

Agenda Item No: 8
Report To: Cabinet
Date of Meeting: 10th October 2019
Report Title: Adoption of draft WYE3 / WNP11 masterplan
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Portfolio Holder Cllr. Neil Shorter
Portfolio Holder for: Planning and Development



Summary: This report is a follow-up to the Cabinet report of September 2018 and considers issues raised at the time of the Cabinet resolution and subsequently in respect of the former ADAS site that forms part of the draft masterplan area.

The Cabinet is asked to approve the draft masterplan as informal guidance for development management purposes, subject to the suggested changes in the recommendations below, to assist decision-making on applications within the masterplan's boundary.

Key Decision: YES

Significantly Affected Wards: Wye with Hinxhill

Recommendations: The Cabinet is recommended to:-

Adopt the draft masterplan for the WNP11 area as informal guidance for development management purposes subject to the following:-

- I. Change the wording and any associated diagrams or maps to reflect that residential redevelopment of the former ADAS site should not exceed the existing footprint of previously developed land and be up to a maximum of 15 residential units; the amendments to be to the satisfaction of the Head of Planning and Development, in consultation with the Portfolio Holder for Planning & Development.**
- II. Change wording to the appropriate Planning and Design Principles section to include further general principles sections on grey water recycling measures in accordance with paragraph 63 of the September 2018 Cabinet report; the**

amendments to be to the satisfaction of the Head of Planning and Development, in consultation with the Portfolio Holder for Planning & Development.

III. The inclusion of those amendments to the draft masterplan listed in the attached schedule of proposed changes, appended to this report; and,

IV. Any other consequential minor amendments considered necessary by the Head of Planning and Development in consultation with the Portfolio Holder for Planning & Development.

Policy Overview: The process for developing and preparing a masterplan for this site is derived from the (now former) policy WYE3 of the Tenterden & Rural Sites DPD and policy WNP11 of the Wye Neighbourhood Plan.

Financial Implications: There are no financial implications.

Legal Implications The proposed status of the masterplan as informal guidance means that it will not have full Development Plan status and therefore should be used to guide decision-making on subsequent planning applications for development within the masterplan area.

Other material implications None

Equalities Impact Assessment N/A

Exempt from Publication: **NO**

Background Papers: None
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Report Title: Adoption of WYE3 / WNP11 masterplan

Introduction and Background

1. In September 2018, the Cabinet considered a report recommending a draft masterplan for the former WYE3 allocation in the Tenterden & Rural Sites DPD, which is now reflected in policy WNP11 of the Wye Neighbourhood Plan. This report is appended here for reference.
2. At that meeting the Cabinet resolved to adopt the draft masterplan as informal guidance for development management purposes subject to a number of amendments and a satisfactory response from KCC Highways on a traffic assessment of the proposals that had been prepared on behalf of the Parish Council.
3. How these matters have been dealt with subsequent to the Cabinet meeting is set out in the relevant section of this report below however, in addition, since September 2018, the situation pertaining the lawful planning status of potential development of the former ADAS site on Olantigh Road has been brought into question and investigated such that the advice given to members in the September 2018 Cabinet report regarding that part of the masterplan area needs to be revised. This is dealt with in more detail in the paragraphs 6 - 13 of this report, whilst any consequences in respect of the recommended approach to the content of the masterplan is considered in at paras. 34 - 45.
4. Members will also be aware that the Overview & Scrutiny Committee has set up a Task & Finish Group to consider issues raised about the masterplan's preparation process, including matters of consultation and collaboration, and these are reported elsewhere on this agenda. However, the scope of the Task & Finish Group does not extend to reviewing the content of the masterplan and so this should not affect the discussion and recommendations of this report.
5. Similarly, there is another report on this agenda relating to the adoption of a village envelope boundary for Wye, which particularly focuses on the extent of the existing built-up part of the village in the area covered by this draft masterplan. As that report makes clear, that issue can be considered independently of the issues discussed in this report and one does not prejudice the other in any way.

Former ADAS site, Olantigh Road

6. At the time of the September 2018 Cabinet report, the Council had received an application to renew the prior approval for the conversion of the redundant buildings on the site to 52 residential flats under Class O of the Town & Country Planning General Permitted Development Order which enables the conversion of B1 (a) offices to residential without the benefit of full planning permission.

7. The original decision that prior approval for this change of use was not required was made on 26th January 2016 under application 15/1602/AS and was referred to in several paragraphs of the September 2018 Cabinet report, notably in para. 75, where it is cited as “*a legitimate fallback position*” in respect of the draft masterplan’s proposal for 20 dwellings on the former ADAS site.
8. Both during the consultation on the draft masterplan and, in particular, in representations received on the application to renew the prior approval (18/1009/AS), evidence was drawn to officers’ attention regarding the previous use of the ADAS facility and whether, in fact, the building could be lawfully considered as last in use class B1(a) and hence qualify for conversion under the Class O rights. This principally focused on the nature of the facilities when the building was lastly fully occupied in the early 1990s prior to its full closure at some time between 2003 and 2008.
9. Evidence put forward by the Parish Council appeared to indicate that significant parts of the building were last used as laboratories related to agricultural and horticultural activities undertaken in the area and when the building was occupied by the then Ministry of Agriculture, Fisheries and Food (MAFF). Conversely, it is also clear that parts of the buildings continued to be used as office accommodation long after the last laboratory use at the site ceased.
10. The current derelict state of the buildings, the passage of time and the lack of any clearly definitive planning records meant that a desk-top exercise alone would not provide sufficient clarity to reach an informed position and therefore, an inspection of the site and its buildings was conducted in May 2019 by planning officers to assess any evidence from the design and layout of the buildings themselves.
11. The site visit provided evidence of the derelict paraphernalia associated with the former laboratories across a significant part of the building, in particular in Block C. Whilst a few rooms could be said to be of ambiguous former use based on the evidence seen, the majority can be reasonably assessed on the balance of probability based on layout, design, location of power and lighting, design and signage of doors, etc. On this basis, a reasonable estimate of the former mix of uses, over the two levels of the building, was made as follows:- 59% of floorspace was used as Research & Development Laboratories (within Block B and C); 37% of total floorspace was used as Office Use (Block A); and 4% of the floorspace forming part of the canteen (within Block B). On this basis, it is considered that, when last fully occupied and operational, the building would most reasonably be assessed as being of either class B1 (c) (with ancillary office use) or a ‘sui generis’ mixed use.
12. Importantly, there is no documentary or visual evidence to indicate that the rooms that were previously used as laboratories in the building were subsequently converted to, or otherwise used as, B1 (a) offices following the cessation of laboratory use at the site. These rooms therefore remained vacant within the building, in effect being ‘mothballed’.
13. On the basis of this evidence, officers sought Counsel’s opinion as to the lawful use of the whole building for the purposes of establishing whether the

Class O permitted development rights could apply. Counsel has confirmed that caselaw supports officers' view that the simple cessation of the laboratory use does not confer the B1(a) office use on the remainder of the building in the absence of any evidence of conversion to that use or intensification to a point where a material change in use of the building could have occurred. Consequently, it is now considered that there is no implementable prior approval for conversion of the building to 52 flats and that the 'fallback position' reported to Cabinet in September 2018 no longer exists.

Matters outstanding from September 2018 Cabinet report

14. In September 2018 Cabinet resolved that, subject to:-

(a) a satisfactory response with no impediment to the Masterplan being received from KCC Highways on the MLM traffic assessment, and,

(b) Officers checking that all written points made to the Council as part of the formal consultation on the draft Masterplan have been considered,

the draft Masterplan for WYE3 be adopted as informal guidance for development management purposes, subject to the following amendments: -

(i) Change wording to the appropriate Planning and Design Principles section to include further general principles sections on drainage/SUDs and grey water measures in accordance with the items set out in Paragraphs 57 and 63 of the report,

(ii) Confirm that the area known as the 'Strawberry Field' should be retained free from built development and all references to future development should be omitted,

(iii) Any other minor amendments considered necessary by the Head of Planning and Development in consultation with the Portfolio Holder for Planning and Development.

15. The progress made on each of these matters is now set out below.

MLM Traffic Assessment

16. Kent Highways gave a full response on the Wye3 masterplan proposals and the associated Transport Assessment during their extensive discussions with the developer and the Borough Council throughout the evolution of the masterplan and the consultation process. They made it clear they had made at least 2 site visits to investigate the operation of the level crossing at peak periods. KCC were content that the base traffic model that the developer has produced represents the current operation of the level crossing when the trains are running to timetable. KCC Highways concluded that it is extremely unlikely that the development proposals will make this issue significantly worse than a lawful college use on the site.

17. KCC Highways & Transportation team subsequently made it clear it was not Kent County Council's position as a statutory consultee to have to formally respond on the MLM assessment carried out for the Parish Council view. In

the event, the methodology undertaken by MLM was assessed by TPP (the developer's transport consultants) and it was stated by KCC that they agreed with the assessment made by TPP that there is no compelling evidence within the MLM analysis to suggest that the findings of the Masterplan Transport Assessment are flawed and its contents misleading. This was reported to the Local Plan & Planning Policy Task Group in October 2018, where the Task Group accepted KCC's position re-affirmed their support for the draft masterplan subject to the amendments agreed by the Cabinet the previous month.

Officers checking for the presence of any outstanding representations

18. The minutes of the Cabinet meeting show that the Parish Council felt that some residents' comments resulting from the formal draft masterplan consultation exercise were missing and had not been properly assessed by officers. Subsequently, on 24th October, the Parish Council wrote to confirm that it was representations from three residents (Mr and Mrs James Loudon and Lady Kate Wilkinson) that they considered had not been addressed in full.
19. In November 2018, a full review of the letters and comments made by Mr and Mrs Loudon and Lady Wilkinson was carried out to establish whether their comments had been fully considered as part of the formal consultation process. It is important to note that all public comments received were included in a series of tables with a response by Council officers next to each and every point. This is typical of the way public consultation comments on other planning guidance documents are processed.
20. The evidence demonstrated that the Council received a hard copy of a hand written questionnaire by post from Mr Loudon which responded to just one question (Part 10 on Transport Assessment). Their comments raised the following 2 points;-
 - The 30mph speed limit should start at the ADAS entrance.
 - There is a likely to be an increase in traffic, especially during construction phases, along Olantigh Road – that part of the road towards Godmersham between Tyewood Cottage and Godmersham is narrow and dangerous and a speed limit should be considered.

There is clear evidence that both of these points made by Mr and Mrs Loudon were included in the table of comments under the 'Traffic Section' (reference s8-R120) page 26 of 31, and an officer's response was reported.

21. Lady Wilkinson emailed on 4th May and made seven main comments which are referenced below. I can confirm that all the comments clearly were included and dealt with in the relevant responses sections as identified below.
22. The first issue raised by was;
 - *Telereal Trillium (subsequently referred to as TT) proposes doubling to 800 metres the size of the radius of the "walkable village" agreed in the Wye Neighbourhood Plan (subsequently referred to as WNP) , which was 400 metres. Furthermore they have moved the centre point of the circle from which the radius was taken in order to facilitate agreement to their developments.*

The enlargement of the radius would inevitably result in more people making car trips into and through Wye. This is in direct contradiction to the promotion of a healthy lifestyle through exercise (ie people walking) and of the creation of less pollution, both of which are essential to the age in which we live.

This first issue was included in 'conflict with neighbourhood plan responses section (ref s3-r36 page 3-4).

23. The second issue raised was;

- *TT are proposing a very large increase to the number of dwellings agreed in the WNP. Their proposal is for 101 dwellings, plus a 50 bed space residential care home or extra care housing. NO provision is made for affordable housing, which would not be in line with Ashford Borough Council's (subsequently referred to as ABC) policy.*

This comment was also included in 'Conflict with Neighbourhood Plan responses section (ref s3-r36 page 4-5).

24. The third issue raised was;

- *As far as the residential care home on the Olantigh Road is concerned, TT have not supplied any indication, no design, no drawings, of the appearance of such a building. This is a very large space and I think it is essential that the village should understand clearly how such a building would fit into the overall plan. How can we agree to something when given such sketchy details?*

This was included in 'Care Home' responses section ref s3-r37 (PAGE 1 of 4)

25. The fourth issue raised was;

- *TT have shown total disregard for the Grade 1 listed status of the former Wye College buildings. It has been drawn to my attention that there is an existing planning application on these buildings which is barely mentioned in the Masterplan. It seems to me extraordinary that we are supposed to be thinking about the overall plan (the Masterplan) at the same time as considering the detail (what happens to the historic college). Did the Neighbourhood Plan not say that the Masterplan should come first?*

This comment was included in the 'Conflict With Neighbourhood Plan' responses section reference S3-R39 (Page 5).

26. The fifth point raised was:

- *Increase in car traffic: having lived in or near Wye for nearly 80 years and having known Wye College well in its heyday, I*

question the veracity of the TT figures. TT seem to me to be suggesting that the College had over 2000 students and they have used this as a baseline to justify more cars in Wye through more development. However, my memory has it that very few students ever had cars, so to suggest that the village had previously experienced more cars than is now the case is totally misleading.

This point was included in the 'Traffic Responses' section reference S3-R41 (Page 28).

27. The sixth point raised was;

- *TT state that traffic queues always clear between shuttings of the railway crossing gates. Such is simply not certainly do build up, at times causing congestion in surrounding streets.*

This was included in the 'Level Crossing' responses Section reference S3-R42 (page 3).

28. The seventh point raised was;

- *In summing up I can only conclude that the Masterplan with its fine appearance is nothing more nor less than a masterclass in the use of devious tactics. It should on no account be accepted by Ashford Borough Council.*

This final point was also fully included in the 'Objection Responses' section reference S3-R43 Page).

29. The further investigations demonstrate satisfactorily that all the points raised in the correspondence received from Mr and Mrs Loudon and Lady Wilkinson as part of the Wye3 consultation process were addressed and reported on. The same points these individuals made were also repeated by many other residents during the formal consultation stage as well as on numerous other occasions during the earlier exhibitions and workshops. I remain content that the Council has assessed these issues fully and reached the conclusion that the proposed Wye3 Masterplan has dealt with these issues adequately.

(i) Change wording to the appropriate Planning and Design Principles section to include further general principles on drainage/SUDs and grey water recycling measures in accordance with the items set out in Paragraphs 57 and 63 of the report.

30. It has been agreed to add a new heading has been added to original Section 6 (page 30) section entitled 'Incorporation of SUDs Principles'. The final document will state;

Development proposals will incorporate the following key principles for incorporation of SUDs measures

- *SuDs measures should maximise the use of infiltration within the development site, thereby minimising the impact of surface water run-off from the development/redevelopment.*

- *Surface Water will not leave the site, as infiltration should be a key component of the overall approach to surface water management across the site*
 - *Measures should ensure that quality of water run off from the site does not degrade the quality of local water courses or ground water supplies*
 - *Foul and surface water drainage proposals will ensure quality of water run-off from the site does not degrade the quality of local water courses or ground water supplies*
 - *Consideration will be given to the incorporation of green roofs within development proposals*
31. Further insertions to this section should also include that any future developments should explore the potential for including grey water recycling measures as required by the Cabinet in their resolution from September 2018. At the time of drafting this report, these amendments had yet to be made and so this resolution is included again in the recommendations in this report.

(ii) Confirm that the area known as 'Strawberry Field' should be retained free from built development and all references to its future development should be omitted.

32. It has been agreed that any reference to the redevelopment of the Strawberry field this will be omitted from the final document including:-
- Section 14 on page 84
 - Section 11 on page 64

iii) Any other minor amendments considered necessary by the Head of Planning and Development in consultation with the Portfolio Holder for Planning and Development.

33. A series of minor amendments to the September 2018 version of the draft masterplan have been agreed with the developer and these are set out in the schedule of changes appended to this report. This report provides a formal opportunity for the Cabinet to endorse these amendments and this forms part of the recommendations in this report.

Implications for the proposed masterplan

34. Based on the discussion in the sections above, it is considered that the material change of position relating to the potential lawful use of the former ADAS site for 52 flats justifies a further consideration in respect of the content of the draft masterplan but any other matters outstanding from the September 2018 Cabinet report do not.
35. The principle of residential redevelopment of the former ADAS site was discussed in the September 2018 Cabinet report (paras. 36-38) as this was a matter raised during the consultation process on the draft masterplan. Since that time, the NPPF and the associated Planning Practice Guidance has been updated, and the Local Plan 2030 has been adopted and it is pertinent to now re-consider the matter again in light of the most up-to-date policy position.

36. The former ADAS site lies to the north of the existing built up part of Wye village and is around 850 metres from the main central part of the settlement. As such, it lies outside the 5 minute 'walkable village' concept which forms an important element of the principles enshrined within the adopted Wye Neighbourhood Plan. The relevant clause of policy WNP11 of the Neighbourhood Plan (which sets out policy in respect of different elements of the WYE3/WNP11 area) states that proposals should "*achieve appropriate re-use of the site of the former ADAS buildings, having regard to the concept of the walkable village*".
37. There is, however, no explicit policy in the Neighbourhood Plan that seeks, in principle, to prevent new residential development either specifically on this site or beyond the 5 minute 'walkable village' radius from the village centre and as policy HOU5 of the Local Plan states, new residential development adjoining or close to the existing built up confines of Wye will be acceptable subject to meeting a number of criteria.
38. The tensions between the aims of the Neighbourhood Plan and its 'walkable village' concept and the developer's aspiration to redevelop the former ADAS site for housing was discussed at some length in the Examiner's Report on the Neighbourhood Plan – of which the section on policy WNP11 and its supporting text are appended to this report. Para. 124 of the Examiner's report in particular highlights the respective issues, such as the AONB status, brownfield status (of some of the site) and the potential tension of consistency with national planning policy. As a consequence, the final version of the NP was amended to enable, at least, the principle of residential development there to not be excluded from the masterplanning process for the wider area.
39. It is also perhaps important to note that the draft version of the NP upon which the Examiner was commenting had indicated that the use of the former ADAS site for intensive business or residential use was not appropriate (my emphasis). Whilst this phrase was deleted from the adopted NP, it indicates that the location may have been considered acceptable for a limited scale of residential development.
40. When considering the draft masterplan more broadly, the overall number of residential units being proposed across the whole masterplan area is 100 plus the units within a proposed residential care home). This is significantly in excess of the indicative quantum of '*approximately 50*' set out as part of policy WNP9 of the Neighbourhood Plan. Even coupled with a proportion of the '*approximately 35*' units attributed to '*Change of use*' in policy WNP9, there is no quantitative requirement for the former ADAS site to be redeveloped for housing, although it should be recognised that national policy does not set a ceiling or limit on new housing development where such development can be considered sustainable.
41. As the NP Examiner put it (in para. 124 of his report), there is a difficult balance to strike on the future of the site of the ADAS buildings. The absence of an implementable fallback for residential development is material but part of the site is brownfield and as such, there is at least a theoretical fallback in relation to the previous activities, including any associated traffic movements arising from them. Whilst the reintroduction of laboratory uses would be highly unlikely and hence a full fallback position should be given little weight, the

same might not be said of B1(a) office uses in the parts of the buildings previously occupied for those purposes. The buildings on the site are derelict and have a detrimental impact on the character of the AONB accepting that the site is well screened by trees which minimises this adverse impact.

42. Therefore, despite the lack of the implementable 'prior approval' for 52 flats here, on balance, a limited scale of residential development can be justified. However, given the relevance of the 'walkable village' concept explicitly referred to in clause (h) of policy WNP11 and the scale and quantum of residential development proposed across the remainder of the masterplan area, a reduction in the quantum and footprint of residential development proposed at the former ADAS site from that previously considered, is justified.
43. In respect of footprint, given the AONB status and the essentially derelict nature of the previously developed parts of the site, it would be appropriate to limit the scope of any redevelopment to that encompassed by the brownfield part of the former ADAS site. This has the opportunity to improve the current appearance of the site without making any additional intrusions into the natural, undeveloped part of the site.
44. In respect of quantum, the location of the former ADAS site dictates that a low residential density would only be appropriate, especially in light of the AONB status and the Development Plan considerations referred to above. The draft masterplan currently indicates 'up to 20 residential units' on this site but in view of the material changes described above, a reduction in this figure to be 'up to 15 residential units' should be made to the masterplan. The actual quantum of units (i.e. 15 or lower) can be considered in more detail through a subsequent planning application, where the precise mix and layout of a residential scheme can be assessed. This represents a minimum 25% reduction in the quantity of housing proposed for the former ADAS site which is considered to be a proportionate and justified response to the changed position described earlier in this report.
45. In light of the discussion above, Members should be aware that the developer has recently submitted planning applications (ref: 19/1330/AS and 19/1327/AS respectively) for the former ADAS site which proposes the demolition of the existing buildings there and the construction of 20 residential dwellings on the site, and the land north of Occupation Road for the construction of 40 dwellings. The determination of these applications will, of course, be a matter for the Planning Committee in due course and should not prejudice the views of the Cabinet on the acceptability of the proposed masterplan.

Conclusion

46. The September 2018 Cabinet report set out the basic conclusions on the need for a masterplan to assist in guiding new development across this sensitive part of Wye and this remains the case now. The Council has considered all relevant matters during the course of the masterplanning process and, whilst accepting that not all elements have public support, on balance the masterplan represents a sound and proportionate response to the challenges provided by the site's context and varying characteristics. It is

considered to be in broad accordance with Development Plan policies and NPPF guidance whilst any departure from policy in respect of the quantity of new development is limited has been assessed and can be justified by material considerations.

Portfolio Holder's Views (Cllr. Shorter)

47. "This report is necessary to be fully transparent, to members and the public, following new information becoming known after the publication of the 2018 Cabinet report on the Wye 3/WNP11 masterplan. I am pleased with the points of clarification, particularly in responding to opinions that not all comments were addressed.
48. I am of the opinion that this report fully responds to historical concerns, new information since the original report and that the conclusions are well founded and should be agreed at Cabinet".

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