plan monitoring fee to KCC of £1,422
- Fee to cover long term monitoring for Biodiversity Net Gain

and the imposition of the conditions as set out below:

- 1) The development hereby approved shall not commence until approval of the following reserved matters relating to the access road and footway/cycleway within the Borough of Maidstone have been obtained in writing from the local planning authority:
 - (a) Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990
- 2) No development shall take place until a Biodiversity Gain Plan to ensure a minimum 20% net gain in habitat types on the site that lies in Maidstone Borough has been submitted to and approved in writing by the Local Planning Authority. The Biodiversity Gain Plan shall include:
 - a) Detailed proposals for biodiversity net gain which shall include information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat; the pre-development

biodiversity value of the onsite habitat; the post-development biodiversity value of the onsite habitat.

b) A Habitat Management and Monitoring Plan (HMMP) for maintaining the onsite biodiversity net gain for a period of 30 years from completion of the development which shall include:

(i) a non-technical summary;

(ii) the roles and responsibilities of the people or organisation(s) delivering the HMMP;

(iii) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;

(iv) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and

(v) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,

The development shall be implemented in full accordance with the requirements of the approved HMMP.

Notice in writing shall be given to the Council when the habitat creation and enhancement works as set out in the HMMP have been completed.

Monitoring reports shall be submitted to local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure measurable net gains to biodiversity.

3) No works shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority, who shall consult with Highways England. It shall demonstrate no construction impact on the Roadside Nature Reserved in the Borough of Maidstone. Thereafter the approved CMP shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- 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);
- preventing access for unauthorised vehicles;
- ensuring 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;
- the ingress, egress and parking arrangements of vehicles by site operatives and visitors;
- the loading and unloading of plant, materials and waste;
- the 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;
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders); and
- measures to prevent loose material and reduce dust, dirt and any other airborne contaminants and to avoid these passing beyond the site boundaries, including sheeted loads and dampening stockpiles where necessary.

Reason: 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.

- 4) There shall be no implementation of any of the highway works on drawing 18-015-002 rev 0 except in conjunction with the implementation of a planning permission granted by Medway Council under ref MC/21/1296 for the 450 unit residential development it is intended to serve.

Reason: The works are only justified by the necessity to access a significantly sized residential development.

- 5) Prior to the first occupation, the Proposed Site Access shall be completed and fully open for use in accordance with drawing 18-015-002 rev O and retained thereafter.

Reason: To provide satisfactory access.

- 6) The development hereby permitted shall not commence above ground level until a scheme for the permanent closure of the existing access of Ham Lane to vehicular traffic has been secured and approved by the local planning authority and the approved scheme shall be completed within 4 weeks of the new access being available for use;

Reason: In the interests of road safety

- 7) No dwelling shall be occupied until off site highway capacity improvements at Hoath Way/Sharsted Way and Hempstead Valley Drive/Chapel Lane have been completed and are open for use. These shall accord with the details hereby approved on drawings 18-015-028 G and 18-015-029 D or any minor variation thereafter approved by the Local Planning Authority in consultation with Kent County Council (Highways and Transportation). There shall be no traffic calming to Hempstead Road in advance of these works.

Reason: To ensure that traffic from the development is adequately mitigated from using inappropriate alternative routes in the Borough of Maidstone.

- 8) Prior to the occupation of 200 dwellings on the site hereby permitted, the improvement works at M2 Junction 4 shall be completed and opened in full to traffic as shown on the Charles and Associates drawing number 18-015-027 Revision F "Proposed Junction 4 Improvements" dated November 2019.

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.

- 9) No dwelling shall be occupied until a full footway/cycleway link from the public highway at North Dane Way/Albemarle Road to the public highway at Hempstead Road has been completed in accordance with details to be submitted to and approved by the Local Planning Authority.
Reason: In the interests of sustainable access to local services.
- 10) No dwelling shall be occupied until a site-wide Travel Plan has been submitted to and approved by the Local Planning Authority which shall be based on the Framework Travel Plan ref 22-058-002 Rev A and the Travel Plan shall be implemented as approved.
Reason: In the interests of sustainable development.
- 11) A landscape and ecological management plan (LEMP), including long term design objectives, management responsibilities and maintenance schedules for all landscaped and open areas (including the Roadside Nature Reserve) shall be submitted to and approved in writing by the local planning authority prior to first occupation of any dwelling on the site. It shall include native landscaping within sustainable and defensible blocks, significant provision for integral niches for birds and bats, 'hedgehog highways' and wildlife friendly drainage infrastructure. Landscape and ecological management shall be carried out in accordance with the approved plan unless the local planning authority gives written consent to any variation.
Reason: In the interests of biodiversity, landscape, visual impact and amenity of the area.
- 12) The development hereby approved within the Borough of Maidstone shall not commence until details of earthworks within the Borough have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and existing surrounding landform.
Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development.
- 13) No dwelling shall be commenced above slab level until a landscape scheme within the Borough of Maidstone designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
- a) a scheme designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012).
 - b) details of the number, size, species, maturity, spacing and position of existing/proposed native trees and landscaping and
 - c) a ten [10] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows).
- The details shall specifically include advance planting of fully native tree screening buffer of at least 20m in width along the boundary with the Borough of Maidstone.
The details shall include a planting specification, a programme of implementation and a 10 year management plan. Any tree which, within 10 years from planting dies or becomes so seriously damaged or diseased that their long term amenity

value has been adversely affected, shall be replaced in the next planting season with trees of the same species and size as detailed in the approved 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. The reason for the longer 10 year period reflects the importance of the screening to mitigate against landscape harm.

- 14) There shall be no occupation of any dwelling until all planting, seeding and turfing specified in the approved landscape details has been completed within the Borough of Maidstone. All such landscaping shall be carried out during the planting season (October to February). 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

- 15) The approved landscaping shall be retained for at least 10 years following its implementation and shall be managed and retained strictly in accordance with the approved specification/management plan, and any approved or retained seeding or turfing which fails to establish or any trees or plants which, before a period of 10 years from the completion of the development has expired, die or become so seriously damaged or diseased that their 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. No replacement planting or removal of any planting shall take place without the prior written consent of the local planning authority.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development. The reason for the longer 10 year period reflects the importance of the screening to mitigate against landscape harm.

- 16) No development shall take place within the Borough of Maidstone until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work relevant to the Borough in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority. The archaeological works should include a phased programme of archaeological works including fieldwork (evaluation and possibly excavation work and/or watching brief), post excavation and publication and interpretation works.

Reason: To ensure that features of archaeological interest are properly examined and recorded

- 17) No development above slab level shall commence until a report has been submitted to and approved by the Local Planning Authority detailing and, where possible, quantifying measures or offsetting schemes which will reduce the transport related

air pollution of the development during construction and when in occupation. The developer should have regard to the DEFRA guidance from the document Low Emissions Strategy -using the planning system to reduce transport emissions January 2010.

Reason: In the interests of mitigation of Air Quality harm.

- 18) There shall be no lighting except in accordance with details that have been submitted to and approved by the Local Planning Authority. This scheme shall take note of and refer to the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill.

These details shall include a "wildlife sensitive lighting plan" for the site boundaries which shall:

- a) Identify those areas/features on site that are particularly sensitive for wildlife 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;
- 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.
- c) additional dark buffer zones should be used to separate habitats or features from lighting and where 'complete darkness' on a feature or buffer is required, illuminance should be below 0.2 lux on the horizontal plane and below 0.4 lux on the vertical plane.

All external lighting shall be installed in accordance with the specifications and locations set out in the plan and these shall be maintained thereafter as approved.

Reason: In the interests of rural amenity and ecology.

- 19) If during construction, evidence of potential contamination is encountered, works shall cease and

(a) the site shall be fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

(b) Upon completion of the building works, a closure report shall be submitted for approval in writing by the Local Planning Authority. The closure report shall include details of:

(i) sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.

(ii) post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: There is always the potential for unexpected contamination to be identified during development groundworks.

- 20) 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. The development shall be carried out in accordance with the approval details.

Reason: To protect the underlying groundwater from the risk of pollution and in accordance with the requirements of the National Planning Policy Framework

- 21) Prior to occupation, a detailed site wide ecological management plan should be produced and submitted to for approval of the LPA. It shall include

- Details of the habitats to be managed
- Details of the aims/objectives of the management
- Rolling 5 year management plan
- Dates of when the management plan will be reviewed and updated
- Details of who will be implementing the management.
- Details of on going monitoring

It shall include native landscaping within sustainable and defensible blocks, significant provision for integral niches for birds and bats, bug hotels, log piles, wildflower planting 'hedgehog highways' and wildlife friendly drainage infrastructure. The plan must be implemented as approved and retained thereafter.

Reason: In the interests of biodiversity.

- 22) There shall be no fencing, walling or other boundary treatments within the Borough of Maidstone except in accordance with details and a timetable that have been submitted to and approved in writing by the local planning authority. The boundary treatments shall be carried out in accordance with the approved details and timetable and retained as approved thereafter.

Reason: To ensure a satisfactory appearance to the development.

INFORMATIVES

- 1) Site is within an SPZ3
- 2) CLAIRE Definition of Waste:
- 3) contaminated materials
- 4) Demolition/construction hours
- 5) Construction Environmental management plans -
- 6) Public Rights of Way
- 7) Southern Water Services

KCC Highways

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.