

REFERENCE NO - 19/505816/SUB		
APPLICATION PROPOSAL Submission of details pursuant to condition 5 (Materials), condition 7 (Woodland Management Plan), condition 8 (Proposed Boundary Treatment), condition 10 (Ecology) condition 11 (Construction Environmental Management Plan : Biodiversity) and condition 17 (Bird boxes) in relation to planning application 15/503359/OUT and Appeal Reference APP/U2235/W/15/3132364 (for residential development (approx 89 dwellings) plus open space, biomass plant and access road (plus emergency access))		
ADDRESS Lordswood Urban Extension Gleaming Wood Drive Lordswood Kent		
RECOMMENDATION APPROVE		
SUMMARY OF REASONS FOR RECOMMENDATION The submitted information on future long term management of the ancient woodland primarily by rotational coppicing and the measures proposed in regard of biodiversity (including a "natural" dormouse bridge as was agreed in the original appeal hearing) are acceptable both in terms of meeting the requirements of the Inspector who allowed the outline planning permission and national and local planning policies on these matters. No objections have been received from KCC Ecology to the revised information. The applicant has confirmed agreement to full compliance with all the ecological advice given by KCC Ecology in their representations. The boundary treatments and materials as revised are satisfactory for the location.		
REASON FOR REFERRAL TO COMMITTEE Referred by Boxley Parish Council		
WARD Boxley	PARISH/TOWN COUNCIL Boxley	APPLICANT McCulloch Homes And Palm Developments Ltd AGENT Mr Iain Warner
TARGET DECISION DATE 20/01/20		PUBLICITY EXPIRY DATE 12/06/20

Relevant Planning History

15/503359/OUT

Outline application with all matters reserved for residential development (approx 89 dwellings) plus open space, biomass plant and access road (plus emergency access) (Revised Scheme).

Refusal Decision Date: 18.08.2015

Appeal Allowed 30.11.15

18/500346/FULL

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

Refused Decision Date: 07.09.2018

18/505455/REM

Approval of Reserved Matters for Access, Appearance, Landscaping, Layout, and Scale, pursuant of 15/503359/OUT - Outline application with all matters reserved for residential development (approx 89 dwellings) plus open space, biomass plant and access road (plus emergency access).

Approved Decision Date: 18.06.2019

19/504442/FULL

Erection of 115 dwellings together with associated infrastructure, open space, landscaping and access works. (RESUBMISSION OF 18/500346/FULL)

Refused Decision Date: 02.12.2019

Appeal Pending

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The site is close to the boundary with Medway Council district. It is outside the urban confines of Lordswood and is thus in the countryside. It comprises an area of 4.28ha mainly being two fields in open agricultural land with some Ancient Woodland. It is sited to the east of Lordswood.
- 1.02 The approved site for the housing is mainly within the two fields. Gleaming Wood Drive follows the perimeter of the built up area and on its eastern side is lined with mature trees designated as Ancient Woodland (AW) which is owned by the applicant. This adjoining woodland is known as Reeds Croft and Cowbeck Woods and has an area of approx. 7 ha. These two parcels are believed to have remained more or less continuously wooded since at least 1600, although part of Reeds Croft Wood was replanted for softwoods and sweet chestnut coppice. The new access road would be created through the AW from Gleaming Wood Drive and another section of roadway through AW would link the housing in the 2 fields.
- 1.03 A public right of way (PROW) runs along the NE boundary (PROW KH37). The Ancient Woodland forms a strong visual barrier between suburban development and open farmland. The woods themselves do not have a PROW through them but there are informal paths and hence there is some informal use of the application site and the adjacent wooded area for recreation such as dog walking.
- 1.04 The Ancient Woodland within the site is acknowledged to have been maintained by coppicing in the past but there is currently no active management. A woodland TPO ref 5008/2018 relates to this site and adjoining woodland.

2. PROPOSAL

- 2.01 The outline planning permission allowed on appeal was subject to a number of conditions prior to the commencement of works.
- 2.02 Condition 5 required details of materials. The current proposal is for 2 facing bricks (a grey and a buff/grey brick), cement fibre timber effect cladding (in grey or green tones) and a recycled slate waste roof tile in grey.
- 2.03 Condition 8 required details of boundary treatments. The submitted details are either 1.8m high brick walls with brick coping or 1.8m high close board fence. The brick walls are generally to corner plots where there are long lengths of garden boundaries on visible locations.
- 2.04 Condition 7 required details of a Woodland Management Plan (WMP) for the areas W1-W9 on Bioscan report E1739R1. The originally submitted details were amended/clarified to take account of KCC Ecology concerns as follows:
 - The WMP is prepared on the basis of with or without a biomass facility.
 - Detailed surveys of the site to inform the extant consent were carried out across 2012 and 2013, with more recent habitat updates in 2017 and surveys for reptiles and dormice carried out in 2018 and 2019 respectively

- All of the woodland referenced W1 to W9 is AW: approximately two thirds is ancient, semi-natural woodland, with the remainder, comprising most of W1 and all of W6 and W7, being plantation on ancient woodland sites
- Reinstate coppice regime on a 15-20 year rotation cycle
- Selectively remove coniferous component and any growth/re-growth of non-native species
- Manage sapling trees for growing on as future standards
- Cyclic cutting regime of dense, graded edge to prevent unrestricted access to the woodland
- Retain woodbank and associated flora wherever present
- Map areas of richest current ground flora interest and protect during felling operations.
- Create log-piles
- Formalise (e.g. through wood chippings) and maintain paths including through the use of dead hedging, and permanent and temporary fencing, to allow controlled and directed access through the woodland
- Ensure maintenance of visual screening function along Gleaming Wood Drive.
- Buffer Zone to managed by mowing and periodic scrub-control (No fertilisers to be applied and herbicides to be avoided) and address issues with disposal of garden waste
- Five-yearly reviews of the WMP based on targeted surveys of key species and habitats at five-yearly intervals
- The approved WMP shall be implemented and adhered to - hence the Council has not been furnished with precise details as to the identity and funding for the woodland management body. We understand that KCC accept the applicant's position on this issue.
- There is a summary of various options for implementing and funding the WMP in perpetuity and an outline of the intended management body with details of its funding structure- the applicant's preference being the WMP to be funded by an annual service charge levied on each of the properties with the applicant providing bridging funding in the initial transitional phase prior to the service-charge income becoming sufficient to fully cover the management costs.
- The agent states that adequate funding for the WMP will be available and administered by a bespoke body responsible for collecting the service charge contributions, appointing contractors and monitoring and review. The applicant is open to an approach from the PC to put itself forward to be considered to manage the woodland in accordance with the attached funding structure. The applicant states they would welcome a without prejudice dialogue with the PC on how this opportunity might best be taken forward.

2.05 Condition 10 required updated species survey to inform production of an Ecological Design Strategy (EDS) addressing mitigation for all species recorded. The submitted details are summarised as:

- The ecology consultants revisited the site for walkover surveys in April 2016 and November and December 2017 to identify any significant changes or to inform the need or otherwise for further survey and/or mitigation. The walkover surveys found no evidence to warrant additional species surveys or mitigation other than reptiles and bat roosting as below.
- An update of reptile survey was carried out in September and October 2018.
- Trees with potential for bat roosting were surveyed in January 2019.

- Specific mitigation detailed for Dormice; Reptiles; Nesting birds
- Further clarification provided on the reptile mitigation: they will be pushed to the nearest bit of AW buffer which will be enhanced with log piles and other refugia.
- The cleared development parcels will be closely maintained to prevent recolonisation from the adjoining AW buffers. The AW buffers will be demarcated by temporary reptile fencing and/or site hoarding.
- In response to the PC objection, the agent has also clarified that a "natural" dormouse bridge as discussed at the appeal hearing is still proposed. This will involve lashing together overhanging branches at the site end of the main access to create a natural "bridge" link over the main access road, their consultant being of the view that this natural solution will operate far better than a man-made constructed dormouse bridge.

2.06 Condition 11 required a biodiversity basis to a Construction Environmental Management Plan (CEMP) focusing on reducing impact to the AW and biodiversity. The submitted details are summarised as:

- 2 access road areas will have soils and coppice stools translocated into 2 areas of the retained AW and within the 15m buffer to the AW.
- Methodology and timetable for above provided
- Biodiversity exclusion zones to prevent vehicle and contractor incursion
- List of construction events which an ecologist will oversee
- A member of Chartered Institute of Ecology and Environmental Management will maintain an active advisory role through construction and oversee ecological mitigation and measures of the EDS
- Proposed alignment of exclusions barriers around the biodiversity protection zones
- Prior to the first occupation the AW will be cleared of any litter
- There has been no policy change that specifies a 30m as the appropriate buffer size to AW. The request for a larger buffer zone from the PC contradicts the layout and the principle of the 15m buffers which was approved when the Reserved Matters application was formally approved.

2.07 Condition 17 required details of installation of bat boxes/bricks and bird boxes/bricks. The submitted details are: 23 bird boxes, 5 bird bricks; 13 bat boxes and 10 bat tubes. The supporting plans also show the location of these features within the built element of the site (totalling 25). The location within the woodland of the remaining 26 will be verified by an ecologist at the time of installation.

2.08 The agent has confirmed in writing that the submission formally includes compliance with all the advice given by KCC Ecology.

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

4. LOCAL REPRESENTATIONS

Local Residents:

4.01 1 representation received from a local resident raising the following (summarised) issues

- Concern at loss of woodland having harmful impact on leisure, wildlife and climate change

5. CONSULTATIONS

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

Boxley PC

- 5.01 Initial Comments: The Management Plan should include timescales, mapped areas, detailed work schedules and costings for a minimum of 25 years with an indication of how future work after this time will be funded.
- 5.02 Revised Comments: There has been no reptile survey undertaken since October 2018 so not up to date. The planned brush cutting, and strimming can be fatal to reptiles and non-powered methods of clearance would be preferred. As the proposed reception area is very close to one of the access roads, measures are needed to protect them once the development is completed. The proposed area of fencing is very small and will not protect reptiles living outside the development area from entering.
- 5.03 In the application it was proposed to put in place 'bridges' so that dormice could get across the access road. There is no mention of these in the Ecological Design Strategy submitted. The EDS does not have a long term maintenance plan or adequate proposals for monitoring the species requiring specific mitigation or any remedial measures.
- 5.04 The proposed 15 metre buffer zone is inadequate given the fragmentation of AW. Boxley PC would like to see a 30-metre buffer zone planted, established and fenced off before any construction. This environmental strategy does not address Policy DM3 and does not have any proposal to reduce fragmentation caused by the access road.
- 5.05 Final Comments: must ensure that the funding will be for the length of the development. It should be specified that any work on the woodland or buffer zone must be carried out by someone experienced in woodland management. Grave concerns about fragmentation of habitat for dormice. No recent ecological surveys carried out to determine species and numbers present.

KCC Ecology

- 5.06 WMP: Initial Comments: More information required:
- Details of the timings of the proposed coppicing
 - Clarification re biomass plant.
 - Details of monitoring and management plan reviews.
 - Clarification re a dormouse EPS licence
 - Details of the management of the Ancient Woodland Buffer
 - MBC need to be satisfied that the proposed management will be implemented for the lifetime of the development
- 5.07 Final Comments: We have reviewed the updated management plan and we are satisfied with the submitted information. The main aim to re-establish coppicing within the site on a 15-20 year cycle means there is a need to ensure that there is

a continued implementation of the management plan for the life time of the development. Someone with experience of woodland management should carry out the management to assess the best time for the coppicing to be carried out and which areas. Each year on completion of the coppicing a site plan is updated to demonstrate what sections of each compartment were coppiced to cover situations where the site manager changes. In the event that there is damage to the buffer area, remedial works should be implemented immediately. Advise that the habitats within the buffer are established as soon as possible during the construction period.

- 5.08 EDS: Sufficient information has been provided to discharge the condition. The species mitigation must be implemented prior to any construction works in the woodland or areas with suitable reptile habitat commencing. The proposed dormouse and reptile mitigation has very specific timings so if missed, works must wait until the following season. The ecological mitigation works must be carried out by an ecologist.
- 5.09 CEMP: Initial Comments: Need information on the establishment of the ancient woodland buffer. Buffer planting should be carried out at the same time as the AW translocation. The Ancient woodland translocation must be carried out as detailed and an ecologist must be present.
- 5.10 Final Comments: Sufficient information has been provided. However, the submitted CEMP needs to provide information on the establishment of the ancient woodland buffer.
- 5.11 Birds/Bats: The bat and bird boxes/tubes must be erected/installed as detailed within the document. Those within the woodland must be carried out at the same time as the woodland translocation. The boxes must be monitored and replaced as and when required as part of the on going monitoring of the woodland as part of the management plan.
- 5.12 KCC Ecology were asked to specifically respond to the on-going concerns of the PC and replied:
- As detailed in recent correspondence the reptile habitat is currently being impacted by trail bikes and the quality of the habitat has declined. Therefore the reptile mitigation methodology has been amended since the submission the original mitigation strategy and we agree that the revised proposals are appropriate. If an updated reptile survey was required it is possible that it could result in reptiles being injured/killed if any trail bikes start driving over the refugia used during the surveys.
 - The proposal will result in the loss of an area of woodland to create the access roads and then a loss of scrub/hedgerow as part of the housing scheme. Due to the low numbers recorded we agreed to the proposed mitigation which was the active management of the woodland and the enhancement of hedgerows. The proposal will result in gaps being created for the main access road and the emergence access road but as they are not very wide in the long term the canopy should grow over and provide connectivity throughout the site. Due to the small gap being created (and there is evidence that dormouse will cross gaps on the ground) we are satisfied that there is not a requirement for a specific bridge. Proposing to tie the canopy together over the access road would be beneficial and would retain connectivity from the start of the works commencing. However they need to ensure that where the canopy is being tied up tall vehicles will not come through and break the ties – if that is likely it should be carried out after construction has been completed.

6. APPRAISAL

Main Issues

6.01 The key issues for consideration relate to:

- Ancient Woodland
- Biodiversity
- External Materials/Boundary Treatment

Ancient Woodland

6.02 The NPPF states in para 175: "When determining planning applications, local planning authorities should apply the following principle.... development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;"

6.03 Policy DM3 of the Local Plan requires new development to protect and enhance the natural environment by incorporating measures where appropriate to protect areas of Ancient Woodland and to enhance, extend and connect fragmented Ancient Woodland. Ancient Woodland is irreplaceable and an important ecological resource. The Standing Advice for Ancient Woodland and Veteran Trees published by Natural England and the Forestry Commission sets out aims in relation to Ancient Woodland and veteran trees: this resource is an irreplaceable biological and cultural asset that needs protection and maintenance, and improvement in the condition of the UK's tree and woodland resource needs sensitive sustainable management

6.04 This appeal decision pre-dates the current NPPF. The Inspector who allowed the appeal in 2015 said there was harm but it was outweighed by the benefits of management, ie as the AW had not been managed for a considerable time, selective coppicing and felling on a rotational basis would be beneficial for its long term health and future biodiversity.

6.05 The submitted details for conditions 7 and 11 relate to the protection of the AW. The level of detail requested by the Inspector in allowing the appeal has resulted in a series of detailed documents. KCC Ecology advises that the amended Woodland Management Plan and the Construction Environmental Management Plan: Biodiversity are both acceptable to allow the discharge of the conditions.

6.06 The support from KCC to discharge the conditions includes the 15m buffer to the AW. It is noted that the PC wishes to see a 30m buffer but that would not be actively supported by a national or local policy position, nor would it correspond with the layout of the development that has Reserved Matters approval from the Planning Committee. I therefore cannot support the PC's stance on this point.

Biodiversity

6.07 Paragraph 170 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued sites of biodiversity and soils, recognising the wider benefits from natural capital and ecosystem services of trees and woodland; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 175 of the revised NPPF states: planning permission should be refused if significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated, or, as a last resort, compensated.

- 6.08 Policy DM3 of the MBLP requires ecological evaluation of development sites and any additional land put forward for mitigation purposes to take full account of the biodiversity present, including the potential for the retention and provision of native plant species.
- 6.09 The details for conditions 10 and 17 relate to complying with the above objectives. KCC Ecology is satisfied that sufficient information has been submitted to allow the conditions to be discharged.
- 6.10 The PC remains concerned about the absence of more recent species surveys but that view is not supported by KCC, which is satisfied that the survey results are sufficient to inform the mitigation works. The appeal decision issued in November 2015 had been made on ecological surveys dated 2013. So the applicant's ecological consultants have since that time carried out: walkover surveys in April 2016 and November and December 2017; an update of reptile survey September and October 2018 and trees with potential for bat roosting were surveyed in January 2019. It is my view that these additional surveys since 2013 are adequate to accord with the reasoning behind the Inspector's imposition of the condition.
- 6.11 The reptile mitigation methodology has been revised in discussion with KCC to take account of minimising risk of damage from unauthorised trail bikes.
- 6.12 The PC is correct that the mitigation for dormice in terms of minimising the impact of fragmentation of the AW had not been clearly brought forward originally in this submission. However, the agent has now clarified that it is still the applicant's intention to create a natural "bridge" link over the main access road using branches and ropes. KCC is supportive of that idea in principle.
- 6.13 The PC also expresses concern over an absence of details as to ongoing species monitoring. Condition 10 does specify "Details for monitoring and remedial measures". The submitted EDS states that the impacted species are dormice and reptiles. They will defer to the requirements of the dormouse licence which does not require subsequent monitoring. There will be monitoring of the translocated reptile population on an annual basis for five years to assess the success of the translocation. KCC have no concerns with this part of the condition being discharged.

External Materials/ Boundary Treatment

- 6.14 The Inspector imposed the condition on materials expressly making the comment that it was necessary to blend as far as possible into the woodland setting. This is an exposed location and in designated countryside. The NPPF expressly refers to the quality of materials in paragraph 130 that "*Local planning authorities should also seek to ensure that quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)*".
- 6.15 The roof material as proposed has a proportion of natural product being 60% recycled slate waste and should therefore give good weathering and colour retention compared to a 100% cement fibre artificial slate and I am of the view that it is appropriate for a good quality roofscape in the long term for this type of location.
- 6.16 The outline scheme indicated larch cladding which is no longer proposed. Reasons given by the applicant are that it needs maintenance to retain an attractive appearance and is not fire retardant. Registered Providers in particular resist such types of external cladding to the affordable units. Clearly, the cement fibre artificial wood effect cladding will be significantly different from a natural product and this is disappointing but the reasons given are accepted. In terms of the bricks,

initially only one was submitted, a grey tone. For a scheme of this size, it is considered that there should be some variation and a second brick buff/grey has now been proposed.

- 6.17 It is considered that the materials proposed are appropriate for the contemporary design of the dwellings whilst respecting the sensitivity of the location.
- 6.18 The boundary treatments are also acceptable- the most visible sections are indicated to be brick walls which are appropriate for the quality of the street-scene.

Other Matters

- 6.19 It will be noted that both KCC (initially) and the PC queried the long term financial commitment for the implementation of the woodland management bearing in mind the intention for long term rotational coppicing. The agent is correct in that details of the funding are not a requirement of the appeal decision. Nevertheless, they have indicated that in all likelihood, funding will be via a service charge (with a bridging financial contribution from the landowner). They have also invited separate dialogue with the Parish Council on future management of the AW.
- 6.20 The applicant is aware of the Planning Committee's preference not to see the biomass boiler being built out and the WMP has been drafted to be neutral on that. Removal of the commitment for a biomass boiler would need the applicant to seek a variation to the legal agreement relating to the appeal decision.
- 6.21 Members will be aware from the planning history section that an appeal is underway on the revised full planning application 115 unit scheme that was refused in 2019.

PUBLIC SECTOR EQUALITY DUTY

- 6.22 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.

7. CONCLUSION

- 7.01 The submitted information on future long term management of the ancient woodland primarily by rotational coppicing and the measures proposed in regard of biodiversity (including a "natural" dormouse bridge as was agreed in the original appeal hearing) are acceptable both in terms of meeting the requirements of the Inspector who allowed the outline planning permission and national and local planning policies on these matters.
- 7.02 No objections have been received from KCC Ecology to the revised information. The applicant has confirmed agreement to full compliance with all the ecological advice given by KCC Ecology in their representations.
- 7.03 The boundary treatments and materials as revised are satisfactory for the location.

8. RECOMMENDATION

APPROVE DETAILS

INFORMATIVES

- 1) The decision relates to the following documents:
Ancient Woodland Management Plan May 2020 Bioscan Report E1739r5rev1

Planning Committee Report
20 August 2020

Ecological Design Strategy Sept 2019 Bioscan Report E1739r6

Construction Environmental Management Plan: Biodiversity September 2019

Bioscan Report E1739r7

Bird and Bat Boxes September 2019 Bioscan Report E1739r8

1012 Rev P1 Proposed Boundary Treatments

667 Materials List P4

Tetlow King Letters dated 08.01.20 and 20.05.20

Tetlow King Email dated 03.08.20

Bioscan Email dated 24.06.2020

Tetlow King Email dated 10.08.20

Case Officer: Marion Geary