

**MC/23/0786**

**Date Received:** 31 March 2023  
**Location:** Land At Town Road Cliffe Woods  
ME3 8JL  
**Proposal:** Application for non-material amendment to planning permission MC/19/0287. To seek amendment to condition 23 to allow for some homes to be occupied prior to S278 works being completed (reasons set out in cover letter).  
**Applicant** Redrow Homes Limited  
Ms Josephine Baker  
**Agent** DHA Planning LTD  
Mr David Harvey  
Eclipse House  
Eclipse Park  
Sittingbourne Rd  
Maidstone  
Kent  
ME14 3EN  
United Kingdom  
**Ward:** Strood Rural Ward  
**Case Officer:** Hannah Gunner  
**Contact Number:** 01634 331700

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**Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 7th June 2023.**

**Recommendation - Approval with Conditions**

- 23 No more than 20 dwellings of the development hereby granted shall be occupied until the following proposed physical improvements have been fully implemented and made operational under the terms of the approved S278 agreement of the Highway Act to the satisfaction of the Local Planning and Highway Authorities.
- i) Provision of 2m footway along site frontage with Town Road;
  - ii) Provision of signal controlled crossing (pelican or puffin) across Town Road south of Tennyson Avenue;
  - iii) Provision of uncontrolled crossing consisting of dropped kerbs, tactile paving and traffic island over Town Road south of proposed site access;
  - iv) Upgrade of informal (white-lined) footway on eastern side of Town Road between View Road and Tennyson Avenue to formal footway construction (kerbed);
  - v) Provision of traffic island with a feature such as a bollard to be provided at existing change in speed limit on Town Road south of View Road and gateway features to be reinstated;

- vi) Prior to first occupation of any part of the site, the speed limit sign on the B2000 shall be relocated further to the south.

The above listed works shall be implemented in full and made operational prior to the occupation of any dwelling.

Reason: In the interest of highway safety and incompliance with Policy T3 of the local plan.

**For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.**

## **Proposal**

This is an application for a non-material amendment to planning permission MC/19/0287 in respect of the following:

- Amendment to condition 23 to allow for some homes to be occupied prior to the S278 works being completed.

## **Relevant Planning History**

**MC/21/1287** Application for approval of reserved matters being appearance, landscaping, layout and scale, pursuant to planning permission MC/19/0287 - Outline planning permission with some matters reserved (appearance landscaping layout and scale) for up to 225 residential dwellings including up to 25% affordable housing, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Town Road and associated ancillary works.

**Decision** Approval with Conditions  
**Date** 10/02/2022

**MC/19/0287** Outline planning permission with some matters reserved (appearance landscaping layout and scale) for up to 225 residential dwellings including up to 25% affordable housing, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Town Road and associated ancillary works.

**Decision** Approval with Conditions (Subject to S106)  
**Date** 24/02/2021

NB: there are a number of applications for the Discharge of Conditions for various aspects of the overall development, but these are not considered relevant to this application so have therefore not been included.

## **Representations**

As an application under S96a is not an application for planning permission, the Development Management Procedure Order 2015 provisions relating to statutory consultation and publicity do not apply. Therefore, Planning Authorities have discretion in whether and how they choose to inform other interested parties and seek their views. Due to the nature of the changes proposed, it was considered that there was no need to consult.

**9 letters** of objection have been received from neighbours, raising the following issues:

- This junction/estate entrance is unsuitable.
- To open before the full S278 works are complete is an accident waiting to happen.
- To allow this would be a travesty and incomprehensible.
- Surely the developers must simply just adhere to the terms of the agreement in place.
- It appears the developer is thinking profit before safety.
- The local authority has a duty to promote road safety under Section 39 of the Highways Act and by allowing this junction to be created without the S278 works completed, it is arguable that they will have failed to discharge that duty.
- It is important to note that items iii), iv) and v) of condition 23 cannot be completed prior to occupation if this amendment is approved, thereby compromising highway safety.
- Access to the local bus route in View Road will be dangerous to new occupants without completion of the upgrade to the footpath on the Eastern side of Town Road between Tennyson Avenue and View Road.

**The Cliffe and Cliffe Woods Parish Council** raise the following objections/concerns:

- The applicants accepted the conditions as part of the planning permission – modifying now shows a disregard to people's safety and wellbeing.
- The alterations to this condition cannot be viewed to be non-material as the S278 works as a whole is material based.
- The removal of this condition is not in the interest of highway safety and is in conflict with Local Plan Policy T13.
- No mention of the relocation and installation of the new bus stop has been made which is part of the S278 works.
- The developer will just continue to build and sell properties and there will be no urgency to complete the S278 works, causing disruption to both residents and motorists alike.
- With the line of sight impeded by a power line pole located in the roadway, along with any barriers protecting it from motorists, it will be dangerous for all traffic movements entering and exiting the site entrance.
- New traffic controls will be installed again but this time it would have to include traffic emerging from the Oakleigh Fields site, creating further delays due to having a possible 4 way system installed.

- This would also contravene conditions 19 and 22 regarding travel plans and pillboxes. These conditions have not been discharged.
- Residents along Town Road are already having to suffer disruption because of the work and the sooner it is completed the better.
- There will be no end date for this disruption to finish and livelihoods and businesses are being disrupted daily.

## **Development Plan**

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 and are considered to conform.

## **Planning Appraisal**

### *Background*

Condition 23 of MC/19/0287 reads:

*No part of the development hereby granted shall be occupied until the following proposed physical improvements have been fully implemented and made operational under the terms of S278 of the Highway Act to the satisfaction of the Local Planning and Highway Authorities. The works consist of the following measures which are subject to detailed design:*

- i) Provision of 2m footway along site frontage with Town Road;*
- ii) Provision of signal controlled crossing (pelican or puffin) across Town Road south of Tennyson Avenue;*
- iii) Provision of uncontrolled crossing consisting of dropped kerbs, tactile paving and traffic island over Town Road south of proposed site access;*
- iv) Upgrade of informal (white-lined) footway on eastern side of Town Road between View Road and Tennyson Avenue to formal footway construction (kerbed);*
- v) Provision of traffic island with a feature such as a bollard to be provided at existing change in speed limit on Town Road south of View Road and gateway features to be reinstated;*
- vi) Prior to first occupation of any part of the site, the speed limit sign on the B2000 shall be relocated further to the south;*

*The above listed works shall be implemented in full and made operational prior to the occupation of any dwelling.*

*Reason: In the interest of highway safety and non-compliance with Policy T3 of the local plan.*

### *Assessment*

The applicants have explained in the submitted cover letter that the reason for this NMA is as a result of UKPN delays in relation to the grounding of overhead cables at

the site. Whilst these works are scheduled in and it is the understanding of the developers that this will be complete by August 2023 it is imperative to the developer that some units are allowed to be occupied slightly before this due to the fact that some customers have mortgage offers and are at risk of house sales falling though if their move is delayed too much.

By allowing a restriction on the number of properties that can be occupied it would allow for the purchasers that are in a position where their move could be in jeopardy to move forward.

The suggested rewording of the condition by the applicants is that the wording is altered to allow for up to 20 units to be occupied prior to all of the S278 works being complete.

It is considered that the proposed amendments do not change the nature of the proposed development or the intentions of the imposed condition in any way, but merely allows for the cable grounding delays to not compromise the progression on site with house buyers.

The proposed amended condition will read:

*No more than 20 dwellings of the development hereby granted shall be occupied until the following proposed physical improvements have been fully implemented and made operational under the terms of the approved S278 agreement of the Highway Act to the satisfaction of the Local Planning and Highway Authorities.*

- i) Provision of 2m footway along site frontage with Town Road;*
- ii) Provision of signal controlled crossing (pelican or puffin) across Town Road south of Tennyson Avenue;*
- iii) Provision of uncontrolled crossing consisting of dropped kerbs, tactile paving and traffic island over Town Road south of proposed site access;*
- iv) Upgrade of informal (white-lined) footway on eastern side of Town Road between View Road and Tennyson Avenue to formal footway construction (kerbed);*
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- vi) Prior to first occupation of any part of the site, the speed limit sign on the B2000 shall be relocated further to the south;*

*The above listed works shall be implemented in full and made operational prior to the occupation of any dwelling.*

*Reason: In the interest of highway safety and incompliance with Policy T3 of the local plan.*

Whilst the concerns of the residents and Parish Council are understood and have been taken into account it is considered that the limit of 20 units being put in place, along with the understanding the UKPN will be undertaking the works for August 2023 confirms that this situation is only temporary and there is a clear understanding that

until the works are complete there will be no occupation of any more units than that agreed. This ensures movements to/from the site remain limited.

### **Conclusions and Reasons for Approval**

The proposed amendments as set out above are therefore considered to fall within the scope of an NMA and in the context of this site and application are considered an appropriate and reasonable approach to deal with an issue which has arisen outside of the control of the developer.

The proposal, as such, is considered to be non-material to the approved scheme.

The application would normally be determined under delegated powers but is being referred to Members for determination due to the number of representations received from the residents expressing a view contrary to the officer's recommendation.

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### **Background Papers**

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here <http://publicaccess1.medway.gov.uk/online-applications/>