

<b>REFERENCE NO - 21/503538/SUB</b>			
<b>APPLICATION PROPOSAL</b> Submission of Details to Discharge Conditions 9 (Ramp to Public Right of Way KM86), 11 (Pedestrian/Cycle Route Details), 35 (Pedestrian/Cycle Link to South), and 38 (Upgrade Works to PROW KM86), subject to the Appeal Decision of Application 19/506182/FULL			
<b>ADDRESS</b> Land West of Church Road, Otham, ME15 8SB			
<b>RECOMMENDATION – APPROVE WITH CONDITIONS</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> <ul style="list-style-type: none"> <li>The submitted details suitably comply with the requirements of all the planning conditions.</li> </ul>			
<b>REASON FOR REFERRAL TO COMMITTEE</b> <ul style="list-style-type: none"> <li>The Head of Planning has requested the conditions relating to pedestrian and cycle routes (9, 11 and 35) are considered by the Planning Committee.</li> <li>Councillor Newton has requested the application is considered by the Planning Committee.</li> </ul>			
<b>WARD</b> Downswood & Otham	<b>PARISH COUNCIL</b> Otham	<b>APPLICANT</b> Bellway Homes Ltd <b>AGENT</b> None	
<b>DECISION DUE DATE:</b> 25/08/21	<b>PUBLICITY EXPIRY DATE:</b> 12/01/22	<b>SITE VISIT DATE:</b> Various in 2021/22	
<b>RELEVANT PLANNING HISTORY</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
19/506182	Residential development for 421 dwellings with associated access, infrastructure, drainage, open space and landscaping.	REFUSED & ALLOWED AT APPEAL	07/01/21
19/501600	Outline application for up to 440 residential dwellings, with associated access, infrastructure, drainage, landscaping and open space (Access being sought with all other matters reserved for future consideration)	REFUSED & ALLOWED AT APPEAL	07/01/21

## 1.0 DESCRIPTION OF SITE

1.01 The application relates to the 'Land West of Church Road' housing allocation site (H1(8)) where full and outline permission was allowed at appeal in January 2021 subject to conditions. The site is to the southeast of Maidstone and is between substantial residential areas to the north, west and southwest. To the east are open agricultural fields and immediately to the south/southeast are a number of detached residential properties at The

Rectory (Grade II listed) and Squerryes Oast. St Nicholas's Church (Grade I listed) and Church House (Grade II listed) are to the north of the site.

1.02 There are areas of public open space owned by Maidstone Borough Council to the south and northwest of the application site which are relevant to some of the conditions.

## **2.0 PROPOSAL**

2.01 This submission is to discharge four conditions that were attached by the Planning Inspector to the approval of the full planning permission (19/506182). The conditions are set out in full in the assessment later in this report and all relate to pedestrian and cycle links within, and outside the site.

2.02 Condition 9 relates to the requirement for a new ramped access on MBC owned public open space to the northwest of the site (Foxden play area) to connect with 'The Beams'; condition 11 relates to the construction details of all pedestrian/cycle routes in and off site; condition 35 relates to details of the pedestrian/cycle link on MBC owned land to the south; and condition 38 relates to details of any upgrade works to PROW KM86, which runs across the north edge of the site.

2.03 The proposals have been amended since submission mainly in respect of the off-site ramp to the northwest which has been re-designed in response to comments received on the application.

## **3.0 POLICY AND OTHER CONSIDERATIONS**

- Maidstone Borough Local Plan (2011-2031): SS1, SP1, SP3, SP18, SP23, H1, H1(8), DM1, DM3, DM4, DM19, DM21
- Otham Neighbourhood Plan (2021): ST1, ST2, ST3
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Maidstone Building for Life 12

## **4.0 LOCAL REPRESENTATIONS**

4.01 **Otham Parish Council:** Raise the following summarised points on the original submission/first amended plans:

- Ramp design (condition 9) is unfit for purpose and does not allow safe passage for disabled residents and cyclists; hairpins are of insufficient width.
- For condition 11, cycle paths are not separate from the PROW as required.
- The (amended) design still does not reflect what was agreed with the Inspector at Appeal.
- The (amended) ramp design is extremely large, will dominate the area, and encroaches on the existing open space and will mean the unacceptable loss of mature trees.

4.02 **Downswood Parish Council:** Raise the following summarised points on the original submission:

- The proposals do not provide a cycle link all the way across the north boundary as required.
- The loss of open space for the ramp will have a negative impact on residents/
- The ramp is unsightly and will adversely impact the open space with loss of trees and vegetation. Will the loss of open space be compensated?
- The ramp is not wide enough and if made wider would result in an even bigger blot on the landscape.
- The ramp gradient is too steep, the 'hairpin' turns are too sharp and there is a lack of separation of pedestrians and cyclists.
- Agree with comments of the MBC's Parks & Open Spaces manager.

**4.03 Local Residents:** 12 representations received raising the following (summarised points) on the original submission:

- 3m wide cycle paths separate from pedestrian paths are not included.
- Access to Woolley Road is missing.
- The ramp lacks detail, does not properly connect to The Beams, and may not comply with the Kent Design Guide.
- Ramp will provide needed access for wheelchair users.
- The angle of turns on the ramp are very severe for wheelchairs/prams and cyclists.
- There is no separation of cyclists and pedestrians between the site, The Beams or play area.
- Lack of separate cycle and pedestrian paths along the north boundary.
- Ramp will be blot on the landscape with loss of approximately 500m<sup>2</sup> of public open space.
- Gradient of ramp is too steep.
- Lack of gain from ramp to justify loss of open space.
- Comment on lighting (which is not part of this submission).

**4.04 Chapman Avenue Area Residents Association:** Raise the following summarised points on the original submission:

- Does not comply with the requirements of the Inspector.
- Separate pedestrian and cycle routes (3m) are not proposed.
- Ramp turns are too severe.
- Does not comply with Kent Design Guide.
- Route to Woolley Road is not shown.

**4.05 Maidstone Cycle Campaign Forum:** Raise no objections and make the following summarised points:

- The developer has worked collaboratively and positively to deliver a set of plans which achieve the objectives and minimise the impact on the existing space. These provisions will be valuable for existing and future residents in the area.

There are two items which need finalisation in due course:

- To clarify the timing of the delivery of the active travel connection to Wooley Road.
- To consider the incorporation of a raised table at the connection points between the active travel routes and the road network at the north and south of the site. This will help improve safety between motor vehicles, walkers and cyclists at these two junctions.

## **5.0 CONSULTATIONS**

*(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)*

5.01 **KCC Highways: No objections.** *"KCC highways are satisfied following the revised cycle ramp drawing. Other drawings within the site are acceptable. I am therefore content that these elements can be discharged from a highways perspective."*

5.02 **KCC PROW: No objections** subject to details of surfacing of the PROW KM86 where it crosses the proposed paths.

5.03 **KCC Ecology: No objections** subject to a precautionary mitigation approach and a Management Plan for the ramp/open space area.

### **5.04 MBC Parks & Open Spaces Manager:**

#### Original submission

- Access to play park will not be improved.
- Significant or total loss of tree and vegetation cover and lack of arboricultural assessment.
- No mitigation or compensation for loss of habitat.
- Approximately 500-575m<sup>2</sup> of public open space would be lost and should be compensated for with land or a monetary compensation to improve quality or quantity locally.
- Design doesn't explore reducing levels on the application site which would lessen the impact.
- Does not consider residents will want to use the ramp to arrive at The Beams and face a significant gradient upwards to Wellington Street.

#### First amended plans

- As cyclists would have to dismount it will not mark an improvement from walking down the existing steps.
- Ramp will be visually intrusive.
- Retaining walls will be blighted by graffiti.
- Handrails should be provided.
- Ramp will become a high-speed skateboard/scooter track.
- Surface of ramp needs to drain freely and quickly with grip.
- Maintenance of new planting will cost money.
- Do not consider the loss of trees is justified.
- Drainage has not been considered.

Second amended plans

- Fewer trees will now be removed and more habitat retained.
- Significant native tree cover is now proposed.
- Significant native shrub and wildflower areas now created.
- Access to existing play is improved with fewer steps.
- Barriers/rails are needed to prevent shortcuts and stunt riding.
- A resting place/bench should be provided.
- Other concerns remain (cyclists dismounting; handrails; high-speed track; ramp surface; drainage).

5.05 **MBC Landscape Officer:** No objections

## 6.0 APPRAISAL

6.01 Each condition is set out in full and then followed by the assessment.

Condition 9

6.02 ***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 northwest 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.***

6.03 The applicant has amended the ramp design in response to MBC officers and third part representations, including from the Maidstone Cycle Campaign Forum (MCCF). Officers have also directly engaged with MCCF.

6.04 A curved ramp is proposed from the top of the existing steps linking up with the public footpath to 'The Beams'. This would also involve realigning the existing path that heads northwards. As the land levels drop quite steeply, earthworks are required with the main change being an approximate 2m high raised bund for the lower and middle sections of the ramp. The existing steps which run northwards would be relocated so this desire route is maintained. The ramp would have 'high friction' surfacing, steel handrails either side, a bench in the middle, and a land drain on the south side to deal with any run-off.

6.05 The ramp would be 3m wide (as required by the Inspector under condition 11) with a gradient of 1:12 (apart from a short section), and level 'landings' every 9m. Local Transport Note 1/20 Cycle Infrastructure Design, Table 6-3 states a minimum of 3m width for shared use routes (assuming less than 300 cyclists and less than 300 pedestrians per hour) which is expected to be the case here.

6.06 The applicant has referred to the 'Countryside for All Good Practice Guide' document which provides guidance on disabled peoples access in the

countryside. This advises on a maximum gradient of 1:12, which is proposed, and landings every 9m, which is also proposed. On this basis, it is considered the width and design is suitable to provide access for all users including disabled persons, wheelchairs, pushchairs and cycles as per the condition. Cyclists would have to dismount at the top of the ramp to avoid conflicts with other users and as there is a public footpath where the ramp meets 'The Beams', as cycling over a public footpath is not allowed. KCC PROW raise no objection subject to signage being provided which is shown on the plans.

6.07 The proposals will result in the loss of 4 category B trees, 1 category C tree, and a category C group of trees. Category B trees should be retained where possible but there is no way of avoiding their loss. The ramp has been amended with the current scheme resulting in the least tree loss, the most direct route for the ramp, and larger areas for landscaping and replacement trees. There will be some development in root protection areas but the Landscape Officer raises no objections to the impacts subject to compliance with the Arboricultural Method Statement.

6.08 To compensate for the tree loss, the applicant is proposing a landscaping scheme which includes 10 new native trees (field maple and hornbeam), native shrubs, and a wildflower grass mix. This is considered to provide sufficient mitigation of the development.

6.09 An ecological appraisal has been carried out which considers the site to support a low ecological interest being dominated by a small number of scattered trees, small area of tall ruderal vegetation, and amenity grassland with some minor potential for use by roosting bats and reptiles. Based on this, measures are recommended to safeguard roosting bats and nesting birds, and recommendations with respect to hedgehogs and reptiles in the event they are present. This would include a precautionary approach to the felling of trees and carrying out the development. Enhancements are also proposed through the native landscaping, and bat and bird boxes on trees.

6.10 KCC Ecology have been consulted and raise no objections subject to the proposed precautionary mitigation approach, which will be secured by condition, and a Management Plan to ensure the ecological interest of the site is retained.

6.11 Whilst some representations consider there should be a 3m width for cyclists and then additional width for pedestrians, this would result in a very wide ramp in an area that is constrained, and the impact upon the local area would be even greater. In balancing all matters, it is considered the proposed ramp is suitable for its purpose whilst having the least impact possible, and complies with the requirements of the condition. KCC Highways and KCC PROW also raise no objections to the proposals.

#### Condition 11

6.12 ***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:***

- a) all pedestrian/cycle routes and design details, including links to the national cycle network and road network at the north east and south cycle/pedestrian access points;**
- 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.**

**Such design specification shall ensure that the cycle routes provided are no less than 3m wide. The approved pedestrian/cycle routes shall be provided before any of the dwellings hereby permitted are first occupied and shall be retained as such thereafter.**

6.13 For part (a), all pedestrian/cycle routes have been submitted which show the following:

- Separate 3m wide 'hoggin' cycle path across the north edge of the site which links with the national cycle network to the northeast and the proposed 'ramp' to the northwest. This also runs south into the site then linking with the internal roads to provide a route to Council owned land , which links to Woolley Road further south.
- Separate 1.5m wide 'hoggin' pedestrian path across the north edge of the site which links with the path to Deringwood Drive to the northeast and the proposed 'ramp' and public rights of way to the northwest. The approved roadside pavements would provide a route to the south. As approved, a pavement will be provided on the north side of the northern access to link with the new pavement that must be provided outside the Church, on Church Road.
- 1.2m wide 'hoggin' pedestrian path running north/south along the west boundary of the site.

6.14 These details are acceptable in terms of the surface materials, the path widths, and providing the necessary links.

6.15 For part (b), this is the ramp referred to above under condition 9 and so cyclists will have access to 'The Beams' and play area. All these links must be provided prior to any occupation.

Condition 35

**6.16 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.**

6.17 Separate 3m wide and 1.5m wide cycle and pedestrian paths would be provided on Council owned land and link with the existing roadway and the existing bumps/ramps would be removed. This would be accessed by the

internal roads. In terms of delivery, the applicant has confirmed the internal roads to the southern end of the site will be established early in the build this year, and these together with the southern pedestrian/cycle link will be provided before the first occupation of any dwelling in line with condition 11.

#### Condition 38

**6.18 *The development shall not be occupied until details of upgrade works to PROW KM86 have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved works have been carried out in full.***

6.19 PROW KM86 runs along the north edge of the site and most of its definitive line is not actually used 'on the ground'. No upgrade works are required as the applicant is proposing, and always has, separate cycle and pedestrian routes. It would not be appropriate to surface the PROW as there would then be three surfaced paths through the north part of the site. However, KCC PROW have requested that where the new paths cross the PROW, measures are required to prevent any tripping which would be a small amount of hard surfacing/hardcore, which can be secured by condition.

#### Representations

6.20 Many representations object to the ramp and the impact it will have including the loss of trees and public open space. The ramp is a requirement of the Planning Inspector's conditions and because of the level changes, a fairly large impact and loss of some land within the public open space is inevitable. As outlined above, it is considered the minimum impact is being made. MCCF refer to providing raised tables at the connection points between the ped/cycle routes and the road network at the north and south of the site. This is not a requirement of any conditions but a condition will be attached to cover this matter in the interest of safety.

6.21 The MBC Parks & Open Spaces Manager has been consulted on the proposed ramp it being on land owned by Maidstone Council and is not supportive, mainly due to the impact it will cause and has provided comments. The Council (as landowner) will need to make a separate decision whether to accept the development on its land when formally approached by the applicant, which would be expected if the condition details are approved. The applicant has made amendments taking into account the comments made, and those issues remaining are not requirements of the planning condition. These include providing a path to the play park, compensation for the loss of open space, and the cost of ongoing maintenance. These are matters that would potentially need to be negotiated between Maidstone Borough Council and the applicant in deciding whether to allow the development on their land. The paths on Council land to the south were agreed at the application stage with officers in the Property Section and are minimal and do not raise such issues.

#### Other Matters



6.22 It is noted the plans submitted to discharge the conditions include discrepancies with the approved site layout plans and this has been pointed out to the applicant. These plans have been accepted on the basis of approving the pedestrian and cycle paths/links only and the approved plans referred to in the Appeal Decision take precedent. An informative will make this clear.

## **7.0 CONCLUSION**

7.01 For the above reasons the details are considered sufficient to discharge the conditions and approval of the details is recommended subject to the following conditions.

## **8.0 RECOMMENDATION**

**APPROVE THE DETAILS FOR CONDITIONS 9, 11, 35, and 38 subject to the following conditions** with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions in line with the matters set out in the recommendation and as resolved by the Planning Committee.

### Conditions:

1. The off-site ramp development approved in relation to condition 9 shall be carried out in accordance with the precautionary mitigation approach and ecological enhancements as set out in the Ecological Appraisal (December 2021).

Reason: In the interests of biodiversity and to protect wildlife.

2. The off-site ramp development approved in relation to condition 9 shall be carried out in accordance with Arboricultural Method Statement and Tree Protection Plan RevC (January 2022).

Reason: To protect retained trees.

3. The off-site ramp development approved in relation to condition 9 shall not commence until an Ecological Management Plan for the retained and proposed landscaped areas has been submitted to and approved in writing by the local planning authority. This development shall be carried out in accordance with approved details.

Reason: In the interests of biodiversity and to protect wildlife.

4. The landscaping scheme for the off-site ramp development approved in relation to condition 9 and as shown on drawing no. 6703/ASP3 RevB shall be carried out either before or in the first planting season (October to February) following the completion of this development and any seeding or turfing which fails to establish or any trees or plants which, within five years from their planting, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the next

planting season with plants of the same species and size unless the local planning authority gives written consent to any variation.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

5. The cycle and pedestrian paths approved in relation to condition 11 along the north part of the site shall not commence until details of surfacing and measures to prevent any trip hazards where PROW KM86 crosses the approved paths has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with approved details.

Reason: To protect users of the PROW.

6. The cycle and pedestrian paths approved in relation to condition 11 shall not commence until measures to warn drivers of pedestrians and cyclists (signage or raised tables) at the points where they cross the internal road network have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with approved details.

Reason: In the interests of safety.

### Informatives

It is apparent the plans submitted to discharge the conditions include discrepancies from the approved site layout plans. These plans have been accepted on the basis of approving the pedestrian and cycle paths/links only and do not supersede the approved plans referred to in the Appeal Decision.

The applicant is advised to consider providing raised tables or signage at the connection points between the ped/cycle routes and the road network at the north and south of the site.

Case Officer: Richard Timms