

**MAIDSTONE BOROUGH COUNCIL**  
**RECORD OF DECISION OF THE CABINET**

Decision Made: 10 July 2013

**PETITION**

**Issue for Decision**

To consider the petition in relation to the Land East of Hermitage lane, known as Bluebell Wood.

**Decision Made**

That the Petition regarding Bluebell Wood be accepted as a representation as part of the consultation on the Local Plan.

**Reasons for Decision**

A petition was presented to Cabinet in the following terms:-

“Proposed plan to build circ. 600 houses including an access road and proposed development through Bluebell Wood - East of Hermitage lane.

We the undersigned call upon Maidstone Borough Council to deliver upon their duty under the National Planning Policy Framework to urgently act to protect ancient Bluebell Wood and its landscape setting from any damage and disturbance by developers Croudace.”

A briefing note from Officers was circulated to the Cabinet at the meeting.

The Cabinet were advised that no planning application has, to date, been received for the land east of Hermitage Lane. As a result there are no formal proposals in front of the Council to consider at this time and therefore the petition on the matter of the protection of the woodland should only be noted.

The site known as Land East of Hermitage Lane includes an area of ancient woodland as well as being a proposed housing allocation in the emerging Local Plan. The plan attached as Appendix 1 to the briefing note outlined the areas of housing and the area designated as ancient woodland.

Ancient woodland is protected by national policy within the National Planning Policy Framework, 2012. Paragraph 118 of this document states:-

*"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

*planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;"*

The above national guidance will form part of the considerations of any planning application that is submitted on this site.

The emerging policy SS1b - East of Hermitage Lane of the Local Plan (agreed by Cabinet on 13 March 2013) identifies the considerations for this site. The issue of ancient woodland and the need for its protection is clearly identified in paragraph 3.27 of the explanatory text to the policy, which states:

*"Between the two main development fields is a recently identified area of ancient woodland. In order to protect this woodland a 30 metre buffer will be required between it and any developed land. How the buffer is maintained will be determined as part of a wider ecological survey of the site i.e. to determine the most appropriate species for planting. The effect of development in the south west field as well as the north east field will need to be mitigated in ecological terms. Bats have been known to roost in this area, so measures that provide new habitats of an equal or higher quality within the vicinity of the site would be required before development could proceed."*

The main body of the policy also includes a part on ancient woodland and a requirement for its protection, which states:

*"Inclusion of a 30 metres wide landscape buffer between the identified area of ancient woodland and any proposed development, to be planted as per recommendations detailed in an ecological survey;"*

In addition to the protection of the woodland through ancient woodland policies the trees themselves are protected by a Tree Preservation Order. Tree Preservation Order 5 of 1996 is a woodland order that protects Sweet Chestnut, Oak, Ash, Birch, Holly, Hazel and Hornbeam trees which predominantly covers the area of ancient woodland. There are other areas of protected trees that are within the allocation, these are covered by Tree Preservation Order 36 of 2003 that consists of thickets of Silver Birch, Oak, Sweet Chestnut, Goat Willow and Poplar. A plan showing all the areas covered by the Tree Preservation Orders was attached at Appendix 2 to the briefing note.

The key consideration of any development within the vicinity of the ancient woodland would be ecology. Any application submitted would be required to be accompanied by an ecological survey including an assessment of any impacts and a mitigation strategy. Furthermore, any planning application, including these surveys and strategies, would be the subject of formal consultation with both Natural England and Kent County

Council Ecology. The responses from these bodies would be a key consideration.

With regard to the emerging Local Plan policy SS1b the Council will be undertaking a further consultation exercise in September 2013 and the policy may be altered as a result of this consultation. The standing advice from Natural England requires a 15m minimum buffer and this is backed up by appeal decisions. The detail of the proposed buffer, its width (although a minimum width of 15m would be required), no development whatsoever and the species to be planted within it will depend on the survey results and recommendations and following consultation with the appropriate bodies. However, ecology is not the sole consideration here.

### **Alternatives considered and why rejected**

It could have decided to delete the proposed allocation from the draft local plan but decided against this because it would consider whether or not to do so after it had received further ecological advice and after it had received the results of the forthcoming consultation exercise.

### **Background Papers**

None

Should you be concerned about this decision and wish to call it in, please submit a call in form signed by any two Non-Executive Members to the Head of Policy and Communications by: <b>18 July 2013</b>
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