

REPORT SUMMARY

REFERENCE NO - 17/502072/OUT			
APPLICATION PROPOSAL - Outline Application for residential development for up to 210 dwellings together with access off Forstal Lane, 1.85 hectares of open space and associated infrastructure (Access being sought).			
ADDRESS – Land South of Forstal Lane, Coxheath,			
RECOMMENDATION – Approve subject to conditions and completion of a legal agreement			
SUMMARY OF REASONS FOR RECOMMENDATION – The application relates to a housing allocation H1-58 within the adopted plan which was adopted at the Full Meeting of the 25 th October 2017. Whilst the current application proposes dwellings in excess of that set out in the policy H1-58 the policy does allow flexibility and as it is an outline scheme, it is considered there is scope to secure a high quality scheme at the reserved matters stage including a substantial area of open space and the other matters relevant to the policy. Therefore the development of the site is acceptable in principle and the development would accord with the relevant policy criteria. Furthermore, the submitted documents demonstrate the site is capable of accommodating the proposed quantum of development having regard to any identified constraints and also demonstrate the wider impacts of the development are acceptable or can be mitigated. Whilst the reasons for deferral are noted, these matters have been addressed by the applicant and there are no material considerations which suggest a different recommendation should be reached. Therefore it is considered the development will accord with the NPPF and the adopted strategy for the Borough and Coxheath and therefore it is recommended outline planning permission is granted for the development subject to the relevant conditions and legal agreement.			
REASON FOR REFERRAL TO COMMITTEE -			
<ul style="list-style-type: none"> • Major Development • Coxheath Parish Council object to the application and wish for the application to be heard at the committee 			
WARD Coxheath and Hunton	PARISH/TOWN COUNCIL Coxheath	APPLICANT Charterhouse Property Group AGENT Simply Town Planning	
DECISION DUE DATE 24.7.2017	PUBLICITY EXPIRY DATE 2.6.2017	OFFICER SITE VISIT DATE 15.5.2017	
RELEVANT PLANNING HISTORY			
App No	Proposal	Decision	Date
	None directly relating to the site		
14/0836	Adjoining site to the south. Construction of 130 dwellings (site-H1-59 – Reg 19)	Approved	17.9.2015

1.0 MAIN REPORT

1.1 The application was deferred at the committee of the 14th September 2017 to enable the following matters to be addressed and reported back to the committee for decision;

- The possibility of a southern access and mitigation of existing

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- proposed access.
- The possibility of including contributions for a late night bus service within the heads of terms of the Section 106 legal agreement.
- Whether the contributions to Southborough Primary School have already been pooled and the feasibility of taking the contribution to Coxheath Primary School.
- Whether the eastern edge of the development could be rounded to provide a more natural boundary.
- Whether the open space can incorporate woodland and scrub to soften views and enable a habitat for wildlife.

1.2 The full committee report is attached as **Appendix 1**.

1.3 Following the deferral of the application, the applicant has met with KCC highways and the landowner of one of the ransom strips to the south of the site. Furthermore, the applicant has undertaken costings of these alternative access options in relation to the access proposal to Willow Grange and also met with the landowner of one of the ransom strips to the south of the application site.

2.0 Proposal:

2.1 The proposals relates to the outline application for access to Forstal Lane and construction of 210 units, open space, landscaping and parking.

2.2 The full description is set out in the original committee report at **Appendix 1**

3.0 CONSULTATIONS

3.1 Since the previous committee, a meeting between the applicant and the landowner holding one of the ransom strips to the south and a further meeting between the applicant and KCC Highways has taken place regarding the access to Forstal Lane.

3.2 Since the report was issued, 35 further comments have been received regarding the alternative access, namely those people who reside in the Willow Grange development (although it should be noted this development is still under construction) who object to the access being taken through the new development. They object on the basis they reside in a cul-de-sac and brought their properties on this knowledge rather than being the main thoroughfare for a further 210 homes. A further 2 comments from residents have been received who object to the Forstal Lane access

4.0 APPRAISAL

4.1 There has been change in context since the committee meeting on September, in that Local Plan has now been formally adopted at the committee meeting at the 25th October 2017 and thus now forms the development plan for the area. Therefore, Planning Law dictates that applications shall be considered in accordance with the development plan unless other indications indicative otherwise. Therefore the policy relating to the application site, H1-58, should be given full weight which includes the relevant policy requirements to this deferral, that of access Forstal Lane only and that the southern boundary shall be maintained to provide a separation between developments.

Access option

- 4.2 Since the deferral, the landowners have met with the adjacent landowners and undertaken more work regarding the potential for an access through the new estate to the South. Following this additional investigation, it remains the officer view that the requirement to utilise an alternative access to the south is unreasonable and unjustified. This on the basis of the following factors;
- The policy position has become much clearer as the Local Plan is now adopted and should be given full weight, including the policy requirement to access Forstal Lane only and to retain a southern break between development. Therefore, there would have to be strong and reasonable material considerations to justify an alternative approach which is not considered to be the case here.
 - The alternative access would require access over two areas of land not owned by the applicant (two ransom strips) which would place the delivery of the development into serious question. Having regard to the compliance with adopted policy, there is no requirement to place the delivery of the development in jeopardy. Any condition relating to the alternative access would not meet the test of the NPPG relating to planning conditions.
 - There are no objections to the Forstal Lane access on highway grounds and this has been reviewed by KCC Highways and found to be acceptable.
 - Furthermore, the applicant has reviewed the costs for the alternative access having costing report undertaken by Aecom. Using their calculations, the new access route would be approximately £387,000 more expensive to utilise a southern access and the landowners of the first ransom strip have informed the applicant that 2.25 million would be required for the ransom strip (would be reduced to 1.75 million if a roundabout was required). This does not take into account there is a further additional ransom strip to the south understood to be owned by Countryside Properties.
 - The costs of the new access are understood to be more than the access to Forstal Lane on account of the engineering works required to create a level access into the Willow Grange on account of the topography of the site near the boundary.
 - On the point of Landscape, MBC Landscape have reviewed the potential impacts of the alternative route and consider this would be potentially contrary to the Maidstone Landscape Character Guidelines as it would potentially not respect the existing topography and the valley formation of the site.
- 4.3 On account of the Forstal Lane access being acceptable in principle and in technical terms, there have been no studies to properly assess the impacts of the alternative access and thus any amendment to the scheme would essentially require a new application and cannot be simply amended and would require a new application. For example all the studies and assessments that accompany the application relate to the use of the access onto Forstal Lane and the amendment would also require significant amendments to the application including changes to the red application site. In any case the applicant has confirmed they would not pursue this alternative access due to the uncertainties outlined above. There is also badger presence along this southern boundary although this is noted this was presented to the previous committee.
- 4.4 On the basis of the above policy position and the reliance on two areas of third party land which puts into question the delivery of the site, it is considered it is unreasonable and unjustified to require the applicant to utilise the alternative access through the new estate. The applicant has received a legal opinion on the reasonableness of the requirement for an alternative access and that should the

application be refused, there would in his opinion be a good chance of an award of full costs award on the basis of unreasonable behaviour.

- 4.5 Therefore on the basis this matter has been investigated and that it is not considered justified to require the applicant to secure an alternative access route and the additional uncertainty would place on the development, it is considered this matter has been adequately dealt with. This is further reinforced by the fact the applicant has confirmed the Forstal Lane will remain access to the proposals.
- 4.6 On the matter of the access to Forstal Lane, the access design has been further developed through discussions with KCC Highways in order to prevent access eastwards towards Well Street. This access has been considered to be acceptable and that the final design can be secured at the Section 278 stage. A relevant condition is recommended as part of any planning permission.

Bus Services

- 4.6 KCC Highways and their Sustainable Travel Team have been consulted over the potential need for a contribution towards a night time bus service and they have confirmed there is no identified need or justification for such a contribution. On this basis of this response and the fact no other development was required to pay towards such a scheme, it is considered a contribution would be unjustified and would not meet the CIL Tests.

Education

- 4.7 KCC Economics have been consulted over the destination of the contributions in respect of the Primary school and they have confirmed the Coxheath Primary School expansion has been fully funded and there is no opportunity or requirement for further funding. The strategic expansion for education for this area is taking place at Southborough Primary School and thus the contributions as proposed remain valid.

Open Space and Ecology.

- 4.8 The application is an outline application with matters of landscaping and layout to be reserved for later determination and a planning condition is recommended to require at least 1.85ha of open space to be provided which is in excess of the policy requirements. The S106 seeks to secure a LEMP which will secure wider ecology and landscaping enhancement which will be managed in perpetuity. The LEMP and the later reserved matters application can secure a more natural boundary to the built development and if necessary, in combination with the S106, secure woodland or other scrub within the LEMP/open space area. The LEMP will contain a requirement to submit details of a planting specification and the reserved matters landscaping application can be designed to address councillor comments. If necessary an informative can be placed that would require the reserved matters application to be considered at Planning Committee.
- 4.9 On this basis, it is not considered any further information is required and this matter has been dealt with.

5.0 CONCLUSION

- 5.1 Following the deferral of the application on the 14th September, the applicant has provided further information on the matters raised by councillors and it is considered the requirement to utilise a new access through Willow Grange is both unjustified and unreasonable having regard to the policy position, the additional cost and uncertainty to the delivery of the development as well as potential landscape impacts. Also due to the significant change in the development it is also not considered the application could be amended and thus would essentially require a new application. In respect of the other matters raised by the committee, these can either be dealt with by planning condition or the S106 and further evidence confirms the original approach to the matters of the primary school and bus contributions were justified. Thus it is the officer view that the original recommendation remains valid and the development remains acceptable in planning terms.

7.0 RECOMMENDATION

RECOMMENDATION - Subject to the prior completion of a legal agreement, in such terms as the Head of Legal Services may advise, to provide the following:

- The provision of 40% affordable residential units within the application site (Tenure mix to be 70 Affordable Rent, 30% Shared Ownership).
- The securing of a LEMP for the management of the Open Space and management of other communal areas within the development.
- Financial contribution of £3324 per applicable house (£831 per applicable flat) for Primary Education and towards permanent expansion to 2FE of South Borough Primary School
- Financial contribution of £2359.80 per applicable house dwelling (£589.95 applicable flat) towards Secondary Education and the cost of Phase 2 expansion at Maidstone Grammar School
- Travel Plan and monitoring fee of £5,000
- Financial contribution of £1,500 per dwelling towards the Linton Crossroads Improvements scheme
- Financial contribution of £30.79 per dwelling is sought towards community learning and the cost of additional portable equipment in Maidstone
- Financial contribution of £48.02 per dwelling is sought towards libraries to address the demand from the development towards additional bookstock (supplied to Coxheath Library).
- Financial contribution of £360 per person towards Healthcare at Stockett Lane surgery and Orchard.
- Financial contribution of £8.49 per dwelling for Youth Services which will be put towards Coxheath youth workers

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- Financial Contribution of £63.56 per dwelling is sought towards Social Care and Trinity Foyer Sensory beds and rockery
- Open Space Contribution of £880 per dwelling) is based upon the off-site provision that cannot be provided on site to be used towards
 - Whitebeam Drive Play Area – improvements to the surfacing of the play area and access to the site including pathways and gates.
 - Teen Facilities – infrastructure to engage teenagers with the open space at Stockett Lane to replace the existing “teen shelter”
 - Access to Outdoor Sports and Amenity Green Space (Linden Road) – improvements to pathways, signage and access points to the outdoor space from Linden Road to improve accessibility for the local community
 - Car park for Outdoor Sports and Amenity Green (Linden Road) – improve access and visual appearance to encourage greater use of open space

The Head of Planning and Development BE DELEGATED POWERS TO GRANT planning permission subject to the imposition of the conditions set out below

1. The development hereby approved shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:
 1. Scale
 2. Layout
 3. Appearance
 4. Landscaping

Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

Reason: No such details have been submitted and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The reserved matters application relating to landscaping should including a full landscaping plan and specification which is based upon the opportunities and mitigation measures set out in the Maidstone Landscape Character Guidelines and should include native species and species which are good pollinators for local wildlife. The landscaping should also include a specification to require the length of

the PROW to the east of the site to be upgraded to bounded surface made up of loose materials.

Reason: to give clarity on the appropriate type of landscaping which is suitable to the local area.

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. The parking of vehicles of site operatives and visitors
- ii. Loading and unloading of plant and materials
- iii. Wheel washing facilities
- iv. Measures to control the emission of dust and dirt during construction
- v. A scheme for recycling/disposing of waste resulting from demolition and construction works
- vi. Provision of measures to prevent the discharge of surface water onto the highway.

Reason: In the interest of highways safety.

4. Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

5. All existing hedges shall be retained, other than the part required to create the approved access, unless removal has been agreed in writing. Such hedgerows shall be protected over the course of the construction of the development and retained thereafter as part of the landscaping scheme to the site

Reason: in order to maintain existing landscaping and wildlife habitat

6. The development shall not commence for the relevant phase until an Arboricultural Method Statement in accordance with BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory external appearance to the development.

7. The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations

approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Reason: In the interests of landscape, visual impact and amenity of the area and to ensure a satisfactory appearance to the development

8. Development shall not begin until a detailed sustainable surface water drainage design for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage design shall demonstrate that:

- i. Surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated onsite before being discharged at an agreed rate to the receiving watercourse.

- ii. Measures to prevent silt, mud and other pollutants from entering the downstream watercourses during construction.

- iii. Appropriate allowances for climate change have been incorporated into design.

Reason: In the interests of sustainable drainage.

9. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- i. a timetable for its implementation, and

- ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: In the interests of sustainability.

10. Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where it has been demonstrated to the Local Planning Authority's satisfaction that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources and ensure compliance with the National Planning Policy Framework.

11. A minimum of 10% of the properties hereby permitted shall be provided to a Lifetime Homes standard.

Reason: In the interests of good design.

12. Details of a "lighting design strategy for biodiversity" for the site shall be submitted to and approved in writing by the local planning authority prior to occupation of the relevant phase of the development. The development shall be

carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for bats and in which lighting must be designed to minimise disturbance, and;
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.
- c) Include measures to reduce light pollution and spillage.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

Reason: In the interest biodiversity protection and visual amenity

13. Prior to the commencement of development an ecological design and management strategy (EDS) addressing mitigation, habitat creation, management and enhancement, has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives, including the creation of an appropriately sized nature conservation area
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long term management and maintenance.
- i) Details for monitoring and remedial measures.
- j) Swift bricks and bat boxes integral to buildings, wildlife friendly gullies, and retention of cordwood on site.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter unless otherwise agreed in writing.

Reason: To protect and enhance biodiversity.

14. The reserved matters application for layout will secure 1.85 hectares of open space which will include childrens play space as part of the final development.

Reason: to ensure compliance with Policy H1-58 (as modified and DM19 (as modified) of the adopted plan to create a good quality area of open space to serve the development

15. Due to the scale of this proposal, a calculation of pollutant emissions costs from the vehicular traffic generated by the development should be carried out, utilising the most recent DEFRA Emissions Factor Toolkit and the latest DEFRA IGCB Air Quality Damage Costs for the pollutants considered, to calculate the resultant damage cost.9

- Identifying the additional trip rates generated by the proposal (from the Transport Assessment);
- The emissions calculated for the pollutants of concern (NOx and PM10) [from the Emissions Factor Toolkit];

The air quality damage costs calculation for the specific pollutant emissions (from DEFRA IGCB);The result should be totalled for a five year period to enable mitigation implementation.

The calculation is summarised below:

Road Transport Emission Increase = Summation [Estimated trip rate for 5 years X Emission rate per 10 km per vehicle type X Damage Costs] The pollution damage costs will determine the level of mitigation/compensation required to negate the impacts of the development on local air quality.

No development shall commence until the developer has developed a scheme detailing and where possible quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The report should be submitted to and approved by the Local Planning Authority, prior to development. The measures shall then be carried out as part of the development.[The developer should have regard to the DEFRA guidance from the document *Low Emissions Strategy -using the planning system to reduce transport emissions January 2010.*]

Reason: to ensure the impact of the proposal upon air quality is mitigated.

16. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved.

Reason: To ensure the future development is not at risk from pollutants or contaminants.

17. Prior to the commencement of development above damp proof course level details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the development hereby approved shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter;

Reason: To ensure an energy efficient form of development.

18. The development shall be strictly undertaken in relation to the Bagder Mitigation Strategy and the mitigation measures set out in the Ecological Impact Assessment and its recommendations shall be fully implemented in line with its recommendations and timescales for implementation

Reason: To protect the ecological integrity of the site and protected species

19. Prior the commencement of development above damp proof course, details of EV rapid charge points (of 22kW or faster) should be submitted for approval by the Local Planning Authority. This should be on the basis of one space per 10 residential dwellings (where no dedicated off-street parking is provided) and where dwellings with dedicated off-street parking should be provided with their own charge points for low-emission plug-in vehicles. Once approved, the details shall be implemented prior occupation of the dwellings and retained thereafter.

20. The access to the site shall be constructed strictly in accordance with the detail set out on drawing number. BR-514-001-H-SK04- 1 and this shall be completed prior to first occupation the development

Reason: to ensure a safe means of access is created to the development.

21. No development shall commence on site until a signed S278 Agreement is finalised and ready for signing, covering the following;

- The alterations to Forstal Lane and Junction with Stockett Lane as set out in the Transport Assessment
- Any alteration relating to the access to the site with measures to discourage vehicles along Well Street
- Pedestrian Footpath from site to Mill Road along the southern side of Forstal Lane

The development shall not be occupied until the Section 278 is complete and highways works covered in the agreement as set out have been completed.

Reason: To ensure compliance with Policy H-58 (as modified) and to ensure highway and pedestrian safety.

22. The development shall not commence (excluding a haul road) until a drainage strategy detailing the proposed means of foul water and surface water disposal and

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an implementation timetable, has been submitted to and approved in writing by the Local Planning Authority in consultation with the sewerage undertaker. Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by the Local Planning Authority in consultation with Southern Water.

The development shall be carried out in accordance with the approved schemes and timetable.

23. The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, According to the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained
24. The development hereby permitted shall be carried out in accordance with the following approved plans/documents: Drawing 9001 A Location Plan, Drawing 9600 A Parameters Plan Green Infrastructure 9604 A

Reason: For the purposes of clarity and to ensure the quality of the development is maintained.

Case Officer: Ashley Wynn