

**REPORT SUMMARY**

<b>REFERENCE NO - 15/506426/MOD106</b>			
<b>APPLICATION PROPOSAL</b> Modification of Planning Obligation dated 1st August 2006 (05/2350), owner's obligations to delete clause 3.2 of the s106 legal agreement to enable residential apartments to commence in advance of B1 office blocks.			
<b>ADDRESS</b> Springfield Park Royal Engineers Road Maidstone Kent			
<b>RECOMMENDATION</b> Agree to the deletion of clause 3.2			
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR APPROVAL</b> To unlock this site for development and to provide much needed housing and to regenerate this gateway site.			
<b>REASON FOR REFERRAL TO COMMITTEE</b> The 2005 planning application and heads of terms of s106 were determined by the Planning Committee.			
<b>WARD</b> North Ward	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Development Securities (Maidstone) Ltd <b>AGENT</b> Nathaniel Lichfield & Partners	
<b>DECISION DUE DATE</b> 05/10/15	<b>PUBLICITY EXPIRY DATE</b>	<b>OFFICER SITE VISIT DATE</b>	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
MA/05/2350	Erection of three separate blocks to provided approximately 16750sqm (gross external area), B1 Office, two large blocks to provide 192 no flat dwellings and retail/community building.	Approved with planning conditions and s106 legal agreement.	1/08/2006
MA/06/0762	Outline application for a mixed use scheme comprising office space (B1 use Class), residential and retail development (A1 and A3 use Class) and associated car parking, with all matters reserved for future consideration   Springfield Park, Royal Engineers	Approved with planning conditions and s106 legal agreement.	24/08/2006
MA/10/1327	An application for a certificate of lawful development for an existing development being the implementation of planning permission MA/05/2350 within the three year period from the date of the permission.	LDC issued to confirm that the development has commenced and the site has an extant planning permission under ref MA/05/2350	23/09/2010

## Planning Committee Report

MA/13/2099	Creation of A1 Retail Unit with ancillary café, supporting (A1-A3) and D1 doctor surgery)	Refused	8/05/2014
03/02/2011	A Deed of Variation to amend clause 3.2 of the s106 agreement dated 1 August 2006 in respect of planning application MA/05/2350, to change the order in which the office blocks permitted under the permission must be constructed.	<p>Planning committee approved revision to clause 3.2 as follows:</p> <p>3.2.1 the owner undertake to complete the construction of Office Block A (including the building out of all the car park- part of which will be underground-serving office block A and B) before the first occupation of any of the residential units to be constructed as permitted by the planning permission; and</p> <p>3,2.2 the Retail Unit shall be constructed and completed and made ready for occupation upon the earlier of:</p> <p>(a) the first occupation of the Office Block A; or</p> <p>(b) the first occupation of the 50<sup>th</sup> residential unit to be constructed as permitted by the planning permission.</p>	The s106 legal agreement was not signed
14/505741/OUT	Residential development (C3) comprising 130 dwellings (46 houses and 84 apartments), internal access roads, car parking and landscaping with access to be considered at this stage and all other matters are reserved for future consideration.	Yet to be determined	

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

- 1.01 The application site is known as Springfield Park, Royal Engineers Road Maidstone, situated on the south west corner of Royal Engineers

roundabout. The previous use on this site ceased a few years ago and the associated buildings were demolished.

Permission granted under ref MA/05/2350 commenced a few years ago (this was confirmed by the LDC issued under ref MA/10/1327). The permission comprised 3 office blocks (referred to as Block A, B and C) along the eastern boundary of the site fronting Royal Engineers Road, 6 flat blocks in two rows (Referred to as Block A, B, C, D, E and F); a detached two storey building to the east of the residential blocks to provide community facility at ground floor level and retail/café (A1 –A3) at first floor.

- 1.02 In 2010 Maidstone Borough Council issued a Lawful Development Certificate under MA/10/1327 confirming that all the relevant planning conditions under ref MA/05/2350 had been discharged, off site affordable housing having been provided and planning permission had commenced.

## **2.0 PROPOSAL**

- 2.01 The current proposal seeks permission to vary the terms of the Section 106 legal agreement in order to free the owner from the obligation under clause 3.2 of the legal agreement.

- 2.02 Cause 3.2 of the s106 is as follows:-

The owner:-

*3.2.1 will complete the construction of Office Block C as defined on Plan C of Schedule 1 to this Deed before the first occupation of any of the residential units to be constructed as permitted by the Planning Permission;*

*3.2.2 will commence and thereafter complete construction of the Office Block B as defined on Plan C of Schedule 1 to this Deed once the Owner has exchanged contracts for agreements for lease for 75% or more of the units in the Office Block C to be constructed as permitted by the Planning Permission; and*

*3.2.3 the Retail Unit shall be constructed and completed and made ready for occupation upon the earlier of:*

- (a) the first occupation of Office Block C; or*
- (b) the first occupation of the 50<sup>th</sup> residential unit to be*

## **3.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan:

Maidstone Borough Wide Local Plan 2000

Maidstone Borough Local Plan Regulation 18 Consultation 2014

## **4.0 LOCAL REPRESENTATIONS**

- 4.1 3 representations have been received from the local residents. It appears that there has been a misunderstanding of the proposal as none of the comments received are related to the application the subject of the current submission.

## **5.0 Applicant's Supporting Argument in favour of the deed of variation application.**

- 5.1 The applicant has submitted the following arguments to support this application.
- A) Without an identified tenant, there is no viability for building new offices in Maidstone or certainty that the format as approved is what the market wants (10 years on and still no prospect of getting the development built).
  - B) There remains the prospect that some office space might still be created and the planning permission would still exist after any change in the s106 agreement.
  - C) The change now requested will allow the consented 192 residential units to be developed straight away, along with opening up the green space in front of Springfield House.
  - D) If some form of office development does not become viable in the near future, Development Securities (owners) will be working with Maidstone BC on a higher density housing scheme on the Royal Engineers Road frontage.
  - E) All of this would be in support of the Council's draft allocation of the wider Springfield site for 100% residential use, now a substantial material consideration, and in support of 5-year housing supply.

## **6.0 BACKGROUND**

- 6.01 Members will be aware that the 2005 planning permission for a mixed office and residential development was granted and the terms of s106 was worded in order to ensure that the development complied with the Deposit Draft of Medway and Kent Structure Plan and Development Brief for the whole Springfield site that was a material consideration and identified it for employment purpose at the time. Moreover at that time there was a clear need for delivery of employment floor space and there was not the same degree of need to provide residential units as now.
- 6.02 Clearly over the last 10 years market conditions and the Council's priorities have changed. Similarly, the Kent and Medway Structure Plan

and the Springfield Development Brief are no longer material considerations in the assessment of development at the Springfield site. Moreover, this site is now allocated solely for residential development in the Regulation 18 consultation document with the site allocation having been approved to go forward to Regulation 19.

- 6.03 In addition the Council is currently short of its 5 year housing land supply and this brown field site can come forward for housing.
- 6.04 Having regard to the above it is important to note that there is no existing or emerging policy support for office use development on this site and therefore there is no longer a need to retain the current clauses (the subject of this application) within the S106.
- 6.05 Members are also advised that all of the off- site affordable unit provision required under the terms of the 2005 planning permission (involving the transfer of the freehold of three parcels of land to a registered social landlord for building affordable units) has already been carried out and the affordable houses constructed and occupied.
- 6.06 It should also be noted that as confirmed in the LDC application ref MA/10/1327, all the precedent conditions (those that required discharging prior to the commencement of the development) relating to application MA.05/2350 have been discharged. Part of the roadway serving the approved scheme as well as Springfield Mansion was constructed in 2007. However, the original applicant's company subsequently went into administration, leaving the site in the hand of a receiver, who instigated the demolition of the remaining buildings on the site necessary for the development to be constructed.
- 6.07 Notwithstanding the 2005 planning permission, this site is not identified in the Maidstone Borough Wide Local Plan 2000 for either housing or employment purposes. However policy H1(11) of Maidstone Borough Local Plan Regulation 18 Consultation 2014 which is a material consideration has identified the application site and wider adjoining land to the south and west for solely residential development. This allocation has been confirmed by the Council's SPS&T for the site to go forward to Maidstone Borough Local Plan Regulation 19 consultation.
- 6.08 A recent study called "Qualitative Employment Site Assessment 2014" carried out by GVA for Maidstone Council revealed that market demand for office floor space in Maidstone has shifted and demand for large office blocks no longer exists. Within the town centre office development is likely to come forward in the longer term, and is likely to 'follow' some level of loss of space in the shorter term. The long term aspiration should be to deliver space that provides purpose built small units, with a range between 20sqm to 200sqm likely to best reflect expected demand trends.
- 6.09 The study goes on to say that:-

- To retain and grow the office role within Maidstone the future focus should be on consolidating and improving the office provision, this should seek to deliver stock which matches the 'new' demand profile (i.e. smaller, more flexible high quality space).
- It is clear that the current stock will not be required, either in scale or typology. This may mean longer term opportunities for redevelopment of provision such as Kent House, Miller House and Cornwallis House given they provide a type of floorspace that does not meet occupier requirements.
- In the short to medium term refurbishment and/or redevelopment of sites for purely office uses is unlikely to be attractive. Values are unlikely to support this type of development approach and there is unlikely to be the scale of demand to re-absorb replacement stock at the same quantum.
- To compete for occupiers there is likely to be a need for wider improvements and changes to the 'mix' within the town centre. This should seek to provide a good quality environment that office floorspace would sit within and does not adversely impact the functionality of the town centre as an employment location
- The major challenge will be balancing opportunities to bring forward a more mixed use area that functions well and continues to provide a location businesses want to invest in. A key tension may be the protection of the areas most likely to be attractive to office occupiers i.e. those that provide on-site (or close by) parking and also good access to the Station. These are also likely to be areas that will also be more attractive to other, higher value uses such as residential.

## 7.0 Appraisal

- 7.01 The extant development scheme as outlined above comprises (in addition to the 192 residential apartments and the shop-crèche/community facility building) 3no. separate B1 office buildings. Building A with a total gross external floor area of 3697sqm, building B with a total gross external floor area of 5853sqm and building C with a total gross external floor area of 7200sqm (total gross floor area of 16750sqm office floor area).
- 7.02 Block C was chosen because it was the largest (7200sqm) of the 3 office blocks and represented a significant commitment to delivering the project by the then applicant and also was a significant contribution towards the employment guidelines in the then Deposit Draft of the Kent and Medway Structure Plan and Development Brief.

- 7.03 As mentioned above the site does not form part of any employment land allocation in the Maidstone Borough Wide Local Plan 2000 and as such there is no policy requirement for employment development on this site. Furthermore, due to the significant shift in the market demand for offices in Maidstone and in particular a lack of demand for large office floor area buildings, this site has not been developed over the past 10 years and is unlikely to come forward in the near future. An amendment to the terms of the s106 would allow the residential element of the permission to come forward in advance of the office development (enabling the provision of much needed housing on this brownfield site to contribute to the 5 year shortfall of housing supply). The permission for the office element of the scheme would remain and future owners of the site could then decide whether to build out this part of the permission or seek to submit a separate application for this area of land in the future
- 7.04 As mentioned above it is important to note that this site has been identified in policy H1 (11) of Maidstone Borough Local Plan Regulation 18 Consultation 2014 for wholly residential development and this has been agreed by SPS&T to progress towards Reg 19. Furthermore (as mentioned in the history section above) an outline application has been submitted for wholly residential development of the site in compliance with the MB Wide Local Plan 2000 and policy H1(11) referred to in this paragraph. As such it is considered that the application for a deed of variation to the original s106 would be in line with this emerging policy which is a material consideration in assessment of this application.
- 7.05 Given the economic situation and market conditions it is considered that the deletion of clause 3.2 from the s106 agreement would ensure commencement of the residential element of the development of this site and regeneration of this key gateway site at the entrance to the Town Centre that has lain undeveloped for many years.
- 7.06 The consequence of not entering into the Deed of Variation as proposed is likely to result in this key important site close to town centre remaining undeveloped for many more years in to the future to the detriment of the local economy, housing need of Maidstone and visual amenity of the area.
- 7.07 Agreeing to the Deed of Variation would facilitate the commencement of the residential element of the development and the provision of much needed housing in Maidstone.

## 8.0 **Conclusion**

- 8.01 The proposed Deed of Variation would facilitate the construction of the 192 residential apartments approved under ref MA/05/2350 and give the applicant the flexibility and opportunity to reassess the potential of this site having regard to current market conditions and demand and at the same time embark on regeneration of this important gateway site.

9.0 **RECOMMENDATION –**

A deed of variation be completed to delete clause 3.2 in its entirety of the s106 Agreement dated 1 August 2006 in respect of planning application MA/05/2350.

Case Officer: Majid Harouni

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