

EXECUTIVE MEETING**25 January 2023****Provision of Cycle Ramp and Linkway, Land off Church Road and Woolley Road, Otham****Timetable**

Meeting	Date
Corporate Services PAC	18 January 2023
Executive	25 January 2023

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	EXECUTIVE
Lead Head of Service	Mark Green Director of Finance, Resources & Business Improvement
Lead Officer and Report Author	Victoria Kellett Interim Estates Manager
Classification	Public
Wards affected	Downswood and Otham Shepway South

Executive Summary

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 is to be considered by the Corporate Services PAC before being passed to the Executive.

Purpose of Report

Decision

This report recommends to the Executive that:

1. The provision of the cycle ramp is approved
 2. The provision of the link way is approved
-

Provision of Cycle Ramp and Linkway, Land off Church Road and Woolley Road, Otham

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place • Accepting the recommendations will materially improve the Council’s ability to deliver its Corporate Priorities. The proposed licences will facilitate and support of the Council’s priority of planning for sufficient homes to meet the Borough’s needs. 	Head of Property and Leisure
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation(s) supports the achievement(s) of the cross cutting objectives by:</p> <ul style="list-style-type: none"> • improving connectivity and accessibility to public open space and the wider vicinity • Respecting and improving bio-diversity through a planned landscaping scheme and considered approach to any arboriculture work 	Head of Property and Leisure

Risk Management	Not agreeing the proposed licences could lead to the risk of an agreed housing development being materially delayed.	Head of Property and Leisure
Financial	<p>The granting of the Licences supports the Council's overall strategy of planning for new homes, which will promote economic development and alleviate the housing shortage in the Borough.</p> <p>The commuted sum received by the Council will support the maintenance of the new facilities. This contribution is only capable of being realised in the specific context described in this report.</p>	Section 151 Officer & Head of Finance
Staffing	<ul style="list-style-type: none"> We will deliver the recommendations with our current staffing. We will need access to extra expertise to deliver the recommendations, as set out in section 3. The cost of the required expertise being met by the developer. 	Head of Property and Leisure
Legal	<ul style="list-style-type: none"> The planning conditions have been imposed by an inspector and there are both planning and reputational issues for the Council if the infrastructure is not delivered. The Licence and associated documentation will need to be prepared by legal to ensure the terms protect the Council against ongoing risks. 	Team Leader Contentious and Corporate Governance
Information Governance	<ul style="list-style-type: none"> The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes. 	Information Governance Officer
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities and Communities Officer
Public Health	<ul style="list-style-type: none"> We recognise that the recommendations will have a positive impact on population health or that of individuals. 	Housing and Inclusion Team Leader

	<ul style="list-style-type: none"> In accepting the recommendations the Council would be fulfilling the requirements of the Health Inequalities Plan 	
Crime and Disorder	<ul style="list-style-type: none"> The proposed licenses will not affect the safety of current or potential users of the open space and the resulting cycle and linkway may benefit road and pedestrian safety. 	Head of Property and Leisure
Procurement	<ul style="list-style-type: none"> On accepting the recommendations, the Council will then follow procurement exercises for the appointment of external consultants. We will complete those exercises in line with financial procedure rules. 	Head of Property and Leisure & Section 151 Officer
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered through the development of landscape strategy plans and Arboracultural Method Statements. Both the ramp and linkway align with the aims of the biodiversity and climate change action plan to support active travel.	Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

2.1 Bellway Homes received planning for 421 houses on appeal on 7 January 2021.

2.2 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.

- 2.3 The details of the ramp and linkway were contained in application 21/503538/SUB and approved by Planning Committee on 24 February 2022.
- 2.4 Relating to the ramp, attached as Appendix 1 are drawings showing the layout and levels.
- 2.5 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.
- 2.6 These off-site infrastructure provisions affect Council land. Both areas are designated as public open space and this designation is to remain.
- 2.7 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.
- 2.8 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.
- 2.9 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.

3. AVAILABLE OPTIONS

- 3.1 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
- 3.2 The Council agree to either the ramp or the linkway being provided. The possible adverse implications could be as in 3.1 above
- 3.3 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

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The third option described above is the preferred option because it achieves the delivery and compliance with planning conditions aimed at improving infrastructure, connectivity and accessibility for residents.
- 4.2 The Council will benefit from improved infrastructure which incorporates ecological improvements and greater diversity.
- 4.3 The Council's position has been safeguarded by the inclusion of a monitoring period together with the use of consultants to warranty the

quality of the infrastructure and planting being provided. In addition, a commuted sum is being provided to support the upkeep and maintenance in the long term.

5. RISK

5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The proposal forms part of a planning permission which was subject to wide consultation as part of the usual determination process. In addition, the provision of these facilities has been approved by Planning Committee as outlined in section 2 paragraph 2.3.

6.2 This issue will be considered by the Corporate Services Policy Advisory Committee on 18 January 2023, and the Committee's comments and recommendations will be reported to the Executive.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Should the Executive agree that the licences be granted, officers within Corporate Services and Mid Kent Legal Services complete the relevant documentation with Bellway Homes, oversee the provision of the proposed infrastructure during construction and warranty period prior to the Council taking over responsibility and long-term maintenance.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Cycle Ramp Documents and Details
 - Appendix 2: Linkway Proposed Licence Area
-

9. BACKGROUND PAPERS

None.