

REPORT SUMMARY

REFERENCE NO: - 20/501427/OUT		
APPLICATION PROPOSAL: Outline planning application for residential development of up to 76 no. dwellings (all matters reserved except access).		
ADDRESS: Land to rear of Kent Police Training School off St Saviour's Road, Maidstone, KME15 9DW		
RECOMMENDATION: To set a specific deadline (23 March 2023) for the completion of the S106 which if not met, should result in a refusal of the application		
SUMMARY OF REASONS FOR RECOMMENDATION: Since July 2022, there has been limited progress on behalf of the applicant towards completion of the s106 legal agreement, the Heads of Terms of which was resolved at the 26 May 2022 Planning Committee. A supplementary recommendation for refusal is suggested if the s106 is not completed within a reasonable further period of time.		
REASON FOR REFERRAL TO COMMITTEE: Review of Planning Committee resolution to add a specific deadline (23 March 2023) for the completion of the S106 which if not met, should result in a refusal of the application.		
WARD: Park Wood	PARISH/TOWN COUNCIL: Boughton Monchelsea	APPLICANT: The Police And Crime Commissioner For Kent AGENT: DHA Planning
CASE OFFICER: Marion Geary	VALIDATION DATE: 21/04/20	DECISION DUE DATE: 31/03/23
ADVERTISED AS A DEPARTURE: NO		

Relevant Planning History

12/0987 : Outline application for residential development for up to 90 dwellings with associated development with all matters reserved for future consideration.
Approved 07.04.2017

MAIN REPORT

1. BACKGROUND

- 1.01 The completion of the s106 legal agreement has not progressed in a timely manner and it is considered necessary to set a specific deadline (23 March 2023) for the completion of the S106 which if not met, should result in a refusal of the application.
- 1.02 Originally, the Planning Committee of 16 December 2021 resolved to grant planning permission for this application subject to the prior completion of a legal agreement together with conditions and informatives.
- 1.03 In May 2021, the Government has introduced an affordable housing policy of First Homes. The Government allowed for a transition period so that applications undetermined when the policy changed would have a period of grace. The period of grace expired on 28 March 2022.
- 1.04 The s106 for this planning application was still outstanding at that date so the decision had not been issued within the period of grace. Therefore the application

was reported back to Planning Committee on 26 May 2022 to seek an amended resolution in which the tenure mix would be amended to include First Homes.

1.05 The previous reports and urgent updates are appended.

2. DISCUSSION

2.01 The s106 agreement was re-drafted in accordance with the 26 May 2022 Committee resolution and was sent to the applicant's solicitors on 7 June 2022. There was a short exchange with the applicants during June and July 2022 in regard of the phasing of the affordable housing with regard to market housing. Nothing further in terms of a response to the draft s106 was received since 20 July 2022, despite many requests.

2.02 Due to the long period of time in which the applicant and/or his solicitor did not engage in seeking to complete the s106, it is now therefore recommended that a reasonable final deadline date be set of 5 weeks from the Committee date (ie 23 March 2023). After this date, the application should be refused if the s106 agreement has not been completed by that date. This date will allow adequate time for the administration of the issuing of the decision notice before the currently agreed extension of time which is 31 March 2023.

2.03 In the absence of a legal agreement to secure the necessary on-site affordable housing contribution, the development would be contrary to policy SP20 of the Maidstone Local Plan which seeks to meet the net affordable housing needs of the Borough. It would also be contrary to NPPF which states that the needs of groups with specific housing requirements should be addressed and where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site.

2.04 The absence of contributions towards Open Space at Queen Elizabeth Square play area and/or sport facilities at Pested Bars Open Space would be contrary to policy H1 (28) of the MBLP that required contributions towards improvements to Mangravet Recreation Ground, Queen Elizabeth Square play area, sports facilities at Parkwood Recreation ground or Mote Park Adventure Zone and additional on/off-site provision and/or contributions towards off-site provision/improvements as required in accordance with policy DM19, the objective of which is that high quality, publicly accessible open space can bring about opportunities for promoting social interaction and inclusion in communities and sports and recreation areas and facilities can contribute positively to the wellbeing and quality of those communities.

2.05 The absence of payment of monitoring fee for the Travel Plan will impact on the sustainability of the development, contrary to Policy DM 21 of the MBLP that requires development proposals to provide satisfactory Travel Plan. A Travel Plan need to be monitored to demonstrate it has influenced travel behaviour away from journeys by private car to more sustainable modes.

2.06 The applicant was made aware of this planning application being reported back to Planning Committee. However, rather than respond to the case officer or MKLS as is normal as part of the s106 negotiation, they indicated that they wish to address the Planning Committee direct with their comments on the terms of draft s106 agreement.

PUBLIC SECTOR EQUALITY DUTY

2.07 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.

CIL

- 2.08 The proposed development is CIL liable. The Council adopted a Community Infrastructure Levy on 25 October 2017 and began charging on all CIL liable applications approved on and from 1 October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.

3. RECOMMENDATION

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the prior completion of a legal agreement (including the Head of Planning and Development being able to settle or amend any necessary terms of the legal agreement in line with the matters set out in the recommendation resolved by Planning Committee) with the Heads of Terms AND the imposition of the conditions and informatives as resolved at the Planning Committee of 26 May 2022.

Or, if the legal agreement is not completed before 23 March 2023:

The Head of Planning and Development BE DELEGATED POWERS TO REFUSE planning permission for the following reason(s):

- 1) In the absence of a legal agreement to secure the necessary on-site affordable housing contribution, the development is contrary to the NPPF and to policy SP20 of the Maidstone Borough Local Plan which seek to meet the affordable housing needs of the Borough.
- 2) The absence of contributions towards off site Open Space would be contrary to policies H1 (28) and DM19 of the Maidstone Borough Local Plan 2017 which seek to ensure high quality, publicly accessible open space for communities.
- 3) The absence of payment of a monitoring fee for the Travel Plan will impact on the environmental sustainability of the development, contrary to Policy DM21 of the Maidstone Borough Local Plan 2017.

Case Officer: Marion Geary

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.