

<b>REFERENCE NO - 19/501775/FULL</b>		
<b>APPLICATION PROPOSAL</b> Demolition of existing restaurant and erection of 14 no. retirement apartments for over 55 year old persons with associated parking turning and amenity space. (Resubmission of 18/503194/FULL)		
<b>ADDRESS</b> Stocketts (also known as The Spice Lounge) 118 Heath Road Coxheath Maidstone ME17 4PN		
<b>RECOMMENDATION</b> Grant Planning Permission subject to planning conditions.		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>		
<ul style="list-style-type: none"> <li>- There is no objection to the proposal will not result in the loss of the current use given the incidence of other similar uses in the locality.</li> <li>- The proposal represents redevelopment of previously developed land and is of an appropriate scale to Coxheath identified as being capable of taking limited growth.</li> <li>- Will assist in meeting the critical need for elderly persons accommodation identified in Government guidance.</li> <li>- The site represents an optimum location for elderly persons accommodation being close to public transport, local amenities and health provision.</li> <li>- Is acceptable in size, design and siting and will assist in providing a sense of place and enclosure to this part of Coxheath.</li> <li>- Will bring about a substantial uplift in the appearance of the site while safeguarding the outlook and amenity of nearby residents future occupants of the approved accommodation.</li> <li>- Is acceptable in its heritage and highways impacts.</li> <li>- Redevelopment for the type of housing proposed which will also bring a significant housing windfall in accordance with the provisions of policy SS1 of the local plan.</li> </ul>		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Called in by Cllr Parfitt-Read on the grounds that the proposal will result in the loss of an important community facility, harm the street scene and character and setting of the listed church, lacks on site car parking There is no need for additional retirement flats, taking into account the lack of uptake for similar completed developments..		
<b>WARD</b> Coxheath And Hunton	<b>PARISH/TOWN</b> Coxheath	<b>COUNCIL</b> <b>APPLICANT</b> Mr. C Dickens on behalf of Clarus Homes <b>AGENT</b> Graham Simpkin Planning
<b>TARGET DECISION DATE</b> 16/12/19 (EOT)		<b>PUBLICITY EXPIRY DATE</b> 19/06/19

Relevant Planning History

**18/503194/FULL:** Demolition of existing restaurant and erection of 14no. two bed retirement apartments providing Assisted Living for over 55 year old persons, with associated parking, turning and amenity space. Refused 24.09.2018 for the following summarised reasons:

1. *The proposal would appear isolated, incongruous and out of scale in its setting unrelated to existing development fronting Heath Road to the west and failing to*

*contribute in providing a sense of enclosure or sense of place to this part of Coxheath. Furthermore maintaining large areas of car parking fronting Heath Road will add further to the harmful visual impact of the development. The proposal will therefore have an unacceptable visual impact on the character and setting of Coxheath failing to improve the character and quality of the area and the way it functions.*

2. *Failure to demonstrate the development is incapable of making provision for affordable housing.*

**04/1241:** Demolition of existing public house and erection of 6No. two bed flats and 5No. three bed terraced dwellings and provision of ancillary car parking. Refused 11.11.2004 for the following summarised reasons:

1. *Insufficient evidence to demonstrate existing public house unviable*
2. *Out of character with surroundings harm street scene and setting of Listed Building.*
3. *Failure to demonstrate proposal would not be adversely affected by road traffic noise*
4. *Failure to make contribution towards local education provision.*

## **MAIN REPORT**

### **1. SITE DESCRIPTION**

- 1.1 The application site has an area of approximately 0.12 hectares and is located on the south side of Heath Road approximately 300 metres to the east of the centre of Coxheath. The site is within Coxheath that is designated as a 'larger village' by the adopted Local Plan. The site has a frontage onto Heath Road of just over 40 metres and is occupied by a detached building used as a restaurant known as the Spice Lounge.
- 1.2 This building occupies an isolated central position on the site and is set just under 10 metres back from Heath Road, just under 15 metres from the west site boundary and just under 10 metres from the east site boundary. The whole area in front of the building fronting Heath Road is used for car parking.
- 1.3 Abutting the site to the east is the access leading to the housing development of Clockhouse Rise. Immediately to the east of this access is Holy Trinity Church, a Grade II Listed Building (LB) and its grounds fronting Heath Road.
- 1.4 On the opposite side of Heath Road there is open space and playing fields. Immediately abutting the application site to the west is a funeral parlour forming the eastern end of a parade of shops forming part of the Coxheath District Retail Centre.
- 1.5 Abutting the site to the south is a health centre and ambulance service complex.

### **2. PROPOSAL**

- 2.1 The proposal involves demolition of the existing restaurant building and its replacement with a two storey L shaped block (with accommodation in the roof space) to provide 14 no: 1 and 2 bedroom apartments for private retirement housing for the over 55's ranging in floor area from 44 square metres to just under 70 square metres.
- 2.2 All units will be self-contained. At rear of the block at ground floor level is an office and what is described as an owners lounge is also proposed. A rectangular shaped private communal amenity area is sited immediately to the rear of the proposed building.

- 2.3 Site access is proposed from Clockhouse Rise serving a parking area for 14 residents parking spaces, a warden's space, cycle parking along with an enclosed bin store.
- 2.4 Soft landscaping is proposed along the Heath Road frontage and the return Clockhouse Rise frontage.
- 2.5 External materials are specified comprising a mix of red and yellow facing brick, plain grey roof tiles and Terracotta Tile Hanging.
- 2.6 The application is accompanied by a heritage statement, technical transport note and a statement of community involvement.
- 2.7 *In June 2019 site owner closed the restaurant and the following explanation set out the background to this event:*
- *Opened in November 2007 with focus on restaurant dining with takeaway service providing a secondary income and collection only.*
  - *Early years saw a huge demand from Coxheath residents and surrounding villages - 90% of turnover from dining customers.*
  - *Takeaway mainly from customers unable to be accommodated in the restaurant due to popularity of the restaurant.*
  - *Planning permission gained in 2010 to extend seating into the garages and a function room was created for parties and the general overflow of customers on Friday and Saturday evenings.*
  - *From 70 Covers, the restaurant capacity expanded to approximately 100 covers*
  - *With the residential developments in Coxheath expectation was demand for the restaurant would remain strong.*
  - *In the last 2 years significant decline in the use of the restaurant.*
  - *Previously averaged over 100 covers on a Saturday night – dropped to 40/50 covers on a Saturday night.*
  - *Takeaway service has increased in popularity, with turnover in takeaway being much greater than dining in customers.*
  - *Takeaway turnover in the first half of 2019, equating to over 50% of the turnover.*
  - *Spice Lounge site is too large just to operate a takeaway service – the building has high operating costs, and is not viable any longer to operate as a restaurant.*
- 2.8 The owner reopened the restaurant in October 2019 citing the high costs involved with the development and to stand any chance of benefitting from the lead up to the Christmas trade.

### **3. POLICY AND OTHER CONSIDERATIONS**

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (NPPG)  
Maidstone Borough Local Plan 2017 SP13, SP18, SP20, DM1, DM2, DM4, DM9, DM20, DM21 and DM23

### **4. LOCAL REPRESENTATIONS**

- 4.1 25 representations received from local residents raising the following (summarised) issues:
- Insufficient parking – will result in overspill parking on local roads to the detriment of the free flow of traffic and highway safety.
  - No evidence of demand for over 55's accommodation particularly as vacant accommodation in nearby properties already serving this use.
  - Future occupants will almost certainly use cars adding to congestion in area to the detriment of highway safety and the free flow of traffic.
  - Coxheath already under excess development pressure which is putting strain on local services and which will only be exacerbated by this proposal.

- Represents an example of overdevelopment and poor design harmful to the character of the area and character and setting of the Listed Church.
- Is far to large - will dwarf and appear completely overbearing in relation to existing development close to and abutting the site.
- The building to be demolished is iconic and historic – its loss will further erode what remains of the existing character of Coxheath.
- Site not allocated in local plan for development.
- Too close to Heath Road– needs to be set back with additional landscaping in front.
- Will result in loss of a valuable community asset as there are no other venues in Coxheath available for nigh time socialising – consideration should be given to a replacement of this facility within the proposed development.
- Not convinced that the proposal is viable leading to pressure to redevelop the site for general housing.

## 5. CONSULTATIONS

(Please note that summaries of consultation responses are set out below with the response discussed in more detail in the main report where considered necessary)

### 5.1 **Coxheath PC:** Objects for the following summarised reasons:

- Do not wish to see this loss of amenity – the restaurant is very popular with local residents and residents of neighbouring areas and do not accept argument that it is a less than prosperous business.
- Car park always is full indicating the facility is very well used.
- Not convinced there is a need for assisted living accommodation in this location as similar proposals were abandoned on a site a few hundred metres along the road because the housing association involved determined that such a facility was not viable.
- Have other assisted living accommodation in the village run by both Golding Homes and a private care home provider, which are now available to people of all ages, many not requiring assisted living.
- Due to, amongst other things, lack of demand development will become a market housing facility.
- Design out of keeping with the area and too large – will dominate the the appearance of the village at this end and character and setting of the protected church.
- Insufficient parking resulting in overspill parking on nearby roads harmful to highway safety and the free flow of traffic.

### 5.2 **Hunton PC:** Objects on the following summarised grounds:

- Does not overcome objections to development of this site set out in application ref: 18/503194
- With the closure of the licensed restaurant the following policies are relevant being NPPF "Supporting a Prosperous Rural Economy" paragraph 83 ",planning decisions should enable... especially subparagraph d) "the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open spaces, cultural buildings, public houses and places of worship.
- NPPF "Promoting Healthy and Safe Communities" paragraph 92 "...planning policies and decisions should...especially subparagraph c) "guard against the unnecessary loss of valued facilities and services..." and d) "ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community"
- Maidstone Local Plan 2017 Policies SP11 "Larger Villages" paragraph 2, and SP13 "Coxheath" paragraph 4, both say " the loss of shops, community facilities and green spaces will be resisted....."
- Policy DM17 " the Council will seek to maintain and enhance the existing retail functions and support community uses in... sub-paragraph iii. Heath Road, Coxheath"

- Policy SP22 introductory paragraph 4.150 ".....It has not been proven through the submission of a viability report that there is no realistic prospect of its commercial reuse continuing.
- 5.3 **Kent Highways:** No objection subject to conditions to secure a construction management plan and on site parking turning and access. The proposed access has been repositioned to secure the necessary separation between access points while acceptable sight lines can be achieved based on the anticipated vehicle speeds for those turning in from Heath Road. While parking provision is slightly less than the guidance requirements insufficient to justify refusal on highway grounds particularly given the additional cycle parking and provision of 2 electric vehicle charging point.
- 5.3 **KCC Archaeology:** No objection subject to condition to secure a watching brief The development lies adjacent to the site of the Maidstone Union Workhouse and there is potential for remains associated with the workhouse to survive.
- 5.4 **Historic England:** No comments
- 5.4 **MBC Heritage:** No objection Acknowledges impact on views of the listed church from the west but does not amount to an objection to the scheme which is generally a good response to the context with a positive response at the corner of the building. Generally the top floor scales back and is accommodated within the roof space apart from the gabled corner 'tower' which forms a good end stop to the development and this part of the street. The overall scale is commensurate with the church but is separated sufficiently that it should not compete.
- 5.5 **KCC Developer Contributions:** Appreciate CIL payments mean that contributions cannot be requested through S106 agreement. Nevertheless contend the development will have an impact on existing capacity placing unfunded pressure on KCC services requiring contributions towards community learning (£429.80) Libraries (£672.28) and Social Care (£889.84).
- 5.6 **MBC Landscape:** No objection. The site is located within landscape character area 28, Coxheath Plateau, as designated in the Maidstone Landscape Character Assessment. The Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015 considers this area to have an overall landscape sensitivity of moderate.

The study assesses the Coxheath Plateau as being of moderate overall landscape sensitivity, which has scope for change with certain constraints. It goes on to say that housing development potential should be focussed within and immediately adjacent to existing settlements in keeping with existing. Other development could be considered to support existing rural enterprises, although extensive, large scale or visually intrusive development would be inappropriate. It gives the following advice in respect of guidelines and mitigation:

- New development should respect the local vernacular in scale, density and materials
- Conserve and reinforce enclosing roadside vegetation. In the context of landscape character and biodiversity any 'greening' of this area would be beneficial.

However, in screening terms, the provision of a small area of landscaping along the Heath Road frontage is unlikely to be adequate to mitigate the effect of the development. Considers the effects of the scheme cannot be fully understood without the provision of a landscape and visual appraisal.

- 5.7 **Southern Water:** No objection Requires a formal application for connection to the public foul sewer and this should be drawn to the applicant's attention.

- 5.8 **EHO:** No objection subject to conditions to address site contamination and secure controls over hours of working

## **6.0 APPRAISAL**

- 6.1 The key issues in relation to this proposal are (a) principle (b) impact on the character and setting of the locality (c) amenity (d) heritage (d) highways and (e) developer contributions.

### Principle:

- 6.2 The site is located a short distance from the centre of Coxheath immediately abutting a retail parade. The site currently occupied by a restaurant use falls within the definition of previously developed land.
- 6.3 Coxheath is identified as a 'larger village' in the local plan and is subject to the provisions of policy SP11 and SP13. These policies make it clear that Coxheath can accommodate limited growth. This growth will include minor development such as infilling, and redevelopment of appropriate sites.
- 6.4 Policy SP11, states that new development will be focused within the larger villages where it involves redevelopment of previously developed land and is of a size appropriate to the role, character and scale of the village. Policy SP11 states that the loss of local shops, community facilities and green spaces will be resisted, whilst supporting new retail development, community services and green spaces to meet local need.

### Loss of existing restaurant use as a community facility:

- 6.5 Though the restaurant occupying the site closed (but has now re-opened for Christmas 2019) it is evident from the representations received that it is perceived as an important local facility whose loss should be resisted as being contrary to policy.
- 6.6 Such concerns are acknowledged in the preamble to policy DM20 of the local plan relating to community facilities where it states, amongst other things, that in order to build well functioning, sustainable communities, it is essential that adequate community facilities are provided. It goes on to state that community facilities encompass educational, cultural and recreational facilities, including schools, libraries, places of worship, meeting places, cultural buildings (such as museums and theatres) and sports venues.
- 6.7 Furthermore policy DM20 states amongst other things that; "Proposals which would lead to a loss of community facilities will not be permitted unless demand within the locality no longer exists or a replacement facility acceptable to the council is provided"
- 6.8 The key questions are therefore firstly whether a licensed restaurant can be considered to represent a community facility and secondly whether there is demand or similar alternative facilities available locally.
- 6.9 Under the Localism Act, a parish council or other voluntary group can nominate a building to the council to consider whether it should be made an 'Asset of Community Value'. There have been 5 nominations previously accepted by Maidstone Council; 4 of these have been for public houses with the 5th for Teston Bridge County Park. There have been 3 unsuccessful applications that include The Medical Centre in Coxheath, The Railway Tavern Public House Staplehurst and the shop and post office in Sutton Valence.

- 6.10 Whilst there is no requirement under policy DM20 for a building to be listed as an asset, the definition in the Localism Act is considered useful in assessing whether The Spice Lounge restaurant is a community facility.
- 6.11 An Asset of Community Value is defined as: "*A building or other land is an asset of community value if its main use has recently been or is presently used to further the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that 'social interests' include cultural, recreational and sporting interests*".
- 6.12 The loss of a public house can be resisted where it can be seen to provide a key element in the social fabric of a locality. It is evident that objectors are giving the same community status to this licensed restaurant as if it were a public house.
- 6.13 Whilst there is no indication that a nomination has, or is about to be made in this case, in theory using the above definition the existing use on the application site could potentially be viewed as a community facility. In making this judgment whether the use can be a community asset, the information received from the applicant also needs to be considered.
- 6.14 The applicant states that there has been a significant drop in customer trade and a change in custom with the main business now consisting of a take away use. This take away use does not require all the space in a large restaurant, with the restaurant as a result not viable as a business in the long term. It is difficult to argue that a take away use "*...would further the social wellbeing or social interests of the local community...*" as a community facility and the applicant has cast doubt on whether the restaurant use "*...could do so in the future*".
- 6.15 Coxheath as a designated larger village has the range of facilities that make it a sustainable location and focus for new development after Maidstone Urban Area and the Rural Service Centres. A search of the Coxheath area shows that Heath Fish and the Coxheath Tandoori takeaway are both located nearby. In addition, a survey carried out by the applicant shows other restaurants/takeaway premises in the village including a tandoori takeaway in Westerhill Road, the Coxheath Café on the south side of Heath Road and Coxheath Kebab and Pizza restaurant adjacent to the café. There is also a Chinese takeaway (Phoenix House) on the corner of Westerhill Road and Heath Road.
- 6.16 Though these local similar uses may not exactly replicate the function of the Spice Lounge it is nevertheless considered that the locality would continue to be well served by restaurant/takeaway facilities in the absence of the Spice Lounge.
- 6.17 In the circumstances that have been outlined with the range of facilities available locally, the main use changing to a take away business and the serious doubt about the long term viability of the restaurant use, the submitted proposal is in line with the provisions of policies SP11, SP13 and DM20 of the local plan.
- Use of site for housing:
- 6.18 Both policies SP11 and SP13 make clear that Coxheath can accommodate limited growth and that new development will be focused on infill development and the redevelopment of previously developed land that is of a size appropriate to the role, character and scale of the village.
- 6.19 The Strategic Housing Market Assessment (SHMA) was carried out in January 2014. The SHMA confirmed that in line with trends nationally the number of older people in the borough is set to increase significantly and there is a generalised need for housing suitable for this group. In addition, paragraph 61 of the NPPF makes it clear

that provision must be made for all groups, including older people in formulating housing policy.

- 6.20 National Planning Policy Guidance (NPPG) states there is a critical need to provide housing for older people reflecting the fact that people are living longer and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million.
- 6.21 Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking.
- 6.22 NPPG also refers to the different types of specialist housing for older people requiring to be provided including age-restricted general market housing being housing is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens but does not include support or care services.
- 6.23 The applicants also provide the following background.

*"A Government report published on 9th February 2018 "Housing for Older People Second Report of Session 2017 to 2019" in response to concern about the provision of housing for an aging population the need for a national strategy setting out policy on housing for older people.*

*Survey evidence revealed that between a quarter and a third of older people are interested in moving home, that about a quarter are interested in retirement housing, and they want to buy it with two bedroom units proving most popular. Furthermore this also revealed that 55% highlighted a lack of smaller homes on the market as being a barrier to moving and it is estimated that the current shortfall is estimated at around 15,000 to 25,000 units a year limiting housing options available to older people and the opportunity to derive the health and well being benefits linked to specialist homes. The conclusions are there should be greater encouragement to provide housing for older people. and ensuring sites are available for a wider range of developers".*

- 6.24 Consultation responses have expressed concerns regarding 'oversupply' of accommodation for the elderly in the locality. With the backdrop of the high demand that has been set out above it is not considered that arguments based on overprovision can be supported with other reasons behind what appears as a lack of demand on other sites.
- 6.25 Meeting the demands for an increasingly diverse aging population is a material planning consideration that should be given significant weight in the determination of this proposal. The proposed development, will make a windfall contribution towards meeting housing supply set out in policy SS1 while making provision for a sector of the population where there is an acknowledged need. The development will be subject to the Community Infrastructure Levy that is designed to mitigate the additional pressure on local resources as a result of the development.

Suitability of site for over 55's accommodation:

- 6.26 The aging process can be associated with mobility and health issues. It is therefore important that sites used for over 55's accommodation are close to, and within easy

flat walking distance of good public transport, local amenities, health services and town centres.

- 6.27 With the proximity of the application site to the centre of Coxheath and its other facilities (including health provision), the application site represents an optimal location for this type of accommodation.

Design and impact on the character and setting of the locality:

- 6.28 The current application site is occupied by an isolated building set back from road with boundary to boundary hardstanding providing a large area of unrestricted car parking. The site is in a prominent location close to the centre of Coxheath but is of a poor design in terms of streetscape with a poor building setting. The site makes a negative contribution to the street scene failing to provide any sense of place or enclosure to this part of Coxheath.

- 6.29 The key consideration is whether the current proposal addresses the above concerns and whether by so doing contributes to and enhances the sense of place and enclosure to Coxheath.

- 6.30 Dealing first with siting, it is acknowledged that the proposed block is close to the Heath Road frontage. However this reflects the existing grain and character of the area reflecting the development abutting the site to the west which also comes close to Heath Road. The proposed development is not closer to Heath Road than this existing development.

- 6.31 It is acknowledged that the plans show the roof 'ridge' height of the block exceeding that of the buildings abutting the site to the west. However the roof eaves height and building storey heights line through with this building. While the roof bulk is greater the impression of overbearing roof bulk is diminished due to the roof slope.

- 6.32 Concerns have also been raised that the block will have overbearing impact on the Heath Road street scene. It is considered that the design and scale of the building façade is successful in fitting into the streetscene. The articulated façade has a number of full height two storey forward projecting additions all capped by pitched roofs, break lines and reveals emphasising the vertical elements of the block and breaking it up into identifiable segments. The frontage has further interest provided by the size, design and siting of doors and windows and use of materials.

- 6.33 Where the block comes close to the corner with Heath Road and Clockhouse Rise it rises up to address the corner before dropping down again where it fronts Clockhouse Rise. Such a 'turning' feature is considered appropriate in enabling the block to transition smoothly from the Heath Road to the Clockhouse Rise street scenes.

- 6.34 With the design, siting, detailing and use of materials the proposal represents a 'bespoke' response to the site and its context which was wholly absent from the previously refused proposal. The design and layout also enable car parking and other 'service' elements to be hidden from general view which is considered a substantial benefit. The current proposal will significantly improve the character and quality of the area with a new building that removes the large area of car parking and provides a building that addresses the streetscene and the site context.

Landscaping:

- 6.35 The views of the MBC Landscape officer are noted. The site is located and embedded within the built confines of Coxheath and though there is open space opposite the site, the immediate locality is urban in character. As such it is not considered the proposal will have an effect on or materially impact on the character and setting of the rural area abutting/falling outside the confines of Coxheath.

6.36 Regarding the need for additional landscaping to mitigate the impact of the development on Heath Road this would require setting the development further back into the site. It is considered this will erode the sense of place and enclosure that the development seeks to achieve. Consequently, while landscaping is often seen as beneficial, in the context of this proposal setting the block further back into the site to secure additional frontage landscaping would undermine the wider townscape benefits identified in connection with this proposal.

Amenity:

6.37 Concerns have been raised relating to bulk, impact and loss of view. Given the size, design and siting of the block and distance from nearby housing the proposal is acceptable in relation to the potential impact on neighbour amenities including overlooking, loss of daylight or sunlight. The proposal will maintain sufficient outlook for neighbouring occupiers. The proposal is in accordance with the provisions of policy DM1. As set out above and when compared to the current appearance and condition of the site, the area will experience a significant uplift in the appearance of the site and the streetscene.

6.38 Turning to the amenity of the future residents of the development, all flats are internally of usable size and proportions. An external area of communal amenity space is proposed at the rear of the building. This amenity area, though small, is of usable size and proportions and will provide a private space for residents.

6.39 The remaining issue is aural amenity. The site is located close to the centre of a large village and whilst it benefits from easy access to facilities and services, the location also has the normal associated background noise levels from traffic and activity. With a planning condition requiring an acoustic appraisal and sound attenuation and ventilation the development can secure an acceptable internal noise environment for future residents

Heritage:

6.40 The existing building to be demolished is not considered to possess any architectural or historic merit. As such there is no objection to its loss on heritage grounds as a consequence

6.41 The Holy Trinity Church, a Grade II listed building is located to the east of the site with the church grounds fronting Heath Road. The application site in its current form is considered to have an adverse impact on the character and setting of this Listed Building.

6.42 Significant separation will be retained between the listed church and the proposed buildings. As such and given the comments of the heritage advisor along with the current appearance of the application site, it is considered the proposal will bring about a significant uplift to the character and setting of the listed church. The proposal is therefore considered to accord with the provisions of policy DM4 of the local plan.

Highways:

6.42 A restaurant use on site operating at full capacity has the potential to generate significant traffic, especially given the large areas of car parking on the open areas of the site. The site has two access points on to Heath Road, both provided with good driver sight lines

6.43 The proposal includes a single access off Clock House Rise serving the development. The proposed access arrangement enables the design integrity of the block to be maintained.

6.44 Given the nominal peak hour traffic generation associated with the proposed development and access improvements, Kent Highways are satisfied the proposal will not result in any material harm to the free flow of traffic or highway safety on local roads while raising no objection to the level of parking.

6.45 The proposal is acceptable in relation to traffic generation, access arrangements and parking provision and there has been no objection from Kent Highways.

Community infrastructure contributions and affordable housing

6.46 Requests for contributions towards S106 legal agreements must be assessed in accordance with Regulation 122 of the Act with any obligations being seen to meet the following requirements being they should be:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

6.47 The proposed development is liable for the Community Infrastructure Levy (CIL) and as a result the council would not seek the s106 contributions sought by KCC. With affordable housing not covered under CIL in this case a s106 would be required to secure the provision of Affordable Housing in accordance with Policy SP20 of the local plan.

6.48 Policy SP20 states that schemes providing retirement housing/extra care homes should provide 20% of the accommodation as affordable unless it can be demonstrated that this cannot be achieved due to economic viability. The current application was accompanied by a viability appraisal which concluded that the development would not be viable if financial contributions were sought.

6.49 Independent assessment of the applicant's viability appraisal supports its conclusion that the scheme in current market conditions cannot support any contributions towards affordable housing.

6.50 The independent assessment suggests a 'clawback' mechanism in the event sales values increase due to an uplift in the housing market. The applicants have responded by stating the development would require an unprecedented uplift in the market for this type of unit (in the order of 55%) to be in a position to make contributions towards affordable housing.

6.51 Whilst review mechanisms have been successfully used on other sites in the borough the uplift in sales value required to deliver an affordable housing contribution in this case is clearly unrealistic. As such it is accepted the case for a review mechanism in the circumstances of this application cannot be justified.

Other matters:

6.52 Surface water drainage will be dealt with by a condition that requires submission and approval of a Sustainable Urban Drainage Scheme.

6.53 There is also an expectation that proposals should provide biodiversity enhancements. The site in its current commercial form has little/no wildlife potential and a planning condition is recommended to seek biodiversity enhancements on the site.

6.54 Kent Highways have requested a condition to secure a construction management plan while the EHO seeks to control hours of working, also by condition. Guidance makes clear that planning conditions should not seek to control matters falling outside the remit of planning or addressed by other legislation. This applies to both conditions though there is no reason why the concerns raised cannot be addressed by informative.

Environmental Impact Assessment

- 6.55 The development needs to be 'screened' to assess whether an Environmental Impact Assessment (EIA) is required.
- 6.56 As the site does not fall within an Area of Outstanding Natural Beauty nor does it exceed any of the Schedule 2 thresholds set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 no requirement for an EIA is identified. It should be stressed this conclusion does not imply support for the proposal or set aside the need to assess the proposal applying normal planning criteria.

**7.0 CONCLUSIONS/BALANCING EXERCISE**

7.1 The key conclusions are considered to be as follows:

- The existing licensed restaurant does not constitute loss of a community facility contrary to policy particularly given the incidence of other similar uses in the locality.
- The proposal represents redevelopment of previously developed land and is of an appropriate scale to Coxheath identified as being capable of taking limited growth.
- The proposal will assist in meeting the need for elderly persons accommodation identified in Government Guidance.
- The site represents an optimum location for elderly person accommodation being close to public transport, local amenities and health provision.
- The proposal is acceptable in size, design and siting terms and assist in providing a sense of place and enclosure to Coxheath at this end.
- The proposal will bring about a substantial uplift in the appearance of the site while safeguarding the outlook and amenity of nearby residents and that of the future occupants of the site.
- The proposal is acceptable in its heritage and highways impacts.

7.2 As such there is no objection to the loss of the existing use and the redevelopment of the site for the type of housing proposed. The proposal will bring a significant housing windfall in accordance with the provisions of policy SS1 of the local plan. In conclusion, the balance of issues fall significantly in favour of the proposal and that planning permission should be granted as a consequence.

**8. RECOMMENDATION**

GRANT planning permission subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall only be occupied by persons of 55 years or older and their dependents.

Reason: To reflect the critical need to provide and retain housing for older people identified in National Guidance.

3. Prior to any part of the development hereby approved reaching slab level details of all external materials including those to be used for all hardsurfacing, parking and turning areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the

approved details.

Reasons: In the interests of visual amenity.

4. Before any part of the development hereby approved reaches eaves height an acoustic appraisal assessing the impact of noise emissions from traffic using Heath Road on the aural amenity of the future residents shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed before first occupation of any flat to which they relate and retained as such for the life of the development.

Reason: In the interests of aural amenity.

5. Prior to first occupation of any part of the development hereby permitted the following shall be provided and retained for the life of the development without any impediment to their intended use.

- (a) Access, car and cycle parking and turning areas and driver visibility splays shown on drawing no's: BDS-1529-100 rev B and 105 rev A.
- (b) No obstructions more than 0.6 metres above the carriageway level shall be placed any where within the approved driver visibility splays.

Reason: In the interests of highway safety and the free flow of traffic and to encourage the use of sustainable transport.

6. The gradient of the site access shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter and a bound surface shall be used for the first 5 metres of the access from the edge of the highway.

Reason: In the interests of highway safety and the free flow of traffic.

7. Before first occupation of the development hereby permitted 2 electric vehicle charging points shall be provided and retained for the life of the development.

Reason: To reduce carbon emissions in the interests of sustainable development.

8. 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.

Reason: In the interests of health and safety.

9. A Closure Report is submitted to the Local Planning Authority upon completion of the works. The closure report shall include full verification details as set out in 3 above. 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: In the interests of protecting the health of future occupants from any below ground pollutants.

10. Prior to first occupation of the development hereby approved details shall be submitted to and approved in writing of biodiversity enhancements including a timetable for provision and management of bird nesting boxes and native species planting. The installation of the bird nesting boxes shall be carried out in accordance with the approved details.

Reason: In the interests of biodiversity.

11. Prior to commencement of development a landscaping scheme (including protection measures in accordance with BS5837:2012, and long term management) shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment 2012.

Reason: In the interests of visual amenity.

12. The approved landscaping scheme shall be carried out in the first available planting season following first occupation of the development hereby permitted. Any planting which fails to establish or becomes dead dying or diseased within 5 years shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

Reason: In the interests of visual amenity.

13. Prior to any part of the development hereby approved reaching damp proof course a scheme for the disposal surface water (which shall in the form of a SUDS scheme) shall be submitted to and approved by the local planning authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure satisfactory drainage in the interests of flood prevention

11. The development hereby approved shall be constructed at the levels shown on drawing no: BDS-1529-102 rev C.

Reason: In the interests of amenity.

12. The bin store shown on drawing no: BDS-1529-100 rev B shall be provided prior to first occupation of any dwelling and retained as such for the life of the development.

Reason: In the interests of amenity, the free flow of traffic and highway safety.

13. The development hereby approved shall be carried out in accordance with the following approved nos: BDS-1529- 100B, 101A, 102C and 105A.

Reason: In the interests of amenity.

**INFORMATIVES**

- (1) The proposed development is CIL liable. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time planning permission is granted or shortly after.
- (2) You are advised that demolition/construction activities should be restricted to 0800 - 1800 hours (Monday to Friday), 0800 to 1300 hours (Saturdays) with no working on Sunday or Bank Holiday.
- (3) Before carrying out the development you are advised to address the following matters:
  - (a) Routing of construction and delivery vehicles to / from site
  - (b) Parking and turning areas for construction and delivery vehicles and site personnel
  - (c) Timing of deliveries
  - (d) Provision of wheel washing facilities
  - (e) Temporary traffic management / signage
  - Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction.
  - Provision of parking facilities for site personnel and visitors prior to commencement of work on site and for the duration of construction.
  - Provision of measures to prevent the discharge of surface water onto the highway.
- (4) A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk). Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>
- (5) Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.
- (6) The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).
- (7) Adequate and suitable measures should be carried out for the minimisation of asbestos fibres during demolition, so as to prevent airborne fibres from affecting workers carrying out the work, and nearby properties. Only contractors licensed by the Health and Safety Executive should be employed.
- (8) Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.
- (9) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway

Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

- (10) The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Case Officer: Graham Parkinson