

POST COMMITTEE COMPLIANCE REPORT

Planning Ref: 25/02234/S73	
Site Address: Land between Royston Road and Cambridge Road, Barkway	
Proposal: Variation of wording of Condition 3 and 20 of planning permission 18/01502/OP granted on 25.07.2023.	
Committee date	23/10/2025
Date final draft S106 posted on website	17/11/2025
Case Officer	Ben Glover

1. Purpose of report

- 1.1. The purpose of this report is to provide an update to the Development and Conservation Manager on any amendments to the proposed conditions and planning obligations pursuant to those agreed by the Planning Control Committee (PCC), and to demonstrate that the Deed of Variation (DoV) or other legal mechanism that secures the S106 obligations agrees as part of the Outline Application (18/01502/OP) agreed by PCC have been captured in the final DoV or similar mechanism.
- 1.2. This report also considers whether there have been any relevant material considerations arising between the PCC meeting and the date of preparing this report, which could have led PCC Members to a different planning decision, and which would require reconsideration at PCC.
- 1.3. This report summarises the relevant issues raised by representations received on the application since the PCC meeting. Any representations that raise new planning issues are addressed in this report.
- 1.4. The report also lists any relevant changes to legislation, planning policies and guidance since the assessment of the application.

2. Recommendation

- 2.1. That planning permission be granted subject to a satisfactory Deed of Variation or other legal mechanism that secures the S106 obligations agreed as part of the Outline Application (18/01502/OP) first being entered into and the proposed conditions as set out within the Officer report.

3. Background

- 3.1. The S73 application was resolved to be granted planning permission subject to the completion of a satisfactory Deed of Variation or other legal mechanism that secures the S106 obligations agreed as part of the Outline Application (18/01502/OP).

- 3.2. It has been agreed, between the Council and Applicant, that the most appropriate mechanism of securing the agreed S106 obligations would be through a Unilateral Undertaking rather than via a Deed of Variation.

4. Condition amendments

- 4.1. There have been no amendments to the wording of any condition as presented within the Officer report as Planning Control Committee.

5. Representations received by interested parties and statutory consultees (Post PCC)

- 5.1. No further representations have been received by interested parties or statutory consultees.

6. Planning Policies and Material considerations

- 6.1. This report considers whether the application:
- (a) Can be determined (by issuing a decision notice) based upon the existing resolution of PCC; or
 - (b) Whether there have been any material changes in circumstances or new planning issues that would or could lead to the PCC reaching a different conclusion from that reached.
- 6.2. The Council is required to discharge its statutory duty under s70(2) of the Town and Country Planning Act (as amended), and in doing so the Council must consider whether to grant planning permission or not, considering all relevant material considerations at the time of issuing a decision notice on a planning application. Case law – *Kides, R (on the application of) v South Cambridgeshire District Council & Ors* [2002] EWCA Civ 1370, is relevant given that a period has passed following the resolution of the PCC to grant planning permission.
- 6.3. In summary the *Kides* case assessed the nature and extent of a Council's duty under Section 70(2) of the Act. The appellant's contention was based on a duration of more than five years passing between the Council's decision, in principle, to grant planning permission and the issuing of the decision notice; and that several material changes in circumstances had taken place during that period. The permission to apply for judicial review was refused and the appeal dismissed at the Court of Appeal. This was on the basis that the Council had not failed in its duty to 'have regard to' material considerations when issuing the decision. The case provides guidance to local planning authorities in considering whether new or emerging planning consideration would result in a requirement to refer back to planning committee. In the *Kides* case, it was found that it not in every case where a new material consideration arises, after passing a resolution, but before the issuing of a decision notice, that there has to be referral back to committee.
- 6.4. The judgement in *Kides* indicated that the Council's duty is discharged if, at the date on which the decision notice is issued, the Authority has considered all material considerations relating to the application and has done so with the application in mind.

In practical terms, therefore, where since the passing of the resolution, a new factor has arisen of which the delegated officer is aware, and which might rationally be regarded as a 'material consideration' the delegated officer should err on the side of caution and refer the application back to PCC for specific reconsideration, in light of that new factor.

6.5. The application should only proceed for determination if the delegated officer is satisfied (a) that the authority is aware of the new factor, (b) that it has considered it with the application in mind, and (c) that on a reconsideration the authority would reach the same decision. In the Kides case the Council did not accept that any of the factors were justified or significant objections at all, let alone ones, which taken together, would lead to a different result. The judge held that the Council's decision would have been the same.

6.6. **Since the resolution by PCC there have been no material changes made to the report or recommended conditions.**

7. Planning Obligations – S106 Heads of Terms

7.1. The Heads of Terms presented to the PCC contained headlines summarising the proposed content of the detailed Section 106 Legal Agreement. In the intervening period between the meeting of PCC and this report, a Unilateral Undertaking has been drafted and published on the Council's website. This Unilateral Undertaking secures the S106 obligations agreed as part of the Outline Application (18/01502/OP) to the S73 application (25/02234/S73). The infrastructure contributions contained within the S106 agreed as part of the outline application match those presented within the Infrastructure Contributions section of the officer report for application 25/02234/S73, and the Unilateral Undertaking submitted aligns to the aims and objectives of part a) of the resolution by Planning Control Committee.

8. Conclusion and Recommendation to the Development and Conservation Manager

8.1. **Officers consider that no material considerations have arisen since PCC that would have resulted in a different recommendation from the PCC or would have affected the determination of the PCC.**

8.2. **It is considered that the Council's duty has been discharged in this case, as that the date at which the decision notice is to be issued, the authority has considered all material consideration affecting the application and has done so with the application in mind. Since the passing of the resolution, all new factors which might rationally be regarded as material considerations or the purposes of Section 70(2) of the Act, have been duly considered and the delegated officer is fully aware of their relevant to the decision-making process. On further consideration taking account all of the above, officers have concluded that the authority would reach the same decision.**

8.3. **The final document is considered to accord with the Infrastructure Contributions presented to Planning Control Committee, and therefore it is recommended that the**

Development and Conservation Manager agree the details of the Unilateral Undertaking for execution and issue the decision notice.

Recommending Officer and Date

Ben Glover (27/11/2025)

Authorising Officer and Date

A handwritten signature in black ink, appearing to read 'S Greaves'.

Shaun Greaves (01/12/2025)