

Updates to the following sections;

3.0 CONSULTATIONS

- Since the publication of the report there have been a further 2 objections to the alternative access through the new estate and 1 objection to the proposed access via Forstal Lane. A further representation has been received from a resident in Forstal Lane who has suggested conditions should the councillors decide to approve the application as submitted with access to Forstal Lane. These include the need for the road to be at least 4.8m in width, the footpath to Mill Lane to be 1.8m and that the northern verge of Forstal Lane will be retained.
- Coxheath Parish council have complained that they were not notified of the application not being heard at planning committee.
- A further letter has been received from DHA Planning on behalf of the landowner of one of the ransom strips to the south of the site and Countryside Properties (who are building out the site to the South) who own the second ransom strip to the south of the application site. It is understood this information has already been circulated to members.
- The Countryside property letter states that it is not their intention to enforce any potential ransom and that the potential purchasers of Willow Grange were made aware of the possible development further north on the application site. They attached a site layout for reference.
- The DHA letter makes the following points in respect of the further information submitted by the applicant which it considers to be inaccurate. The points made include the following;
 - The applicant is not a developer and thus S106 or infrastructure costs would be deducted when negotiating the land price and thus does not effect viability of scheme
 - The owners of the ransom have clearly stated the figure for the ransom strip (2.25 million or 1.75 million if a roundabout was required) was a starting point and they were willing to negotiate
 - Questions the weight of public opinion of Willow Grange compared to rest of the village
 - There would be no reason why a fresh application would be required
 - Question marks over the costings and access through Willow Grange having regard to the new for culverting and engineering works
 - Should be a deferral and reconsideration of the facts.
- There has been a further response from the agent is response to the letter from DHA Planning which can be summarised as follows;
 - Whilst residents may have been advised of development, they were not advised of an access running through the site serving up to 210 units. The Plan supplied by Countryside with their letter shows a solid hedgerow and does not indicate an access.

- In response to the assertion that the applicant is not a housebuilder, the applicant confirms that Charterhouse is engaged with Chartway Group, a local building company as part of a joint venture. Thus the assertion is incorrect.
- Disputes the idea that 2.25 million was a starting point. This was confirmed via a meeting note which was circulated and was not disputed.
- Does not agree with DHA assertion that the views of Willow Grange should hold less importance than the rest of the village
- Considers a fresh application would be required having regard to the fact it is fundamentally different. New assessments would be required as to the impacts of the application with a fundamentally access different access point and due to the need for new ecology and other surveys and new planning balance. No material considerations exist which indicate a position different from the adopted policy position.

Officer Response

Dealing firstly with the consultation responses from residents, these effectively are covered in the original reports and the improvements to Forstal lane and footpath is covered by Condition 21 of the recommendation

The Parish Council concerns are noted but invites were sent out on the 1st November and the Parish Council was aware of the committee meeting on the 2nd November. Also as it is a deferred item there is no need to re-consult and the application remains unchanged.

Turning to the points made by Countryside, the matter of whether they would enforce the ransom is a commercial matter which is between themselves and other parties, but in the absence of any legal agreement, the site, if to utilise the alternative access would be deliverable. As set out in the committee report, the presence of third party land is a serious and significant barrier to delivery notwithstanding the assertions of third parties.

The DHA letter makes a number of points regarding the ransom strip, costs and the approach to the development which are largely immaterial to the planning merits of the proposals. Firstly, whilst the nature of the applicant's business is largely immaterial, the development as proposed is deliverable as the access to Forstal Lane is within the applicant's control and there are no technical objections to the access subject to improvements which are secured by Section 278 agreement and conditions. The application remains unchanged to the original application considered at the 14th September committee. The applicant's point regarding the confirmed joint venture with Chartway Group places further evidence that the scheme is deliverable as it stands, whereas the alternative is reliant on two ransom strips and is not.

The matters of the cost of the ransom strip are noted and officers were not present at the meeting when this was discussed. It is the officer's view the third party land is unreasonable and unnecessary having regard to the fact that the proposed access is acceptable, that it meets an adopted policy little more than 2 weeks old and there is no highways objection to the proposed access.

The matter of whether a new application is required, the officer views is that it is a fundamental change to the application, in this case to the access point (a matter under consideration) and such a change would require a fresh application. An alternative access

would require a change to the red application site area which would require new notices to be served and potentially other procedural requirements such as a new application fee. Furthermore, the application would require new assessments and surveys relating to the impacts of the development having regard to the different access arrangement.

Again, in relation to the question of the costings undertaken, it is largely immaterial but it is noted there are issues regarding drainage infrastructure and topography which would require some form of mitigation having regard to this different route. For example the position of the access to Willow Grange is an area of varying ground levels. It is noted the costings are undertaken by a reputable company. The comments from MBC Landscape as set out the committee report should also be noted on the matters of topography and landscape.

One further point not covered in the report is a further badger sett has been created in the exact position of the access to Willow Grange and thus will require mitigation.

Irrespective of the above, the matters of cost, feasibility are largely irrelevant as the presence of two ransom strips would make the alternative access to the site in essence undeliverable as the applicant would not have control of the land. Furthermore, the applicant has confirmed after undertaking this additional work, that they would not be amending the proposed access in any case and so members will have to determine the application in its submitted form, with access to Forstal Lane having regard to its merits. KCC Highways have confirmed that there is no objection on a highway basis to this access and case law dictates that the significant weight should be afforded to the opinion of statutory consultee. The applicant would secure improvements to Forstal Lane which would be secured by Section 278 and condition. The adopted policy which requires access via Forstal Lane Only and that the southern hedgerow be retained, is little more than 2 weeks old and was subject to consultation at Regulation 18 and 19 stage and fully examined at the Examination in Public and was found to be sound. Planning Law dictates that decisions must be considered in accordance with the development plan unless material considerations dictate otherwise. In the officer's view there are no material considerations that would reasonably justify a departure from the policy.

Recommendation remains unchanged