

MAIDSTONE BOROUGH COUNCIL

RECORD OF DECISION OF THE EXECUTIVE

Decision Made: 25 January 2023

Provision of Cycle Ramp Off Church Road Otham

Issue for Decision

Bellway Homes received full planning permission on appeal for the development of 421 homes at Land West of Church Road, Otham, Kent ME15 8SB.

Two conditions were included in the Inspector's report relating to the provision of a cycle ramp (ramp) and pedestrian linkway (linkway), the details of which were approved by planning committee.

Both the ramp and linkway are to be constructed on Council land and will thereafter become the responsibility of the Council.

The proposed works do not form part of any S106 Agreement. The provision of the ramp and linkway has therefore been reached by negotiation subject to Cabinet approval.

This matter was to be considered by the Corporate Services PAC before being passed to the Executive.

Decision Made

1. That the provision of the cycle ramp be approved.
2. That the provision of the link way be approved.

Reasons for Decision

- 1.1 Bellway Homes received planning for 421 houses on appeal on 7 January 2021.
- 1.2 In granting the full planning permission, the Inspector imposed by condition the provision of both an off-site of a ramp and a linkway. These were contained in conditions 9 and 11(b) for the ramp; and Condition 35 for the southern link. Extracts are below:

Ramp:

- 9) Before any part of the development hereby permitted is first commenced, details of a ramp to provide accessibility for all users including disabled persons, wheelchairs, pushchairs and cycles at the steps to the north west of the site along PROW KM86 shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.

- 11) Before any part of the development hereby permitted is first commenced, a plan and construction design specification shall be submitted to and approved by the local planning authority, which shows:
 - b) measures to ensure that cyclists can gain cycle access to 'The Beams' and the Play area to the north west of the site from the cycle routes.

Linkway:

- 35) The development shall not be occupied until details of the pedestrian and cycle link to and across the area of Council owned land to the south of the site providing a link to Woolley Road and the timing of its delivery have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 1.3 The details of the ramp and linkway were contained in application 21/503538/SUB and approved by Planning Committee on 24 February 2022.
 - 1.4 Relating to the ramp, attached as Appendix 1 are drawings showing the layout and levels.
 - 1.5 Relating to the linkway, attached as Appendix 2 is a plan of the area subject to the licence. The full design details of the linkway are to be submitted by Bellway for Council approval.
 - 1.6 These off-site infrastructure provisions affect Council land. Both areas are designated as public open space and this designation is to remain.
 - 1.7 Ordinarily off-site infrastructure improvements would be covered under a S106 agreement. However, as these conditions have been imposed by the Planning Inspector on appeal the mechanism for their provision was not addressed.
 - 1.8 The wording of the conditions is 'prior to development' for the ramp and 'prior to occupation' for the linkway. It should be noted that Bellway have the right to appeal the conditions and seek their removal on the grounds that agreement could not be reached with a third party land owner.
 - 1.9 Bellway are in a position to commence the development and therefore agreement needs to be reached on whether the Council will permit Bellway, through the provision of a licence, to access onto Council owned land to provide the infrastructure.

Alternatives considered and why rejected

- 2.1 **(REJECTED)** The Council do not grant a licence for either the ramp or the linkway. This is likely to result in Bellway appealing the conditions. This could result in:
 - a delay to the provision of additional housing units (both private and social) in the borough
 - no off-site infrastructure improvements being delivered
 - the stepped access to the park remaining thereby limiting accessibility
 - potential adverse publicity for the Council from, but not exclusively

from, cycling lobby, access groups and the house builder

2.2 **(REJECTED)** The Council agree to either the ramp or the linkway being provided. The possible adverse implications could be as in 3.1 above

2.3 **(APPROVED)** The Council grant Bellway a licence to access Council land in order to construct the ramp and linkway as per the plans approved by the Planning Committee. The Council would:

- receive an undertaking as to costs for legal and surveying fees
- receive an undertaking for engineers' fees to ensure the ramp and linkway are built out in accordance with the plans and are free from defects
- require a 12 months' warranty period prior to taking on responsibility for maintenance of both the structures and associated landscaping. During this time Bellway would remain responsible for their maintenance, remedying defects and ensuring establishment of landscaping
- receive a commuted sum of £40,000 in lieu of on-going maintenance obligations once the warranty period has expired. This figure has been approved by Parks and Open Spaces as representing a reasonable sum to cover the additional expenses that will be incurred by the Council.

This would deliver:

- support the housing scheme and the amenity of not only its residents but existing residents too
- improve accessibility to open spaces
- improve connectivity of the proposed development to the immediate environs thereby supporting sustainability
- a commuted sum to the Council to support the maintenance and upkeep of the open space in the future

Background Papers

None

I have read and approved the above decision for the reasons (including possible alternative options rejected) as set out above.

Signed:  _____
Leader of the Council

Full details of both the report for the decision taken above and any consideration by the relevant Policy Advisory Committee can be found at the following area of the [website](#)

Call-In: Should you be concerned about this decision and wish to call it in, please submit a call-in form signed by any three Members to the Proper Officer by: **5pm 2 February 2023**