

REPORT SUMMARY

REFERENCE NO - 12/2255			
APPLICATION PROPOSAL Outline planning permission for the erection of 53 residential units with all matters reserved for future consideration as shown on drawings A/1, 100, 101, 102, 103, 108, 109, 110, 112 and 11150/P1 and (confidential) viability appraisal.			
ADDRESS Nurses Home, Hermitage Lane, Maidstone, Kent, ME16 9NN			
RECOMMENDATION GRANT SUBJECT TO COMPLETION OF S106 LEGAL AGREEMENT			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
REASON FOR REFERRAL TO COMMITTEE			
WARD Heath Ward	PARISH/TOWN COUNCIL Maidstone	APPLICANT Mr Roy Maidstone & Tunbridge Wells Hosp Trust AGENT Frankham Consultancy Group Ltd.	
DECISION DUE DATE 18/03/13	PUBLICITY EXPIRY DATE 18/03/13	OFFICER SITE VISIT DATE	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date

1. **BACKGROUND**

- 1.1 This application has previously been considered by Members at the Planning Committee meetings held on and 21st November 2013 and 12th December 2013. I attach copies of the reports to Planning Committee of 21st November 2013 and 12th December 2013 as Appendix 1 of this report.
- 1.2 At the earlier Planning Committee meeting on the 21st November 2013, Members resolved to defer this planning application to enable the viability of retaining and converting the existing building to be examined, and for more robust conditions to be suggested to seek to deliver a high quality development within the site. At the latter Planning Committee meeting on the 12th December 2013, following receipt of a viability assessment it was satisfactorily demonstrated that it would not be financially viable to convert the existing building for residential purposes. Further conditions and informatives were also attached to the original recommendation which sought to safeguard that any ultimate development be of a high quality scheme that would respond positively to the character and appearance of the locality, whether at reserved matters or as an application for full planning permission.
- 1.3 Subsequent to the resolution of a grant of planning permission taken by the Planning Committee at the meeting on the 12th December 2013 it has been recognised that the recommendation did not include all contributions sought by statutory consultees. In particular, the Kent County Council (KCC) contributions towards new build primary school costs, the extension of existing secondary schools, and adult social services, whilst included

in the summary of contributions sought (paragraph 3.5 of Planning Committee report MA/12/2255 21st November 2013) were not discussed in full in Section 5.10 (Section 106 Requirements) of the main text of the report, nor were they included in detail within the recommendation (Section 7 of the report), and consequently were not carried forward to the Recommendation (section 5) of the report to the Planning Committee meeting held on 12th December 2013. I attach copies of the reports to Planning Committee of 21st November 2013 and 12th December 2013 as Appendix 1 of this report.

- 1.4 The omission has been discussed with KCC who have confirmed that the comments provided in support of the application remain valid, and that a legal mechanism omitting these elements will not be considered acceptable to it being insufficient to mitigate against the impact of the development on local services and social infrastructure. I attach a copy of the request for contributions from Mouchel (on behalf of KCC) as Appendix 2 to this report.
- 1.5 This amendment to the recommendation was on the papers for the Planning Committee meeting to be held on 20th March 2014, however it was withdrawn from consideration following the submission of a Viability Report and an Asset Valuation (VR/AV) by the applicant which sought to demonstrate that the development would not be viable if the omitted sums referred to in paragraphs 1.3 and 1.4 above. This VR/AV (together with subsequently submitted supporting information requested by the DVS (Valuation Office Agency)), which is attached to this report as confidential Appendix 3, was referred to the DVS who have considered it and provided an Assessment of Viability Appraisal (AVA), attached to this report as confidential Appendix 4.
- 1.6 In the meantime, an application for full planning permission has been received from a developer for the redevelopment of the site and adjoining land for a residential development of 69 units under reference 14/500412/FULL.

2. Amended S106 Contribution Requirements

- 2.1 Approval is sought from the Planning Committee for the substitution of the following sums for those set out in the recommendation of the previous reports.
 - (1) A minimum of 40% affordable housing;
 - (2) Contributions to KCC for primary school provision local to the site (being £2,701.63 per applicable house and £675.41 per applicable flat for land acquisition **and £5,559.96 per applicable house and £1,389.99 per applicable flat towards new build costs**);
 - (3) Contributions to KCC for secondary school provision local to the site (being £2,359.80 per applicable house and £589.95 per applicable flat to support extension of existing secondary schools);**
 - (4) Contributions to KCC for library book stock – to be spent within Maidstone (being £144.64 per dwelling or flat);
 - (5) Contributions to KCC for community learning and skills – to be spent within Maidstone (being £28.71 per dwelling or flat);
 - (6) Adult education services – to be spent within Maidstone (being £46.31 per dwelling or flat); and**
 - (7) Contributions to MBC for the enhancement of open space within a 1 mile radius of the application site (being £1,575 per residential unit).
- 2.2 Members will note that (2), (3) and (6) (in bold) set out in paragraph 2.1 above differ from those previously approved and I discuss these below; contributions included in the recommendation and discussed in the text of the report included in the agenda of the Planning Committee meeting held on 21st November 2013 are not discussed here as they have previously been interrogated in the previous report and agreed by the Planning Committee. Similarly, this report does not reassess any other planning considerations previously considered in respect of this application.

2.3 Any request for contributions needs to be scrutinised, in accordance with Regulation 122 of Community Infrastructure Regulations 2010. These stipulate that an obligation can only be a reason for granting planning permission if it meets the following requirements: -

It is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

2.4 The County have requested that £5,559.96 per house be provided towards primary school education (or £1,389.99 per flat) in addition to the land acquisition costs previously reported to Planning Committee. These sums would contribute to a new two form entry primary school within the locality that would be required due to the additional strain placed upon the existing school network by virtue of this development. There is an identified need for primary school provision within the locality, and there is a realistic opportunity for a new school to be provided through the site allocation process of the emerging Local Plan. This contribution would go towards meeting the additional strain placed upon the school facilities within the locality, and is considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

2.5 The County have requested that £2,359.80 per house be provided towards secondary school education (or £589.95 per applicable flat). These sums would contribute to providing additional secondary accommodation within the locality that would be required due to the additional strain placed upon the existing school network as a result of this development. There is an identified need for secondary school provision within the locality, and there is a realistic opportunity for the expansion of existing secondary school facilities. This contribution would go towards meeting the additional strain placed upon the school facilities within the locality, and is considered to be a reasonable sum, related to the scale of the development. I am therefore satisfied that this contribution meets the tests as set out above.

2.6 A financial contribution of £46.31 per residential unit towards adult social services in Maidstone has also been requested by the County in order to provide new and expanded integrated dementia care, co-location with Health in Maidstone, a changing place facility and assistive technologies for older people and adults with learning or physical disabilities. Again, a significant level of justification has been submitted by the County for this provision, which would be brought about by the additional demand placed upon the facilities by the new development. I consider that the contribution would be necessary to make the development acceptable, and that it would be of a scale related to the development. I therefore consider that this would be in accordance with the regulations.

2.7 The VR/AV attached as confidential Appendix 3 has been provided by the applicant in response to the proposed changes to the recommendation to secure the previously omitted S106 contributions. It seeks to demonstrate that the omitted contributions would render the development unviable.

2.8 The VR/AV has been considered by DVS, who have provided the AVA attached as confidential Appendix 4. The AVA states that the figures used by the applicant in assessing the viability of the scheme in respect of ground rent yield, abnormalities, contingency, professional fees, marketing and sales costs, and profit by the applicant were inappropriate for the reasons set out in the AVA. It also concluded that the original benchmark land value provided by the applicant was correct, rather than higher values subsequently suggested, for the reasons set out in the AVA.

- 2.9 The AVA concluded that “the scheme can viably support the additional Section 106 contribution, however, there is no surplus profit” in excess of that of the figures allowed for in the AVA.
- 2.10 The AVA provided by the DVS concludes that the inclusion of the S106 contributions omitted from the previous recommendation would not render the development unviable.

3. OTHER MATTERS

- 3.1 Since this application was reported to Planning Committee on previous occasions, a Tree Preservation Order has been issued which protects a number of trees in the north of the site which would potentially be affected by the development. I therefore propose to amend the relevant condition to include reference to the protected trees and the need for their retention in the drawing up of reserved matters.

4. CONCLUSION

- 4.1 The sums sought in respect of the mitigation of the proposal on social infrastructure are considered to satisfy the tests set out in S122 of the Community Infrastructure Regulations, and I have not been provided with any substantive evidence to suggest that they should not be secured for this purpose. Indeed, the DVS has confirmed that the development can “viably support” them. I am therefore satisfied that the amendments to the recommendation are reasonable and necessary, and would not prejudice delivery of the development under consideration. Furthermore, it is considered that to fail to recommend the amendments discussed above, the Local Planning Authority would be failing in its duties.
- 4.2 I am satisfied that, subject to the mitigation (including financial contributions) set out above and the conditions set out in the previous reports pertaining to this application (as amended in accordance with paragraph 3.1 above), the proposal would provide a high quality development, and it is for this reason that I am recommending that delegated powers be given to grant planning permission subject to the receipt of a suitable S106 legal agreement drafted in the terms set out above in paragraph 2.1.

5. RECOMMENDATION

The Head of Planning and Development be given DELEGATED POWERS to GRANT PLANNING PERMISSION subject to:

The completion of a legal agreement in such terms as the Head of Legal Services may advise providing the following:

- (1) A minimum of 40% affordable housing;
 - a. Contributions to KCC for primary school provision local to the site (being £2,701.63 per applicable house and £675.41 per applicable flat for land acquisition and £5,559.96 per applicable house and £1,389.99 per applicable flat for new build costs);
 - b. Contributions to KCC for secondary school provision local to the site (being £2,359.80 per applicable house and £589.95 per applicable flat for extension of existing secondary schools);
 - c. Contributions to KCC for library book stock – to be spent within Maidstone (being £144.64 per dwelling or flat);
 - d. Contributions to KCC for community learning and skills – to be spent within Maidstone (being £28.71 per dwelling or flat);
 - e. Adult education services – to be spent within Maidstone (being £46.31 per dwelling or flat); and
 - f. Contributions to MBC for the enhancement of open space within a 1 mile radius of the application site of (being £1,575 per residential unit)

And subject to the following conditions:

1. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

2. Details submitted pursuant to condition 1 (reserved matters submission relating to landscaping) shall include details of tree planting (small leaf lime) at regular intervals along the site frontage onto Hermitage Lane together with a landscaped area between the highway and the built development. .

Reason: In the interests of visual amenity and air quality.

3. The dwellings shall achieve at least Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development in accordance with the NPPF 2012.

4. The height of the development shall be restricted to that shown on drawing no: /A/112.

Reason: To ensure that any development remains in scale and character with the area.

5. No part of the development hereby approved shall come closer than 10 metres to the back edge of the public highway fronting the site.

Reason: To ensure good landscaping provision and to secure an acceptable living environment for future occupiers in the interests of amenity.

6. The approved details of the accesses submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and the sight lines maintained free of all obstruction to visibility above 1.0 metres thereafter;

Reason: In the interests of road safety.

7. The approved details of the parking/turning areas submitted pursuant to condition 1 shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

8. As part of the reserved matters submitted pursuant to condition 1, details shall be provided of the siting of a ragstone wall no less than 900mm high running along the whole site frontage. The approved wall shall in place before first occupation of the development hereby permitted and retained as such at all times thereafter.

Reason: In the interests of amenity

9. The development shall not commence until, details of all fencing, walling (which shall include ragstone walling at the point of access, and railings) and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details before the first occupation of the buildings or land and maintained thereafter;

Reason: To ensure a satisfactory appearance to the development and to safeguard the enjoyment of their properties by existing and prospective occupiers.

10. The development shall not commence until, details of satisfactory facilities for the storage of refuse on the site have been submitted to and approved in writing by the Local Planning Authority and the approved facilities shall be provided before the first occupation of the buildings or land and maintained thereafter;

Reason: No such details have been submitted and in the interest of amenity.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development.

12. All trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2012) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority;

Reason: To safeguard existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

13. The development shall not commence until details of the proposed materials to be used in the surfacing of all access roads, parking and turning areas and pathways within the site, and the design of kerb-stones/crossing points which shall be of a wildlife friendly design, have been submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the subsequently approved details.

Reason: To ensure a high quality external appearance to the development.

14. The development shall not commence until details of any lighting to be placed or erected within the site have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include, inter-alia, details of measures to shield and direct light from the light sources so as to prevent light pollution. The development shall thereafter be carried out in accordance with the subsequently approved details.

Reason: To prevent light pollution in the interests of the character and amenity of the area in general.

15. The development shall not commence until details of foul and surface water drainage have been submitted to and approved by the local planning authority. The submitted details shall incorporate inter-alia wildlife friendly drainage gullies and design features. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of pollution and flood prevention.

16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

Reasons: To protect vulnerable groundwater resources.

17. No development shall take place until a sample panel of the ragstone wall, and brickwork has been constructed on site, and agreed in writing by the Local Planning Authority. Such details as are approved shall be fully implemented on site.

Reason: To ensure a high quality design.

18. No development shall take place until the applicants or their successors in title have submitted a full Transport Assessment which shall include the full mitigation required to address the harm of the proposal upon the highway network. Any mitigation that is required shall be provided prior to the first occupation of the dwellings hereby permitted, unless otherwise agreed in writing.

Reason: In the interests of highway safety.

19. The development shall not commence until approval of the following reserved matters has been obtained in writing from the Local Planning Authority:-

a. Layout b. Scale c. Appearance d. Access e. Landscaping

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

20. No demolition of the existing building (Nurses Home) on site shall take place until a photographic record of its exterior and interior has been completed, and made available to a local public archive centre.

Reason: In order to retain an historical record of this important non-designated heritage asset.

21. Pursuant to condition 1 a full arboricultural report, to the necessary standard shall be completed, and shall be submitted as part of any submission in order to address both the layout and the landscaping provision of any subsequent reserved matters application which shall include the retention of the protected trees;

Reason: To seek to protect the existing trees and to ensure a high quality layout.

Informatives set out below

You are advised that Southern Water seeks to emphasise the development must be served by adequate infrastructure.

Given that the nurse's home is an imposing and prominent building only a building of exceptional design quality and detailing will be considered acceptable as a replacement. You are therefore advised that the proposed indicative design for the building to replace the nurse's home is wholly unacceptable on design grounds, and that any proposal that comes forward on this site would need to be of a high standard of design to reflect its historic setting. Should a contemporary approach be taken, the development would be required to have a high level of articulation, and high quality detailing, responding positively to the character and appearance of the locality, and to mitigate the loss of the existing building.

It is considered that the indicative layout concept generally represents an appropriate response in unlocking the development potential of this site in an acceptable manner. Nevertheless, any reserved matters application should incorporate a significant increase in soft landscaping to the front of the site (fronting Hermitage Lane), with the proposed car parking at a reduced level and well screened from the public vantage point.

You are advised that the indicative layout shows potential privacy conflicts between 1st/2nd floor windows in the flats looking down into the rear garden of the houses attached to the flats. This will need to be addressed at the reserved matters stage

Any reserved matters application should incorporate features to enhance biodiversity within the application site. The use of bat boxes, swift bricks, log piles (where appropriate) and a suitable landscaping scheme is requested to form part of any future submission.

Any layout as submitted at reserved matters stage should respond positively to the siting and form of existing trees within the application site. Where possible, trees of value should be retained and utilised as positive features of any development.

The design of the any proposed buildings within the site, and particularly those along the Hermitage Lane frontage shall be designed in such a way as to provide a good level of articulation, and 'layering' along the key elevations. These buildings should respond positively to the quality development within the locality, and to take reference from the existing building.

Any building upon the Hermitage Lane frontage shall be provided with high quality fenestration, which shall respond to the form and quality of the existing building upon the site.

The importance of providing a varied roofscape within the application site shall be fully considered when any reserved matters applications are formalised, and thereafter submitted.

If any commemorative plaque referring to the opening of the building is located, then the applicants, or successors in title, are encouraged to seek to retain this feature within any new development upon the applicant site.