



# Agenda

Meeting: **Planning and Licensing Committee**  
Date: **12 December 2023**  
Time: **7.00 pm**  
Place: **Council Chamber, Civic Centre, Folkestone**

To: **All members of the Planning and Licensing Committee**

The committee will consider the matters, listed below, at the date, time and place shown above. The meeting will be open to the press and public.

Members of the committee, who wish to have information on any matter arising on the agenda, which is not fully covered in these papers, are requested to give notice, prior to the meeting, to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>.

Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

***Please note there will be 37 seats available for members of the public, which will be reserved for those speaking or participating at the meeting. The remaining available seats will be given on a first come, first served basis.***

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 3 - 4)**

## **Queries about the agenda? Need a different format?**

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Email: [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk) or download from our  
website  
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Members of the committee should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);
- c) voluntary announcements of other interests.

3. **Minutes (Pages 5 - 8)**

To consider and approve, as a correct record, the minutes of the meeting held on 7 November 2023.

4. **23/1172/FH - 120 High Street, Hythe, Folkestone, CT21 5LE (Pages 9 - 24)**

Internal alterations & alterations to fenestration to provide 2 no holiday lets. Amendment to existing approved single holiday let as approved as per applications 22/0497/FH & 22/0498/FH.

5. **21/2035/FH - Fairfield Court Farm, Brack Lane, Brookland, TN29 9RX (Pages 25 - 76)**

Demolition of existing buildings, removal of soil business and areas of hardstanding and construction of 3 dwellings, together with gardens, parking and use of existing accesses to Brack Lane. Retention of existing property, reconfigured larger garden area and associated strategic landscaping and biodiversity enhancements.

6. **23/1375/FH - 118 Cheriton Road, Folkestone, CT19 5HQ (Pages 77 - 88)**

Conversion of rear two-storey annexe to a two-bedroomed dwelling, including first-floor & single storey rear extensions in conjunction with the upgrading & remodelling of the existing three flats, along with associated alterations.

7. **23/1208/FH - Maude Pavilion & Community Hall, Station Road, New Romney, TN28 8BB (Pages 89 - 108)**

Demolition of the existing Maude Pavilion and adjacent Community Hall. Erection of a new sports pavilion, with community hall above. New nursery building and associated external works.

## **Declarations of Interest**

### **Disclosable Pecuniary Interest (DPI)**

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

### **Other Significant Interest (OSI)**

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

### **Voluntary Announcement of Other Interests (VAOI)**

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

#### **Note to the Code:**

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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# Minutes

## Planning and Licensing Committee

Held at: Council Chamber, Civic Centre, Folkestone

Date: Tuesday, 7 November 2023

Present: Councillors Mike Blakemore, Polly Blakemore, Tony Cooper, Gary Fuller, Clive Goddard, Mrs Jennifer Hollingsbee, Nicola Keen (Vice-Chair), Jackie Meade (Chair), Rebecca Shoob, Paul Thomas, Belinda Walker and John Wing (In place of Anita Jones)

Apologies for Absence: Councillor Anita Jones

Officers Present: Robert Allan (Principal Planning Officer), Rob Bailey (Development Enforcement Manager), Ewan Green (Director of Strategy and Resources), Sue Head (Strategic Development Manager (Interim)), Ellen Joyce (Democratic Services Trainee), Sue Lewis (Committee Services Officer), Elizabeth Nash (Planning Officer), Helena Payne (Development Management Team Leader) and Alex Stafford (Principal Planning Officer)

Others Present:

### 42. **Declarations of Interest**

There were no declarations of interest.

### 43. **Minutes**

The minutes of the meeting held on 3 October 2023 were submitted, approved and signed by the Chairman.

### 44. **21/1777/FH - White Cottage, Bossingham Road, Stelling Minnis, CT4 6AQ**

Proposed erection of a new dwelling following demolition of the garage.

The Planning officer informed the committee that following additional consultation required as a result of the land ownership matters, Natural England and Southern Water have provided further representations stating that

their comments remain unchanged from those contained within the Officer's report. These were received after the Officer's report had been finalised.

Parish Councillor R Hubble spoke on behalf of Stelling Minnis Parish Council. Susanna Sanlon, agent, spoke on the behalf of the applicant.

Proposed by Councillor Clive Goddard  
Seconded by Councillor Nicola Keen and

**Resolved: That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a Unilateral Undertaking ensuring waste is taken outside of the Stodmarsh Catchment Area and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.**

(Voting: For 12; Against 0; Abstentions 0)

45. **22/1595/FH - Mount Hill Cottage, Chapel Lane, Rhodes Minnis, CT4 6YB**

Erection of an agricultural barn and construction of associated Hardstanding.

Proposed by Councillor Paul Thomas  
Seconded by Councillor Tony Cooper and

**Resolved: That planning permission be granted subject to the conditions set out at the end of the report.**

(Voting: For 12; Against 0; Abstentions 0)

46. **23/1641/FH - Highview School, Moat Farm Road, Folkestone, CT19 5DJ**

Application to vary Unilateral Undertaking associated with planning permission Y19/0704/FH to reduce the affordable housing from 100% to 22%.

The Planning Officer informed the committee that paragraphs 7.8 and 7.9 re local finance considerations contradicts itself and confirmed that CIL is payable on the remaining 78%.

A statement from the applicant was also read out as follows:

This application is seeking to vary the unilateral legal agreement from 100% affordable housing to that of the council's affordable housing policy at 22%. This is to achieve best value for the council as landowner and to ensure viability and scheme deliverability.

The council as landowner has explored many options relating to the site, none of which are viable to bring forward at this time with 100% affordable housing. The council is currently seeking a delivery partner to bring forward the development, and to achieve the council's statutory best value duty it is necessary to vary the unilateral legal agreement to attract the best offers from the market.

It's unfortunate that the council doesn't believe it can deliver a 100% affordable scheme at Highview but this variation will still meet the councils affordable housing policy and should ensure that the scheme comes forward in the planned period delivering much needed homes for the district.

Proposed by Councillor Mrs Jenny Hollingsbee  
Seconded by Councillor Rebecca Shoob and

**Resolved: That permission be granted to vary the terms of the Unilateral Undertaking associated with planning permission Y19/0704/SH to allow for 22% affordable housing subject to officers deferring the issue of the decision until the matter has been reported to Cabinet.**

(Voting: For 12; Against 0; Abstentions 0)

47. **23/1362/FH/CON - Land Rear Varne Boat Club, Coast Drive, Greatstone, TN28 8NR**

Approval of details pursuant to conditions:

4 (materials), 5 (water use), 7 (construction management plan), 14 (surface water drainage), 15 (finished floor levels), 16 (culvert outfall), 18 parts 1 & 2 (contamination) of planning permission Y15/1132/SH.

The Planning Officer updated the committee with the following:

Condition 14, the applicant has provided further evidence confirming that Southern Water have now approved the sewer diversion.

Condition 15, the Environment Agency (EA) have confirmed they have no objections to the approval of condition 15. Officers therefore recommend that condition 15 is approved.

Condition 16, the EA has provided comments stating whilst they have tried to confirm the location of the culvert from existing records, they have concluded they need to do a new survey to accurately identify the culvert line. The EA have stated that they will undertake this as soon as possible. The applicant has submitted a topographical survey which has been provided to the EA to assist in any further survey work.

Given the unresolved nature of this matter, it is proposed that in line with the current officer's recommendation that delegated authority be given to the Chief Planning Officer to approve condition 16 once the additional survey work is concluded by the EA and a final satisfactory response has been received by the Council.

Proposed by Councillor Keen  
Seconded by Councillor Meade and

**Resolved:**

- 1. That the conditions submission be approved for conditions 4, 5, 7, 14, 15 and 18 parts 1 and 2 in accordance with the details and documents provided.**

**That delegated authority be given to the Chief Planning Officer to approve condition 16 in accordance with the details and documents submitted subject to a final satisfactory response being received from the EA as a technical consultee and to allow time for the EA to conduct further investigations in respect of condition 16.**

**That the informatives included at the end of the report be attached to the approval, and that delegated authority be given to the Chief Planning Officer to amend the wording of this/include additional informatives that he considered necessary.**

- 2. That officers write to the applicant making it clear that access to the RNLI site during construction must be maintained at all times.**

(Voting: For 12; Against 0; Abstentions 0)



# Agenda Item 4

## DCL/23/28

**Application No:** 23/1172/FH

**Location of Site:** 120 High Street, Hythe, CT21 5LE

**Development:** Internal alterations & alterations to fenestration to provide 2 no. holiday lets. Amendment to existing approved single holiday let as approved as per applications 22/0497/FH & 22/0498/FH.

**Applicant:** Mr & Mrs N Bacon

**Agent:** Jim Smith

**Officer Contact:** Danielle Wilkins

### SUMMARY

The report considers whether planning permission should be granted for proposed internal alterations to an approved scheme (reference 22/0497/FH) to increase the number of holiday lets from one to two. This would include the alteration to the approved fenestration and the installation of two no. windows, one no. roof light window and one no. entrance door.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### 1. INTRODUCTION

1.1. The application is reported to Committee because Hythe Town Council have objected to the scheme.

### 2. SITE AND SURROUNDINGS

2.1. The application site is within the defined settlement boundary of Hythe where the principle of development is considered to be acceptable. The site is also within the Hythe High Street and Conservation Area and an area of archaeological potential. The existing site plan is shown below in Figure 1:



Figure 1 – location plan

- 2.2. The application site comprises 120 High Street and associated outside space to the rear of the plot. The main building is a Grade II listed C18th timber framed building. 120 High Street was once a single large building which has since been subdivided into two properties. From the external appearance of the building including the steep pitched Kent peg tiled hipped roof and the large (but rebuilt) chimney, it is clear that while this is a significant medieval building, there has been significant rebuilding works and later extensions. The adjacent building, no. 122 (to the east), also has medieval origins, and it too has been extended to the rear with a large flat roofed single storey extension and beyond this to the south is a detached gabled two storey outbuilding.
- 2.3. An access path connects the rear yard of no. 120, to an access gate in Prospect Road.
- 2.4. The immediate site the subject of this application is the rear yard of no. 120 High Street.
- 2.5. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

- 3.1 Full planning permission is sought for the erection of a building containing two holiday lets, this is an amendment to 22/0497/FH, to increase the number of holiday lets within the approved building from one to two. This would include the addition of two no. windows within the east side elevation (one at ground floor and one at first floor), the installation of one additional roof light within the east side roof slope and one no. door also within the east side elevation. The block plan showing the relationship between the building and its neighbours is shown at figure 2.

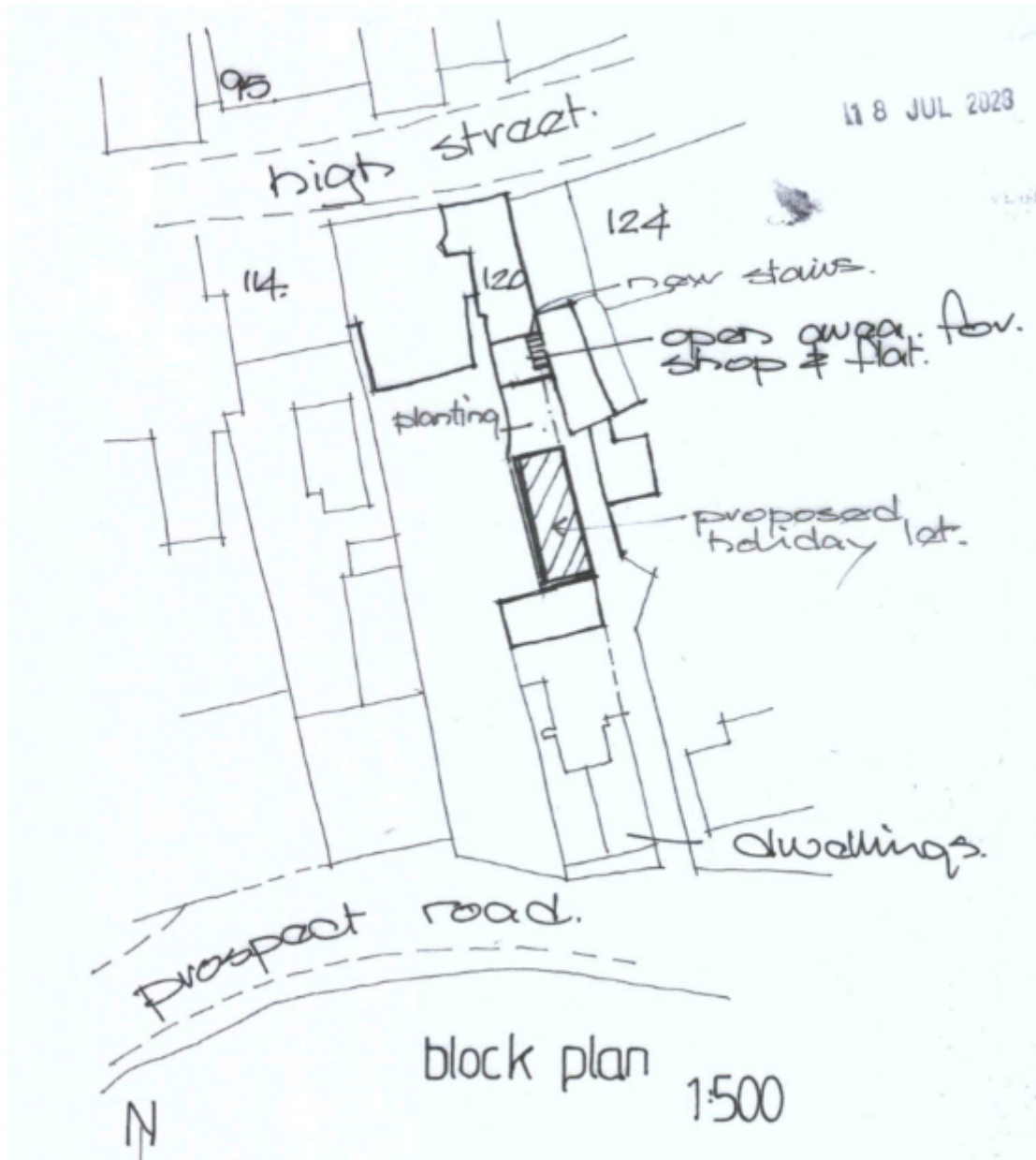


Figure 2 – proposed block plan

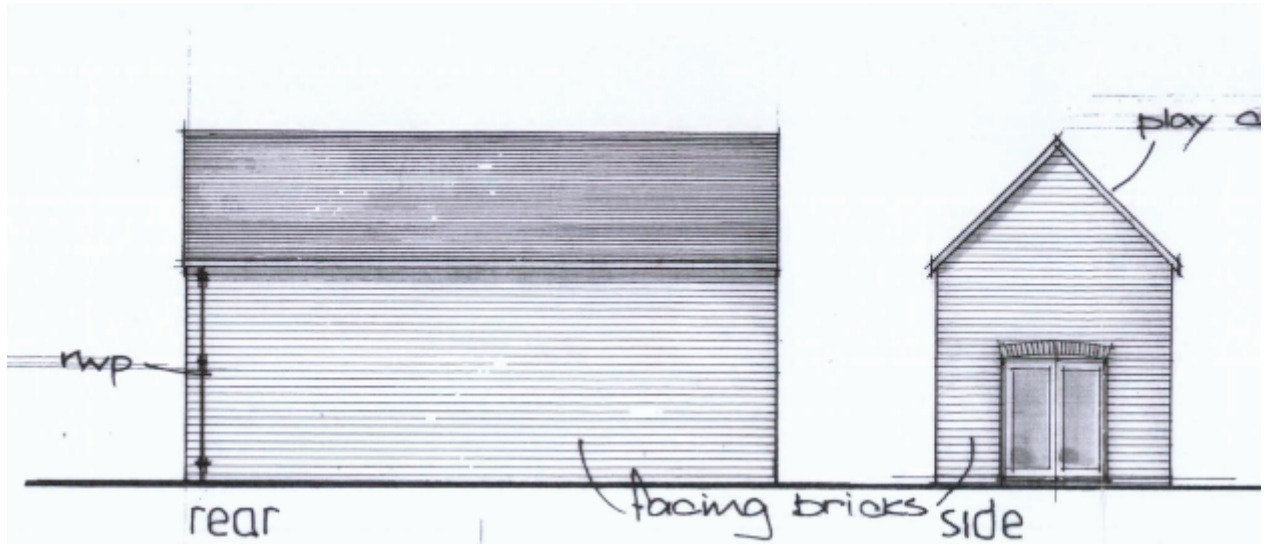


Figure 3 – proposed rear (west) and side (north) elevations

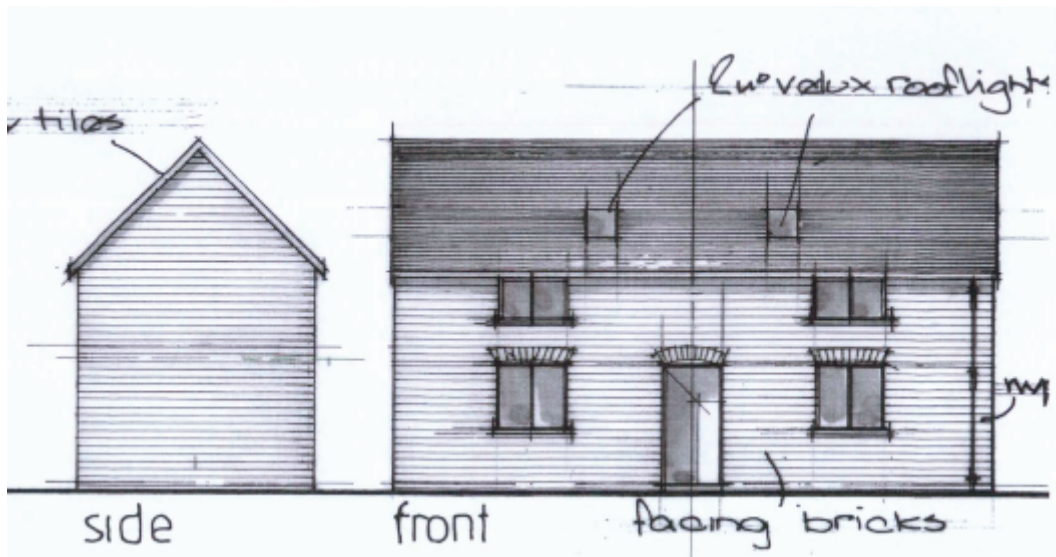


Figure 4 – proposed front (east) and side (south) elevations

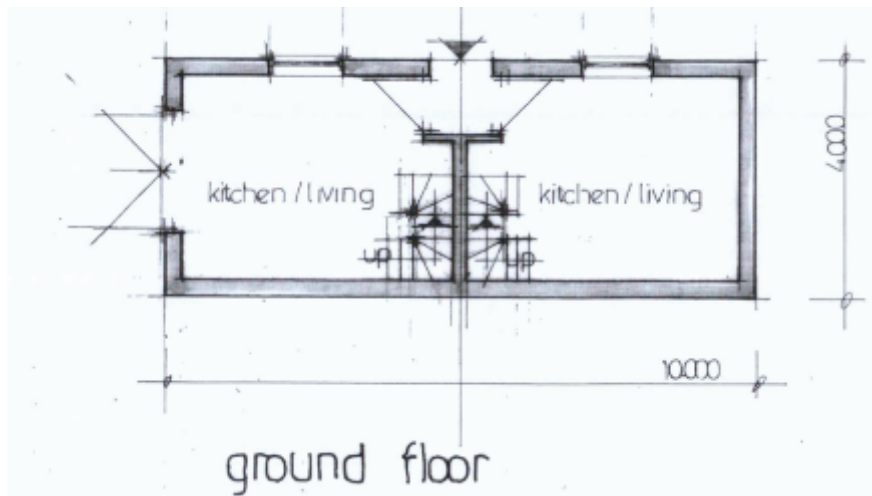


Figure 5 – proposed ground floor plan

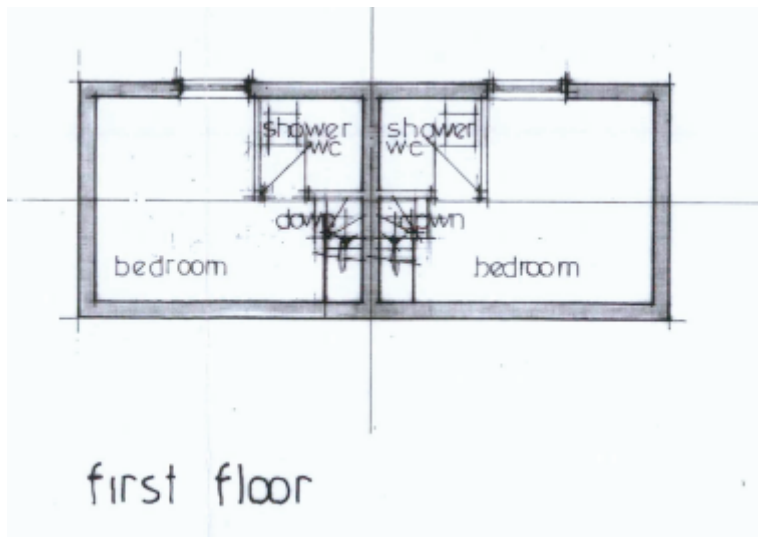


Figure 6 – proposed first floor plan

**4. RELEVANT PLANNING HISTORY**

4.1 The relevant planning history for the site is as follows:

23/0720/FH/NMA	Non-material amendment to planning permission 22/0497/FH to allow for small enlargement of holiday flat.	Approved
22/2114/FH/NMA	Non-material amendment to planning permission 22/0497/FH Demolition of single storey extension and installation of new external staircase including alterations to provide self-contained accommodation & erection of new detached holiday let at rear to allow for enlargement of holiday let and sub-division to create two units.	Refused
22/0498/FH	Listed Building Consent for demolition of single storey extension and installation of new external staircase including alterations to provide self-contained accommodation. Erection of new detached holiday let at rear.	Approved with condition
22/0497/FH	Demolition of single storey extension and installation of new external staircase including alterations to provide self contained accommodation. Erection of new detached holiday let at rear.	Approved with condition

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

#### **Hythe Town Council:**

Hythe Town Council have objected to the proposal on the grounds that there is inadequate information within the planning application, that the proposal is over intensive and gives rise to overlooking concerns. The proposed holiday let does not show any toilet facilities and there are access and egress issues due to the narrow road. Concerns have also been raised in regard to the demolition and damage to a historic building in Hythe.

#### **KCC Highways and Transportation:**

No comments to make on application.

### Local Residents Comments

5.2 19 neighbours directly consulted. 1 letters of objection, 0 letters of support received and 0 letters neither supporting nor objecting to the application.

5.3 I have read all of the letters received. The key issues are summarised below:

#### Objections

- Proposed building height significantly taller than adjoining building
- Overlooking concerns
- Application form missing details
- Waste facilities unknown
- Access to the lane would be prohibited during construction
- A large birch tree would require removal before construction begins

#### 5.4 Ward Member

No comments received.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## 6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review Local Plan 2022.

6.2 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

HB1 – Quality Places through Design

HB3 – Internal and External Space Standards

E3 – Tourism

E8 – Provision of Fibre to the Premises

RL1 – Retail Hierarchy

RL3 – Hythe Town Centre

T2 – Parking Standards

T5 - Cycle Parking

CC2 – Sustainable Design and Construction

HE1 – Heritage Assets

HE2 – Archaeology

### Core Strategy Local Plan (2022)

SS1 – District Spatial Strategy

SS3 – Place-Shaping and Sustainable Settlements Strategy

CSD7 – Hythe Strategy

6.3 The following are also material considerations to the determination of this application.

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2023

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 108 – Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or if residual cumulative impacts on the road networked would be severe.

Paragraph 119 – Making effective use of land

Paragraph 127 -130 – Achieving well designed places

Paragraphs 194 to 197 – Proposals affecting heritage assets.

- 6.4 The Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the Act requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses. Therefore, the main issue in the consideration of the proposals is the effect of the works on the architectural or historic interest of the Listed Building and any adjacent listed buildings. As the application site is within the Hythe Conservation Area, the requirements of section 72 (1) of the same legislation, namely the desirability of preserving or enhancing the character or appearance of that area, must also be observed.
- 6.5 The NPPF sets out that planning should be achieving sustainable development, defined as having economic, social and environmental dimensions (para 8), with the role of planning to include protecting and enhancing the historic environment. Paragraph 8 identifies that economic, social and environmental gains should be sought jointly and simultaneously, with heritage assets conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 6.6 Paragraph 202 sets out that where a development proposal will lead to less than substantial harm to the significance, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. As such, the NPPF acknowledges that harm to the listed building designated heritage assets may be acceptable if outweighed by public benefits. It is important to clarify that preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged, so some change may be accommodated.

## 7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Archaeology
- e) Heritage
- f) Highway safety

### **a) Principle of development and sustainability**



- 7.2 The principle of a holiday let in this location has already been established through the granting of 22/0497/FH which permitted the development of one holiday let to the rear of 120 High Street, Hythe.
- 7.3 In any case, the application site is within the defined settlement boundary of Hythe, a town centre location, where the principle of development is accepted providing that it delivers high-quality residential, business, service, retail and tourist centre for the district, in accordance with Core Strategy Policy CSD7.
- 7.4 Policy SS3 of the Core Strategy states that development within the district is directed towards existing sustainable settlements
- 7.5 As the site is located within Hythe Town Centre, the proposal must also be assessed against policy RL3, which states that planning permission will be granted for development that provides for a range of town centres uses that adds to the vitality and viability of the town centre.
- 7.6 NPPF Paragraph 86(f) considers that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.
- 7.7 In this respect 120 High Street would retain its ground floor retail frontage while also providing residential accommodation to the upper floors and a holiday let to the rear. Given its town centre, sustainable location; this is considered to be acceptable and as such there are no objections to the principle of the application.

## **b) Visual amenity**

- 7.7 The site is situated within the Hythe Conservation Area, as protected by policy HE1 which seeks to grant permission for proposals which promote an appropriate and viable use of heritage assets, consistent with their conservation and their significance.
- 7.8 Policy HB1 of the PPLP states that planning permission will be granted where the proposal makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density, materiality and mix of uses so as to ensure all proposals create places of character.
- 7.9 Policy HB8 of the PPLP adds that alterations and extensions should seek to reflect the scale, proportions, materials, roof line and detailing of the original building and not have a detrimental impact on the street scene, either by themselves or cumulatively.
- 7.10 The proposed detached outbuilding would be sited to the rear of the application building with limited views from the public realm via the narrow highway to the rear, Prospect Road. It would be similar in appearance to the existing building Rear 10, Prospect Road and would be finished in materials that match the host building and would be subservient to it in terms of scale. It is therefore considered that the proposal would accord with the character and appearance of the local area by virtue of its traditional vernacular form. Whilst the proposal would introduce new development into a part of the site that is not currently developed, it would have a negligible impact upon the visual character of the conservation area and would sit comfortably within the existing built form.

## c) Residential amenity

7.11 The proposed one and a half storey holiday let would not include any windows in the first floor of the north, west or south elevations that would introduce any overlooking to neighbouring residents. Two roof light windows and two first floor windows are proposed in the east elevation facing the rear of 122 High Street, 8A Prospect Road and building to the rear of 10 Prospect Road. The proposed windows would look onto the flank elevation of the building known as 10 Prospect Road and would introduce some overlooking of the space to the front of this building. However, it was evident from visiting the site and from aerial photographs that this area is used predominantly as car parking (as can be seen in figure 7 below).



*Figure 7 - aerial photograph*

7.12 The proposed holiday lets would create approximately 32sqm of residential floorspace, this falls short of the requirements for a two storey, two-person, one bedroom dwelling as set out in policy HB3 of the Place and Policies Local Plan. Whilst the application would result in a two-storey building providing accommodation, it is considered that in this instance the proposed floorspace would be acceptable as there are no standards for holiday lets, where slightly less space is usual compared to full time residence. The occupancy would also be restricted by planning condition to ensure they remain as tourist accommodation. A small, private garden is proposed to one of the holiday lets that would not meet the required 10m depth as stated in policy HB3 (for a permanent

residential unit) however, as stated in the policy, exceptions can be made for sites within Conservation Areas.

7.12 It is therefore considered that the proposal would not result in any adverse impact on the amenity enjoyed by neighbouring residents and would not negatively impact upon the amenity of future visitors to the application site.

d) Archaeology

7.13 The site lies within an area of archaeological potential, KCC archaeology were consulted and have confirmed that it is unlikely that the works would have a significant impact and confirmed they have no objections to the proposal. As such the application is considered to be acceptable in this respect.

e) Heritage

*Alterations to the fabric of a listed building*

7.14 No works are proposed within this application that would directly affect the fabric of the Listed Building, as these works have been approved under applications 22/0497/FH and 22/0498/FH.

*Alterations to the setting of listed building*

7.16 The proposed holiday lets would be located to the rear of the main building where there is sufficient space to suitably accommodate a proposed building of this size and scale without appearing cramped or dominating the listed building or affecting its setting in a detrimental manner, an aspect of this proposal that was previously approved at Planning and Licensing Committee. The proposed building is no larger than that previously approved and given that this is an area that contains a variety of outbuildings in similar locations, it is not considered that the proposal would harm the setting of the listed building. As such there are no objections to the application on these grounds.

*Conservation Area*

7.16 In respect of the Conservation Area, the views of the application site from the High Street will be unaffected by the proposals. From Prospect Road, views northward toward the rear of the main building, via the garden area, are obscured by the narrow passageway serving the application site, with views of the proposed holiday lets less visible. However, as set out in paragraph 7.10 above, the proposed design, scale, material and architectural detailing will mean the building would have no detrimental impact in terms of character. It is therefore considered that the proposal meets national and local policy, and as a result are deemed to be acceptable.

7.17 The siting, form, scale, design and materials of the proposed building remain the same as the previously approved building. The amendments proposed here are limited to the change in internal layout and to the number and positioning of window and door openings. Therefore the impact arising from the changes proposed here would not have any impact over and above the building already considered acceptable.

## f) Highways

7.18 There is no existing off-street parking available for the site and while the proposal would result in the creation of two no. one bedroom holiday lets, the site is within a town centre location, with excellent public transport links and public car parks located close by. It is therefore considered that in this instance, the lack of any off-street parking is not a sufficient reason to warrant a refusal on this basis alone. There are therefore no objections to the proposal on these grounds.

## Environmental Impact Assessment/

7.19 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## Local Finance Considerations

7.20 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.21 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £125.88 per square metre for new residential floor space.

## Human Rights

7.22 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## Public Sector Equality Duty

7.23 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

7.24 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner..

## **8. CONCLUSION**

8.1 The proposal is considered to be acceptable and would not cause harm to the special character and appearance of the conservation area. All other material considerations are considered to be acceptable in terms of residential amenity, visual amenity, highway safety and archaeology, subject to the conditions set out at the end of this report.

## **9. BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **10. RECOMMENDATIONS**

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### Conditions:

1. The development must be begun within three years of the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

DS/2310a  
DS/2310/50

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to

and approved in writing by the Local Planning Authority. Works shall be carried out in accordance with the approved details.

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

4. The holiday accommodation hereby permitted shall only be used for bona fida holiday purposes and shall not be used by any person or group of people for more than one month in any three consecutive months.

Reason: Permission has only been granted on the basis that the accommodation will be for short stay holiday visitors in accordance with policies SD1 and TM1 of the Shepway District Local Plan Review.

5. Details of the facilities for storage and collection of refuse shall be submitted to and approved in writing by the local planning authority before the first occupation of the development hereby permitted, and the approved scheme shall be implemented in full and shall be maintained as such thereafter.

Reason: To ensure adequate means of refuse collection in the interests of the amenities of residents

6. The holiday lets hereby approved shall not be occupied until details of covered bicycle parking spaces for each holiday let have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that facilities are available for the parking of bicycles so as to encourage access to the site by means other than private motor car.

## Appendix 1 – Site Location Plan

23/1172/FH - 120 High Street, Hythe, CT21 5LE



Planning Application:  
23/1172/FH

Drawn date:  
29 Nov 2023

Drawn by:  
Carrie Stacey

Drawing ref:  
1634/COM/LS

Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2023



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# Agenda Item 5

## DCL/23/29

**Application No:** 21/2035/FH

**Location of Site:** Fairfield Court Farm, Brack Lane, Brookland, TN29 9RX

**Development:** Demolition of existing buildings, removal of soil business and areas of hardstanding and construction of 3 dwellings, together with gardens, parking and use of existing accesses to Brack Lane., reconfigured larger garden area and associated strategic landscaping and biodiversity enhancements.

**Applicant:** Mr Scott Balcomb

**Agent:** Mr Ashley Wynn, Greenhayes Planning, Greenhayes Studio, 106 Hastings Road, Battle, TN33 0TW

**Officer Contact:** David Campbell

### SUMMARY

This application seeks planning permission for the demolition of the existing buildings, removal of the soil business and for the erection of three dwellings. The proposed dwellings are of an acceptable scale and design, well sited and would not cause any unacceptable harm to local residential or visual amenity, the public highway or ecology. It is also considered that the removal of the soil business would be a benefit to the area in terms of visual impact, highway safety, noise and dust. The permanent cessation of the existing bad neighbour use is a material consideration and one that outweighs the objection to residential development in this area as a matter of principle.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of this report and the applicant entering into a S106 legal agreement securing contributions towards education and a requirement to extinguish the current lawful use of the site and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.**

### 1. INTRODUCTION

1.1. The application is reported back to Committee after being deferred for submission of amended plans at the meeting on 11 July 2023. The printed minutes state that the items was to be deferred:

1. *For officers to discuss reducing the scale/ size and appearance of the proposed dwellings with the applicant.*
2. *To bring the report back to committee following those discussions.*

1.2. The application was originally presented to committee the application represents a departure from the development plan. The Parish Council have also requested the application be reported to committee given the comments from neighbouring residents.

## 2. BACKGROUND

- 2.1. Full planning permission is sought for the demolition of existing buildings which would remove the existing soil business, including the areas of hardstanding, and to construct 3 dwellings. The application also proposes residential gardens for the new properties, parking and the use of the existing accesses to Brack Lane. The existing property on site is to be retained with a larger garden area than existing as well as associated strategic landscaping and biodiversity enhancements for the wider site.
- 2.2. A detailed description of the proposed development (including drawing extracts) and the site and its surroundings (including photographs), the relevant planning history for the site, a list of consultation responses, and a list of the relevant planning policies are set out in full within the original report to committee, attached here as **Appendix 1**. However, this report sets out the situation since committee including additional comments received in consultation.
- 2.3. As set out above, Members voted to defer determination of the application from the July 2023 meeting to enable the officers and the applicant to have discussions on reducing the size of the buildings.

## 3. REVISED PROPOSALS

- 3.1 The drawings below are the revised plans submitted by the applicant after committee:

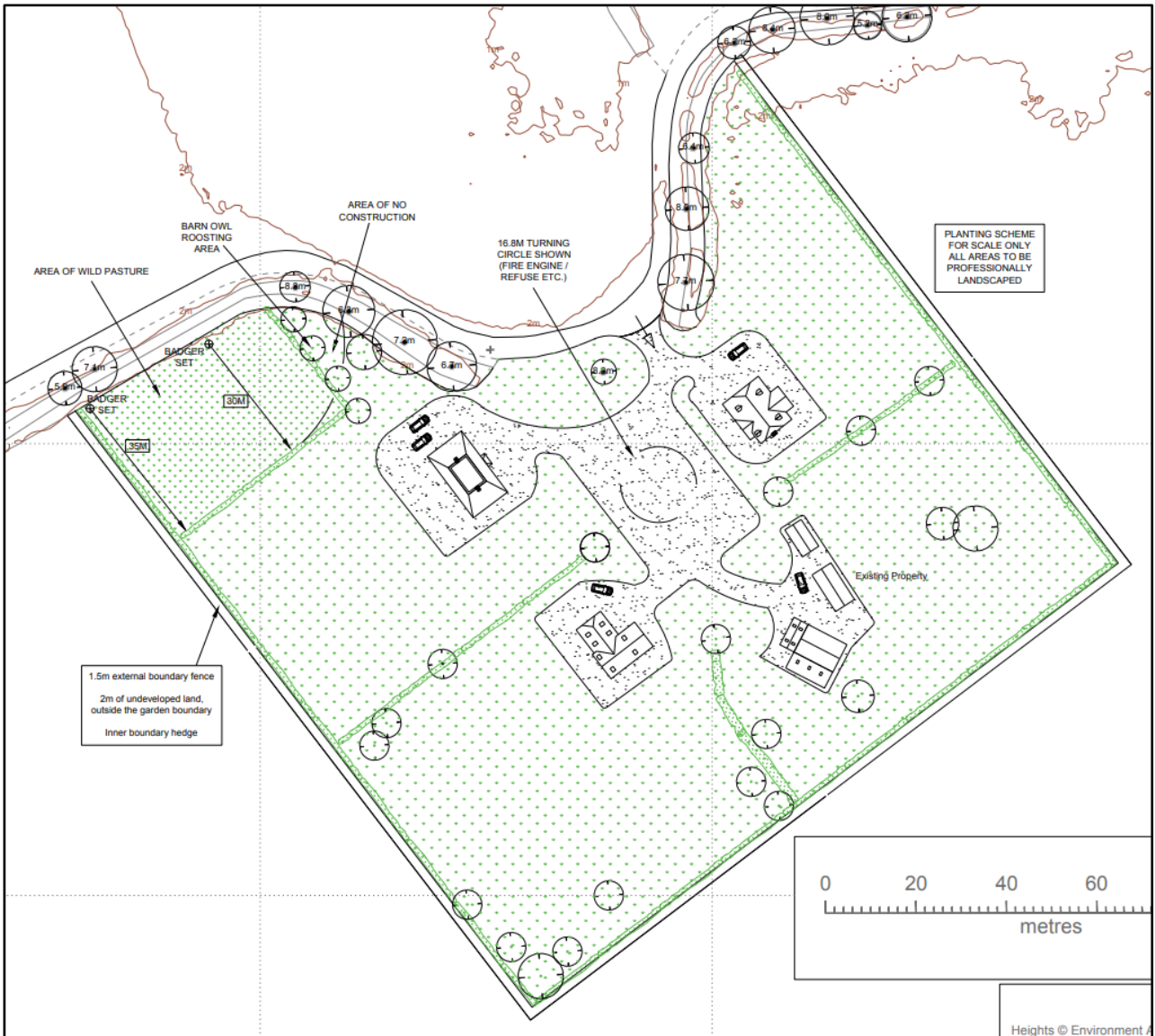


Figure 1: Revised Site Layout Plan

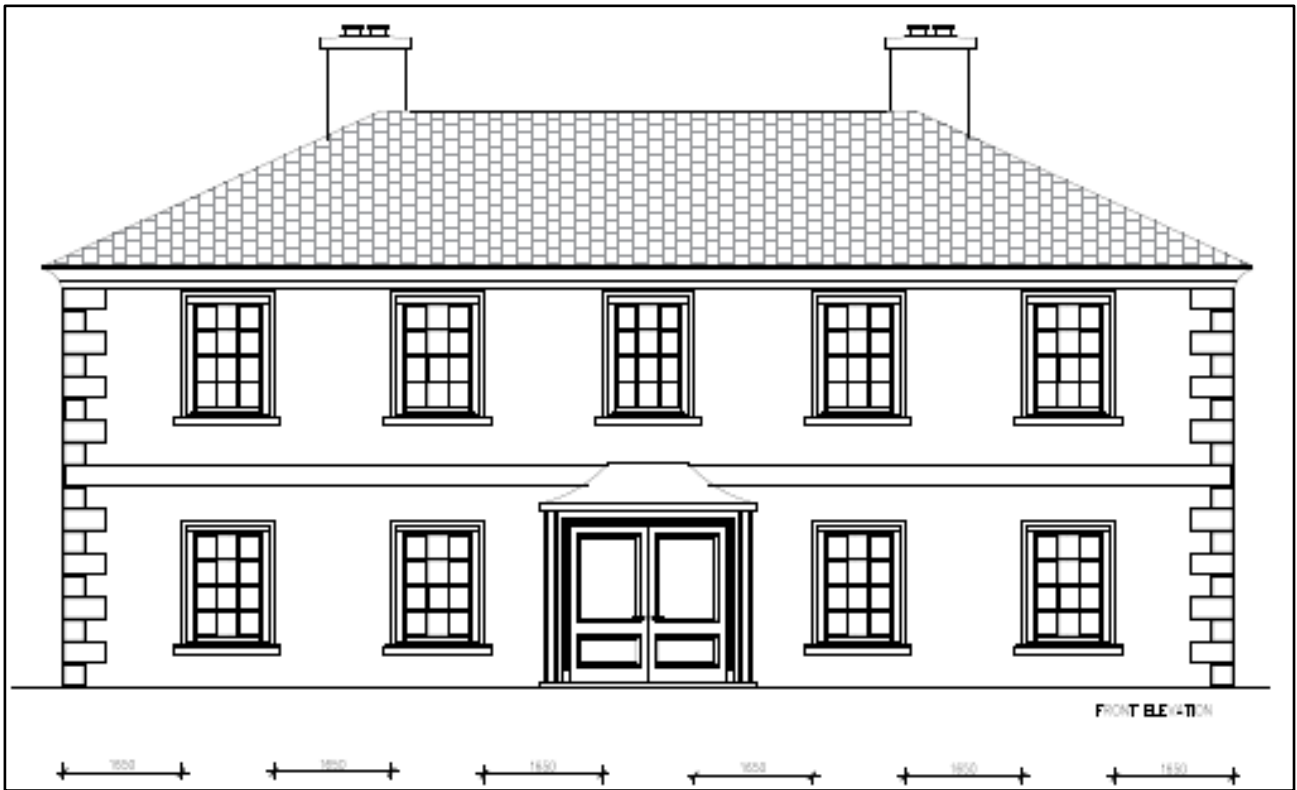


Figure 2: Fairfield Court Proposed Front Elevation



Figure 3: The Barn Front Elevation



Figure 4: The Cottage Front Elevation

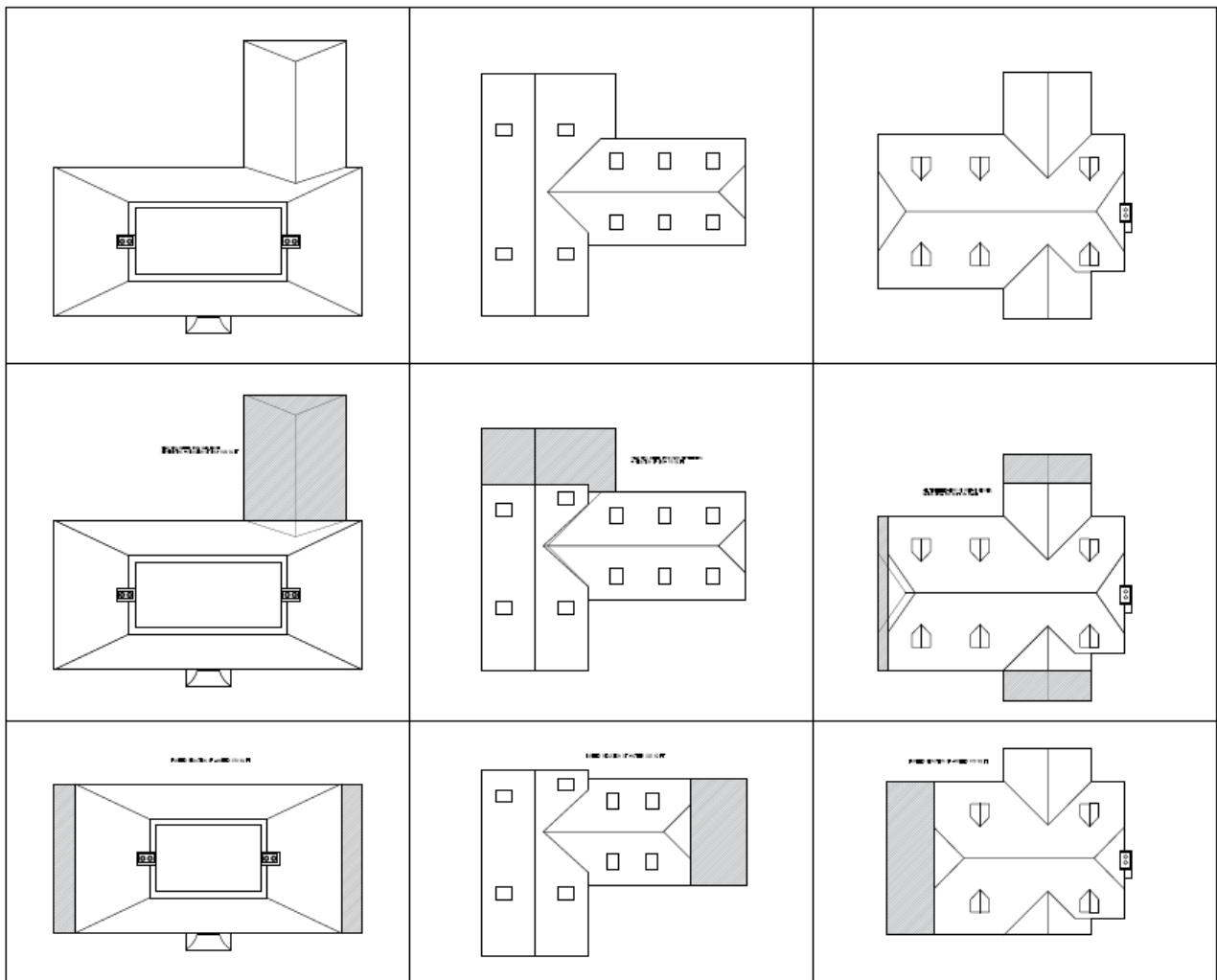


Figure 5: Design evolution since the previous committee. (Grey areas have been removed.)

- 3.2 The revised drawings show the two-storey rear projection has been removed from the scheme following the committee meeting and the width has been reduced in accordance with Figure 5 above. The measurements would now be as follows:

Measurement (m)	Previous Committee	Revised Scheme
Length	19	16.3
Width	17	8.9
Height	8.3	8.2

Figure 6: Fairfield Court Measurements

- 3.3 In terms of the Barn, this has been reduced in terms of the length and width of the projections (see figure 5 above) and would now be in accordance with the following measurements.

Measurement (m)	Previous Committee	Revised Scheme
Length	16.2	13
Width	14.8	11.4
Height	7.2 & 7.6	7.2 & 7.6

Figure 7: The Barn Measurements

- 3.4 The Cottage has been reduced in terms of the projecting gables and in length, (please refer to Figure 5 above). The measurements would now be as follows.

Measurement (m)	Previous Committee	Revised Scheme
Length	15	11.9
Width	15.1	9.5 & 11.6
Height	7.6	7.3

Figure 8: The Cottage Measurements

## 4. CONSULTATION RESPONSES

- 4.1 Four additional responses have been received, all by existing objectors. The consultation responses are summarised below.

### Local Residents Comments

- Minor changes only/ not following committee recommendations
- Previous comments still stand.
- Too large, visually harmful and out of keeping with landscape/ rural character
- The fallback/ bad neighbour argument is legally flawed
- Traffic and road safety
- Impact on SSSI, SPA, RAMSAR, wildlife, biodiversity and nature
- Light pollution
- Harm to heritage assets
- Other examples provided are different context and transport links
- The soil business/ bund have to be removed anyway

## 5. APPRAISAL

- 5.1 All the material planning considerations associated with this project are discussed within the original report attached at Appendix 1. Members voted that the item be deferred solely for the reason set out at 1.1 above, i.e. further information in regards the marketing exercise carried out. Therefore, in light of this, the issues for consideration under this report are limited to the amended drawings only.
- 5.2 The applicant has reduced the size of the dwellings following the previous scheme presented to committee. Officers remain of the view that given the size of the existing buildings on site, the proposed development remains acceptable in this respect. As stated in the previous report, the existing buildings are not of any architectural merit so there would be no objection to their replacement with a high-quality scheme.
- 5.3 It is considered that in visual terms the dwellings would be an improvement to the structures and soil heaps that are on site now. As such, on balance, are no objections to the application on these grounds on the basis that the proposal would be an improvement on the existing situation. Details such as materials, landscaping and lighting could all be secured by condition to ensure that the scheme is high quality.
- 5.4 Officers therefore maintain their recommendation that the application should be approved subject to the conditions set out below.

## **Environmental Impact Assessment**

- 5.5 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects. The scheme has been assessed under the Habitat Regulation Assessment, in consultation with Natural England, and has been found to have an acceptable impact on the designations in the area.

## **Local Finance Considerations**

- 5.6 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.
- 5.7 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area.

## **Human Rights**

- 5.8 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having

regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

5.9 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

5.10 It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

5.11 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **6. CONCLUSION**

6.1 The proposed dwellings are of an acceptable scale and design, well sited and would not cause any unacceptable harm to local residential or visual amenity, the public highway or ecology. It is also considered that the removal of the soil business would be a benefit to the area in terms of visual impact, highway safety, noise and dust. The permanent cessation of the existing bad neighbour use is a material consideration and one that outweighs the objection to residential development in this area as a matter of principle.

6.2 The application is therefore recommended for approval subject to the conditions set out below.

## **7. BACKGROUND DOCUMENTS**

7.1 The consultation responses set out at Section 5.0 of the original report (attached as Appendix 1) are background documents for the purposes of the Local Government Act 1972 (as amended).

## **8. RECOMMENDATIONS**

**That planning permission be granted subject to the conditions set out at the end of this report and the applicant entering into a S106 legal agreement securing contributions towards education and a requirement to extinguish the current lawful use of the site and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.**



## Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

2. No development shall take place other than in accordance with the following reports and drawings:

### Drawings:

FC-EX.SITE-PLAN-001 EXISTING SITE PLAN Rev: A

FC-SITE-PLAN-002 PROPOSED SITE PLAN Rev: A

FC-COT-003 COTTAGE 1ST & 2ND FLOOR PLANS Rev: A

FC-COT-004 COTTAGE FRONT AND REAR ELEVATION Rev: A

FC-COT-005 COTTAGE SIDE ELEVATIONS Rev: A

FC-BARN-006 BARN 1ST & 2ND FLOOR PLANS Rev: A

FC-BARN-007 BARN FRONT AND REAR ELEVATION Rev: A

FC-BARN-008 BARN SIDE ELEVATIONS Rev: A

FC-COURT-009 PRINCIPLE HOUSE 1ST & 2ND FLOOR PLANS Rev: A

FC-COURT-010 PRINCIPLE HOUSE FRONT & SIDE ELEVATIONS Rev: A

FC-COURT-011 PRINCIPLE HOUSE SIDE & REAR ELEVATIONS Rev: A

### Reports:

Planning and Design Statement by Greenhayes Planning

Traffic Generation Statement Rev: 02 dated January 2023 Ref: PCD-425-EN-RP-02

Letter from Fairfield Soils

Landscape and Visual Statement Rev: A dated 23 August 2021 by Furse Landscape Architects

Flood Risk Assessment from Herrington Consulting Ltd dated September 2022

Preliminary Ecological Appraisal from The Ecology Partnership dated September 2021

Reptile Survey from the ecology Partnership dated September 2021

Response to KCC Ecology Comments

Response to Natural England from Herrington Consulting Ltd

Reason: For the avoidance of doubt.

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. storage of plant and materials used in constructing the development.
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  - v. wheel washing facilities.
  - vi. measures to control the emission of dust and dirt during construction.

- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of the amenities of the area and highway safety and convenience.

- 4. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

Reason: In the interest of promoting energy efficiency and sustainable development.

- 5. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and the character and appearance of the adjacent conservation area.

- 6. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, an implementation programme, and a programme of long-term maintenance for the green roof.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

- 7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

- 8. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

9. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0800 – 1800 hours  
Saturdays 0800 – 1300 hours

unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

10. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning authority. The detailed drainage scheme shall demonstrate that due consideration has first been given to the possibility of utilising infiltration techniques and that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. Should the use of infiltration prove to be beyond being reasonable practical then any surface water leaving site shall be restricted to greenfield runoff levels where possible, unless agreed otherwise. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

11. No building on the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems.

12. Prior to the commencement of works above slab level on the construction of the houses hereby permitted, the existing soil heaps shall be removed from the site to the satisfaction of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

13. Prior to the commencement of works, including site clearance, all mitigation measures for reptiles shall be carried out in accordance with the details in sections

4.7 through to 4.15 of the Reptile Survey report by The Ecology Partnership dated September 2021.

Reason: To safeguard protected species.

14. Prior to the occupation of any of the dwellings hereby approved, a plan for the future management of the wildlife area shown on the approved plans shall be submitted to be approved in writing by the Local planning Authority. Development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To safeguard protected species.

15. Details of how the development will enhance biodiversity shall be submitted to, and approved in writing by, the Local Planning Authority. These measures shall include a native species-only planting. The approved details will be implemented and thereafter retained.

Reason: To improve and enhance biodiversity on site.

16. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- i. archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and

- ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

17. (A) No development shall take place until a desk top study has been undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

- (B) If the desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

- (i) A survey of the extent, scale and nature of contamination;

- (ii) An assessment of the potential risks to:

- Human health;
  - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - Adjoining land,
  - Ground waters and surface waters,
  - Ecological systems,
  - Archaeological sites and ancient monuments; and
- (iii) An appraisal of remedial options and identification of the preferred option(s).

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

(C) If investigation and risk assessment shows that remediation is necessary, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

(D) No development shall take place until a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

(E) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other off-site receptors.

18. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

19. Prior to the first occupation of any dwelling hereby permitted, an FTTP Statement for the development shall have been submitted to and approved by the local planning authority in writing for the installation of a high speed wholly FTTP connection to each dwelling within the development, unless otherwise agreed in writing by the local planning authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and where relevant, details of alternative provision for superfast broadband in the absence of FTTP).

The FTTP infrastructure or alternative provision for superfast broadband in the absence of FTTP shall be laid out in accordance with the approved FTTP Statement or approved details at the same time as other services during the construction process and be available for use on the first occupation of each dwelling hereby approved.

Reason: To ensure that the new development is provided with high quality broadband services.

20. No development shall take place until details on levels in the form of proposed and existing cross-sectional drawings through the site have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: In order to secure a record of existing site levels in order to ensure a satisfactory form of development having regard to the sloping nature of the site.

21. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Reason: In the interests of biodiversity, residential and visual amenity.

Informative(s)

1. The applicant and agent are reminded that as per the countersigned District Level Licence enquiry form, prior to the commencement of works (including site clearance), full conservation payment needs to be made to Natural England with regards to Great Crested Newts.

**Appendix 1 – Report presented to committee on 11 July 2023.**

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**Application No:** 21/2035/FH

**Location of Site:** Fairfield Court Farm, Brack Lane, Brookland, TN29 9RX

**Development:** Demolition of existing buildings, removal of soil business and areas of hardstanding and construction of 3 dwellings, together with gardens, parking and use of existing accesses to Brack Lane., reconfigured larger garden area and associated strategic landscaping and biodiversity enhancements.

**Applicant:** Mr Scott Balcomb

**Agent:** Mr Ashley Wynn, Greenhayes Planning, Greenhayes Studio, 106 Hastings Road, Battle, TN33 0TW

**Officer Contact:** David Campbell

## **SUMMARY**

This application seeks planning permission for the demolition of the existing buildings, removal of the soil business and for the erection of three dwellings. The proposed dwellings are of an acceptable scale and design, well sited and would not cause any unacceptable harm to local residential or visual amenity, the public highway or ecology. It is also considered that the removal of the soil business would be a benefit to the area in terms of visual impact, highway safety, noise and dust. The permanent cessation of the existing bad neighbour use is a material consideration and one that outweighs the objection to residential development in this area as a matter of principle.

## **RECOMMENDATION:**

**That planning permission be granted subject to the conditions set out at the end of this report and the applicant entering into a S106 legal agreement securing contributions towards education and a requirement to extinguish the current lawful use of the site and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.**

## **1. INTRODUCTION**

1.1. The application is reported to Committee because the application represents a departure from the development plan. The Parish Council have also requested the application be reported to committee given the comments from neighbouring residents.

## **2. SITE AND SURROUNDINGS**

2.1. The application site is located within the rural parish of Snargate within the Romney Marsh countryside. The site is located on Brack Lane, a narrow rural land surrounded by agricultural fields and farmland outside of any settlement boundary and in an isolated location. The site's wider location and its proximity to Brookland is shown below in Figure 1.



Figure 1: Site Location Plan

- 2.2. The site is a former farmyard consisting of several old farm storage buildings, a large area of hardstanding and a two-storey farmhouse with associated outbuildings. The site is referred to as Fairfield Court Farm but is no longer in agricultural use. In 1995 planning permission was granted for use of the site and adjacent land to the west for the grading and distribution of topsoil and sand. In terms of size, the largest building on site 47 long, 11m wide and 11m high, the building in the south-west part of the site is 11.5m long, 9.6m wide and 7.6m high and the final building is 18.5m long, 12m wide and 9.6m wide. The buildings have a combined footprint of 953m<sup>2</sup>.
- 2.3. The site itself is not located within any ecological designation, however the Dungeness, Romney Marsh and Rye Bay SPA, Ramsar and SSSI is located 130m west of the site and the Dungeness SAC is located approximately 8.6km to the southeast.
- 2.4. The site has a total area of 2.4 hectares which is shown below in Figure 2.

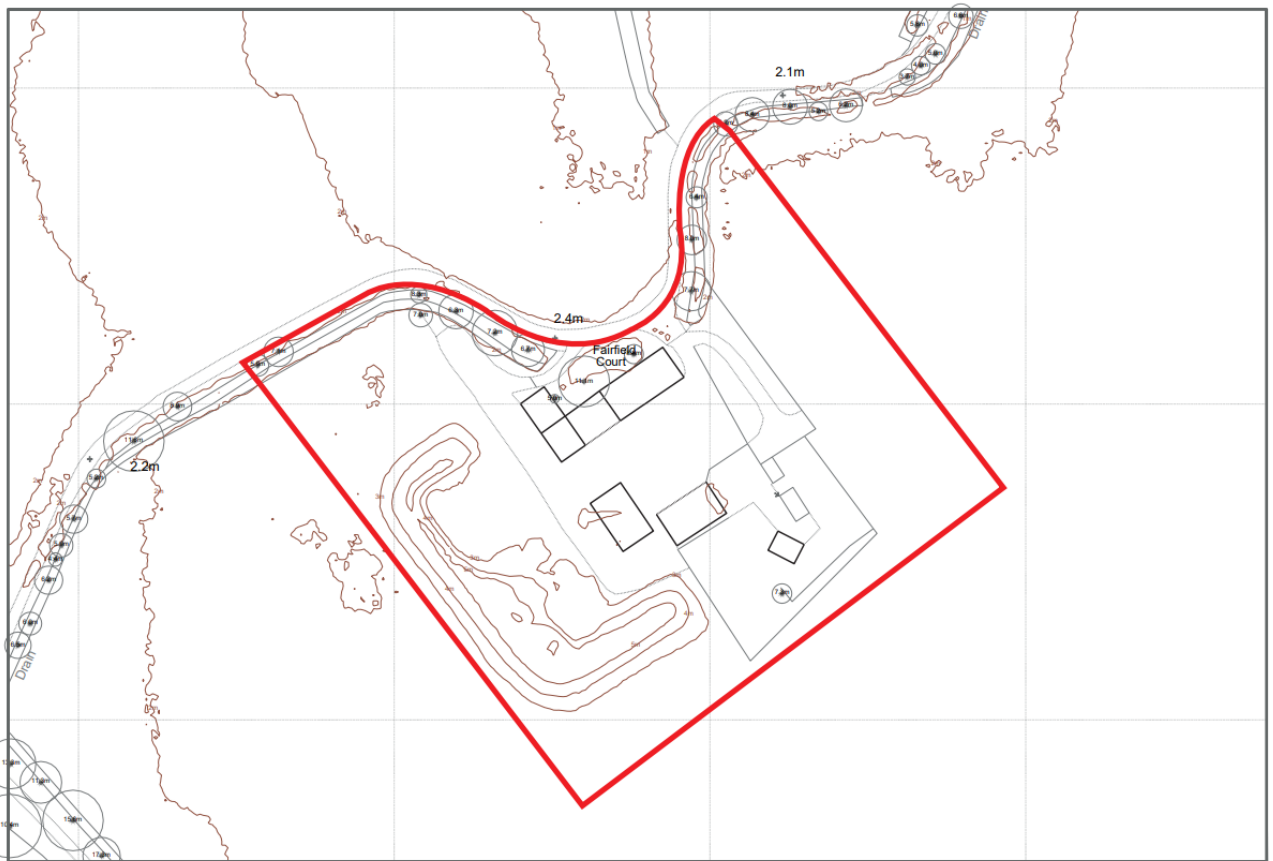


Figure 2: Current Site Layout Plan

2.5. An aerial photograph is provided in Figure 3. This shows the existing buildings, the farmhouse and the soil piles as well as the access from Brack Lane.



Figure 3: Aerial Photograph

2.6. The site is visible from a number of locations in the surrounding area. Figure 4 below shows the site from Brack Lane where the roof of the existing barn can be seen.



Figure 4: View from Brack Lane

2.7. Below are a series of photographs taken within the site. It should be noted that works have been taking place on the soil heaps and so the appearance and form of the mounds, including their height change over time.



Figure 5: The soil heap close to the site boundary  
2.8. The photographs below show the existing courtyard of the site.



Figure 6: View of the existing courtyard.



Figure 7: View of the existing courtyard.



Figure 8: View of the existing courtyard towards the site entrance.

2.9. As can be seen from the photographs, the site currently has three large modern agricultural buildings, which amount to over 1500sqm in footprint and measure over 7.2m in height, the largest of which (seen in Figure 7) backs onto Brack Lane. These buildings surround a large central yard and flank Brack Lane which runs to the east of the site. The large spoil heap which has varied in height over the last few years is located to the north and occupies almost a third of the site. The residential property within the wider site and its garden are located to the east and a small, grassed paddock is located to the south. The land, which does have vegetation providing screening along the boundaries, can still be seen from glimpsed views. The land is largely surrounded by arable farmland.

2.10. A site location plan is attached to this report as Appendix 1.

### 3. PROPOSAL

- 3.1 Full planning permission is sought for the demolition of existing buildings which would remove the existing soil business, including the areas of hardstanding, and to construct 3 dwellings. The application also proposes residential gardens for the new properties, parking and the use of the existing accesses to Brack Lane. The existing property on site is to be retained with a larger garden area than existing as well as associated strategic landscaping and biodiversity enhancements for the wider site.
- 3.2 The existing site contains the house, the existing outbuildings and the mound of soil as shown in the Figure 9 below. These would all be removed as part of the application as well as the soil heaps.

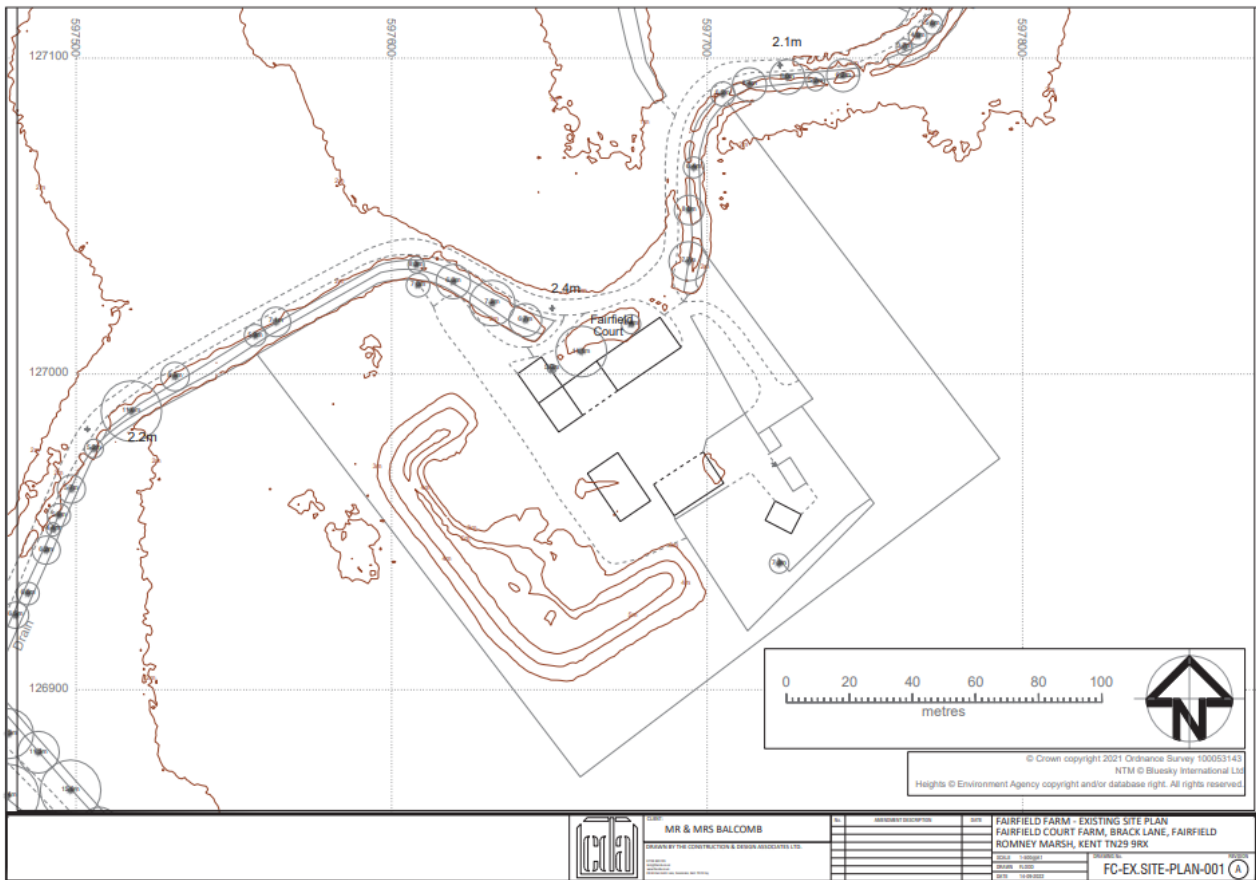


Fig.9: Existing Site Layout Plan

- 3.3 The proposed site plan shows the properties arranged around a central courtyard, with the design approach following a farmstead style development, with the three new properties designed to appear as part of a farmstead consisting of a main house, a cottage and a barn. The scheme has been significantly amended since it was first submitted, which has seen changes to the design of the houses, but also to the layout on site. The properties have been brought closer together to minimise their impact on the landscape. There is also an area to the north of the site which has been removed from the proposed residential curtilage to ensure that it remain suitable for wildlife. The boundaries would be a mixture of fences and hedges. This is shown in Figure 10.

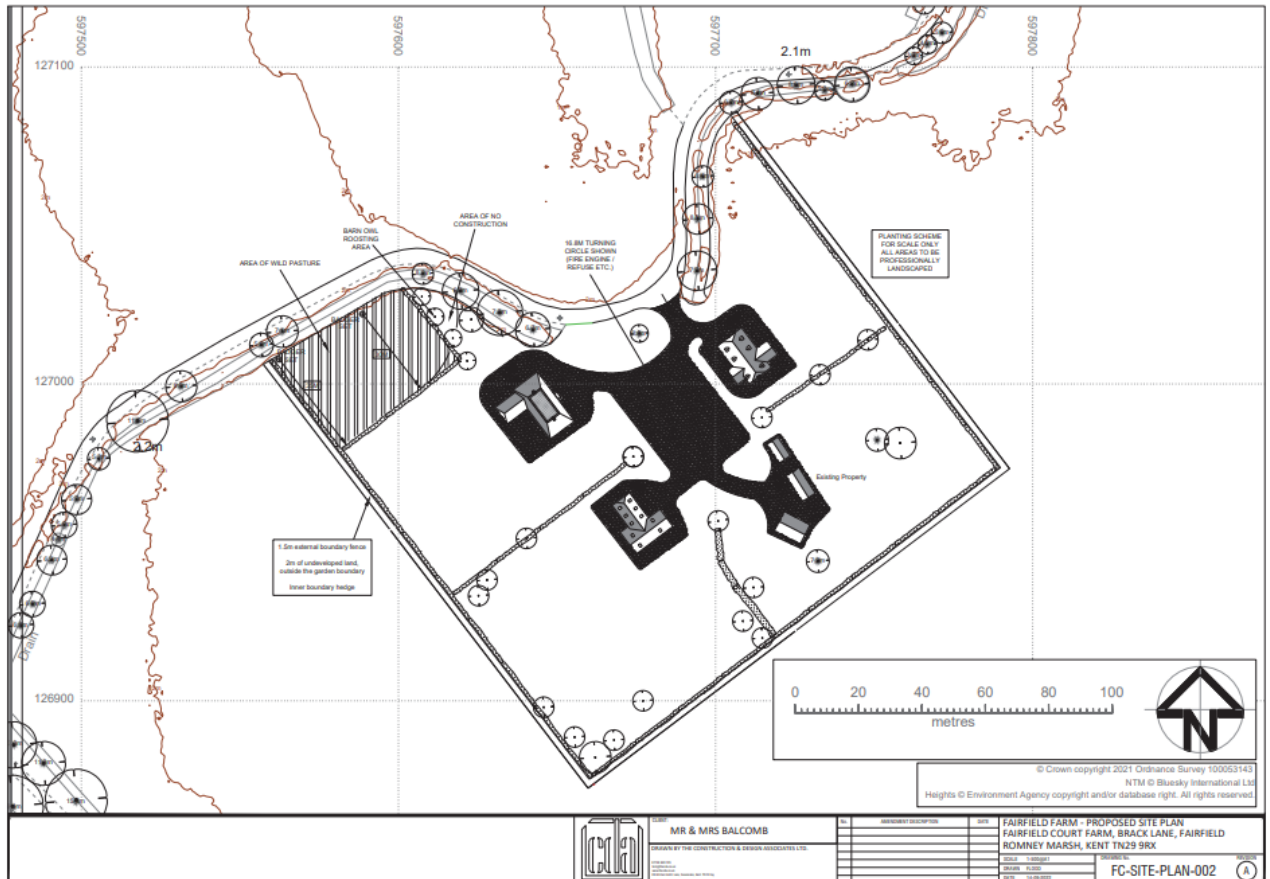


Fig.10: Proposed site plan

- 3.4 The largest property on the site would be the main house which is referred to as Fairfield Court in the submission drawings. The elevations for this are at figure 11 below. The accommodation would include family room, sitting room, dining room, kitchen, study, family bathroom and five bedrooms and ensuites.
- 3.5 It would have painted rendered walls, slate (or slate effect) roof, a metal canopy over the front door and quoins on the corners of the building. There would also be a two-storey rear projection in the same materials. The building would be approximately 19m long 12m wide x 7.6m high.





Figure 11: Proposed Elevations and Floor Plans for 'Fairfield Court'

- 3.6 The second property on site has been designed in the form of an 'L' shaped barn. This would have a lounge, playroom, dining area, kitchen, family bathroom and five bedrooms, two with ensuites.
- 3.7 The property would feature natural stained timber weatherboarding, a flint façade, inset in brickwork, Kent peg tiles and a brick base. There would also be a series of rooflights, a glazed entrance door and a two-storey front projection. The dwelling would be approximately 16m long 14m wide (at the furthest points) and 7.16m high.

3.8 The elevations and floor plans are shown in Figure 12 below.



Figure 12: Proposed Elevations and Floor Plans for 'The Barn'

3.9 The third house is referred to as The Cottage on the submitted plans. This would have front and rear gabled projections, three dormer windows to both the front and rear elevations, a chimney stack and a barn hipped roof. The walls are to natural stained weatherboarding with a brick base and Kent peg tiles on the roof.

3.10 The house would contain a lounge, playroom, dining area, kitchen, utility room, family bathroom and five bedrooms, two with ensuites. The building would be approximately 16m long, 10m wide and 7.6m high at the furthest points.

3.11 The elevations and floorplans are shown in Figure 13 below.



Figure 13: Proposed Elevations and Floor Plans for 'The Cottage'

3.12 All properties would have space for car parking and large gardens. The existing property would also have an extended garden area, which would incorporate the existing paddock. The cottage would also include part of the paddock in its garden as well. The properties would be set around a central courtyard which would provide a 16.8m turning circle for refuse vehicles and fire trucks.

3.13 There would also be a 1.5m external boundary fence and a 2m buffer of undeveloped land directly beyond that, along with an inner boundary hedge, which would also be used to separate the properties from each other. The north-western part of the site would be kept as an area of wild pasture, a barn owl roosting area and an area of no construction.

3.14 The following documents and reports were submitted in support of the application:

Planning and Design and Statement

3.15 This document assesses the planning context of the proposed development and the removal of the soil business. The report highlights the benefits of the three houses as opposed to the existing situation and highlights a reduction in the footprint on site compared to the existing situation. The design elements are also explained with the concept of the proposals being developed around a farmstead with a main house, cottage and barn fronting onto an inner courtyard.

Traffic Generation Statement

3.16 This document explains that there would be a reduction in vehicle movements as a result of the development, with the three proposed houses generating less trips than the soil business. It is also highlighted that the type of vehicle, currently HGV's that are unsuited to the narrow country roads, would no longer be needed if the business is removed so it would be more likely be normal family cars.

Letter from Fairfield Soils

3.17 This letter acknowledged that the EA Waste Permit at the site has been revoked but explains that the business does not need a permit in order to operate. The letter explains that there are sources of soil and sand that could be purchased which would be graded and mixed in accordance with the existing permission on site. The letter concludes that the EA Waste Permit is not required to run the business.

Landscape and Visual Statement (LVS)

3.18 This document assesses the impact on the landscape of the proposed development and compares it to the existing situation. The report considered that the current soil heaps are alien features in the landscape however the agricultural barns that house the development are in keeping with the style of buildings found on Romney Marsh. The report states that it is important that the scale of the development should avoid over urbanising and respect the historic pattern of farmstead within the marshland setting.

Flood Risk Assessment

3.19 This document sets out that the site is in Flood Zone 1 so a sequential test and exceptions test are not required by the NPPF. The report also concludes that the site will not give greater rise to flooding elsewhere and that a surface water drainage system will manage runoff from the proposed development.

Preliminary Ecological Appraisal

3.20 This report explains that the site does not lie in any designated site but near the Dungeness, Romney Marsh and Rye Bay SPA, Ramsar and SSSI is located 130m west of the site and the Dungeness SAC is located approximately 8.6km southeast. Evidence of barn owl activity was identified in building B1 but there is no evidence of roosting bats although sensitive lighting is recommended. Areas of grass could provide habitat for reptiles with low populations of common lizard and slow worms being reported. The site is also considered suitable for Great Crested Newts (GCN). The trees, hedgerows and shrubs could have the potential for nesting birds and therefore

any works that may affect these should take place outside the breeding season. The invasive non-native plant New Zealand pygmyweed was identified and should be eradicated from the site. Due to the lack of connectivity, the site is not considered suitable for dormice, otters and water voles. Recommended enhancements have also been identified in the report.

#### Reptile Survey

- 3.21 This report found low populations of slow worms and common lizard were found on site and that habitat for reptiles would be lost and may require translocation to a receptor site. The report also recommend that greenspaces should incorporate habitat features.

#### Response to KCC Ecology Comments

- 3.22 This document provides a response to initial queries from KCC Ecology and confirms that an Owl box will be provided, that a reptile area will be retained and explains that the applicant has entered into an agreement with Natural England and has supplied a District Level Licensing form concerning Great Crested Newts.

#### Response to Natural England

- 3.23 This document provides a response to Natural England on surface water discharge and explains how it would be dealt with if infiltration is not feasible and confirms that sufficient pollution controls would be provided to support the development.

## **4. RELEVANT PLANNING HISTORY**

- 4.1 The relevant planning history for the site is as follows:

SH/91/0933	Continued use of land for the grading and distribution of top soil and sand	Approved with conditions
93/0813/SH	Non-compliance with condition 1 of 91/0933/SH to allow permanent use of land for the grading and distribution of top soil and sand	Approved with conditions
95/0046/SH	Non-compliance with condition 1 of 93/0813 to allow permanent use of land for the grading and distribution of top soil and sand	Approved with conditions
99/0141/SH	Conversion of part of existing barn into office	Approved with conditions
Y01/0916/SH	Change of use of redundant agricultural buildings to light industrial/office use (class B8)	Refused Appeal Dismissed
Y07/0612/SH	LDC Existing use of areas of site for storage of loose graded soil	Non-Determination
Y10/0184/SH	Retrospective application for change of use of agricultural land	Approved with conditions

	to residential curtilage and retention of hard surfacing for use as a roadway	
Y13/0008/SH	Certificate of Lawfulness for proposed use of land and building edged in red but unhatched for use within Use Class B2, without traffic movement restrictions and use of land edged red and cross-hatched, for any use within Use Class B8 without highway movement restrictions	Refused
Y14/1030/SH	Certificate of lawfulness for proposed use of land and buildings within the area edged in red and both hatched and unhatched on the attached plan for any use coming within Class B2 of the Town and Country Planning (use classes) Order 1987, without restriction as to highway movement	Refused
Y19/0592/FH	Certificate of lawful development for the construction of earth screening and containment bund around raw material stockpile as shown edged red and coloured green on Drawing No. FC1 (Appendix 1)	Deemed invalid, appeal dismissed
Y19/1339/FH	Certificate of lawful development for the construction of an earth screening and containment bund around a raw materials stockpile within the area shown edged red and coloured green on drawing No. FC1	Deemed invalid, appeal dismissed

4.2 The most important planning history in respect of the current submission is application 95/0046/SH which amended condition 1 attached to planning permission 93/0813/SH to allow permanent use of the site for grading and distribution of topsoil and sand. This in turn was submitted after SH/91/0933 granted planning permission for the continued use of land for the grading and distribution of topsoil and sand.

4.3 Condition 3 of 95/0046/SH stated that 'soil distribution shall be limited to 8000 tonnes per annum', with the reason being sited that the 'approach roads to the site are unsuitable to serve any additional vehicle movements'. It is important to note that the condition does not specify how much material can be brought on so the site or control how much sand can be distributed from the site at all.

- 4.4 Another key consideration in understanding the background for the application site is to ascertain whether the above operation constitutes a waste use and whether the District Council should have granted permission at all, given that Kent County Council is the Local waste Authority for the area.
- 4.5 Article 3(1) of Directive 2008/98 defines waste as “any substance or object which the holder discards or intends or is required to discard”. As waste from construction sites is brought onto the site, processed, graded, and re-distributed, it is Officer’s opinion that the operation meets this definition particularly as the EA have granted a waste permit for the activities on site in the past.
- 4.6 The Council in the 1990s granted a series of applications for planning permission that constituted a waste operation, upon reflection, Officers are now of the view that it was incorrect for Shepway District Council (as it was then) to grant permission and believes that the applications should have been directed to KCC to determine. However, as permission was granted and the use has been ongoing since the 1990’s, the decision to grant permission cannot now be challenged as it has passed any time period for legal challenge.

## 5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

### Consultees

**Brookland Parish Council:** Supportive of the application as long as it is visually appealing, sits well in the landscape and is environmentally friendly.

**Southern Water:** No objections to the application. Further details on SUDs should be sent to the LPA.

**Affinity Water:** No comments to make.

**Contamination Consultant:** No objection subject to the standard contamination condition.

**Environment Agency:** No objection subject to a condition on the foul drainage treatment plant.

**KCC Flood and Water Management:** No objection. Infiltration testing and groundwater monitoring has yet to have been undertaken to confirm that infiltration is feasible on site. It is accepted that an alternative option for managing surface water is possible, through the presence of existing watercourses at the site entrance. Conditions are requested regarding SUDs and a verification report.

**KCC Highways and Transportation:** The proposal would normally fall below the criteria for commenting, however KCC has reviewed the documents and has not raised any objection.

**KCC Heritage:** The site lies in an area of multi-period archaeological potential but more specifically is within the area of a historic farmstead which according to the early 19th century The map comprised a farmhouse with associated farm building and yards.

The historic farmstead appears to have been much altered and as such there is no archaeological objection subject to a condition on archaeological field evaluation work.

**KCC Ecology:** No objections. KCC are now satisfied that the Great Crested Newt considerations have been addressed via the countersigned District Level Licence enquiry form. They have asked for a condition that show evidence of payment to Natural England. Future management of the 'wildlife area' needs to be resolved with the LPA. The reptile mitigation strategy should be conditioned as part of any granted planning commission. Biodiversity must be maintained and enhanced through the planning system, to achieve this all of the site's landscaping should consist of native species-only and that integrated bird nest bricks are incorporated. This should be conditioned.

**Natural England:** No objections subject to the agreed mitigation on site being secured by condition.

**KCC (Contributions):** As the site is more than 5 hectares, KCC have requested a secondary education contribution of £13,620. They have also asked for CIL contributions towards community learning, Youth Service, Library Bookstock, Social Care and waste as well as a condition on broadband.

### **Local Residents Comments**

5.2 Five neighbours directly consulted, a site notice posted and a press advert were displayed. Eight letters of objection and two letters of support have been received in response to the application.

5.3 I have read all the letters received. The key objection issues are summarised below:

- The EA has revoked the waste permit, ordered closure of the site and the removal of the waste. The proposal would not therefore be an improvement.
- Sand is caught in the definition of soil and should be considered within the context of condition 2 of the 1995 permission.
- Arguments for a new business use are hypothetical and should be disregarded.
- New houses are against policies for the area.
- Highway safety issues due to narrow, poorly maintained muddy roads with agricultural traffic.
- Increase in traffic movements.
- The calculations in the Traffic Statement/ vehicle trip movements are understated.
- Not in keeping with the Romney Marsh Landscape Character Assessment.
- The certificate applications were refused therefore the earth bunds can be removed anyway by the Council.
- The houses are too large/ high, not in keeping and would be visually dominant against a flat landscape.
- The houses are not on the footprint of the barns/ curtilage of the business use.
- An alternative location for the existing business has not been explored.
- Harm to biodiversity and ecology, contrary to NE1 and requires an HRA.
- Impact on the SSSI, RAMSAR and SPA.
- Noise and disturbance that is worse than the current situation would be caused.
- No public transport, amenities or shops mean residents would be reliant on cars.
- Surface water/ foul drainage issues and poor street lighting.
- Light pollution would harm the intrinsically dark nature of the area.
- As the LPA has a five-year housing land supply, the houses are not required.



- No affordable housing is proposed.
- No consultation with neighbours.
- The proposal could affect a historic monument/ heritage assets.
- Internet access is poor and there is a lack of infrastructure in the area.
- There is a need for new housing. Would support the application if the homes were reduced in scale and character and didn't include holiday occupancy.

5.4 The two letters of support can be summarised as follows:

- Three dwellings in place of the business would be welcome.
- A business running at full capacity could create disturbance to the environment.
- A waste permit seems completely irrelevant as a business that doesn't involve waste could be started.
- While the distribution of topsoil is limited by condition, there are no limits on sand.
- 20T lorries travelling all day along narrow lanes creates problems.
- Comments appear to be from people who all have large properties already.
- The Becketts Barn area and Poplar Hall have more buildings at present than this development. This would therefore not represent a housing estate.
- Residents have light pollution from security lights/ infra-red cameras that are on at night causing light pollution to wildlife.
- Progress on this part of the Marsh seems to suit some people when it affects them and not so for anyone else.

5.5 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## **6. RELEVANT PLANNING POLICY**

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2022.

6.2 The relevant development plan policies are as follows:

### Core Strategy Local Plan (2022)

SS1 - District Spatial Strategy  
 SS2 - Housing and Economy  
 SS3 - Place-Shaping and Sustainable Settlements Strategy  
 SS4 - Priority Centres of Activity Strategy  
 SS5 - District Infrastructure Planning  
 CSD1 - Balanced Neighbourhoods  
 CSD2 - District Residential Needs  
 CSD3 - Rural and Tourism Development  
 CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation  
 CSD5 - Water and Coastal Environmental Management

### Places and Policies Local Plan 2020

HB1 - Quality Places through Design  
 HB2 - Cohesive Design  
 HB3 - Internal and External Space Standards  
 HB6 - Local Housing Needs in Rural Areas

HB10 - Development of Residential Gardens  
E2 - Existing Employment Sites  
E8 - Provision of fibre to the premises  
C1 - Creating a Sense of Place  
C3 - Open Space Provision  
C4 - Children's Play Space  
T2 - Parking Standards  
T5 - Cycle Parking  
NE2 - Biodiversity  
NE3 - Protecting the District's Landscapes and Countryside  
NE5 - Light Pollution  
NE7 - Contaminated Land  
CC2 - Sustainable Design and Construction  
CC3 - Sustainable Drainage Systems (SuDS)  
HE2 - Archaeology

6.3 The following are also material considerations to the determination of this application.

### **Government Advice**

#### **National Planning Policy Framework (NPPF) 2021**

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

## **7. APPRAISAL**

7.1 In light of the above the main issues for consideration are:

- a) Principle of development
- b) Whether the existing use of the site can continue and the weight to be afforded to this in the decision-making process
- c) Impact of the cessation of the existing use
- d) Design/layout/visual amenity
- e) Heritage
- f) Residential amenity
- g) Ecology
- h) Flooding drainage

- i) Highway safety and amenity
- j) Section 106/ CIL considerations
- k) Overall planning balance

**a) Principle of development**

- 7.2 The residential development proposed here would normally be considered to be wholly unacceptable as a matter of principle. The site lies in the open countryside, remote from any settlement and in a comparatively unsustainable location. Policies SS1 and SS3 of the Core Strategy Review direct new residential development to existing settlements, other than in exceptional circumstances. The proposed development does not meet the tests of these policies, is therefore contrary to them, and ordinarily the recommendation would be that planning permission should be refused. It is also acknowledged that the applicants have suggested using the buildings as potential holiday lets, however it is noted that the description refers to three dwellings. Should permission be granted for the dwellings, it would be possible to use them for holiday lettings in the future as this can fall within the same C3 use class.
- 7.3 In this case, however, the proposed development would result in the cessation of a use which itself causes significant harm to residential amenity, and to the visual amenity of the area and the character and appearance of the countryside.
- 7.4 The Town and Country Planning Act 1990 (as amended) states that planning decisions must be made in accordance with the development plan unless there are other material considerations that indicate otherwise.
- 7.5 As such, Members must assess whether the cessation of the existing use would bring about such benefits to the wider area as to amount to a material consideration which outweighs the harm arising from new residential development in this location.

**b) Whether the existing use of the site can continue and the weight to be afforded to this in the decision-making process**

- 7.6 The benefits of the cessation of the use of the site for processing soil/sand can only be taken into account as a material planning consideration if there is a prospect of the use continuing in the future.
- 7.7 There have been numerous objections received from neighbouring properties that state that the business has already been closed now by the EA revoking their permit, so the benefit of allowing the houses as a way of removing the soil business no longer applies. They have stated that with the business gone, the Council should now determine the application in line with paragraph 7.2 above and should refuse planning permission.
- 7.8 The representations also comment that the current business operation is based on taking waste from construction sites so if the applicant were to now obtain it from a non-waste source that would be a different operation. As a result, they contend that the information given with regards to the viability of the business or in terms trip generation or vehicle movements are not valid as this relates to a business strategy that has never been implemented on the site by the operator. One representation also comments that while condition 2 of the 1995 permission does not limit the distribution

of sand, the fact that soil and sand are comparable for the purposes of the permission means that the Council could argue that sand is limited by the condition as well.

- 7.9 KCC have advised that they do not consider the site a waste site, even though the EA have issued a waste permit. The EA have confirmed that the waste permit has been revoked on site and as such the applicant can no longer accept waste from construction sites, process it and sell the product on.
- 7.10 Importantly, the EA have confirmed that it is possible to grade and mix non waste soil on site as that would not constitute waste. Although this would be more expensive and potentially more difficult, the applicant's position is that it is possible and viable. The applicant has also highlighted that while there is a restriction on the amount of soil that can be redistributed from the site, there is no limit on the redistribution of sand.
- 7.10 The applicants have also commented that they have a potential user for the site that had expressed interest in leasing the site who specialise in sand and building materials. They have also been considering other options for the processing, bagging and distribution of sand and sand-based products which they estimate a sales volume of 25,000 tonnes. This could be leased to the supplier or carried out by the applicant themselves. The applicants have also stated that they believe they have non-waste sources of soil which could also be utilised. They have also confirmed that over the last five years they have been operating for six months of the year, whereas the new operations would likely be for 12-months of the year.
- 7.11 Officers have considered the above points very carefully in the assessment of the application. It is acknowledged that the waste permit has been revoked and that operating without obtaining waste from construction sites would be a new way of operating for the business. The permission granted does not though draw a distinction between processing waste soil or processing non-waste soil. While soil is limited in terms of its distribution, sand is not. Equally, soil and sand are clearly, as a matter of fact and degree, not the same substance, and in any case, they are referred to separately in the description of development.
- 7.12 Having regard to the description and conditions imposed on the previous permission, it is considered that the processing of soil and sand could continue on site without the need for a waste permit or for a further grant of planning permission.
- 7.13 In planning terms, the site has planning permission and can operate lawfully within the terms of that permission, and as such this application has been considered in light of this. Members are entitled to give weight to the cessation of this use in considering the merits of the proposed development.
- 7.14 *Mansell v Tonbridge* advises that to amount to a material consideration a possibility will suffice; there is no need to look for certainty or probability. As such this is a planning judgement which is made by the decision maker. As the applicants have advised the Council that they intend to use the site for purposes that fall within the planning permission and that in their opinion this can be done without needing a waste permit, it is considered that this is a 'possible' outcome. Given the above case law, there is no need to confirm that this would be certain or probable only that it is possible. As such it is considered that the fall back of business is possible and as such is a material consideration in the determination of the application. In terms of how much weight to attach to the fallback, this is a matter for Members. It is though considered that the removal this materially harmful use and associated bunds and buildings should be afforded significant weight.

### **c) Impact of the cessation of the existing use**

- 7.15 KCC have advised the LPA that the safeguarding considerations set out in policy DM8 of the Kent and Medway Waste Local Plan will not apply. There would therefore be no objections to the loss of the business in this respect. It is not considered that the existing employment use is protected by any specific policies in the development plan as it is a sui generis use. While existing B1 and B8 uses are protected by policy E2, it is not considered that this site would be. As such there are no objections to the removal of the existing use.
- 7.16 As stated above, there were numerous complaints about the existing business in terms of the impact on dust, noise and HGV movements. This proposal would see the soil business removed following construction works, should see these issues dealt with. It is considered that the removal of the business would represent an improvement on the current situation.
- 7.17 The applicants have put forward an argument that given the amount of vehicle movements at the moment, the proposal would see a reduction in movements and would therefore represent an improvement to the current situation. The use of large HGV's would also no longer take place, and instead occupiers of the dwellings would be more likely to use smaller family cars.
- 7.18 Some of the representations submitted have disputed this, as stated above, as the business would need to find new suppliers of topsoil given that waste products can no longer be used, following the revocation of the EA permit. They have stated that the figures put forward in the Traffic Generation Statement may not be reflective of the potential future situation.
- 7.19 In terms of visual impact, there would also be the added benefit of having the soil heaps, which are unsightly, removed from the land and while local residents have argued that this should happen following the EA revoking the waste permit, the scheme would ensure that the use would not take place on the site again. Compared to the existing situation, the proposal is considered to be a visual improvement, and while the buildings are large, the applicants have demonstrated in their submission that there are other large houses in the area so this development would not be out of character. It is also acknowledged that there would be a reduction in hard surface with the removal of the current working forecourt which would be another benefit.
- 7.20 While officers do have some sympathy towards these arguments, it is clear that under the current permission, a large number of vehicle movements can take place and as such, this does need to be considered in the assessment of the application.

### **d) Design / layout / visual amenity**

- 7.21 Policy HB1 of the PPLP state that proposals should not have a detrimental impact on the street scene, either by themselves or cumulatively and should make a positive contribution to their location and surroundings. The NPPF also encourages high quality design.
- 7.22 The design of the dwellings has changed significantly from when the application was first submitted to adopt the 'farmstead' approach of the current proposals. This was to design a scheme that would be more in keeping with its surroundings in the form of a main house, barn and cottage that the three dwellings adopt in appearance terms.

- 7.23 It is acknowledged that the size of the dwellings are large, particularly compared to the existing property on the site which is to be retained. The applicant's argument is that the existing buildings on site are larger in terms of the existing footprint compared with the proposed development as well as being of a comparable height. The existing buildings are not of any architectural merit so there would be no objection to their replacement with a high-quality scheme.
- 7.24 There have been neighbouring objections on the grounds that the size of the dwellings are too large for the site. The applicants in response for this have highlighted numerous large dwellings in the wider area which they believe demonstrate that the dwellings would not be out of place or character. While it is acknowledged that the dwellings are large, there are other examples of large dwellings in the area. It is considered that in visual terms the dwellings would be an improvement to the structures and soil heaps that are on site now. As such, on balance, there are no objections to the application on these grounds.
- 7.19 The use of materials such as Kent peg tiles, brick and weather boarding are all local to the area and should ensure that the scheme remains high quality. The use of lighting would increase, particularly in the evening for a residential scheme over the existing commercial use which would have an impact on the surrounding area and on its intrinsically dark character. However, given the reduction in the amount of glazing that is to be used compared with the scheme as it was originally submitted, this is not considered to be harmful. External lighting could be controlled by a suitable worded condition.
- 7.20 In terms of the landscape impact the of the development, the scheme would clearly be visible given the flat nature of the landscape as set out in the Shepway High Level Landscape Appraisal, which places the site on the edge of the Brookland Farmlands area, on the border with the Dowels Farmlands area. This gives the key characteristics as being flat, open landscape, low-lying, agricultural and scattered farmsteads. There is some tree cover around the wider site boundaries, but glimpse views are still possible including from public rights of way.
- 7.21 However, given the proposed development is considered to be an improvement in design terms than the existing, at a reduced quantum of development and would see the removal of the soil business, it is considered that on balance, the scheme would be an improvement on the exiting situation. As such there are no objections on landscape impact.

#### **e) Heritage**

- 7.22 The NPPF paragraph 197 sets out what should be considered when determining applications that affect heritage assets and the importance of enhancing their significance. In this case the heritage assets are the conservation area and the listed building. The impact on the setting of both has been considered below.
- 7.23 The application site lies adjacent to but not within the conservation area, and there are no listed buildings immediately adjoining the application site. There are several listed buildings in the wider area, including Cherry Tree House which is 350m to the north east and the Church of St. Thomas and Old Farm which are further away but views are still possible given the flat landscape. However, given the separation distance and vegetation, the development would not harm the setting of these buildings. It is considered that in terms of the impact on the setting of the conservation area, the

proposal would be an improvement to the buildings and soil piles that are on site at the moment. As such the proposal would meet the test under the NPPF with regards to the impact on heritage assets.

- 7.24 There is some potential for buried archaeology on the site as confirmed by KCC Heritage and as such a condition has been recommended to ensure that any discoveries of historic value are properly recorded. Subject to this there are no objections on these grounds.

#### **f) Residential amenity**

- 7.25 Policy HB1 of the PPLP states that proposals should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook, and should avoid unacceptable overlooking and inter-looking.

- 7.26 Given the separation distance to the closest neighbours, there is not considered to be any issues with overlooking or appearing overbearing on any neighbouring property. There would be some impact on light spill as discussed above, however this is not considered to be any different to any of the existing properties and not a reason to refuse the application.

#### **g) Ecology**

- 7.27 The application site is situated within close proximity to the Dungeness, Romney Marsh and Rye Bay SSSI, SPA and Ramsar site, which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) apart from the SSSI which is a national designation.

- 7.28 Dungeness, Romney Marsh and Rye Bay is a nationally important site by reason of a diverse range of biological and geological features, specifically the coastal geomorphology of Dungeness and Rye Harbour and the following important habitats: saltmarsh, sand dunes, vegetated shingle, saline lagoons, standing waters, lowland ditch systems, and basin fens. These habitats and others within the site support a number of nationally and internationally important species of plants, moss, water voles, breeding birds, waterfowl, great crested newts, and invertebrates.

- 7.29 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the European sites. However, further to the advice of Natural England and subject to the conditions set out within the report, it is considered that the proposal is unlikely to have significant effects upon the integrity of these sites or the species which they contain.

- 7.30 Based on the correspondence with Natural England, it is considered that on site mitigation is required. The mitigation to be provided includes a construction and environmental management plan condition requiring written confirmation that all construction works (including vehicle parking and manoeuvring, storage of materials and machinery) will be restricted to land within the property curtilage. This is needed to ensure that the above designated sites, are protected during construction of the proposed development.

- 7.31 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA will ensure that these impacts will not be significant or long-term. It is therefore considered that, subject to mitigation specified above which has been agreed by the applicants, there will be no adverse effect on the integrity of the SPA. An Appropriate assessment has been carried out under the Habitat Regulations that has concluded, that subject to the conditions set out in the report, there would be no adverse impacts on the designated sites. Natural England have raised no objections to this.
- 7.32 KCC Ecology have commented on the application and have comment that protected species such as Great Crested Newts, Slow worms, common lizard, badgers, owls and breeding birds may all be affected by the proposal. They also comment that biodiversity should be enhanced and there should be a management scheme for the wildlife area.
- 7.33 The applicants have considered these issues through the submission of a preliminary ecological survey and a retile survey which make a series of recommendations. These could be secure by way of conditions to ensure there is no harm to protected species and that biodiversity on site is enhanced. Subject to these conditions being adhered to, there are no objections to the scheme on these grounds. An informative has also been suggested with regards to Great Crested Newts.

#### **g) Flooding and drainage**

- 7.34 The site is at a low risk of flooding as it sits within Flood Zone 1 and as such neither the sequential test nor the exception test needs to be applied here. The applicants have also suggested that the scheme has the potential to reduce flood risk elsewhere. This would be done by removing the spoil heaps, raised land and impermeable hard surfaced areas which would be replaced with a soft landscaping.
- 7.35 The provision of a SUDs scheme would secure greenfield run-off rates and further details of this would be requested by condition to ensure that it is delivered. Subject to this and further information on foul drainage, there are no objections to the scheme on these grounds.

#### **h) Highway safety and amenity**

- 7.36 As has been stated above, the site is in a remote area and is not well served by public transport. Future occupiers of the houses would therefore be reliant on the use of a private car to access local services and amenities.
- 7.37 It is considered that the scheme, on the balance of probability, would result in few trips than are currently undertaken but also that these would be made in smaller vehicles than HGVs. On balance, it is considered that the scheme does represent an improvement on the current situation. The impact of removing the current use has been considered in section c above, and as such those arguments are no repeated here.
- 7.38 With regards to the other issues such as parking and turning space, given the size of the site, these can easily be accommodated with the site. Given the site will use an existing access point with existing visibility splays, there are no objections to this part of the application. Other facilities such as refuse and access for emergency vehicles can also be accommodated on site. KCC Highways and Transportation also have no objections to the proposal on these grounds and as such there are no objections on these grounds.



### **i) S106/ CIL considerations**

7.39 KCC have requested contributions that are set out in paragraph 5.1 above. Most of these are covered by the CIL charging schedule and therefore additional contributions cannot be sought. The exception to this is the request of £13,620 towards secondary education which should be sought as education has been removed from the CIL charging schedule. It is considered that this contribution is appropriate and directly linked to the development. This can be secured by way of a legal agreement.

7.40 It is considered that any subsequent section 106 agreement, also needs to set out that the existing use is to cease, and the previous planning permission granted be extinguished to prevent the activities that it currently allows from taking place on site again.

### **k) Overall planning balance**

7.41 The issues that need considering in this report require an overall planning balance judgement to be made. This is a development which in normal circumstances would be refused due to its location. If the site was currently completely vacant, there may also be a case for considering a reduction in the size of the proposed houses as well. However, these issues need to be considered against the fallback position of the continuation of the bad neighbour use, the potential for the site to reopen for business for twelve months of the year under the existing planning permission and for the associated issues of noise, dust and traffic movements to adversely impact the living conditions of neighbouring properties, the character and appearance of the countryside, and the special character of the adjacent conservation area.

7.42 It is considered, on balance, the removal of the bad neighbour use, and the visual improvements to the character and appearance of the area from the existing situation are considered to outweigh the harm that has been identified above. As such, on balance, it is recommended that planning permission be granted.

### **Environmental Impact Assessment**

7.43 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects. The scheme has been assessed under the Habitat Regulation Assessment, in consultation with Natural England, and has been found to have an acceptable impact on the designations in the area.

### **Local Finance Considerations**

7.44 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.45 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area.

### **Human Rights**

7.46 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

### **Public Sector Equality Duty**

7.47 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

7.48 It is considered that the application proposals would not conflict with objectives of the Duty.

### **Working with the applicant**

7.49 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. CONCLUSION**

8.1 The proposed dwellings are of an acceptable scale and design, well sited and would not cause any unacceptable harm to local residential or visual amenity, the public highway or ecology. It is also considered that the removal of the soil business would be a benefit to the area in terms of visual impact, highway safety, noise and dust. The permanent cessation of the existing bad neighbour use is a material consideration and one that outweighs the objection to residential development in this area as a matter of principle.

8.2 Taking the above into account the application is recommended for approval subject to the attached conditions.

## **9. BACKGROUND DOCUMENTS**

- 9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## 10. RECOMMENDATIONS

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

2. No development shall take place other than in accordance with the following reports and drawings:

#### Drawings:

FC-EX.SITE-PLAN-001 EXISTING SITE PLAN Rev: A  
FC-SITE-PLAN-002 PROPOSED SITE PLAN Rev: A  
FC-COT-003 COTTAGE 1ST & 2ND FLOOR PLANS Rev: A  
FC-COT-004 COTTAGE FRONT AND REAR ELEVATION Rev: A  
FC-COT-005 COTTAGE SIDE ELEVATIONS Rev: A  
FC-BARN-006 BARN 1ST & 2ND FLOOR PLANS Rev: A  
FC-BARN-007 BARN FRONT AND REAR ELEVATION Rev: A  
FC-BARN-008 BARN SIDE ELEVATIONS Rev: A  
FC-COURT-009 PRINCIPLE HOUSE 1ST & 2ND FLOOR PLANS Rev: A  
FC-COURT-010 PRINCIPLE HOUSE FRONT & SIDE ELEVATIONS Rev: A  
FC-COURT-011 PRINCIPLE HOUSE SIDE & REAR ELEVATIONS Rev: A

#### Reports:

Planning and Design Statement by Greenhayes Planning  
Traffic Generation Statement Rev: 02 dated January 2023 Ref: PCD-425-EN-RP-02  
Letter from Fairfield Soils  
Landscape and Visual Statement Rev: A dated 23 August 2021 by Furse Landscape Architects  
Flood Risk Assessment from Herrington Consulting Ltd dated September 2022  
Preliminary Ecological Appraisal from The Ecology Partnership dated September 2021  
Reptile Survey from the ecology Partnership dated September 2021  
Response to KCC Ecology Comments  
Response to Natural England from Herrington Consulting Ltd

Reason: For the avoidance of doubt.

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. storage of plant and materials used in constructing the development.
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- v. wheel washing facilities.
- vi. measures to control the emission of dust and dirt during construction.
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of the amenities of the area and highway safety and convenience.

4. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

Reason: In the interest of promoting energy efficiency and sustainable development.

5. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity and the character and appearance of the adjacent conservation area.

6. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, an implementation programme, and a programme of long-term maintenance for the green roof.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

8. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five

years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

9. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0800 – 1800 hours  
Saturdays 0800 – 1300 hours

unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

10. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning authority. The detailed drainage scheme shall demonstrate that due consideration has first been given to the possibility of utilising infiltration techniques and that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. Should the use of infiltration prove to be beyond being reasonable practical then any surface water leaving site shall be restricted to greenfield runoff levels where possible, unless agreed otherwise. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

11. No building on the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems.

12. Prior to the commencement of works above slab level on the construction of the houses hereby permitted, the existing soil heaps shall be removed from the site to the satisfaction of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

13. Prior to the commencement of works, including site clearance, all mitigation measures for reptiles shall be carried out in accordance with the details in sections 4.7 through to 4.15 of the Reptile Survey report by The Ecology Partnership dated September 2021.

Reason: To safeguard protected species.

14. Prior to the occupation of any of the dwellings hereby approved, a plan for the future management of the wildlife area shown on the approved plans shall be submitted to be approved in writing by the Local planning Authority. Development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To safeguard protected species.

15. Details of how the development will enhance biodiversity shall be submitted to, and approved in writing by, the Local Planning Authority. These measures shall include a native species-only planting. The approved details will be implemented and thereafter retained.

Reason: To improve and enhance biodiversity on site.

16. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
  - i. archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and
  - ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

17. (A) No development shall take place until a desk top study has been undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.  
  
(B) If the desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:
  - Human health;
  - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - Adjoining land,
  - Ground waters and surface waters,
  - Ecological systems,
  - Archaeological sites and ancient monuments; and
- (iii) An appraisal of remedial options and identification of the preferred option(s).

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

(C) If investigation and risk assessment shows that remediation is necessary, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

(D) No development shall take place until a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

(E) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and

ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

18. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

19. Prior to the first occupation of any dwelling hereby permitted, an FTTP Statement for the development shall have been submitted to and approved by the local planning authority in writing for the installation of a high speed wholly FTTP connection to each dwelling within the development, unless otherwise agreed in writing by the local planning authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and where relevant, details of alternative provision for superfast broadband in the absence of FTTP).

The FTTP infrastructure or alternative provision for superfast broadband in the absence of FTTP shall be laid out in accordance with the approved FTTP Statement or approved details at the same time as other services during the construction process and be available for use on the first occupation of each dwelling hereby approved.

Reason: To ensure that the new development is provided with high quality broadband services.

20. No development shall take place until details on levels in the form of proposed and existing cross-sectional drawings through the site have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: In order to secure a record of existing site levels in order to ensure a satisfactory form of development having regard to the sloping nature of the site.

21. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

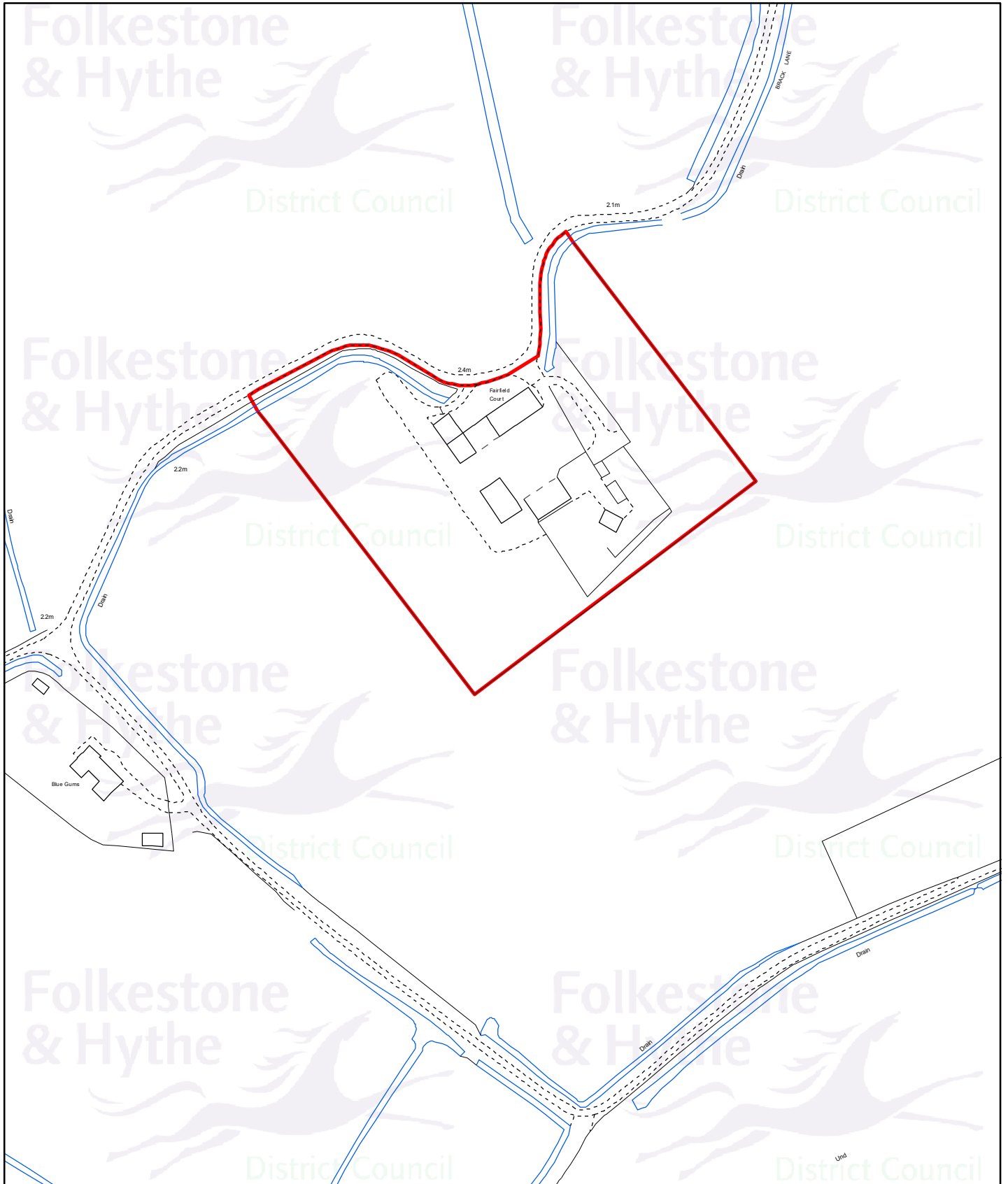


Reason: In the interests of biodiversity, residential and visual amenity.

**Informative(s)**

1. The applicant and agent are reminded that as per the countersigned District Level Licence enquiry form, prior to the commencement of works (including site clearance), full conservation payment needs to be made to Natural England with regards to Great Crested Newts.

## Appendix 1 – Site Location Plan



Planning Application:  
21/2035/FH

Drawn date:  
28 Jun 2023

Drawn by:  
Carrie Stacey

Drawing ref:  
9726/COP/LS

Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council 100019677 - 2023



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# Agenda Item 6

## DCL/23/30

<b>Application No:</b>	23/1375/FH
<b>Location of Site:</b>	118 Cheriton Road, Folkestone, CT19 5HQ
<b>Development:</b>	Erection of first floor and single storey rear extensions, together with other external alterations to form an additional, self-contained dwelling.
<b>Applicant:</b>	The Trustees of the Viscount Folkestone (1963) Settlement
<b>Agent:</b>	Mr S Ingleston
<b>Officer Contact:</b>	Robert Allan

### SUMMARY

The report considers whether planning permission should be granted for the extension and alteration of the property to form an additional unit of accommodation and reorganise the internal layout of the existing units. The report assesses the principle of the development in this location, the visual impact upon the character and appearance of the building and the wider street scene, the amenity of existing and future occupiers, and all other material planning considerations, finding that the proposal is acceptable and in accordance with adopted policy.

### RECOMMENDATION:

<b>That planning permission be granted subject to the conditions set out at the end of the report.</b>
--

### 1. INTRODUCTION

1.1. The application is reported to Committee due to the views of Folkestone Town Council.

### 2. SITE AND SURROUNDINGS

2.1. The application property is within the defined settlement boundary of Folkestone, fronting onto Cheriton Road, a wide, A-class road characterised in the immediate area of the application site by large, three storey, Edwardian and Victorian properties, with many of these having been sub-divided into flats. Properties on the southern side of the road are set back from the road frontage behind front gardens areas, but these areas have typically been given over to hard standing for car-parking, although on-street parking is also available. The application property is arranged over three storeys and is currently three self-contained flats. It has a low-level wall, a small front garden area and parking provision is on-street.

- 2.2. The property to the east is a large structure that was a former residential care home, but was converted into nine self-contained flats, including the erection of a large rear extension and associated works.
- 2.3. The application site is within an area of archaeological potential for major applications or equivalent only.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

- 3.1 The proposed development is to create an additional self-contained two-bedroom residential unit to the rear, that would span two floors, through the construction of a single storey rear extension and a first-floor rear extension. The three existing flats would have an internal reorganisation, with an additional bedroom added to the existing second floor flat. Windows are proposed to be replaced, throughout.
- 3.2 The existing and proposed east, north, and west elevations, can be seen in images 1 and 2 below, whilst the existing and proposed rear garden layout can be seen in images 3 and 4.



Image 1: Existing east, north and west elevations

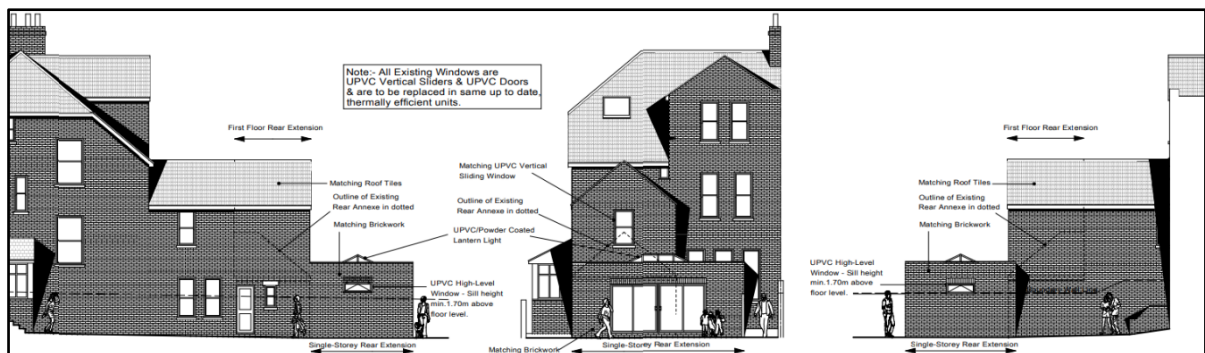


Image 2: Proposed east, north and west elevations

- 3.3 In addition to the drawings and application form, the following document was submitted by the applicant in support of the proposal:

### Design and Access Statement

This document sets out a justification for the proposal in relation to matters of use, amount, layout, scale, landscaping, appearance and access, through describing the

site and surrounding area, the planning history for the site, the background for the development, and details of what is proposed. It concludes that the proposal would be consistent with the policy requirements of the development plan, with no detrimental impacts upon the building or the street scene.

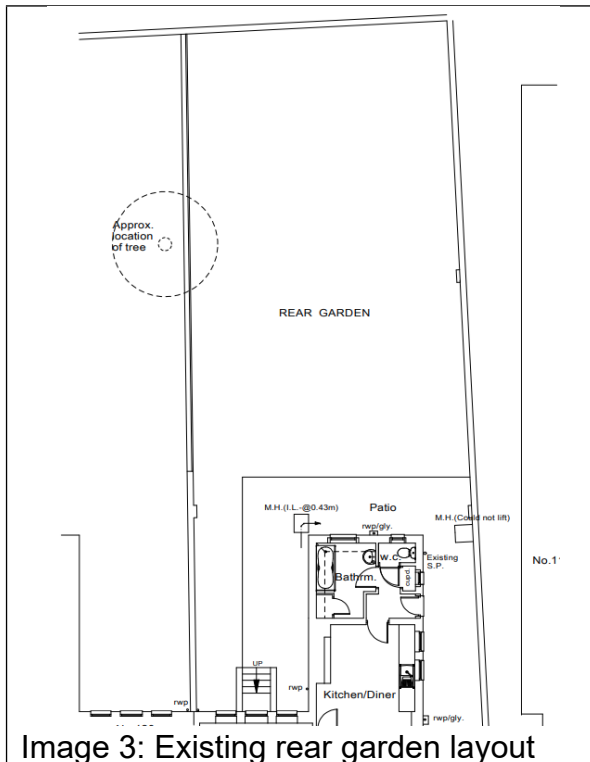


Image 3: Existing rear garden layout

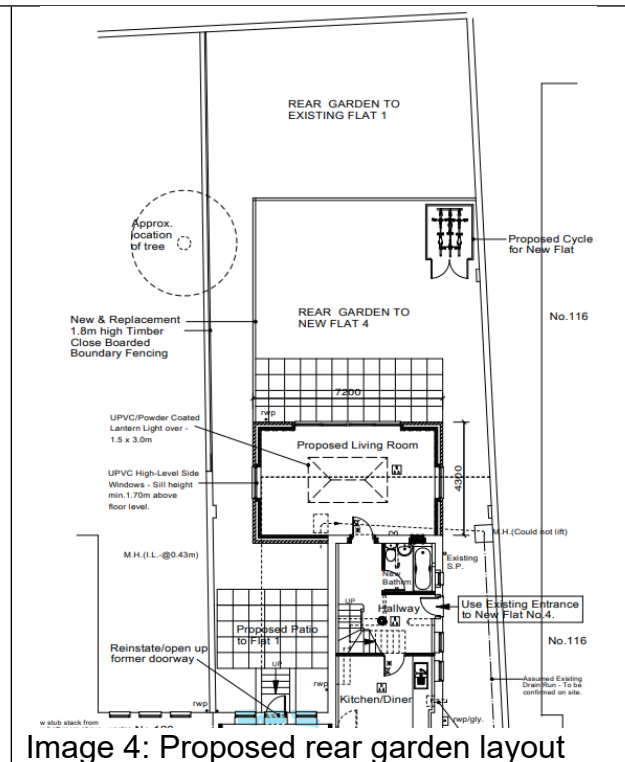


Image 4: Proposed rear garden layout

## 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

99/0658/SH Installation of replacement windows.

Approved with conditions

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Folkestone Town Council:** Object – increased need for parking in an already congested area and have an adverse effect on daylight amenities to immediate neighbours by increasing the height.

### Local Residents Comments

5.2 Seventeen neighbours have been notified of the proposed development. No representations have been received.

5.3 Responses are available in full on the planning file on the Council's website:

<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## 6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review 2022. The Folkestone & Hythe District Core Strategy Review was adopted by Council on 30 March 2022.

6.2 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

HB1	Quality Places Through Design
HB3	Internal and External Space Standards
HB8	Alterations and Extensions to Buildings
T2	Parking Standards
T5	Cycle Parking

### Core Strategy Review 2022

SS1	District Spatial Strategy
SS3	Place-shaping and sustainable settlements strategy

6.3 The following are also material considerations to the determination of this application.

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2021

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF 2023 are relevant to this application: -

11	Presumption in favour of sustainable development
47	Applications for planning permission be determined in accordance with the development plan
130	Achieving well-designed places

## 7. APPRAISAL



7.1 The main issues for consideration are:

- a) Principle
- b) Visual impact
- c) Amenity
- d) Highways
- e) Other issues

## **a) Principle**

7.2 The site is within the defined settlement boundary of Folkestone and in a sustainable location within walking distance of shops and services. This accords with the principles of Core Strategy Review policies SS1 and SS3, which direct development toward existing sustainable settlements with opportunity for increased densities within the town centre. The broad principle of an additional residential use in this location is considered acceptable, subject to all other material planning considerations.

## **b) Visual Impact**

7.3 Policy HB1 states that planning permission will be granted where the proposal makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly regarding layout, scale, proportions, massing, form, density, materiality and mix of uses to ensure all proposals create places of character.

7.4 The proposed rear extensions would continue the form of the existing outrigger, with materials to match, although the proposed single storey element would have a flat roof, with parapet and roof lantern. It is considered in keeping with the overall style of the building and would not be detrimental to the character of the building or the wider street scene, which it would not be visible in because of its location in the rear garden area, with surrounding development precluding views.

7.5 The windows within the property have been replaced previously, as evidenced by the planning history and the observation from the site visit, and it is considered that the use of replacement uPVC windows in this location, which carries no special designation, would be acceptable, subject to the submission of details by condition.

7.6 Overall, the proposal is considered acceptable regarding the visual character of the building, the surrounding development, and the street scene, in accordance with Places and Policies Local Plan HB1.

## **c) Amenity**

7.7 Policy HB1 states that planning permission will be granted where the proposal does not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook. Policy HB3 is concerned with space standards and is relevant to this application also.

## *Existing/Neighbouring Occupiers*

- 7.8 The creation of the additional residential use would be unlikely to have any significant impact in relation to the enjoyment of the existing residential units either within the building or in adjacent properties, because of additional noise and disturbance from the use of the buildings or the external areas.
- 7.9 The proposed extension would not impact detrimentally upon the neighbouring occupiers to either side, or upon the existing occupiers, by virtue of either any overbearing or enclosing presence, or from any loss of light from overshadowing.

## *Future Occupiers*

- 7.10 The space standard must be applied to the creation of new dwellings via conversion. Of the proposed flats, flats 1, 3 and 4 meet or exceed the Gross Internal Area (GIA) for the potential number of occupants in accordance with Places and Policies Local Plan policy HB3. Flat 2 on the first floor would be approximately 1 sqm below the requirement, but this is not considered to be a significant deviation to warrant a ground of refusal.
- 7.11 All habitable rooms shown for the proposed dwelling and the existing ones, following internal reorganisation, have a window, and an acceptable level of natural daylight, outlook and amenity would be afforded to future occupiers overall.
- 7.12 There are no balcony areas or external amenity spaces shown for the first or second floor flats, but they do not currently have them. As the internal reorganisation of the existing flats does not require planning permission, it is also not possible to require these additions even if they were desirable. The surrounding development does not generally have balconies at upper floor levels and the creation of these could appear incongruous on the building and within the street scene.
- 7.13 The ground floor flat and the proposed new dwelling would both benefit from the existing garden area, which would be subdivided to serve each unit. The proposed garden amenity areas would be overlooked by adjacent properties, but this is a relationship that already exists and is not considered unreasonable, in this location.
- 7.14 The existing situation for the flats within the building is noted, alongside the prevalent form of development in this tight-knit urban environment, whilst the proximity to Radnor Park is considered to be an acceptable alternative with regard to access to external amenity space. Overall, it is considered acceptable that there is no external amenity space for the first and second floor units, in this instance.
- 7.15 Regarding privacy, the side window at first floor level looks toward the rear elevation of 116 Cheriton Road, where the windows can be seen to serve an internal corridor. Whilst not ideal, the tight, urban grain gives rise to close relationships and the incidence of interlooking will be infrequent and give rise to no significant loss of residential amenity for future occupiers.
- 7.16 Overall, it is considered that the proposal would result in an acceptable standard of amenity for existing and future occupiers in accordance with Places and Policies Local Plan policies HB1 and HB3.

## **d) Highways**

- 7.17 Policy T2 refers to the adopted parking standards which sets out that 1 parking space per 1 or 2 bed flat should be provided. The application site is considered to be edge of Folkestone Town Centre and the nature of the guidance here is maximum. The flats are within walking distance of shops and services with good access to public transport (bus stops) and the train station. There is no off-street parking for the existing flats.
- 7.18 Secure, covered cycle parking is not currently provided for the development, but the proposal would see this provided for the new dwelling, in accordance with policy T5, which could reasonably be secured by condition.
- 7.19 Whilst there would be an increased parking demand, this would be for one additional unit only, which given the sustainable location and the provision of facilities to encourage alternative modes of transport, the impact upon residential amenity from the increased on-street demand of one additional motor vehicle would not be so significant as to warrant refusal.

## **e) Other issues**

- 7.20 In relation to refuse and recycling, the plans indicate an area for the storage of refuse and recycling, which would be extended to accommodate the requirements of the additional unit, which could reasonably be secured via condition.
- 7.21 As the dwellinghouse that would be formed would fall outside of the definition of a flat, it is deemed necessary to impose a condition to remove Permitted Development Rights in order to safeguard the amenities of the properties surrounding the site.

## **Environmental Impact Assessment**

- 7.22 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

- 7.23 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.24 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This proposal is CIL liable.

## **Human Rights**

7.25 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## **Public Sector Equality Duty**

7.26 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## **Working with the applicant**

7.27 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## **8. CONCLUSION**

8.1 The proposal would result in the creation of an additional residential unit in a sustainable location, in a visually acceptable form, with no identified detrimental impacts upon the amenities of existing or future occupiers, highway safety or amenity, or any other identified material considerations.

8.2 Overall, it is considered that the proposal would result in a sustainable development, in line with adopted policy and is recommended for approval.

## **9. BACKGROUND DOCUMENTS**

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **10. RECOMMENDATIONS**

**That planning permission is approved subject to the following conditions:**

# DCL/23/30

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

**Reason:** In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

012/23/04

**Reason:** For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

3. Prior to construction of any external surfaces, details of the external finishing materials to be used on the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

**Reason:** In the interest of visual amenity.

4. Prior to first occupation details to demonstrate that the dwelling hereby permitted shall use no more than 110 litres of water per person per day shall have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as agreed.

**Reason:** In the interest of sustainable development and minimising water consumption.

5. Full details of the secure, covered cycle storage, at a ratio of one space per bedroom, shall be submitted to and approved in writing by the Local Planning Authority, with such details as approved provided in full prior to first occupation of of the dwelling hereby approved, and thereafter retained.

**Reason:** In the interest of visual and residential amenity, as well as encouraging the use of sustainable modes of transport other than private motor vehicle.

6. Prior to first occupation of the dwelling hereby approved, the refuse / recycling store area shall be enlarged as per the approved plans and thereafter retained.

**Reason:** In the interests of visual and residential amenity.

7. No further development, whether permitted by Classes A, B, C, D, E, F, G or H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the amenities of the area.

## **Appendix 1 – Site Location Plan**



Planning Application:  
23/1375/FH  
Drawn date:  
29 Nov 2023  
Drawn by:  
Carrie Stacey  
Drawing ref:  
2136/COM/LS

  
Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2023



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# Agenda Item 7

## DCL/23/31

<b>Application No:</b>	23/1208/FH
<b>Location of Site:</b>	Maude Pavilion & Community Hall, Station Road, New Romney, TN28 8BB
<b>Development:</b>	Demolition of the existing Maude Pavilion and adjacent Community Hall. Erection of a new sports pavilion, with community hall above. New nursery building and associated external works.
<b>Applicant:</b>	New Romney Town Council
<b>Agent:</b>	Alex Richards, Guy Hollaway Architects Ltd, The Tramway Stables, Rampart Road, Hythe, CT21 5BG
<b>Officer Contact:</b>	David Campbell

### SUMMARY

This application is for a new community hall and sports pavilion and new building for use as children's nursery. The new facility is considered to be well designed, with acceptable impacts on highways, ecology, residential amenity and all other material planning considerations. The Town Council has recognised that a new Community Hall and Sports Pavilion would be of benefit to local residents. It is therefore considered that the application is acceptable subject to conditions.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

### 1. INTRODUCTION

- 1.1. The application is reported to Committee because it has been called in by Cllr Wimble on the basis that a new community building should be scrutinised by committee.

### 2. SITE AND SURROUNDINGS

- 2.1. The application site comprises within the settlement boundary of New Romney and lies approximately 350m east of New Romney Station and the town centre. The site is accessed from Station Road (B2071) which has a 30mph speed limit.
- 2.2. The 4.74ha site is home to the existing Maude Sports Pavilion owned by New Romney Town Council and used by New Romney Town Football Club and Cricket Club. The field is used predominantly for football in the winter and cricket in the summer. The Seashells children's nursery building is sited just to the west of the existing pavilion. These buildings are set back from the road by approximately 9.5m and share an

informal car park to the east of the existing pavilion which is accessed from Station Road.

- 2.3. There are a mixture of different land uses within the vicinity. On the northern side of Station Road to the north-west there is Marsh Academy School and leisure centre. Adjacent to the site to the west there is an NHS Community Health Clinic and a small, equipped play area. To the south-east the site shares a boundary with the Mountfield Road Industrial Site, a current established employment site and new employment opportunity site. Residential development bounds the other parts of the site.
- 2.4. The site is located within Flood Zones 1 but land immediately to the north is within Flood Zone 2 and 3 as identified by the Environment Agency. There are three internationally designated sites within 5km of the Site including the Dungeness, Romney Marsh & Rye Bay SPA, the Dungeness, Romney Marsh & Rye Bay Ramsar and the Dungeness SAC. Although the site itself is not within any of them. The Dungeness, Romney Marsh & Rye Bay SSSI is located approximately 0.8km to the north of the Site and the site itself falls within the SSSI Impact Risk Zone. The locally designated site, the Romney Warren Local Nature Reserve, is also within 2km of the application site.
- 2.5. The trees lining the south side of Station Road, immediately adjacent to the site's northernmost boundary are subject to a group Tree Preservation Orders (TPO) from 2007, and there is a group TPO along the site's eastern boundary.
- 2.6. On the opposite side of Station Road, to the north of the residential frontage development is a Local Landscape Area (LLA) designation. The Romney Marsh LLA is an expansive open, flat, and fertile coastal marshland drained by a network of ditches and is home to a wide diversity of wildlife. The existing site comprises two buildings to the northern boundary/frontage with Station Road (Maude Memorial Hall and Seashells Nursery), with sports pitches and open ground to the south.



Figure1: Site plan and site photographs.

2.7 A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

3.1 Full planning permission is sought for the demolition of the existing Maude Pavilion and adjacent Community Hall, the erection of a new sports pavilion, with a community hall above, a new nursery building and associated external works. The proposal is an alternative design from the previously approved scheme. The application would be set out in accordance with the plan below:

3.2

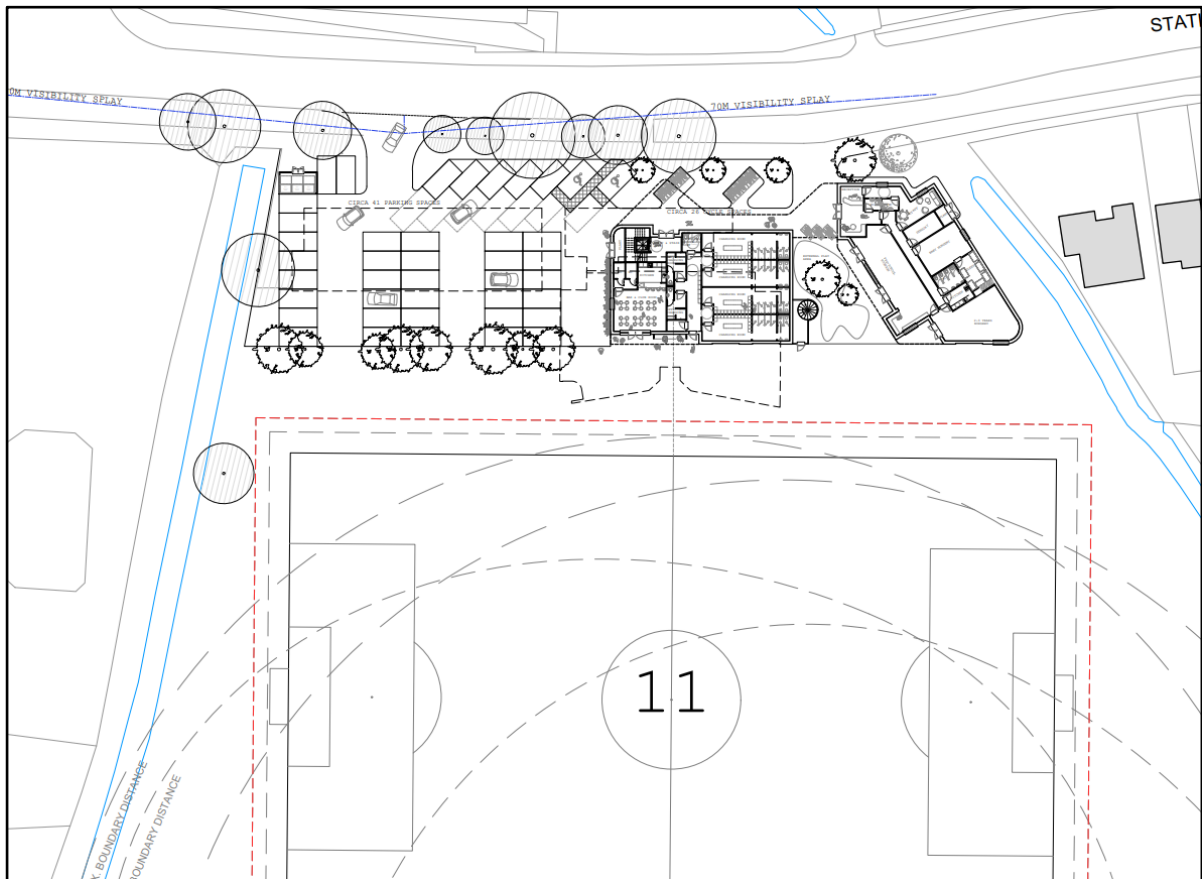


Figure 2: Proposed Block Plan

3.3 The proposed building containing the sports pavilion and community hall will be a two-storey building, in line with the previously approved plans for the site. The mass of the community hall building is broken up by the three pitched roofs profile of the first-floor community hall. The overall height of the sports pavilion/community hall is about 6.8m and stepped back approximately 15m from the road which assist in reducing the mass of the building. The ground floor sports pavilion has an internal area of 314 sqm and the first floor community hall would have a GIA of 224sqm and include south facing windows towards the sports pitches. The drawing below shows the appearance of the building:

3.4 The proposed nursery located to the east of the site is a single storey flat roof building that will be at a lower overall height in comparison to the existing nursery and set approximately 9.5m away from the road edge. It should be noted that the previous application proposed to refurbish the existing nursery. It would have an internal area of 289 sqm. In terms of materials, soft brown brick, powder coated aluminium frames, cement board cladding, metal seamed roof system and a sedum roof would all be incorporated into the design.

- 3.5 Landscaping for the scheme has been split into three zones. The street side (including the pedestrian entrance) would have new planting and trees to enhance the space between the road and buildings and the car park which would have trees planted along the southern line. The third area, the nursery play space, would have equipment and surfaces for the children to play and learn. The canopies to the south-western façade of the nursery would provide shelter. To the south of the buildings, the turf for the sports pitches are as close to the buildings as possible to create the largest possible area for sports. The football pitches and cricket pitches remain part of the current application.
- 3.6 In terms of parking, 41 spaces (including two disabled spaces) would be provided, along with 26 cycle spaces.



Figure 3: Proposed front and rear elevations.



Figure 4: Proposed images.

3.7 The following reports were submitted by the applicant in support of the proposals:

#### Design and Access Statement

The document has been prepared by the architects Guy Holloway Architects offering a site analysis, a design concept and the details of the design of the pavilion building and improvements to the nurse building. The document explains the design evolution of the scheme and the reasons for the design approach taken, along with details on the brief from the applicants.

#### Transport Statement

This document sets out that the use would not change as a result of the application, although parking provision would increase from 15 to 41 spaces (including two disabled spaces); 26 cycle spaces would also be provided. Other issues such as access, serving and overflow car parking would remain the same as existing. It is concluded that there are no identified highway reasons for planning permission to be withheld.

#### Preliminary Ecological Appraisal

This document sets out that there are three internationally designated sites within 5km of the site as well as a SSSI and Local Nature Reserve. The report considered the impact of the development on badgers, bats, breeding birds, hazel dormouse, Great Crested Newts, reptiles, otters and water voles. There are a series of recommendations and suggested biodiversity enhancement measures set out at the end of the report. Subject to these being adhered to, the scheme would have an acceptable impact on ecology. Additional information has been submitted with the application with regards to water voles and bat boxes which has also recommended the inclusion of a construction and environmental management plan.

#### Bat Survey Report

This document considers that two buildings on site are suitable for bat roosts and survey confirmed the presence of an individual day roost in one of the buildings. An appropriate EPS mitigation licence will need to be sought and approved from Natural England prior to the start of any works. Subject to a series of recommendations and enhancements, the document confirms that the development would have an acceptable impact on bats.

#### Arboricultural Impact Assessment and Method Statement

This document sets out that a total of three individual trees and part of one group of trees will be removed to enable the proposed development, although there are significant opportunities for new planting. The report concludes that through the specified tree protection measures and construction methodologies, it will be possible to minimise the impact of the proposed development on the retained trees and as such there are no reasons to refuse permission on tree grounds.

## 4. RELEVANT PLANNING HISTORY

4.1 The relevant planning history for the site is as follows:

Y19/0553/FH	Erection of a two-storey community hall and sports pavilion following the demolition of the Maude Pavilion. Refurbishment of the existing nursery building including a new recreational play area and the erection of 34 dwellings with associated landscaping, parking and access in the south-west of the recreation ground.	Approved with conditions and S106
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## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**New Romney Town Council:** No objection subject to EPS mitigation licenses relating to bat roosts.

**KCC Highways and Transportation:** No objections raised to the additional information subject to conditions.

**KCC Ecology:** requested additional information on bat boxes and the potential impact on water vole habitat. This has been provided by the applicant.

**KCC Flood and Water Management:** Falls outside their remit for comments.

**KCC Archaeology:** No objections. The site lies within an area of multi-period archaeological potential, however it is unlikely that these proposals would have a significant below-ground archaeological impact.

**Environment Agency:** Falls outside their remit for comments.

**Natural England:** No comments

**Romney Marsh Internal Drainage Board:** No comments

**Sports England:** Withdrew its statutory objection following additional clarification from the applicants, although does not support the application. They have requested a condition on the use of nursery not commencing until details of the fence to protect the users of the outside play area have been approved. Without this they would object to the application.

**Arboricultural Manager:** No comments

## Local Residents Comments

- 5.2 No letters of objection have been received on the application. New Romney Football Club have supported the application.
- 5.3 Responses are available in full on the planning file on the Council's website:  
<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

## **6. RELEVANT PLANNING POLICY**

- 6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review Local Plan 2022.
- 6.2 The relevant development plan policies are as follows:-

### Places and Policies Local Plan 2020

- HB1 – Quality Places through Design
- HB3 – Internal and External Space Standards
- E8 – Provision of Fibre
- C3 – Provision of Open Space
- CC3 – Sustainable Drainage Systems (SuDS)
- T2 – Parking Standards
- T5 – Cycle parking
- NE2 – Biodiversity
- CC2 – Sustainable Design and Construction

### Core Strategy Review (2022)

- SS1 – District Spatial Strategy
- SS2 – Housing and the Economy Growth Strategy
- SS3 – Place Shaping and Sustainable Settlements Strategy
- CSD1 – Balanced Neighbourhoods
- CSD2 – District Residential Needs
- CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation
- CSD5 – Water and Coastal Environment Management in Shepway
- CSD8 – New Romney Strategy

- 6.3 The following are also material considerations to the determination of this application.

## **Government Advice**

### National Planning Policy Framework (NPPF) 2023

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant

material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

## National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

## National Design Guide October 2019

C1 -Understand and relate well to the site, its local and wider context

I2 - Well-designed, high quality and attractive. Paragraph 53 'Well designed places are visually attractive and aim to delight their occupants and passers-by'.

N3 - Support rich and varied biodiversity

## 7. APPRAISAL

7.1 In light of the above the main issues for consideration are:

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Protected trees
- f) Contamination
- g) Drainage
- h) Archaeology
- i) Highway safety

### **a) Principle of development and sustainability**

7.2 The principle of development has been established through the granting of application Y19/0553/FH. The proposal would provide a community hub consisting of a combined



multipurpose community hall and sport pavilion, new car parking and access and a new nursery in a similar manner to the approved scheme. The associated 34 dwellings granted with the previous application were as an enabling development for the current scheme, although it does not form part of this application. Given the previous approval on site, the principle of development is acceptable.

- 7.3 It is noted that Sport England have not objected to the application but have not supported it either. It is noted that the applicant and Sport England have had discussions since Sport England, which has resulted in Sport England removing their original objection to the application subject to a condition requiring fencing to protect the nursery. There are no objections to this condition being attached to an approval to alleviate Sport England's concerns. It is therefore considered that the application could not be refused on these grounds and successfully defended at appeal.

## **b) Design/layout/visual amenity**

- 7.4 Policy HB1 of the PPLP state that proposals should not have a detrimental impact on the street scene, either by themselves or cumulatively and should make a positive contribution to their location and surroundings. The NPPF also encourages high quality design.
- 7.5 The ground floor of the community hub would contain team and officials changing rooms, medical room and circulation space together with storage space and a plant. At first floor level there would be a multipurpose function space, intended for a variety of functions. This space would contain a bar and a kitchen with servery, a large balcony would be provided with views across the playing fields, storage and toilets.
- 7.6 The buildings would be shifted away from their existing footprint to enable a larger car park to be constructed. Both buildings have been designed as solid square structures at ground floor level, with a combination of opening and recessed brickwork to provide visual interest along with a sedum roof around the two-storey building. The first floor of the community building provides architectural interest in the form of three pitches at roof level and a large viewing platform allowing views over the sports fields. The proposed nursely building would have a similar design approach with a louvred area at roof level for plant.
- 7.7 The Community Hub and Sports Pavilion development has been designed with contemporary architecture which is intended to reflect the modern facilities it would provide. It is considered that the visual appearance of both buildings is acceptable and would represent an improvement in design terms over the existing buildings on site, while also offering new and improved facilities for the local community and sports clubs.
- 7.8 The modern design approach is considered to be appropriate to the use of the buildings and would sit comfortably in its surroundings as a modern replacement to an existing facility. It is considered that the proposal would meet the criteria of local and national design policies in this respect and as such there are no objections on these grounds.

## **c) Residential Amenity**

- 7.9 HB1 of the Places and Policies Local Plan (PPLP) states that development should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.

7.10 It is not considered that the proposal would impact on the residential amenity of the occupiers of neighbouring properties over and above the previous approval. It is therefore considered that the application is acceptable on these grounds.

## **d) Parking and Highways**

7.11 The application has been submitted with a Transport Statement to address the highway implications of the proposed development. This sets out that the use of the site would not change as a result of the development and that it is very similar in highway terms to the approved scheme.

7.12 It is also noted that parking provision would increase from 15 to 41 spaces (including two disabled spaces) giving greater capacity for those visiting the site, reducing impact on the local highway network. Although it is acknowledged that overspill parking would still be provided on the street and neighbouring academy. The application also proposes 26 cycle spaces which would assist with encouraging more sustainable modes of transport.

7.13 Other issues such as access, turning space and visibility splays are also considered to be acceptable given the existing situation and previous approval. KCC Highways requested additional information on the widening of two parking spaces adjacent to the bin store and that cycle parking proposals should be revised to be fully covered. The applicants have addressed these issues with amended plans which KCC have accepted. It is therefore considered that the application is acceptable on highway grounds.

## **e) Flood Risk and Drainage**

7.14 The site is shown in the Environment Agency mapping to lie in Flood Zone 1 (low risk). Flood Zone 1 is the area described as having a less than 0.1% annual probability of fluvial or tidal flooding. All land uses are appropriate in this flood zone. The site is not at risk from off-site surface water. It is considered that it would be appropriate to attach conditions to any approval to ensure the scheme remains acceptable on these grounds. Subject to these being adhered to, it is considered that the application is acceptable on these grounds.

## **f) Arboricultural Impacts**

7.15 The majority of trees alongside the eastern boundary are protected by Tree Protection Order 16 of 1995 and the streetside trees to the north by Tree Protection Order 07 of 2007.

7.16 The Arboricultural Impact Assessment and Method Statement identifies that trees would be removed to facilitate the proposed development and that there are opportunities for the planting of new trees. It is considered that subject to conditions such as ensuring works are carried out in accordance with the recommendations set out in the report and a full landscaping plan with replacement tree planting, it is considered that the application would be acceptable on these grounds.

## **g) Ecology and Biodiversity**

- 7.17 The application has been accompanied by a Preliminary Ecological Appraisal (PEA) and Bat Survey which assessed the site's potential to support protected species and habitats.
- 7.18 The survey identified one of the buildings is suitable for roosting bats and that mitigation measures and a Natural England licensing agreement would be required to make the application acceptable. KCC Ecology have also requested additional information with regards to water voles which has been provided by the applicant.
- 7.19 The PEA has also considered the impact of the development on badgers, breeding birds, hazel dormouse, Great Crested Newts, reptiles and otters and found that none would be harmed by the proposal. There are also considered to be no impacts on the internationally designated sites, the SSSI and the Local Nature Reserve either.
- 7.20 It is considered that subject to conditions on safeguarding protected species and on measure to enhance biodiversity, the proposal would not harm protected species or any of the designations in the area. There are therefore no objections on these grounds.

## **h) Contamination**

- 7.21 No issues regarding contamination were found with the previous application which is still an extant permission. The Council's contamination advisors have previously advised that the contamination potential of the site is likely to be limited. However, they recommend that further consideration of ground gas risk is made and that a watching brief for contamination is kept during the works, particularly during removal of existing building slabs and hardstanding. It is considered that it is appropriate that a condition is reattached here in case any further contamination is found on site. Subject to this, there are no objections on these grounds.

## **Environmental Impact Assessment**

- 7.22 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

## **Local Finance Considerations**

- 7.23 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.24 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. There is no CIL requirement for this development.

## Human Rights

7.25 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

## Public Sector Equality Duty

7.26 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

## Working with the applicant

7.27 In accordance with paragraphs 38 of the NPPF, Folkestone and Hythe District Council (F&HDC) takes a positive and creative approach to development proposals focused on solutions. F&HDC works with applicants/agents in a positive and creative manner.

## 8. CONCLUSION

8.1 It is considered that the application is acceptable for the reasons set out above and the fact that a similar scheme has already been approved on site. It is considered that the application should be approved subject to conditions.

## 9. BACKGROUND DOCUMENTS

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## 10. RECOMMENDATIONS

**That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.**

Conditions:

1. The development must be begun within three years of the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the following submitted plans:

22.0054.200-01 Rev: P0  
22.0054.200-02  
22.0054.200-10 Rev: P0  
22.0054.200-11 Rev: P0  
22.0054.200-20 Rev: P0  
22.0054.200-21  
22.0054.200-22  
22.0054.200-50

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. No construction work above the slab level of any building on site shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have 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 the satisfactory appearance of the completed development and in the interests of visual amenity.

4. Prior to the commencement of development, a Construction and Environmental Management Plan shall be submitted and approved in writing by the Local Planning Authority. Details shall include:

- wheel washing facilities
- vehicle loading/unloading and turning facilities,
- parking facilities for site personnel and visitors
- hours of work
- measures required to ensure the banks and watercourse remain unaffected
- safeguarding of protected species
- pre-commencement check for water vole evidence be conducted by a suitably qualified person

The approved details shall be implemented for the duration of construction at the application site.

Reason: In the interests of public amenity and highway safety. These details are required prior to the development to ensure that the development can proceed without an adverse impact on local residents and the local highway network.

5. The vehicle parking and vehicle turning facilities shown on the approved plans shall be kept provided and available for parking purposes in connection with the approved development prior to the first use of any of the buildings and at all times thereafter.

Reason: To ensure the permanent retention of the facilities for parking purposes within the curtilage of the site in order to avoid obstruction of the highway.

6. Prior to the first occupation of any of the permitted buildings, the visibility splays shown on the submitted plan shall be provided and thereafter maintained with no obstructions over 1.05 metres above carriageway level within the splays.

Reason: In the interests of highway safety.

7. In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To protect the environment and human health against contamination and pollution.

8. No drainage system for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters and the development shall be carried out in accordance with the approved details.

Reason: To ensure the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobile contaminants.

9. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and (approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off site.

- The drainage scheme shall also demonstrate (with reference to published guidance)
- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

# DCL/23/31

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

10. Prior to any works commencing above slab level details of how the development will encourage biodiversity to include the ecological enhancements, as specified in paragraph 7.1 of the Preliminary Ecological Appraisal (Greenspace Ecological Solutions – July 2023), will be submitted to and approved in writing by the Local Planning Authority, and shall be carried out in accordance with details.

Reason: To encourage biodiversity.

11. The development shall take place in full accordance with the Arboricultural Method Statement (Greenspace Ecological Solutions – July 2023).

Reason: To ensure the works are carried out in accordance with good practice.

12. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

**Reason:** In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

13. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

14. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

15. Development shall be carried out in accordance with the recommendations specified in sections 6.1 and 6.2 of the Bat Survey (Greenspace Ecological Solutions – August 2023).

Reason: To protect bats on site.

16. The use of nursery shall not commence until details of the fence to protect the users of the outside play area have been submitted and approved in writing. Development shall be carried out in accordance with the approved plans prior to the first use of the nursery hereby approved

Reason: To ensure the development is does not have a negative impact on the playing fields and to protect the users of the play area and to accord with Development Plan Policy

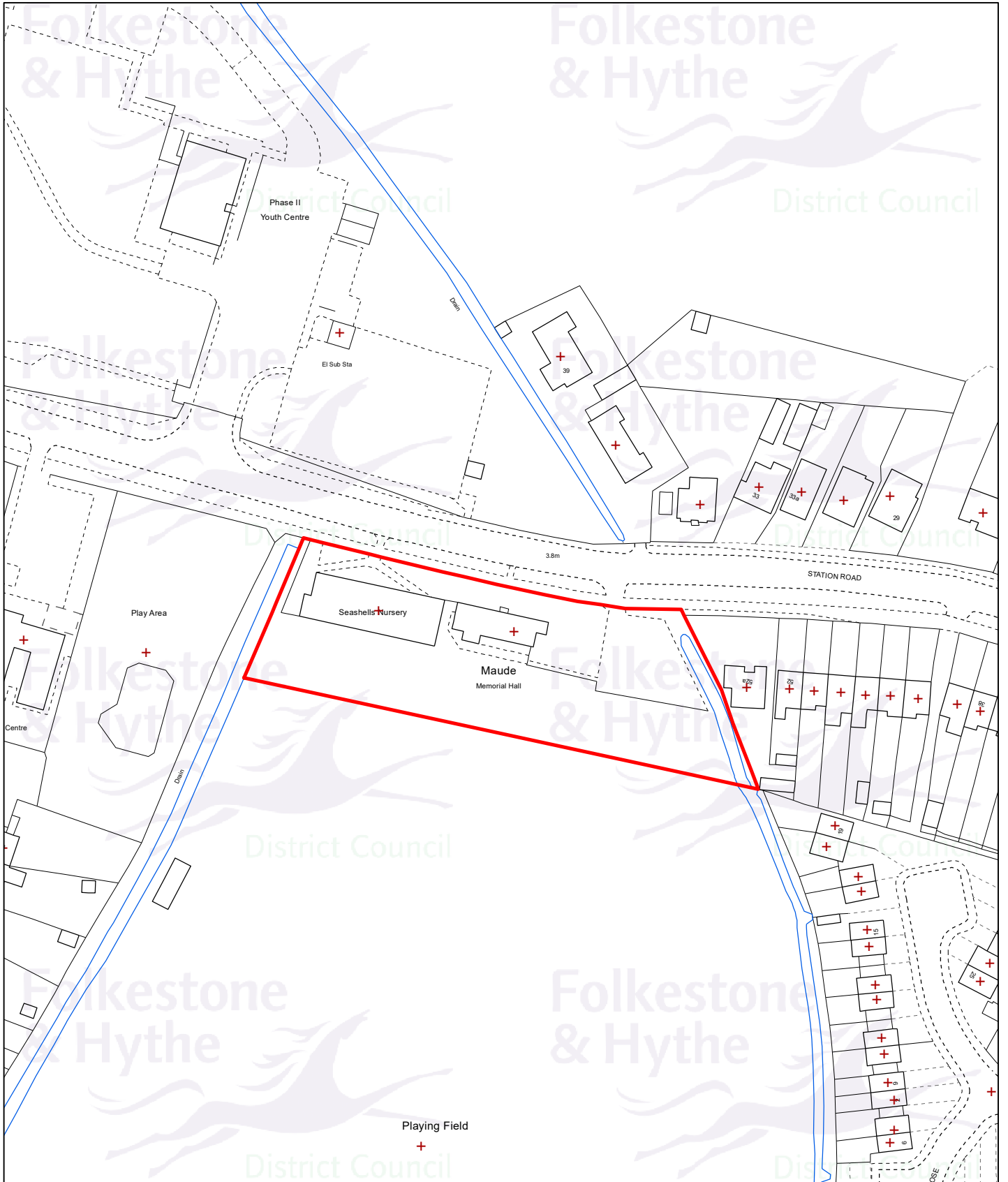
Informatives:

1. This permission does not convey any approval for the required amendments to the existing vehicle crossing or any other works within the highway for which permission must be obtained from Kent Highway Services, Ashford Highway Depot, Henwood Industrial Estate, Javelin Way, Ashford, Kent TN24 8AD

## **Appendix 1 – Site Location Plan**



# Maude Memorial Hall, Station Road, New Romney, Kent, TN28 8LQ



Planning Application:  
**23/1208/FH**

Drawn date:  
**30 Nov 2023**

Drawn by:  
**Brian Harper**

Drawing ref:  
**0724/LDC/LS**

Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2023



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**FOLKESTONE & HYTHE DISTRICT COUNCIL  
PLANNING AND LICENSING COMMITTEE – 12 DECEMBER 2023**

**Declarations of Lobbying**

Members of the Committee are asked to indicate if they have been lobbied, and if so, how they have been (i.e. letter, telephone call, etc.) in respect of the planning applications below:

<b>Application No:</b>	<b>Type of Lobbying</b>
	.....
	.....
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	.....
	.....
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	.....
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	.....

SIGNED: .....

**Councillor Name (in CAPS)** .....

**When completed, please return this form to the Committee Administrator prior to the meeting.**

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