

Urgent Update – 18/500346 -- Item 15 pages 76-118

Lordswood Urban Extension Gleamingwood Drive

Agent: It is understood that members of the Planning Committee have been sent letters from the agent directly regarding the decision to refuse the application on this agenda.

The agent has also submitted a letter to the planning department as follows: (summarised)

The recommendation now is entirely at odds with the report that was prepared for the 16 August committee.

Revised KCC ecology comments are not a material consideration that has altered since the first committee report.

The Woodland Trust updated comments do not really add anything new to the original comments and objection as they were already highlighting the exceptional reasons requirement to allow for loss of Ancient Woodland.

The footnote to paragraph 175 of the NPPF provides one example of an exceptional reason to allow for the loss of Ancient Woodland. The NPPF does not provide a comprehensive list of exceptional reasons and it is for the decision maker to determine what it considers such reasons to be. In this case, the extant permission to develop the site and create a roadway through the Ancient Woodland removing trees must represent a material consideration that can be considered an exceptional reason given that we have time still to submit Reserved Matters for the extant outline and proceed with development.

My clients have engaged with a revised proposal for the site with positive feedback and therefore felt no requirement to progress the Outline consent through to Reserved Matters. Clearly, my clients will proceed with the submission of a Reserved Matters scheme in advance of the deadline in order to preserve the hard fought consent

The road layout on the extant scheme results in greater harm to the Ancient Woodland, however a Reserved Matters application cannot be refused on that basis as the principle and indeed parameter has been accepted on appeal and any detailed submission must be in accordance with those parameters. A very realistic fallback cannot be ignored in the determination of this application.

The positive management of the Ancient Woodland secured was a benefit of the proposal that outweighed the loss of 2% of the woodland. The Inspector clearly gave this weight in the decision and the Council accept that the biomass was a less important element. In this current scheme, there is a management plan to secure the enhancement of the woodland. There is no requirement for a landowner to positively manage ancient woodland and neglect over degrades its value and appearance so securing positive management of a large area must be considered an exceptional reason to allow development.

The Inspector considered that the access through the Ancient Woodland was acceptable. Any Reserved Matters submission would include this means of access; therefore the impact is no greater. The revisions to the NPPF as set out in paragraph 175 do not indicate that the impacts are any different now to than when the Inspector previously considered them in 2015. The inference therefore in the report that the impact is now greater on the Ancient Woodland is therefore misleading at best. The report is contradictory and fails to make the position clear to Members.

The original committee report must have considered the full context of the scheme relative to Ancient Woodland: the scheme was acceptable in regard to national and local policy.

The summary of reasons asserts the additional population will result in greater harm to the Ancient Woodland. However, the report fails to set out how. The extent of built area under the current scheme is no greater and increases the amount of on site open space. No additional ancient woodland would be lost. KCC Ecology has accepted that there is already informal recreational use of the woodland such that there can be no demonstrable impact from any increase in population given that the existing use would continue. The report is potentially misleading the members.

The second reason for refusal relates entirely to the location of the site outside of the urban area and entirely ignores the fallback position. The report as written fails to detail sufficiently the harm to the character and appearance of the landscape.

No new material information has been provided to justify this change in recommendation and the report fails to set out succinctly to members the reasons behind the change in advice.

My clients will proceed immediately with a Reserved Matters submission. A refusal will result in an appeal by way of Public Inquiry. The issue of harm to the Ancient Woodland will be neutralised through the creation of the access road as will the perceived harm to the countryside.

A detailed explanation from officers is needed setting out why the recommendation has changed without any new material facts in the intervening period.

Officer Response:

Members are advised that the change to the recommendation to refuse the application means that it is no longer contrary to the views of Boxley PC.

Medway Council has not yet responded with the necessary confirmation that the contributions they seek for Open Space are necessary and meet the CIL tests.

The main agenda report explains the reasoning behind the recommendation to refuse. Essentially the balancing exercise between the weight of the extant

planning permission has been subjectively compared to the changes in circumstances since the appeal decision which include an adopted Local Plan, a 5 year housing supply and a significant elevation of the level of national policy protection for Ancient Woodland: loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. The applicant has not demonstrated that wholly exceptional reasons exist.

Recommendation is unchanged