



# Agenda

Meeting: **Planning and Licensing Committee**  
Date: **20 February 2024**  
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 5 - 6)**

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

Contact Sue Lewis – Tel: 01303 853265  
Email: [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk) or download from our  
website  
[www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)

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 7 - 10)**

To consider and approve, as a correct record, the minutes of the meeting held on 16 January 2024.

4. **Minutes of the Licensing Sub-Committee (Pages 11 - 12)**

To receive and note the minutes of the meeting held on 22 January 2024.

5. **23/1008/FH - Grafton Cottage, Sandgate Esplanade, Sandgate, CT20 3DP (Pages 13 - 26)**

Listed Building Consent for replacement of windows.

6. **23/1657/FH - 25 Dymchurch Road, St Marys Bay, Romney Marsh, TN29 0ET (Pages 27 - 40)**

Change of use of existing outbuilding and erection of 2 Polytunnels to breeding and retail of fish (part retrospective).

7. **22/0862/FH - 5 Marine Avenue, Dymchurch, TN29 0TR (Pages 41 - 62)**

Demolition of existing bungalow and erection of a pair of semi detached dwellings (resubmission of Y19/1072/FH).

8. **22/1077/FH - Cheriton Parc House, Cheriton High Street, Folkestone, CT18 8AN (Pages 63 - 110)**

Conversion of Cheriton Parc House to 31 x one and two bedroom apartments, and the development of 19 purpose built 1 and 2 bed apartments, the redevelopment of land to the rear to create a total of 36 dwellings (comprising 20 x 3 bedroom two storey dwellings and 16 x 4 bedroom 3 storey height townhouses) with associated landscaping and parking.

9. **23/1001/FH - Block E, Hurricane Way, Hawkinge, Folkestone, CT18 7SS (Pages 111 - 152)**

Change of use and alterations to 8 no. apartments.

10. **Appeal Decisions Received (Pages 153 - 178)**

This report is for information only. It sets out the appeals determined since the previous Meeting of the Planning and Licencing Committee, together with commentary on each.

11. **Supplementary Information (Pages 179 - 180)**

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## **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, 16 January 2024
Present	Councillors Mike Blakemore, Polly Blakemore, Tony Cooper, Clive Goddard, Mrs Jennifer Hollingsbee, Anita Jones, Nicola Keen (Vice-Chair), Jackie Meade (Chair), Rebecca Shoob, Paul Thomas and Belinda Walker
Apologies for Absence	Councillor Gary Fuller
Officers Present:	Robert Allan (Principal Planning Officer), Rob Bailey (Development Enforcement Manager), Ewan Green (Director of Strategy and Resources), Ellen Joyce (Democratic Services Trainee) and Sue Lewis (Committee Services Officer)
Others Present:	

### 54. **Declarations of Interest**

There were no declarations of interest.

### 55. **Minutes**

The minutes of the meeting held on 12 December 2023 were submitted, approved and signed by the Chairman.

### 56. **Minutes of the Licensing Sub-Committee**

The minutes of the meeting held on 5 December 2023 were submitted, approved and signed by the Chairman.

### 57. **23/1096/FH - Land Adjoining Karibu, Coombe Wood Lane, Hawkinge, ct18 7BZ**

New single dwelling.

The planning officer informed members that paragraph 2.1, page 15 of the agenda pack should read Western Boundary and not as stated Eastern.

Proposed by Councillor Paul Thomas  
Seconded by Councillor Nicola Keen and

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

(Voting: For 11; Against 0; Abstentions 0)

58. **23/1554/FH - 29 Lancaster Drive, Hawkinge, Folkestone, CT18 7SW**

Incorporate the landscape buffer zone adjacent to property into a residential garden.

The planning officer informed the committee that a further letter of objection had been received stating the buffer strips should be maintained for 10 years, Lancaster Drive West Limited are liable for the maintenance of these areas and that the Council should have taken enforcement action.

Proposed by Councillor Clive Goddard  
Seconded by Councillor Mrs Jenny Hollingsbee and

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

(Voting: For 6; Against 5; Abstentions 0)

59. **23/1526/FH - 31 Lancaster Drive, Hawkinge, Folkestone, CT18 7SW**

Incorporate the landscape buffer zone adjacent to property into a residential garden.

The planning officer informed that the same letter of objection was submitted as for the previous application.

Proposed by Councillor Mrs Jenny Hollingsbee  
Seconded by Councillor Clive Goddard and

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

(Voting: For 6; Against 5; Abstentions 0)

60. **Appeals Monitoring Report January 2020 to December 2023**



This report is for information only. It sets out the number and decisions on appeals determined since the previous monitoring report was presented to Members in 2019, together with commentary on a number of notable appeal decisions made by the Planning Inspectorate.

Proposed by Councillor Nicola Keen  
Seconded by Councillor Tony Cooper and

**Resolved: Members noted the report.**

(Voting: For 11; Against 0; Abstentions 0)

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# Minutes

## Licensing Sub-Committee

Held at:	Council Chamber - Civic Centre Folkestone
Date	Monday, 22 January 2024
Present	Councillors Mrs Jennifer Hollingsbee, Nicola Keen and Jackie Meade
Apologies for Absence	
Officers Present:	John Bickel (Licensing Specialist), Tim Hixon (Legal Specialist), Sue Lewis (Committee Services Officer), Briony Williamson (Licensing Specialist) and Nicola Wilson (Environmental Health and Licensing Senior Specialist)
Others Present:	Taxi Driver in relation to the review

### 74. **Appointment of Chair for the meeting**

Proposed by Councillor Nicola Keen  
Seconded by Councillor Jackie Meade and

**Resolved: Councillor Mrs Jenny Hollingsbee be appointed Chairman for the meeting.**

### 75. **Declarations of interest**

There were no declarations of interest.

### 76. **Exclusion of Public**

Proposed by Councillor Jackie Meade  
Seconded by Nicola Keen and

**Resolved:**

**To exclude the public for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 1 & 2 of Part 1 of Schedule 12A to the Local Government Act 1972 –**

**'Information relating to any individual & Information which is likely to reveal the identity of an individual.'**

(Voting: For 3; Against 0; Abstentions 0)

**77. Review Of Taxi Driver Licence**

This report considers whether action should be taken against a Dual Driver's licence following a complaint received from a member of the public claiming the Driver attempted to overcharge him.

In reaching the decision, the Sub-Committee took into consideration the following factors:-

1. The report presented by John Bickel for Council;
2. The witness statement of the complainant.
3. The representations of taxi driver and the documentary evidence submitted at the hearing;
4. The audio recording of complainant's telephone call to the Operator's office;
5. The provisions of the Local Government (Miscellaneous Provisions) Act 1976;
6. The Human Rights Act 1998;
7. Relevant case law as detailed within the Report;
8. Folkestone and Hythe District Council's Hackney Carriage and Private Hire policy ["the Policy"]

Proposed by Councillor Nicola Keen  
Seconded by Councillor Jackie Meade and

**Resolved: The Sub-Committee deemed that to issue the Licensee with a formal warning as regards this and his future conduct was reasonable and proportionate in the circumstances and in accordance with the Policy.**

**The formal warning and the 12 penalty points previously issued to the Licensee will remain on his record in accordance with the Policy.**

**Having considered all the evidence presented at the hearing, the Sub-Committee determined that the applicant remained a 'fit and proper person' within the scope of the statutory provisions.**

**The decision notice will be issued within the allotted guidelines.**

(Voting: For 3; Against 0; Abstentions 0)

# Agenda Item 5

## DCL/23/36

**Application No:** 23/1008/FH

**Location of Site:** Grafton Cottage, Sandgate Esplanade, Sandgate, CT20 3DP

**Development:** Listed Building Consent for replacement windows

**Applicant:** Mr & Mrs Hammond

**Agent:** Mr Josh Daruvala

**Officer Contact:** Katy Claw

### RECOMMENDATION:

<p><b>That Listed Building Consent be refused for the reason set out at the end of the report.</b></p>
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### 1. INTRODUCTION

- 1.1. The application is reported to Committee at the request of Councillor Goddard. Reasons given are that the practical circumstances of the applicant is relevant and is of weight that has not been reflected in the balancing exercise. Appropriate for members to debate the merits of achieving efficient replacements.

### 2. SITE AND SURROUNDINGS

- 2.1. Grafton Cottage is Grade II Listed and is one of a pair of white weatherboarded houses located on the corner of The Esplanade Conservation Area (CA).

Grafton Cottage and Regency Cottage, the neighbouring property (also a Grade II Listed Building) to the west are both similar, two storey timber framed buildings set up on a basement level to accommodate the slope up from the road. Once separate, the two houses are now connected by a two storey link block with garaging.

Both Grafton Cottage and Regency Cottage are in the Regency style and are white weatherboarded with slate hipped roofs. The link block is modern but traditionally designed. The weatherboarding extends right around to the rear and here there are traditional windows and a modern glazed door.

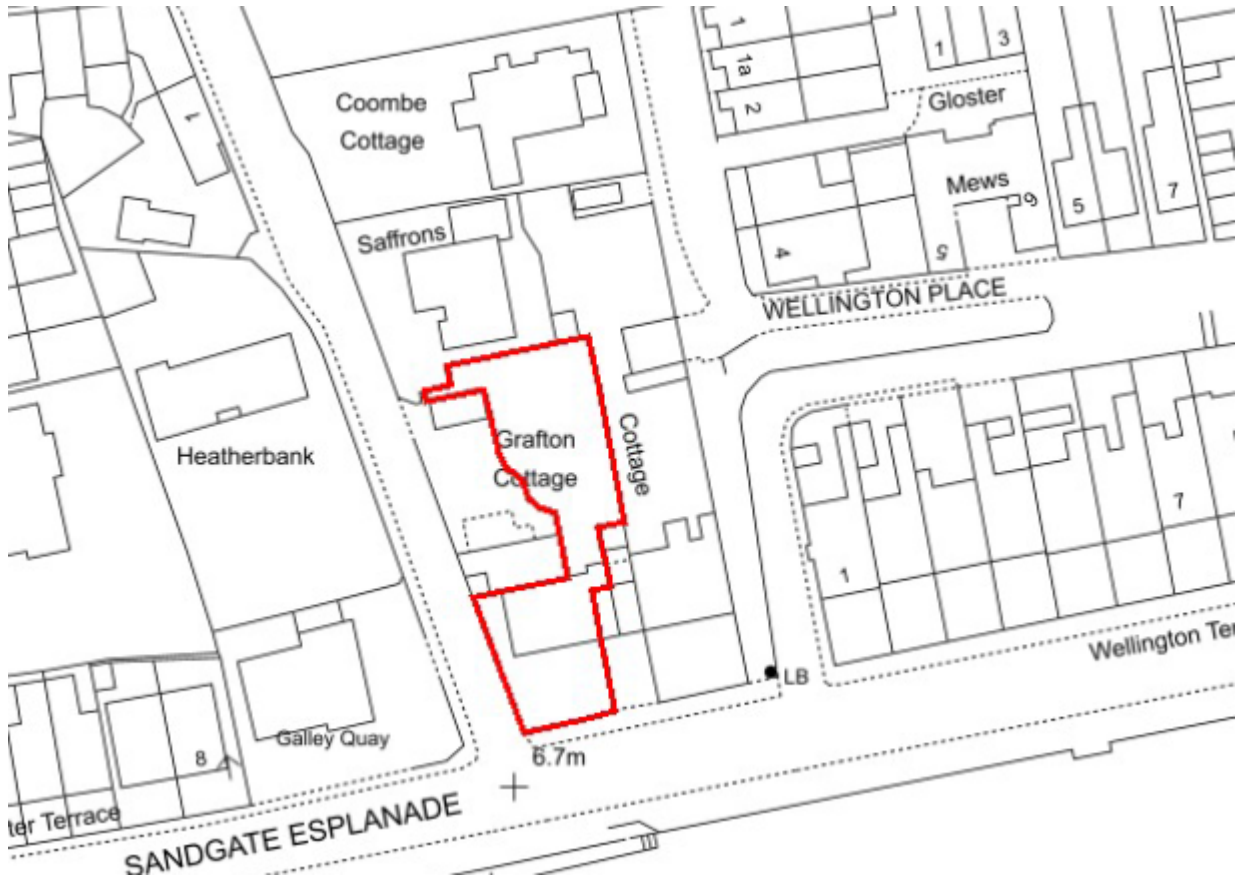
The garden land slopes steeply upwards from the back of the property with terracing and steps.

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

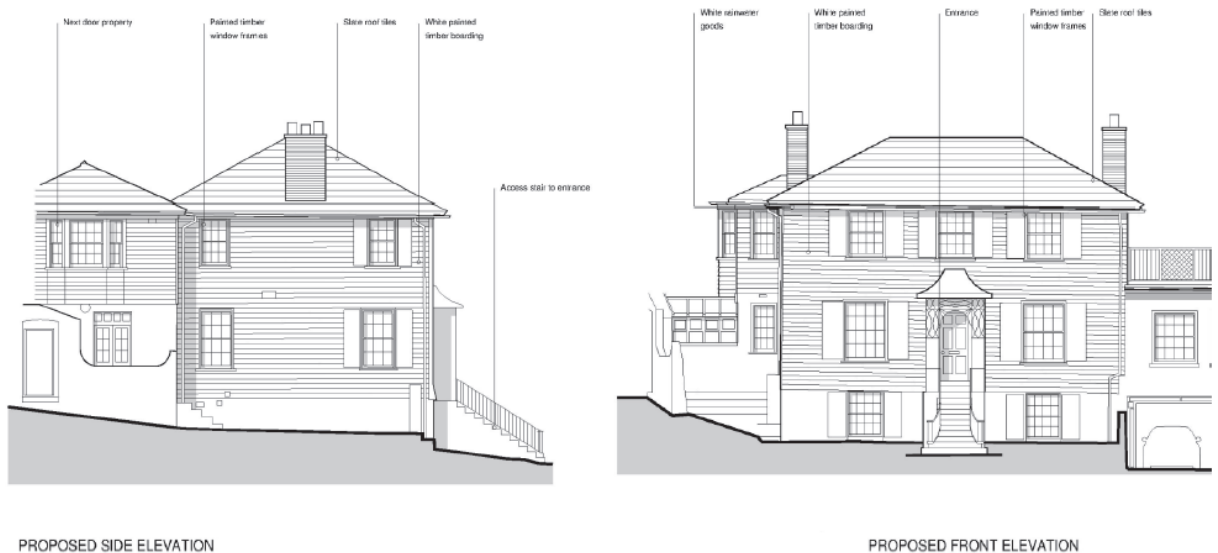
### 3. PROPOSAL

# DCL/23/36

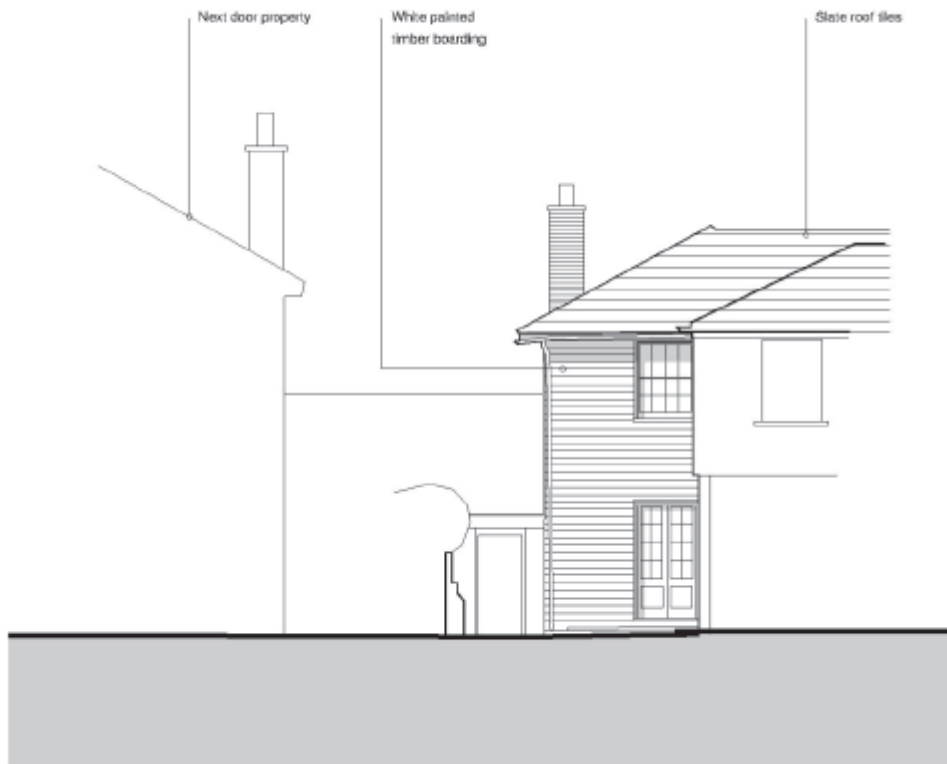
- 3.1 Listed Building Consent is sought for the replacement of the existing single timber sash windows with double glazed timber sash. In total there are twelve windows proposed to be replaced. Seven on the front elevation (2 at basement, 2 at ground floor and 3 at first floor), four windows on the side (west) elevation (2 at ground floor and 2 at first floor) and one window on the rear elevation at first floor.
- 3.2 The existing windows on the front elevation are 8/8 format, the windows on the side elevation are 6/6 format and the window to the rear is 8/8 format. The replacement windows would all match this layout pattern.



**Figure 1:** Site Location Plan showing Grafton Cottage and its rear garden area.



**Figure 2:** To the right-hand side section of the side elevation are shown the 4 windows to be replaced. All 7 windows on the main front façade of the front elevation are to also be replaced.



**Figure 3:** The rear elevation showing the single window at first floor to be replaced.

- 3.3 The application forms a resubmission of previously refused application 22/2129/FH.
- 3.4 The following reports were submitted by the applicant in support of the proposals:

#### Planning & Heritage Statement

This document sets out the site particulars and the history of the site. The report details the windows to be replaced and includes images of the existing and proposed windows. The report goes on to assess the impact on the heritage significance and provides a justification for the works. The report concludes that the property is in a prominent location on the seafront which is exposed to the elements which weathers the property and that the original windows are now beyond economic repair and the failing windows are having an impact upon the fabric of the building in areas around the windows (walls, sills, floors) through moisture ingress. The windows are also poor in terms of energy efficiency. The conclusion sets out that the addition of double glazing can be delivered in a low-profile form and that it would not have any material visual impact on the appearance of the windows or the building and will enhance the energy efficiency of the property, making the openings watertight and draft-free, preventing further decay of the fabric of the building and causing less than significant harm to the LB.

#### Planning Statement

This report provides the listing description, quotes local and national planning policy and guidance, including Historic England guidance on 'Traditional Windows, Their Care and Upgrading (2017)' and 'Modifying historic Windows as part of retrofitting Energy-Saving Measures (2023)'. The report goes over the previous reason for refusal and concludes that the proposal should be accepted at District level (as it has been at parish and local amenity society level), as being compliant with the spirit of the NPPF, and local plan policies, and the revised window details should be approved so that the building does not endure any further adverse weather conditions.

## 4. RELEVANT PLANNING HISTORY

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

99/0253/SH	Erection of an extension and alterations to the existing dwelling to sub-divide it into two separate dwellings, including the erection of a detached garage with access from Sunnyside Road.	Approved with conditions
99/0254/SH	Listed Building Consent for the erection of an extension and alterations to the existing dwelling in connection with the sub-division into two separate dwellings.	Approved with conditions
Y01/0649/SH	Listed building consent for reconstruction of existing chimneys with rendered brickwork painted white.	Approved with conditions
Y15/0603/SH	Erection of a single storey rear extension together with alterations and landscaping to the rear garden.	Approved with conditions
Y15/0675/SH	Listed building consent for the erection of a single storey rear extension and internal alterations to include demolition of wall, erection of new partition walls, blocking of existing and creation of new internal openings.	Approved with conditions
22/2129/FH	Listed Building Consent for replacement of windows.	Refused on the grounds that by virtue of their design and detailing would cause less than substantial harm to the significance of the designated asset, and would not give rise to any public benefits sufficient to outweigh the harm.  Appeal pending
23/0897/FH	Rear extension	Approved with conditions



## **5. CONSULTATION RESPONSES**

5.1 The consultation responses are summarised below.

### **Consultees**

**Sandgate Parish Council:** no objection

**Heritage Consultant:** Recommend refusal. This is a repeat application for replacement windows incorporating slimline double-glazed panels But with the omission of horn details. The proposed windows are framed with thicker sections than the existing, in addition the ovolo details are different. The replacement windows would result in a coarsening of the detail of the joinery, which will detract from the character of the building and would be further highlighted by the comparison with the original joinery of the adjoining house.

### **Local Residents Comments**

5.2 The application was publicised by the posting of a site notice, and an advertisement in the local press. No letters of representation have been received to date.

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

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

### **Ward Member**

5.4 The Ward Member for Walland and Denge Marsh, Cllr Goddard requested that the application be called-in due to officer recommendation for refusal.

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  
HB8 – Alterations and Extensions to Buildings  
HE1 – Heritage Assets

## Core Strategy Review (2022)

SS1 – District Spatial Strategy

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

## **Supplementary Planning Guidance/Documents**

### Sandgate Village Design Statement 2013

SDS1 – Compliance with the Sandgate Design Statement

SDS 2 - Compliance with the Development Plan

SDS5 – Character Areas (The Esplanade Area)

SDS6 – Street Scene Detailing

## **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.

Paragraphs 195 - 214 – Conserving and Enhancing the Historic Environment

### National Planning Policy Guidance

Historic Environment

### Historic England Guidance

Traditional Windows, Their Care and Upgrading

Modifying Historic Windows as Part of Retrofitting Energy-Saving Measures

## **7. APPRAISAL**

Background

7.1 Application reference number 22/2129/FH sought Listed Building Consent to replace the same windows as per this current application. The previous application was

refused on the grounds that the proposed replacement windows by virtue of their design and detailing would cause less than substantial harm to the significance of the designated heritage asset, and would not give rise to any public benefits sufficient to outweigh the special architectural or historic character of the Listed Building resulting in unacceptable harm to the Listed Building.

7.2 This resubmission application has sought to overcome the reason for refusal by omitting the horn details from the proposed windows. The profiles of the replacement windows remain the same as those submitted under 22/2129/FH.

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

a) Design/impact upon the Listed Building

## **a) Design/impact upon the Listed Building**

7.4 Section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 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.

7.5 Historic England provides guidance on the suitability of replacement windows in listed buildings – ‘Traditional Windows, Their Care and Upgrading (2017), and ‘Modifying Historic Windows as part of retrofitting Energy-Saving Measures (2023)’. This confirms that the loss of traditional windows from older buildings poses one of the major threats to heritage. Traditional windows and their glazing makes an important contribution to the significance of historic areas. They form an integral part of the design of older buildings and can be important artifacts in their own right. Where historic windows, whether original or later insertions, make a positive contribution to the significance of a listed building they should be retained and repaired where possible. If beyond repair, they should be replaced with accurate copies. Further, where historic windows or replacement windows of historic pattern survive without harming the significance of the listed building, there may be compatibility issues to consider as the introduction of double-glazing can require the renewal of the window frames to accommodate thicker glazing, thereby harming significance.

7.6 The NPPF requires the impact on the significance of the designated heritage asset to be considered and where potential harm is identified, the harm needs to be categorised as either "less than substantial harm" or "substantial harm". The National Planning Practice Guidance (NPPG) states that whether a proposal causes substantial harm will be a judgement for the decision maker, but it also makes it clear that substantial harm is a high test.

7.7 Paragraph 205 of the NPPF states that great weight should be given to the conservation of a designated heritage asset when considering applications that affect its significance, irrespective of how substantial or otherwise, that harm might be. Paragraph 206 states that any harm to or loss of the significance of a designated heritage asset should require clear and convincing justification. Where a proposal would result in less than substantial harm, the NPPF requires that it is weighed against the public benefits of a proposal in the manner described in paragraph 208. Heritage benefits are a public benefit to consider in the weighing exercise.

- 7.8 In this case, the significance of this listed building is derived from its strong architectural presence and detailing. The application site is one of a pair, with Regency Cottage being the adjoining neighbour. Both properties are similar two storey framed buildings, clad in white weatherboarding and with slate roofs. Once separate, the two houses are now connected by a two-storey link block with garaging which is modern but traditionally designed.
- 7.9 As noted above, this current application forms a resubmission of the previously refused application 22/2129/FH. The detailing of the replacement windows submitted under this application is generally identical to that submitted under the previous application with the only difference being the omittance of the horn details to the windows.
- 7.10 Most of the affected windows appear to be original although the presence of horn details on some of them at first floor suggests that the sliding sash parts of these particular windows are replacements. The windows are, as is commonly the case with Regency window detailing, framed up with very slender joinery sections. The sashes are typically 35mm thick with sash styles 40mm wide overall, 25mm deep meeting rails and 16mm glazing bars. The slenderness of the construction was made possible by the use of thin glass, and this is the essence of the design of these sorts of multi-pane sash windows.

7.11 The proposed replacement windows would be heavier framed, with much thicker sections compared to the existing. For comparison (further demonstrated by Figure x below):

- Sash styles (face dimension excluding putty rebate) 46mm (currently 36mm)
- Sash style width 50mm (currently 36mm)
- Meeting styles (face dimension excluding putty rebate) 31mm (currently 22mm)
- Glazing bars 22mm (currently 16mm)

The thickening of the window details here would substantially alter the character and appearance of the dwelling, failing to respect its historical nature and impacting the overall appearance, to its detriment, especially as it would be read as a pair with the neighbouring property, Regency Cottage, which still retains its original windows.

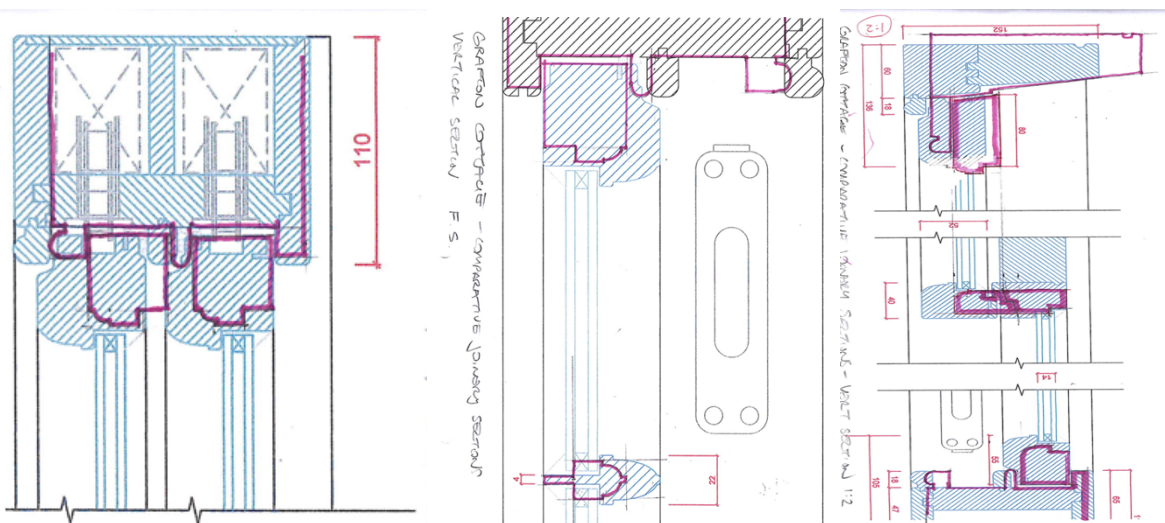


Figure 4: Comparison between existing and proposed windows. Originals drawn purple.

7.12 In addition to the increased thickness concerns mentioned above, the ovolo details are different, shown with a more extended 'flatter' ovolo than the original glazing bar

profiles, the sash box front detail is different – thicker at 18mm with rounded arises. The originals are 14mm, resulting in a more clumsy appearance.

The coarsening of the details mentioned above comes from the need to accommodate the 14mm Slimlite double glazed units, which are significantly heavier than the original single glazing. It is accepted that Slimlite glazing can work in place of single glazing in some situations, the use of thicker glazing is usually more successful in Victorian properties where the original window joinery is more substantial and where thicker glazing bars, and the use of horns (horns help support the weight of the glass) formed part of the original design of the windows, thereby replacement windows on such properties would have less impact upon the fabric of the Listed Building.

- 7.13 Each case must be decided on its own merits, taking the site and the situation into account. At Grafton Cottage it is considered that the result of the replacements submitted as part of this application would result in a coarsening of the detail of the joinery, which would detrimentally impact the appearance and character of the designated heritage asset. The change in window profiling here would be even more apparent due to the unavoidable comparison that would occur against the original window joinery of Regency Cottage.
- 7.14 Notwithstanding the supporting information submitted as part of the application, it is considered that the difference between the traditional slender Georgian sections and the replacements would be noticeably different, resulting in a significant visual alteration that would cause harm to the character and appearance of the heritage asset.
- 7.15 It is accepted that the existing windows in Grafton Cottage are in a poor state of repair and that the secondary glazing may therefore not necessarily overcome the issues surrounding damp and water ingress which is currently impacting the fabric of the listed building. Notwithstanding this however, no information has been provided to address why the windows cannot be replaced with more sympathetic and historically accurate replacements, in line with Historic England's Guidance.
- 7.16 Providing more thermal efficient windows within the building would accord with the sustainability policies set out within the NPPF, however this should not be to the detriment of a designated heritage asset without clear and convincing justification. In this case, without justification to the contrary, the resultant harm to the significance of the heritage asset outweighs the sustainability gains to the property as a result of the windows proposed in this case.
- 7.17 Overall, there would be no objection to the principle of replacing the windows subject of this application, but they would need to be more historically sympathetic to the building they would be installed within. For the reasons stated above, in this case, the proposed replacement windows would result in 'less than substantial harm' to the heritage asset, which cannot be supported. Whilst replacement windows would prevent further decay and water ingress, the visual harm caused as a result of the windows proposed in this instance would not amount to a public benefit in this case (normally where works to a listed building would support the general maintenance and up-keep of the building for the public good) which would not out-weigh the harm caused.

## **Environmental Impact Assessment**

7.18 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.

## **Human Rights**

7.19 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**

7.20 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**

7.21 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 For the reasons set out above, it is recommended that Listed Building Consent be refused on the grounds that the proposed windows, by virtue of their design and detailing would cause less than substantial harm to the significance of the designated heritage asset (Grafton Cottage), and would not give rise to any public benefits sufficient to outweigh this harm. As such the proposal would detract from and fail to preserve the special architectural or historic character of the Listed Building resulting in unacceptable harm to the Listed Building. As such the proposal would be contrary to the PPLP Policy HE1 and to the provisions of the NPPF 2023.

## **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).

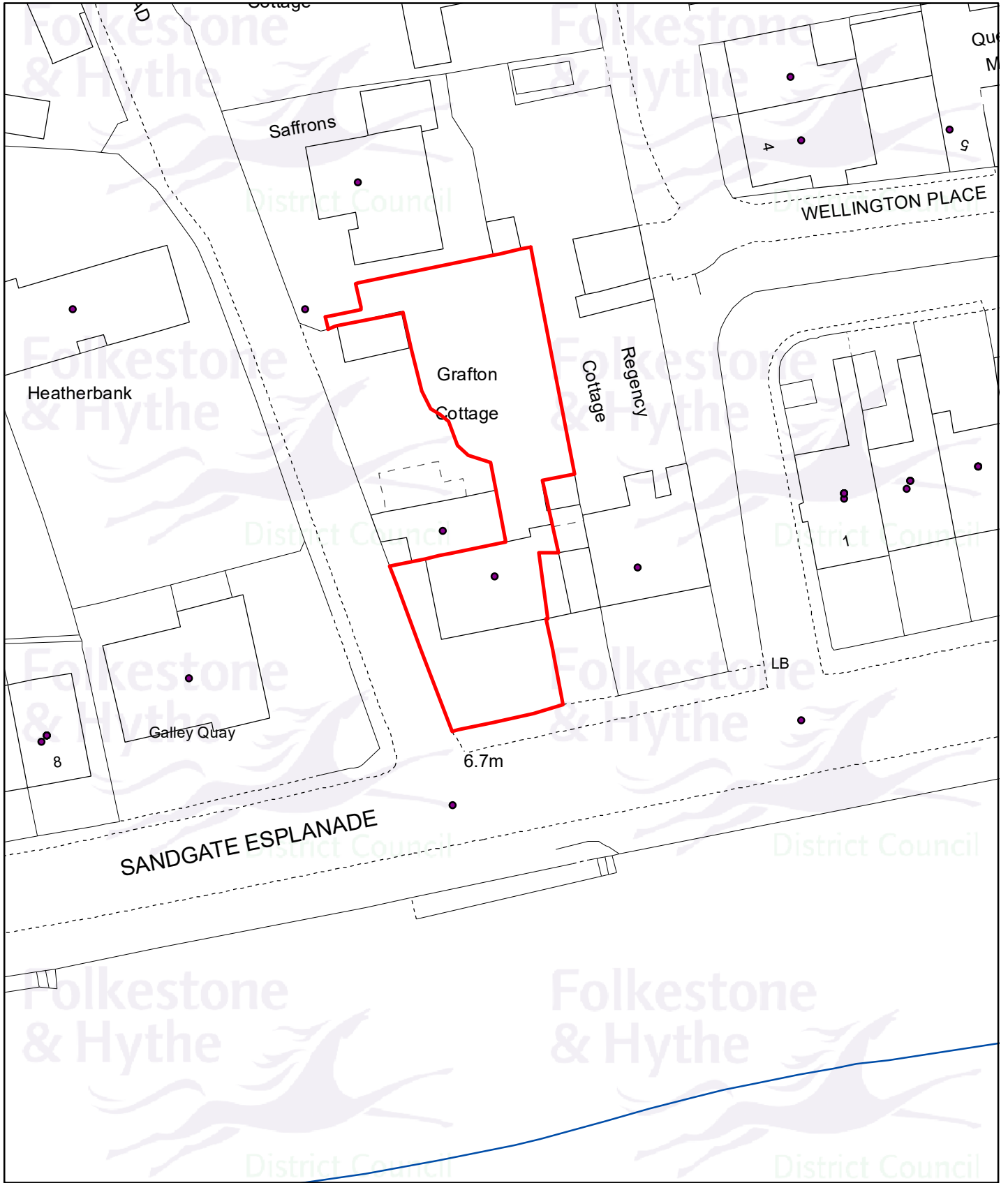
## 10. RECOMMENDATIONS

**That Listed Building Consent be refused/for the following reason:**

1. The proposed windows by virtue of their design and detailing would cause less than substantial harm to the significance of the designated heritage asset and would not give rise to any public benefits sufficient to outweigh this harm. The proposed windows would harm the special architectural and historic character of the Listed Building. As such the proposal would be contrary to PPLP Policy HE1 and to the provisions of the NPPF.







Planning Application:  
23/1008/FH  
Drawn date:  
07 Feb 2024  
Drawn by:  
Carrie Stacey  
Drawing ref:  
1935/COP/LS

  
Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2024



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# Agenda Item 6

## DCL/23/37

**Application No:** 23/1657/FH

**Location of Site:** 25 Dymchurch Road, St Marys Bay, Romney Marsh, TN290ET

**Development:** Change of use of existing outbuilding and erection of 2 Polytunnels to breeding and retail of fish (part retrospective).

**Applicant:** Mrs S Lane

**Agent:** Mr C Brian

**Officer Contact:** Danielle Wilkins

### SUMMARY

This report considers whether planning permission should be granted for the change of use of an existing outbuilding to a commercial use, together with the erection of two no. Polytunnels for the use of breeding and selling of fish.

### RECOMMENDATION:

**That planning permission be refused for the reasons set out at the end of this report.**

### 1. INTRODUCTION

1.1 The application is reported to Committee at the request of Councillor Cooper, on the grounds that the layout, density, design, appearance and materials should be considered by Members.

### 2. SITE AND SURROUNDINGS

2.1. The application site comprises a two storey detached, residential dwelling with several smaller outbuildings within its curtilage. The dwelling and outbuildings are finished in render and there is hardstanding to the front and side of the dwelling providing ample off-street parking.

2.2. The site is located within the settlement boundary of St Mary's Bay, within flood zones 2 and 3 as identified in the Environment Agency's Flood Risk Maps. The site is located on a main road overlooking the Dungeness, Romney Marsh and Rye Bay site of special scientific interest to the front.

2.3. The application site sits within a large plot, with a rear garden measuring approximately 55 metres in length with a width of 15 metres, narrowing to 11 metres at its northwestern end.

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

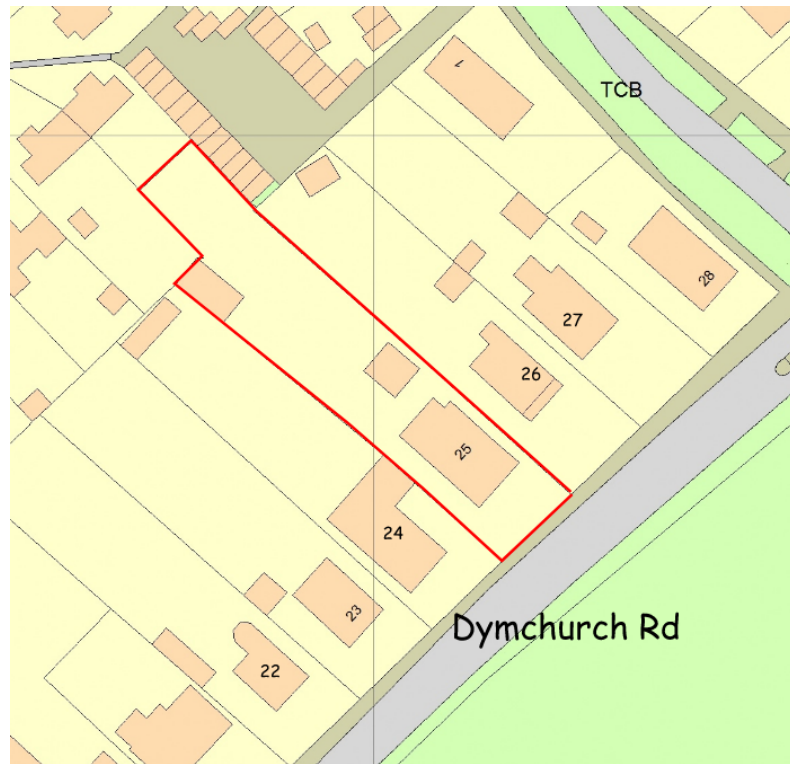


Figure 1 - Site Location Plan

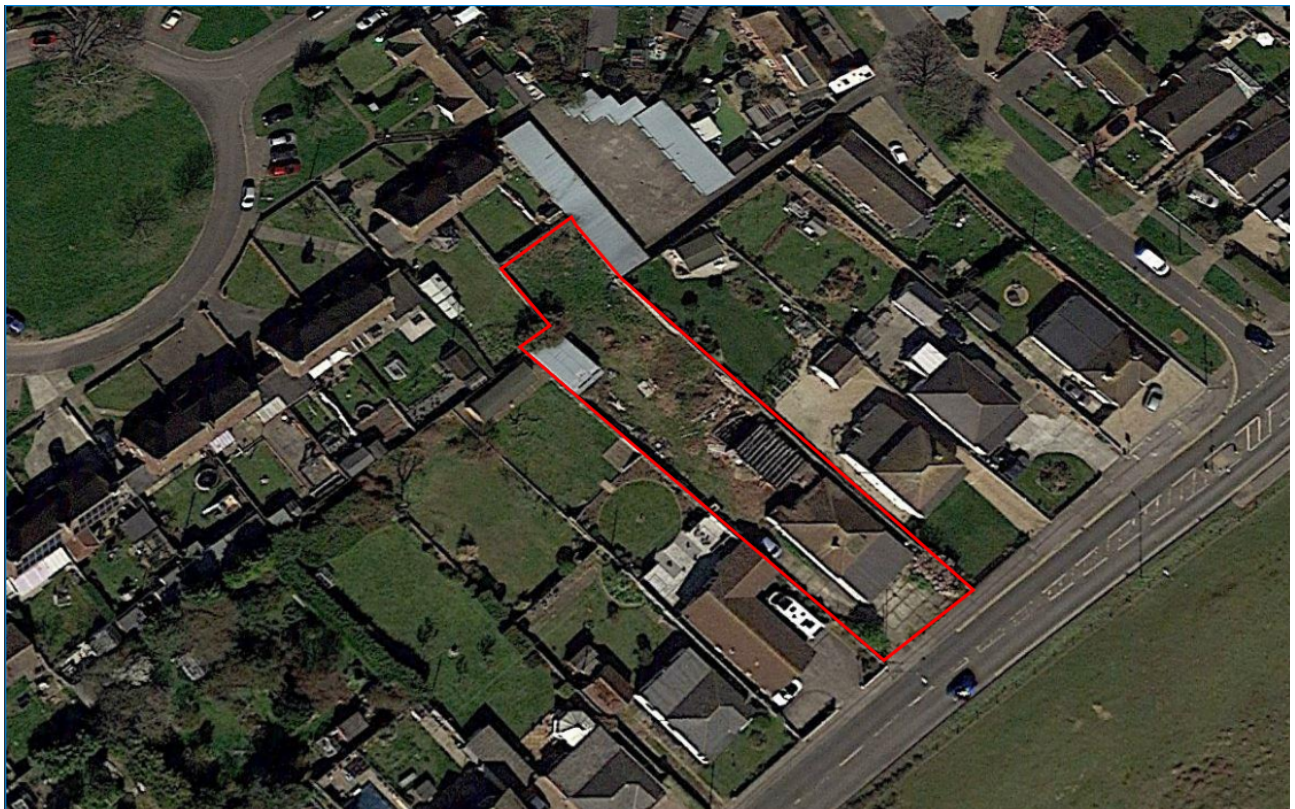


Figure 2 - aerial photo

### 3. PROPOSAL

- 3.1 Full planning permission is sought for the change of use of the existing outbuilding to a commercial use, together with the erection of two no. Polytunnels for the breeding

and retail of fish. The change of use of the outbuilding is retrospective with commercial operations taking place on site.

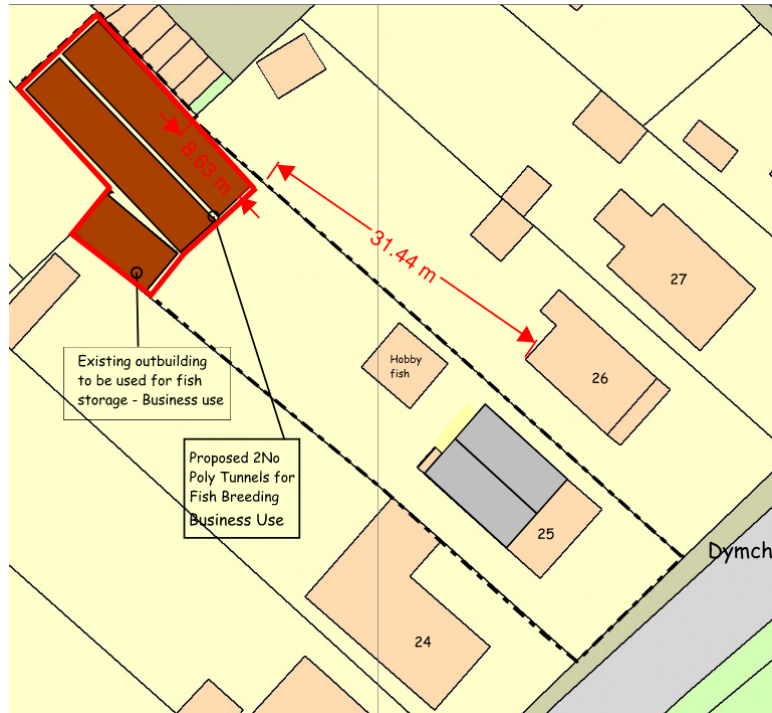


Figure 3 - proposed block plan

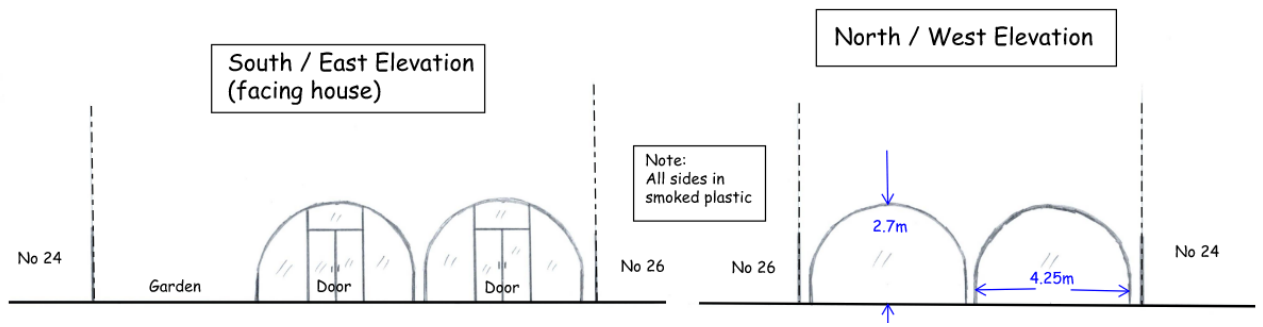


Figure 4 - proposed southeast and northwest elevations

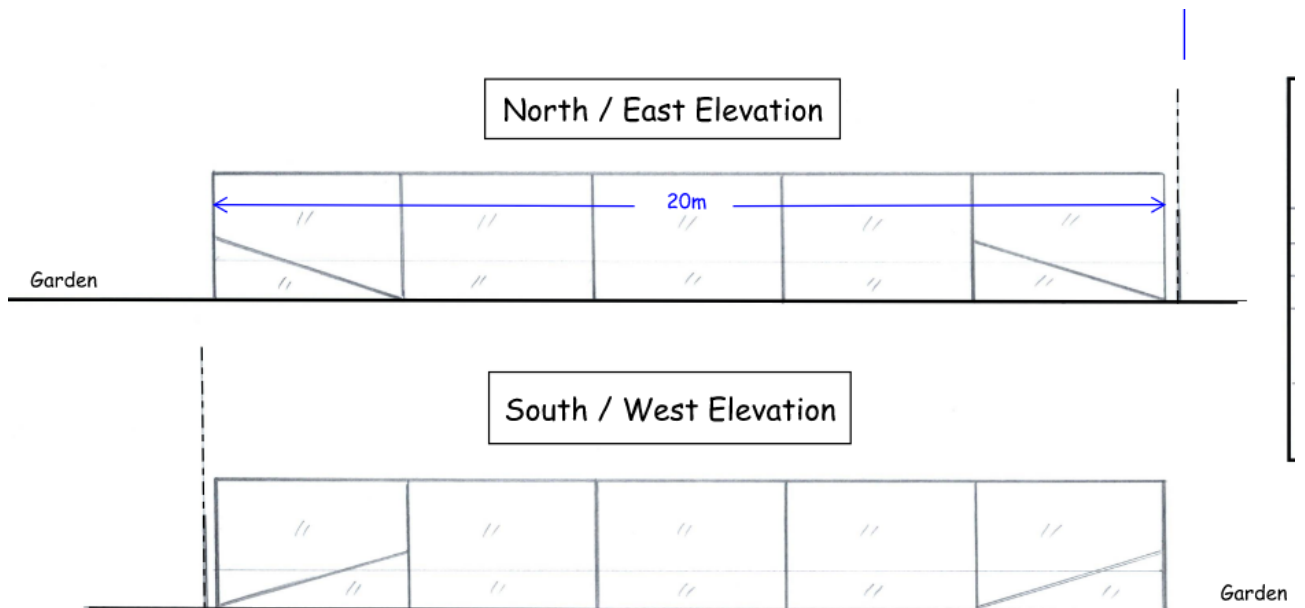


Figure 5 - proposed northeast and southwest elevations

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

Planning Statement

3.3 The planning statement confirms that the business operates solely online, that there will be no visiting public, staff or customers. The planning statement also states that the polytunnels are required to protect the fish from Seagulls, sea air elements and in order to maintain a stable temperature.

## 4. RELEVANT PLANNING HISTORY

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

23/0558/FH	First floor extension with Juliet balcony to front, raised roof with new windows and adding gable ends. Repositioning of front and rear doors at ground level	Approved with conditions
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## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

**St Mary in the Marsh Parish Council:**

Neither support nor object. The Parish recommended that the application be called-in as a number of applications have been made in short succession and they should be considered collectively.

**Natural England:**

No objection

**Environment Agency:**

No objections. The application is covered by Flood Risk Standing Advice

**Environmental Protection Officer:**

No objection subject to the following conditions to safeguard residential amenity:

- All windows and doors within the existing outbuilding to be fitted with black out blinds or curtains.
- All external mechanical plant and lighting to be installed to serve the outbuilding must first be approved by the LPA.
- No lighting is to be fixed within the Polytunnels
- Combined noise emissions from all plant/machinery must be designed to achieve a rating of 5 decibels below the typical background level at the nearest noise sensitive locations.

Local Residents Comments

5.2 8 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

- The size of the proposed Polytunnels are that typically used by retail nurseries and cannot be classed as domestic
- The proposed structures would be detrimental to the residential environment, would not respect the existing pattern of development or the scale and proportions of neighbouring buildings
- The proposal would be out of character and detrimental to the area
- The main dwelling has already seen a considerable roof extension, this further alteration would not be in keeping with the area and would not adhere to the landscape character.
- The proposed structures would result in a loss of sunlight and privacy, specifically within the rear garden
- Concern has been raised with regards to noise from additional equipment and aromas from the tanks, to the storage of chemicals and food and with regard to the discharge of waste water
- The planning statement contradicts information available on the applicants website.
- The proposal would be better suited to a retail/industrial environment
- Concern raised in regard to property value **[CPO comment – Members will be aware that this is not a material planning consideration]**

## 5.4 Ward Member

The Ward Member, Cllr T Cooper, requested that the application be called-in on the grounds that the layout, density, design, appearance and materials should be considered by Members.

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

Core Strategy Review (2022)

SS1 – District Spatial 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) 2021

National Design Guide October 2019

## **7. APPRAISAL**

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

- a) Principle of development
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Parking and highway safety
- e) Other issues

### **a) Principle of development**

7.2 The proposal includes for the conversion of an existing outbuilding, together with the erection of two no. Polytunnels to the very rear of the application site for the breeding and selling of Goldfish. This would introduce a business use within the site, which currently comprises a residential dwelling set within the context of a residential area. Concern has been raised with regard to the conversion of the outbuilding and the erection of the Polytunnels and their suitability within a residential area.



7.3 However, small-scale home businesses can be acceptable, providing that they do not result in material planning harm to (amongst other things) residential amenity or highway safety. These detailed matters are assessed in the relevant sections of the appraisal below.

7.4 As such, it is considered that the proposed breeding and selling of fish is acceptable as a matter of principle.

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

7.5 The conversion of the existing outbuilding within the rear amenity space would not result in any external changes to the building.

7.6 The proposed polytunnels would be located within the northernmost section of the rear garden, set further back than the existing outbuilding. These would each measure approximately 20 metres in depth, 4.25 metres in width and 2.7 metres in height, the erection of polytunnels of this size would fall within the limits of the GDPO had they been for personal use only, however their use in association with the business removes the permitted development rights.

7.7 The polytunnels would have a lightweight metal frame, with smoked plastic sheeting to encase the tunnels.

7.8 The polytunnels would be located to the far end of the rear garden, abutting the boundaries with the garages to the north, nos. 8 and 9 Newlands to the north/northwest and no. 26 Dymchurch Road to the northeast. Due to the proposed positioning views into this section of the site are limited to private amenity spaces only with limited views available of the site from the public realm.

7.9 Notwithstanding the limited visibility of the proposed polytunnels, their size, depth, bulk and mass is considered to represent a commercial form of development in a residential area. This is considered to be out of keeping with the prevailing pattern and form of development, and the polytunnels would therefore amount to incongruous structures, harmful to the character and appearance of the area, despite their limited visibility.

7.10 In addition, while the applicant has confirmed that no fixed lighting would be installed within the proposed polytunnels, this cannot reasonably be controlled by condition, and if lighting should be installed in the future this would further increase the prominence of the polytunnels given their size and materiality, particularly at night.

7.11 It is considered that the proposed polytunnels would, for the reasons set out above, amount to incongruous structures, harmful to the character and appearance of the area, and contrary to Policy HB1 of the Places and Policies Local Plan 2020. This amounts to a reason for refusal.

## **c) Residential amenity**

7.12 As mentioned above, the proposed location of the polytunnels would be located to the far end of the rear garden, abutting the boundaries with the garages to the north, nos. 8 and 9 Newlands to the north/northwest and no. 26 Dymchurch Road to the northeast.

- 7.13 Concern has been raised by the adjoining neighbour to the northeast that the proposed polytunnels would result in a loss of light and privacy within their rear garden, the proposed polytunnels would be located within the rear portion of the application site, which has a garden longer than the neighbours and therefore only 8.3 metres of the polytunnels would abut the boundary with this neighbour. Due to the curved nature of the polytunnels the bulk of the structure would be angled away from the boundary, which consists of a close boarded timber fence of approximately 1.8 metres in height. In addition this affected area of garden is in excess of 30 metres from the rear wall of the neighbouring dwelling, in area where some loss of light and/or privacy is to be expected.
- 7.14 No concern has been raised by any other adjoining neighbour, however, owing the lightweight nature of the polytunnels, together with the height of around 2.7 metres, it is unlikely that they would result in any significant neighbouring amenity concerns, such as loss of light/privacy.
- 7.15 Concern has also been raised with regard to noise from the existing and proposed equipment associated with the breeding and keeping of fish, together the potential to install generators etc. It was evident on site that no noise was audible from either of the outbuildings, one the subject of this application, and another situated much closer to the house which contains the applicant's 'hobby' fish and is not related to this application. Some noise was apparent when the doors to the outbuildings were open, however no machinery and or equipment could be heard over the sound of water aerating the existing tanks. The agent and applicant have confirmed that no plant or machinery is proposed or required to run the tanks.
- 7.16 Further to the above, while confirmation was received regarding the expected noise that may emit from the proposed development, I have concerns the additional noise from the aeration of the commercial tanks proposed within the polytunnels combined with their close proximity of the development to the neighbouring residents to the rear and the inherently lightweight structure of the polytunnels themselves, that the development would give rise to additional noise and disturbance which would negatively impact this neighbour, particularly due to the shorter garden length of the dwelling directly to the rear. Further, no noise impact assessment has been undertaken or submitted with the application. It was observed that onsite the noise currently emitting is minimal however all occupied tanks are within solid structures as opposed to the polytunnels proposed here.
- 7.17 One proposed collection by van per week is proposed which is not considered to result in any significant amenity impacts to neighbouring residents and the additional comings and goings would not result in any significant level of noise or disruption that would cause harm to the amenity of neighbouring residents.
- 7.18 In the absence of a noise impact assessment, it has not been demonstrated that the proposal would not give rise to significant harm to the residential amenity of neighbouring occupiers by way of additional noise and disturbance as a result the use of the proposed polytunnels.

**d) Parking and highway safety**

- 7.19 The application site benefits from hardstanding to the front and side of the dwelling providing an ample level of off-street parking.

- 7.20 The applicant/agent has confirmed via email and a supporting letter that one delivery van attends the property once per week to collect fish that have been sold online to deliver elsewhere. It has also been confirmed that customers cannot visit the property and no fish are sold onsite. The vehicle movements are therefore considered negligible. In addition there is adequate off-street parking onsite to ensure that the delivery/collection vehicle would not result in any harm to highway safety.
- 7.21 It is therefore considered that the proposed business use would not result in any significant increase in vehicle movements or traffic to and from the site and would not result in any highway safety concerns.

## **e) Other issues**

- 7.22 Concern has been raised by a neighbour on a number of issues, including; the storage of chemicals and food, the discharge of waste water and the impact to property values. The applicant has confirmed that water wastage is kept to a minimum due to the existing filtration system which re-uses the existing water from within the tanks and that all chemicals and food will be stored in the existing, secure outbuilding.

## **Environmental Impact Assessment**

- 7.23 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**

- 7.24 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.

## **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 is considered to be unacceptable in terms of visual and residential amenity. It is considered that the proposed polytunnels would result in harm to the visual amenities of the area by virtue of the proposed size, siting, depth, bulk, mass and design of the proposed polytunnels. In addition, the proposed use of the polytunnels is considered to result in significant harm to the residential amenity of neighbouring residents by virtue of the increase in noise and disturbance,

## **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 refused/for the following reason(s):**

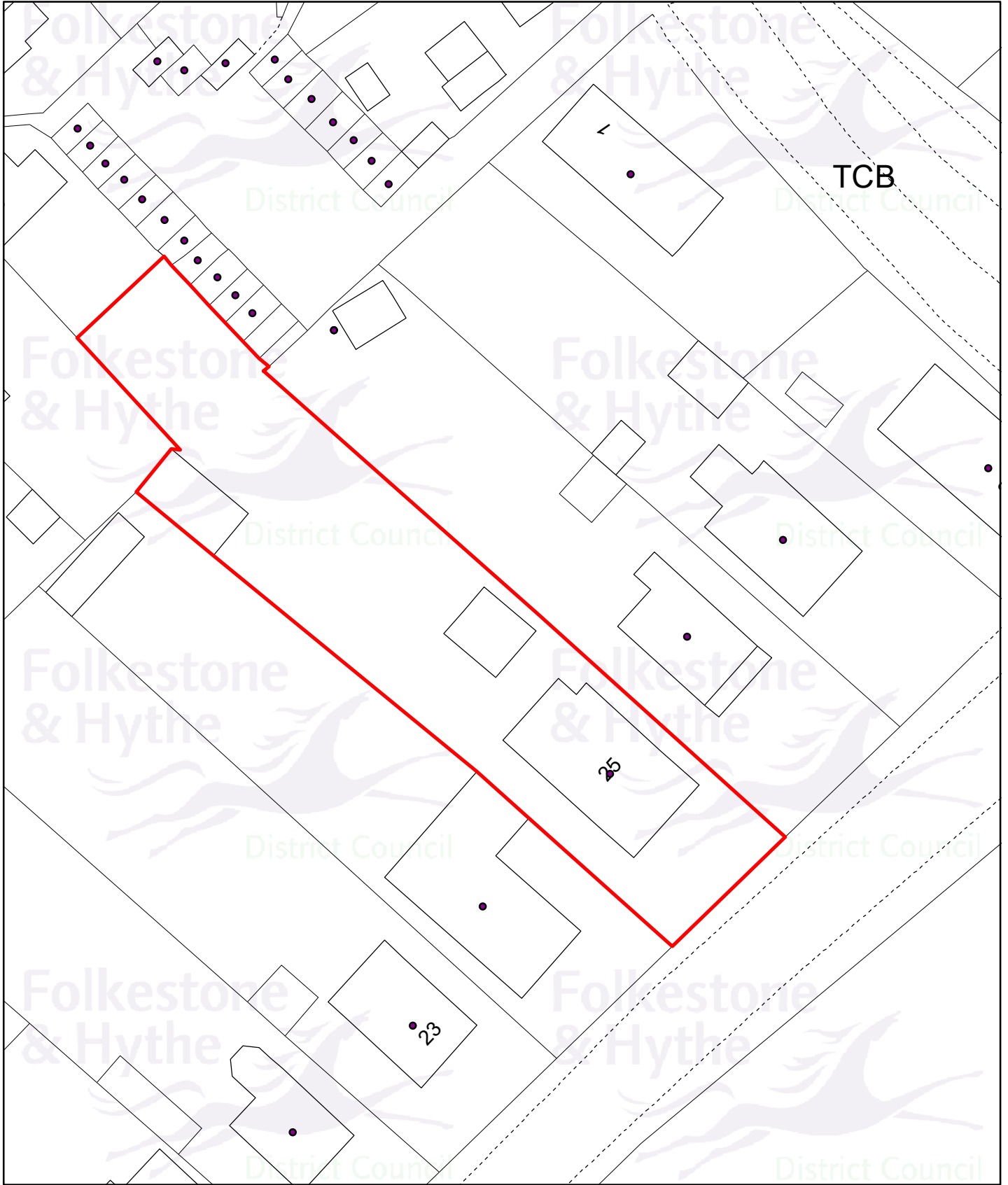
### **Reasons:**

1. The proposed polytunnels, by virtue of their size, depth, mass, bulk, siting and design, would represent a commercial form of development in a residential area that would appear incongruous with the character and appearance of its surroundings and would give rise to significant harm to the visual amenities of the area. The visual harm would be further emphasised should the buildings be internally illuminated in the future given their size and materials proposed. It is therefore considered that the development fails to comply with policy HB1 of the adopted Places and Policies Local Plan 2020.

2. It has not been demonstrated by way of a noise impact assessment that the proposed polytunnels combined with their siting in close proximity to neighbouring properties to the rear of the application site, would not give rise to increased noise and disturbance, which would detrimentally impact on the residential amenities of the occupiers of these

properties. The application is therefore contrary to policy HB1 of the adopted Places and Policies Local Plan 2020.





Planning Application:  
23/1657/FH  
Drawn date:  
07 Feb 2024  
Drawn by:  
Carrie Stacey  
Drawing ref:  
0826/COP/LS

  
Llywelyn Lloyd  
Chief Planning Officer

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# Agenda Item 7

## DCL/23/38

<b>Application No:</b>	22/0862/FH
<b>Location of Site:</b>	5 Marine Avenue, Dymchurch, TN29 0TR
<b>Development:</b>	Demolition of the existing bungalow and erection of a pair of chalet bungalows.
<b>Applicant:</b>	Mr Chris Stace
<b>Officer Contact:</b>	Emma Forde

### SUMMARY

This application seeks planning permission for the demolition of the existing dwelling and erection of a replacement pair of semi-detached houses within the settlement boundary. The development, which is of an acceptable design, would incorporate appropriate access, parking, turning, garden space and bin storage. Whilst the development would introduce change to the area and street scene, the submitted technical assessments demonstrate there would be no unacceptable harm to the residential amenity of neighbouring residents and is considered to be acceptable in terms of flood risk. The development is considered to be acceptable and the application is therefore recommended for approval.

### 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 as Dymchurch Parish Council have objected on grounds the proposal would result in flooding concerns and would overlook the neighbouring property 2 Willop Way to the rear.

### 2. SITE AND SURROUNDINGS

- 2.1. The application site is occupied by a detached bungalow located on the west side of Marine Avenue, which is set back from the road, and has a lean-to garage attached to the southern elevation. The dwelling has amenity space to all sides. There are no protected trees on or adjacent to the site and the front of the existing dwelling is hardstanding.
- 2.2. The immediate area has no set design pattern and dwellings in the area consist of a mix of single storey; two-storey; some with rooms in the roof and all comprising a mix

of finished materials such as red brick, pale brick and painted render. The surrounding properties are generally set back from the highway and served by gardens and parking areas to the front.

- 2.3. The application site is within the settlement boundary, in Flood Zones 2 and 3 and considered to be at significant risk of flooding to 2115 under the adopted SFRA. The site is also in an area of Archaeological Potential.
- 2.4. A site location plan is included in this report as **Appendix 1** but is also below in Figure 1.



Figure1: Application site boundaries



Figure 2: Photograph of the front elevation of the existing dwelling

## 3. PROPOSAL

- 3.1 Full planning permission is sought for the demolition of the existing dwelling and for the erection of a pair of chalet bungalows. Each dwelling would be a 2-bedroom, 3-person unit, with a width of 10m, a depth of 5.8m and a maximum height of 6.8m. Both dwellings would have pitched roofs, two front dormers and three rear rooflights. The proposed materials include red facing brickwork, white render, slate tiles and cedar boarding. To the front of the dwellings would remain hardstanding like the current situation.
- 3.2 Both dwellings would be served by two parking spaces, each of 5m in depth. One dwelling would be served by a 9.5m deep rear garden and the other dwelling served by a 10m deep garden. Bin and bike storage is proposed in the rear garden areas and would be accessed via gated side accesses. The site is bounded by a 1.8m high fence which is to remain with a new 1.8m high fence separating the dwellings.
- 3.3 The following reports were submitted by the applicant in support of the proposals:

### Design and Access statement:

This statement outlines the site description, landscape character, site photos, planning history, design, justification and concludes the scheme would be within a sustainable solution and would contribute a net gain of one additional family home towards the districts housing targets.

### Flood Risk Assessment:

This assessment outlines the site location, background, sequential test, exception test etc and concludes both tests have been passed.

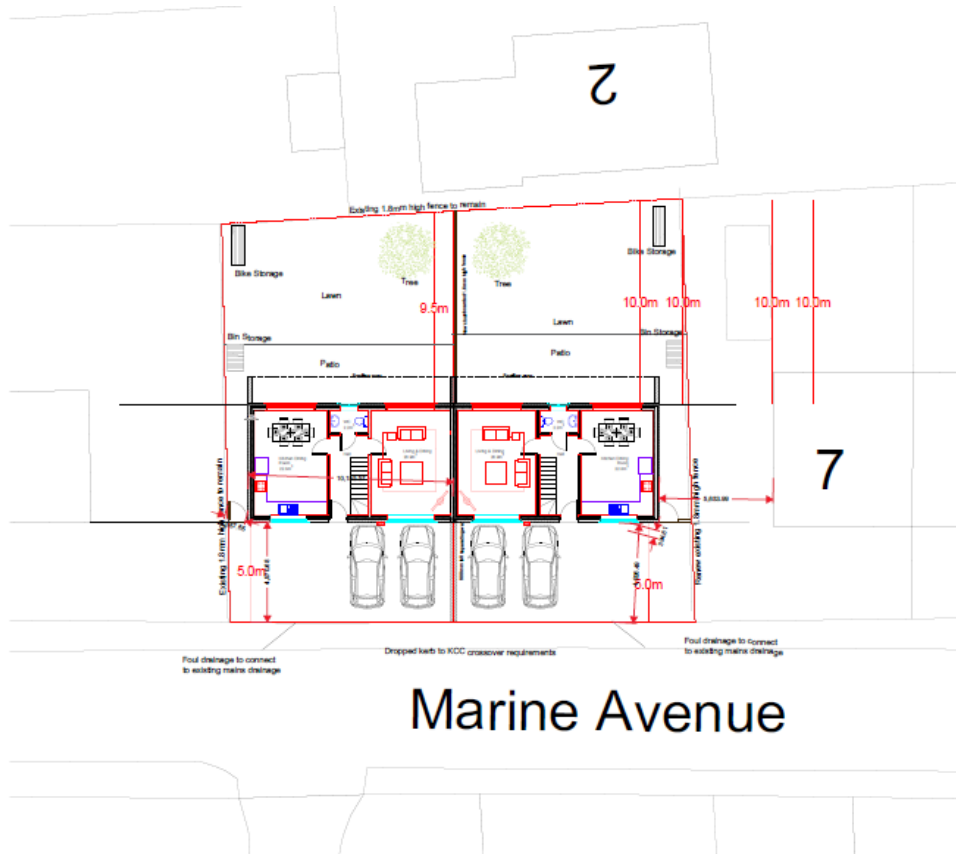
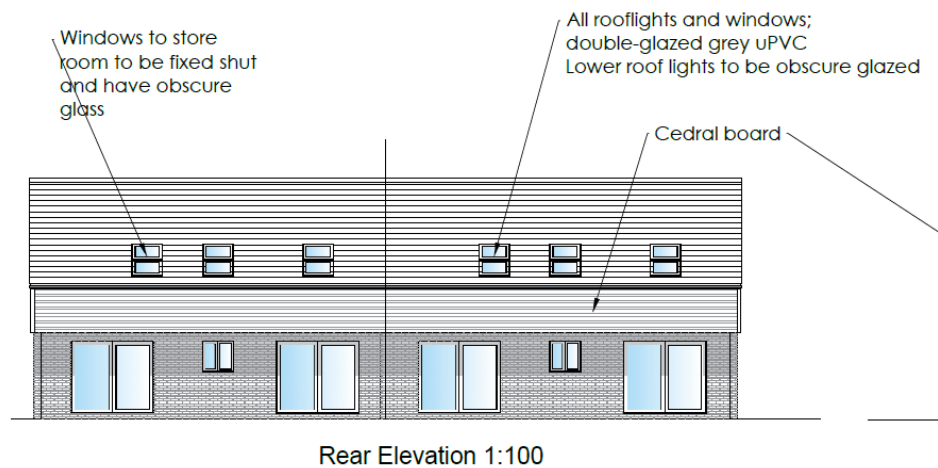
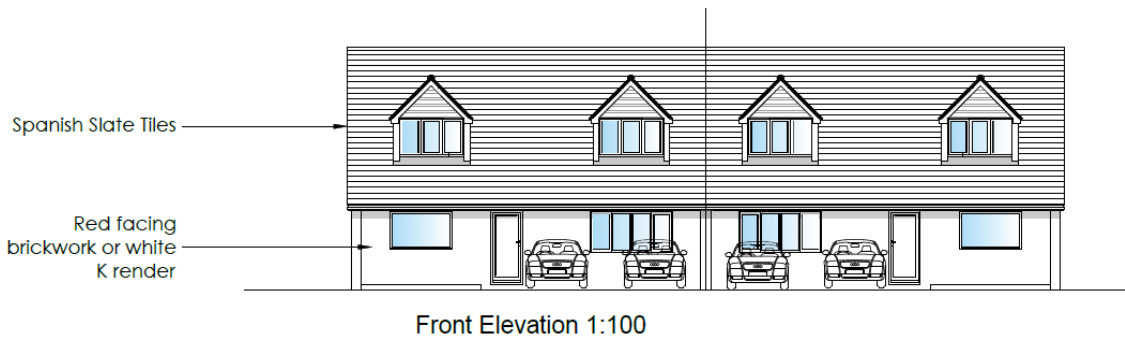


Figure 3: Proposed block plan



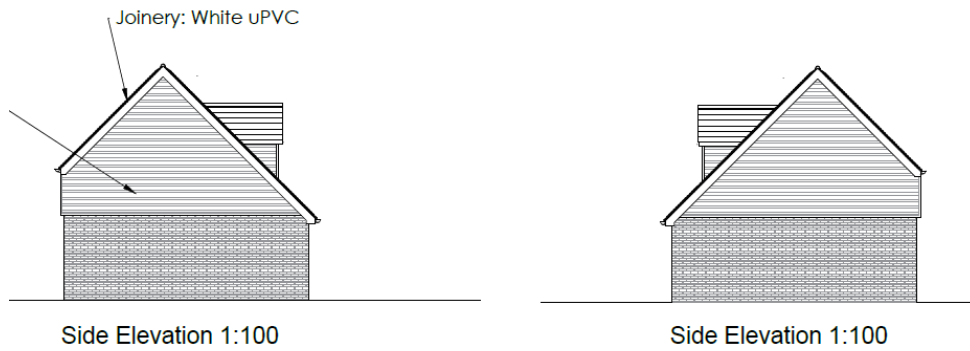


Figure 4: Proposed elevations

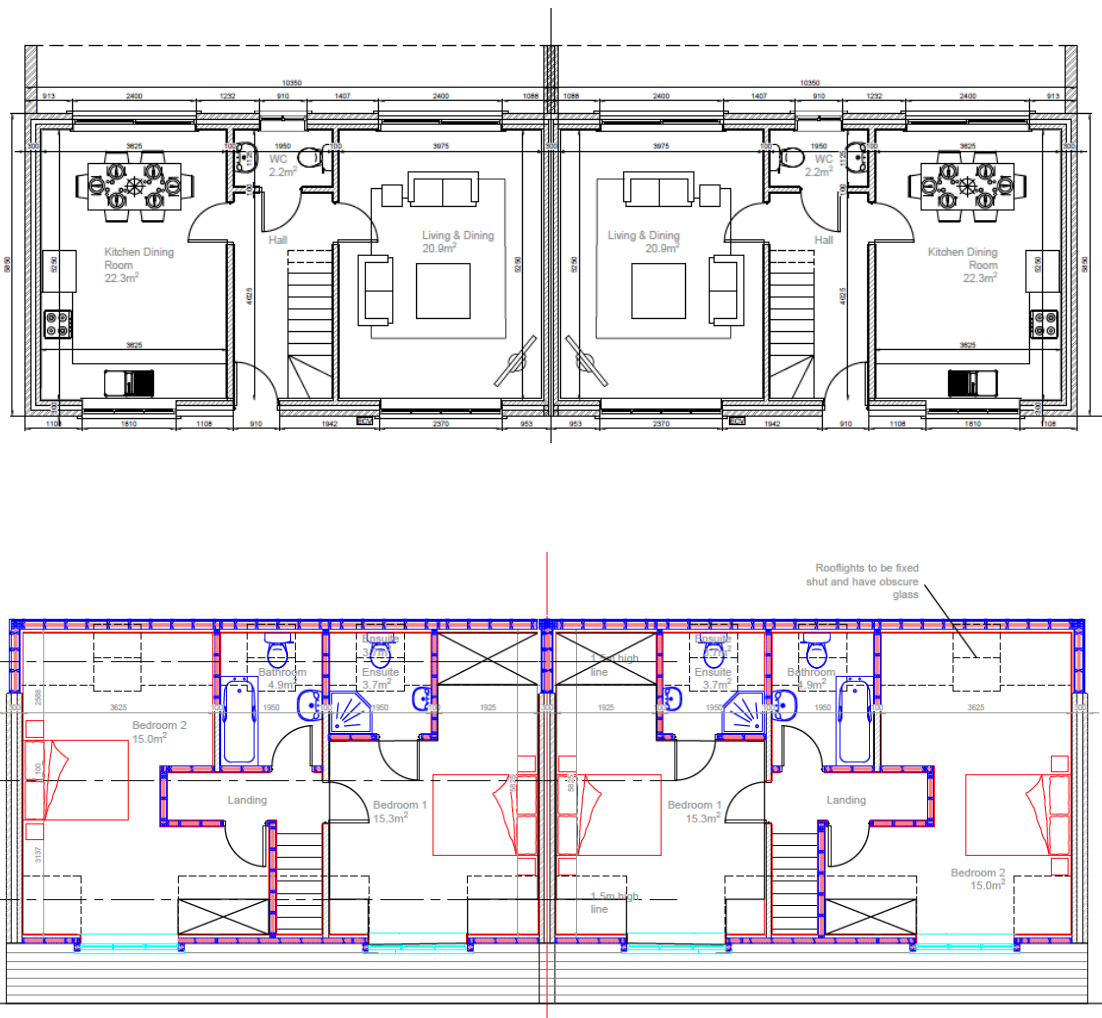


Figure 5: Proposed floor plans

## 4. RELEVANT PLANNING HISTORY

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

## 20/1183/FH - Single storey extension side extension to existing dwelling – Approved with Conditions

### Y19/1072 refused planning permission for extensions and alterations to form two dwellings. Three reasons for refusal.

Reason (1) The proposal would result in a poor standard of amenity of future occupants of one of the proposed dwellings (southern plot) due to insufficient external amenity space. It would therefore be contrary to saved policy SD1 of the Shepway District Local Plan Review (2006), emerging policy HB3 of the Places and Policies Local Plan (2018) and paragraph 127 of the NPPF:2019 which seek to ensure a high standard of amenity for existing and future occupants.

Reason (2) The proposed development would, owing to the increase in height and rear facing dormer windows, result in unacceptable levels of overlooking and a sense of overbearing to the rear facing ground floor windows of the neighbouring house to the rear (2 Willop Way), and likely resulting in a sense of enclosure of those habitable rooms. As such it is considered that the development proposes poor design and layout that would be detrimental to neighbouring occupier's amenities contrary to saved Local Plan Review policies SD1, BE1 and BE8, policies HB1 and HB8 of the emerging Places and Policies Local Plan, and the NPPF: 2012.

Reason (3) The application site is located in an area at significant risk of tidal flooding as identified in the Shepway District Council Strategic Flood Risk Assessment, taking into account climate change to year 2115 and flood zones 2 and 3. The application proposes to increase the density of the number of dwellings on the site from one to two, increasing the risk to harm to life in the event of a flood, placing life and emergency services at greater risk. As such the application is unacceptable in flood risk terms and fails the exceptions test as the provision of one additional dwelling would not provide any wider sustainability benefits and is therefore contrary to the NPPF and policy SS3(c) of the Shepway Core Strategy Local Plan 2013.

The subsequent appeal (APP/L2250/W/20/3254593) was dismissed.

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Dymchurch Parish Council:** Object. The proposal will increase the surface run off and with proposed upper sleeping areas, would result in overlooking on no.2 Willop Way.

**KCC SUDs:** No comment received.

**Environment Agency:** No objection.

**Southern Water:** No objection. Informative recommended.

**Environmental Protection Officer:** No comment received.

**Archaeological Officer:** No objection. Condition recommended.

## **Local Residents Comments**

5.2 Nine neighbours were directly consulted. One letter of objection to the application was received.

5.3 I have read the letter received. The key issues are summarised below:

### Objections

- The proposal would be 1.0m from the boundary of no.7 (to the north) which would result in amenity impacts (loss of daylight) on the front door and the kitchen/breakfast window.
- Increase risk of flooding given the increased use of hardstanding.

5.4 **Ward Member**

5.5 No ward member comments received.

5.6 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.

### Core Strategy Local Plan (2022)

SS1 (district spatial strategy)

SS2 (housing and economy growth strategy)

SS3 (place-shaping and sustainable settlements strategy)

CSD1 (balanced neighbourhoods)

CSD2 (district residential needs)

CSD5 (water and coastal environmental management)

CSD8 (New Romney strategy)

## Places and Policies Local Plan 2020

HB1 (general development criteria)

HB3 (space standards)

HB8 (alterations and extensions)

T2 (parking standards)

T5 (cycle parking)

NE2 (biodiversity)

HE2 (Archaeology)

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

## 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:-

Para.119 encourages best, most productive use of land to meet the need for homes, while safeguarding the environment and ensuring safe and healthy living conditions.

Para. 124 encourages development at appropriate densities, taking into account the character of the site and the need for different types of housing.

Section 14 seeks to ensure development meets the challenges of flooding and climate change.

Para. 154 requires developments to avoid increased vulnerability and to ensure risks can be managed through suitable adaption measures.

Para. 159 directs “inappropriate” development away from areas of flood risk, but advises that where development is necessary in such areas it needs to be made safe for its lifetime without increasing risk elsewhere.

Paras. 161 to 166 require the sequential and exceptions tests to be applied to development within flood risk areas, and

para. 165 stipulates that both parts of the exceptions test must be met for development to be permitted.

Para. 167 requires submission of site-specific flood risk assessments, and incorporation of mitigation measures within new development.

## National Planning Policy Guidance (NPPG)

National guidance broadly supports residential development within sustainable urban locations subject to consideration of flood risk, design, and amenity, amongst others.



## 7. APPRAISAL

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

- a) Principle of development and flood risk
- b) Design/layout/visual amenity
- c) Space standards and garden size
- d) Residential amenity
- e) Ecology and biodiversity
- f) Contamination
- g) Drainage
- h) Archaeology
- i) Highway safety
- j) Other matters

### **a) Principle of development and flood risk**

7.2 The application site is within a sustainable urban location inside the defined settlement boundary of Dymchurch. New residential development is acceptable within the settlement boundaries in principle as established by policies SS1 and SS3 of the Core Strategy.

7.3 While the site lies within the defined settlement boundary of Dymchurch it also lies within flood zone 3, which is considered to be at highest risk from flooding. Paragraph 11 and footnote 6 of the NPPF make it clear that the presumption in favour of sustainable development does not automatically apply to sites in identified flood risk zones, and the risk of developing in this area needs to be fully considered against the sequential test, exceptions test, and adopted local and national policy.

7.4 It is noted the Environmental Agency (EA) does not object to the proposal.

7.5 The application proposes a two-storey development in place of an existing bungalow, meaning that there would not be any sleeping accommodation at ground floor level. While this is an improvement over the existing situation in respect of one dwelling, it needs to be determined that the site is acceptable in terms of the additional unit, by carrying out a sequential test.

7.6 The sequential test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, and other potential sites need to be considered before progressing to develop those of lesser preference / greater risk (in flood risk terms). When considering other potential development sites, the geographic range is limited to those within the same character area (as per Policy

SS3 in the Core Strategy Review), which in this instance would be the Romney Marsh Character Area. Where other sites at no/lesser risk are not available within the character area local planning authorities can consider sites within identified flood risk areas, which cover substantial parts of the district due to land levels.

- 7.7 The previous appeal Inspector (APP/L2250/W/20/3254593) criticised the Council's Sequential Test under Y19/1072. This has been addressed by the applicants in an addendum to the Flood Risk Assessment, and further sites have been considered.
- 7.8 The Places and Policies Local Plan allocates fifteen residential sites in Romney Marsh Area. The estimated capacity of the allocations ranges from 5 to 80 dwellings. There are five allocations which could be considered reasonable alternatives. At present there are 5 extant developments in the Romney Marsh character area. Most are for replacement dwellings; one is an extension in the roof to form a flat and one is a prior approval for conversion of an agricultural building to a single residential unit. It is considered that none of these extant developments are reasonably similar to that proposed and therefore the sequential test is passed. There are other developments in the area such as that on the Willop Close site, however as this is currently under construction it is not considered an alternative at this stage.
- 7.9 There are not considered to be a significant number of alternative sites that are available for development that are a similar scale of development to which the site could be compared to, or to which the applicant could be directed in preference. The LPA (Local Planning Authority) is therefore of the opinion the Sequential Test which allows for consideration of development to proceed.
- 7.10 The next step is to consider the proposals under the Exceptions Test, which is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The Exceptions Test has two parts:
- a) It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risks; and
  - b) A site-specific FRA (Flood Risk Assessment) must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.
- 7.11 In the case of the current proposal, it is considered that part a) – the wider sustainability benefits – is addressed through the inclusion of the site within the defined built up area boundary. The settlement hierarchy (core strategy policy SS3) identifying the wider area for residential development; and policy CSD8 identifying the wider area as a priority centre for residential development to support New Romney as a primary local centre and Dymchurch as a key tourist location. Residential development here would contribute to the broader aim of sustainable development within the district and reduce any pressure on the Council to consider the release of less preferable sites elsewhere.

- 7.12 With regards to part b of the exceptions test, the EA have advised that that resilience measures are incorporated into the scheme in their representation. The applicant's FRA has proposed a series of recommendations that could be secured by condition that would be incorporated into the design. With the inclusion of these, the site is considered to be sustainable in terms of flood risk and that the proposal would not increase the risk to the neighbouring properties. The exceptions test is therefore considered to have been passed.
- 7.13 The principle of residential development in this location is therefore acceptable, subject to the below considerations.

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

- 7.14 Policies HB1 and HB8 of the PPLP (Places and Policies Local Plan) 2020 both state proposals should not have a detrimental impact upon the street scene, either by themselves or cumulatively.
- 7.15 The immediate area of Marine Avenue is generally served by a linear form of development from the north-west to the south-east with properties mostly benefiting from a consistent setback from the road.
- 7.16 In terms of visual amenity, the application site lies adjacent to the road and is visually prominent. Given this, any form of development on the site would be required to be well designed. The existing low front boundary wall would be removed as a result of the proposed development, opening the site to the east however, it is noted that No.7 & 9 also have an open frontage. Therefore, this is not considered to appear out of keeping with the character of the area.
- 7.17 The proposed dwellings would maintain a setback of 5 metres from the road which would be consistent with the building lines of neighbouring properties. The proposed front elevation would not protrude beyond the building line established by the immediate neighbouring properties to the north-west (no.7) and to the south-east (no.3). Additionally, the dwellings would be setback from the side site boundaries (north-west & south-east) by 1.0 metre. In terms of arrangement, the proposal would have a simple rectangular footprint within a simple rectangular plot, in-keeping with the immediate pattern of development and streetscene.
- 7.18 The surrounding area is characterised by a mix of bungalows and two storey dwellings which comprise a mix of finishing materials. In addition to this, it is considered that there is no set character to the street scene and the proposal would reflect the general pattern of development in the area. As such, the dwellings are considered to be in keeping with the scale and form of development in the surrounding area and would not appear out of keeping with the character of the surrounding area.
- 7.19 In terms of mass and bulk, the proposed would have a height of 6.8m, a height increase of approximately 1 metre above the existing. Given the variation of heights in the area, it is considered that the development would not appear to be dominant when compared to its surroundings. The proposed pitched roof and front dormer windows are also considered to be of an appropriate design, size and scale that would appear acceptable

within the streetscene. Given there are existing front dormers in the area, these would be in keeping with the character of the area.

- 7.20 The drawings state that the proposed materials would include either red brick or white render at ground floor level, cedar board (cladding) to serve the flank and rear elevation at the first-floor level and slate tiles on the roof. The immediate surroundings contains various materials so the proposal would appear in keeping with the character of the area. As the materials on the front elevation have not been specified, a condition has been attached, requesting further details to be submitted and approved by the Local Planning Authority.
- 7.21 It is considered the proposed dwellings would not adversely impact the design, layout or visual amenity of Marine Avenue. As such, the proposal would be in accordance with policies HB1 & HB8 of the PPLP 2020.

#### **d) Space standards and garden size**

- 7.22 Policy HB3 and the nationally space standards state the space standards for new residential developments. Policy also outlines new dwellings should be served by a private garden of at least 10m in depth and width. As per policy, the proposed dwellings should be served by the following Gross Internal Areas (GIA).
- 7.23 A two-storey dwelling with 2-bedrooms providing accommodation for 3-persons should provide a minimum of 70 square metres. The proposed dwellings would each provide a GIA of approximately 90 square metres and as such would meet the required standards. The proposed bedrooms also meet the necessary space standards.
- 7.24 It is noted that one of the refusal reasons for application Y19/1072 on the site was due to the inadequate garden depth to the southern dwelling, as the depth of the rear garden was only 7 metres and this was dismissed at appeal.
- 7.25 The proposal under this current application provides rear gardens for both properties, one of which would be 0.5 metres under the minimum 10 metres depth standard set by HB3. However, while the proposed rear garden extends only 9.5 metres from the rear elevation of the proposed dwelling, this would be mitigated by the fact that the width of the garden is approximately 1 metre wider than the dwelling. As such the shortfall in length is compensated for by the increased width. As such it is considered that sufficient garden space would be provided and would on balance comply with policy HB3.
- 7.26 Given the above it is considered the proposal would be in accordance with policy HB3 of the PPLP, and that it overcomes the reason for refusal for the previous scheme in this regard.

#### **e) Residential amenity**

- 7.27 Policy HB8 of the PPLP states proposals should protect the residential amenity of the occupants of neighbouring properties and ensure avoidance of unacceptable overlooking and inter-looking as well as overshadowing and overbearing impacts.

- 7.28 The main issue is the overlooking and/or overbearing concerns from the upper floor sleeping areas that have been raised by Dymchurch Parish Council and the potential impact the proposal could have on no.2 Willop Way, which is situated to the rear of the application site.
- 7.29 The proposed dwellings would have six rooflights looking onto no.2 Willop Way (three per dwelling) along the rear roof slope. The limited depth of the site places the rooflights in relatively close proximity to the rear elevation of No.2 Willop Way, with a separation distance of over 10 metres given the length of the proposed garden areas. No.2 Willop Way's first floor has two rooflights on the rear elevation, however given that obscure glazing is to be used on the proposed rooflights, it is not considered that this would cause harmful overlooking.
- 7.30 A condition for these windows to be obscure-glazed would be attached so that any harmful overlooking would be prevented from these windows. The drawings have been amended during the course of the application meaning that all the rear windows serve either non-habitable rooms or are secondary windows. This is considered to be acceptable.
- 7.31 . While the appeal Inspector considered the potential for overlooking to be unacceptable, it is considered that the removal of the dormer windows and their replacement with obscured glazed rooflights has overcome this issue. Subject to the condition on the rear rooflights, it is not considered that the scheme would give rise to loss of residential amenity for this neighbour. While there would be some overlooking from the ground floor windows of the proposed dwellings towards this neighbour, this overlooking already takes place in the current arrangement. While the application would increase the number of dwellings, it is not considered to cause detrimental harm that would justify refusing the application on these grounds.
- 7.32 In the appeal decision, the inspector noted that 'the neighbouring property is positioned such that it has little rear garden and given the boundary fence and angle of view from the dormers, direct views into this neighbour's rear elevation or garden would be limited'. While the dormers have been replaced by rooflights in this scheme, this is still applicable, and the proposed rear rooflights are not considered to result in an unacceptable level of overlooking to No.2 Willop Way. Given the level of separation between this dwelling and the proposed, it is also not considered that the proposal would appear overbearing or give rise to any loss of light. The application is therefore acceptable on these grounds as well.
- 7.33 The remaining bedroom dormer windows would face the street, which is acceptable as it would not adversely impact the neighbouring properties to the east which are located over 25 metres from the proposed development.
- 7.34 Members will note the objection received relating to loss of daylight serving the front door and kitchen windows of no.7 Marine Avenue to the north-west.
- 7.35 The proposed dwelling is considered to be a sufficient distance away from both 3 and 7 Marine Avenue not to cause any loss of neighbouring amenity through loss of light or by appear overly dominate or overbearing. It is also noted the side windows and door of no.7 serve non-habitable rooms.

7.36 Given the above, it is considered that the proposed dwellings would not result in overlooking, inter-looking, overshadowing, overbearing or a loss of daylight to neighbouring properties such that planning permission could reasonably be refused. As such, the proposal would be in accordance with policy HB1 of the PPLP 2020.

## **f) Ecology and biodiversity**

7.37 The application site is not within a designated or protected area and appears and does not appear to be of any ecological value given that it is currently used as a residential garden. As such, the standard ecological enhancement condition is recommended to ensure the application contributes towards bio-diversity in the area.

## **g) Contamination**

7.38 The Local Planning Authority are not aware of any existing contamination issues on site as it appears that it has been in residential use for some time. As such there are no objections to this part of the application, subject to a standard contamination compliance condition being adhered to.

## **h) Drainage**

7.39 The comments of the Parish Council in relation to drainage are noted but could be mitigated by a suitably worded condition requesting details of how surface water would be dealt with prior to development commencing. It is considered that subject to acceptable details being received, the application would be acceptable on these grounds.

7.40 The applicant has outlined on the submitted plans foul drainage would connect to the existing mains drainage which is considered to be acceptable.

## **i) Archaeology**

7.41 The site falls within an archaeological notification area.

7.42 The archaeology officer noted the groundworks associated with the development may impact on any below-ground remains at the site. It is agreed that in this case an archaeological watching brief would be sufficient. This can be controlled by a condition.

## **j) Highway safety**

7.43 Policy T2 replicates Interim Guidance Note 3, where for a village/rural location, a minimum standard of two independently accessible car parking spaces is required for 2/3 bedroom or more houses.

7.44 The proposal would provide 2 parking spaces per dwelling and therefore complies with policy T2 subject to a compliance condition to ensure these are not obstructed. The proposed frontage of the site would be open and covered in hardstanding which would be similar to the situation apart from the removal of the existing wall. While it would be preferable to have some soft landscaping at the front, it is not considered to be a

reason to refuse the application given the current arrangements. It is considered that in terms of visibility and access the application is acceptable and would not prejudice the safety and convenience of the highway.

- 7.45 Policy T5 states, planning permission will be granted for residential development subject to the provision of cycle parking. The proposed development would have to provide one cycle space per bedroom. This can be controlled via a condition. Electric vehicle charging point(s) have not been provided in the submission so a condition could be attached to request these.

## **k) Other matters**

- 7.46 No water use details have been submitted. A condition is recommended accordingly.

## **Environmental Impact Assessment**

- 7.47 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**

- 7.48 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.
- 7.49 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 £67.55 per square metre for new residential floor space.

## **Human Rights**

- 7.50 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**

7.51 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**

7.52 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 be a sustainable form of development within the settlement boundary of Dymchurch; would pass both the sequential and exemptions tests for development within a flood zone 3, as per the NPPF.

8.2 It is considered that the proposed development would not give rise to significant harm to residential or visual amenity, nor to highway safety, and that the proposed development would accord with national or local planning policies.

## **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. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans:

19184.02 Rev E Proposed Plans – 5a  
19184.01 Rev D Site & Block Plan  
19184.E Existing Plans  
Design & Access Statement Revised Sep 2022  
Flood Risk Assessment T-2022-018

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. 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.

4. No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings hereby permitted shall use no more than 110 litres of water per person per day 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. The parking area shown on the submitted plan shall be provided and made available prior to the first occupation of the any of the dwellings hereby approved, shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.

Reason: In the interests of highway safety and convenience.

6. Details of cycle parking spaces shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out prior to the occupation of the dwellings hereby approved, in accordance with the approved details and shall be retained as such thereafter.

Reason: In the interest of sustainable development and reducing carbon emissions.

7. Prior to the first occupation of any dwelling hereby permitted, one electric vehicle charging point per dwelling shall be provided, in accordance with specifications and in locations that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of sustainable development and reducing carbon emissions.

8. No development beyond the construction of foundations shall take place until full details of the method of disposal of surface waters have been submitted to and approved by the Local Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: To prevent surface water from draining onto the public highway and adjoining sites.

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 0730 – 1900 hours

Saturdays 0730 – 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. 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.

11. No development beyond the construction of foundations shall take place until details of how the development will enhance biodiversity have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented prior to occupation of the dwellings hereby approved, or in accordance with a schedule submitted to and agreed in writing by the Local Planning Authority, and thereafter retained.

Reason: In the interest of enhancing ecology and biodiversity.

12. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of an archaeological watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that groundworks are observed and items of interest and finds are recorded. The watching brief shall be in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the Local Planning Authority.

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

13. Before the development hereby permitted is first occupied, the rear rooflights shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high-level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

15. The development shall be carried out in accordance with the recommendations set out in the submitted Flood Risk Assessment unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development is safe from flooding.

16. 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.

17. 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.

- 18 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.

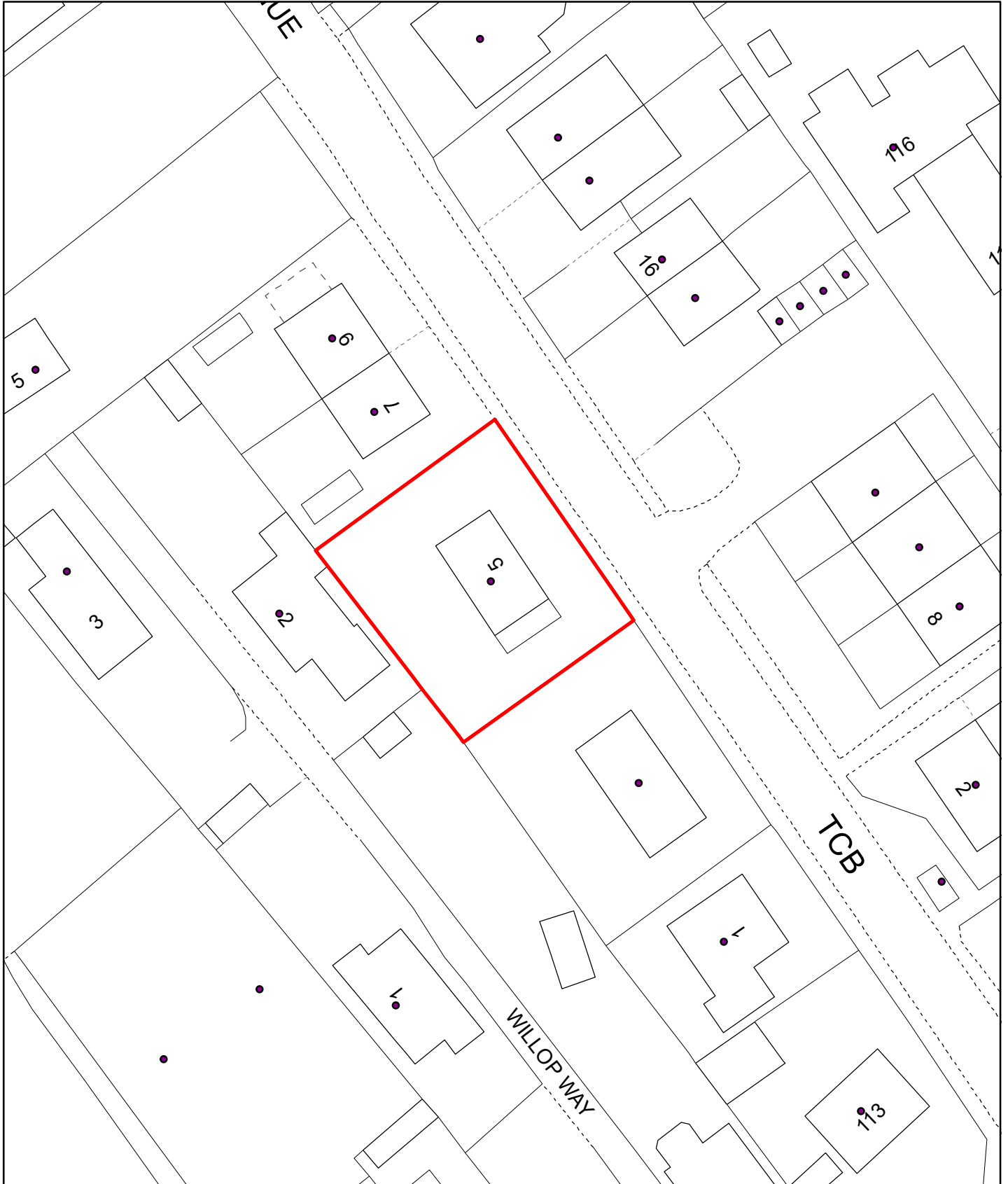
Reason: In the interests of the visual amenity of the area and encouraging wildlife and biodiversity.

19. No further development, whether permitted by Classes B and C 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 residential amenities of the neighbouring properties.

Informatives:

1. The proposed development will lie over an existing public foul sewer. The exact position of the public apparatus must be determined on site by the applicant.
2. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.
3. To make an application visit Southern Water's Get Connected service: [developerservices.southernwater.co.uk](https://developerservices.southernwater.co.uk) and please read New Connections Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-charging-arrangements](https://southernwater.co.uk/developing-building/connection-charging-arrangements) The planning application form makes reference to drainage using Sustainable Drainage Systems (SuDS).
4. Flood Risk Standing advice can be viewed in the link below which includes step by step guidance on managing development and flood risk. <https://www.gov.uk/flood-risk-standing-advice-frsa-for-local-planning-authorities>. If you have any questions please email [KSLPLANNING@environment-agency.gov.uk](mailto:KSLPLANNING@environment-agency.gov.uk).
5. It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.
6. It is recommended flood resilient design measures are fully implemented on the ground floor of the property to reduce the impact of flooding if it were to occur. Such measures may include but are not limited to the use of special water-resistant construction materials and raising electrical services above possible flood levels.



Planning Application:  
22/0862/FH

Drawn date:  
07 Feb 2024

Drawn by:  
Carrie Stacey

Drawing ref:  
1131/COP/LS

Llywelyn Lloyd  
Chief Planning Officer

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# Agenda Item 8

## DCL/23/39

<b>Application No:</b>	22/1077/FH
<b>Location of Site:</b>	Cheriton Parc House, Cheriton High Street, Folkestone
<b>Development:</b>	Conversion of Cheriton Parc House to 31 x one and two bedroom apartments, and the development of 19 purpose built 1 and 2 bed apartments, the redevelopment of land to the rear to create a total of 36 dwellings (comprising 20 x 3 bedroom two storey dwellings and 16 x 4 bedroom 3 storey height townhouses) with associated landscaping and parking.
<b>Applicant:</b>	C/O Agent
<b>Agent:</b>	Hume Planning Consultancy Ltd
<b>Officer Contact:</b>	Helena Payne

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a s106 legal agreement securing 22% Affordable Housing, 5% Custom Build, Open Space, NHS and KCC Contributions (as detailed within the Report) 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 or obligations that he considers necessary.**

### 1. INTRODUCTION

- 1.1. The application is reported to Committee due to the objection raised by Folkestone Town Council.

### 2. SITE AND SURROUNDINGS

- 2.1. The application site fronts Cheriton High Street and comprises a three-storey office building with hardstanding occupying a large proportion of the 1.12 ha site. The site was originally constructed as an office building for the Channel Tunnel and is situated in close proximity to the main terminal.
- 2.2. The M20 runs parallel to Cheriton High Street to the north, with tree and hedgerow landscaping on the motorway embankment. To the south, the site is bounded by a railway line.
- 2.3. The site is visually enclosed to the west and east by the 4-storey Hotel (Holiday Inn Express) and the recently developed residential dwellings on the former Brockman Family Centre site.

- 2.4. The wider area comprises mainly residential uses, although beyond the Hotel lies the Motis Business Centre. The Tesco superstore and petrol station is located to the northeast of the site, beyond the residential dwellings served off Horn Street.
- 2.5. The site lies within a Surface Water Management, Great Crested Newt Risk Zone (Green) Catchment Area, Archaeological Notification Area and is identified as a site protected for business use.
- 2.6. A site location plan is attached to this report as **Appendix 1**.

### 3. PROPOSAL

- 3.1 Full planning permission is sought for the conversion of Cheriton Parc House (Fig 1) to form 31 one- and two-bedroom apartments, and the development of 19 purpose built one and two-bed apartments (Fig 2), the redevelopment of land to the rear to create a total of 36 dwellings (comprising 20 three-bedroom two storey dwellings and 16 four-bedroom 3 storey height townhouses) – a total of 86 units, with associated landscaping and parking.

#### Office conversion

- 3.2 All apartments would comply with the Nationally Described Space Standards. The existing structural elements would be retained, and the apartments are designed to work with them. The existing terrace space is proposed to be used and divided between all of the apartments. A roof terrace is proposed for the third floor. The façade of the existing Cheriton Parc Building would retain white metal panelling already in situ, however the first, second and third floors would be clad in a composite cladding system (dark grey). The top floor would be clad with a standing seam metal finish.



**Figure 1:** *Proposed front elevation of the Cheriton Parc Office conversion.*

#### New apartment building

- 3.3 All apartments comply with the Nationally Described Space Standards. The design of the new apartment building has been developed to reflect the character and appearance of the Cheriton Parc Building. The curved northern elevation of the block addresses the eastern elevation of the Cheriton Parc conversion. The second floor of



the building steps in to reduce the mass of the building and its visual impact. The proposed new apartment building would have a brick ground floor. The central band of the building would be clad in vertical timber and the stepped in top floor would have a pale render finish.



**Figure 2:** Principle (east) elevation of the purpose-built affordable housing apartments.

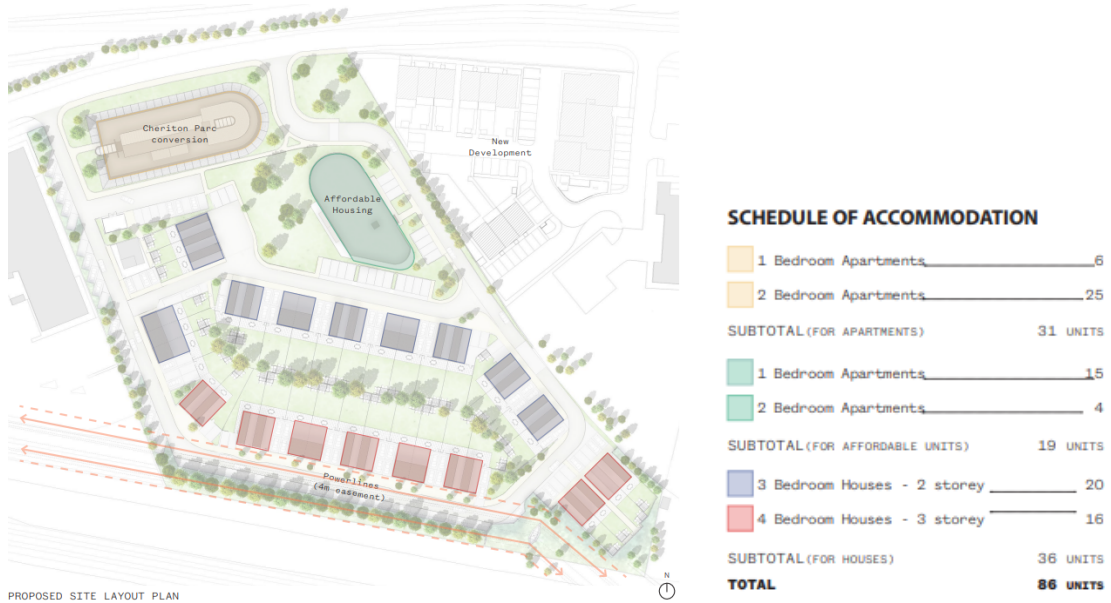
## New houses

- 3.4 The proposal for the southern portion of the site includes for the construction of 36 houses, consisting of three bed and 4 bed units. The proposed materials for the dwellings include multistock red brick, feature brick soldier course bands and feature charcoal grey brick bands.
- 3.5 Each dwelling meets the National Describes Space Standards and benefit from gardens of between 9 and 13m deep.



**Figure 3:** 3 bed and 4 bed house types

- 3.6 The schedule of accommodation for the site is found in Figure 4 below: (Use & Amount).



**Figure 4: Use & Amount**

No trees would be lost as a result of this development, although 83 specimens would be translocated from existing positions and replanted elsewhere on site alongside an additional 66 trees to be planted as part of the landscaping for the site. This would specifically take place adjacent to the purpose-built flats and along the southern section of the site, as well as either side of the site entrance.



**Figure 5: Landscape Masterplan**

**Parking & Access**

- 3.7 The new residential development on site would be accessed via two existing vehicular access points onto Cheriton High Street. It is noted that the internal roads are not proposed for adoption and would therefore be in private ownership.
- 3.8 A total of 141 car parking spaces are proposed across the site for occupants of the affordable flats, residential conversion of the existing Cheriton Parc building and purpose-built houses and which includes visitor parking spaces. **Table 1** below shows the parking breakdown across the site.

Total Allocated Parking Spaces	120
Total Visitor Spaces	21
Total Parking on site	141

**Table1:** *Parking Breakdown*

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

#### Design & Access Statement

Provides appropriate site analysis, considering opportunities and constraints on site and a brief contextual assessment of the surrounding area. The Design & Access Statement sets out the design approach and development to the scheme, use of existing building and number of proposed residential housing as well as internal and external layouts and house typologies, form, mass and scale and appearance, including a landscape design summary. Consideration of materials and landscaping is also given. Transport, access and refuse is also covered in summary within the report, with the main assessment covered within the submitted Transport Assessment.

#### Landscape Design & Access Statement

This report outlines the vision, principles and concepts which have guided the development of the landscape proposals for the site. It states that the objective behind the design is to create a high quality and cohesive residential development with ample green infrastructure. Consideration of landscaping and its contribution to biodiversity on site has also been set out, considering the benefits the proposal would have on biodiversity, including the use of native planting and specific areas to attract ecology onto the site.

#### Planning Statement

This Statement considers the main planning issues and justifies the proposal having regard to the planning policy context and the need for housing in the district. It states that the constraints and opportunities of the site have been carefully considered and the necessary technical reports support this submission. The supporting Design & Access Statement and Landscape Report explain that whilst the site is visually enclosed, the scheme design is of a high quality and the layout has been landscape

led. It concludes that a good quality living environment will be created for future residential occupiers in line with development plan policy. The application site is a brownfield site in a sustainable location and the proposal will allow the residential conversion of the building rather than its demolition and redevelopment for alternative employment uses to fit more neatly with the E1 and E2 policies. The option of redevelopment would not be economically viable given the existing use value of the Saga building. It explains that the principle of the loss of this vacant office floorspace can be justified in policy terms, despite the development plan being fairly recently adopted.

## Air Quality Assessment

This report presents the findings of a detailed air quality assessment of the potential impacts of the proposed development on local air quality during the construction and operations phases. It concludes that air quality does not pose a constraint to the proposed development, either during construction or once operational.

## Phase 1 Land Contamination Assessment

This assessment considers the previous and surrounding uses of the site and provides a Phase 1 Land Contamination Assessment which concludes the relevant findings, potential sources of contamination identified and sets out a preliminary risk assessment of the relevant pollutant linkages. Recommendations have been set out following the initial assessment which includes the need for a Phase 1 site investigation and as a UXO High Bomb risk has also been identified, a further Risk Assessment will also be required with regard to this.

## Preliminary Ecology, Ecology Statements & Reptile Assessment

This report sets out desk and field based ecological assessment of the proposed development site to identify the habitats present, evidence and potential for the presence of protected species on or in the immediate vicinity of the red line boundary, any likely direct or indirect effects of the proposed development to the on-site and off-site habitats or potential present protected species and it assesses whether reptiles are present on the site on or in the immediate vicinity. The report sets out a series of mitigation measures, including for bats, reptiles, birds, badgers and hedgehogs. A series of suggested enhancements are also provided. The Report concludes that the majority of habitats on site are common and widespread. It notes the presence of a small population of slow worms and common lizard. Mitigation can be addressed by condition.

This Report continues on from the initial Ecological Assessments and considers the impacts and protection of reptiles on site. Recommendations within the Report aim to demonstrate that the proposed development would conserve and enhance biodiversity.

Within the Preliminary Ecology Statements and Reptile Assessments, reptiles, breeding birds and Orchids have been identified within the site and precautionary and mitigation measures have been proposed as part of this development proposal. The proposed reptile and orchid receptor area would be located to the southeast of the site and the tree receptor site within the southwest of the site. It is expected that over time

the tree receptor site will be combined with the reptile and orchid receptor sites, but during the construction works, the sites would remain separate.

## Preliminary Sustainable Urban Drainage Strategy (SuDs) Report

This report demonstrates the considerations and design details of the SuDs proposals and includes details of the catchment area of the site, soil type and estimated pre and post development run offs, details of the SuDs proposals, details of the proposed maintenance requirements of the SuDs for the lifetime of the development. Information of natural hydrological processes, flood risk, storm run-off and eventual run off rate is also provided. The Report concludes that there is no risk of on or off-site flooding as a result of the development.

## Transport Statement

This Transport Statement examines the existing conditions of the site, including accessibility to local facilities via sustainable modes of transport such as bus and rail, local walking and cycling routes, and an overview of the provisions and safety conditions of the existing highway network. It states that the site is well located in terms of access to local amenities (schools, shops and other services) and public transport connections. It is in close proximity to a good rail and road network, including the M20 motorway. Access by sustainable modes will be enhanced through the provision of a footway connection between the eastern site access and the existing footway provision on the southern side of Cheriton High Street. A crossing facility to the footway provision on the northern side of Cheriton High Street will also be implemented. The traffic generation from the development has been examined in terms of the net trips generated considering the former office use at Cheriton Parc. The development is determined to have a negligible impact on the local highway network. The Statement concludes that the development site provides suitable access to local facilities by all forms of transport, particularly by walking and bus travel.

The Transport Statement states that the volume of traffic that would be expected during AM and PM peak hours, based on the TRICS database, would be low. **Table 2** below show the proposed net trip generation during morning and afternoon peak times to be unchanged from the existing situation on site.

	AM Peak (0800-0900)			PM Peak (1700-1800)		
	Arr	Dep	Total	Arr	Dep	Total
Existing Office	21	2	23	2	14	16
Mixed Private Housing & Flats	12	34	46	32	17	48
<b>Net Trip Generation</b>	<b>-9</b>	<b>32</b>	<b>23</b>	<b>30</b>	<b>3</b>	<b>32</b>

**Table 2:** Existing Office and Proposed Residential Vehicle Trip Generation

## 4. RELEVANT PLANNING HISTORY

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

**21/1455/FH/PA** Determination as to whether prior approval of the Local Planning Authority is required under Schedule 2, part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of office use Class B1(a) to residential C3 to provide 31 residential units. This will consist of 26 x 2 bedroom units and 5 x 1 bedroom units Refused

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Folkestone Town Council:** Object for the following reasons:

1. Loss of trees and biodiversity.
2. Over intensive for the area
3. No information of CIL money for local school, doctors and infrastructure.
4. Full tree planting schedule requested.
5. Concerns raised by KCC Highways have not been addressed.

**[CPO Comment:** Points 3 & 4 are not material planning considerations. It is a legal requirement to pay CIL contributions for applicable development. The application site is CIL zero rated for residential development.]

**Kent County Council Archaeology:** No objection raised subject to a condition requesting the implementation of an archaeological watching brief.

**Kent County Council Highways:** Concerns raised regarding the proposal but advise that it may be possible to overcome these if the following amendments were made:

- 1) A minimum total of 151 car parking spaces are required. Please see the breakdown of the parking requirement below:
  - 50 \* 1 and 2 bed flats = 50 spaces
  - 36 dwellings = 72 spaces
  - 17 visitors spaces at 0.2 spaces per dwelling
  - 12 additional visitor spaces due to 23 of the dwellings having a tandem parking relationship [CPO comment: Please refer to paras 7.6 – 7.10 of the report].
- 2) The footway and bellmouth junctions along Cheriton High Street should be surfaced in tarmac as the rest of the footway along Cheriton High Street is tarmac.

**[CPO comment:** This is addressed in condition no. 23]

**Kent County Council LLFA:** No objection subject to conditions relating to infiltration testing, discharge of surface water, existing drainage features, pollution controls.

**Environment Agency:** The application has a low environmental risk and no comments have been made.

**Environmental Health Officer:** No objections. Environmental Health accepts the findings of the Railway Noise Impact Assessment.

**Contamination Consultant (IDOM):** No objection subject to conditions.

**Southern Water:** No objection to the development. Southern Water has provided advice regarding connections to the public sewer and SUDs.

**Affinity Water:** No Comments received to date.

**Kent Police:** No objection subject to a condition requesting the site follow SBD Homes 2019 Guidance (designing out crime).

**Kent County Council Ecology:** No objection subject to conditions requesting the submission of a Construction and Environmental Management Plan, Habitat Establishment and Management, along with lighting details and mitigation to protect breeding birds, badgers and hedgehogs as well as ecological enhancements.

**Arboriculture Officer:** No Objection

**Kent Downs AONB Unit:** No comments received to date.

**South Kent CCG NHS:** Request for s106 contribution for healthcare serves to be provided in the community.

**KCC Economic Development:** Request for s106 contributions towards secondary education, special educational needs and disabilities, community learning skills, children's services, library, registrations and archives, adult social care and waste.

**[CPO comment – only education contributions can be sought via s106. All other contributions are covered by CIL].**

## Local Residents Comments

62 neighbours have been directly consulted. 3 letters of objection have been received 0 letters of support received and 3 letters neither supporting nor objecting to the application have been received.

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

## Objections

- Inadequate infrastructure -pressure on Hospitals and GP Services.
- Harm to highway safety from increased traffic and congestion
- No affordable or social housing in the development
- The open space here had been earmarked as a developing woodland – forming part of the Jubilee Scheme for Saga in 2000
- Loss of trees and no replacement planting plan provided
- Location of parking spaces
- Insufficient parking or visitor parking proposed.
- Cheriton Parc is protected for business use under Class B1a. The proposal is entirely for residential use. The development is also contrary to Policy SS4 of the Cores Strategy.

## General Comments

- The existing car park is built on a land-filled cutting, which was the start of the Elham Valley Railway. It would be appropriate to install an historical marker.

## Ward Member

5.2 No response has been received from the Ward Member(s) to date. All three Ward Members for Cheriton are appointed at the Planning and Licensing Committee.

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 (PPLP) 2020

E1 – New Employment Allocations

E2 – Existing Employment Sites

HB1 – Quality of Places Through Design



HB2 – Cohesive Design  
HB3 – Internal and External Spaces Standards  
HB4 - Self-Build  
C1 – Creating a sense of Place  
C3 – Provision of Open Space  
C4 – Children’s Play Space  
T1 – Street Hierarchy  
T2 – Parking Standards Residential Parking  
T5 – Cycle Parking  
NE2 – Biodiversity Net Biodiversity Gain  
NE3 – Protecting the District’s Landscape and Countryside.  
CC1 – Reducing Carbon Emissions  
CC2 – Sustainable Design and Construction  
CC3 – Sustainable Drainage Systems  
HE2 - Archaeology

## Core Strategy Review (2022)

SS1 – District Spatial Strategy  
SS3 – Place Shaping and Sustainable Settlements  
SS4 – Priority Centres of Activity Strategy  
SS5 – District Infrastructure Planning  
CSD1 – Balanced Neighbourhoods for Shepway  
CSD2 – District Residential Needs  
CSD4 – Green Infrastructure

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

## **Supplementary Planning Guidance/Documents**

### Kent Design Guide (2000)

Section 1 – The Value of Good Design

Section 2 – Creating the Design

## **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 – Determining planning applications in accordance with the Development Plan.
- Paragraphs 55-58 – Planning Obligations
- Paragraphs 60 – 68 – Delivering a sufficient supply of homes.
- Paragraphs 96-101 – Promoting healthy and safe communities.
- Paragraphs 102-107 – Open Space & recreation.
- Paragraphs 108-113 – Sustainable Transport
- Paragraph 115 – Highway Safety
- Paragraphs 123 – 127 – Making effective use of land
- Paragraphs 131 – Creation of high quality, sustainable buildings and places.
- Paragraphs 136 – Contribution of Trees
- Paragraphs 158 – Planning for climate change.
- Paragraphs 164 – Energy Efficiency
- Paragraphs 175 – SUDS
- Paragraphs 180 – Natural and Local Environment
- Paragraphs 185 – Habitats and biodiversity

## National Planning Policy Guidance (NPPG) 2021

- Climate Change
- Design: Process & Tools
- Effective use of Land
- Environmental Impact Assessment
- Land Affected by Contamination
- Open Space
- Planning Obligations
- Transport

## National Design Guide 2021

- C1 – Local & Wider Context
- L1 – Respond to local character
- L2 – Well designed
- L3 – Character & Identity
- B2 – Appropriate building types and forms
- M3 – Well considered parking, servicing and utilities
- N1 – High Quality open space
- N3 – Support Biodiversity
- P2 – Well designed and safe places
- U2 – Mix of homes tenures, types and sizes
- U3 - Socially inclusive
- H3 – Storage and waste, servicing
- R2 – Careful selection of materials

## 7. APPRAISAL

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

- a) Whether the principle of development is acceptable in this location?
- b) Would the development give rise to Highway Safety & Parking concerns?
- c) Whether the design, layout and visual amenity of the proposal is acceptable?
- d) Whether the development would affect the National Landscape?
- e) Would the new dwellings meet the Council's Internal Space Standards?
- f) Would the new dwellings meet the Council's External Space Standards?
- g) Whether the development would result in harm to the residential amenity of existing residents?
- h) Whether the open space, tree and landscaping proposals associated with the development are acceptable?
- i) Whether the proposals would harm the ecological and Biodiversity considerations for the site?
- j) Are there any land contamination matters to be considered at the site?
- k) Would the proposed development result in or worsen localised surface water flooding?
- l) Would the development result in harm to Archaeology?
- m) Does the proposal meet sustainable construction requirements?
- n) Does the development meet the necessary EV Charging point provision requirements?
- o) Would the development provide affordable housing?
- p) Planning Obligations

**a) Whether the principle of development is acceptable in this location:**

7.2 The site forms part of a larger site protected for employment use under Policy E1 of the Places and Policies Local Plan (PPLP) identified as being suitable for the provision of up to 15,000 sqm of commercial floor space, primarily in B1a Office uses. The NPPF makes clear that employment sites should not be retained in areas of high housing need unless there are strong economic reasons not to allow a change of use. To this effect, Policy E2 states that planning permission for alternative uses will be permitted where it can be demonstrated that the existing or former employment use is no longer appropriate in terms of neighbouring uses or impacts; or the site or premises has been subject to sustained marketing over a 12 month period prior to the submission of the planning application but the site or premises has remained unlet or unsold for all

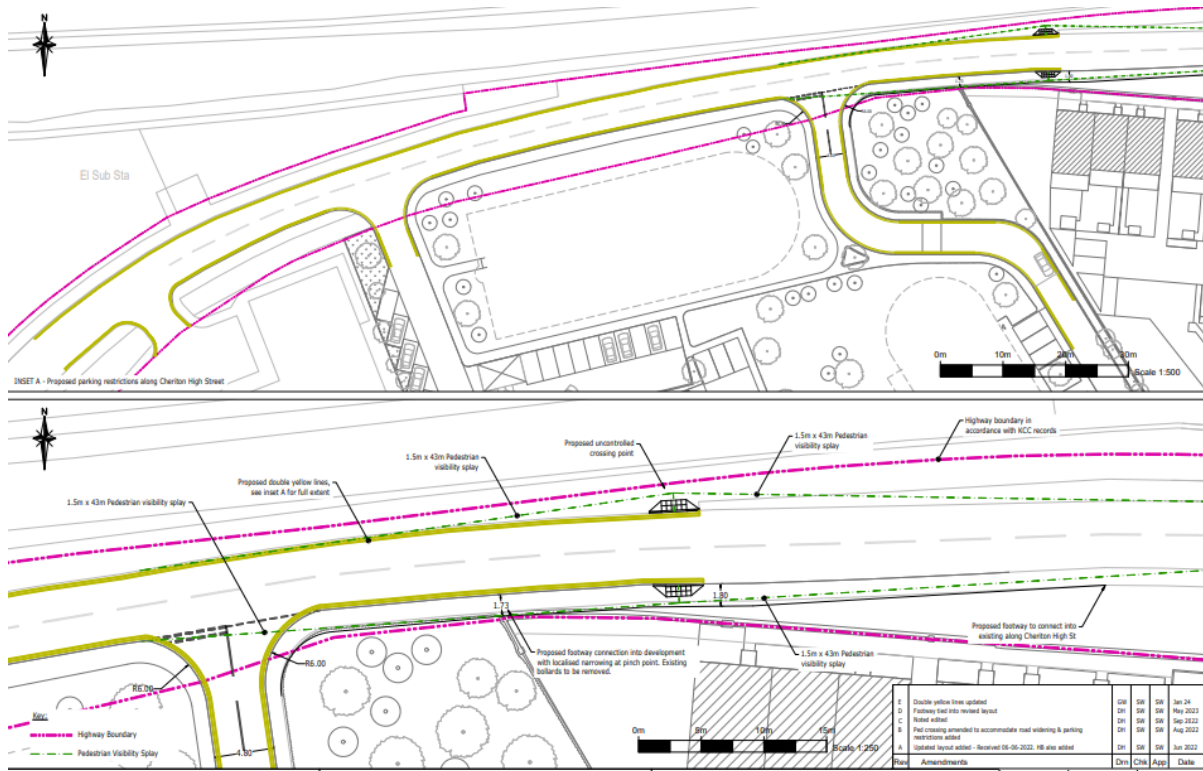
appropriate types of B class employment uses and no reasonable offers have been received.

- 7.3 In this case, the application has been supported with evidence that concludes that despite marketing the existing office building (Cheriton Parc) on site for 18 months prior to the submission of the planning application, there has been no appetite for this type of use within this location with no interest from businesses to utilise the office spaces. It has been further confirmed by the Agency involved in the marketing of Cheriton Parc that, and notwithstanding the recent Coronavirus pandemic, there continues to be no change in circumstances to the economic market, that would warrant pursuing a B1a use (or any class B employment use) in this location. Given this evidence, it is reasonable to conclude that employment demand has declined to such a degree such that alternative uses, including residential, for the site should be considered. Central Government guidance set out within the NPPF states that Local Planning Authorities (LPA's) should support the Government's objective to significantly boost the supply of homes and that housing applications should be considered in the context of the presumption in favour of sustainable development.
- 7.4 Policy SS1 of the Core Strategy seeks to direct development to existing settlements. In this case, the site sits within the urban confines of Folkestone and is sustainably located as well as constituting previously developed land. The proposal provides economic benefits through the creation of jobs during the construction period and an increase in population to use local services and businesses. It is also considered to be socially sustainable by providing homes to meet the housing needs of the area, including affordable homes and providing other benefits such as open space and contributing to improvements to existing services and facilities. The development site is also considered to be environmentally sustainable as it is utilising a vacant brownfield site and is within an urban area in close proximity to facilities.
- 7.5 The proposed development of the site for the provision of 86 residential units is considered acceptable in principle subject to the further additional material planning considerations set out below.

**b) Would the development give rise to Highway Safety & Parking concerns:**

- 7.6 Overall, the internal road structure is considered acceptable, allowing for two-way traffic and appropriate for access for both emergency and refuse vehicles. KCC Highways and Transportation has requested that the footways and bellmouth junctions along Cheriton High Street be surfaced in tarmac, as is the rest of the footway along Cheriton High Street. This can be secured by an appropriately worded condition in the event of approval.
- 7.7 141 car parking spaces are proposed. As set out in the proposal section of this report, the scheme is lacking 10 visitor spaces, which are generated by the use of tandem parking provision. However, the scheme does meet the requirements for allocated parking. Concern has been raised by KCC Highways and Transportation that this could lead to overspill parking onto Cheriton High Street. To address this KCC has requested additional parking restrictions along Cheriton High Street up to the entrance of the Holiday Inn Express (illustrated in Figure 6 below). It is proposed to include this in the planning obligations to be attached to any permission. The Council's Parking Team has welcomed this approach and has confirmed that it would accommodate the enforcement of unauthorised parking to ensure impact on highway safety does not occur.

- 7.8 It is also agreed that parking restrictions should also be promoted within the site to prevent access issues for larger vehicles such as refuse vehicles.. This is because visitor parking is not evenly distributed throughout the site, with at least 16 spaces grouped together at the far southern boundary of the site. Additional parking restrictions can be secured by condition.
- 7.9 In considering the parking provision officers have explored options for more parking on site. However, this needs to balance against place making and the provision of open space and greening of the development. Officers consider that as the impacts of the shortfall of visitor parking can be addressed via restrictions, the benefits of not providing the additional visitor parking are outweighed by the qualitative aspects of the current scheme.
- 7.10 In conclusion, in light of the parking restrictions to be secured as part of any forthcoming planning permission, the development is not considered to result in harm to highway safety and therefore no objections are raised to the proposed development on parking grounds.
- 7.11 The proposal includes for the use of existing access points either side of the Cheriton Parc Building. There are no proposed alterations to these junctions and would continue to provide sufficient visibility along Cheriton High Street for users of the development.
- 7.12 A new connection crossing point could be secured as part of the s106 legal agreement to enable pedestrians to cross safely to the pedestrian footpath north of Cheriton High Street. This would be located just east of the main access to the site (Figure 6 below).



**Figure 6: Proposed parking restrictions and new pedestrian crossing point.**

- 7.13 The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual

cumulative impacts on the road network would be severe. In this case, the level of harm would not be significant and as such, subject to the above-mentioned conditions, no objection is raised on highway safety grounds.

**c) Whether the design, layout and visual amenity of the proposal is acceptable:**

- 7.14 The Council's adopted policy HB1 places considerable emphasis on the importance of achieving good design to ensure all new development is appropriate to the shape, size and location of the site.

Layout

- 7.15 The proposal presents a legible street layout with a clear hierarchy which would be easy to navigate for residents and visitors alike. The retention of Cheriton Parc provides a clear and recognisable landmark which in my view would help promote a distinct character. Setting the building in landscaping is welcomed and would form a focal point within the development as well as softening the appearance of the building itself. I consider this to be a positive addition to the quality of the current townscape and street scene.

- 7.16 The apartments and dwelling present front doors and windows to the street. This would result in natural surveillance to the street and contribute to a sense of safety. I am satisfied that this would address the comments made by the policy crime officer.

- 7.17 In terms of scale the proposed apartments and dwellings would relate well to street promoting the continuity of street frontages and the enclosure of space by development which clearly defines private and public areas.

Apartment conversion

- 7.18 The proposed conversion of Cheriton Parc is considered to be high quality with an appropriate use of materials to turn a commercial building into residential homes.
- 7.19 The visual appearance of the building or the site when viewed from Cheriton High Street is considered to remain high quality. I am satisfied that the conversion would enhance the character and appearance of the street scene.

New apartment building

- 7.20 The design of the purpose-built affordable apartments, located just south of the main entrance to the site and which would be seen on approach to the remaining residential development to the south, has appropriately taken reference from the existing Cheriton Parc building in design terms. The use of curved arch deco design features has been included to mimic the existing building.
- 7.21 The 3-stories scale of the apartment block is considered to be reflective of the scale of the existing building on site without being overly dominant in nature. The use of similar finish materials (in the form of red brick, timber cladding and pale render) to those proposed within the existing building and within the wider residential development would tie the development together as one, where the materials proposed to be used

within the purpose-built dwellings and those intended for the Cheriton Parc building itself are themselves different from each other.

- 7.22 The proposed apartment block is well proportioned and visually articulated resulting in a visually coherent and harmonious built form.
- 7.23 The result is considered to be high quality visually appropriate development which would sit comfortably on the site.

## Houses

- 7.24 The proposed houses are considered to be acceptable in terms of design and scale, being well proportioned and detailed. As a result it is considered that the houses would positively contribute to the surrounding area. The proposed palette of materials for the houses is considered acceptable and would reflect those in the surrounding area. The use of base materials such as local red multistock with some feature charcoal grey brick bands would help create a distinct identity, whilst window proportions and roofing application both in colour and material would reinforce this.
- 7.25 Overall, the proposal comprises the redevelopment of a brownfield site to provide a high-quality residential scheme which would create a sustainable living environment for future residents of the site without causing detriment to the visual amenity of the surrounding area. It is considered, in light of the above, that the proposed development accords with the provisions set out under Local Plan Policies SS3, HB1 and HB2.

## **d) Whether the development would affect the National Landscape?**

- 7.26 The impact of individual proposals and their cumulative effect on the National Landscape (North Downs AONB) and its setting are addressed under the provisions set out under PPLP Policy NE3. Development should conserve and enhance the natural features and distinctive features of the AONB and should not detract from its special qualities.
- 7.27 The site is not itself within the Protected National Landscape (North Downs AONB) but it can be seen from within it. The development is not considered to lead to coalescence of settlements that could be seen from within the National Landscape itself and as the development includes for the redevelopment of previously developed brownfield land, this is not considered to undermine the integrity of the open and rural character of the AONB and its setting. This, and for the reasons stated under subheading b) above, the proposal is not considered to negatively impact the National Landscape or its setting and in this regard no objection is raised.
- 7.28 The proposed development is considered acceptable and in accordance with the provisions set out under PPLP Policy NE3.

## **e) Would the new dwellings meet the Council's Internal Space Standards?**

7.29 Policy HB3 of the PPLP states that proposals for new residential units should comply with the current nationally described space standards and all of the dwellings, including flats would comply with these standards.

7.30 In addition, each habitable room would feature a window providing adequate levels of daylight and outlook.

**f) Would the new dwellings meet the Council's External Space Standards?**

7.31 There would be good sized private amenity to each dwelling and a communal landscaped area to the west of the purpose-built flats and along the southern boundary of the site.

7.32 The rear garden areas for the majority of the houses would be between 10 and 13m in depth. Three of the rear gardens would fall below the required 10m by just half a metre. This shortfall is not considered to be significant, and an acceptable level of amenity would still be provided to these affected units (Plots H16, H17 & H22)

7.33 Therefore, the scheme is considered to represent a good standard of accommodation for future residents in accordance with emerging policy HB3 of the PPLP and the NPPF.

**g) Whether the development would result in harm to the residential amenity of existing residents?**

7.34 Development Plan Policy requires all development to secure the amenities of its future occupants and protect those amenities enjoyed by nearby and adjoining properties. Policy HB1 of the PPLP requires development proposals to safeguard and enhance the amenity of residents. Paragraph 127 of the NPPF sets out that decisions should seek to secure a high standard of amenity for existing and future users.

7.35 The arrangement of dwellings within the site is such there would be no impact on privacy and overlooking, loss of light or shadowing to its neighbour and vice versa, ensuring the amenity of future occupants of the site is also protected. The proposed dwellings/flats would be sufficiently located away from the western boundary with the Hotel so as not to be adversely affected in terms of privacy. Furthermore, the windows along this western boundary of the hotel, and which look onto the application site serve landing/corridors as opposed to accommodation which makes overlooking less likely. Whilst these corridors tend to be lit for the during the night, it is not considered that the light emanating from these windows would be such that it would cause disturbance to occupants of the proposed development.

7.36 There may be potential for disturbance as a result of construction activity and consequently a condition requiring a Construction Environmental Management Plan, which should include construction hours, would be included if planning permission is granted.

7.37 The use of the existing access by vehicles associated with the residential use is not considered to result in detriment to local amenity, particularly on the immediate neighbours to the east of the site, by way of noise, given the former use of the site and its status in the Local Plan. Further consideration of the impact of additional traffic is be assessed in the Transport section below.



7.38 Overall, there are no objections to the development on amenity protection grounds, in accordance with the provisions set out under PPLP Policy HB1.

**h) Whether the open space, tree and landscaping proposals associated with the development are acceptable?**

7.39 Policy C1 of the PPLP seeks to ensure that new developments foster a sense of place through landscaping, public art or other similar techniques.

7.40 Detailed landscaping has been proposed as part of the development of the site and is clearly depicted on the submitted Landscape and Ecology details. Many of the proposed landscaping measures also double as ecological enhancements for the site (and these elements are addressed under the Ecology section of this report). Soft landscaping measures, which are considered acceptable, include:

- Creation of native mixed scrubland and meadow areas;
- Planting of shrubs and ground cover
- Planting of species rich native hedgerows
- Native tree planting to provide additional and replacement tree cover for any unaccepted loss.

7.41 The retained trees and hedgerows, accompanied by new planting (including replanting of existing trees) and soft landscaped verges would provide a green character to the development, forming boundaries and buffers to the neighbouring railway track and adjacent commercial developments to the west. A small area to the south of the site has been incorporated into the scheme as part of the reptile translocation site to address ecological matters, but in so doing it would provide an area of open space, appropriately landscaped to soften the overall appearance of the development from this vantage point. Hedgerows and tree planting is also proposed along several boundaries of the site and within and amongst the built development internally. The introduction of trees to the front and entrance of the site is considered to assist in softening the appearance of the development from outside of the site.

7.42 Concern has been raised via representation to the planning application with regard to the proposed development's impact on the 'developing woodland', which formed part of the Jubilee Scheme for Saga in 2000. Whilst it is accepted that some trees would be removed from their original locations to accommodate the development, it is proposed to replant these elsewhere on site to allow for the development. Any unexpected loss as a result of the replanting would be replaced with a similar species. The proposed landscaping as part of the proposal would continue to provide tree coverage and open space and therefore there are no overriding concerns regarding its impact on the Jubilee Scheme.

7.43 The hard landscaping proposed includes a mix of surface areas including the main road through the site (block paving), with permeable paving proposed for parking areas and driveways. This is considered acceptable.

7.44 Each dwelling would be provided with amenity areas comprising patios, decked areas and lawn. It is noted that to the front of a number of the dwellings, there would be a significant amount of hardstanding. However, the introduction of planting (trees/shrubs/grassed areas) is considered to appropriately soften an otherwise stark

appearance. Individual plots would be separated by close boarded fencing, which is common for residential gardens.

- 7.45 In terms of lighting, a mix of low-level bollard lighting, downward facing column lighting has been incorporated into the landscape design. This is considered acceptable. There are no significant arboriculture constraints within or adjacent to the site and as such no objection is raised to the development in terms of its impact on trees.
- 7.46 Public open space is shown to be provided on site adjacent to the new apartment block and in close proximity to the entrance of the site. Policy C3 sets out the requirement for public open space to be provided for developments of 20 or more dwellings. Where this is not possible a commuted sum is payable. Table 12.1 in the PPLP sets out the standards. In addition, Policy C4 seeks the provision of play space in new developments of 10 or more family dwellings. On site play space, albeit fairly low key, has been provided within the communal open space located centrally within the site and immediately adjacent to the affordable apartments. Should planning permission be granted, Section 106 contributions would also be sought, in line with the above-mentioned policy, to ensure the development contributes to both C3 and C4 open space provision, in particular for the provision of new play equipment and development of open space at Cheriton Recreation Ground and other existing play areas within Folkestone. The total contribution towards open space and play space is £39,843.83 and £55,554.30 respectively and is further discussed under the Planning Obligations Section below.
- 7.47 Overall, the landscaping and open space proposals for the development are considered appropriate, in accordance with the provisions set out within Local Plan Policies C1, C3 and C4, creating a sense of place and enhancing the character and appearance of the scheme.

**i) Whether the proposals would harm the ecological and Biodiversity considerations for the site?**

- 7.48 Policy CSD4 of the Core Strategy seeks to improve green infrastructure. This states that development must avoid net loss of biodiversity, achieve net gain over and above residual loss (criteria a). Policy NE2 in the PPLP also seeks to enhance biodiversity in new developments.
- 7.49 Appropriately worded conditions are suggested which would ensure that the timings and methodology for the translocation of the protected species is included in the Construction Environment Management Plan and that a detailed management plan of how the receptor and translocation sites would be established, managed, and maintained once the development is completed is provided.
- 7.50 It is also noted that the site has the potential to support badgers and hedgehogs that may use the site for shelter and for foraging. Whilst there were no signs of these animals using the site during the Preliminary Ecological Assessment, the ecological report has suggested many precautionary measures to mitigate against any potential harm during the construction phase. These would be secured by condition.
- 7.51 Whilst no bats are likely to be roosting on site, there are records of roosts in the surrounding area. Lighting can negatively impact nocturnal species, like bats, that are foraging and commuting on site and in the surrounding habitat. Whilst lighting is

identified within the landscaping details, currently there is no lighting plan or information submitted. Lighting details would be required to be submitted by condition.

- 7.52 One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”. The ecological assessment has made recommendations for ecological enhancements to be incorporated into the site, some of which have been detailed on the Landscape Plan, such as integrated bat and bird boxes, hedgehog highways and wildflower mix in the open grassland. The County Ecologist has raised no objection to the detail contained within the submitted landscape plan, the details of which shall be secured by condition in the event of an approval.
- 7.53 Subject to the above-mentioned conditions, no objection is raised to the proposal on ecology and biodiversity grounds, in accordance with Policies CSD4 and NE2.

**j) Are there any land contamination matters to be considered at the site?**

- 7.54 The application has been submitted with an accompanying Phase 1 Contamination Risk Assessment. The report has been reviewed by the Council’s Environmental Health Officer, who has advised that the Desk Study/walkover with a conceptual model and contamination risk assessment, are acceptable. The report highlights some potential contamination risks that warrant further assessment and recommends Phase 2 intrusive site investigation. This should include ground gas risk assessment as well as consideration of soil quality.
- 7.55 No objection to the proposal is raised subject to the imposition of the Council’s standard Land Contamination condition to allow for further intrusive site investigations, remedial strategies and verification reports to be undertaken. This would be attached to any forthcoming planning permission.

**k) Would the proposed development result in or worsen localised surface water flooding?**

- 7.56 The NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and the technical guide outlines that the opportunities to reduce the overall level of flood risk in the area should be sought through the layout and form of the development and appropriate use of Sustainable Urban Drainage Systems (SUDs).
- 7.57 The site is not within a high-risk flood area as identified by the Environment Agency. Being in a low-risk area, the management of surface water run-off in the main issue. The submitted SuDs Report confirms that the soakaway design would utilise the lowest rate achieved from adjacent site testing (0.168m/hr (4.67E-05 m/s) within trial pit). Further to this KCC Flood and Wastewater Management has identified the need for additional information including the need for a detailed Sustainable Water Drainage Scheme for the site, which would be conditioned for submission prior to works commencing on site that would address the above points. In addition, information as to where infiltration would be used to manage surface water would also be required by condition.

7.58 The Environment Agency has raised no comment in respect of the application. Southern Water has also raised no objection to the scheme, with the exception of advice regarding works in proximity to a public sewer and the protection of infrastructure during the construction phase of the development. An informative would be added to any forthcoming planning permission advising that the Applicant seek the advice of Southern Water ahead of development commencing on site.

**l) Would the development result in harm to Archaeology?**

7.59 Whilst the site lies in an area of multi-period archaeological potential, a watching brief on the site of Cheriton Parc proved inconclusive and recent field evaluation to the east also proved negative. Within the site the area of the proposed new builds is extensive but has been subject to past development impacts, largely from the construction of car parks. The County Archaeologist considers it likely that the significance of any below-ground archaeological remains at the site would have been diminished by the construction of the car parks and that it in this case it would be reasonable to limit archaeological mitigation to a watching brief rather than pre-development field evaluation trial trenching.

7.60 No objection is raised to the development on archaeological grounds subject to a condition being imposed for a Watching Brief and Written Scheme of Investigation, in accordance with the provisions set out under PPLP Policy HE2.

**m) Does the proposal meet sustainable construction requirements?**

7.61 All development should achieve high environmental standards. Developers are encouraged to implement appropriate mitigation and adaptation measures to address the potential impact of climate change. Policy CC2 of the PPLP requires all new dwellings to be built to a higher water efficiency standard and minimises energy demand including measures to adapt to climate change, such as the provision of green infrastructure.

7.62 A condition would be imposed to request details of these sustainable construction measures be submitted for the written approval of the Local Planning Authority.

**n) Does the development meet the necessary EV charging point provision requirements?**

7.63 PPLP Policy T2 requires a charging point for electric vehicles to be provided at a ratio of 1 per dwelling as far as reasonably practicable. The application identifies a series of standards, which would be adopted by the proposed development, including 1 active charging point per dwelling. Any dwellings with un-allocated or communal parking would be provided with 10% of the total spaces as active charging spaces and the remainder as passive charging spaces. A minimum of two visitor spaces (or a total of 10% of the total visitor spaces) would be provided by passive charging connections. A condition would be imposed with any forthcoming planning permission for details of these charging points to be submitted.

**o) Would the development provide affordable housing?**

7.64 Policy CSD1 of the Core Strategy states that all housing development should, subject to viability, include a broad range of tenures (incorporating housing for sale, shared

equity and other forms of intermediate housing and affordable rented) wherever practicable. Development proposing 15 or more dwellings (net gain) should provide 22% affordable dwellings on site, subject to viability. The proposal seeks to provide 19 affordable units (which amounts to 22% of 86) across the development. The mix, location and tenure of these can be agreed as part of the Affordable Housing Scheme to be submitted and agreed by the Local Planning Authority as part of the forthcoming s106 Agreement.

- 7.65 Policy HB4 supports self-build and custom housebuilding requiring all sites within Folkestone and Hythe urban area where more than 40 dwellings are proposed, to supply no less than 5% of dwelling plots for sale to self-build or custom housebuilders on the Council's register. In this case the Applicant has confirmed that they would comply with this requirement, where 5% custom housebuilding should be secured via the s106 legal agreement in the event of an approval.
- 7.66 Notwithstanding the details submitted with the application (which do not specify which of the proposed houses would be custom built), in order to comply with the above policy requirements 4 of the proposed dwellings would need to be earmarked for custom build, and Officers request delegated authority to determine which of the proposed dwellings would be reserved for custom build housing prior to issuing a decision.

## **p) Planning Obligations**

- 7.67 New residential development can create additional demand for local services, such as educational facilities. The NPPF (paragraphs 55 – 58) advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) states that planning obligations may only constitute a reason for granting planning permission for a development if they are:
- a. Necessary to make the development acceptable in planning terms;
  - b. Directly related to the development; and
  - c. Fairly and reasonably related in space and kind to the development.
- 7.68 It is proposed to include 22% Affordable Housing and 5% custom build as part of this development. In addition to the submission of an Affordable Housing Scheme and details of the Custom Build Units a number of financial contributions have also been requested in respect of the development proposed in this application, as well as other obligations associated with the use of the land. They are shown in Table 1 below.
- 7.69 The obligations have been assessed against Regulation 122 and it is considered that those listed below are necessary to make the development acceptable in planning terms and are directly related to the development and are fairly and reasonably related in scale and kind to the development. It is noted that additional requests for contributions towards community learning, special educational needs, child services, library services, adult care and waste have also been requested by Kent County Council. However, these matters are addressed through CIL contributions, and it is therefore not reasonable or necessary to insist that they form part of the s106 Agreement.

<b>Contribution</b>	<b>Amount</b>
General Practice	£71,784
Secondary Education	£239,817.24
Open Space – Maintenance & off-site provision	£39,843.83
Open Space – Equipped Play Areas	£55,554.30
Additional Parking restrictions and footway connection.	Double yellow lines up to the entrance to the Holiday Inn hotel. Footway connection/crossing point across Cheriton High Street.

**Table 3:** Section 106 Agreement Agreed contributions.

7.70 In this case, the Applicant has agreed to the above s106 contribution requests, in addition to the onsite 22% Affordable housing, 5% Custom Build and on-site ecological mitigation. Full details of the contributions can be found under Appendix 2 (Regulation 122 Assessment) of this report.

### **q) Other Matters**

7.71 Comments received in representation of the planning application requested that Cheriton High Street be renamed as it doesn't fall within the shopping area for the town. This is not material to the consideration of the planning application.

7.72 It has also been advised that the existing car park is built on a land filled cutting, which was the start of the Elham Valley Railway. It has been requested that an historical marker be erected there, however this is beyond the remits of the planning application.

### **Environmental Impact Assessment**

7.73 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**

7.74 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.

7.75 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 £0 per square metre for new residential floor space.

## Human Rights

7.76 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

7.77 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

7.78 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.

7.79 The application was subject to both pre-application discussion, and further amendments during the processing of the planning application itself. The Local Planning Authority has engaged positively with the Developer and their Agents.

## 8. CONCLUSION

8.1 Whilst the site is protected for employment use under Policy E1 of the PPLP, it has been demonstrated the site is no longer viable for employment uses. Given its sustainable location within the built confines of Folkestone and the fact that the site constitutes previously developed land, the residential development of the site is supported by National Policy where the provision of 86 dwellings would make a valuable contribution towards the Council's housing supply, including the provision of much-needed additional affordable housing.

8.2 The application site is in a sustainable location benefitting from good access to a range

of facilities in a well-served part of town. The amount of development is not considered to be disproportionate to the scale of the existing development in the area and would likely enhance the ongoing viability of Cheriton, promoting wellbeing and social cohesion and result in economic benefits during the construction and post-development phases.

- 8.3 The layout, design and appearance of the proposed development is considered to be acceptable, and the additional dwellings can be accommodated without having a detrimental impact upon the visual amenity of the wider area. Further, the proposal would ensure through the introduction of an attractive soft landscaping scheme combining the retention and enhancement of existing trees and boundary vegetation, that the character and appearance of the site from views from the immediate street scene and from within the adjacent National Landscape (AONB), would be conserved and enhanced where appropriate.
- 8.4 The development would provide a good level of amenity for existing and future residents, and subject to control through planning conditions, would not harm matters of ecological interest, highway safety or result in unacceptable flood risk, with foul and surface water drainage able to be adequately dealt with so that the site can be developed in an acceptable way.
- 8.5 Overall, it is considered that the residential development of the site as proposed would be acceptable and that any residual impact can be mitigated through the imposition of suitable planning conditions. In balancing the environmental, social and economic impacts arising from the proposal, Officer's conclude that it would present a sustainable form of development, which is at the heart of the NPPF. It is therefore recommended that planning permission be granted subject to conditions and completion of a s106 legal agreement.

## 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. RECOMMENDATION

**That planning permission be granted subject to the conditions set out below and the applicant entering into a s106 legal agreement securing the contributions set out within Table 3 of this report; 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:



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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:

- Design & Access Statement (May 2023), received 23 May 2023
- Ecological Assessment (Bakerwell November 2023, ref KECT18 8AN Revision 4), received 28 November 2023
- Preliminary SuDs Report (Adkins Consultants Rev C, dated 3 April 2023), received 23 May 2023.
- 21-113/001 Rev C - Transport Statement, received 23 May 2023.
- Planning Statement (Hume Planning Consultancy), dated June 2022, received 15 July 2022
- Landscape Design & Access Statement (edla) dated 2022, received 15 July 2022
- Railway Noise Impact Assessment (MRL Acoustics) dated March 2022, received 15 July 2022.
- Phase 1 Land Contamination Assessment (Ecologia) Ref: EES 21.275.1 dated 20 December 2021, received 15 July 2022.
- CHP-EDL-ZZ-DR-L-2001 R1 – Open Space Plan, received 28 November 2023
- CHP-EDL-ZZ-XX-DR-L-2000 R8 – Landscape Masterplan, received 28 November 2023
- CHP-EDL-ZZ-XX-DR-L-0110 R8 – Illustrative Masterplan, received 28 November 2023
- 21.081 101 – Site Location Plan, received 23 May 2023
- 21.081 109 Rev A – Proposed Ground Floor Masterplan, received 23 May 2023
- 21.081 110 Rev C – Proposed Masterplan-Roof Plan-Block Plan, received 25 July 2023
- 21.081 111 – Cheriton Parc Conversion Proposed Ground & First Floor Plan, received 23 May 2023
- 21.081 112 – Cheriton Parc Conversion Proposed Second & Third Floor Plan, received 23 May 2023.
- 21.081 113 Rev A – Cheriton Parc Conversion Proposed Elevations, received 23 May 2023.
- 21.081 114 Rev A – Cheriton Parc Conversion Proposed Elevation, received 23 May 2023.
- 21.081 115 Rev A – Cheriton Parc Conversion Proposed Section, received 23 May 2023.

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- 21.081 116 Rev A – Cheriton Parc Conversion Proposed Sections, received 23 May 2023.
- 21.081 117 Rev B – House Types THC5-3T-1 Proposed Floor Plans & Elevations, received 25 July 2023
- 21.081 118 Rev B – House Type THC52T-1 Proposed Floor Plans & Elevations, received 25 July 2023.
- 21.081 119 Rev B – House Types THC5-3T – 2 Proposed Floor Plans & Elevations, received 25 July 2023.
- 21.081 120 Rev B – House Type THC9-4T-1 Proposed Floor Plans & Elevations, received 25 July 2023.
- 21.081 121 Rev B – House Type THC9-2T-1 Proposed Floor Plans & Elevations, received 25 July 2023
- 21.081 122 Rev B – House Type THC9-2T-2 Proposed Floor Plans & Elevations, received 25 July 2023
- 21.081 123 Rev B – House Type THC9-2T-2 Proposed Floor Plans & Elevations, received 25 July 2023
- 21.081 124 Rev A – Affordable Flats Proposed Ground, First and Second Floor Plans, received 23 May 2023.
- 21.081 125 Rev A – Affordable Flats Proposed Elevations, received 23 May 2023.
- 21.081 126 Rev A – Affordable Flats Proposed Elevations, received 23 May 2023.
- 21.081 127 Rev A – Affordable Flats Proposed Sections, received 23 May 2023.
- 21.081 128 Rev B – Proposed Site Sections, received 25 July 2023
- 21.081 129 Rev B – Proposed Site Sections, received 25 July 2023
- 21-113/001 Rev H – Layout Review Comments, received 25 July 2023
- 21-113/002 Rev E – Proposed Footway Connection & Parking Restrictions, received 31 January 2024
- 21-113/003 Rev C – Refuse Strategy, received 25 July 2023
- 21-113/004 Rev C – Review Fire Strategy, received 25 July 2023
- CP-1-MM-01 Rev 02 – Site Plan showing SuDs Concept, received 23 May 2023

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

3. No construction above slab level shall take place until samples of the external materials to be used in the construction of the external surfaces of the building(s) hereby approved 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.

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4. Notwithstanding the detail contained within the application, prior to the first occupation of any unit hereby approved, details of both hard and soft landscape works including an implementation programme and maintenance schedule shall be submitted to and approved by the local planning authority. No building shall be occupied until an approved landscaping scheme has been carried out in accordance with the approved details unless an alternative timescale has been agreed with the local planning authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.

Reason: In order to protect and enhance the appearance of the area.

5. A landscaping management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, other than privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to the first occupation of any dwelling hereby approved or any phase or sub-phase of the development, for its permitted use. All landscape measures as detailed within the Ecological Appraisal (Bakerwell Ltd, November 2023) shall be included within the landscape management plan. The landscape management plan shall be carried out as approved and retained as such thereafter.

Reason: In the interests of visual amenity of the area and in the interest of minimising potential for harm to protected species.

6. Upon completion of the approved landscaping scheme (condition 4), 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 amenities of the area and encouraging wildlife and biodiversity.

7. No development shall take place, including any works of demolition, until a Construction Environmental Method Plan (CEMP) 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.
- viii. Construction working hours.
- ix. Details of how the development will protect wildlife during the habitat creation and establishment, translocation, demolition and the construction phases of the development.
- x. Details of precautionary mitigation for hedgehogs and badgers.

The precautionary measures set out in section 8 of the Ecological Appraisal (Bakerwell Ltd, November 2023) must be included and implemented during all works and the CEMP must correspond with the Habitat Establishment and Management Plan to avoid harm to protected/notable species.

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

8. Prior to commencement of works (including site clearance), a Habitat Establishment and Management Plan will be submitted to, and be approved in writing by, the Local Planning Authority. The content of the plan will be based on the recommendations in section 9.2-9.7 of the Ecological Appraisal (Bakerwell Ltd, November 2023). The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of ecology and biodiversity.

9. Prior to completion of the development hereby approved, a lighting plan, which has been designed to minimise impacts on biodiversity, shall be submitted to and approved in writing by the local planning authority. The plan will show how and where external lighting will be installed and provide commentary regarding how the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance Note 08/23: Bats and Artificial Lighting' and the measures suggested in the ecological appraisal (section 8.14) have been considered in the lighting design. It will be clearly demonstrated that areas to be lit will not impact protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and be maintained thereafter.

Reason: In the interest of ecology and biodiversity and minimise harm to bats.

10. Within three months of works commencing, on site details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird integrated bricks and nesting boxes, hedgehog highways, wildflower mixes in the reptile receptor site and children's playground, hibernacula and log piles for reptiles (in addition to those required for mitigation) and invertebrates, and provision of native planting across the whole site. The approved details will be implemented and thereafter retained.

Reason: In the interests of ecology and biodiversity.

11. Prior to first installation on site, full details of cycle parking facilities for each dwelling shall be submitted to and approved in writing by the local planning authority. The facilities shall thereafter be implemented prior to occupation of each dwelling and retained as such thereafter.

Reason: In the interests of promoting sustainable methods of transport other than the private motor vehicle.

12. Prior to first installation on site, full details of the areas for the storage and collection of refuse and recyclables shall be submitted to and approved in writing by the local planning authority. The facilities shall thereafter be implemented prior to occupation of each dwelling and shall be kept available for use by the occupants of the development.

Reason: To ensure adequate means of refuse and recycling collection in the interests of the amenities of residents and sustainability in accordance with the Local Plan.

13. Prior to their installation, details of the EV Charging points and their locations shall be submitted to, for the written approval of the Local Planning Authority. An electric vehicle charging point shall be fully installed within that plot prior to occupation of the associated dwelling and shall be retained and maintained as such thereafter. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved charge point model list: <https://www.gov.uk/government/publications/electric-vehicle-homechargescheme-approved-chargepoint-model-list>.

Reason: In the interests of promoting sustainable methods of transport.

14. 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 either be a minimum 50% reduction of the existing rate, if a connection exists. If no connection is present the rate should be no greater than greenfield. 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. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

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

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

16. No building on any phase (or within an agreed implementation schedule) of 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, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

17. Construction above slab level shall not commence within any part of the development hereby permitted until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving that all the dwellings and flats will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator.

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Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings' <https://www.gov.uk/government/publications/the-water-efficiency-calculator-for-new-dwellings>

Reason: In accordance with the requirements of policies CSD5 and SS3 of the Core Strategy Local Plan 2013 which identify the district as a water scarcity area and require all new dwellings to incorporate water efficiency measures.

18. No development beyond the construction of foundations shall take place until details demonstrating the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, (or any document which supersedes or updates that document) have been submitted to and approved in writing by the Local Planning Authority. Upon approval the measures shall be implemented as agreed and thereafter retained and maintained in perpetuity.

Reason: To support the transition to a low carbon future through the use of on-site renewable and low-carbon energy technologies.

19. No work above slab level on the construction of the buildings hereby permitted shall take place until a copy of formal confirmation has been supplied to the Local Planning Authority confirming that High Speed Fibre Optic that meets the Department for Culture, Media and Sport requirement that 'fibre to the premise' broadband connections are available to all premises of gigabit capacity will be provided to all dwellings. Prior to the first occupation of any of the dwellings hereby approved, confirmation shall be submitted to the Local Planning Authority that the infrastructure to allow 'fibre to the premise' broadband connections are available to all premises of gigabit capacity has been laid out in the site.

Reason: In order to ensure the future provision of superfast fibre optic broadband for occupants in accordance with policy E8 of the Places and Policies Local Plan.

20. Prior to the occupation of the dwellings and flats hereby approved, the proposed estate road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved in writing by the Local Planning Authority before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interests of highway safety and convenience.

21. The parking areas shown on the submitted plan shall be provided and made available prior to the first occupation of the any of the dwellings hereby approved,

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shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: In the interests of highway safety and convenience.

22. Prior to first occupation of any part of the development hereby permitted, details of the measures proposed to prevent parking at the entrance of the site shall first be submitted to, for the written approval of the Local Planning Authority and thereafter carried out as approved and maintained and retained in perpetuity.

Reason: In the interests of highway safety and to prevent unauthorised parking at the entrance(s) to the site.

23. Prior to first occupation of any part of the of the development hereby permitted, the footway and bellmouth junctions along Cheriton high Street shall first be surfaced in tarmac.

Reason: In the interests of highway safety and at the request of the Highways Authority.

24. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of an archaeological watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that groundworks are observed and items of interest and finds are recorded. The watching brief shall be in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the Local Planning Authority.

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

25. Prior to commencement of development on site, full details of the proposed on and off-site highways works, including double yellow lines and new pedestrian crossing point as identified on drawing no 21-113-002 Rev E shall be submitted to, for the prior written approval of, the Local Planning Authority and thereafter carried out as approved.

Reason: In the interests of Highway Safety.

26. (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.

27. No works above ground floor slab level shall take place until a Security Management Plan for development has first be submitted to, for the written approval of the Local Planning Authority. The Security Management Plan must adhere to the requirements of Secure by Design to ensure protection from crime and anti-social behaviour. Upon approval, the Security Management Plan shall be carried out as approved and thereafter maintained.

Reason: To ensure the development is secure from crime in accordance with Secured by Design.

## Informatives:

1. It is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

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

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and

Transportation to progress this aspect of the works prior to commencement on site.

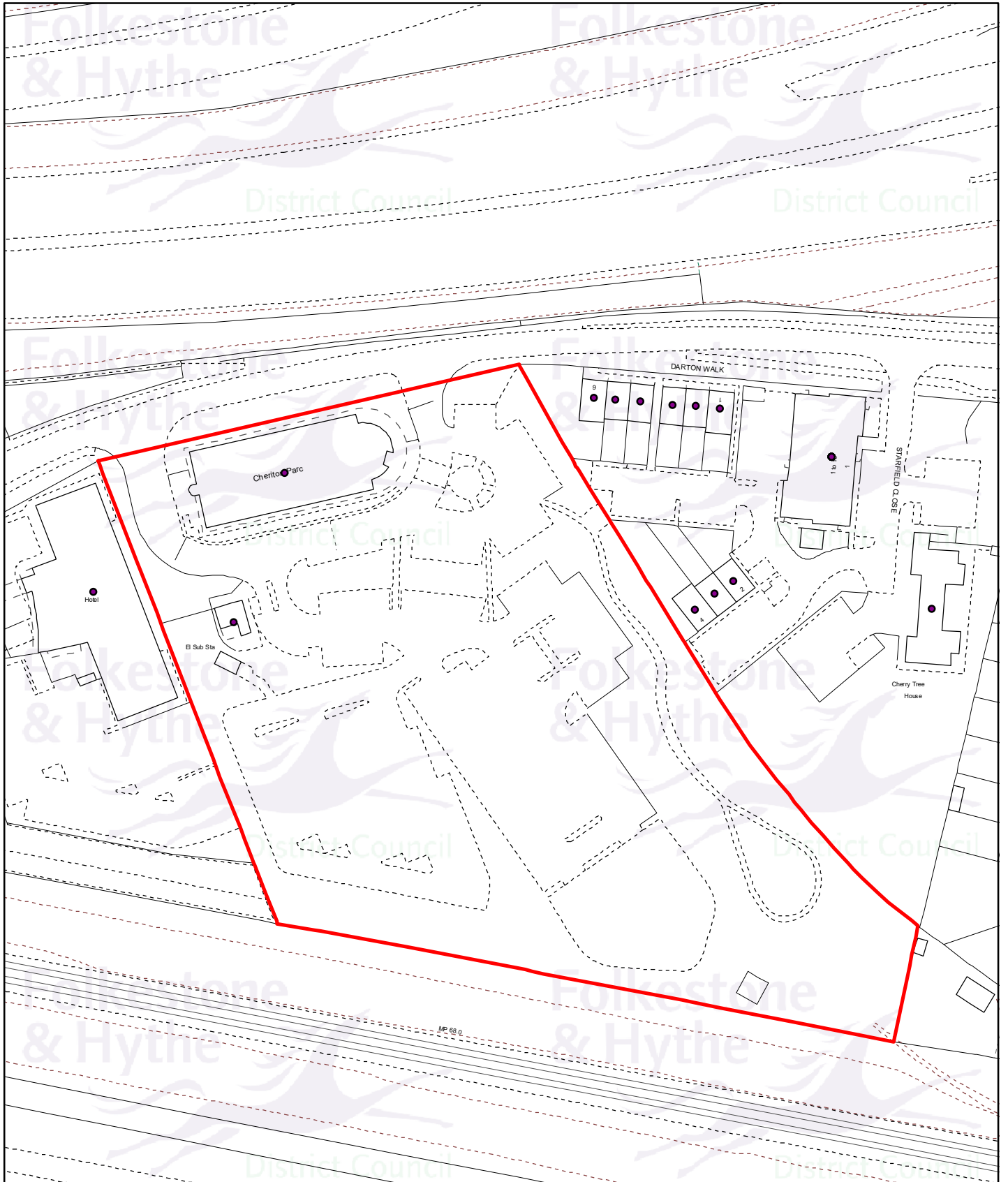
2. No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority.
3. There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
4. There should be no closeboard fencing or similar structure over 1.0 metres erected adjacent to a highway used by vehicles (including bicycles) or in any circumstance which will block out the views.
5. No hedging or shrubs should be planted within 1.5 metres of the edge of the Public Path.
6. The granting of planning permission confers on the developer no other permission or consent or right to close or divert any Public Right of Way at any time without the express permission of the Highway Authority.
7. It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
8. Southern Water requires a formal application for any new connection to the public foul sewer to be made by the applicant or developer.  
To make an application visit: [developerservices.southernwater.co.uk](http://developerservices.southernwater.co.uk) and please read our New Connections Services Charging Arrangements documents which are available on our website via the following link: [southernwater.co.uk/developing-building/connection-chargingarrangements](http://southernwater.co.uk/developing-building/connection-chargingarrangements)
9. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees, scrub and buildings are likely to contain nesting birds between 1st March and 31st August inclusive. Trees, scrub and buildings are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.
10. Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or

land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water. It is understood from the application form that foul drainage will be discharge to the mains sewer. We have no objections to this but would want to be re-consulted should these plans change.

11. Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".
12. Your attention is drawn to the need to contact the Council's Street Naming and Numbering Officer on 01303 853418 in order to have the new properties formally addressed.
13. This decision is also conditional upon the terms of the Planning Agreement which has been entered into by the developer and the Local Planning Authority under Section 106 of the Town and Country Planning Act 1990. The Agreement runs with the land and not with any particular person having an interest therein.







Planning Application:  
22/1077/FH  
Drawn date:  
07 Feb 2024  
Drawn by:  
Carrie Stacey  
Drawing ref:  
1836/COP/LS

  
Llywelyn Lloyd  
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2024



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Obligation No.	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts (s)	Trigger Points (s)	

1.	<p><b>Affordable Housing:</b></p> <p>Submission of an Affordable Housing Scheme which should identify the mix, location, and tenure of 19 no. affordable dwellings to be provided on site.</p> <p>Or</p> <p>A mixture of on and off-site affordable housing provision, including with an appropriate commuted sum for the off-site provision to be agreed.</p>	22% in accordance with policy CSD1	<p>Affordable units to be constructed and transferred to a registered provider before occupation of 50% of the general market housing units.</p> <p>Or</p> <p>Any agreed commuted sums to be paid prior to the occupation of 25% of the general market dwellings on site.</p>	<p>Necessary as would provide housing for those who are not able to rent or buy on the open market pursuant to CSD1 of the Core Strategy Review (2022) and guidance in the NPPF.</p> <p>Directly related as the affordable housing would be provided on-site in conjunction with open market housing.</p> <p>Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.</p>
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2.	Custom Build. 4 units.	5% in accordance with policy HB4.		<p>Necessary as would provide custom build units pursuant to HB4 of the PPLP (2020) and guidance in the NPPF.</p> <p>Directly related as the custom build housing would be provided on-site in conjunction with open market housing.</p> <p>Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.</p>
3.	<p><b>Open Space:</b> Maintenance &amp; Off- site provision</p> <p>Equipped Play Areas</p>	<p><b>£39,843.83</b> 6,200 sq. m (per person – based upon 2.4 people per dwelling)</p> <p><b>£55,554.30</b> Based 65 dwellings (the remaining 21 units are 1 bed units) and £280.50 per person</p>	Upon occupation of 50% of the dwellings.	<p>Necessary as open space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to policy C3 of the PPLP and guidance in the NPPF.</p> <p>Directly related as occupiers will use open space and the facilities to be provided would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained.</p>

4.	<p><b>Secondary Education:</b></p> <p>Towards the expansion of selective and non-selective secondary schools in Folkestone &amp; Hythe District</p>	<p><b>£239,817.24</b></p> <p>£4,450.00 per applicable house and £1,135.00 per applicable flat</p>	<p>33% of the contribution prior to commencement, 33% upon occupation of 25% of the dwellings and 34% upon occupation of 50% of the dwellings</p>	<p>Necessary as there is no spare capacity at any secondary school in the vicinity and pursuant to policy SS5 of the Core Strategy Review and KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF.</p> <p>Directly related as children of occupiers will attend secondary school and the facilities to be funded would be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of pupils and is based on the number of dwellings.</p>
5.	<p><b>NHS – Healthcare Services provided in the community.</b></p> <p>Towards refurbishment, reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or</p>	<p><b>£71,784</b></p>	<p>Upon occupation of 50% of the dwellings.</p>	<p>Necessary to increase capacity to meet the demand that would be generated by the development pursuant to policy SS5 of the Core Strategy Review and guidance in the NPPF.</p> <p>Directly related as occupiers will use healthcare facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the estimated number of occupiers.</p>

	<p>new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.</p>			
6.	<p><b>Highways – Parking Restrictions and Footway Connection</b></p> <p>Extend Double Yellow Lines along Cheriton Highstreet up to the entrance to the Holiday Inn Hotel</p> <p>Provide crossing point across Cheriton High Street</p>	N/A	To be completed prior to first occupation of any part of the development	<p>Necessary to prevent overspill parking from the development onto the public highway in accordance with the requirements of the NPPF.</p> <p>Directly related as the restrictions would prevent overspill parking from occupants and visitors to the development in this location.</p> <p>Fairly and reasonably related in scale and kind as based on the anticipated impact on the highway as a result of the proposed parking on site to serve the development.</p>



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# Agenda Item 9

## DCL/23/40

**Application No:** 23/1001/FH

**Location of Site:** Block E, Hurricane Way, Hawkinge, Folkestone, CT18 7SS

**Development:** Change of use and alterations to 8 no. apartments.

**Applicant:** Pentland Properties Ltd

**Agent:** Mrs Tracey Dixon

**Officer Contact:** Robert Allan

### SUMMARY

The report, which is an addendum update to the report originally produced for planning & Licensing Committee of 05 September 2023. The applicant has augmented their original marketing information following a request from Members, which has been reviewed by an independent external consultant and verified as a robust marketing exercise demonstrating that there is no viable demand for the permitted use. The dwellings would be in a sustainable location, with no detrimental impacts identified in relation to visual impact, residential amenity, highways or ecology, and the proposal is considered acceptable in accordance with adopted policy.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.**

### 1. INTRODUCTION

- 1.1. The application is returned to Planning & Licensing Committee following Members' resolution to defer consideration of the application until additional marketing information had been submitted at the meeting of 05 September 2023. The original Committee report is attached at appendix 2. The report includes the site description and details of the proposed development, the planning history of the site and a detailed appraisal of the scheme.
- 1.2. This report considers the additional information received since the item was last reported to Members..

### 2. ADDITIONAL INFORMATION

#### Marketing Summary Report

- 2.1 Following the resolution of the Members of Planning & Licensing Committee of 05 September 2023, the applicant submitted an addendum to the Marketing Summary Report which reported:

- Deeper analysis of the commercial market in the wider area
- Market testing against other, similar units
- How comparable property values have changed since 2020
- The price of the unit since marketing began in 2019
- Who marketing was aimed at.

2.2 This provided a deeper analysis and context to the original document and the decisions taken with regard to this, in order to justify the findings of the original report.

### 3. CONSULTATION RESPONSES

3.1 The consultation responses to the additional marketing information are summarised below.

#### Consultees

**Hawkinge Town Council:** Object – the applicant has failed to produce any evidence of local marketing comparisons i.e. Within the Folkestone & Hythe District. The committee does not consider Canterbury to be illustrative of conditions in Hawkinge. The committee would like to see comparative data that they are marketing on a similar basis to the Shearway Business Park, Folkestone, for example.

**KCC Highways & Transportation:** No comment - outside of consultation protocol.

**KCC Ecological Advice Service:** No ecological information is required as part of this application. Conditions requested for landscaping and lighting.

**KCC Archaeology:** No comments received.

**Kent Downs AONB Unit:** No comments received.

**Environment Agency:** No comment – outside of consultation remit.

**Southern Water:** No objection

**Contaminated Land Consultant:** No objection subject to standard land contamination condition

#### Local Residents Comments

3.2 No representations received.

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

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



## 4. RELEVANT PLANNING POLICY

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

4.2 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
E2	Existing Employment Sites
NE2	Biodiversity
NE3	Protecting the District's Landscapes and Countryside
NE5	Light Pollution and External Illumination
NE7	Contaminated Land
T2	Parking Standards
T5	Cycle Parking
CC2	Sustainable Design and Construction

### Core Strategy Review 2022

SS1	District Spatial Strategy
SS3	Place-Shaping and Sustainable Settlements Strategy
SS4	Priority Centres of Activity Strategy
CSD1	Balanced Neighbourhoods
CSD4	Green Infrastructure of Natural Networks, Open Spaces and Recreation

4.3 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 2021 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
60	Delivering a sufficient supply of homes
135	Achieving well-designed and beautiful places
189	Ground conditions and pollution
193	Effective integration

## 5. APPRAISAL

- 5.1 The report should be considered with the context of the previous report to Planning & Licensing Committee of 05 September 2023 (appendix 2) where Members raised no concerns in relation to visual impact and design, residential amenity, ecology, highways, affordable housing, or CIL and planning obligations.
- 5.2 As there have been no material changes in circumstance following the resolution of Members, these matters remain as set out in the previous report. Instead, this report will primarily deal with the addendum to the Marketing Summary Report.
- a) Principle of development
  - b) Contaminated land

### a) Principle

- 5.3 As set out to Members previously, the Settlement Hierarchy within the Core Strategy provides a framework to concentrate development in selected locations to maximise efficient use of existing infrastructure and support business and community facilities. The application site is within the defined settlement boundary of Hawkinge, a service centre within the North Downs area that has been designated to accommodate development appropriate to the district and the centre's own needs, to grow and consolidate its position as a centre serving the local hinterland with shops, employment, and public services. To this end the broad principle of this development in this location is considered acceptable, subject to all other material planning considerations.
- 5.4 The loss of commercial units is resisted by policy SS4 of the Core Strategy Review and policy E2 of the Places and Policies Local Plan unless it can be demonstrated that they are not viable or not required. There are no records of the property ever having been occupied.
- 5.5 The applicant had submitted a Marketing Summary Report, which sets out the advertising of the unit since 2018, spanning a period significantly greater than the 12 months as required by policy E2. The report acknowledged the changes in the market since the property was constructed, including the effect of Covid-19 and other challenging economic and market conditions which persist to the present day. One offer from 2019 was recorded but was not able to secure planning permission for the required change of use (Y19/0545/FH) as there was no demonstration of the lack of need for the unit, contrary to adopted policy.
- 5.6 There was no reason to doubt the findings of the initial Report, which had been prepared by reputable local chartered surveyors and estate agents, with no evidence to dispute the conclusions drawn.
- 5.7 However, Members considered that additional marketing information should be supplied by the Applicant, with the application deferred from consideration at Planning & Licensing Committee on 5 September 2023 to allow for this. Following this resolution, the Applicant has submitted an Addendum to the Marketing Strategy Report, attached

at appendix 3, which has been reviewed by Officers and independent external consultants.

- 5.8 This Addendum Report has provided a deeper analysis of the commercial market in the wider area, looking at both the UK and the southeast; market tested relative to a similar scheme in Canterbury; looked at comparable property values since 2020; addressed the asking price; and looked at whom the marketing was aimed at.
- 5.9 The Addendum has concluded that the UK market as a whole is volatile, with the south east similarly affected, as a consequence of interest rates, changes in working habits and concluding that there is a limited demand for out of town commercial areas, at this time. There is limited evidence to establish trends to suggest rents and capital values have significantly fallen within the stated period, with take up for established commercial areas close to or above pre-pandemic levels albeit with landlords having to take more flexible approaches to lease negotiations and often greater incentives to reflect market conditions. On this, the guide price has not been adjusted, but a flexible approach was taken to negotiations, with prices being a guide and not an expectation. Indeed, the only agreed sale was at a price of £220,000, well below the guide price. Regarding the marketing audience, this has been aimed at alternative uses, with a brochure, mail shots and multiple websites used and continued to be used.
- 5.10 The original Marketing Report and the Addendum to this have been reviewed by an independent Chartered Surveyors, who has advised that the commentary upon the volatility of the UK economy is valid, with take-up of office space in Kent seeing a 5% increase in demand in 2023, compared to 12% over the last 3 years and 16% over the last 5 years. This is against a background of a reduction in office supply in Kent due to refurbishments, lack of development and conversion to residential, a move to hybrid working seeing occupiers requiring around 30% less space than fully office-based operations and figures showing no trading over the past 12 months in the Folkestone & Hythe submarket. The review places the marketed values as being reasonable and in line with the average for the area, whilst the brochure, mailing and website exposure were also considered acceptable.
- 5.11 The independent review of the submitted information concludes that potential purchasers were dissuaded due to limitations presented by the property location, low levels of footfall and passing trade, with potential purchasers drawn to the larger settlements and business centres, which have better transport links, facilities, footfall and connections to other businesses. The impact of interest rates rising, cost of utilities and changing of shopping habits are all having a significant effect on the market also.
- 5.12 Officers accept the findings of the submitted information and the review of this by the independent consultant. The Town Council's continued objection is noted, but it is considered that the Applicant has fulfilled the requirements of adopted policy, having carried out a thorough and extensive marketing exercise, with no reasonable justification to require the submission of further evidence. In this regard, the loss of the site for employment purposes is considered acceptable.

## **b) Contaminated land**

- 5.13 The Council's contaminated land consultant has reviewed the proposal and as the proposed change of use would introduce new sensitive residential receptors, where the site was previously only assessed in the context of commercial users, which are less sensitive to land contamination risks, it is considered necessary and reasonable

to require an updated land contamination assessment, which can be achieved by applying the standard land contamination condition.

## **Environmental Impact Assessment**

- 5.14 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**

- 5.15 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.
- 5.16 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**

- 5.17 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**

- 5.18 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

- 5.19 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 proposal would result in the change of use and conversion of a commercial building into eight residential dwellings, following an extensive marketing period which demonstrated that there is no existing demand for the permitted use. The dwellings would be in a sustainable location, with no detrimental impacts identified in relation to visual impact, residential amenity, highways or ecology.
- 6.2 Overall, it is considered that the proposal would result in a sustainable development, in line with adopted policy and is recommended for approval.

## 7 BACKGROUND DOCUMENTS

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

## 8. RECOMMENDATION

**That planning permission is granted subject to the following 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 complete accordance with drawings:

2277-3B-REV P4-Proposed Site Showing Indicative Works  
22773B-013-REV P4 Proposed Site Plan Showing Indicative External Works  
22773B\_302\_REV P3 Proposed Elevations Block E  
22773B\_301 RevP4 Proposed Layout - Block E  
22773B\_401\_P1 Proposed South Streetview

Reason: For the avoidance of doubt.

3. Prior to first occupation of the flats hereby permitted details to demonstrate that the dwellings 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, prior to first occupation.

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

4. The materials to be used on the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

5. The amenity space shown on the approved plans shall be provided prior to first occupation, or in accordance with a timetable to be first agreed with the local planning authority and retained in perpetuity for use by the residents of all the flats.

Reason: In the interests of residential amenity.

6. Prior to first occupation of any of the units hereby permitted, 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.

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. Prior to the first occupation of any dwelling hereby permitted, one electric vehicle charging point per dwelling shall be provided, in accordance with specifications and in location(s) that have been submitted to and approved in writing by the Local Planning Authority.

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Reason: In the interest of sustainable development and reducing carbon emissions.

10. The car parking spaces shown on the submitted drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

11. Prior to first occupation of the dwellings hereby permitted, details of secure, covered cycle parking, 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, and thereafter retained.

Reason: In the interest of encouraging sustainable and healthy modes of transport.

12. Prior to first occupation of the dwellings hereby permitted, details of the bin stores to serve the development 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, and thereafter retained.

Reason: In the interests of visual and residential amenity.

13. 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 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.

14. (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:

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.



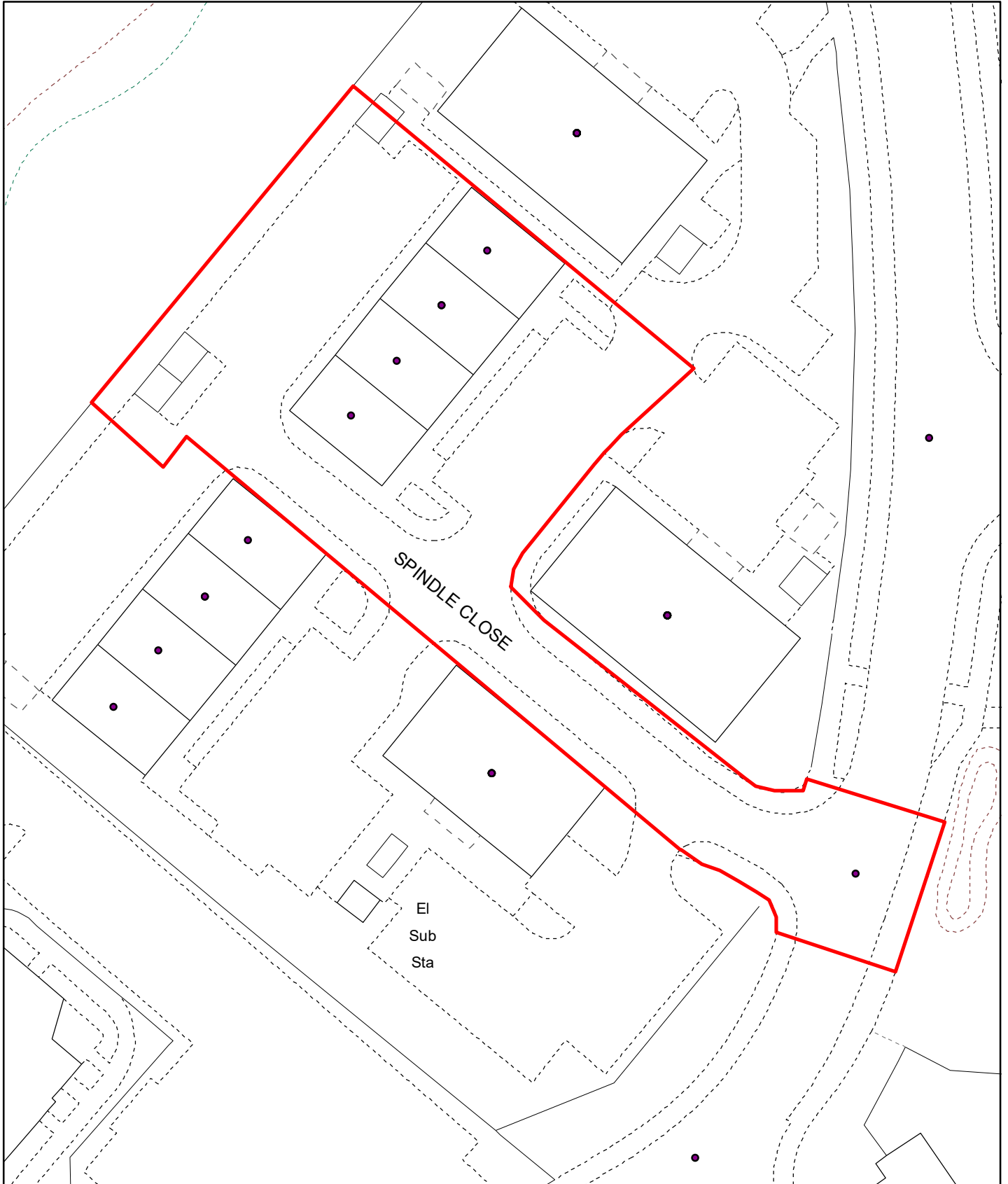
(E) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local 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.

**Appendix 1 – Site Location Plan.**

**Appendix 2 – Original Committee report as presented on 5 September 2023  
(DCL/23/15).**

**Appendix 3 – Marketing Strategy Report.**



Planning Application:  
23/1001/FH

Drawn date:  
07 Feb 2024

Drawn by:  
Carrie Stacey

Drawing ref:  
2139/COP/LS

Llywelyn Lloyd  
Chief Planning Officer

Contains Ordnance Survey data  
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Folkestone & Hythe District Council AC0000821403 - 2024



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**Application No:** 23/1001/FH

**Location of Site:** Block E, Hurricane Way, Hawkinge, Folkestone, CT18 7SS

**Development:** Change of use and alterations to 8 no. apartments.

**Applicant:** Pentland Properties Ltd

**Agent:** Mrs Tracey Dixon

**Officer Contact:** Robert Allan

## SUMMARY

The report considers whether planning permission should be granted for the change of use and conversion of a commercial building into eight residential dwellings. While the Town Council has objected to the scheme on the grounds that they consider there to be a need for commercial units in the village, they have not provided any evidence to support that assertion and the application contains details of an extensive marketing exercise which is considered to demonstrate that there is no demand for the permitted use. The dwellings would be in a sustainable location, with no detrimental impacts identified in relation to visual impact, residential amenity, highways or ecology, and the proposal is considered acceptable in accordance with adopted policy.

## RECOMMENDATION:

**That planning permission be granted subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.**

### 1. INTRODUCTION

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

### 2. SITE AND SURROUNDINGS

2.1. The application site is within the defined settlement boundary of Hawkinge, within the Kent Downs Area of Outstanding Natural Beauty (AONB) and North Downs Special Landscape Area (SLA). This application relates to existing buildings and public realm at Terlingham Forum, a commercial development accessed from Hurricane Way to the east.

2.2. The site is positioned to the south-west of the Lidl store, east of an area of public open space and north of the Hawkinge House Nursing Home, with residential properties on Juniper Way and the commercial/residential uses in Defiant Close, both laying to the east. The application site forms part of a wider development of five detached buildings, all of which were constructed as office/light industrial units. Blocks A, B and C have

been converted to 23 residential units (12 no. 1 and 2-bed flats in Block A, 7 no. 1 and 2-bed flats in Block B and 4 no. 2-bed flats in Block C) together with associated parking and amenity space, and access from Hurricane Way, under planning application reference 20/0657/FH.

- 2.3. Blocks D and E remain as constructed and the application property is a two-storey, flat-roofed structure, finished with a cladding system, with car-parking provided around the building. Images 1 – 4 below, show the application site in context and are taken from the submitted Planning Statement.

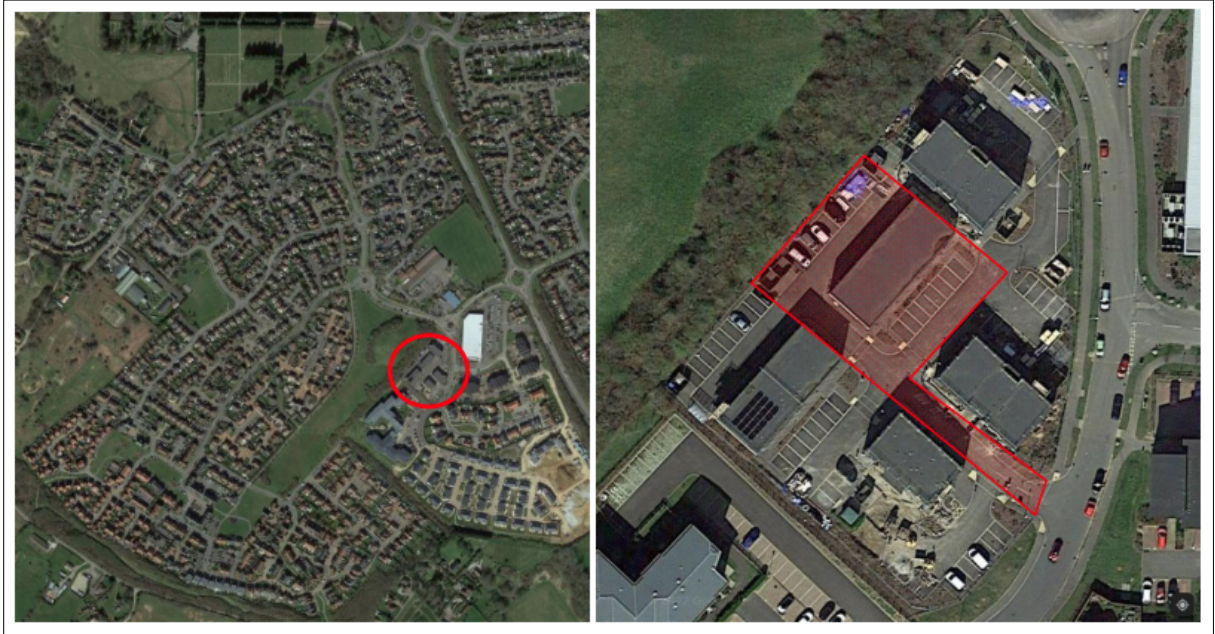


Image 1: site location and application area



Image 2: Elevations of block E



*Block E looking from Hurricane Way in context with neighbouring blocks D & A*



*Block E looking along Spindle Close in context with residential blocks C and B*

Image 3: Block E from Hurricane Way and Spindle Close



*View looking to site from Hurricane Way*

Image 4: Block E from Hurricane way

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



## 3. PROPOSAL

- 3.1 This application seeks planning permission for the change of use of an office building to residential (Use Class C3) and alterations to the building to provide eight apartments, comprising four one-bedroom apartments on the ground floor and four two-bedroom apartments on the first floor. There are no proposed changes to the overall positioning, scale, form and mass of the building which will remain as existing, but it is proposed to include alterations to the external appearance of the building comprising changes to materials and window/door positions in order to facilitate the proposed residential development.
- 3.2 Internally the building would be subdivided through the insertion of partition walls to create contemporary open plan living/dining/kitchen spaces, with twelve car parking spaces provided adjacent to the building, and a new shared garden area. New planting is proposed around the building in order to improve the outlook for future residents, with new specimen tree planting proposed within the car park.
- 3.3 The proposed layout can be seen in image 5 below, with bin and bicycle storage, the communal garden area and the proposed parking spaces.

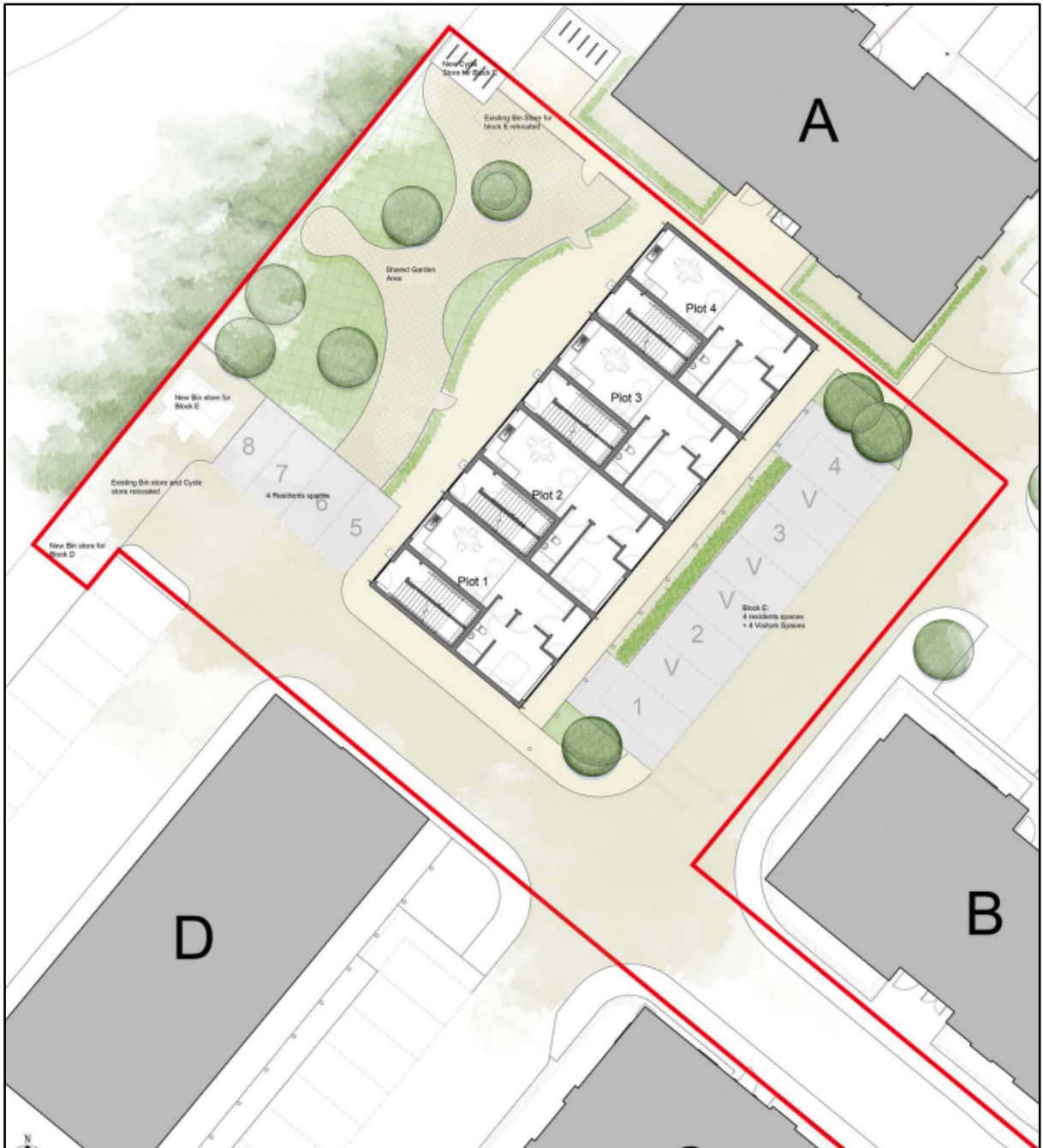


Image 5: Proposed site layout

- 3.4 Externally, the roller shutter doors on the ground floor front elevation are proposed to be replaced with full height windows, but with the bottom panel as aluminium. Two opening casements would provide ventilation for the kitchen area as shown on the proposed plans. On the rear elevation, the full height glazing and double doors are to be replaced with a single door and casement window. Elevations are shown in images 6 and 7, below.

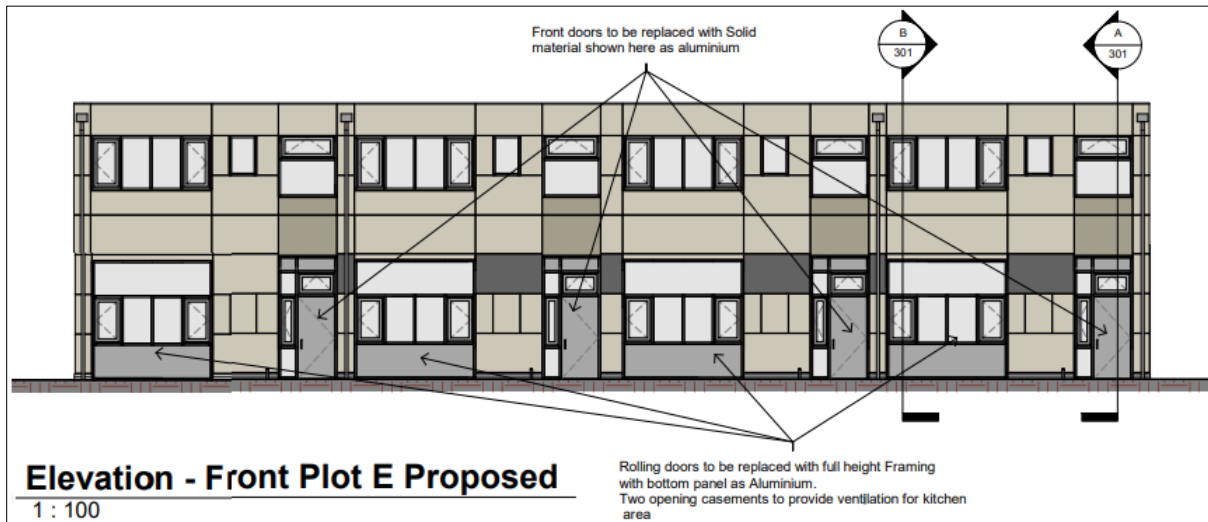


Image 6: Front elevation plot E

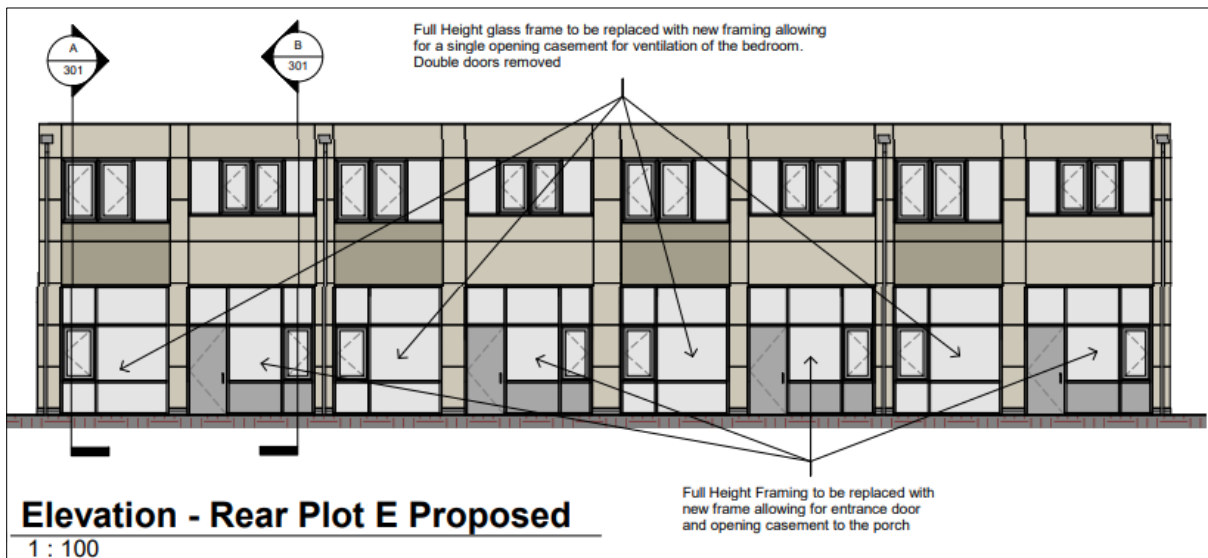


Image 7: Rear elevation plot E

- 3.5 The ground floor flats would be single bedroom units with gross internal areas (GIA) of between 49.6 and 50.8 square meters. The first-floor units would be two-bedroom units, with a GIA of between 65.2 and 66.1 square metres.
- 3.6 As well as the relevant drawings, the application is supported by the following documents:

Planning, Design and Access Statement

- 3.7 This document describes the site, sets out the planning history and development proposal, sets out the relevant development plan policies and justifies the proposal, concluding that the principle of development is acceptable given the evidence within the marketing report, that no affordable housing contribution is required, that the development is sustainable, the appearance will be acceptable in the context of the existing setting, with a neutral impact on the existing character and appearance of the area and its wider setting within the AONB, there would be a high standard of amenity for existing and future users, with no highway issues.

## Marketing Summary Report

- 3.8 This document describes the property, its location, and its planning history, before setting out the marketing history of the wider site and the application property, concluding that having been marketed since 2018, with initial interest between 2019 and 2020, ongoing and subsequent feedback is that the property is poorly located, with a supply of better located commercial property within nearby settlements better suited to potential occupiers, which has resulted in little demonstrated demand for the property in its current use.

## Transport Assessment

- 3.9 This document summarises the existing conditions local to the site, sets out the development proposals, provides an assessment of transport policy, assesses the forecast trip generation and impacts, and concludes that the site has good access to local services, which are also located within walking distance, as well as being near to public transport links, with a net reduction in vehicle movements relative to the current use, so that there would be no detrimental impacts upon the local highway network.

## **4. RELEVANT PLANNING HISTORY**

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

Y10/0738/SH	Outline application for a mixed-use development comprising 5800 square metres of business units (Class B1/B8), 3, two storey office buildings (Class B1) totalling 5960 square metres of accommodation, and a retirement village (Class C2) providing 69 cottages, 52 apartments and associated administration and facilities building, together with access and indicative landscaping with all other matters reserved for future consideration.	Approved with conditions
Y15/1035/SH	Mixed use development comprising 2366sqm of commercial space (Class B1/B8) in five blocks, together with erection of 47 dwellings, with associated car parking, external works and landscaping (alternative to planning permission Y10/0738/SH).	Approved with conditions
Y19/0545/FH	Change of use from business (Class B1) to retail (Class A1) for Unit E4 Terlingham Business Park.	Refused
20/0657/FH	Change of use of use and conversion of office blocks A, B and C to 23 residential units and	Approved

associated works, together with public realm improvements at Terlingham Forum

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Hawkinge Town Council:** Object - would lead to a lack of employment opportunities, and retail and service provision, for the town. The developer should offer more flexible terms, with encouragement of businesses that do not rely upon passing trade.

**KCC Highways & Transportation:** No comment - outside of consultation protocol.

**KCC Ecological Advice Service:** No ecological information is required as part of this application. Conditions requested for landscaping and lighting.

**KCC Archaeology:** No comments received.

**Kent Downs AONB Unit:** No comments received.

**Environment Agency:** No comment – outside of consultation remit.

**Southern Water:** No objection

### Local Residents Comments

5.2 No representations 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.

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

E2	Existing Employment Sites
NE2	Biodiversity
NE3	Protecting the District's Landscapes and Countryside
NE5	Light Pollution and External Illumination
T2	Parking Standards
T5	Cycle Parking
CC2	Sustainable Design and Construction

## Core Strategy Review 2022

SS1	District Spatial Strategy
SS3	Place-Shaping and Sustainable Settlements Strategy
SS4	Priority Centres of Activity Strategy
CSD1	Balanced Neighbourhoods
CSD4	Green Infrastructure of Natural Networks, Open Spaces and Recreation

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 2021 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
60	Delivering a sufficient supply of homes
130	Achieving well-designed places
187	Effective integration

## **7. APPRAISAL**

7.1 The report will set out the background for the site with the main issues for consideration following this, considered to be:

- a) Principle of development
- b) Visual impact and design
- c) Residential amenity
- d) Ecology

- e) Highways
- f) Affordable Housing
- g) CIL and S106

## **a) Principle**

- 7.2 The Settlement Hierarchy, set out within the Core Strategy, provides a framework to concentrate development in selected locations to maximise efficient use of existing infrastructure and support business and community facilities. The application site is within the defined settlement boundary of Hawkinge, a service centre within the North Downs area that has been designated to accommodate development appropriate to the district and the centre's own needs, in order to grow and consolidate its position as a centre serving the local hinterland with shops, employment and public services. To this end the principle of development is considered acceptable, subject to all other material planning considerations.
- 7.3 The loss of commercial units is resisted by policy SS4 of the Core Strategy Review and policy E2 of the Places and Policies Local Plan unless it can be demonstrated that they are not viable or not required. There are no records of the property ever having been occupied. In this respect, the applicant has submitted a Marketing Summary Report which sets out the advertising of the unit since 2018, spanning a period significantly greater than the 12 months that is required by policy E2. The report acknowledges the changes in the market since the property was constructed, including the effect of Covid-19 and other challenging economic and market conditions which persist to the present day. One offer in 2019 is recorded but was not able to secure planning permission for the required change of use (Y19/0545/FH) as there was no demonstration of the lack of need for the unit, contrary to adopted policy.
- 7.4 The Local Planning Authority has no reason to doubt the findings of the report, which has been prepared by reputable local chartered surveyors and estate agents, with no evidence to dispute the conclusions drawn. The Town Council's objection is noted, but the applicant has fulfilled the requirements of adopted policy. In this regard, the loss of the site for employment purposes is considered acceptable.

## **b) Visual impact and design**

- 7.5 The proposed external changes to the existing office buildings are considered very minor, involving alterations to the fenestration to allow for the residential uses proposed, with materials to match the existing structure. There would be no extensions or additions to the property, with the existing rear area proposed to be a mix of parking and a landscaped communal amenity space, where it is currently hard standing, resulting in a reduced area of hardstanding relative to the existing and a softened appearance relative to the existing car parking area.
- 7.6 Details of the proposed bin stores can be secured via condition, with their location considered to be acceptable with regard to the wider street scene, being to the rear of the buildings.

7.7 Overall, the proposal would result in space originally intended to be hard surfaced, being landscaped, with minor alterations to the existing property. As such there would be no detrimental impact upon the visual character of the street scene and the landscape and scenic beauty of the AONB and SLA would be preserved.

## **c) Residential amenity**

### *Proposed*

7.8 The proposed first floor flats all exceed the gross internal area (GIA) required by adopted policy HB3, with an acceptable level of natural light available to all habitable rooms. Two of the ground floor units exceed the adopted standards, but two are just beneath the required 50 square metres, at 49.6 and 49.8 square metres. All four have an acceptable level of natural light available to all habitable rooms.

7.9 Although there is a slight deficit in terms of GIA, it is considered that this is minor and would have no significant impact upon the residential amenity of future occupiers. The lack of balconies is noted, but policy HB3 does set out that for conversions, a communal garden for the exclusive use of the residents of a group of flats may be acceptable in place of individual balconies or terraces. It is also noted that the extensive public open space of Terlingham Village Green is a short distance away also and it is considered that all the proposed units will enjoy an acceptable standard of amenity with regard to internal and external space.

### *Existing*

7.10 Planning application 20/0657/FH (as amended by 22/0124/FH) granted planning permission for the change of use of blocks A, B and C from office use to residential. These blocks sit to the northeast and south west of the application property, as shown below in image 8.





Image 8: Location of blocks A – E, inclusive, within red line area of 20/0657/FH.

- 7.11 The buildings are existing, and the impact of Block E was considered acceptable with regard to any overshadowing or overbearing presence upon the future occupiers of Block A as part of the consideration of 20/0675/FH, which is still considered to be the case. There are no new openings proposed in the northeastern elevation of Block E, so there would be no direct interlooming and loss of privacy. Views from the windows of the flats in Block E toward Block A would be at an acute angle and therefore unlikely to result in any loss of privacy. It must also be acknowledged that the existing units within Block E have windows at both ground and first floor level, so there would little change in circumstance in this regard.
- 7.12 In respect of noise and disturbance, it is considered that the proposed residential use would be compatible with the surrounding permitted residential uses, with the comings and goings associated with a residential use also considered compatible with the surrounding uses. Paragraph 187 of the National Planning Policy Framework sets out that planning decisions should ensure that new development can be integrated effectively with existing businesses, with these not having unreasonable restrictions placed on them because of development permitted after they were established. In this regard, the permitted commercial uses (Class B1, now Class E) are unlikely to be generators of noise and disturbance that would result in the receipt of complaints. 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) Ecology**

- 7.13 The conversion of the property to flats would not give rise to any additional concerns over and above those associated with the development as existing. The landscaping within the proposed communal amenity space could result in an ecological gain for the wider site with use of appropriate plant species and in this regard it is considered reasonable to secure such details via condition.
- 7.14 KCC Ecological Advice Service have also requested details of any lighting scheme to be provided, in order to ensure no detrimental impact to bats, which can also be secured via condition. Overall, it is considered that there are no detrimental ecological impacts that would arise from the proposal, subject to appropriately worded conditions.

## **e) Highways**

- 7.15 The parking provision of twelve spaces – eight allocated and four visitor spaces – exceeds adopted guidance within policy T2. The provision of these can be secured via condition. The proposal indicates ten cycle parking spaces within the development, where there should be twelve (one per bedroom) in order to comply with policy T5. However, it is considered that final details of the cycle parking spaces and the shelter can reasonably be secured via condition to achieve policy compliant levels.
- 7.16 As the access ways are existing, with each unit having its own parking areas, it is considered unlikely that there would be any detrimental impact arising from highway conflict for neighbouring commercial properties.

## **f) Affordable housing**

- 7.17 Core Strategy Review policy CSD1 sets out that development proposing 6 to 10 dwellings within the Kent Downs Area of Outstanding Natural Beauty should provide financial contributions towards the provision of affordable housing equivalent to one affordable dwelling on-site.
- 7.18 However, under national policy, where a vacant building is brought back into any lawful use, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. This development provides no additional floor space and there is therefore no requirement for it to provide a proportion of the units as affordable housing, as stipulated by NPPF footnote 30.
- 7.19 In relation to other developer contributions, national guidance in the form of Written Statement made by The Minister of State for Housing and Planning (Brandon Lewis) on 28 Nov 2014, set out that tariff-style contributions should not be sought on developments of 10 units or fewer. Consequently, no other financial contributions are sought.

## **Environmental Impact Assessment**

- 7.20 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**

- 7.21 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.
- 7.22 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**

- 7.23 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**

- 7.24 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**

- 7.25 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 change of use and conversion of a commercial building into eight residential dwellings, following an extensive marketing period which demonstrated that there is no existing demand for the permitted use. The dwellings would be in a sustainable location, with no detrimental impacts identified in relation to visual impact, residential amenity, highways or ecology.
- 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 granted subject to the following 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 complete accordance with drawings:

2277-3B-REV P4-Proposed Site Showing Indicative Works  
22773B-013-REV P4 Proposed Site Plan Showing Indicative External Works  
22773B\_302\_REV P3 Proposed Elevations Block E  
22773B\_301 RevP4 Proposed Layout - Block E  
22773B\_401\_P1 Proposed South Streetview

Reason: For the avoidance of doubt.

3. Prior to first occupation of the flats hereby permitted details to demonstrate that the dwellings 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, prior to first occupation.

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

4. The materials to be used on the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

5. The amenity space shown on the approved plans shall be provided prior to first occupation, or in accordance with a timetable to be first agreed with the local planning authority and retained in perpetuity for use by the residents of all the flats.

Reason: In the interests of residential amenity.

6. Prior to first occupation of any of the units hereby permitted, 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.

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. Prior to the first occupation of any dwelling hereby permitted, one electric vehicle charging point per dwelling shall be provided, in accordance with specifications and in location(s) that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of sustainable development and reducing carbon emissions.

10. The car parking spaces shown on the submitted drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development)

# DCL/23/15

(England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

11. Prior to first occupation of the dwellings hereby permitted, details of secure, covered cycle parking, 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, and thereafter retained.

Reason: In the interest of encouraging sustainable and healthy modes of transport.

12. Prior to first occupation of the dwellings hereby permitted, details of the bin stores to serve the development 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, and thereafter retained.

Reason: In the interests of visual and residential amenity.

13. 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 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.



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# Commercial Units at Saxon Fields

Fairbrass Way, Canterbury, Kent CT1 3ZL



**SIBLEY PARES**

CHARTERED SURVEYORS & ESTATE AGENTS

Page 145

- New Unique Art-Deco Inspired Units
- Suitable for Various Uses Within Class E (to Include Retail, Surgery, Café, Office & Leisure) and A5 Hot Food Takeaway
- EPC A Rating (Predicted Once Fitted Out)

**BUSINESS UNITS**  
**FOR SALE / TO LET**  
64.0 – 133.0 m<sup>2</sup> (692 – 1,431 sq ft)

## LOCATION

The cathedral city of Canterbury is located around 60 miles south east of London, 28 miles east of Maidstone and 18 miles north-west of Dover. It has excellent connections with the A2 and A28 linking with the M2 and M20 motorways respectively, and two stations offering regular services to central London with journey times to London St Pancras of approximately 51 minutes.

## SITUATION

The Commercial Units are situated within Pentland Homes Saxon Fields development. Consisting of up to 750 newly built homes.

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## DESCRIPTION

The property consists of four ground floor lock-up commercial units. Finished to 'shell and core' they will present in open plan having a glazed frontage and a floor to ceiling height of 3 metres.

Each unit will have all mains services capped and ready for fit out.

The units will not be let or sold with allocated car parking spaces but there will be up to 9 visitor parking spaces available.

## ACCOMMODATION

The units have the following approximate floor areas and availability:

Unit	Floor	Area (m <sup>2</sup> )	Area (sq ft)	Availability
1	Ground	64.0	692	For Sale/ To Let
2	Ground	133.0	1,431	For Sale/ To Let
3	Ground	64.0	692	For Sale/ To Let
4	Ground	133.0	1,431	For Sale/ To Let

## USE

The units can be used for a variety of uses under Class E (Commercial, Business & Service) to include but not limited to:

- Retail
- Office
- Surgery / Clinic
- Leisure

A5 (Hot Food Takeaway) use is also permitted.

## TERMS

The long leasehold interest (999 year virtual freehold) in the units are available for purchase with a fixed ground rent of £1.00 per annum.

Alternatively, the units are available to let by way of new effective Full Repairing & Insuring Leases for terms to be agreed.

## PRICE/ RENT

An accommodation schedule denoting quoting prices and rents can be made available upon request.

## SERVICE CHARGE

There is a service charge to be payable for the maintenance and upkeep of the common parts. Full details are available upon request.

## DEPOSIT

In relation to any lettings, a deposit equivalent to a minimum of three months rent (plus the VAT equivalent sum) will be held for the duration of the term.

## BUSINESS RATES

To be the responsibility of the purchaser/ tenant. The units will be assessed on completion of the works.

Prospective interested parties are encouraged to make their own investigations via the relevant rate paying authority.

## EPC

A copy of the Energy Performance Certificate can be made available upon request.

The units are predicted to be assessed within Band A following fit out.

## LEGAL COSTS

Each party is to bear their own professional and legal costs.

## VAT

All prices/ rents are quoted exclusive of Value Added Tax.

Prospective occupiers should satisfy themselves independently as to any VAT payable in respect of any transaction.

## PLANS

Any plans provided are for indicative purposes only and do not necessarily represent the finished development.

## 1967 MISREPRESENTATION ACT

These particulars are believed to be correct; their accuracy cannot be guaranteed and are expressly excluded from any other contract. Any intending purchaser must satisfy themselves by inspection or otherwise as to the correctness of the statements contained in these particulars.

## VIEWINGS

Strictly by prior appointment through joint sole agents:

Neil Gleave  
neil.gleave@sibleypares.co.uk  
01233 629281



[www.sibleypares.co.uk](http://www.sibleypares.co.uk)

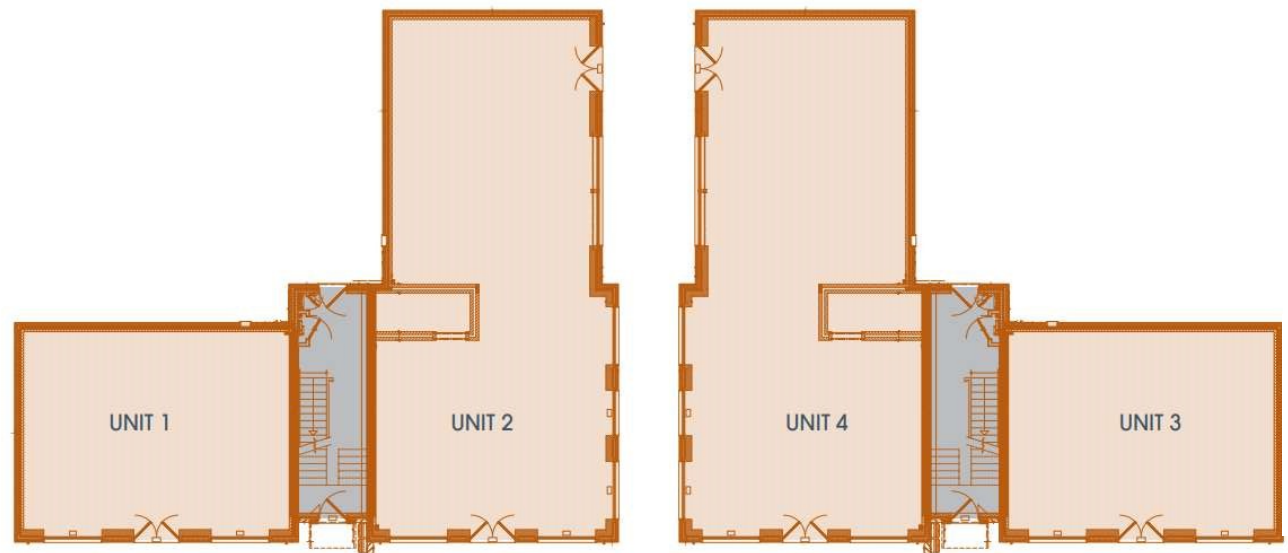
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Pentland Properties Limited  
The Estate Office  
Etchinghill Golf Club  
Folkestone  
Kent CT18 8FA

27 September 2023

**Re: Addendum to the Marketing Summary Report in respect of Plot E, Hawkinge Business Park, Hawkinge, Kent CT18 7TQ**

Sibley Pares have been requested to prepare a further addendum to the Marketing Summary Report of June 2023 providing additional information pertaining to:

1. *Deeper analysis of the commercial market in the wider area.*
2. *Market testing against other, similar units.*
3. *How comparable property values have changed since 2020.*
4. *Has the asking price changed since the marketing exercise began in 2019.*
5. *Who the marketing was aimed at.*
6. *Is the property still being marketed at the same levels.*

As with the original report, the comments contained remain confidential to the addressee and their professional advisers and are not to be copied, reproduced, or passed to any parties other than Folkestone & Hythe District Council and their professional advisers in relation to consideration of the planning application.

In consideration of the specific questions posed by the Members at Planning & Licensing Committee of 5 September 2023, this addendum aims to comment directly under the six headings above.

**1. Deeper Analysis of the Commercial Market in the Wider Area.**

There remains volatility in the economy relating to the uncertainty presented by the cost-of-living crisis and invasion of Ukraine, uncertainty that has been compounded by high rates of inflation, and the continued rising of interest rates, with the Bank of England raising interest rates for the fourteenth consecutive time from 5.00% to 5.25% in August 2023. Commercial markets continue to feel these effects and those of the wider economic climate in which the increased cost of borrowing is playing a significant role to lower levels of transacted property in the past 12 -24 month period. The better returns available from the banks has also removed cash reserves from the market in favour of lower risk income streams.

The south east commercial market has fared no different. Some sectors have been more affected than others, most notably the retail and office sectors, largely as a result of changes in consumer habits and the continued demand for a work from home or hybrid office policy. The volatile economic conditions are playing a significant role in the way companies now choose to occupy commercial property which has seen a greater move away from 'out of town' commercial areas to more established and 'secure' trading positions such as areas of high footfall, passing trade, established business parks and within close proximity to public transport to enable them to attract the best quality staff.

## 2. Market Testing Against Other, Similar Units.

We are instructed on a similar scheme at Saxon Fields, Fairbrass Way, Canterbury, being 4no. commercial units within a residential development consisting of 750 newly built homes. Selling the Long Leasehold interests (virtual freeholds), the units are offered in shell and core being between 64.0 m<sup>2</sup> (682 sq ft) and 133.0 m<sup>2</sup> (1,431 sq ft). For reference, I have attached the marketing details as Appendix A.

Canterbury is an historic cathedral city, a popular tourist location and a busy regional shopping centre. It is located adjacent to the A2 which connects it with the greater motorway network. It also has two railway stations both connecting Canterbury with main London terminals, including HS1 which reaches London St Pancras in less than one hour.

The commercial units are situated a short distance from the city centre amongst a large residential development within an affluent district. Marketing begun in late 2021. Since that date all units remain available to let and for sale which further emphasises the limited demand for “out of town” commercial areas.

## 3. How Comparable Property Values have Changed Since 2020.

There is limited evidence to establish trends to suggest rents and capital values have significantly fallen within the stated period. A more useful comparison is to track the take up space for which we are seeing ‘traditional’ and established commercial areas, for example city centres, business parks and areas with passing trade, continue to transact close or even above pre-pandemic levels (in certain sectors) albeit with landlords having to take more flexible approaches to lease negotiations and often greater incentives to reflect market conditions. This is not consistent with ‘out of town’ locations as stated within the original report.

## 4. Has the Asking Price Changed Since the Marketing Exercise Began in 2019 and, Is the Property Still Being Marketed at the Same Levels.

The guide prices have not been adjusted since marketing begun. However, a flexible approach has always been taken and any prices quoted represent a guide and not a minimum expectation. All interested parties are encouraged to inspect and to make offers at the levels deemed appropriate to them. The market will ultimately dictate the price someone is willing to pay. This is emphasised by the fact the only sale that was agreed throughout the marketing was at a £220,000 on a subject to planning basis, being considerably below the ‘guide’.

It is a common misconception that by simply reducing the price will have any meaningful effect to the marketing effort. The job of the agent is to generate enquiries with the view to starting a dialogue and elicit offers based on the requirements of the occupier. As mentioned above, the greater difficulty has been finding occupiers for ‘out of town’ locations as opposed to the prices they are willing to pay.

## 5. Who the Marketing was Aimed at.

The property can be used within B1 and B8 as part of the wider Hawkinge Business Park. The marketing has however targeted alternative uses (subject to the necessary consents) to include but not limited to; leisure, clinic, office, retail, and community uses (to include studios and other creative enterprises). This is evidenced again by the agreed sale to Paul W for a change of use to a hair dressing salon, which was subsequently refused by the planning authority.

To date, our marketing activities have included:

**Brochure:** A bespoke marketing brochure containing property description and photography was prepared outlining the property's key features and used within the marketing.

**Mailing:** The property details have been circulated to around 300 applicants on our database known to be looking for properties of this type, including any agents who may be acting on behalf of potential occupiers and any parties enquiring as a result of our other marketing activities. These mailing activities are automatically repeated within our marketing software to ensure they reach any new parties added to the database.

The brochure has been circulated on the Estate Agents Clearing House (EACH) several times, reaching around 250 local and regional commercial property agents on each circulation, who in turn will send on to their clients.

**Websites:** Details of the property remain on our own website. In addition, it is advertised on internet marketing portals such as Rightmove, Zoopla, Locate in Kent, Loopnet and EGi/Estates Gazette.

Whilst a growing number of commercial agents are continually coming off the larger portals due to increasing costs associated, Sibley Pares remain advertising on all major portals to ensure properties receive maximum exposure.

I trust this suffices for the intended purposes but please feel free to call and discuss any matters if required.

Yours sincerely,



Ned Gleave BA (Hons) MSc MRICS  
Associate, Chartered Surveyor

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01233 629281

## Appendix A – Saxon Fields, Canterbury, Marketing Particulars

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This report will be made public on 12 February 2024

Report number: **DCL/23/41**

**To:** Planning and Licensing Committee  
**Date:** 20<sup>th</sup> February 2024  
**Status:** Non key Decision  
**Responsible Officer:** Llywelyn Lloyd, Chief Planning Officer

**Subject:** Appeal Decisions Received

**SUMMARY:** This report is for information only. It sets out the appeals determined since the previous Meeting of the Planning and Licencing Committee, together with commentary on each.

**RECOMMENDATION:**

1. That Members receive and note report DCL/23/41.

## 1. DECISIONS RECEIVED

### **APP/L2250/W/23/3314153 - Pemberton Court, Hospital Hill, Hythe – APPEAL DISMISSED**

- 1.1. The decision is attached at **Appendix A**. The Inspector on behalf of the Secretary of State (SoS) fully supported the Council's decision to refuse to grant prior approval to add two additional storey (comprising 8 flats) to this already imposing building. The Inspector concluded that the proposed development would cause significant harm to the character of the building and the appearance of the wider area.

### **APP/L2250/W/22/3312303 - Land adjoining 39 Victoria Road West, Littlestone – APPEAL ALLOWED, AWARD OF COSTS AGAINST THE COUNCIL REFUSED**

- 1.2. The appeal and costs decisions are attached at **Appendix B**. Some Members may recall this application being reported to the Planning and Licencing Committee in July 2022, recommended for approval. The application sought approval for reserved matters pursuant to the outline planning permission granted for the residential development of the site with up to 80 dwellings in 2020.
- 1.3. The Committee resolved to refuse the application on the basis that the proposal amounted to an over-intensive use of the site, giving rise to development which was significantly out of character with that in the vicinity, harmful to the visual amenities of the area.
- 1.4. The Inspector, whilst noting that the development would differ from the existing development in the area, sets out that this does not amount in itself to a reason for refusal. The Inspector carried out a detailed appraisal of the proposed development against national and local policies and guidance (in paragraphs 9 to 16 of the decision) and concluded that the scheme was acceptable, allowing the appeal accordingly.
- 1.5. The appellants submitted a claim for an award of costs against the Council. The claim was refused, and the Inspector ultimately concluded that the reason for refusal did not amount to "unreasonable behaviour" on the part of the Council (one of the tests which determine whether an award of costs should be made).
- 1.6. The appellants did though provide the Inspector with a transcript of the Committee discussion of the application, and it should be noted (at paragraph 3 of the costs decision) that the Inspector raises concern with the content and structure of the member debate. In particular, the Inspector was concerned that the Committee's starting point for discussion was that the scheme should be refused, with consideration of what harm arose from the development not coming until much later in the debate.
- 1.7. This decision provides a useful reminder to this Committee that Members should be mindful, when discussing, proposing, or voting on, a motion to refuse an application, that it is imperative that material planning harm should be identified at an early stage and that this should form the main part of any such debate.

### **APP/L2250/C/21/3278430 & APP/L2250/W/21/3273843 - Land adjoining The Cottage, Canterbury Road, Selsted - APPEALS DISMISSED, ENFORCEMENT NOTICE UPHELD**

- 1.8. The decision is attached at **Appendix C**. In dismissing both appeals, the Inspector concurred that the use of the site and associated development would cause significant harm to the character and appearance of the Kent Downs National Landscape (formerly the AONB).
- 1.9. As is required, the Inspector also had regard to the need for and supply of sites within the District, the personal circumstances of the appellants and the impact that dismissing both appeals would have. It was concluded that the material planning harm and conflict with national guidance and local planning policies was such that they outweighed the impact on the appellants in this instance, and further considered that in the circumstances the period specified in the enforcement notice for the site to be cleared was reasonable.
- 1.10. The decisions here reflect the strong position the Council currently retains regarding the provision of the gypsy and traveller sites. At present officers are therefore able both to demonstrate a pragmatic approach to granting permission for well designed sites in appropriate locations, and to defend decisions to refuse permission for and/or take enforcement action against poorly located, visually intrusive sites.

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# Appeal Decision

Site visit made on 6 December 2023

**by Jane Smith MA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> January 2024**

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**Appeal Ref: APP/L2250/W/23/3314153**

**Pemberton Court, Hospital Hill, Hythe, Kent CT21 5RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by F C Stark Ltd against the decision of Folkestone and Hythe District Council.
  - The application Ref 22/0864/FH/PA, dated 24 May 2022, was refused by notice dated 3 August 2022.
  - The development proposed is described as 'upward extension of existing block of flats through the construction of 2 additional storeys, to provide 8 flats along with necessary ancillary works'.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In the banner heading above, I have taken the description of the proposed development from the covering letter dated 23 May 2022. This differs slightly from the description on the Council's decision notice, but not in any material respect.
3. The application was for prior approval of the proposed development, as required under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Under this Class of the GPDO, upward extension of an existing block of flats by up to two additional storeys is permitted subject to several limitations. Such proposals are subject to the local planning authority's prior approval of the issues listed in Paragraph A.2 (the prior approval matters), which include the external appearance of the building (Paragraph A.2 (1) (e)).
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 20, Class A do not require consideration of the development plan. I have therefore had regard to the development plan policies referred to in the reason for refusal only insofar as they are relevant to the prior approval matter under consideration.
5. The GPDO requires that regard is had to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval. A revised Framework came into force in December 2023, while this appeal was under consideration. The main parties have had the

opportunity to comment on whether the December 2023 revisions have relevance to their cases, and I have taken comments received into account.

### **Main Issue**

6. The main issue is the effect of the proposed development on the external appearance of the building.

### **Reasons**

7. Although the principle and potential maximum extent of an upward extension is established in the GPDO, this is subject to consideration of the external appearance of the building. In the CAB Housing case<sup>1</sup>, the Courts held that this is not limited to the appearance of the building in isolation, but may also include its relationship with its surroundings. The Courts also confirmed that the scale of the proposed development is not excluded from consideration. Similarly, while the Framework is supportive in paragraph 124 of upward extensions to provide new homes, this support is subject to design considerations, including the effect on the overall street scene.
8. The appeal site is an existing block of flats, on rising land between Seabrook Road and Hospital Hill. It is elevated above Seabrook Road and the seafront, part way up Hospital Hill, which continues ascending beyond the site. The surrounding development is in a generally linear arrangement, forming several parallel rows of buildings between the coast and the wooded hillside to the north. The hillside is part of the Sandgate Escarpment and Seabrook Valley Local Landscape Area, as defined in the Folkestone & Hythe District Places and Policies Local Plan (PPLP) 2020.
9. Pemberton Court is already one of the larger buildings between Seabrook Road and Hospital Hill. The additional storeys would substantially increase its height and massing, with the central five storey element forming a significant proportion of the extended building. Although the ground floor is partly obscured by landscaping and neighbouring buildings, the scale of the building would nevertheless be clearly apparent from a variety of viewpoints.
10. As described in the Landscape and Visual Appraisal (LVA)<sup>2</sup>, there are three main components to the landscape and townscape around the appeal site: the lower-lying area along the shoreline, a linear urban area on relatively low but rising land, and open space in the form of the wooded hillside above that. The appeal building is already a prominent element within the linear urban area, between terraced housing to one side and a variety of townhouses and other dwellings to the other. Despite the wide variety of building typologies, in views from the south there is a relatively consistent urban roofline, above which the wooded hillside forms an attractive backdrop. This provides a strong landscape context to the urban area, which can be appreciated from several viewpoints near the seafront and along Seabrook Road, as well as from the public rights of way and open space alongside the Royal Military Canal.
11. Within these views, the extended building would be a significantly more imposing and dominant feature on the hillside. It would disrupt the fairly consistent roofline, introducing a materially larger and more dominant element

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<sup>1</sup> CAB Housing Ltd v SSLUHC & Broxbourne BC [2022] EWHC 208 (Admin) & CAB Housing Ltd v SSLUHC & Broxbourne BC [2023] EWCA Civ 194

<sup>2</sup> Briarwood Landscape Architecture Limited Landscape and Visual Appraisal dated April 2022

into the townscape. While I accept that the extended building would not break the skyline in these long views, as demonstrated in the LVA, it would significantly reduce the visible tree cover above the roofscape. This would undermine the landscape context around the site and the surrounding urban area. Furthermore, where it is visible from various points along Seabrook Road, the existing building already breaks the skyline, so the additional storeys would be particularly imposing above the two storey housing below.

12. There are other taller and/or more elevated buildings nearby, including a group of modern townhouses only slightly further up Hospital Hill. However, these are not of a similar scale and do not obscure the hillside to the same extent. The flats at Olivia Court are set at a significantly lower level, near the seafront, and therefore do not have a comparable relationship with their surroundings.
13. The hillside behind the appeal site is designated in the PPLP as a Local Landscape Area. While there is no requirement under the GPDO to determine the application in accordance with the development plan, the fact that Policy NE3 of the PPLP recognises this area as being of local landscape value adds weight to the harm arising from the external appearance of the building and consequent erosion of landscape context around the urban area. The adverse effect on the surrounding landscape and townscape would also be inconsistent with Policies HB1 and HB8 of the PPLP, which include that development should contribute positively to its surroundings and not adversely impact on landscape character.
14. The proposed elevational detailing would incorporate various design features, such as contrasting external materials and an articulated roof line. These would provide some visual interest and help to break up the massing of the large front and rear elevations. A similar approach was deemed by the Council to be acceptable on a different site, at Willow Court. However, that site sits in a different urban context, on lower lying land and not intruding into the surrounding landscape to the same extent. In this particular case, the design approach would not represent an overall enhancement, when the significantly increased scale and prominence of the building are taken into consideration.
15. As seen from Battery Point and Alexandra Corniche, the stepped design would break up the bulk of the extended building. The lower parts of the building would be in the foreground, and it would not be excessively imposing from this perspective. From Hospital Hill, the building is set mainly below street level, such that the additional storeys would be prominent, but not excessively tall or imposing. Within the context of the varied building forms in these immediately surrounding streets, the additional building mass could be acceptably accommodated within the shorter range views which are available.
16. Nevertheless, for the reasons given above, I conclude that the proposed development would have an unacceptably harmful effect on the external appearance of the building, particularly in longer views from the south. In this respect, it would conflict with relevant paragraphs of the Framework, notably paragraph 124 which requires that upward extensions are consistent with the prevailing height and form of neighbouring properties and the overall street scene.

### **Other Matters**

17. The Council did not allege any conflict with other prior approval matters and planning permission has been granted for car parking and refuse storage to support the proposed development. However, this does not outweigh my conclusions as set out above, since all prior approval matters must be satisfied in order for prior approval to be granted.
18. The proposal would contribute to the supply of housing, making more efficient use of previously developed land. This is consistent with the underlying aim of Part 20 of the GPDO, to boost the supply of housing. However, the Framework's more specific provisions regarding housing land supply and housing delivery are not relevant to the prior approval matter of the external appearance of the building. Therefore, while I note that the appellant anticipates that the Council may face housing supply and delivery challenges in the foreseeable future, while accepting that a five year supply can be demonstrated at present, this does not alter the conclusions I have reached on the prior approval matters before me.

### **Conclusion**

19. For the reasons set out above, the appeal is dismissed.

*Jane Smith*

INSPECTOR





## Appeal Decision

Site visit made on 10 November 2023

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 12 January 2024**

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**Appeal Ref: APP/L2250/W/22/3312303**

**Land adjoining 39 Victoria Road West, Littlestone TN28 8ND**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr Storrie of Legal & General Modular Homes against the decision of Folkestone and Hythe District Council.
  - The application Ref 21/1631/FH, dated 27 July 2021, sought approval of details pursuant to condition 1 of a planning permission ref Y18/0768/FH, granted on 12 November 2020.
  - The application was refused by notice dated 5 August 2022.
  - The development proposed is described as 'Outline application for up to 80 dwellings and access with matters or scale, layout, appearance and landscaping reserved for future consideration.
  - The details for which approval is sought are: scale, layout, appearance and landscaping of the development.
- 

### Decision

1. The appeal is allowed and the reserved matters are approved, being scale, layout, appearance and landscaping details, submitted in pursuance of condition 1 attached to planning permission ref Y18/0768/FH dated 12 November 2020, at land adjoining 39 Victoria Road West, Littlestone TN28 8ND, subject to the conditions listed in the schedule at the end of this decision.

### Application for Costs

2. An application for costs was made by Legal and General Modular Homes against Folkestone and Hythe District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. On 12 November 2020 outline planning permission was granted under the Council's reference Y18/0768/FH for up to 80 dwellings and access on the appeal site. Condition 1 of that planning permission required that details relating to the layout, scale and appearance of the proposed buildings, and the landscaping of the site be submitted for approval in writing. Those details were submitted to the Council and the appeal relates to the Council's decision to refuse approval for those matters. This appeal therefore considers only the acceptability of the reserved matters of scale, layout, appearance and landscaping.
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties have had the opportunity to

comment on the implications of this change and I have taken the responses received into account.

### **Main Issue**

5. The main issue is the effect of the proposal on the character and appearance of the area.

### **Reasons**

6. The appeal site is located at the edge of Littlestone and comprises undeveloped grassland used for grazing of animals. Littlestone has a distinct linear form including a series of long roads which run parallel to each other and perpendicular to the sea front, and which are linked by a number of shorter connecting roads. These long roads are predominantly residential in their character, containing long groups of properties which address the street.
7. There is variation in the scale, design and materials of the houses in the surrounding area and variation in the appearance of front gardens. Many houses include modest sized front gardens, often with off street parking and incorporating areas of both hard and soft landscaping behind low level boundary walls. Nonetheless, there is a degree of consistency in the front building lines of the houses and plot sizes, which together give some uniformity to these long streets, which contributes positively to the character and appearance of the area. Some parts of the surrounding area include grass verges at the edge of the highway, particularly on the interconnecting north-south roads.
8. The appeal lies at the end of Victoria Road West, which stops abruptly at the appeal site, and adjoins the rear gardens of properties on Queen's Road to the north. By continuing the long straight route of Victoria Road and using it as a spine road through the development, the proposal would respect the linear pattern of the wider area. This main spine road would include footpaths to either side as well as narrow grass verges to part of the highway edge. These attributes would complement those characteristics of the linear routes through Littlestone. The landscaping plan also demonstrates tree planting alongside the main spine route, which is supported by the Framework. While these would be contained primarily within private front gardens they would nonetheless contribute positively to the character of the new street and Victoria Road West.
9. There are a number of ways in which the proposal would differ from the other characteristics of the wider area, for example in its smaller plot sizes and the frequency of routes which extend from the spine road. Together with the varied orientation of the buildings behind the spine road and its contemporary architecture, the proposal as a whole would appear visually distinct from the main part of Littlestone, rather than a seamless continuation of its character. Nonetheless, the Council acknowledge that the proposal should respect its edge of settlement location and, as such, it would likely have some different attributes to the surrounding area. There is not substantive evidence as to why those differences would amount to visual harm to the character of the area, and the Framework sets out that development should be sympathetic to local character, while not preventing or discouraging change.
10. In addition, while there is little evidence relating to visibility, I observed that the visual effects of the proposed development would be largely limited to

localised views on Victoria Road West, glimpses between the properties on Queen's Road, as well as private views from the surrounding properties. The differences listed above are therefore unlikely to be appreciated from any further view points. Overall, given its respect for the distinctive linear roads of the area, and its location on the edge of the settlement, I consider the proposal would have acceptable visual impacts.

11. The appellant accepts that the proposed density would be higher than those adjoining residential areas. However, this in itself would not result in the proposal being unacceptable. The Framework states that decisions should support efficient use of land, taking into account considerations including maintaining an area's prevailing character and setting, which I have found to be acceptable here for the reasons above.
12. While the proposed garden sizes would be smaller than those of the surrounding area, I note that the sizes involved have been found to be acceptable in terms of the standard of accommodation they would provide. The plans demonstrate where cycle storage could be accommodated for each house, and there would appear to be adequate remaining space for waste storage. The size of the plots may limit the nature of landscaping within the gardens, however, the proposal would also include areas of public open space and a landscaping strip to its southern edge, where more substantial landscaping features could develop. There is not substantive evidence that the garden size would create unacceptable noise disturbance to the neighbouring properties due to the proximity of air source heat pumps, and this could be addressed by condition.
13. Parking areas would be peppered across the development, including parking bays at the road edges, off street bays and other parking courtyards which would serve multiple properties. As such these would represent a significant part of the development overall. However, many of the private off street parking bays would be partially tucked between the buildings and the courtyards would be positioned behind the main building lines, reducing their visibility and prominence. The proposed soft landscaping, over time, would also serve to soften the hard landscaping features of the development. Overall, I do not consider the proposed highways infrastructure would appear prominent or harmful in visual terms.
14. While the Council would prefer to see a softer edge to the settlement comprising looser knit development, this is not a characteristic of the existing settlement edge, and, as above, the proposal would not cause visual harm as a result of its proposed layout. There is not substantive evidence before me to suggest that modular homes would be unsuitable for the site nor be unacceptable in terms of their visual effects.
15. For the reasons given, the proposal would not cause harm to the character or appearance of the area. Despite its differences, these would not be harmful, particularly given the site's location on the edge of the settlement and degree of visibility across the area. As above, the proposal would respect the main positive attribute of the local character, being the pattern of long straight roads, and would sit comfortably within its context.
16. Consequently, the proposal would comply with policies HB1, HB2 and C1 of the Places and Policies Local Plan 2020 (the LP) which require, among other things, development to create a sense of place, and integrate and make a positive

contribution to its location and surroundings. The proposal would also meet the objectives of Policy SS3 of the Core Strategy Review 2022 (the CS), which includes the need for development to be suited to its locality, and the objectives of the Framework insofar as they relate to the need for development to provide well design places and be sympathetic to local character.

17. There is little evidence relating to the alleged conflict with LP Policy NE3, which states that development should protect or enhance the landscape character and functioning of Local Landscape Areas, which include Romney Marsh. For the reasons set out, and in the context of the outline permission and allocation of the site for development in the LP, I am satisfied that the proposal would protect the landscape character through adequately respecting the existing settlement and its function. Neither do I find conflict with Policy SS1 of the CS, which contains the District's Spatial Strategy for new development, again, particularly given the outline permission and the site's allocation for development.

### **Other Matters**

18. Many of the concerns raised by interested parties relate to the principle of the development of the land, including the effects of the development on flood risk, local infrastructure capacity, biodiversity including protected species, and traffic. These were primarily matters for consideration at the time of the outline planning permission and when the Council allocated the site as one for residential development under the LP. I note that there are conditions on the outline planning permission relating to several of these matters, to which the appellant would need to adhere, including those relating to the ground levels of the site and those intended to help protect the living conditions of local residents during the construction process. As above, the appeal before me relates only to the reserved matters subject to condition 1 of the outline planning permission, being scale, layout, appearance and landscaping. It is not therefore for me to consider issues beyond the acceptability of these matters.
19. Access into the site was considered and accepted under the outline planning application, and is not therefore a matter to be reconsidered here. There is little evidence of the need for electrical vehicle charging points to be considered at this planning stage and, in any event, this would now fall to be considered under Building Regulations. The quantum of parking spaces proposed is not a matter in dispute between the main parties and I note the comments of the Highways Officer and assessment in the Committee Report regarding this matter. I have no strong reason to reach a different view.
20. The outcome of the appeal would not affect the need for other approvals or consents to be sought if necessary, for example relating to the flood storage and sewer works. There is not substantive evidence that the appeal proposal would be likely to lead to damage to nearby properties and, in any event, this would be covered under separate legal rights.

### **Conditions**

21. I have considered the conditions put forward by the Council and I have had regard to the advice in Planning Practice Guidance and the Framework in respect of conditions. As the appeal relates only to the relevant reserved matters, conditions can only be imposed which directly relate to those matters.

22. To provide clarity, a condition is necessary to confirm the approved drawings to which the decision relates. The parties have suggested this makes reference to the submitted Drawing Register, which lists the relevant drawings, as well as a revised drawing relating to boundary treatments.
23. A condition is imposed to ensure the areas of play space and public open space are retained for this purpose. However, I am not satisfied that it would be necessary to remove permitted development rights for those areas and have amended the condition accordingly. A condition is also necessary to secure full details of the air source heat pumps, to protect the living conditions of those nearby occupants and to reflect those comments of the Environmental Health Officer.
24. There is not substantive evidence as to why permitted development rights should be removed for means of enclosure to the front boundaries, particularly given the presence of other varied boundary treatments in the wider area. Similarly, it is not substantiated why the erection of poles or overhead lines should require further planning permission in this particular development. It is also not considered necessary to secure details of the locking systems of rear gates, which would be best dealt with by future occupants accordingly.

### **Conclusion**

25. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, the appeal is allowed.

*C Shearing*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Drawing Register, document ref 0058-LGMH- ZZ-ZZ-SH-A-6210 Revision P01 June 2022, with the exception of the Boundary Treatment Plan listed, which shall instead be the amended Boundary Treatment Plan ref 0058-LGMH-00-PL-DR-A-1015 Revision P09.
2. The areas shown on the approved drawings as public open space and 'natural play' shall remain as such at all times, for use by all residents and visitors to the development.
3. Prior to the installation of any air source heat pumps to the site, their details shall be submitted to and approved in writing by the Local Planning Authority, including details of their acoustic performance. The development shall be carried out only in accordance with the approved details and shall be maintained as such at all times.

### **End of Schedule**

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## Costs Decision

Site visit made on 10 November 2023

**by C Shearing BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> January 2024**

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### **Costs application in relation to Appeal Ref: APP/L2250/W/22/3312303 Land adjoining 39 Victoria Road West, Littlestone, Kent TN28 8ND**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Legal & General Modular Homes for a full award of costs against Folkestone and Hythe District Council.
  - The appeal was against the refusal to grant approval for reserved matters of scale, layout, appearance and landscaping pursuant to condition 1 of outline planning permission ref Y18/0768/FH.
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The applicant considers that the Council behaved unreasonably in their determination of the reserved matters application.
3. The transcript of the Committee meeting demonstrates that some members persisted that the extent of development, being 80 homes, was too much for the site, and it is not clear that they had regard to the specific proposals in the reserved matters application, which were for consideration. The decision appears to have been taken to refuse the proposal for being over-intensive, without clear identification or discussion of the harm arising, which was instead provided later in the discussion. Neither is it apparent why a lesser scheme for 70 homes, which members may have accepted, would have been less harmful in planning terms. This raises significant concern about the way in which that decision was reached and demonstrates a failure to approach the decision in a positive and creative way, as set out in the National Planning Policy Framework.
4. Notwithstanding my concerns for the Committee's deliberations, the reason for refusal which emerged made reference to issues which were relevant to the determination of the reserved matters, referring to harm arising from the layout and design in the context of the surrounding area. It makes reference to local and national policy surrounding those issues and this was substantiated by the Council's appeal statement.
5. While these were not issues which had been raised previously, the Committee were not bound to agree with the views of its Officers. Neither do I consider

that the application was necessarily one that should have been granted and the reserved matters were required to be subject to their own scrutiny.

6. Considered as a whole, I do not find that the Council demonstrated unreasonable behaviour which resulted in the applicant incurring unnecessary or wasted expense in the appeal process. As such, the application for costs does not succeed.

*C Shearing*

INSPECTOR





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## Appeal Decisions

Hearing Held on 31 October 2023

Site visit made on 31 October 2023

**by H A Orr MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> January 2024**

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### **Appeal A Ref: APP/L2250/C/21/3278430**

#### **Land adjoining The Cottage, Canterbury Road, Selsted, Kent**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Bill Mobey against an enforcement notice issued by Shepway District Council.
  - The enforcement notice, numbered 21/0290/FH, was issued on 8 June 2021.
  - The breach of planning control as alleged in the notice is the change of use of the land from agriculture to a mixed-use for agriculture and as a residential caravan site and the carrying out of incidental works to facilitate the change of use comprising the laying of hard standing, alterations to the access and the erection fencing.
  - The requirements of the notice are:
    - I. Cease the use of the land for the stationing of caravans for residential purposes.
    - II. Remove all caravans and associated vehicles from the land.
    - III. Remove all equipment and paraphernalia associated with the residential use from the land.
    - IV. Take up the hard standing and remove the resulting materials from the land.
    - V. Remove the fencing, gates, posts and gravel boards and any associated concrete on the post holders, rubble and debris from the land.
    - VI. On completion of steps iv and v, restore the land to the condition it was in before the breach of planning control took place.
  - The period for compliance with the requirements is 9 months for steps I. to V. and 15 months for step VI.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- 

### **Appeal B Ref: APP/L2250/W/21/3273843**

#### **Land adjoining The Cottage, Canterbury Road, Selsted, Kent**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Bill Mobey against the decision of Shepway District Council.
  - The application Ref 21/0290/FH, dated 5 February 2021, was refused by notice dated 21 April 2021.
  - The development proposed is the change of use of land to use as a residential caravan site for 4 gypsy families, each with two caravans, including no more than one static caravan/mobile home together with Laying of hard standing, erection of 4 No amenity buildings, improvement of access and direction of fencing.
- 

## Decisions

Appeal A

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### Appeal B

2. The appeal is dismissed.

#### **Preliminary matters**

3. The development proposed as part of the planning application (Appeal B) included four amenity buildings. These had not been built at the time that the notice was issued so they were not included. Apart from this, the two appeals relate to the same matters, so I shall deal with them together.
4. At the time of my site visit there were several caravans located towards the front of the site, some evidence of hard surfacing and a number of vehicles. The appellant confirmed in evidence, that none of the caravans were currently fit to be occupied and would need to be replaced if the appeals were allowed.
5. The Council have raised no issues, either before, or during the Hearing regarding the gypsy status of any of the families who are proposed to occupy the site. I have no reason to come to a different view.
6. A Statement of Common Ground (SoCG) was signed during the Hearing and I shall have regard to this in my decision.

#### **Main Issues**

7. It is common ground that the site is located within the Kent Downs Area of Outstanding Natural Beauty (KDAONB), a locally designated Special Landscape Area and the Stodmarsh Special Protection Area (SPA). The site lies within Flood Zone 1. A public right of way (HE116) runs along the northern boundary.
8. During the Hearing it was apparent that the highway issues, and in particular the provision of suitable visibility splays are intrinsically linked to matters relating to character and appearance. Accordingly, I have dealt with these main issues together in my decision.
9. On this basis I consider that the main issues are:
  - The location of the development;
  - The effect of the development on the character and appearance of the KDAONB and on highway safety;
  - The effect of the development on biodiversity, habitats and the Stodmarsh SPA; and
  - Whether any harm arising from the above matters is outweighed by any other material considerations.

#### **Reasons**

##### *Policy background*

10. Since the issue of the notice and determination of the related planning application, the Council has adopted the Core Strategy Review (2022) (CS).

Both parties agreed that this change did not materially affect their position on the appeals.

11. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework (the Framework) and Planning policy for traveller sites (PPTS).
12. The PPTS requires Councils to make their own assessment of need and develop fair and effective strategies to meet need through the identification of land for sites. Accordingly, the policies pertinent to these appeals are set out in the CS and the Folkestone and Hythe District Place and Policies Local Plan (2020) (LP). Policy HB 14 of the LP specifically deals with the needs of gypsy and travellers. It is a criteria-based policy and is relevant to the assessment of these appeals.

#### *Location*

13. The Council's settlement hierarchy is set out in Policies SS1 and SS3 of the CS. The purpose of the settlement strategy is to direct new development towards existing and the most sustainable settlements in order to maintain the open countryside. Selsted is not designated as a settlement by the Council.
14. Paragraph 25 of the PPTS makes it clear that new traveller sites in the open countryside, away from existing settlements should be very strictly limited. Whilst the site lies outside any identified settlement, it was acknowledged that, due to the small number of residential properties in the immediate area, the appeal site is not completely isolated. Nevertheless, other than the local primary school, there are no day-to-day facilities available within Selsted. The nearest shop is understood to be a newsagent in Densole which is some 3km away. A more comprehensive range of general facilities and services are available in Hawkinge some 4.7 km from the site. From the evidence, the nearest secondary schools are in Folkestone some 9 km away and Canterbury approximately 17 km away.
15. Nonetheless, the site is located on the A260 which is the main road between Folkestone and Canterbury. The road has a pedestrian footpath to the western carriageway and a grass verge to the east. There is no street lighting to this part of Canterbury Road. The site lies some 300m from a bus stop where a bus service is available between Canterbury and Folkestone, going through Hawkinge. This service would be available to the families living on the site.
16. It is clear that over the years, there have been changes in the way people shop, with greater emphasis on home delivery, although physical access to some services and facilities are still necessary. Accordingly, the development will inevitably result in an increase in car movements from the occupiers of the site accessing shops and other services.
17. Overall, I find that the residents of the site would undoubtedly have some reliance on the private motor car. However, in common with other nearby residents, there is a viable alternative bus service available that is readily accessible on foot. In the context of this rural location, where I accept that accessibility is not normally as good as that of urban areas, this degree of

reliance is not uncommon. Moreover, the distances involved to access shops and other services either by car or bus, are not excessive. For these reasons, I find no conflict with this aspect of Policy HB14 of the LP.

*Character, appearance and the highway*

18. Paragraph 176 of the Framework, makes it clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.
19. The prevailing character of this part of the KDAONB is rural, with open fields generally set behind native hedges. There are some sporadic farm buildings and dwellings to the south and the hamlet of Selsted lies to the north. The appeal site comprises a roughly rectangular parcel of land, formally laid to grass, to the western side of Canterbury Road. Towards the western boundary lies an area of ancient woodland and there are mature hedgerows to three boundaries. A public right of way (HE116) runs along the northern boundary giving further public views into the site.
20. From the evidence and my observations, it is apparent that prior to the development that has taken place, the land would have appeared as an undeveloped field, forming a visual gap between Selsted to the north and the more sporadic development to the south. This open gap in the built development would have provided some transitional relief between Selsted and the dwellings to the south, contributing to the generally rural character of the area and the KDAONB.
21. Vehicular access to the site is through the original field access from Canterbury Road, where part of the original hedge has been removed, to provide a wider access suitable for vehicles and towed caravans. The access is secured by four timber gates set back from the carriageway, with close boarded timber fencing to each side forming a bell mouth.
22. The location plan submitted with the planning application, shows that the land would be divided into two distinct areas. The four caravans and amenity buildings would be sited within four fenced plots, served by an internal access road. The remainder of the site, which is edged in blue and understood to be in the same ownership, was referred to as the back field during the Hearing.
23. With the planning application, the appellant submitted a Transport and Highways Technical Note drafted by The Transportation Consultancy. This indicated that whilst Canterbury Road is subject to the national speed limit, generally vehicles are travelling significantly below this and the road is subject to light traffic. Kent County Council: Highways and Transportation Department, had the opportunity to consider these findings and conceded that, due to the relatively straight nature of the A260 in this location, provided visibility spays were retained at no higher than 1.05m, over a distance of 107m to the north and 97m to the south, the proposal would be acceptable in this regard. I have no reason to come to a different view.

24. To accord with this, the development would therefore result in further significant changes to the boundary hedge, with a reduction in height to 1.05m to provide the required visibility splays. To my mind this would significantly open views into the site to those travelling in either direction along the A260.
25. I accept that landscaping does have a role to play in enhancing, rather than hiding new development. However, in the context of this site and the quantum of development proposed, the caravans, amenity buildings, vehicles and the other residential paraphernalia would be significantly at odds with existing development and the prevailing rural character of the KDAONB.
26. At the Hearing the appellant suggested that the effect of the changes to the boundary hedge, could be mitigated by the planting of a second hedge behind the original, in a way that it would not affect the sightlines. It was submitted that this would achieve screening of the development. It is accepted that a scheme to plant and maintain a second native species hedge could be secured through a suitably worded condition. However, it seems to me that this would, in itself, appear contrived and incongruous in the street scene, drawing attention to the development behind. Moreover, the development is still likely to be visible through the widened access, from the public footpath and those travelling in higher vehicles and busses, especially in the winter when plants are not in leaf.
27. Drawing all of the above points together, I find that the siting of the caravans for residential use, amenity buildings, hard standing, together with the number of vehicles and the associated domestic paraphernalia, would be significantly at odds with existing development and the prevailing rural character of the KDAONB. Accordingly, it causes unacceptable and significant harm to the character and appearance of the KDAONB and is contrary to Policy SS3 and of the CS and Policies NE3 and HB14 of the LP. These policies seek to protect the open countryside, and to ensure that development does not detract from the distinctive character and special qualities of the KDAONB.

### **Other considerations**

#### *Personal circumstances*

28. The appellant confirmed that the families who would occupy the site are either living with relatives in bricks and mortar, doubling up on other sites, or travelling from site to site. The appellant's father also spoke candidly about the health conditions affecting the appellant and proposed occupiers.
29. The needs of the children are a primary consideration of substantial weight but are not necessarily determinative. Two of the families wishing to move onto the appeal site have a number of children, ranging in age from 4 to 15 years old.
30. I acknowledge that as with all those who travel, a settled base would enable these families, to have better access to both medical care and education. However, it is pertinent, that none of the families are currently occupying the site. The children attend various schools in Whitstable, Ashford and New Romney, all some distance from the appeal site.
31. Furthermore, at the Hearing it was confirmed that some of the original occupiers have changed from those named on the planning application. It was not clear why the needs of the original occupiers have changed, although it is

understood that part of the land has since been sold to one of the new proposed occupiers.

32. I accept that the land has been bought for the purposes of providing four pitches for gypsy and traveller families with a permanent home. However, from the evidence I have, there is little to suggest that this needs to be provided at this particular site, rather than one in a more appropriate location.
33. For the above reasons, the appellant's personal circumstances, those of his extended family and the advantages of providing a settled base for these families, weigh moderately in favour of the development.

*The need for sites for gypsies and travellers*

34. At the Hearing the Council gave an update on their position on need. The most recent Folkestone & Hythe District Council Gypsy, Traveller and Travelling Showpersons Accommodation Assessment (GTAA), was carried out in 2018. The veracity of this GTAA was challenged by the appellant. However, I have no substantive evidence to demonstrate that it is unsound. Moreover, the LP was adopted in September 2020 and the examining Inspector accepted the GTAA and policy position. I have no reason to come to a different view and accordingly give the LP Policies full weight.
35. The Council's evidence sets out that the GTAA found that there was a need for five additional caravan pitches for the period up to 2037, with three of these required within the first five years of the GTAA. At the Hearing they confirmed that since then seven pitches have been permitted, thus meeting and exceeding the identified unmet need.
36. Whilst there has been no annual review of need since the GTAA, the Council confirmed that there are no unauthorised encampments, or sites with temporary planning permission in their district, which I acknowledge can be an indicator of hidden unmet need. They have two undetermined planning applications, with a further review of need to be carried out during 2024, with a call for additional sites already underway. Notwithstanding this, the Council confirmed that there were no suitable, affordable sites available either now or in the foreseeable future. This undoubtedly weighs in favour of the development.
37. Turning to Policy HB14 of the LP which sets out a number of criteria for assessing Gypsy and Traveller sites. As set out above, I have found no harm caused by virtue of the location of the site, or loss of land to land identified for another purpose. I have no evidence to suggest that the development would result in poor living conditions for either those living on the site, or nearby. I note that, subject to the provision of visibility splays, no objection has been raised by the Highway Authority in terms of highway safety, or on the operation of the highway network.
38. Intentional unauthorised development has been a material consideration since 2015. I have had due regard to the sequence of events that took place leading to these appeals. From the evidence, the site was partly developed then occupied, during June 2020. The site was then only vacated after the Council took formal enforcement action and sought injunctive relief. The regularising planning application Ref 21/0290/FH was not submitted until 5 February 2021. Accordingly, I have attached some weight to this in my considerations.

## **Overall balance**

39. I have found no conflict with the location of the site and have identified and attributed weight to a number of other considerations that weigh in favour of the development. The need for a settled base is a consideration weighing in favour, but I have nothing before me to suggest that this has to be provided from this particular site.
40. Overall, I have attributed moderate weight in favour of the development to the lack of alternative sites, the personal circumstances of the appellant, the desirability of keeping the extended families together and the best interests of the children. I have afforded limited weight to the other social and economic benefits, including the contribution that 4 additional pitches would make to the District's overall supply.
41. However, weighed against these benefits is the significant harm I have found to the KDAONB, despite proposals to screen with planting. Overall, in my judgement I find that the other considerations I have identified and those put forward by the appellant in favour of the development, are insufficient to outweigh the identified harm to the KDAONB and the conflict with LP policies. I therefore find that a grant of permanent permission is not justified.
42. I have also considered whether a temporary grant of planning permission would be appropriate for these appeals. The Planning Practice Guidance advises that temporary permissions may be appropriate where it is expected that the planning circumstances will change in a particular way at the end of the permitted period.
43. The appellant submitted that the PPTS makes it clear that, where a local planning authority cannot demonstrate an up to date 5 year supply of deliverable sites, as is his view, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. However, this does not apply where the proposal is on land designated as a site protected under the Birds and Habitats Directives or an Area of Outstanding Natural Beauty. As set out above the appeal site is protected by such designations and moreover, the Council has demonstrated an up to date supply of deliverable sites. As such a temp planning permission would not be appropriate.
44. I am very mindful of the circumstances of those who would be occupying the site and acknowledge that if the appeal fails, there will be a need for the families to find an alternative site which provides a settled base. I have carefully considered the Human Rights issues that are pertinent to this appeal. However, the protection of the public interest cannot be achieved by means which are less interfering of the appellant's rights.
45. I have had due regard to the Public Sector Equality Duty, contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Nonetheless, for the above reasons, I consider that the decision is proportionate and necessary in the circumstances.

## **Other matters**

46. The Habitat Regulations 2015 require an assessment to be undertaken, as to whether a proposal would be likely to have a significant effect on the important features of a protected site. The Stodmarsh Special Protection Area is such a protected site.
47. In the days before the Hearing, the appellant provided a number of documents to demonstrate the nutrient budget for the development and how suitable mitigation, through the planting of trees in the back field, might be achieved. No detailed plans were provided, although the appellant suggested that this is not uncommon, with details secured at a later stage by condition. However, as I have already identified, substantial harm to the character and appearance of the area, such that the appeal should be dismissed, there is no need to consider this further.
48. Matters relating to enhanced bio-diversity measures were raised during the Hearing. I consider that these could be secured through a suitably worded condition if the appeal was allowed.

### **Interim conclusion**

49. For the above reasons, the appeal on ground (a) and the s78 appeal both fail.

### **Appeal A ground (g)**

50. The appellant's case for the ground (g) appeal is found in his appeal form and was expanded upon at the Hearing. In summary it is the appellant's case that he and his family have nowhere else to go. The shortage of suitable land for caravan site development means that a period of at least 18 months is required.
51. It is clear from the site visit that the appeal site was not occupied. I accept that the alternative arrangements that the appellant has made for his family may not be ideal. Nonetheless, given the substantial harm I have found to the character and appearance of the KDAONB there is no justification for extending the period of compliance beyond that, set out in the notice. The appeal on ground (g) therefore fails.

### **Conclusions**

#### **Appeal A**

52. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### **Appeal B**

53. I have considered all of the matters that have been raised, but for the reasons outlined above, I conclude that the appeal should be dismissed.

*Hilary Orr*

INSPECTOR



## Appearances

### FOR THE APPELLANT:

Mr Philip Brown	Agent
Mr Bill Mobey	Appellant
Mr Amos Albert Mobey	Appellant's father
Tom Smith	Prospective occupier

### FOR THE LOCAL PLANNING AUTHORITY:

Ms Lisette Patching	CIL and Enforcement Team Leader
David Whittington	Strategy and Policy Team leader

### INTERESTED PERSONS:

Mr Mark Pender	PMM Planning; Speaking on behalf of local residents.
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## PLANNING AND LICENSING COMMITTEE

20<sup>th</sup> February 2024

### SUPPLEMENTARY INFORMATION TO SCHEDULE OF APPLICATIONS

- 1. 23/1008/FH.....Grafton Cottage, Sandgate Esplanade, Sandgate  
(Pages 13-26) CT20 3DP**

Listed Building Consent for replacement of windows.

**Cllr Roger Joyce, to speak on behalf of the applicant.**

- 2. 22/1077/FH Cheriton Parc House, Cheriton High Street, Folkestone  
(Pages 63-110) CT18 8AN**

Conversion of Cheriton Parc House to 31 x one and two bedroom apartments, and the development of 19 purpose built 1 and 2 bed apartments, the redevelopment of land to the rear to create a total of 36 dwellings (comprising 20 x 3 bedroom two storey dwellings and 16 x 4 bedroom 3 storey height townhouses) with associated landscaping and parking.

**Guy Hollaway, architect to speak in support of the application.**

- 
- 3. 23/1657/FH 25 Dymchurch Road, St Marys Bay, Romney Marsh  
(Pages 27-40) TN29 0ET**

Change of use of existing outbuilding and erection of 2 Polytunnels to breeding and retail of fish (part retrospective).

- 4. 22/0862/FH 5 Marine Avenue, Dymchurch TN29 0TR  
(Pages 41-62)**

Demolition of existing bungalow and erection of a pair of semi detached dwellings (resubmission of Y19/1072/FH).

- 5. 23/1001/FH.....Block E, Hurricane Way, Hawkinge, Folkestone, CT18  
(Pages 111-152) 7SS**

Change of use and alterations to 8 no. apartments

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