

POST COMMITTEE COMPLIANCE REPORT

Planning Ref: 23/00407/FP and 23/00408/LBC	
Site Address: Node Court, Drivers End, Codicote	
Proposal: Conversion of Node Court to 8no. dwellings. Conversion of Midden building to residential and the erection of 6no. terraced dwelling-houses as development to facilitate the restoration of Node Court together with associated car parking, landscaping, boundary treatment and ancillary works (Amended Plans received 30 August 2024)	
Committee date	15/04/2025
Date final draft S106 posted on website	15/07/2026
Case Officer	Melissa Tyler

1. Purpose of report

- 1.1. The propose 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 Section 106 Heads of Terms agreed by PCC have been captured in the final S106 agreement 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 issued 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 Application 23/00407/FP be GRANTED planning permission subject to the resolution of negotiation of a S106 or legal agreement which secures the heritage benefits, which will be negotiated post-resolution; and Conditions and Informative as set out in the report of the Development and Conservation Manager, with added condition as may be required in association with the

S106 or legal agreement, and the following additional Condition 25, as follows:

‘Condition 25: Prior to Occupation, vehicle to vehicle visibility splays of 2.4 metres by 25 metres to the both directions shall be provided and permanently maintained. Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire’s Local Transport Plan (adopted 2018).’

3. Background

3.1. This application was reported to Planning Control Committee with a resolution to grant permission subject to the measures set out under section 2.1 of this report. The Planning Committee voted to grant permission and since the meeting, Officers have been working to ensure compliance with the recommended resolution.

4. Condition amendments

4.1. The Planning Committee agreed Officers’ recommended amendments to conditions and details, which related to Materials, Highways, landscape and Ecology, Archaeology, waste, SUDs, and the s106 Heads of Terms.

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

5.1. No responses have been received by any consultees post Planning Committee.

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 a 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 must 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 the following changes have occurred:

No changes to the proposal outside of those matters required to comply with the resolution. Any correspondence since Planning Control Committee has been focused on the drafting of the S106 agreement between the applicant and NHC. The draft s106 agreement has been circulated and has been published on the public access.

7. Planning Obligations – S106 Heads of Terms

7.1. The final S106 is in accordance with the Heads of Terms.

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 relevance 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 S106 Legal Agreement is considered to accord with the Heads of Terms, and therefore it is recommended that the Development and Conservation Manager agree the details of the Section 106 Agreement for execution and issue the decision notice.

Recommending Officer and Date

Melissa Tyler 15 July 2026

Authorising Officer and Date



Shaun Greaves 16 July 2026