

Case Officer: Will Anstey

Recommendation: Defect Notice
required

Applicant: Crest Nicholson Midlands

Proposal: Notification of Completion of Play Area as per Section 2.5.1 of the
Second Schedule of S106 attached to 14/02156/OUT

Expiry Date: 26 July 2022

1. APPLICATION SITE AND DESCRIPTION OF APPROVED DEVELOPMENT

1.1. The application site comprises part of a new housing development currently under construction.

2. CONDITIONS PROPOSED TO BE DISCHARGED

2.1. This application seeks to discharge section 2.5.1 of part 1 of the second schedule of the S106 attached to planning permission 14/02156/OUT.

2.2. This requires the owner to invite the District Council to inspect the Play Area upon completion with a view to issuing a Practical Completion Certificate.

2.3. The Council was notified by the applicant in writing on 30th May 2022 that the Play Area had been completed and a Post Installation Report from 'The Play Inspection Company' was provided. The Council inspected the Play Area on 10th June 2022.

3. RELEVANT PLANNING HISTORY

3.1. The following planning history is considered relevant to the current proposal:

14/02156/OUT - OUTLINE - 95 No new homes – PERMITTED

- a. This consent was granted with the S106 agreement obligating the site owner to deliver the play area.

18/00193/REM - Reserved matters application to 14/02156/OUT - for appearance, landscaping and layout (including the layout of the internal access roads, footpaths and cycleways) for 37 dwellings – PERMITTED

- b. Within the list of approved drawings for the above consent is '1908 08 I Detailed LEAP / LAP Proposals'

18/00353/DISC - Discharge of Condition 16 (landscaping scheme) of 18/00193/REM – PERMITTED

- c. Contains the approved landscaping drawing with corresponds to the approved LEAP/LAP plan above

4. RESPONSE TO CONSULTATION

4.1. LANDSCAPE OFFICER: We would only issue a Practical Completion certificate if the play area had been constructed in accordance with the approved plans, if it has a RoSPA with all defects corrected and if it is in a satisfactory condition

5. APPRAISAL

- 5.1. At section 2.5.2 (Part 1, Schedule 2) the S106 agreement explains that *'the District Council shall inspect the Play Area within 14 days of receipt of the invitation in paragraph 2.5.1 above and shall within 14 days of such inspection EITHER issue a Practical Completion Certificate OR issue a notice ('Defects Notice') which states that the Play Area has not been provided to the District Council's reasonable satisfaction and set out details of the work required to reach that standard'*.
- 5.2. In support of the application the applicant has supplied a Post Installation Report from the Play Inspection Company. The company inspected the play area on 20 May 2022 and describe a series of defects with the installation.
- 5.3. Officers visited the site on 10 June 2022 and noted that all of the defects identified by the Play Inspection Company remain. The defects include loose fixings and equipment that does not conform to the relevant British Standard. These defects are considered to present unacceptable risk of injury to children using the play equipment and therefore the Play Area has not been provided to the District Council's reasonable satisfaction.
- 5.4. However, it was also apparent during officer's site visit that the play area constructed does not match the approved plans. Within the reserved matters consent 18/00193/REM dated 28 August 2018 drawing '1908 08 I Detailed LEAP / LAP Proposals' is listed as an approved drawing. The layout of the play equipment and hard landscaping is not in accordance with this plan, and neither is the installed equipment. The defects with the installed equipment are therefore irrelevant as the equipment is incorrect.
- 5.5. In these circumstances the S106 agreement provides that the Council can issue a Defects Notice setting out details of the work required to reach an acceptable standard. Section 2.5.3 of the S106 states that if the Owner receives such a notice, they shall use reasonable endeavours to complete the works as soon as reasonably practicable and in any event no longer than 8 weeks from receipt of the notice (or such longer period as may be agreed) and then invite the Council to re-inspect the Play Area.
- 5.6. Officers consider the work required to allow the play area to reach an acceptable standard is to remove the incorrect equipment and install new equipment in accordance with the approved plans. This equipment would then require a new safety inspection upon completion.

6. RECOMMENDATION

That a Defects Notice is issued to the Owner of the site requiring removal of the unauthorised equipment and installation of new equipment in accordance with the approved plan 1908 08 I Detailed LEAP / LAP Proposals.

Case Officer: Will Anstey

DATE: 23 June 2022

Checked By: Paul Ihringer

DATE: 24/6/22
