

TABLED UPDATE FOR ITEM 2.1

17/505711/HYBRID Land at Wises Lane Borden

Outstanding consultation Requirements

It has come to my attention that an addendum to the ecology chapter of the Environmental Assessment (submitted as part of a package of further information and amendments to the scheme on 7th June 2018) was erroneously loaded onto the Council's Public Access system as a sensitive document. This addendum provided a further Technical Note to deal with a number of outstanding matters raised by Kent County Council Ecology in their original consultation response (dated 6/12/17), and included an updated badger survey which also sought to address comments received from the East Kent Badger Group.

As this information forms part of the Environmental Statement, it is a requirement under the Environmental Impact Assessment Regulations (2017) that such information follows a statutory publicity process. Whilst this process was undertaken in June 2018 in relation to the package of amendments received at the time, the information in the addendum to the ecology chapter was not available to view. As such, a further publicity exercise has been carried out to remedy this.

Notwithstanding the above, I can confirm that the KCC Ecology department did have access to this information, and their subsequent comments (dated 8th October 2018) confirm that the information provided is acceptable. In relation to the updated badger survey, they specifically comment that:

"We have reviewed the updated badger survey and we advise that sufficient survey information has been provided. The report has confirmed that there is a number of setts within and adjacent to the site. The setts are located within areas of open space so it may be possible to retain the setts in situ however the final mitigation strategy will have to be informed by updated badger surveys. We are satisfied that the open space within the development will continue to enable the badgers to forage/commute."

As Members will note, my recommendation is for Members to give officers delegated powers to approve this application, subject to the resolution of a small number of outstanding matters. I would recommend that these delegated powers are extended to cover the publicity process required in relation to the above. Whilst I am confident from the above that KCC Ecology have provided comments on this survey, as a precaution I have re-consulted both with Natural England and KCC Ecology as part of this process, taking into account the comments also received from Cllr Baldock below.

For clarity, I have also summarised below the comments originally received from the East Kent Badger Group, and as referred to in the addendum. These were originally only summarised in Section 5 of the main report as part of the wider local representations received.

East Kent Badger Group – object on the following grounds

- The ecological report falls far short of what is expected in respect of detail.
- Neither this badger group or the West Kent Badger Group were contacted for records
- As a result the survey is incomplete and two setts just outside the site (near Dental Close and to the south of the site) have been missed.
- There are impacts on at least one of these setts. Until such time as the badgers on and immediately around the site have been properly assessed, planning permission cannot be granted.

Consultations / Comments

Historic England (summarised)

- Agree with the scope of the Heritage Assessment submitted with the application.
- Advise that their remit for comment is in relation to highly designated heritage – and defer to the SBC Conservation Officer for impacts on adjacent conservation areas and Grade II Listed Buildings.
- Advise that The church of St Peter and St Paul and the adjacent Borden Hall form the core of a modest medieval settlement at Borden and are listed grade I and II* respectively. Both derive some significance from agricultural fields to their north (including the site) as these contribute to our understanding of their rural origins. Advise that while the application site is some distance from both listed buildings it is visible in views out from the churchyard and the garden of Borden Hall across agricultural fields to the north. New development within the site will thus cause some harm based on the wider rural setting afforded to both buildings and the significance both buildings derive from this. Advise that this level of harm is low given the distance of the development from both buildings, and capable of being minimised by new planting along the southern boundary of the site.
- Advise that the grade II* listed Hooks Hole and Olstede are both located in the Chestnut Street Conservation Area. The development is unlikely to be appreciated from either listed building due to a change in the topography which largely prevents direct intervisibility between the two. However the introduction of a new junction onto Chestnut Road (north of both listed buildings) and a link road from this running east to the core of the developable area is capable of generating a low level of harm because the modest road into the hamlet will inevitably be upgraded in a way which runs counter to the character of the rural hamlet as a whole. Advise that this harm might also be minimised with landscaping which mitigates the visual impact of the new access road and by careful design of the new junction.
- Summarise that Historic England has no concerns on heritage grounds provided that appropriate landscaping conditions to mitigate the visual impact of the development are included for in any approval.

Officer note – Members will note that Historic England identify a low level of harm to the setting of the above Grade I and II* listed buildings. In the main report, I have considered the impacts on Heritage Assets and concluded that they amount to “less than substantial harm” under the NPPF. The impacts identified by Historic England also fall under this category.

The identified impacts on the various Heritage Assets (including those above) relate to setting. I am satisfied that the impacts are minimised in part by the physical separation between the development site and surrounding assets, and also by the layout of the development and landscaping measures proposed. Whilst the low level harm identified by Historic England adds to the impacts identified in my report, and should be afforded greater weight as it relates to Grade I and II* buildings, I am satisfied that the harm remains less than substantial in all cases, and that my conclusions in paragraphs 8.209 – 8.211 and in paragraph 9.04 still apply – that the harm overall is limited and outweighed by the highway benefits.

KCC Archaeology – I have now received proposed conditions from KCC and these are listed below as additional conditions.

Southern Water – advise that Reference should be made to Southern Water publication “A Guide to Tree Planting near water Mains and Sewers”. Otherwise, all other comments in our response dated 11/12/2018 remain unchanged

KCC Highways – I am advised by KCC Highways that the figures specified in paragraph 8.138 of the main report should be updated to read as follows. Two way vehicle flows in the AM peak are 511, and 408 in the PM peak. KCC Highways advise that this makes no material change to the highways impacts or their recommendations.

Further representations

A further representation has been received by the University of Kent (on behalf of Borden Parish Council). This challenges the modelling undertaken by the applicant, seeks further data to be published by SBC, and challenges why measurements taken by UoK have been dismissed.

Officer note – This document has just been submitted and is being reviewed by the Environmental Protection Team Leader, and a verbal update will be given at the meeting. A copy is attached for Members to review.

A further representation has been received from Planning Consultants acting for Borden Parish Council. The letter is attached.

Officer note – this letter challenges a number of points in the officer report and the conclusion that the application should be granted. I have set out in detail in my report how I have reached this conclusion, taking into account local and national policies, and relevant material considerations. There is nothing in this letter that, in my opinion, raises any new issues that are not covered in my main report.

25 additional representations have been received (To Vivien Smith 29/01) These largely repeat objections raised and summarised in the main report and are not repeated here, but the following are new comments –

- The Government has, this week, published intentions to lower limits on air pollution, and the application would fail to meet these.
- It has also been revealed this week that Swale has the worst patient/GP ration in the country, and a strategy to improve this should be agreed before permission is granted for any further large scale housing development.
- The application should be refused or deferred in light of the above.
- Badgers forage in the area, and would lose their habitat
- No mention is made of the new estate at Manor Farm which will be accessed via Chestnut Street
- It is totally wrong to demolish a family home and a listed building which is part of the history of the village.
- The Design Brief attached as Appendix 4 is full of negative comments (lack of Design Brief, priority to privilege traffic flow over place)and it is difficult to understand why this application is being presented to committee.
- The Building for Life Checklist (Appendix 5) has not been followed
- The detailed application should be for the whole site, not just phase 1A.

- No evidence from KCC that a primary school is needed, and KCC have no budget for this.
- Impact on Borden Nature Reserve
- The Phlorum Air Quality Review could not be objective, as Phlorum knew that the Swale Environmental Protection Team Leader had stated their position and support regarding air quality impacts prior to the review taking place.
- Phlorum has unnecessary time constraints imposed upon them.
- The University of Kent review is the only one that can be considered impartial.
- This application should be deferred in light of the above, and to continue would open the Council to investigation.
- Further air quality monitoring should be undertaken
- The objections are watered down into bullet points
- Lack of consultation for wider community

Officer note – I have summarised my responses below –

- An air quality update will be given at the meeting. Any future intention to lower AQ levels does not affect existing established thresholds that this application should be considered against.
- The Swale Clinical Commissioning Group has specifically sought an off-site financial contribution from the development to meet the needs generated by this development – and this will be secured under the S106 agreement
- The matters raised in relation to badgers are addressed above
- Manor Farm is referred to in the landscape assessment, and the traffic / air quality impacts from this committed site are included in the relevant survey work.
- No listed building (or any building) will be demolished.
- The Design Panel comments are referred to in the main report (8.34-8.35)
- The ability to submit an outline planning application is an established part of the planning process
- KCC have provided evidence in their comments that a primary school is required (para 6.36)
- All objections are summarised into bullet points. They are public comments, so can be read in full online.
- A total of 1565 letters were originally sent to local residents, and a number of site notices were displayed in and around the site, as well as adverts in local newspapers. This includes a number of notices on Borden Lane, Wises Lane, Chestnut Street / Maidstone Road and The Street. This has been repeated several times following amendments to the scheme. I am content that sufficient consultation has taken place.

Representations from Councillors

Cllr Mike Whiting has asked for a letter to be circulated to members prior to the meeting – and this is attached.

Cllr Mike Baldock has submitted detailed comments in objection to the scheme and these are attached.

Many points raised by Cllr Baldock are addressed in the main report. I would make the following further comments -

- The delivery of the link road and other highways related improvements are subject to triggers in the planning conditions and S106 Agreement.
- The existing site allocation is part of the Local Plan .
- It is an established principle of the planning process that applications can be made in outline form.
- The Council has employed landscape consultants to advise on the impacts and this forms part of the assessment in the main report.
- The requirement for housing to meet elderly / disabled persons needs is set out in proposed condition 17.
- The issue regarding badgers is addressed above.

Cllr Baldock has also submitted further correspondence that challenges the legality of permitting the application on the following grounds (summarised) –

- That the development would be contrary to the Hedgerow Regulations 1997
- That the application does not comply with relevant legislation as the survey work is inadequate, it does not provide information on a large sett adjacent to the site, and does not propose suitable mitigation.

Officer comment – Members will note the comments above in relation to the ecology addendum that was not made public. Whilst I am confident that the KCC Ecology team has assessed this information, I have as a precaution re-consulted KCC Ecology again. This also provides an opportunity for them to consider the points raised by Cllr Baldock.

With regard to compliance with the Hedgerow Regulations (1997), I can advise that these Regulations do not apply to the removal of a hedge as required for carrying out development for which planning permission has been granted (Regulation 6 (e)). However, if approved, this development would be subject to a number of planning conditions that will govern how the development is soft landscaped (through a combination of retention of existing trees and hedging where possible and the provision of new planting of indigenous trees and shrubs).

Environmental Impact Assessment (EIA) – Members will note in paragraph 8.268 onwards of my report that I have referred to a supplementary examination of the EIA as undertaken by my officers. For clarity, I have attached this document. Members should note that this is based on information submitted with the application and consultee responses, all of which are in the public domain.

Finally, I would advise Members that the wording to some conditions as set out in the main report has been changed. In addition, further conditions have been added. I have listed some of these below, although some further minor changes may follow.

As Members will note from the main report, it is now a requirement to agree pre-commencement conditions with the applicant. If delegated powers are given to approve this

scheme I would advise Members that this should also include to add and amend conditions where considered necessary by officers.

Conditions

Archaeology

59) Prior to the submission of a detailed application for any part of the development other than Phase 1A, the applicant or their agents or successors in title shall secure and have reported a programme of archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

60) Following completion of archaeological evaluation works for the site (or parts of the site that have been agreed with the Local Planning Authority), no development shall take place until the applicant or their agents or successors in title, has secured the implementation of any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

61) Within 6 months of the completion of archaeological works on any part of the site, for that part of the site a Post-Excavation Assessment Report shall be submitted to and approved in writing by the Local Planning Authority. The Post-Excavation Assessment Report shall be in accordance with Kent County Council's requirements and include:

- i) A description and assessment of the results of all archaeological investigations that have been undertaken in that part (or parts) of the development;
- ii) An Updated Project Design outlining measures to analyse and publish the findings of the archaeological investigations, together with an implementation strategy and timetable for the same;
- iii) A scheme detailing the arrangements for providing and maintaining an archaeological site archive and its deposition following completion.

The measures outlined in the Post-Excavation Assessment Report shall be implemented in full and in accordance with the agreed timings.

Reason: To ensure that the results of all archaeological works are properly assessed, analysed, reported and published and that the archive is prepared for archive deposition and properly managed and maintained.

62) Before development commences, a soil management strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be undertaken by an appropriately experienced soil specialist and shall provide details for soil handling (including when soils are dry enough to be handled), soil storage, measures to retain and safeguard soil resources on the site. The strategy shall be designed to accord with in the Defra advice – “*Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (including accompanying Toolbox Talks)*”. The development shall be carried out in accordance with the approved details.

Reason: To safeguard soil resources.