

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

1 March 2017

AUTHOR/S: Head of Development Management

Application Number: S/3243/16/PO

Parish(es): West Wickham

Proposal: Discharge of planning obligations (affordable housing, recreation and community facilities) planning reference S/1512/10

Site address: Land between 39-47 High Street, West Wickham, CB21 4RY

Applicant(s): Mr Jon Kimble

Recommendation: Refusal

Key material considerations: Appropriateness of affordable housing, recreation and community facilities as detailed in the Section 106 agreement

Committee Site Visit: None

Departure Application: No

Presenting Officer: Lydia Pravin, Senior Planning Officer

Application brought to Committee because: The application is of a type for which officers do not have delegated powers to determine

Date by which decision due: 01 February 2017 (Extension of time)

Executive Summary

1. Planning application S/1512/10 was granted planning permission on 14 Feb 2011 for two detached two storey dwellings including vehicular access and associated works. The access works were carried out on site implementing the planning permission. Three conditions were added to this consent requiring a section 106 agreement. Condition 15 required a financial contribution of £48,000 for off-site affordable housing provision, condition 16 required a financial contribution of £6,503.80 towards off site public open space and condition 17 a contribution of £1,097.66 towards off site community space including £139 towards waste receptacles.
2. A discharge of conditions application S/2377/13/DC was submitted which included signing of the section 106 agreement dated 31 January 2014 with the financial contributions detailed in S/1512/10.

3. Development commenced on 12 February 2014 by way of access works. No further works have been undertaken.
4. This application seeks to discharge the planning obligations in respect of affordable housing, recreation and community facilities of planning reference S/1512/10.
5. The test to be satisfied is whether or not the obligation any longer serves a useful purpose.
6. In respect of the affordable housing contributions the applicant has cited the change in threshold at which affordable housing would be required from 2 dwellings (Development Control Policy HG/3) to 3 dwellings (submitted Local Plan H/9).
7. The applicant has not put forward any rationale as to why contributions towards offsite public open space, off site community space or household waste receptacles should no longer be required.

Planning History

8. S/0163/09/F – Dwelling and garage - refused

S/1512/10 – Two dwellings (1 No. 4 bedroom dwelling and 1 no. 2 bedroom dwelling), new vehicular access and associated works - approved

S/2377/13/DC - Discharge of conditions 3 (materials), 4 (landscaping), 11 (access and surface water run-off), 12 (foul water drainage), 13 (surface water drainage), 15 (affordable housing), 16 (recreational infrastructure) and 17 (community facilities) of planning permission reference S/1512/10 – accepted

S/3019/15/FL – Proposed single detached dwelling - withdrawn

S/0993/16/FL – Proposed single detached dwelling - withdrawn

Planning Policies

9. *National*
National Planning Policy Framework (NPPF) 2012
National Planning Practice Guidance
10. *South Cambridgeshire LDF Development Control Policies Development Plan Document, adopted July 2007:*
HG/3 Affordable Housing
DP/4 Infrastructure and New Developments
SF/10 Outdoor Playspace, Informal Open Space and New Developments
SF/11 Open Space Standards
11. *South Cambridgeshire LDF Supplementary Planning Documents (SPD):*
Open Space in New Developments SPD – adopted January 2009
District Design Guide SPD – adopted March 2010
12. *South Cambridgeshire Local Plan Proposed Submission July 2013*
H/9 Affordable Housing
SC/7 Outdoor Play Space, Informal Open Space and New Developments
SC/8 Open Space Standards

Consultation

13. **West Wickham Parish Council:** supports the application commenting:
As West Wickham is predominantly a linear village and therefore feel the site is more suitable for a single dwelling it would be supportive of a new planning application.
14. **Affordable Housing Officer commented:**
The affordable housing requirement agreed for this planning application S/1512/10 is £48,000 commuted sum in lieu of a 2 bedroom dwelling. A S106 was signed in respect of the affordable housing and other contributions.
15. If the planning permission has been implemented then we would expect the signed S106 to be honoured and the commuted sum of £48,000 to be payable.

Representations

16. No representations received.

Site and Proposal

17. The site comprises a grassed piece of land raised above road level. It is bounded by a high hedgerow and is open to the rear boundary with the village framework boundary cutting through the site. The site forms part of the land owned by No. 27 High Street ('Cobwebs') a Listed dwelling sited approximately 270 metres to the south-west.
18. Planning application S/1512/10 was granted planning permission on 14 Feb 2011 for two detached two storey dwellings including vehicular access and associated works. The access works were carried out on site implementing the planning permission. Three conditions were added to this consent requiring a section 106 agreement. Condition 15 required a financial contribution of £48,000 for off-site affordable housing provision, condition 16 required a financial contribution of £6,503.80 towards off site public open space and condition 17 a contribution of £1,097.66 towards off site community space including £139 towards waste receptacles.
19. A discharge of conditions application S/2377/13/DC was submitted which included signing of the section 106 agreement dated 31 January 2014 with the financial contributions detailed in S/1512/10.
20. All listed contributions are payable prior to the beneficial occupation of any dwelling provided within the development.
21. This application seeks to discharge the planning obligations in respect of affordable housing, recreation and community facilities of planning reference S/1512/10.

Planning Assessment

22. The material planning considerations with regard to this application are the appropriateness of the off-site affordable housing, recreation and community facilities element in regard to discharging the Section 106 agreement.
23. Planning application S/1512/10 enabled two, two storey detached dwellings consisting of a four bedroom and two bedroom dwelling sited within the village framework with the gardens outside the village framework. The housing mix was considered to be in accordance with policy HG/2 of the adopted Local Development Framework 2007.

Affordable housing

24. HG/3 of the adopted Local Development Framework 2007 states that where sites propose two or more dwellings one would be required to be an affordable property. The Affordable Housing SPD adopted March 2010 allows for the payment of commuted sums in lieu of onsite affordable housing where there is evidence that onsite provision cannot be provided.
25. Planning application S/1512/10 detailed the applicant had contacted a number of Registered Social Landlords (RSL) prior to submission and was unable to find an RSL willing to take on one of the units. Therefore a commuted sum in lieu of on site provision was agreed and incorporated into the section 106 dated 31 January 2014 of £48,000 for off site affordable housing provision in order to ensure compliance with policy HG/3.
26. Policy H/9 of the South Cambridgeshire Local Plan Proposed Submission July 2013 proposes to increase the threshold at which point affordable housing is required from 2 dwellings to 3 dwellings. Although the Local Plan is yet to be adopted, decision takers have, for the past 2 years or so, given greater weight to the emerging threshold.

Offsite open space and offsite community space

27. DP/4 of the adopted Local Development Framework 2007 states that planning permission will only be granted for proposals that have made suitable arrangements for the improvements or provision of infrastructure necessary to make the scheme acceptable in planning terms. The Council undertook an external audit and needs assessment undertaken in 2009, in respect of all primary community facilities in each village. The purpose of this audit was threefold (i) to make a recommendation as to the indoor space requirements across the District (ii) to make a recommendation on the type of indoor space based on each settlement category and (iii) make a recommendation as to the level of developer contributions that should be sought to meet both the quantity and quality space standard. Whilst not formally adopted as an SPD, this informal approach was considered and approved at the Planning and New Communities portfolio holder's meeting on 5th December 2009 and has been applied since.
28. West Wickham is served by the Village Hall. Built in 2000, this is a fair quality facility in good condition. The hall is a good size and well suited to sport and physical activity, with a good quality floor and generally sufficient clearance for badminton. The toilets and kitchen are showing some signs of wear, but overall a good facility and sufficient to meet the needs of the local community. The hall is immediately adjacent to play area and recreation ground. West Wickham has a surplus of indoor meeting space when assessed against the community space standard.
29. SF/10 of the adopted Local Development Framework 2007 states that all residential development will be required to contribute towards outdoor playing space (including children's play space and formal outdoor sports facilities) and informal open space to meet the additional need generated by the development.
30. The South Cambridgeshire District Council Recreation and Open Space Study (2013) assessed the open space provision in West Wickham against the recommended standards. In terms of sport space the village requires 0.74 ha but had 1.03 ha representing a surplus. In terms of play space the village requires 0.37 ha but has

0.14 ha representing a deficit of 0.23 ha. In terms of informal open space the village requires 0.18 ha but has 0.34 ha representing a surplus of 0.16. The audit did not highlight any improvements. The provision of two dwellings, x1 four bedroom and x1 two bedroom is low in scale in terms of the number of dwellings being created and the impact on the facilities.

31. Although the applicant has not provided any justification for the modification or discharge of these obligations officers are mindful of 2 material changes that have occurred since this application was approved.
32. First from 6 April 2015, the use of 'pooled' contributions toward infrastructure projects has been restricted. Previously, Local Planning Authorities (LPAs) had been able to combine planning obligation contributions towards a single item or infrastructure 'pot'. However, under the Community Infrastructure Levy Regulation 123(3), LPAs are no longer be able to pool more than five planning obligations together if they were entered into since 6 April 2010, and if it is for a type of infrastructure that is capable of being funded by the CIL. These restrictions apply even where an LPA does not yet have a CIL charging schedule in place.
33. The Council can confirm that there has been 5 section 106 agreements in respect of developments in the village of West Wickham since 6 April 2010 contributing towards (i) offsite open space and (ii) offsite indoor community space improvements. As such CIL Reg 123(3) would prevent the Council from lawfully securing a contribution unless a specific project had been identified.
34. Second a Written Ministerial Statement first made on 28 November 2014 was reintroduced alongside an updated Planning Practice Guidance on 19 May 2016 and which now prevents 'tariff style planning obligations' from being sought on small scale and self-build development in circumstances where the development in 10 dwellings or less or has a combined floorspace of less than 1000 sqm.
35. A recent appeal decision APP/W0530/W/16/3142834 Land South of Kettles Close, Oakington, application reference S/0677/15/OL for 8 dwellings was determined on 22 September 2016. One of the material planning considerations was whether appropriate provision had been made for affordable housing. The Inspectorate said the Written Ministerial Statement needed to be addressed alongside local policy. The local evidence of affordable housing need was deemed to be substantial and significant weight was attached to this consideration. This is the Councils current approach in respect of the current application.

Household waste receptacles

36. In accordance with the guide and development control policies DP/4 Infrastructure and new developments, developers are required to provide for the household waste receptacles as part of a scheme.
37. In conjunction with Cambridgeshire local authorities, the RECAP waste management design guide was adopted by South Cambridgeshire District Council on 13th March 2008. The guide contains a toolkit outlining the basis for planning conditions and obligations, and applicants should demonstrate that they have considered this in their application submission. It became a supplementary planning document under Cambridgeshire County Council's new Minerals and Waste Plan when adopted by the County Council on 22nd February 2012.
- 38.
39. The Council has successfully convinced planning inspectors that contributions

towards household waste receptacles accords with the tests set out in the CIL Regulations.

40. There is no policy basis to discharge the obligations relating to waste receptacles.

Conclusion

41. The starting point in the consideration of this application is that the applicant has willingly commenced the development and under such circumstances, once triggers are reached, obligations become payable based on the information as submitted.
42. However it is the case that, whilst the development has been implemented, the applicant has the ability to submit a fresh planning application and whilst this may take a similar form to that already approved, it would need to be assessed against current policies.
43. In such circumstances no affordable housing would be required (as more weight is being given to H/9) and no offsite public open space and offsite community space contributions would be required due to the Written Ministerial Statement restricting pooled contributions on developments of 10 dwellings or fewer.
44. Whilst the route of approving the section 106A application might on the face of it appear to be an attractive one as it would achieve a quicker resolution to the matter and might be considered an expedient solution it might also be seen as setting a precedent. In these circumstances officers are mindful that any positive recommendation here could be exploited by others who had perhaps implemented their consent and even built out to damp proof course, or more, and where an application might be made to be let off pre-agreed obligations. In those circumstances it would or could be difficult to draw a distinction as to why one applicant was let off whereas others were still made to make payments towards affordable housing and public open space improvements.
45. That being the case, officers consider that it would be more appropriate to require the applicant to submit a fresh application which will be assessed on its own merits and which may well be approved without those obligations as set out in the report.
46. Should Members determine otherwise it should be noted that there is no policy basis to discharge the obligations relating to waste receptacles and therefore if nothing else these should remain payable.
47. For the reasons presented above, the application to remove the requirement for contributions should be refused .

Recommendation

48. Officers recommend that the Committee refuse the application.

Background Papers:

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Core Strategy (adopted January 2007)
- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- Planning File Refs: S/3243/16/PO

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