



Agenda

Meeting: **Planning and Licensing Committee**
Date: **19 March 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 or download from our
website
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Members of the committee should declare any interests which fall under the following categories:

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

3. **Minutes (Pages 7 - 10)**

To consider and approve, as a correct record, the minutes of the meeting held on 20 February 2024.

4. **Minutes of the Licensing Sub-Committee (Pages 11 - 14)**

To approve the minutes of the meeting held on 6 March 2024.

5. **22/0855/FH - 88 Sandgate Road, Folkestone, Kent, CT20 2AA (Pages 15 - 28)**

Change of use of first and second floor to 2 x 1 bedroom flats and 1 x 2 bedroom flat, use of basement for bin storage, insertion of 3no roof lights on rear roof slope and 1no roof light on front roof slope.

6. **22/1856/FH - 88 Sandgate Road, Folkestone, Kent, CT20 2AA (Pages 29 - 38)**

Listed building consent for the change of use of the first and second floor to 2 x 1 bedroom flats and 1 x 2 bedroom flat, use of basement for bin storage, insertion of 3no roof lights on rear roof slope and 1no roof light on front roof slope, and other internal works.

7. **23/0580/FH - Pent Farm, Pilgrims Way CT21 4EY (Pages 39 - 114)**

Photovoltaic solar array, ancillary infrastructure, and landscaping.

8. **23/1798/FH - Lower Works, Cherry Garden Lane, Folkestone, CT19 4AW (Pages 115 - 134)**

Change of use of existing workshop to office (Use Class E(i)), erection of a single and two storey extension to the existing building together with other external alterations, the demolition of White Lodge, and associated landscaping works.

9. **Appeals Decisions Received (Pages 135 - 172)**

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.

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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, 20 February 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), David Campbell (Development Management Team Leader), Katy Claw (Planning Officer), Sue Lewis (Committee Services Officer), Llywelyn Lloyd (Chief Planning Officer) and Helena Payne (Development Management Team Leader)
Others Present:	

61. **Declarations of Interest**

There were no declarations of interest.

62. **Minutes**

The minutes of the meeting held on 16 January 2024 were submitted, approved and signed by the Chair.

63. **Minutes of the Licensing Sub-Committee**

The minutes of the meeting held on 22 January 2024 were submitted, approved and signed by the Chair.

64. **23/1008/FH - Grafton Cottage, Sandgate Esplanade, Sandgate, CT20 3DP**

Listed Building Consent for replacement of windows.

Parish Councillor Roger Joyce spoke on behalf of the applicant.

Proposed by Councillor Paul Thomas
Seconded by Councillor Clive Goddard

To approve the application on the grounds that it would not be detrimental or harmful to the area and would increase heat and energy savings.

(Voting: For 3; Against 6; Abstentions 2)
Upon being put the vote was LOST

Proposed by Councillor M Blakemore
Seconded by Councillor Anita Jones and

Resolved: To defer the application to allow officers to explore alternative replacement window options with the applicant.

(Voting: For 8; Against 0; Abstentions 3)

65. **22/1077/FH - Cheriton Parc House, Cheriton High Street, Folkestone, 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.

The Development Management Team Leader informed that a further comment had been received objecting to the development with regards to the financial set up of the company which members will note is not a planning material consideration

Guy Holloway, architect spoke in support of the application.

Proposed by Councillor Mrs Jenny Hollingsbee
Seconded by Councillor Paul Thomas and

Resolved:

- 1. 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.**
- 2. That condition 22 be strengthened, providing clarity as to the on-site parking restrictions.**

3. **Include condition that ensures that if any trees die within the first 5 years, they are replaced like for like.**

(Voting: For 10; Against 1; Abstentions 0)

66. **23/1657/FH - 25 Dymchurch Road, St Marys Bay, Romney Marsh, TN29 0ET**

This application was withdrawn at the request of the agent in advance of the meeting taking place.

67. **22/0862/FH - 5 Marine Avenue, Dymchurch, TN29 0TR**

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

The Development Management Team Leader updated members in that he had received a further letter of objection from an existing objector on overlooking ground this has been covered within the report.

There is also a change to paragraph 7.31 which should state the appeal Inspector did find the scheme acceptable on the grounds of neighbouring living conditions and not as stated in the paragraph.

Proposed by Councillor Clive Goddard
Seconded by Councillor Paul Thomas and

Resolved:

1. **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.**
2. **That an informative be added to ask the applicant to consider a soft landscape at the front of the premises.**

(Voting: For 9; Against 2; Abstentions 0)

68. **23/1001/FH - Block E, Hurricane Way, Hawkinge, Folkestone, CT18 7SS**

Change of use and alterations to 8 no. apartments.

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 and any others that the Chief Planning Officer deems to be necessary.

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

69. **Appeal Decisions Received**

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.

Resolved: Members noted report DCL/23/41.

Minutes

Licensing Sub-Committee

Held at: Council Chamber - Civic Centre Folkestone

Date: Wednesday, 6 March 2024

Present: Councillors Mike Blakemore, Rebecca Shoob and Paul Thomas

Apologies for Absence

Officers Present: John Bickel (Licensing Specialist), Tim Hixon (Legal Specialist), Sue Lewis (Committee Services Officer) and Briony Williamson (Licensing Specialist)

Others Present:

78. Election of Chairman for the meeting

Proposed by Councillor Rebecca Shoob
Seconded by Councillor Mike Blakemore and

Resolved: That Councillor Paul Thomas is Chair for the meeting.

79. Declarations of interest

There were no declarations of interest.

80. Exclusion of the Public

Proposed by Councillor Mike Blakemore
Seconded by Councillor Rebecca Shoob 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)

81. **Review of Taxi Driver Licence**

The report considers whether action should be taken against a Dual Driver's licence following a DVLA driving ban for multiple speeding offences.

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

1. The report presented by Briony Williamson for Council;
2. The representations of the applicant and the character references submitted at the hearing;
3. The provisions of the Local Government (Miscellaneous Provisions) Act 1976;
4. The Human Rights Act 1998;
5. Relevant case law as detailed within the Report;
6. Folkestone and Hythe District Council's Hackney Carriage and Private Hire policy ["the Policy"] and in particular Appendix C relating to convictions and cautions.

The Licensing Sub-Committee want to look at the individual speeds recorded for each offence before determining any future decision. Therefore, need to wait until his driving licence is returned to him in April to allow access to his DVLA Licence records, based on this the recommendation below is their decision.

Proposed by Councillor Mike Blakemore
Seconded by Councillor Rebecca Shoob and

Resolved:

1. **Having considered all the evidence available to it at the hearing, the Sub-Committee were unable to determine that the driver was a 'fit and proper person' within the scope of the statutory provisions and that to refuse the application for renewal of his licence was consistent with the Council's Policy.**
2. **The Sub-Committee advised the applicant to take a Drivers Assessment Course before making a new application.**

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

82. **Review of whether a licence should be granted to a new Private Hire driver.**

The report considers whether a Private Hire Driver licence should be granted.

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

1. The report presented by Briony Williamson for Council and the further information she had been provided by Kent Police;
2. The representations of the applicant detailing the background to his convictions and his personal and family circumstances;
3. The provisions of the Local Government (Miscellaneous Provisions) Act 1976;
4. The Human Rights Act 1998;
5. Relevant case law as detailed within the Report;
6. Folkestone and Hythe District Council's Hackney Carriage and Private Hire policy ["the Policy"] in particular Appendix C relating convictions and cautions.

The Licensing Sub-Committee based their decision on the evidence presented with their recommendation set out below.

Proposed by Councillor Rebecca Shoob
Seconded by Councillor Mike Blakemore and

Resolved: Having considered all the evidence presented at the hearing the Sub-Committee determined that the applicant was a fit-and proper person to be a licensed driver within the scope of the statutory provisions and that to grant the application was consistent with the Council's Policy.

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

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Agenda Item 5

DCL/23/44

Application No: 22/0855/FH

Location of Site: 88 Sandgate Road, Folkestone, Kent, CT20 2AA

Development: Change of use of first and second floor to 2 x 1 bedroom flats and 1 x 2 bedroom flat, use of basement for bin storage, insertion of 3no roof lights on rear roof slope and 1no roof light on front roof slope.

Applicant: Mr Mayooran Senthilmani

Agent: Mr Matthew Beasley

Officer Contact: Robert Allan

RECOMMENDATION:

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

1. INTRODUCTION

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

2. SITE AND SURROUNDINGS

2.1. The application property is within the defined settlement boundary of Folkestone, within the Folkestone Town Centre Area on the north side of Sandgate Road, between Bouverie Place and Cheriton place. The building is a very substantially built, three-storey property constructed of red brick with Bath stone dressings, with very steep Kent peg tile roofs, designed in the Gothic style popular in Folkestone towards the end of the 19th Century and is Grade II Listed, as well as being located within the Leas and Bayle Conservation Area.

2.2. The ground floor of the property is used as a fast-food restaurant, while the upper floors are vacant, but last used as a gym and yoga studio.

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

3. PROPOSAL

3.1 The application seeks full planning permission for the conversion of the existing first and second floors into residential dwellings. The proposals would include two one-bedroom apartments at first floor and one two-bedroom apartment at second floor level. The dwellings would be created through the construction of new internal dividing

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walls, four new rooflights - one to the front and three to the rear - to serve the second floor apartment.

- 3.2 The dwellings would be accessed through the existing communal entrance at ground floor level onto Sandgate Road. A bin store would be created in basement. Cycle spaces would be provided in stores at ground floor and first floor level.
- 3.3 In addition to the drawings and application form, the following documents were submitted by the applicant in support of the proposal:

Planning Statement

This document describes the site and surrounding area, the planning history for the site, the background to the development, and details of what is proposed. It addresses the principle of development, the design and visual impact, heritage impact, considered residential amenity and cycle and car parking, before concluding that the proposals represent an acceptable form of development in compliance with development plan policies.

Heritage Statement

The document addresses proposals for the conversion of upper floors, setting out the historic evolution of both the site and wider area, before identifying relevant heritage assets and discussing the potential for their significance to be affected by proposals. It asserts that the scheme has responded positively to the historic context of the area and results in no adverse impacts upon either the host building, wider identified heritage assets, or their setting, with the principle of conversion not considered to be at odds with the significance of the application site and/or the wider locale.

Noise Assessment

The document seeks to address the potential impact from noise from an extract vent operated by the ground floor restaurant which runs up through the proposed residential development on the first and second floors. The assessment of the noise levels from the extract vent in the habitable space of the proposed development has been carried out and the requirement for mitigation identified, with the required sound insulation performance for the mitigation to the extract vent calculated and an example construction to achieve the criteria provided.

4. RELEVANT PLANNING HISTORY

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

22/1856/FH	Listed building consent for the change of use of the first and second floor to 2 x 1 bedroom flats and 1 x 2 bedroom flat, use of basement for bin storage, insertion of 3no roof lights on rear roof slope and 1no roof light on front roof slope, and other internal works.	Decision Pending
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Y03/0615/SH Listed building consent for internal alterations to the second floor. Approved with conditions

5. CONSULTATION RESPONSES

Ward Members: No comments received from Councillor Abena Akuffo-Kelly, Councillor Laura Davison or Councillor Liz McShane, none of whom sit on Planning & Licensing Committee.

5.1 The key consultation responses are summarised below.

Consultees

Folkestone Town Council: Object – property should be actively marketed for 12 months prior to a change of use; change of use will create a parking demand of at least three permanent spaces instead of the short time parking currently required; over intensive use for the building.

KCC Highways & Transportation: No objection – There will be a significant net reduction in parking demand as gyms have a maximum parking standard of 1 space per 22 square metres whereas for apartments in this location it is a maximum of 1 space per unit (so a total of 3 parking spaces only).

Environmental Health: No objection – Bin storage is acceptable; mitigation required as per noise assessment.

Local Residents Comments

5.2 Eighteen neighbours were notified of the proposed development. One representation has been received objecting on grounds that:

- Lack of parking
- Over-provision of 1-bedroom flats in the town centre exacerbates parking issues
- One of the flats is exactly the minimum allowable size
- Lack of larger accommodation makes it difficult for families to find suitable accommodation
- Rooflight would be visible and would detract from street scene
- Single roof light would interrupt symmetry of building
- No provision of garden or balcony space, which is a requirement of Policy HB3
- No suitable site within the immediate vicinity for new public open space.

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

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

6. RELEVANT PLANNING POLICY

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

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HB1	Quality Places Through Design
HB3	Internal and External Space Standards
HB8	Alterations and Extensions to Buildings
T2	Parking Standards
T5	Cycle Parking
HE1	Heritage Assets
RL2	Folkestone Main Town Centre

Core Strategy Review 2022

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

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

Government Advice

National Planning Policy Framework (NPPF) 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 2023 are relevant to this application: -

11	Presumption in favour of sustainable development
47	Applications for planning permission be determined in accordance with the development plan
94	Ensuring the vitality of town centres
136	Achieving well-designed places
201 & 208	Conserving and enhancing the historic environment

National Planning Policy Guidance:

Historic Environment

7. APPRAISAL

7.1 The main issues for consideration are:

- a) Is the development acceptable as a matter of principle?
- b) Would the development result in harm to the designated heritage assets?
- c) Is the visual impact of the development acceptable?
- d) Would the proposal have an acceptable impact on residential amenity?
- e) Is the standard of accommodation proposed acceptable?
- f) Would the proposal would result in harm to highway safety?
- g) Are the proposed refuse storage arrangements acceptable?

a) Is the development acceptable as a matter of principle?

7.2 The site is within the defined settlement boundary of Folkestone and in a sustainable location within walking distance of shops and services. This accords with the principles of Core Strategy Review Policies SS1 and SS3, which direct development toward existing sustainable settlements with opportunity for increased densities within the town centre.

7.3 The property is also within the Folkestone Town Centre Area and Policy RL2 of the Places and Policies Local Plan (PPLP) protects secondary shopping frontage at ground floor level, allowing for residential development on upper floors where it would enhance the vitality and viability of the centre and not lead to the loss of town centre uses or active frontages at street level.

7.4 The comments of the Folkestone Town Council are noted, but the requirement to market a site or premise for 12 months forms part of policy E2 within the Places and Policies Local Plan (PPLP), which protects existing employment sites. The aims of this policy are informed by the Council's Employment Land Review (ELR), which was focussed upon office, manufacturing, and warehousing and distribution uses. The application property was not within the sites reviewed as part of this document and would not have formed part of the review, given its outgoing use as a gym. Consequently, the policy does not apply to this proposal. As set out above, the change of use of upper floors to residential in the town centre is explicitly supported by Policy RL2, subject to it not giving rise to harm to the use of the ground floor.

7.5 Overall, as the proposal would not result in the loss of town centre uses or active frontages at street level, there is considered to be no objection to the broad principle of the development proposed in this location, subject to all other material planning considerations.

b) Would the development result in harm to the designated heritage assets?

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- 7.6 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) 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. As the application site is within the Leas and Bayle Conservation Area, the requirements of section 72 (1) of the same legislation, namely the desirability of preserving or enhancing the character or appearance of that area, must also be observed.
- 7.7 The NPPF identifies that economic, social, and environmental gains should be sought jointly and simultaneously, with heritage assets conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

Listed Building

- 7.8 Although there is architectural interest in the property because of the external features identified in the listing, as well as historic interest derived from the patterns of development along Sandgate Road in the 19th century, the significance of the property is primarily as part of views along Sandgate Road, where it comprises one of a number of terraced structures that were developed westwards across the Earl of Radnor's estate during the 19th century.
- 7.9 However, the property has been subject to ongoing internal alteration and reconfiguration since its initial construction, facilitating the provision of varying uses and resulting in the inevitable erosion of historic and/or architectural integrity and therefore interest. The upper levels are currently subject to long-term vacancy, resulting in an ongoing trend toward degradation, as evidenced during the site visit, which is having a negative impingement upon significance in these areas.
- 7.10 Because of the alteration and ongoing degradation, the significance of the area to be affected by the proposal is low, which when considered in combination with the limited perceptibility of the proposal from street level, would not detract from the way in which this heritage asset is appreciated nor impact upon its associated patterns of use.
- 7.11 Indeed, the proposal has been amended in conjunction with the Council's Heritage Consultant in order to ensure the preservation of the heritage asset and engender the optimum viable use of the building, with proposed rooms being configured in line with existing fabric, which is to be retained, and where fabric is proposed to be removed, the amount of removed fabric is minor and deemed necessary to facilitate the practical functioning of internal areas, in turn ensuring its long-term occupation and continued conservation. The number of roof lights proposed has been reduced also.
- 7.12 However, because of the limited alteration to fabric and layout, it is considered that there is a small amount of harm to the significance of the heritage asset, but this would be at the lower end of less than substantial. In consideration of the National Planning Policy Framework paragraph 208, this harm must be weighed against the clear public benefits of securing the structure's optimum viable use. The proposal would see the re-use of a vacant building, halt the degradation of a designated heritage asset, and make a modest contribution of three dwellings toward the housing target for the District, with associated positive impacts upon the vitality and viability of the town centre area through a mix of uses, which residential development has an important role in, all of which are considered to outweigh the less than substantial harm identified.

Conservation Area

- 7.13 The special interest of this area is derived from its predominantly commercial, mixed-use character, with Sandgate Road being defined by shops and commercial premises at ground floor with mixed-use above. To the west of Cheriton Place, properties are predominantly stucco, demonstrating their historic growth as semi-detached villas developed as part of the westward expansion of Folkestone. However, to the east of Cheriton Place, the northern extent of Sandgate Road is characterised by a three storey, red brick terrace that extends to Bouverie Place. Here, historic elevations at upper levels remain readily identifiable, however all ground floor elevations have been altered via the installation of contemporary shop fronts/signage.
- 7.14 The three storey, red brick elevation of the property contributes toward the character and appearance of the built environment in this section of Sandgate Road, with the signage at ground floor level having ensured the retention of architectural features of the property all of which further contribute toward the historic narrative and therefore significance of the evolution of this area, particularly where this has been lost across adjoining properties. Further, the mixed-use nature of the application site also reflects and contributes toward the wider character and appearance of the conservation area, when taking Sandgate Road in totality.
- 7.15 As the proposed works would be predominantly focused upon internal areas, with the roof light alterations not readily visible from the street scene, the proposal would secure the preservation and longer-term conservation of the character of the conservation area, and the impact upon the significance of the conservation area would be considered positive. Consequently, there is no requirement to trigger the requirements of paragraph 208 in respect of the conservation area.
- 7.16 Overall, subject to a suitably worded conditions to require the submission of details relating to the rooflight detail, materials, joinery details, ventilation extract vents and drainage/service runs, the proposal is considered to be acceptable with regard to preserving or enhancing the significance of both the listed building and conservation area.

c) Is the visual impact of the development acceptable?

- 7.17 As discussed above, the external alterations to the property would be relatively minor in the context of the wider street scene and the building itself, and are not readily visible within the street scene, being at roof level and behind a parapet in the case of the front roof light, or on the rear elevation in the case of the other roof lights.
- 7.18 Overall, given the limited extent of external alterations, the proposal is considered acceptable regarding the visual character of the building, the surrounding development, and the street scene, in accordance with Places and Policies Local Plan HB1.

d) Would the proposal have an acceptable impact on residential amenity?

- 7.19 Policy HB1 states that planning permission will be granted where the proposal does not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.
- 7.20 The creation of additional residential uses would be unlikely to have any significant impact for the existing residential uses in the area in respect of noise and disturbance,

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especially when compared to the outgoing gym use and when taken in the context of a town centre location. The proposed use and associated alterations would not result in any additional overlooking or loss of privacy given the tight, urban location the property is within, and the existing relationship between the properties.

7.21 Paragraph 193 of the NPPF 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.

7.22 The proposal would be immediately above an established commercial use, and a noise assessment has been submitted to demonstrate that future occupiers of the proposed unit would not be detrimentally impacted by this relationship and that the uses could reasonably co-exist. This has been reviewed by the Environmental Health Officer, concluding that this relationship would be acceptable, subject to appropriately worded conditions to secure appropriate mitigation as set out within the report.

e) Is the standard of accommodation proposed acceptable?

7.23 The space standard must be applied to the creation of new dwellings via conversion. The submitted drawings show the proposed flats would meet the required standards for gross internal area (GIA). All habitable rooms shown for the proposed dwellings have a window, and an acceptable level of natural daylight and outlook would be afforded to future occupiers overall, with adequate space for furniture, movement and storage.

7.24 It is acknowledged that there are no balcony areas or private amenity space proposed for the flats with no space in the immediate locality to provide additional communal or public open space. Places and Policies Local Plan policy HB3 acknowledges that for certain types of conversions, including those of heritage assets or buildings in Conservation Areas, the provision of balconies may not be appropriate, and the surrounding development does not generally have balconies at upper floor levels, with the creation of these likely to appear incongruous on the building itself and within the street scene, harmful to both the listed building and the conservation area..

7.25 The lack of external amenity space for all units is acknowledged. However, the prevalent form of development in this tight-knit urban environment where balconies would appear incongruous, together with a lack of space for the provision of new public open space must be noted. Further, the application site is in proximity to The Leas public open space, which could be used by future occupiers and the wider public benefits of the proposal in bringing the upper floors of the designated heritage asset into an optimum viable use, which will safeguard against further degradation of designated heritage assets in the form of the listed building and the conservation area, is also noted. The proposal would make a modest contribution of three dwellings toward the housing target for the District and have a positive impact upon the vitality and viability of the town centre area through fostering a mix of uses. Cumulatively, this is considered to outweigh the identified issue, in this instance.

f) Would the proposal result in harm to highway safety?

7.26 Under adopted parking standards, the outgoing use as a gym has a parking demand of approximately 10/11 cars. The proposed use as three flats has a parking demand of 3 cars. Consequently, in policy terms, there is a net reduction in parking demand of

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at least 7 vehicles. Further, being within the designated town centre, the nature of parking guidance is maximum, with reduced, or nil provision encouraged in these areas where the dwellings are located within walking distance of shops and services.

- 7.27 Consequently, the proposal is considered to comply with adopted parking standards in policy T2 and would not be refusable on these grounds.
- 7.28 Secure, covered cycle parking is shown on the provided plans at both ground and first floor level that would serve the proposal, although full details would be required via condition. The proposal would therefore accord with policy T5 of the PPLP.

g) Are the proposed refuse storage arrangements acceptable?

- 7.29 In relation to refuse and recycling, there is no external waste storage area or outdoor space for residential wheeled waste bins but there is a dedicated area to store waste proposed in the basement, accessed via the existing internal stairway, which would allow waste to be stored until collection days and which would be adequate to serve the development and can be secured via suitably worded condition.

Environmental Impact Assessment

- 7.30 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

- 7.31 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.
- 7.32 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 and is located in Zone B, where the levy is charged at £67.55 per sqm.

Human Rights

- 7.33 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

7.34 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

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

8. CONCLUSION

8.1 The proposal would result in the creation of three additional units of accommodation within a vacant former gym premises. The principle of the development in this location is acceptable, whilst the less than substantial harm to the significance of the listed building and the lack of external amenity space is considered to be outweighed by the wider public benefits of bringing the upper floors of the designated heritage asset back into use to safeguard against further degradation of designated heritage assets, with a modest contribution of three dwellings toward the housing target for the District, as well as a positive impact upon the vitality and viability of the town centre area through fostering a mix of uses. The amenity of existing occupiers and surrounding uses is considered safeguarded, with no parking or highway issues, and all other material planning considerations considered acceptable and in accordance with adopted policy.

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

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission is approved subject to the following conditions:

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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:

0022-PL07 Proposed Site Plan
0022-PL08 Proposed Basement & Ground Floor Plan
0022-PL09 Proposed First Floor Plan
0022-PL10 Proposed Second Floor Plan
0022-PL11 Proposed Roof Plan
0022-PL12 Proposed Front Elevation
0022-PL13 Proposed Rear Elevation

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

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

Reason: In the interest of visual amenity and safeguarding designated heritage assets.

4. Prior to their installation, full details of any external piping, service runs, vents and outlets, and the method of ventilation of the basement bin store area and external colour shall have been submitted to and approved in writing by the Local Planning Authority, with the development only to be carried out in accordance with the approved details unless agreed otherwise by the Local Planning Authority in writing. Where relevant, the details should be provided on drawings at an appropriate scale of 1:50 (where detail needs to be considered contextually related to a façade) and at 1:20 in other cases.

Reason: In the interest of preserving or enhancing the character and appearance of the conservation area

5. Prior to first occupation details to demonstrate that the dwellings hereby permitted shall use no more than 110 litres of water per person per day shall have been

DCL/23/44

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.

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

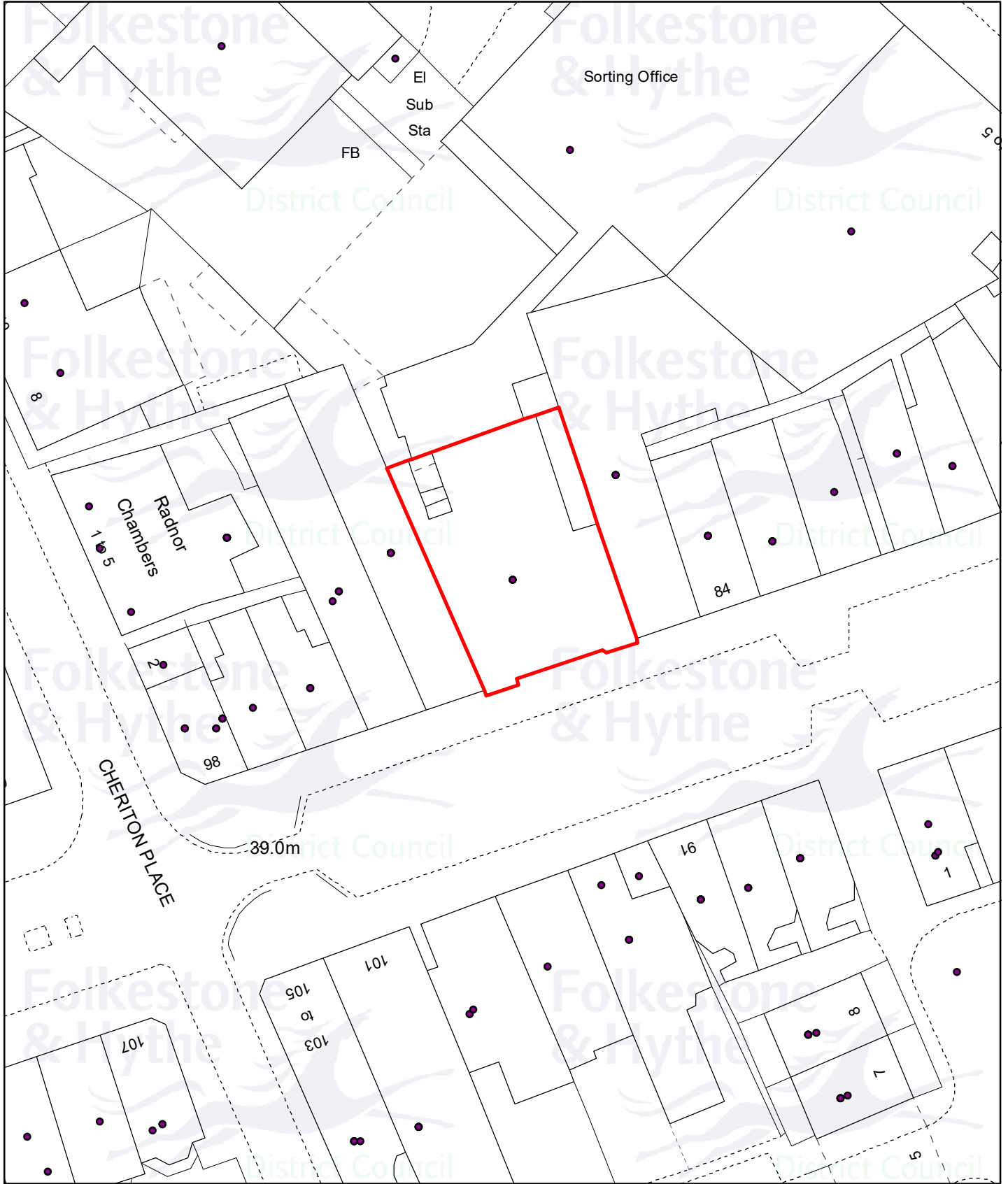
Reason: In the interest of visual and residential amenity, as well as encouraging the use of sustainable modes of transport other than private motor vehicle.

7. The refuse / recycling store area shall be provided in full prior to first occupation of any dwelling or dwellings hereby approved, and thereafter retained.

Reason: In the interests of visual and residential amenity.

8. Prior to first occupation of the dwellings hereby approved the mitigation measures identified in the F1 Acoustics Noise Assessment, Revision 0, dated 1 April 2022, shall have been carried out in full and shall thereafter be maintained as such.

Reason: In the interests of residential amenity.



Planning Application:
22/0855/FH

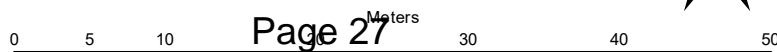
Drawn date:
06 Mar 2024

Drawn by:
Carrie Stacey

Drawing ref:
2235/COP/TG

Llywelyn Lloyd
Chief Planning Officer

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Agenda Item 6

DC/23/45

Application No: 22/1856/FH

Location of Site: 88 Sandgate Road, Folkestone, Kent, CT20 2AA

Development: Listed building consent for the change of use of the first and second floor to 2 x 1 bedroom flats and 1 x 2 bedroom flat, use of basement for bin storage, insertion of 3no roof lights on rear roof slope and 1no roof light on front roof slope, and other internal works.

Applicant: Mr Mayooran Senthilmani

Agent: Mr Matthew Beasley

Officer Contact: Robert Allan

RECOMMENDATION:

<p>That listed building consent be granted subject to the conditions set out at the end of the report.</p>

1. INTRODUCTION

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

2. SITE AND SURROUNDINGS

2.1. The application property is within the defined settlement boundary of Folkestone, within the Folkestone Town Centre Area on the north side of Sandgate Road, between Bouverie Place and Cheriton place. The building is a very substantially built, three-storey property constructed of red brick with Bath stone dressings, with very steep Kent peg tile roofs, designed in the Gothic style popular in Folkestone towards the end of the 19th Century and is Grade II Listed, as well as being located within the Leas and Bayle Conservation Area.

2.2. The ground floor of the property is used as a fast-food restaurant, while the upper floors are vacant, but last used as a gym and yoga studio.

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

3. PROPOSAL

3.1 The application seeks Listed Building Consent for works in association with the proposed change of use and conversion of the existing first and second floors into residential dwellings (subject of planning application 22/0855/FH). The proposals

DC/23/45

would include two one-bedroom apartments at first floor and one two-bedroom apartment at second floor level. The dwellings would be created through the construction of new internal dividing walls, four new rooflights - one to the front and three to the rear - to serve the second-floor apartment. Existing suspended ceilings, a modern addition, would be removed.

- 3.2 The dwellings would be accessed through the existing communal entrance at ground floor level onto Sandgate Road. A bin store would be created in basement. Cycle spaces/lockers would be provided in stores at ground floor and first floor level.
- 3.3 In addition to the drawings and application form, the following documents were submitted by the applicant in support of the proposal:

Design and Access Statement

This document describes the site and surrounding area, the background to the development, and details of what is proposed. At a high level, it addresses the design and visual impact, heritage impact, layout, form and scale, daylight and ventilation, residential amenity, access, cycle and car parking, and the sustainability of the project.

Heritage Statement

The document addresses proposals for the conversion of upper floors, setting out the historic evolution of both the site and wider area, before identifying relevant heritage assets and discussing the potential for their significance to be affected by proposals. It asserts that the scheme has responded positively to the historic context of the area and results in no adverse impacts upon either the host building, wider identified heritage assets, or their setting, with the principle of conversion not considered to be at odds with the significance of the application site and/or the wider locale.

4. RELEVANT PLANNING HISTORY

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

22/0855/FH	Change of use of first and second floor to 2 x 1 bedroom flats and 1 x 2 bedroom flat, use of basement for bin storage, insertion of 3no roof lights on rear roof slope and 1no roof light on front roof slope..	Under consideration
Y03/0615/SH	Listed building consent for internal alterations to the second floor.	Approved with conditions

5. CONSULTATION RESPONSES

Ward Members: No comments received from Councillor Abena Akuffo-Kelly, Councillor Laura Davison or Councillor Liz McShane, none of whom sit on Planning & Licensing Committee.

- 5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Object – property should be actively marketed for 12 months prior to a change of use; change of use will create a parking demand of at least three permanent spaces instead of the short time parking currently required; over intensive use for the building.

KCC Highways & Transportation: No objection – There will be a significant net reduction in parking demand as gyms have a maximum parking standard of 1 space per 22 square metres whereas for apartments in this location it is a maximum of 1 space per unit (so a total of 3 parking spaces only).

Environmental Health: No objection – Bin storage is fine; mitigation required as per noise assessment.

Local Residents Comments

5.2 Two representations received objecting on grounds that:

- Lack of parking
- Over-provision of 1-bedroom flats in the town centre exacerbates parking issues
- One of the flats is exactly the minimum allowable size
- Lack of larger accommodation makes it difficult for families to find suitable accommodation
- Rooflight would be visible and would detract from street scene
- Single roof light would interrupt symmetry of building
- No provision of garden or balcony space, which is a requirement of Policy HB3
- No suitable site within the immediate vicinity for new public open space
- Appropriate building materials for a listed building should be used
- Features should be repaired
- Unsuitable doors and windows should not be allowed
- Roof should be Kent peg tiles
- Vestigial fittings should be saved

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

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

6. RELEVANT PLANNING POLICY

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

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HE1 Heritage Assets

Core Strategy Review 2022

SS3 Place-shaping and sustainable settlements strategy

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

Government Advice

National Planning Policy Framework (NPPF) 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 2023 are relevant to this application: -

- 11 Presumption in favour of sustainable development
- 47 Applications for planning permission be determined in accordance with the development plan
- 201 & 208 Conserving and enhancing the historic environment

National Planning Policy Guidance:

Historic Environment

7. APPRAISAL

7.1 The main issue for consideration is whether the development would result in harm to the Heritage Asset (Listed Building):

7.2 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) 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.

7.3 The NPPF identifies that economic, social, and environmental gains should be sought jointly and simultaneously, with heritage assets conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

7.4 Although there is architectural interest in the property because of the external features identified in the listing, as well as historic interest derived from the patterns of

DC/23/45

development along Sandgate Road in the 19th century, the significance of the property is primarily as part of views along Sandgate Road, where it comprises one of a number of terraced structures that were developed westwards across the Earl of Radnor's estate during the 19th century.

- 7.5 However, the property has been subject to ongoing internal alteration and reconfiguration since its initial construction, facilitating the provision of varying uses and resulting in the inevitable erosion of historic and/or architectural integrity and therefore interest. The upper levels are currently subject to long-term vacancy, resulting in an ongoing trend toward degradation, as evidenced during the site visit, which is having a negative impingement upon significance in these areas.
- 7.6 Because of the alteration and ongoing degradation, the significance of the area to be affected by the proposal is low, which when considered in combination with the limited perceptibility of the proposal from street level, with the parapet wall obscuring the majority of the proposed roof light in the front roof slope, it would not detract from the way in which this heritage asset is appreciated nor impact upon its associated patterns of use.
- 7.7 Indeed, the proposal has been amended in conjunction with the Council's Heritage Consultant in order to ensure the preservation of the heritage asset and engender the optimum viable use of the building, with proposed rooms being configured in line with existing fabric, which is to be retained, and where fabric is proposed to be removed, the amount of removed fabric is minor and deemed necessary to facilitate the practical functioning of internal areas, in turn ensuring its long-term occupation and continued conservation. The number of roof lights proposed has been reduced also.
- 7.8 However, because of the limited alteration to fabric and layout, it is considered that there is a small amount of harm to the significance of the heritage asset, but this would be at the lower end of less than substantial.
- 7.9 In consideration of the National Planning Policy Framework paragraph 208, this harm must be weighed against the clear public benefits of securing the structure's optimum viable use. The proposal would see the re-use of a vacant building, halt the degradation of a designated heritage asset, and make a modest contribution of three dwellings toward the housing target for the District, with associated positive impacts upon the vitality and viability of the town centre area through a mix of uses, which residential development has an important role in, all of which are considered to outweigh the less than substantial harm identified.
- 7.10 Overall, subject to suitably worded conditions to cover the submission of details relating to the rooflight detail, materials, ventilation extract vents, drainage/service runs, and internal joinery, the proposal is considered to be acceptable with regard to preserving or enhancing the significance of the listed building.

Environmental Impact Assessment

- 7.11 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

- 7.12 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.
- 7.13 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

- 7.14 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

- 7.15 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

- 7.16 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

DC/23/45

- 8.1 The proposal would result in the creation of three additional units of accommodation within a vacant former gym premises. The less than substantial harm to the fabric of the building is considered to be outweighed by the wider public benefits of bringing the upper floors of the designated heritage asset back into use to safeguard against its further degradation, with a modest contribution of three dwellings toward the housing target for the District, as well as a positive impact upon the vitality and viability of the town centre area through fostering a mix of uses.
- 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 listed building consent is granted subject to the following conditions:

1. The development and works to which this consent relates shall be begun before the expiration of three years from the date of this consent.

Reason: In pursuance of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

0022-PL07 Proposed Site Plan
0022-PL08 Proposed Basement & Ground Floor Plan
0022-PL09 Proposed First Floor Plan
0022-PL10 Proposed Second Floor Plan
0022-PL11 Proposed Roof Plan
0022-PL12 Proposed Front Elevation
0022-PL13 Proposed Rear Elevation

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

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

DC/23/45

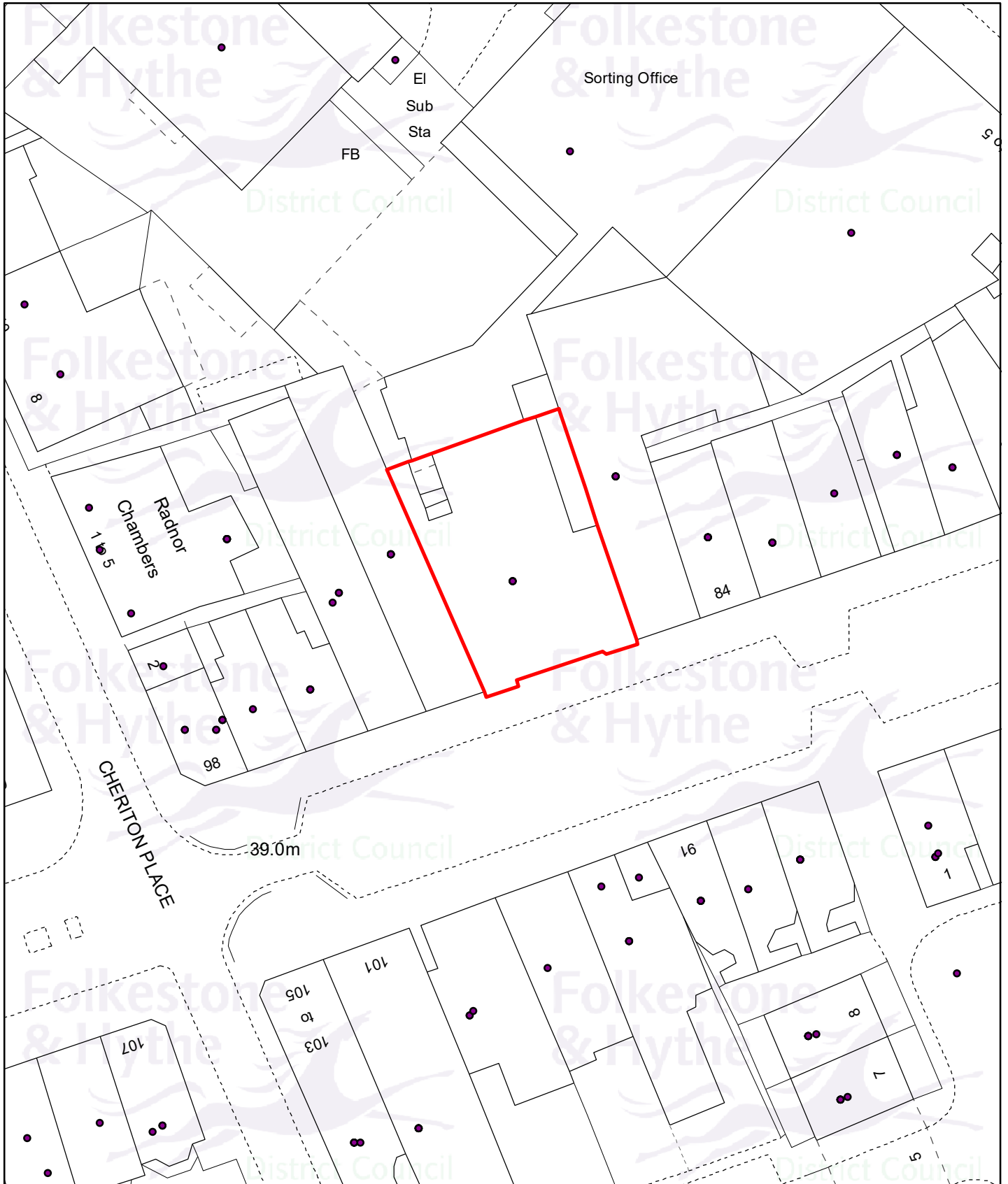
Reason: In the interest of preserving the special architectural or historic interest of the listed building.

4. Prior to their installation, full details of any external or internal piping, service runs, vents and outlets, and the method of ventilation of the basement bin store area and external colour shall have been submitted to and approved in writing by the Local Planning Authority, with the works only to be carried out in accordance with the approved details unless agreed otherwise by the Local Planning Authority in writing. Where relevant, the details should be provided on drawings at an appropriate scale of 1:50 (where detail needs to be considered contextually related to a façade) and at 1:20 in other cases.

Reason: In the interest of preserving the special architectural or historic interest of the listed building.

5. Prior to installation, detailed drawings at a suggested scale of 1:5 of all new joinery work and fittings together with sections shall 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: In the interest of preserving the special architectural or historic interest of the listed building.



Planning Application:
22/1856/FH
Drawn date:
06 Mar 2024
Drawn by:
Carrie Stacey
Drawing ref:
2235/COP/TG


Llywelyn Lloyd
Chief Planning Officer

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Agenda Item 7

DCL/23/46

Application Number	23/0580/FH
Location	Pent Farm, Pilgrims Way CT21 4EY
Application Description	Photovoltaic solar array, ancillary infrastructure, and landscaping.
Applicant	Mr Gary Bird, c/o Agent.
Agent	Mr Tom Roseblade, RNA Energy Ltd, Well House Barns, Units 5 & 11, Chester Road, Broughton, CH4 0DH
Officer Contact:	Alex Stafford

Recommendation

The proposals are considered to be contrary to local and national planning policies and it is therefore recommended that planning permission be refused for the reason set out at the end of the report.

1. Reason for consideration by the Committee

- 1.1. The application is reported to the Planning Committee at the request of district Councillor, Councillor Scoffham. Further, given the scale and location of the development I consider that the scheme should be considered by the Planning Committee.

2. Site and Surroundings

- 2.1 The site comprises six fields of arable farmland approximately 27ha, bounded by hedgerows (with some trees) and ditches. There is a small linear area of woodland to the north of the site. The site is located immediately to the east of Stone Street and north of the Stanford electricity substation. Power lines cross the site from the southwest to the northeast. Access to the site is via an existing farm access to the west.
- 2.2 The site is located within the Kent Downs National Landscape (formally known as the AONB¹) and the Wealden Greensand Landscape Character Area (LCA).
- 2.3 The site has a gently undulating landform and forms part of a wider area of farmland and scattered small settlements at the foot of the scarp of the North Downs, which overlooks a wide sweep of land to the south and offers far-reaching and expansive views. Topographically this lower lying and generally

¹ On 22 November 2023, all designated Areas of Outstanding Beauty (AONBs) in England and Wales were renamed 'National Landscapes' (NLs). Accordingly, the Kent Downs AONB is now the Kent Downs National Landscape. Its legal designation and policy status remain the same.

level area of farmland forms a marked contrast to the steep scarp of the North Downs which rises to high ground at the car parking area at Farthing Common and from there eastwards along Farthing Common Road. To the west, east and south, there is some intervisibility with surrounding land, but this is limited by the area's extensive woodland cover, field boundary hedgerows and by landform.

- 2.4 The site has a farmland character and field pattern which is consistent with surrounding areas of relatively low lying and gently undulating arable and grazing land. Although generally rural/agricultural in character, the site is also influenced to some degree by the adjacent road and nearby scattered residential development, and by pylons and power lines which cross the site and wider area.
- 2.5 The Agricultural Land Classification survey submitted identifies that all of the land within the site is graded as Grade 3b (moderate quality agricultural land). The survey identifies that the most significant limiting factor (resulting in the ALC grade of 3b across the site) is the wetness of the soils.
- 2.6 There are no listed buildings or other heritage assets located within the site, with the closest being the Grade II listed Pent Farmhouse located approximately 700m away. The Grade 1 listed Church of St Mary and St Radegund is located approximately 1km to the east within the village of Postling within the Postling Conservation Area.
- 2.7 The site is also located within an area of archaeological potential and is within Floodzone 1 and the Stour Catchment.
- 2.8 There are a number of public rights of way within the area with PROW (HE219) running adjacent to the southern boundary. The North Downs Way National Trail follows the chalk escarpment to the north of the site, approximately 650m away.
- 2.9 The closest residential property to the application site is located approximately 80m south west of the site, separated from the site by the substation.
- 2.10 Figures 1 and 2, below detail the extent and location of the site. A site location plan is also attached to this report as **Appendix 1**.

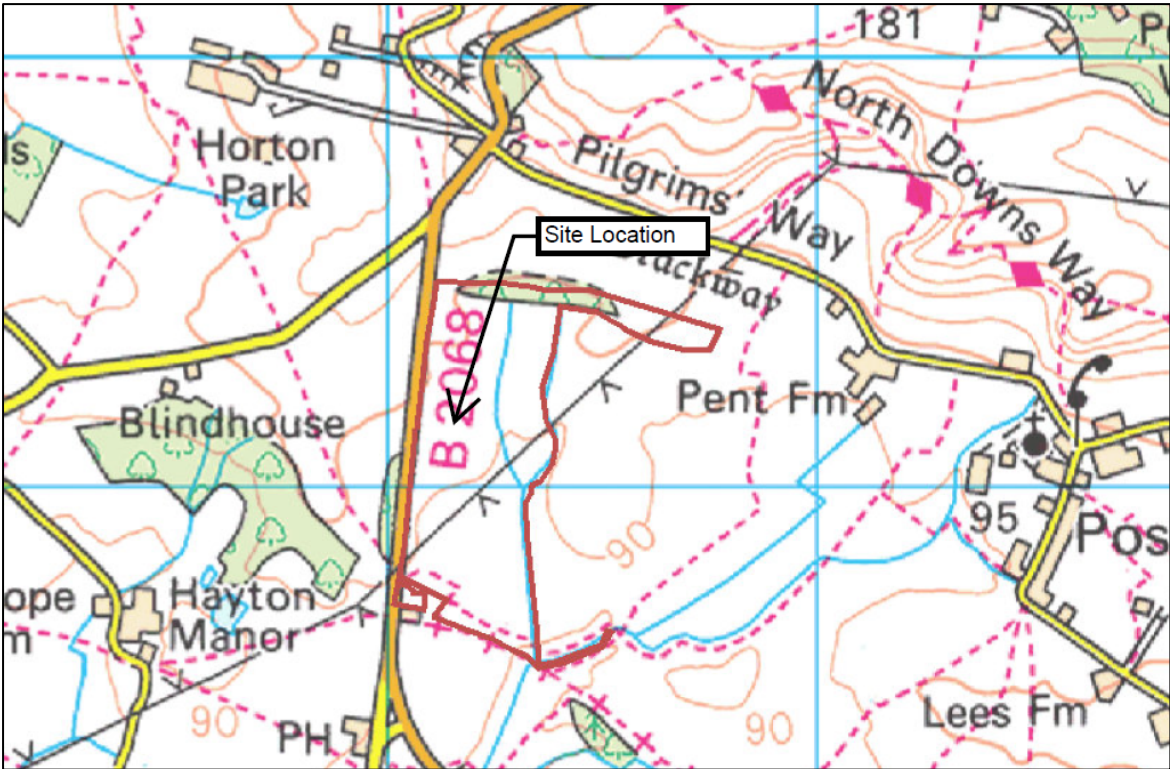


Figure 1: Site Location Plan



Figure 2: Site Location Plan

3. Proposal

- 3.1 Full planning permission is sought for the development of a solar farm which could generate up to 18MW (during peak operation), comprising of the following elements:
- Photovoltaic Solar Panels and associated support frames;
 - String inverters;
 - Transformer Stations;
 - 1 No. Distribution Network Operator (DNO) Substation;
 - 1 No. Control Centre Building;
 - 1 No. Switchroom Building;
 - c.750km of new/resurfaced internal access tracks (3m wide and constructed using compacted Type 3 stone);
 - 2.1km deer/stock fencing;
 - c. 10.8 hectares of species-rich grassland;
 - c. 10.5 hectares of grazed pasture;
 - c. 350m of willow/osier belt planting;
 - c. 1.6 hectares of native species woodland planting;
 - 2 No. ponds.
- 3.2 The areas around the solar PV panels are proposed to be retained as both areas of non-grazed wildflower grassland, and areas retained in agricultural use by grazing sheep. In addition, areas of species-rich grassland are proposed to be provided around the perimeter of fields to increase biodiversity by providing improved habitat and wildlife corridors across the site.
- 3.3 New areas of woodland, woodland belts and hedgerows are also proposed to be planted and existing hedgerows managed to maximise biodiversity value. New ponds are proposed to be created along with areas of wet woodland or willow osier coppice to provide new habitats.
- 3.4 The proposed solar farm would be operational for a period of 40 years after which the site would be decommissioned and restored back to an agricultural use (unless a further planning permission has been secured for continued operation) with the exception of landscaping which would be retained.
- 3.5 The indicative site layout plan showing the general arrangement of the development is shown in Figure 3, below. Figure 4, sets out the proposed landscaping scheme.

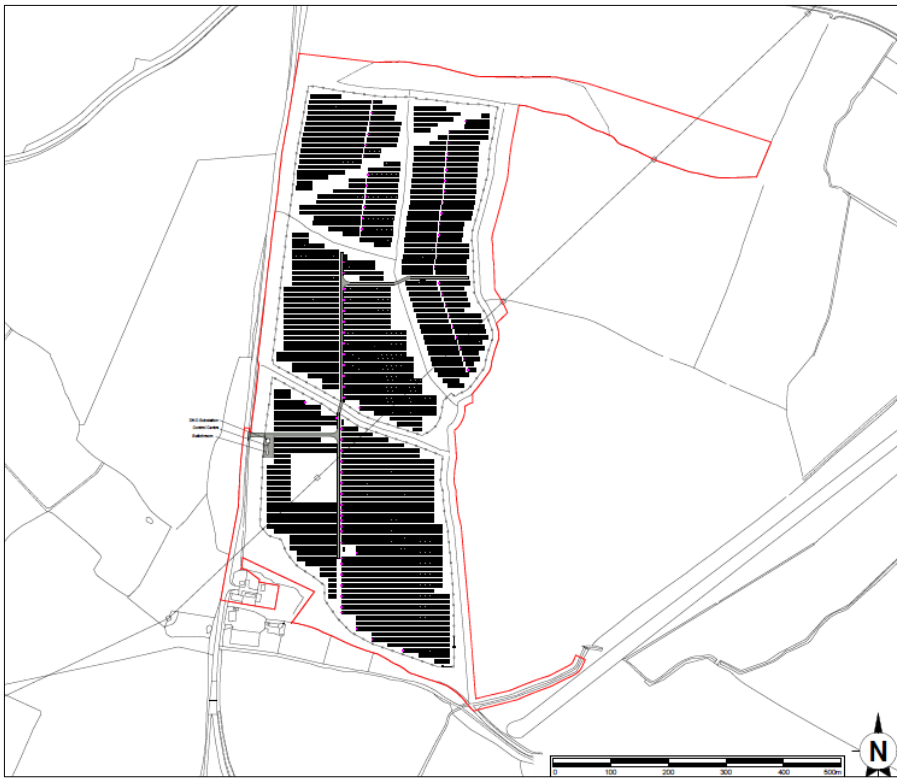


Figure 3: Proposed Layout

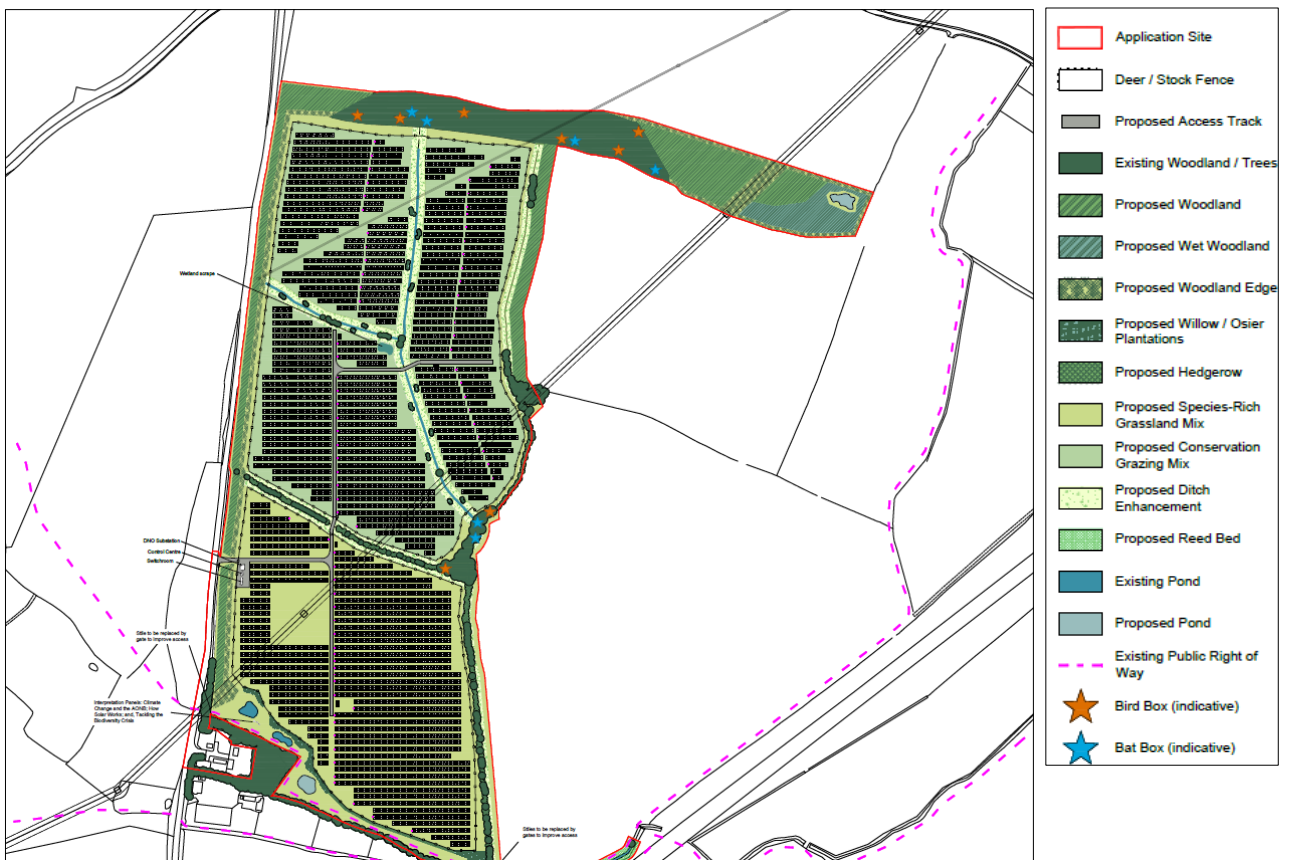


Figure 4: Proposed Landscaping Scheme

- 3.6 The proposed development given its scale is required to be considered against the Environmental Impact Assessment (EIA) regulations and as such the application includes an Environmental Statement.
- 3.7 An EIA Scoping Opinion was adopted by the Council on the 6th of January 2023 which confirmed the scope of the Environmental Statement.
- 3.8 Further details of each element of the proposed development are set out below.

Solar PV Modules and Mounting Structures

- 3.9 Solar PV panels convert sunlight into direct electrical current (DC). Individual panels would typically be up to 2.5m long and 1.5m wide. The individual panels would likely comprise mono-crystalline PV cells underneath a layer of heat strengthened glass. These are likely to be dark blue, dark grey or black in colour.
- 3.10 Panels would be fixed to a mounting structure in groups known as 'strings' at an angle to the sun of 20 degrees. It is expected that the maximum height of the panels from the ground would be approximately 2.4m with the lowest point typically 800mm above ground level. As an example, Figure 6 below shows PV panels attached to strings at the existing Partridge Farm solar farm in Aldington.

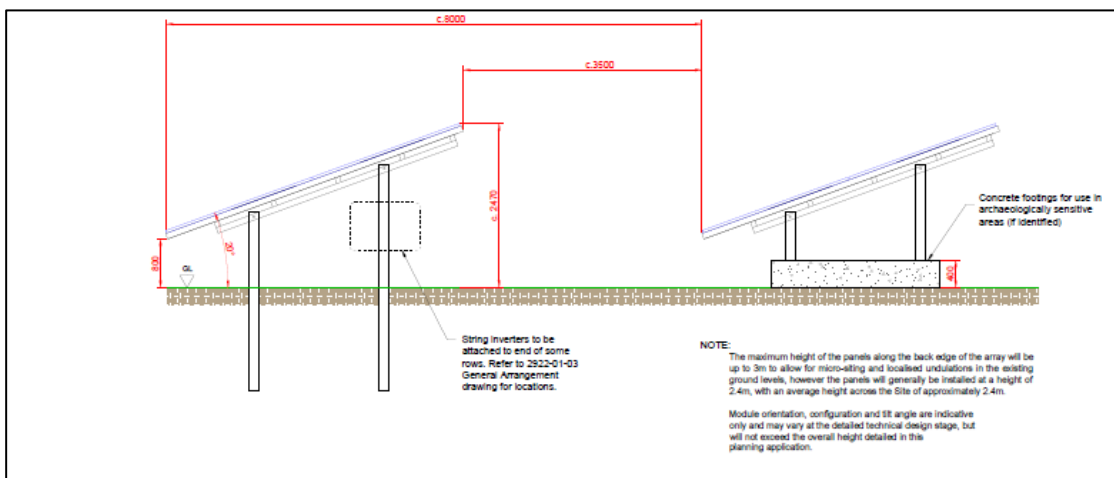


Figure 5: Proposed PV Arrays



Figure 6: PV panels at Partridge Farm solar farm, Aldington, Kent.

- 3.11 The panels would be installed as 'fixed' tilt (rather than utilising single axis trackers) so that once installed there would be no moving parts. Panels would be mounted individually on a steel and aluminium frame attached to steel piles driven to a depth of 1.2 metres (or concrete footings in archaeologically sensitive areas). Piling would only be undertaken between 09:00–17:00 Monday to Friday during the construction phase.
- 3.12 Again, as an example, Figure 7 below shows the underside of strings at the existing Partridge Farm solar farm in Aldington. It is proposed that each row would be approximately 3.5 metres apart to limit the impact of inter-row shading.



Figure 7: Underside of strings at Partridge Farm solar farm

- 3.1. The electrical output from the groups of panels would be exported by low voltage cabling to dedicated stations that would include an inverter, transformer, and switchgear.

Inverters, Transformers, Cabling, Substation, Switchroom and Control Centre

- 3.13 **Inverters** are necessary to convert the DC electricity produced by the solar PV modules into alternating current (AC) so that this can be exported to the on site substation and in turn the National Grid. It is anticipated that the inverters would measure approximately 1.04m wide x 0.7m high x 0.37 deep and attach to the end of panel rows. The inverters would be located at regular intervals amongst the solar PV modules.
- 3.14 The development proposes the installation of four **transformer** stations which would be spread out evenly across the development. The job of the transformer station is to control and increase the voltage of the electricity generated by the solar panels before it reaches the on-site DNO Substation and distribution network. The transformer stations would comprise individual containers (approximately 6.06m long x 2.44m wide x 2.90m high). The transformer

stations would be located on strip or slab foundations depending on ground conditions. The maximum height is proposed to be no greater than 3.4m.

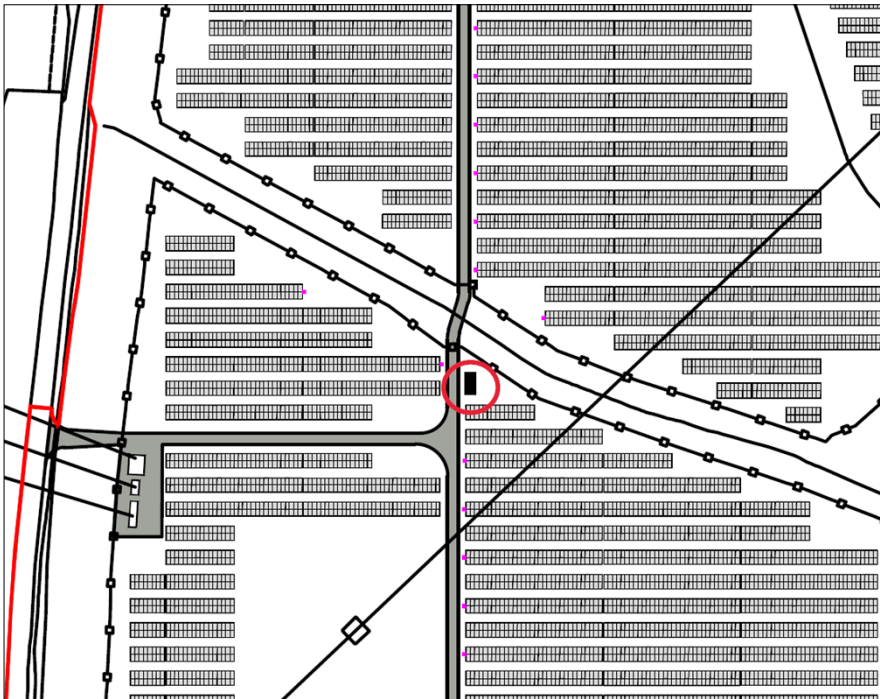


Figure 8: Location of one of the Transformer Stations (circled)

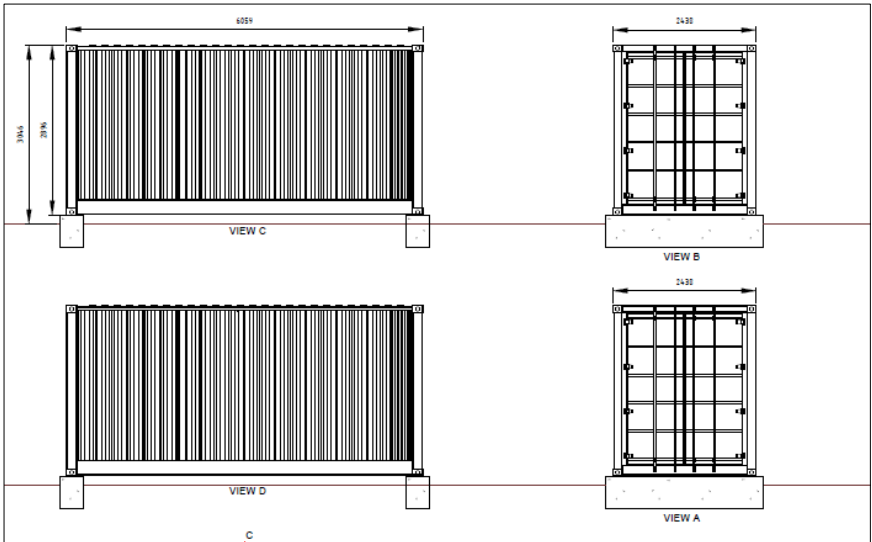


Figure 9: Proposed Transformer Station Elevations

3.15 On-site electrical **cabling** would be required to connect the solar panels to the string inverters, to the transformer stations, to the proposed DNO Substation and control centre. It is proposed that cable trenches would run parallel and adjacent to the on-site access tracks and fence lines. Marker posts would clearly demarcate the location of the cables. Cabling will also be required for

power and data transfer associated with the CCTV system. This would generally follow the perimeter fence lines where the CCTV cameras would be located at 150m spacing. In any areas of archaeological sensitivity, surface mounted cable trunking is proposed.

3.16 The DNO **Substation** building is proposed to be located close to the Switchroom Building and Control Centre to the west of the site as shown in Figure 10. The illustrative design for the DNO Substation is shown in Figure 11 below, and it would be finished in a green.

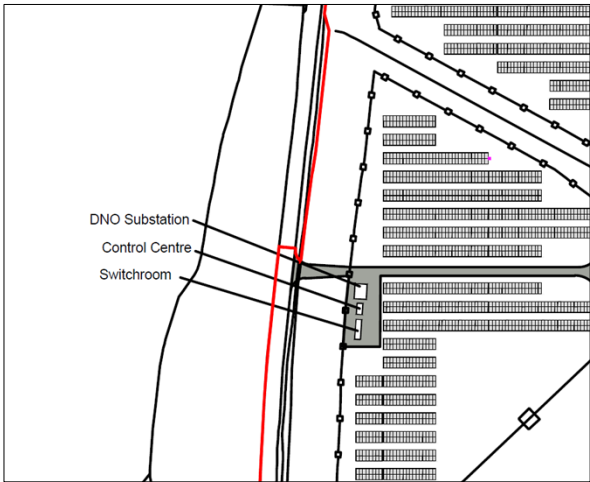


Figure 10: Location of Substation, Switchroom and Control Centre

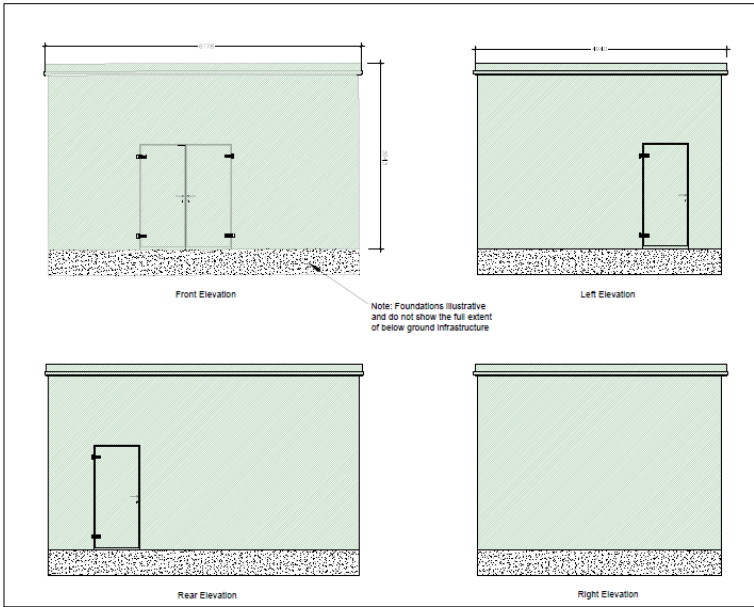


Figure 11: Proposed Substation Elevations

3.17 The anticipated design for the Switchroom building is shown in Figure 12, and it is also proposed to be finished in a green colour.

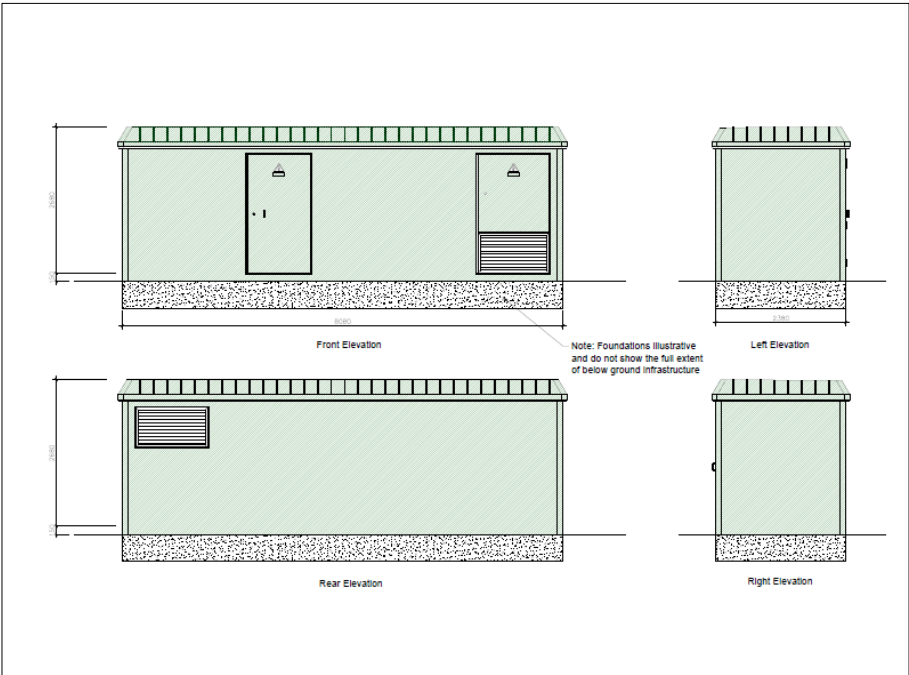


Figure 12: Proposed Switchroom

3.18 The **Control Centre** would contain monitoring equipment. Given that the solar farm would not be permanently occupied by staff no welfare facilities are proposed. The Control Centre would be located with the Substation and Switchroom building, as shown on Figure 10. The building would also be finished in a green colour. Proposed elevations of this building are shown below.

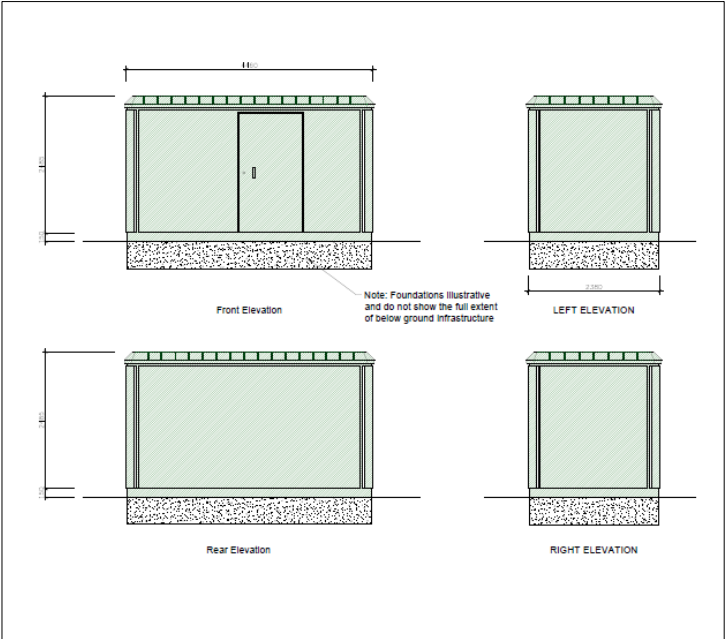


Figure 13: Proposed Control Centre

Access Tracks

- 3.19 The applicant proposes to utilise the existing Stone Street access to the west of the site however widening works would be required to allow for construction vehicles to access the site. The development proposes the creation of approximately 750m of access tracks within the site which would be 3.5m wide. The tracks would be constructed from Type 3 stone within a geogrid over a geotextile membrane. It is proposed that excavated material would be reused.
- 3.20 It is proposed that construction traffic would access the site via the M20 J11 and the B2068. The necessary on-site plant is likely to comprise of small-scale mechanical pile driving rigs, 360° excavators, dumper trucks and rollers, trenching machines, telehandlers, and cranes.

Fencing, CCTV & Lighting

- 3.21 It is proposed that the project would be set within deer/stock proof fencing (post and wire) in 2 sections, approximately 2.1m in height, and which would include appropriate clearance and mammal gates to allow continued animal movement. The details of this are shown below in Figure 14.

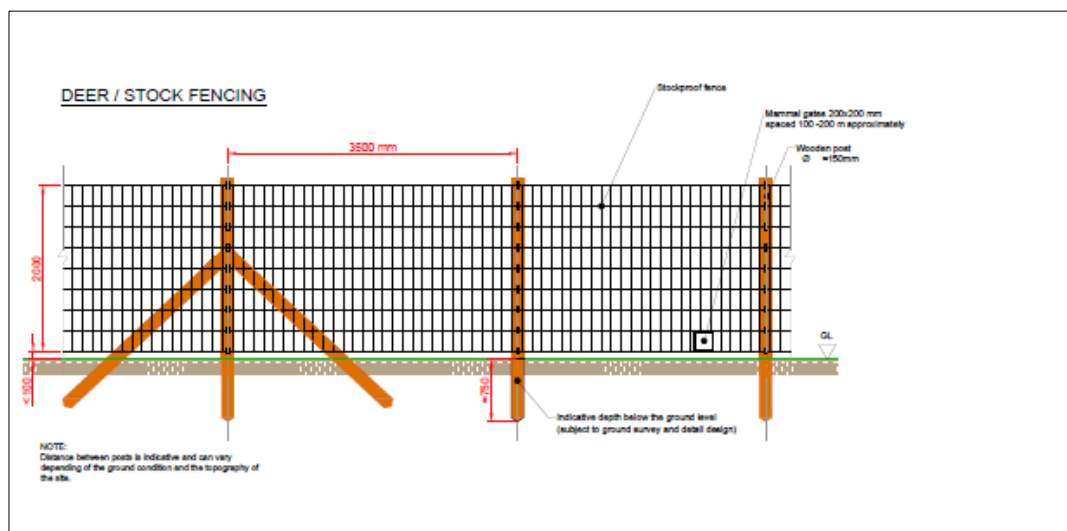


Figure 14: Proposed Fencing

- 3.22 In terms of security a CCTV system is proposed that would comprise pole mounted CCTV cameras which would be spaced every 150m. The CCTV poles would have a maximum height of 3m and would generally have one pan-tilt-zoom (PTZ) camera focussed along the boundary. At certain locations two cameras would be installed so that they can be targeted on specific locations. All cameras would operate using infra-red technology and so would produce no visible light.
- 3.23 The solar farm would not be permanently lit during the operational phase. Lighting would be limited to the Switchgear Building and Control Buildings. Low level lighting would be positioned above access doors and would only be activated by passive infra-red (PIR) sensors for security/emergency purposes or when switched on by a maintenance engineer.

- 3.24 Lighting would also be required during the construction and decommissioning phases of the development which are anticipated to last approximately 32 weeks. During these phases the potential sources of lighting are expected to comprise of headlights from construction traffic and plant, temporary fixed lighting associated with construction compounds including welfare facilities, motion activated security lighting and small scale task lighting for construction activities that occur outside of daylight hours. Construction and decommissioning activities are expected to be limited to 07.30 – 18.00 Monday to Friday and 08.30 – 18.00 on Saturdays and Sundays.

Grid Connection

- 3.25 This point of connection to the grid would be the Stanford Electricity Substation. The connection would follow the B2068 for an approximate 210m length to connect into the substation, via the existing substation entrance.

Landscaping, Environmental and Biodiversity Enhancements

- 3.26 The soft landscape proposals are intended to build on the existing landscape features and seek to:
- Retain existing vegetation patterns as far as practicable by maintaining a minimum 6m buffer between field boundary hedgerows and woodland, and the stock fencing around the development areas;
 - Create 9m buffer zones to existing ditches within and around the boundary of the site, with riparian habitats and grasslands alongside the ditches enhanced for ecological benefit;
 - Create buffer zones between fence lines and field boundaries for habitat connectivity, either seeding these areas with species-rich grassland mixes or allowing natural regeneration and colonisation by local species;
 - Creation of large-scale species-rich grassland with parts of the solar farm for wildlife benefit;
 - Creation of woodland areas including both dry and wet woodlands for
 - landscape integration and visual screening, and to provide ecological benefits;
 - Creation of wildlife ponds to further support invertebrates and amphibians across the site, contributing to the mosaic of habitats present;
 - Utilise native species trees and shrubs that are characteristic of this part of the Kent Downs, whilst diversifying the range of native species in the local area to reduce biosecurity threats from pests and disease;
 - Retain agricultural activity across the site by grazing parts of the site, promoting regenerative agriculture by careful management of livestock levels.
- 3.27 In addition, the applicant proposes to provide a number of bat and bird boxes around the site to increase nesting opportunities, replace the stiles at either end of the footpath in the south-west corner and south-east corner of the site to improve access; and provide interpretation panels adjacent to the public

footpath in the south of the site to raise awareness of the climate emergency, biodiversity emergency, and to explain the benefits of the development in delivering environmental net gains alongside renewable energy generation.

- 3.28 The applicant states that the development would deliver a significant biodiversity net gain of +86% in Habitat Units, and +48% in Hedgerow Units, which is above the mandatory requirement of 10% set by the Environment Act, and 20% set as a target by the AONB Management Plan;

The Applicant and Landowner

- 3.29 RNA Energy Ltd is a UK energy developer specialising in delivering low carbon energy infrastructure in partnership with private landowners since 2015.
- 3.30 The landowner at Pent Farm seeks to diversify the farm in such a way that contributes to tackling the Climate and Biodiversity Emergencies by taking land out of intensive arable production to facilitate renewable energy generation alongside environmental and biodiversity improvements.
- 3.31 The following reports were submitted by the applicant in support of the proposals. The below is a summary by officers of the contents of the reports submitted by the applicant.

Planning and Design and Access Statement

- 3.32 The Design and Access Statement (D&A) considers the local and national planning policy, the site context and provides a summary of the proposed scheme with information related to the proposed infrastructure, layout, and landscaping. The D&A concludes that the proposal would preserve the character of the site, surrounding area and AONB and will help to address the climate emergency. The D&A is summarised as follows:
- 3.33 The D&A states that the development would assist in delivering the need for renewable energy development in the context of the legally binding net zero target established by the Climate Change Act 2008 (2050 Target Amendment) Order 2019. A very ambitious sub-target for decarbonising the electricity system by 2035 has recently been announced by Government and the scheme would assist in achieving this sub-target.
- 3.34 National Grid ESO's Future Energy Scenarios (and associated data) make it very clear that the development of solar PV and other renewable energy sources needs to be accelerated to achieve this net zero target by 2035.
- 3.35 At a local level Folkestone and Hythe has declared a climate emergency, demonstrating their commitment to tackling climate change and reducing carbon emissions. Action is required now to dramatically alter the current path of future greenhouse gas emissions within the district and nationally. In terms of current electricity usage across the district, there is a substantial shortfall in renewable energy generation to meet electricity needs both within the district,

and in the wider region. It has also been established that there was very limited growth in renewables within the district over the past decade, and that there are no schemes currently in planning in the district to meet the growing electricity need.

- 3.36 The development is financially and technically viable and can be brought forward well in advance of 2035 to start delivering the reductions in CO2 envisaged by legislation and national and local policy & strategy. The development would theoretically supply up to 5,568 houses in the district, equivalent to approximately 11% of existing houses, or 56% of the almost 10,000 homes proposed at the new Otterpool development.
- 3.37 The principal constraint to development at the site is its location just inside the Kent Downs National Landscape (formally known as the Kent Downs AONB), with the point of connection at the Stanford substation also located within the designated landscape.
- 3.38 The applicant and landowner has selected a part of the farm for the development which would have the least visual impact both on local residents and on recreational users of the landscape. The site is characterised in part by the infrastructure which crosses it, including the high voltage pylons and power lines which detract from views and the scenic quality of views at a local scale. It is therefore not a part of the AONB with clear and uninterrupted views from the scarp of open countryside, with an absence of development.
- 3.39 The scarp slope of the AONB extends for almost 90km along the southern edge of the Kent Downs AONB, between Westerham in the west and Folkestone in the east. The development would be visible, intermittently, from locations within an approximate 3.5km section of the scarp slope. This represents localised visual effects to approximately 4% of the scarp.
- 3.40 Along the almost 90km extent of the scarp the landscape quality and scenic quality of views are varied in relation to nearby land uses. The proximity of the M20 and M25 corridors, other large-scale infrastructure, and large towns such as Ashford, Maidstone and Folkestone do not harm the integrity of the natural beauty of the AONB, despite often having localised significant adverse effects. Views from the scarp are therefore not unspoilt, and development in the setting of the scarp is not uncommon.
- 3.41 Whilst the development would result in localised adverse effects to landscape character and specific views, it would not affect the special qualities of the AONB and would in turn not affect its overall natural beauty.
- 3.42 The AONB sustainable development principles include renewable energy and the AONB Position Statement sets out that renewable energy schemes are to be of an appropriate scale and location. The predicted landscape effects would be localised in relation to the AONB, and consolidated at the edge of the AONB, where there are existing infrastructure land uses, via pylons and the Stanford

substation. In this regard, it is considered logical in landscape and visual terms to consolidate these land uses.

3.43 Taking account that the adverse effects are reversible, the proposed development is considered to result in an acceptable level of landscape and visual effects and the mitigation would moderate the effects to the AONB.

3.44 The development represents sustainable development. Whilst there is a degree of tension with the NPPF, adopted and emerging development plan policies in respect of development in the AONB, it is considered the effect of this development is moderated, and that in this instance there are clear exceptional circumstances which justify what is a limited development with substantial public benefits. The development would also provide significant benefits as follows:

- Delivering to rapidly reduce greenhouse gas emissions and support the transition to net zero in the push to tackle the climate emergency;
- Supporting nature recovery through the creation of a mosaic of interconnected new habitat corridors comprising approximately 85,000m² of wildflower meadow, 20,000m² of woodland, 4,000m² of wet woodland, 1,200m² of willow and osier beds, 8,000m² of woodland edge / scrub habitat, and 250m of new hedgerow;
- Delivering climate mitigation through the carbon sequestration potential of the mosaic of above newly created habitats, whilst simultaneously taking the land (which is not best and most versatile) out of agricultural use, which will also have carbon benefits through protection of soils and reduction in use of agricultural fertilisers;
- Increasing the stock of natural capital to support ecosystem services in a localised part of the AONB;
- Providing a substantial biodiversity net gain of +86% in Habitat Units, and +48% in Hedgerow Units, which will be committed through a landscape management plan for a period of forty years, with the woodland, hedgerows and other planted areas retained in perpetuity;
- Supporting farm diversification for a landowner that wishes to contribute to tackling the climate and biodiversity emergencies;
- Supporting the local economy and improving local employment through the creation of jobs in maintaining the solar arrays and the newly created habitats; and increasing understanding of climate change and climate action and raising awareness for multiple environmental benefits delivered by solar farms in tackling the climate and biodiversity emergencies.

- 3.45 The site is not best and most versatile agricultural land, and there would be no significant adverse harm to heritage assets.
- 3.46 The limited harm to the local landscape is significantly outweighed by the immediate and pressing need from renewable energy generation in response to the Climate Emergency and Biodiversity Emergency. The development can be delivered immediately to begun reversing the harm of each.

Environmental Statement Volume 1 (Non-Technical Summary)

- 3.47 The Non-Technical Summary contains a brief description of the proposed development and a summary of the Environmental Statement (ES), expressed in non-technical language. Volume 1 also includes a summary of the overall likely significant environmental impacts of the Proposed Development.

Environmental Statement Volume 2 (Main Report)

- 3.48 The ES Main Report contains the detailed project description; an evaluation of the current environment in the area of the proposed development; the likely significant environmental impacts of the scheme; and details of the proposed mitigation measures which would alleviate, compensate for, or remove adverse impacts identified in the study.
- 3.49 The ES has been prepared in accordance with legislation that requires the environmental impacts of developments to be assessed during construction, operation, and decommissioning.
- 3.50 The ES references agreement with the Council for the scope of the EIA as a whole:

2.4.3 An EIA Scoping Letter (Appendix 2-3) was submitted to FHDC on 8th December 2022, which set out for each topic area the potential for significant environmental effects, and which topics were proposed for inclusion within the Environmental Statement (ES). The EIA Scoping Letter concluded that all environmental topics could be scoped out of the ES with the exception of landscape and visual effects, where given the location of the site within an AONB it could not be demonstrated with certainty that the proposed development would not result in significant effects.

2.4.4 An EIA Scoping Opinion (Appendix 2-4) was received from FHDC on 6th January 2023 which confirmed the scope of the proposed ES, with all matters apart from Landscape and Visual Impact agreed to be scoped out.

- 3.51 Paragraph 5.3.1 of the ES references consultation with FHDC and Kent Downs AONB with reference to the LVIA:

5.3.1 Consultation has been undertaken with FHDC and Officers from the Kent Downs AONB Unit on the LVIA assessment methodology, viewpoint and photomontage locations during the Scoping Opinion.

- 3.52 Chapter 2 of the ES offers a summary of the LVIA methodology. The full methodology is set out in Appendix 5-2 (March 2023).

- 3.53 The ES advises that the LVIA methodology follows recommendations and guidelines set out in recognised sources of guidance published by the Landscape Institute, including Landscape and Visual Impact Assessment, Third Edition (GLVIA3), Assessing Value outside of national designations (LI 2021) and Guidance Note 06/16 2019: Visual Representation of Development Proposals, which is consistent with recognised good practice.
- 3.54 The ES states that the landscape character of the site is assessed as not being fully representative of the special landscape components of the AONB as set out in the AONB Management Plan, as there is no dramatic landform, rich biodiversity or high sense of tranquillity and remoteness within the site. It states that where the site is representative of the arable land use and vegetation, these are common features, such that the site is not unique or rare in its features and contribution to the AONB.
- 3.55 The ES states that the pattern of landform across the study area is dominated by the scarp to the north of the site, which forms a physical divide between more elevated undulating landform across the northern part of the study area and the lower lying vale across the southern part of the study area. The site is part of this lower lying vale, with the vale consisting of a complex pattern of undulating landform formed by numerous watercourses. It states that the close proximity of the scarp slope to the site therefore physically encloses the site in relation to the northern and western parts of the study area, whilst the site is contiguous with landform extending across the base of the scarp slope between the B2068, Postling and the M20.
- 3.56 The ES sets out that the study area consists of a range of land uses via agriculture, settlements of varying scales, road networks and infrastructure stating that there is generally a greater concentration of development across the southern part of the study area via the M20 and larger scale settlements, in contrast to the smaller scale settlement pattern across the northern part of the study area. Further the ES states that the site is located in a part of the AONB which is already characterised by infrastructure land uses, via the Stanford sub-station to the south and the pylons, as well as changes to the agricultural land use via the airfield to the east. The site is therefore considered to be part of a more developed landscape, both within the AONB and its setting.
- 3.57 Views towards the site are considered to be substantially influenced by the landform across the study area, with Figures 5-4A-C demonstrating no theoretical visibility of the proposals from across most of Postling and Stanford, as well as a reduced visibility from along the scarp slope to the north of the site. The theoretical visibility of the proposed development is also considered to be very localised to the north and west of the site due to the scarp slope and is concentrated between the base of the scarp slope and the M20.
- 3.58 Referencing the drawings for determination and the Landscape Proposal Plan, a series of design principles have been established to avoid landscape or visual impacts and embed mitigation into the design of the development.

- 3.59 In terms of likely landscape and visual effects, during the construction phase, there would be activity across the fields within the site to implement the solar panels, new ponds and associated structures, along with the access route between the B2068. The construction phase would therefore result in significant adverse landscape effects at the site level, local landscape character level and to the AONB published landscape character assessment areas.
- 3.60 The construction activity would be visible for recreational receptors across the scarp slope to the north of the Site and elevated land to the east of the site. There would also be varying visibility of the construction phase from across the vale to the east and south of the site, such that significant adverse visual effects are predicted during the construction phase to many of the identified visual receptors.
- 3.61 At year 1 of operation, the development would result in a change in land use in comparison to the agricultural fields and a greater infrastructure character in comparison to the overhead pylon and its associated wires within the site. The colour tone of the solar panels would be a change from the tonal colours of the fields, reducing the aesthetic, scenic quality and perception of the site. Therefore, there would be significant adverse landscape effects at the site level and at the local scale in relation to the vale landscape which the site is a part of and in relation to the scarp slope, due to the perception of the proposed development.
- 3.62 Similarly, the development would be visible for recreational receptors along parts of the scarp slope and elevated land to the east of the site. The visibility of the solar panels would be varied from recreational routes across the vale to the east and south of the site, decreasing with distance from the site. Therefore, significant adverse visual effects are predicted during at year 1 of operation to a localised and low number of visual receptors.
- 3.63 By year 10, the establishment of the proposed planting, even in winter, would increase the enclosure to the site and reduce the perception of the development. With the exception of the retained change in land use at the site level, no significant adverse landscape effects are predicted to the landscape character areas at year 10 of operation winter.
- 3.64 Visually, the number of significant adverse visual effects would also reduce in comparison to those at year 1, to receptors either to the immediate north of the site on the scarp slope or crossing the southern part of the site in winter.
- 3.65 In relation to the Kent Downs AONB, the geographic extent of the development would be very small, although the perception of the change would be from beyond the site boundary, mainly due to the elevated scarp slope to the north and north-east of the site.
- 3.66 In relation to the stated special landscape components, characteristics, and qualities of the Kent Downs AONB, the proposed development would not alter

the dramatic landform of the scarp slope. The relative low height of the solar panels and associated structures, along with the low lying position of the site, would also enable long distance and panoramic views to remain across the wider landscape from the scarp slope.

- 3.67 The proposed development would respond positively to the special qualities of the AONB through providing an improved vegetation cover across the site and increasing the opportunities for biodiversity, as well as woodland and tree coverage, which are key characteristics of the AONB.
- 3.68 The proposed development would result in a change in land use and a reduction in tranquillity due to the panels. But this change in tranquillity would be to a part of the AONB where the tranquillity is already reduced due to the varied land uses across the vale, at the base of the scarp slope, which include pylons, an airfield and settlement.
- 3.69 The landscape and visual change would therefore be to a part of the AONB which is not fully representative of the special landscape components of the AONB. There would be no change to the character of the night sky and dark skies associated with the perceptual elements of the AONB.
- 3.70 In conclusion the ES states the following:
- a) The proposed development would result in a low number of localised significant landscape and visual effects once the proposed planting has established. These tiers of effects are common for solar farm developments, where there is an obvious change in land use and the introduction of new structures and massing within fields.
 - b) The pertinent matter is that there would be no loss of key landscape features and the proposed development would respond positively to the stated guidelines by improving the opportunities for biodiversity and screening the solar arrays.
 - c) The AONB sustainable development principles include renewable energy and the AONB Position Statement sets out that renewable energy schemes are to be of an appropriate scale and location. The predicted landscape effects would be localised in relation to the AONB, and consolidated at the edge of the AONB, where there are existing infrastructure land uses, via pylons and the Stanford sub-station. In this regard, it is considered logical in landscape and visual terms to consolidate the proposed development with these land uses.
 - d) Taking account that the predicted landscape and visual impacts are reversible, the proposed development is considered to result in acceptable levels of landscape and visual effects and the mitigation would moderate the effects to the AONB in respect of NPPF, such that the proposed development would not harm the natural beauty of the AONB.

Environmental Statement Volume 3 (Figures)

- 3.71 This volume of the ES contains the Figures that support it and are referenced within the Main Report.

Environmental Statement Volume 4 (Technical Appendices)

- 3.72 Volume 4 of the ES includes the details of the methodology and information used in the assessment, detailed technical schedules and, where appropriate, raw data.

Site Selection and Environmental Strategy

- 3.73 This document presents the approach taken to site selection that has resulted in the locating of the proposed development within the Kent Downs AONB. The document also sets out the design strategy for the site, along with supporting sections and photomontages to illustrate the scale of the development within the landscape.
- 3.74 The site was selected due to a number of different factors including the availability of a grid connection. In addition, access, location next to the existing substation and visual considerations also formed part of the selection process.
- 3.75 The applicant considered a number of alternative sites located outside of the AONB (albeit located within its setting). The search area extended approximately 2km from Stanford substation, with a requirement for either previously developed or greenfield land with a minimum area of approximately 25 hectares, and with land or field boundaries that were of a suitable scale to accommodate solar development. These alternative sites were excluded due to technical considerations or as a result of identified visual impacts.

Transport Statement

- 3.76 The Transport Statement (TS) seeks to inform the Local Planning Authority and the Local Highway Authority, of the anticipated highways and transportation matters associated with the proposed development.
- 3.77 The TS sets out that construction and maintenance traffic will access the site from B2068 Stone Street via the M20 Junction 11, utilising the existing access point.
- 3.78 The local highway network is considered to be modestly trafficked and it is anticipated that most trips would be of a limited and temporary nature.
- 3.79 The report states that the site access arrangements are considered to be appropriate for the scale and nature of the development.
- 3.80 The TS assessed the traffic generation of the construction phase only, which will take place over a 32-week period. Once operational, trips to the site would be limited to the occasional LGV accessing the site for maintenance purposes, on average once a month and is considered to be de minimis in nature.

- 3.81 The trip generation of the construction period has been forecast using a 'first principles' approach based on experience of promoting other solar farms nationally.
- 3.82 The report states that in total, there would be a maximum of approximately 74 two-way movements per day during peak activities for 4 weeks of construction (W5-W8). This is inclusive of delivery-related movements and staff trips.
- 3.83 It is anticipated that for the remainder of the construction period, W9-W32 (24 weeks), there would be a maximum of approximately 42 two-way movements per day on average, inclusive of delivery-related movements and staff trips.
- 3.84 The TS concludes that the level of trip generation is not considered to be significant and would only take place over a limited and temporary time period.
- 3.85 Overall, the TS states that there should be no highway or transport reasons to withhold planning permission for the proposed development.

Transport Statement Addendum

- 3.86 This addendum has been prepared in response to the initial consultation comments of Kent Highways and Transportation. The additional information relates to crash data and the access that is proposed to be widened in line with KHS advice to allow the safe movement of vehicles.

Heritage Impact Assessment

- 3.87 There is considered to be a low potential for Palaeolithic, Mesolithic, Neolithic, Bronze Age or Iron Age remains to be encountered within the site, given the relative paucity of evidence for heritage assets dating to the prehistoric periods within the study area. There is also limited evidence for Roman activity across the majority of the study area and the potential for Roman remains across the majority of the study area is considered Low.
- 3.88 However, within a limited 20m wide linear area that borders Stone Street on the along the western boundary of the site, the potential for finds or features dating to the Roman period is considered to be Medium. There is considered to be a Low potential for early medieval, medieval, post-medieval, modern and undated remains to be encountered within the site. Any remains of this date that survive within the site would most likely be agricultural in nature.
- 3.89 Although the archaeological potential of the site appears to be Low based on known evidence, the possibility of encountering archaeological remains cannot be discounted and as such it is advised that Folkestone and Hythe District Council, as advised by the Heritage Conservation Service at Kent County Council, may require further archaeological investigation by intrusive means to determine the nature and extent of any surviving archaeological remains within

the site prior to development. Most Roman roads were 4-5m in width and thus 20m either side of the road is considered to encompass the likely influence of the road on the immediate landscape as well as likely incorporating the zone in which any artefacts associated with the construction and use of the road by travellers may have been dropped or deposited. As Stone Street which follows the line of the Roman Stone Street is on the western boundary of the site it is recommended that a watching brief should be undertaken on any intrusive works within a limited 20m wide linear area that borders Stone Street along the western boundary of the site. Any such archaeological mitigation could be undertaken as a condition of planning consent would be determined by the Heritage Conservation Service at Kent County Council. The NPPF states that a local planning authority should require developers to 'record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact' (MCHCLG 2021a, Para 205). As such, it is advised that any mitigation measures should take into account the relatively minimal impact of the proposed development.

- 3.90 Site visits undertaken for this assessment found that the site has very limited intervisibility with designated heritage assets within the surrounding 2km study area. Where Low-level effects have been assessed upon the setting of the assets on Tolsford Hill the level of harm is considered to be 'less than substantial' in NPPF terms. This 'less than substantial harm' will require to be weighed against the public benefits of the proposed development in line with Paragraph 202 of the NPPF.

Glint and Glare Assessment

- 3.91 The Glint and Glare Assessment looks at the potential impact on a number of different receptors which in this case are aviation, roads and dwellings.

Pent Farm Airstrip

- 3.92 No solar reflections are predicted towards the 2-mile approach path for runway 05. No impact is predicted, and no mitigation is required.
- 3.93 The analysis has shown that solar reflections are predicted towards the 2-mile approach path for runway 23, between the threshold and 0.3-miles; with glare intensities of 'potential for temporary after-image' predicted. There are mitigating factors that reduce the overall impact. In particular, effects are predicted to occur for a short duration of time throughout the year (2025 minutes which is 0.771% of daylight hours), maximum duration would be for less than 20 minutes on the days when the glare is possible, reflections are predicted to coincide with direct sunlight.
- 3.94 Overall, it is judged that the potential effects towards the runway 23 approach at Pent Farm Airstrip can be operationally accommodated. It is expected that operational measures used by pilots to mitigate the effects of direct sunlight will

adequately mitigate the effects of solar glare from the panels when on approach for runway 23 at Pent Farm Airstrip.

- 3.95 It is recommended that the potential glare times are made available to the owner of the airfield.

Harringe Airfield

- 3.96 Harringe Airfield is situated approximately 4.1km south-west of the proposed solar development.

No solar reflections are predicted towards the 2-mile approach path for runway 01. No impact is predicted, and no mitigation is required.

- 3.97 The analysis has shown that solar reflections are predicted towards a 1.5-mile section of the 2-mile approach path for runway 19. Solar reflections originate outside a pilot's primary field-of-view (50 degrees either side of the approach). This is deemed acceptable in line with the guidance and industry standards; a low impact is predicted, and no mitigation is necessary.

- 3.98 Bonnington Airstrip

- 3.99 Bonnington Airstrip is situated approximately 8.5km south-west of the proposed solar development.

- 3.100 Any solar reflections towards Bonnington Airstrip are predicted to be acceptable in accordance with the associated guidance. Factors determining this are either due to solar reflections occurring outside a pilot's field-of-view (50 degrees either side of the approach bearing) or predicted low glare intensities. Therefore, no significant impacts are predicted upon aviation activity at Bonnington Airstrip and detailed modelling is not recommended.

Roads

- 3.101 Solar reflections are geometrically possible towards a 0.8km section of Blindhouse Lane and a 0.9km section of Stone Street (B2068). Screening in the form of existing vegetation, proposed vegetation and intervening terrain is predicted to significantly obstruct views of reflecting panels. No impact is predicted, and no mitigation is required.

Dwellings

- 3.102 Solar reflections are geometrically possible towards nine of the 75 assessed dwellings. Screening in the form of existing vegetation and/or intervening terrain is predicted to significantly obstruct views of reflecting panels for these dwellings. No impact is predicted, and no mitigation is required.

3.103 No significant impacts are predicted upon road safety, residential amenity, and aviation activity.

Ecological Assessment Report

3.104 An extended habitat survey was carried out in December 2022. A Breeding bird survey was carried out in June 2022.

3.105 Measurable biodiversity impacts associated with the proposed development have been calculated using the Defra Biodiversity Metric 3.1 Calculator.

3.106 A number of priority habitats were identified within the site such as hedgerows, deciduous woodland, chalk rivers and lowland farmland. An ancient woodland is located within 500m of the site.

3.107 The site consists of four arable fields bounded by species poor native species hedgerows and drainage ditches. Hedgerow species included field maple, hawthorn, sloe, and bramble. Scattered trees are also present on-site, comprising poplar, willow and maple. In the northern part of the site lies an area of broadleaved woodland, meeting the description of lowland mixed deciduous woodland. Two recently constructed ponds are located within the south of the site, with an additional pond located along the western boundary.

3.108 Habitats within the site including hedgerows and scattered trees provide suitable habitat for nest creation for typical farmland species. In addition, arable habitats provide suitable habitat for ground nesting species including skylark.

3.109 Notable Species recorded breeding within the site included three Red List species (linnet, skylark and yellowhammer) and five Amber List species (reed bunting, song thrush, woodpigeon, whitethroat and wren).

3.110 Five Notable Species recorded breeding within the Site are listed as rare and most threatened species under Section 41 (S41) of the Natural Environment and Rural Communities (NERC) Act (2006) (linnet, reed bunting, skylark, song thrush and yellowhammer).

3.111 Breeding territories of Notable Species were typically low in numbers and associated with vegetation along field boundaries and woodland habitats within and adjacent to the site. Skylark were the only ground nesting species recorded breeding within the site with three territories.

3.112 Data included records of nine bat species, including 181 non-roosting records and 118 roost records. No roosts were located within or immediately adjacent to the site. Species recorded included common pipistrelle, soprano pipistrelle, Nathusius' pipistrelle, brown long eared bat, Noctule, Natterers' bat, whiskered bat, Daubenton's bat and serotine bat. A review of MAGIC identified one roost record, permitting the destruction of a common pipistrelle and brown long eared resting place. No buildings or trees were identified within the site that offer suitable habitat for roosting bats. Areas of woodland edge, hedgerows and

- ditches within the site offer suitable foraging and commuting habitat for bats, however these areas are relatively fragmented at a landscape scale.
- 3.113 No evidence of badger was observed during the field surveys; however, they are considered likely to be present within the wider area. The site provides suitable habitat for foraging and commuting badgers, with suitable sett creation habitat present within the woodland along the northern site boundary and along hedgerow bases.
- 3.114 Habitats within the site are largely suboptimal for this species. The block of woodland to the north of the site may provide suitable habitat, however, is not well connected to other larger blocks of woodland in the wider landscape, and therefore considered unlikely to support hazel dormouse.
- 3.115 Drainage ditches within the site were considered to be sub-optimal for water vole, being steep sided with extensive bank side growth/and or choked with emergent vegetation. Some of the ditches are also ephemeral., further reducing their suitability for water vole.
- 3.116 Ditches within the site were similarly considered unsuitable for otter, with ditches lacking an obvious connection to larger, more suitable watercourses. While the East Stour River is located to the southeast of the site, this is located close to the source and considered sub-optimal for otter at this point.
- 3.117 A review of GCN survey licence returns identified three records of GCN presence within 2km of the site, the nearest of which is located 1.22km south west of the site.
- 3.118 Three ponds are present within the site, with one further pond identified within 25m of the site. It is understood that the two recently created ponds within the southern section of the site were created as part of the GCN DLL programme. These ponds, as well as the pond present along the western boundary and ditches bounding fields provide suitable habitat for great crested newt, however arable habitats provide suboptimal terrestrial habitat for these species. Other species of common amphibian are also likely to be present within the waterbodies.
- 3.119 Data returned one record of slow worm, four records of adder, 17 records of grass snake and 149 records of common lizard. The majority of records were from Farthing Common Reservoir. Field margin habitats provide suitable habitat for common species of reptile, in particular slow worm, grass snake and common lizard. Grass snake may also utilise ditches and ponds within the site.
- 3.120 Arable habitats provide suboptimal habitat for reptiles.
- 3.121 KMBRC returned records of hedgehog and brown hare. In addition, records of several invertebrates were returned, including white letter hairstreak, small heath, and Adonis blue butterfly. No evidence was gathered during the extended habitat survey to suggest the likely presence of other notable

mammal species; however, it is considered that habitats located within the site may potentially support European hedgehog.

- 3.122 Records show no records of invasive non-native species.
- 3.123 No invasive non-native plant species were observed present within the site. Grey squirrel were noted within the woodland to the north of site within the woodland to the north of site.
- 3.124 It is considered highly unlikely that any direct impacts will occur to any statutory designated sites or the habitats and species they support as a result of the proposed solar development. Indirect effects will be similarly avoided through the physical separation distance, implementation of standard good practice drainage management and pollution prevention and runoff control measures during the construction and operation of the proposed development.
- 3.125 Due to the physical separation distance between the site and any non-statutory designated sites, no direct impacts are anticipated to no statutory designated sites. Indirect effects during construction of the proposed development would be avoided through the implementation of standard good practice pollution prevention and runoff control measures.
- 3.126 The layout of the proposed development has been designed to avoid the most valuable habitats, including lowland mixed deciduous woodland, ponds, ditches, and hedgerows. Habitats to be affected by the proposed development therefore comprise entirely arable habitat of low ecological value, and widely present at both a local and national level.
- 3.127 Site access has been designed to utilise existing access points, minimising the impacts to boundary habitats, and maintaining connectivity across the site.
- 3.128 The construction of solar farms generally requires very low levels of direct and permanent land take (typically less than 5% footprint on the ground) for the infrastructure, with effects in constructing relating primarily to the temporary compaction and disturbance resulting from plant and machinery which would be temporary for the construction period with minimal disturbance during operation.
- 3.129 Following construction of the proposed development, the site will be subject to significant ecological enhancements, including the following measures:
- Species Rich Grassland Planting (southern field and all margins);
 - Conservation grazing (northern fields);
 - Woodland and wet woodland planting;
 - Infilling of gappy hedgerows;
 - Pond creation; and
 - Marginal reed planting

- 3.130 Details of ecological enhancements, including habitat creation, management, and monitoring, are provided within the Biodiversity Management Plan for the proposed development.
- 3.131 Woodland and wet woodland creation will significantly expand the woodland block present to the north of the site, with hedgerow and ditch enhancements offering increased connectivity for a wide range of species both within the site and at a landscape scale.
- 3.132 Overall, taking into account the avoidance of the most valuable habitats and significant enhancement measures proposed, the scheme will result in a net gain for biodiversity.
- 3.133 In terms of Biodiversity Net Gain, based on the baseline information gathered during the extended habitat survey and information provided within the Landscape Proposals Plan, the calculation results show that the proposed development will result in a biodiversity net gain of +85.56% in Habitat Units, and +48.25% in Hedgerow Units. The provision of bird and bat boxes also provide biodiversity benefit which is not included in the calculation.
- 3.134 The retention of existing boundary features, alongside significant habitat creation and enhancements to woodland and boundaries, including planting of fruit bearing species, will provide increased foraging and nesting habitat for a range of bird species. It is acknowledged that skylark, a ground nesting species favouring open spaces, were present during the breeding bird surveys.
- 3.135 While skylarks rarely utilise solar sites for nesting, the species will forage within solar farms and incorporate them into their territorial boundaries, in addition, solar sites may represent a valuable foraging resource for skylark.
- 3.136 While there may be a loss in the overall availability of nesting space due to enclosure by panels, suitable nesting habitat is abundant in the local area, including within the landowners' wider holdings. Considering the enhanced foraging opportunities provided by the proposed development, it is considered that the local skylark population will not be adversely affected.
- 3.137 Boundary features will be largely retained and enhanced throughout construction and operation of the proposed development. In addition, substantial habitat enhancements are proposed, including the creation of new woodland areas, ponds, infilling of hedgerow and creation of structurally diverse grassland habitats, all of which will provide enhanced foraging and commuting habitats for bats.
- 3.138 Newly created and enhanced habitats, including woodland and field margin habitats, will provide increased foraging habitat for badger. Perimeter fencing will be permeable to badger, ensuring the species is not excluded from the site, maintain available foraging habitat.

- 3.139 Proposed habitat creation works will include the expansion of the woodland block to the north of the site, as well as the infilling of hedgerows. This proposed habitat creation is considered to increase the suitability of the site for hazel dormouse.
- 3.140 With the implementation of minimum 8m buffer zones from bank tops, no impacts to water vole, if present, are anticipated as a result of the proposed development.
- 3.141 Habitat creation and enhancement will provide increased and enhanced terrestrial and aquatic habitats for GCN and other amphibian species. Similarly to amphibians, arable habitats offer sub-optimal habitat for reptiles, however the field margin and boundary habitats may support common species of reptile.
- 3.142 A BMP has been produced describing habitat creation and enhancement measures, alongside associated management, and monitoring requirements.

Flood Risk Assessment and Drainage Strategy

- 3.143 An assessment of flood risk from all identified potential sources of flooding has been undertaken using best available information to determine a) whether a Sequential Test needs to be applied; and b) whether any specific measures would be required to mitigate flood risk.
- 3.144 The assessment concludes that the site is at a Low, Negligible or No risk of flooding from all identified sources. On the basis of the assessment, it is concluded that the proposals satisfy the requirements of the Sequential Test, and that no sequential assessment of potential alternative sites is required.
- 3.145 The exception test need not be applied for “Essential Infrastructure’ within flood zone 1. Notwithstanding this, the assessment demonstrates that the proposed development may be completed in accordance with the requirements of planning policy subject to the following:
- Existing drainage ditches to be retained, with no development proposed within 5 m of these and the East Stour River.
 - Flood pathways associated with surface water runoff and runoff associated with existing drainage ditches not to be obstructed by inverter and transformer stations, and control, switchgear and storage buildings.
 - Ground under the PV solar panel drip line to be seeded with a suitable grass mix to prevent rilling and an increase in surface water runoff rates.
 - Any new access crossings on existing drainage ditches to be designed to maintain conveyance.
 - The proposed maintenance track to be constructed from a Type 3 permeable pavement aggregate and infiltration trenches to be implemented to promote water quality treatment.
 - Surface water runoff from the access tracks and other areas of hardstanding to be restricted to flow rates to suit local policy, with storage provided within attenuation basins.

3.146 It is concluded that these measures will enable surface water runoff from the developed site to be sustainably managed in accordance with planning policy.

Agricultural Land Classification Survey

3.147 The ALC survey confirms that the whole site falls within Grade 3b agricultural land (moderate quality agricultural land capable of producing moderate yields of a narrow range of crops or lower yields of a wider range of crops). The wetness of the soil is considered to be the most significant limiting factor (Wetness Class III with clay topsoil's).

Noise and Vibration Assessment

3.148 The assessment concludes that the site can be designed to operate such that it complies with all appropriate and relevant noise standards and guidance.

Statement of Community Consultation

3.149 This document sets out the applicant's pre-application public consultation programme to allow members of the community to share their feedback before an application was submitted.

3.150 The consultation resulted in 57 responses from residents, with a majority expressing support for the proposals and a need to switch to renewable energy.

3.151 The report reflects the views expressed by residents, stakeholders and elected members during the public consultation and addresses the feedback received regarding the development.

4. Relevant Planning History

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

22/1258/SCR	EIA Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in respect to a proposal for a solar array, battery storage and associated infrastructure.	Environmental Impact Assessment is required for the proposed development
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22/2118/SCO	Consultation request in respect of EIA Scoping Scoping Opinion under regulation 15 of the Town and Country Planning (environmental impact assessment) Regulations 2017	Opinion Adopted
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5. Consultation

Ward Member: One of the Ward Members, Councillor Hollingsbee is a member of the Planning Committee. Neither of the Ward Members have commented on the application.

5.1 The key consultation responses are summarised below.

Consultees

Postling Parish Council: Object. Commenting as follows:

The application site lies wholly within the Kent Downs AONB, and the nature of the development would have a significant adverse impact on the landscape and scenic beauty of the AONB. AONBs are nationally protected landscapes afforded the same level of protection as National Parks, therefore this is not an appropriate location for a solar farm.

Policy CSD4 of the Core Strategy requires planning decisions to have close regard to the need for conservation and enhancement of natural beauty in the AONB, which will be given the highest status of protection in relation to these issues. This is also reflected in policy NE3 of the Places and Policies Local Plan which requires the natural beauty and locally distinctive features of the AONB and its setting to be conserved and enhanced.

Policy CC6 of the Places and Policies Local Plan states that solar farms will only be acceptable where ‘...the proposal does not have an adverse impact on the landscape character or have any adverse visual impact on the scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, other sensitive local landscapes or heritage assets.’

The council supports renewable energy in appropriate locations and concurs with the Green Party’s statement in their Renewable Energy Policy that ‘...renewable energy is crucial in the fight against climate change, but it has to be in the right place, not in a fragile, protected, rural environment’. Alternative locations on non-agricultural land outside of the AONB are supported.

Councillors support the statement in the Green Party’s Renewable Energy Policy of ‘...making full use of domestic, commercial and industrial roof space and limited deployment of solar farms’ and therefore consider the development at Otterpool to be a suitable alternative location for solar energy generation.

This application fails to meet the primary purpose of AONB designation, i.e. the conservation and enhancement of the natural beauty of the area. The proposal would introduce a large, industrial feature into a currently unspoilt landscape that would fail to conserve or enhance the Kent Downs AONB. It would also be in conflict with policy CC6 of the Local Plan which requires proposals to ‘...not have an adverse impact on the landscape character or have any adverse visual

impact on the scenic beauty of the Kent Downs Area of Outstanding Natural Beauty’.

This application comprises major development on a site within the Kent Downs AONB which is a nationally protected landscape. It is the parish council’s view that the requirements of local planning policy and NPPF para 177 that major development should not be permitted within AONBs except in exceptional circumstances and where public interest can be demonstrated, have not been met.

This application does not demonstrate that development could be provided on less sensitive sites, including outside the AONB. The parish council considers the development does not represent exceptional circumstances nor be in the public interest, given the harm it would inflict on a protected landscape.

The planting, after some time to allow for growth, would provide some screening, but due to the scale of the development would not disguise the impacts on the local landscape.

It is likely that solar panels will be manufactured in China using poorly paid labour then shipped to the UK. The processes to mine minerals and to source the materials needed for associated infrastructure such as cabling, batteries, fencing, etc., all add to solar’s carbon footprint.

The life cycle of a solar panel farm is relatively short. Recent news reports have suggested that there are serious concerns about the disposal of the panels etc., and it is understood that currently only 1% of panels are recycled.

If the proposal was to be approved, conditions should be attached to ensure the site is restored to agricultural use at the end of its term of consent, and all panels and associated infrastructure be removed from the site and recycled/reused as much as possible.

Any future proposals for the site should be based on its current agricultural nature rather than as a brownfield site following solar arrays.

Stanford Parish Council: Comments as follows:

If the application is granted, a condition should be placed that when the solar array is dismantled, the site must return to a greenfield and not deemed to be brownfield possibly allowing for other developments.

KCC Highways and Transportation: No Objection, subject to conditions, following a review of additional information relating to crash data and vehicle tracking.

KCC Ecology: Comments as follows:

With the exception of ground nesting birds, the majority of the habitats within the site which support the species present or likely to be present within the site will be retained and enhanced. As such we are satisfied that the majority of the species interest of the site will be retained if planning permission is granted.

At least 3 territories of skylarks have been recorded within the site and we advise that the proposal will result in the loss of these territories as skylarks will not nest in solar farms. They prefer to nest within areas where they have an unobstructed view of the surrounding area to watch for predators. Skylarks were also recorded outside the redline boundary confirming that suitable habitat for nesting skylarks were not restricted to the development footprint. However, the proposed enhancements are likely to improve foraging opportunities for skylarks and therefore it will increase the foraging resource for skylarks (and other ground nesting birds) within the wider area.

To mitigate the impact of the proposed development the submitted information has detailed that pre commencement surveys for badgers and breeding birds will be carried out and a precautionary mitigation approach will be implemented to clear any vegetation. As the site is currently an actively managed arable field we agree, with the exception of GCN, that this approach is acceptable.

Ponds suitable for GCN are present on site and GCN are known to cross arable fields. Therefore, we recommend that the site is carried out under a GCN DLL Licence. We recommend that a signed Impact Assessment and Conservation Payment Certificate is submitted prior to determination of the planning application.

The report has detailed that the following habitat creation/enhancement will be carried out:

- Species Rich Grassland Planting (southern field and all margins);
- Conservation grazing (northern fields);
- Woodland and wet woodland planting;
- Infilling of gappy hedgerows
- Pond creation; and
- Marginal reed planting

We are supportive of these measures and if they are established and managed appropriately, we do agreed that a Biodiversity Net Gain is achievable. However, the management details that part of the site will be managed under low density grazing and the edge habitats will be managed by cutting it a maximum of twice a year. We advise that information must be submitted confirming that the proposed management can and will be implemented. If the grassland can't be managed as intended, we advise that the anticipated BNG of 85% for habitats is not achievable.

[CPO Comment: If Members resolved to grant planning permission, the GCN DLL licence and confirmation of BNG could be required to be submitted prior to any decision being issued.]

KCC Archaeology: No objection, subject to conditions, stating the following:

The site lies within an area of multi-period archaeological potential and immediately adjacent to the line of Stone Street, the Roman road linking the port at Lympne with Canterbury.

The application has been submitted with an Archaeological Desk-Based Assessment (DBA) which sets out the present understanding of the heritage of the site and its surroundings. Unfortunately, no geophysical survey or field evaluation trial trenching for the site has been undertaken yet, due to access issues related to established crops.

Aerial photographs on our KCC GIS system indicate the presence of some potential soil/crop marks in the cultivated fields, most notably in the north-west and very south-east of the project area. These could be a result of changes in geology but could represent below-ground archaeological features such as ditches. The DBA notes the use of a range of APs, but no features are recognised. It will be necessary to test these possible features, within the wider context of field survey of the whole project area, using geophysics and/or trial trenching, to help inform options for mitigation, including design and layout.

However, given the issue of access during the cropping period and taking account of the likely nature of any below ground remains which will have been subject to cultivation impacts, and also taking account of the nature of impacts associated with this type of scheme, where there will be flexibility for preservation *in situ* of below-ground archaeological remains, it would be reasonable to secure the necessary field evaluation surveys by condition.

KCC Public Rights of Way: Objects stating that these objections may be overcome. Following the receipt of additional information from the applicant the KCC PROW Officer makes the following comments:

It is requested that PROW routes are shown within all application documents for reasons of context and clarity. HE228 was omitted. This would also demonstrate the applicants due regard for the importance of the Network in the area.

Further detail was requested to be given regarding the PROW route, i.e any proposal for improved surface, the exact width given. We do consider that a 2m high fence close to the PROW route with hedging on the other side will likely create an “alleyway” effect if insufficient width is given to the PROW. Views through the fencing due to the nature of it will be views of the solar farm

infrastructure and still impact significantly on the use. We note the intention to replace stiles with gates and again, the detail of the gates must be approved by ourselves as the Highway Authority. Equally, installation of information panels will require PROW and Access approval.

There is concern regarding the significant impact on PROW use from this proposed development. The “physical alignment” will remain as existing, however the impact on user amenity will be severe, the expected ten years before planting maturity does not give sufficient mitigation.

Concerns that the development would have on Landscape and Visual amenity on the wider network use, including the North Downs Way National Trail.

PROW and Access would disagree that there would be a “low number of localized significant Landscape and Visual effects once planting is established”. Planting will take a number of years to reach maturity.

The construction phase will severely impact the PROW use, by the nature of such work there is severe impact on the route as the nature of and experience of use changes completely, and to some extent reduces use.

This project provides an opportunity to improve the PROW network and develop new links for connectivity across the network. Improvements to the quality of existing routes should be considered as positive outcomes of the scheme. The public benefits of such work would help to compensate for any disruption caused by the construction of the solar park and negative effects on the PROW network, which result from the delivery of the solar park and are unavoidable. KCC PROW and Access would welcome discussion with the applicant regarding an appropriate mechanism to secure funding to futureproof the network. We estimate that a request of £60,000 would be made to cover new and improved bridge connectivity to HE228, clearance and surface improvements to HE228, replacement of stiles with gates appropriate for all users at the junction of HE219 with Stone Street.

[CPO Comment: Should Members resolve to grant planning permission it is recommended that a financial contribution of £60,000 is secured by s106 to secure the aforementioned PROW improvements].

KCC Flood and Water Management: No objections subject to conditions. Comments as follows:

1. We understand that well managed grassland is proposed beneath the solar panels and around string inverters to limit any increase in runoff rates due to the development. We have no objection to the use of this method for dealing with runoff from the solar panels.
2. The proposal will also increase peak discharge rates to 8 l/s, significantly higher than greenfield, from other impermeable areas across the site. Whilst

we would not object, as this meets the requirements of individual flow controls being a minimum of 2 l/s, we would expect infiltration testing to be undertaken and used where possible to ensure discharge rates can be kept as low as possible. We would also expect to see consideration given to reducing the number of discharge points into the ditches so as to accommodate a reduction in final rates from the site.

3. Soakage tests must be compliant with BRE 365, notably the requirement to fill the test pit three times, and tests should be completed at the location and depth of proposed features. Detailed design should utilise a modified infiltrate rate and demonstrate that any soakaway will have an appropriate half drain time.

KCC Minerals and Waste: Confirms there are no land-won minerals or waste management capacity safeguarding objections or comments to make regarding this proposed development.

Natural England: Objects stating the following:

The development would have a major adverse impact on the purposes of designation of the Kent Downs Area of Outstanding Natural Beauty (AONB).

The application site falls wholly within the boundary of the Kent Downs AONB. AONBs are nationally important landscapes designated to conserve and enhance their natural beauty. National planning policy affords the highest status of protection in relation to the conservation and enhancement of 'landscape and scenic beauty' and, advises that development in AONBs should be limited in scale and extent. Major development should be refused unless exceptional circumstances can be demonstrated.

As this site is considered by your authority to represent major development in an AONB, it should be assessed against the criteria set out in National Planning Policy Framework (NPPF, 2023) paragraph 177. Natural England is concerned that the scale and location of the proposal would result in major adverse impacts on the special qualities of the Kent Downs AONB. We consider that the harm of this proposal to the AONB cannot be sufficiently moderated through mitigation measures. Given these considerations it is currently unclear how the requirements of paragraph 177 have been met with regards to this proposal.

The proposal appears to be contrary to your own adopted Local Plan. The Places and Policies Local Plan (2020) sets out detailed development management policies to assess planning applications and Policy CC6 'Solar Farms' clearly states, 'The development of new solar farms, or the extension

of existing solar farms, will only be acceptable where...the proposal does not have an adverse impact on the landscape character or have any adverse visual impact on the scenic beauty of the Kent Downs Area of Outstanding Natural Beauty.'

Our in-principle objection notwithstanding we also consider that there are shortcomings in the Landscape and Visual Impact Assessment (LVIA) which lead to it downplaying impacts on the AONB.

Kent Downs National Landscapes: Object. Comments are summarised below:

Following the Levelling-Up and Regeneration Act 2023, which came into force on 26/December 2023 there is a much stronger duty on relevant authorities, which includes local authorities, to ensure that their actions and decisions seek to conserve and enhance AONBs, marking a significant change to the legal context of AONB policy.

This places a legal requirement on Folkestone and Hythe District Council to seek to further the purposes of the conservation and enhancement of the Kent Downs National Landscape in undertaking any action, including planning decisions.

It is recognised that the Kent Downs National Landscape must play its part in reducing emissions. As such, the NL Unit is taking a pragmatic approach to trying to accommodate proposals for renewable energy, particularly within its setting. However, it is imperative that any proposals in the NL and its setting are consistent with the primary purpose of NL designation, i.e. the conservation and enhancement of the natural beauty of the area. We consider that the proposal at Pent Farm would fail to meet this key test as it is not considered that the landscape and visual impacts of the scheme are, or could be made, acceptable.

The proposal would introduce a large scale, discordant and industrialising feature into a currently unspoilt landscape of high value that would fail to conserve or enhance the landscape and scenic beauty of the Kent Downs NL.

As such the proposal is contrary to Policies ENV3 and CC6 of the Local Plan, policy CSD4 of the Core Strategy and paragraph 176 of the NPPF which require the conservation and enhancement of the AONB and for development to be limited in scale and proposals for solar arrays to not 'have any adverse visual impact on the scenic beauty of the Kent Downs Area of Outstanding

Natural Beauty'. While we acknowledge that some aims and principles of the AONB Management Plan are met in the scheme and in particular enhanced landscaping proposed in the Environmental Masterplan and those that seek to respond to the implications of climate change and deliver biodiversity net gain, natural capital enhancements and nature recovery benefits, the proposal would fail to meet the overall aim of the Management Plan, to conserve and enhance the natural beauty of the Kent Downs and would be in conflict with Principles SD1, SD2, SD3, SD5, SD7, SD8, SD11, LLC1 and AEU 14. In addition, the landscape management recommendation set out in the Kent Downs Landscape Character Assessment to protect the open and rural character of the northern part of the LCA and sensitive views from the scarp would not be met.

Furthermore, the application comprises major development on a site within the Kent Downs NL, a nationally protected landscape. Both the NPPF paragraph 177 and local planning policy are clear that that major development should not be permitted within AONBs except in exceptional circumstances and where public interest can be demonstrated; it is the view of the Kent Downs AONB Unit that these stringent requirements have not been met. When considering whether the development is in the public interest it is important to note that AONBs are landscapes whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard them. As such, for the development to be considered to be in the public interest, the potential benefits must outweigh the national significance of conserving and enhancing the natural beauty of the NL.

It has not been adequately demonstrated that the development could not be provided on less sensitive sites, including those outside of the NL. The development does not in our view represent exceptional circumstances, nor would it be in the public interest, given the harm that would arise to a nationally protected landscape. The applicant has sought to moderate the impact on the landscape through a carefully designed Environmental Plan with the incorporation of significant landscaping that would provide enhancement to the local landscape structure. However, if landscape harm is able to be off-set by wider landscape improvements in this way, any new harmful development could be rendered acceptable simply by enlarging the application site and making landscape enhancements on the balance of that site; enhancements cannot be factored into the actual assessment of the level of landscape harm that arises. The scale of the solar array and its highly sensitive rural location would result in significant residual landscape and visual impacts from the development, the impacts of which are not capable of being mitigated and which we consider have been underassessed in the LVIA.

The NPPF provides strong guidance on when major development may be appropriate in NL. It clearly states that permission should be refused for major development other than in exceptional circumstances. This indicates that the very large majority of major developments would be inappropriate within AONBs and should be refused, else those approved would not show exceptionality. In the recent appeal decision on a site in the High Weald AONB at Horsham ((APP/P/Z3825/W/21/3266503, CD 19.12) it was determined that even when the collective benefits of major development were concluded to be of great importance, including through the provision of market and affordable housing, that these were not matters capable of demonstrating the required 'exceptional circumstances'. Any development that is claimed to be permissible as part of an exceptional circumstances case through paragraph 177 must be exactly that – exceptional. It is only by taking a robust approach to the acceptability of major development in NLs that great weight can properly be given to these important national landscapes.

As recognised in the application submission itself (with a finding of moderate and therefore significant adverse impact to landscape character at a site level at Year 10), taken as a whole the proposal would neither conserve nor enhance the natural beauty of the Kent Downs National Landscape.

Should the Council be minded to approve the application it is requested that conditions are imposed relating to the agricultural management of the land for the term of the temporary permission and to ensure that the site is restored to agriculture at the end of the temporary consent, with all elements of the panels and associated infrastructure to be removed from the site. It will also be important to ensure that any subsequent future proposals on the site are assessed against the baseline situation of the agricultural nature of the site as it is now, rather than its more industrialized character following the installation of solar arrays; the assessment of potential AONB impacts provided above is based on the nature of the solar panels as proposed – a different form of development would be likely to have more significant impacts on the setting of the Kent Downs AONB.

Arboricultural Manager: No objections.

Kent Ramblers: Object. Comments are summarised below:

Development in the countryside should be located and designed in a way that protects and enhances landscapes; improves access to the outdoors; works with nature; and supports local communities and sustainable development.

It is recognised that we face a climate emergency, and that urgent action is needed to reduce carbon emissions, reverse nature loss, and create a healthier environment for people and wildlife. The Ramblers support measures to mitigate this by switching to renewable sources of energy including the use of solar PV technology. When there is a need for large-scale solar arrays these should be sensitively situated so that they do not damage valued landscapes.

A public footpath runs along the southern boundary of the site – HE219 Beyond this particular footpath, there is also an impact on the wider network of public footpaths, especially to the north and east of the site, including the North Downs Way National Trail.

One proposed enhancement would see the replacement of stiles at either end of the footpath. Whilst this is to be generally welcomed, it is noted that there is no indication as to whether the footpath will remain open throughout the construction phase should this application be successful. Even a temporary closure of the footpath would require an application to be made to KCC. In such circumstances we would wish to see an acceptable diversion / alternative route to be agreed.

The North Downs Way is in close proximity to the site and is one of 16 national trails. To have attained this status the route must adhere to certain standards that set them apart from other walking routes. It is these high standards that make the national trails, including the North Downs Way, attractive to walkers. The development would be visible for the North Downs Way.

The natural beauty of the landscape in this area is recognised in the designation of the Kent Downs being an AONB. It is this natural beauty that makes this part of Kent such a popular area for walking. The development would be located within the AONB and would detract from the natural beauty of the area.

Should this application be approved, there are concerns that there would be a cumulative negative impact on a significant stretch of the North Downs Way and Kent Downs AONB. Piecemeal applications, such as these, have the potential for making East Kent far less attractive to walkers and tourists alike.

The mitigation proposed do not alter the fact that should this development proceed the character of the area will be transformed and as such will have an adverse impact on the users of the PROW network in this area.

CPRE: Object. Comments are summarised below:

The application is a major development, in the AONB and the presumption against granting permission under paragraph 177 NPPF applies. The applicant fails to take sufficient account of this provision in its Planning, Design and Access Statement. It is accepted that there are benefits from creating solar power, but it is not simply a question of balancing the harm to the AONB against such benefits. To do so is to ignore the special protection against major development afforded in law and by the NPPF to the AONB.

The applicant must demonstrate exceptional circumstances and it is not considered they have done so. The analysis of the potential for alternative sites for solar arrays elsewhere in the district and neighbouring Districts should be questioned. The D&A implies that urban areas are not suitable for a 'solar farm'. Quite so, but the opportunity for solar power generation is vast as highlighted by CPRE's recent research. CPRE have also campaigned hard for new buildings to have solar panels as routine - Otterpool Park could generate power of the same order as this proposal with no additional loss of farmland.

CPRE would challenge the assumption that each district should be hosting its 'fair share' of renewable energy generation. Even if that principle were accepted, there is also no mention of Folkestone and Hythe's potential contribution of nuclear power to greener power generation.

There is increasing awareness in this country of land being a finite resource, especially that suitable for growing crops. At the same time, it has been estimated that at much as 1/3 of farmland would need to be taken out of food production in order to arrest the decline in biodiversity. The crude classification of farmland into classes with only 'best and most versatile' considered worthy of retention is flawed and somewhat subjective. The reality of this case is that the field adjacent to the application site on similar soil can typically yield more than 8 tonnes per hectare of wheat. This is a measure of the tangible loss which would have to be made up from other, probably less sustainable, sources.

In terms of the LVIA, the views from the North Downs Way above the site are entirely rural as far as the M20/railway transport corridor in the mid-distance. The view of Postling with its Grade I church, and wealth of other heritage assets is a classic which should not be ruined by incongruous modern structures in the same vista. It is completely irrelevant to quote the extent to which the proposal impacts views from the North Downs in percentage terms. The comparison of a solar array with a vineyard is also fatuous.

The issue, at heart, is whether the AONB landscape should be sacrificed in the way proposed in this application, in the interests of generating sustainable energy.

The applicant should provide evidence that the grid connection is available.

Public/Neighbour Consultation

- 5.2 271 neighbours directly consulted. 21 letters of objection, 5 letters of support received and 1 letter neither supporting nor objecting to the application.
- 5.3 I have read all of the correspondence received. The key issues are summarised below:

Objections

- The location is unsuitable.
- The development would be located in beautiful unspoilt countryside.
- The development would be harmful to the AONB.
- The natural environment would be permanently altered.
- No amount of planning will mitigate the development and any landscaping would take a long time to establish.
- The development will not benefit anyone.
- The location of onshore renewable energy projects should be the subject of careful planning and consultation.
- This is a commercial decision due to the grid connection.
- Solar panels should be located on brownfield sites or roofs.
- Whilst there is a need for more secure, sustainable energy supplies it should not be at the expense of valuable farmland.
- The land has been farmed for generations (yielded rape, wheat, barley and beans).
- The quality of the soil, is no worse nor better than the surrounding soil in the area. Black grass is due to mismanagement / poor custodianship and overreliance of fertilizers and herbicides.
- The development can't mitigate the impact on communities and wildlife.
- The development would be temporary for a period of 30-40 years and therefore it won't offer a permanent solution to the energy sufficiency question.
- the view would be blighted from the North Downs and there are concerns that once someone has been granted permission in an AONB area it would leave it open for future developments.
- Concerns relating to glint and glare.
- The solar farm will cause distractions to drivers and will be harmful to highway safety.
- The development would not be sustainable.
- Economic benefits would be limited.

- The energy generated would not be significant. The development would be contrary to local and national planning policy and the AONB Management Plan.
- The development would reduce the appeal of the area for tourism.
- There would be a negative impact on wildlife.
- EMF waves have been shown to kill birds.

Support

- Belief in the technology and the benefits it can bring to our planet and local environment.
- we all need to do our part in accommodating such new green infrastructure.
- Supporting local sustainability projects and a primary-phase education programme would be welcome additions to the project.
- the project would have significant public accessibility aspects.
- Climate change is real, and the need for renewable energy is urgent.
- There will be a landscape impact; and there are better places for solar panels such as roofs and car parks. However, this proposal will enhance wildlife habitats, and we cannot allow a short term landscape change stand in the way of a move to green energy.
- The Council declared a Climate Emergency in 2019 and has ambitions for achieving net zero across the district by 2030. This new solar farm will contribute approximately 19GWh of clean renewable solar energy, making a significant contribution to FHDCs objective to be net zero within the district by 2030.
- Solar panels have a small footprint, the land between each solar panel will be converted to grassland and be used as grazing land by livestock.
- The project will bring biodiversity gains from the planting of wildflowers and hedgerows.
- The plans will deliver substantial economic benefits, such as construction jobs and high skilled jobs, as well as other knock on benefits.
- The development will help to create a sustainable future for generations to come and should be fully supported by the council.
- Over the last few years, Pent Farm has already demonstrated its commitment to improving the environment by making changes to its agricultural practices. The success of these changes can be seen in the increased numbers of indicator farmland bird species that now breed on the farm.
- Although this solar farm is in the AONB, it is to be situated on Grade 3b farmland, right next to a major road and an electricity sub-station. If this

application is granted it should not be seen as setting a precedent for granting other solar farm applications on agricultural land. Any further applications should be assessed on their own merits.

- Farmers are encouraged to diversify and seek alternative incomes. Farming has become volatile and proposals like this can provide a reliable income that ensures the success of the allowing it to be passed onto future generations. The loss of family farms - the poorer the local community becomes.

General Comments

- Could vegetables or edible plants can be grown around the solar panels. Would it be possible to ensure that veg or poultry free-range farming could be a pre-requisite of planning permission. This would mean that food production AND clean energy could be produced on the same land and might mitigate many resident's concerns.

5.4 In addition to the comments submitted directly from local residents to the Council, the applicant has provided a further 33 consultation responses submitted via their own consultation website. These comments, which are in support of the application are summarised as follows:

- Pent Farm already provides habitat protection for wildlife to increase biodiversity on their land.
- The solar project will provide important green energy that contributes to sustainability.
- Increased biodiversity s supported.
- The need for green energy production is highly important. Society needs to embrace the progression of clean, renewable energy and help to push the advancement in technology so as to improve its efficiency and make it our primary energy source.
- We need to stop damaging our soils and over farming the land.
- The visual impact would be minimal, as it is a low level solar farm and won't be visible from the majority of locations.
- This would be a good use of land and the land will still be used for farming.
- We should be providing renewable energy solutions where we can.
- The project will make the Country more energy self-sufficient.
- The development would enhance habitats.
- The land can be reverted back to its original use in time if necessary.
- Clean energy is important to serve the increasing population.

- Support wildlife and conservation initiatives.
- Schemes like this are essential to manage the climate crisis.
- Folkestone & Hythe District Council declared a Climate Emergency in 2019 and has ambitions for achieving net zero across the district by 2030. This new solar farm will contribute approximately 19GWh of clean renewable solar energy, making a significant contribution to Folkestone & Hythe's objective to be net zero within the District by 2030.
- The plans will deliver substantial economic benefits, such as construction jobs and high skilled jobs, as well as other knock on benefits.
- The development will help to create a sustainable future for generations to come and should be fully supported by the council.
- The proposals are well thought out.
- Pent Farm, on the south-facing North Downs escarpment would be an ideal location, with minimal intrusion into the daily lives of the people who consume the energy which will be duly generated.
- Pent Farm has a history of working well with environmental protections and creating projects to foster the environment we live in.
- Farm diversification should be supported.
- Solar on an area that is unable to be farmed but is not green belt is an ideal use for the land.
- Solar panels are not unsightly and have no detrimental effect on health as fossil fuels do.
- In terms of impact on the AONB, which is clearly very important, the measures taken to plant trees and hedges will, in time, screen the site.
- The proximity to the existing substation makes the site particularly energy efficient.

5.5 The following issues were raised but are not considered to be material considerations and have been given no weight in the consideration of this application.

- The development would devalue nearby homes.

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

[Planning Register](#)

6. Planning Policy

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

6.2 The relevant development plan policies are as follows:

Places and Policies Local Plan 2020

HB1	-	Quality Places Through Design
E6	-	Farm Diversification
NE2	-	Biodiversity
NE3	-	Protecting the Districts Landscape and Countryside
NE5	-	Light Pollution and External Illumination
CC3	-	Sustainable Drainage Systems
CC6	-	Solar Farms

Core Strategy Local Plan (2013)

SS1	-	District Spatial Strategy
SS3	-	Place-Shaping and Sustainable Settlements Strategy
CSD3	-	Rural and Tourism Development
CSD4	-	Green Infrastructure and Natural Networks, Open Space and Recreation

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

Folkestone and Hythe District Carbon Action Plan and Corporate Plan

Folkestone & Hythe District Council declared a climate and ecological emergency on 24 July 2019. The council has resolved, amongst other things to ensure that all approaches to planning decisions are in line with a shift to zero carbon by 2030. The council is committed to:

- Reduce carbon emissions from its own estate and operations to net zero by 2030.
- To develop a strategy for Folkestone & Hythe District Council to play a leadership role in promoting community, public and business partnerships for this Carbon Neutral 2030 commitment throughout the district.

The Carbon Action Plan was developed and adopted by cabinet in February 2021. It includes a baseline of the council's current carbon emissions and sets out 33 actions to continue the council's journey to reduce carbon emissions to zero by 2030. This range of actions, focus on six key areas - energy, behaviour change, transport, water, contracts, and biodiversity/green spaces.

Further, the Corporate Plan sets out a commitment for a greener Folkestone & Hythe stating that the council will encourage and create a more sustainable district consuming fewer natural resources.

Supplementary Planning Guidance/Documents

The Kent Downs AONB Landscape Design Handbook, 2006

The Kent Downs AONB Management Plan 2021-2026

The Kent Downs AONB Management Plan 2021-2026 is prepared by the Joint Advisory Committee (JAC) for the Kent Downs AONB which includes the twelve local authorities who have joint responsibility to prepare and review the Management Plan, including FHDC. The Management Plan, which forms part of FHDC adopted policy, sets out aims and principles for the management of the AONB.

The plan identifies the key issues, opportunities and threats facing the landscape and sets out aims and principles for the positive conservation and enhancement of the Kent Downs for a five-year period.

The Kent Downs AONB Management Plan 2021-2026 was adopted on 16th November 2021 and is a material consideration in planning matters and should be afforded weight in decisions.

The following principles from the Management Plan are of relevance:

MMP2 The Kent Downs AONB is a material consideration in plan making and decision taking, and so local authorities will give a high priority to the AONB Management Plan

vision, aims, principles and actions in Local Plans, development management decisions, planning enforcement cases and in taking forward their other relevant functions.

SD1 Ensure that policies, plans, projects, and net gain investments affecting the Kent Downs AONB take a landscape led approach are long term, framed by the Sustainable Development Goals appropriate to the Kent Downs, cross cutting and recurrent themes, the vision, aims and principles of the AONB Management Plan.

SD2 The local character, qualities, distinctiveness, and natural resources of the Kent

Downs AONB will be conserved and enhanced in the design, scale, siting, landscaping and materials of new development, redevelopment and

infrastructure and will be pursued through the application of appropriate design guidance and position statements.

SD3 Ensure that development and changes to land use and land management cumulatively conserve and enhance the character and qualities of the Kent Downs AONB rather than detracting from it.

SD5 Renewable and sustainable energy initiatives and energy efficiency measures will be pursued where they help to conserve and enhance the natural beauty and landscape character of the Kent Downs AONB and bring environmental, social, and economic benefits to local people and ensure proposals conform with the Kent Downs AONB Renewable Energy Position Statement and resisted where they do not.

SD7 New projects, proposals and programmes shall conserve and enhance tranquillity and where possible dark night skies.

SD8 Ensure proposals, projects and programmes do not negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting, and views to and from the Kent Downs AONB.

SD11 Major development should avoid the Kent Downs AONB in line with NPPF guidance. Where it is decided that development will take place that will have a negative impact on the landscape character, characteristics, and qualities of the Kent Downs AONB or its setting, mitigation and or compensatory measures appropriate to the national importance of the Kent Downs landscape will be identified, pursued, implemented, and maintained. The removal or mitigation of identified landscape detractors will be pursued.

LLC1 The protection, conservation and enhancement of special characteristics and qualities, natural beauty, and landscape character of the Kent Downs AONB will be supported and pursued.

BD1 Creation of new habitats, wilding and connecting habitat corridors will be pursued, informed by the Lawton principles, landscape character, the needs for new recreation, the needs for resilience and the threats to existing habitats and species. Delivery will be through collaboration to establish resilient, functional ecological nature recovery networks and high-quality green infrastructure.

BD5 The protection, conservation, enhancement, and extension of Kent Downs AONB priority and distinctive habitats and species will be pursued; the Biodiversity Duty of Regard will be actively promoted.

BD9 The opportunities presented by intended Biodiversity Net Gain and other legislative changes are secured in the Kent Downs AONB in a way that support the vision, aims and principles of the Management Plan. Development permitted in the Kent Downs will secure 20% biodiversity net gain subject to

further evidence and testing; any requirement will ultimately be decided and set out individual local authorities' local plans.

AEU 14 Proposals which detract from the amenity and enjoyment of users of the Public Rights of Way network will be resisted.

Kent Downs AONB Position Statement

Photovoltaic Arrays Field-scale photovoltaic offer an economically viable form of commercial renewable electricity and over time can make a contribution to CO2 reduction. However, in this nationally protected landscape characterised by a farmed character and flowing downland with wide panoramic views it is extremely unlikely that any location could be found in or within the setting of the AONB where field-scale photovoltaics would not have a significant adverse effect on the landscape and the sense of remoteness, natural beauty and landscape character for which the Kent Downs are valued. Such installations would directly conflict with the purpose of the designation and statutory management plan objectives for this protected landscape.

Government Advice

Energy White Paper Powering our Net Zero Future (December 2020)

The Energy White Paper sets out the Government's goal of a shift from fossil fuels to clean energy, in power, buildings and industry, whilst creating jobs, growing the economy and keeping energy bills affordable. It also explains that a four-fold increase in clean electricity generation could be required by 2050, due to the retiring of existing carbon intensive and nuclear capacity and the potential doubling of demand from increased electrification (e.g. vehicles and heating).

The White Paper does not target a particular mix of energy generation technologies to meet the 2050 target, stating that the market should determine the best solutions for very low emissions and reliable supply at a low cost to consumers. It states however that a low-cost, net zero consistent system is likely to be composed predominantly of wind and solar.

The White Paper also announced that the Government would review the energy NPS's in order to reflect the policies and broader strategic approach set out in the White Paper and to ensure that the planning policy framework supports the infrastructure required for the transition to net zero.

National Infrastructure Strategy

The National Infrastructure Strategy (NIS) committed to boosting growth and productivity across the whole of the UK, levelling up and strengthening the Union through investment in rural areas, towns, and cities, from major national projects to local priorities. It also committed to government putting the UK on the path to meeting its net zero emissions target by 2050 by taking steps to decarbonise the UK's power networks which together account for over two-thirds of the UK emissions – and take steps to adapt to the risks posed by climate change.

National Planning Policy

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 8 of the NPPF sets out the planning system has 3 key overarching objectives in order to achieve sustainable development. These are:

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective – to protect and enhance our natural, built, and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Paragraph 157 states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. The planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing

resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Paragraph 158 states that plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. As such policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts.

Paragraph 160 sets out that to help increase the use and supply of renewable and low carbon energy plans should:

- a) Provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);
- b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development;
- c) and identify opportunities for development to draw its energy supply from decentralised, renewable, or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Paragraph 163 of the NPPF also states that, local planning authorities should (when they are determining planning applications for renewable and low carbon development):

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;
- b) approve the application if its impacts are (or can be made) acceptable.

Chapter 15 of the NPPF relates to the conservation and enhancement of the natural environment. Paragraph 180 states that planning policies and decisions should contribute to an enhance the natural and local environment by amongst other criteria, protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; in addition, policies and decisions should minimise impacts on and provide net

gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

Footnote 62 sets out that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in the Framework, when deciding what sites are most appropriate for development. It is also noted that the definition of best and most versatile agricultural land within the NPPF includes land in grades 1, 2 and 3a of the Agricultural Land Classification.

Paragraph 182 clearly states 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 (now renamed National Landscapes) 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.

Further paragraph 183 goes on to say that when considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- b) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

(For the purposes of paragraphs 182 and 183, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined).

National Planning Policy Statements (NPPS) 2024

Following submission of the planning application in April 2023 the Government has consulted on and designated the updated National Policy Statements for Energy (January 2024).

Overarching National Policy Statement for Energy (EN-1):

EN-1 is part of a suite of NPS's issued by the Secretary of State of Department for Energy Security and Net Zero. It sets out the government's policy for delivery of major energy infrastructure. It has effect for the decisions by the Secretary of State on applications for energy developments that are nationally significant under the Planning Act 2008. Nationally significant infrastructure projects in the case of solar farms means schemes that generate 50MW of energy or more.

Whilst the current scheme which would generate up to 18MW of renewable energy would fall below the threshold to be considered nationally significant, section 1.2 of EN-1 sets out the role of this policy statement in the wider planning system as follows:

'Whether the policies in this NPS are material and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy.'

EN-1 sets out the Governments commitment to net zero and states in paragraph 2.3.4 that in order to meet these objectives it is recognised that a significant amount of energy infrastructure, both large and small-scale is required.

Paragraph 3.3.20 considers the role that wind and solar should play stating that these are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply. Government analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is therefore likely to be composed predominantly of wind and solar.

Whilst a number of known generation technologies are included within the scope of EN-1 such as, amongst others, wind, wave, tidal and hydro energy generation, the NPS makes it clear that the need for all these types of infrastructure is established and is urgent (paragraph 3.3.58).

Section 5.10 of EN-1 considers the landscape and visual effects of energy projects stating that these will vary on a case by case basis according to the type of development, its location, and the landscape setting of the proposed development.

Paragraph 5.10.4 states that landscape effects arise not only from the sensitivity of the landscape but also the nature and magnitude of change proposed by the development, whose specific siting and design make the assessment a case-by-case judgement. As such, projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. Further, paragraph 5.10.7 highlights that National Parks, the Broads and AONBs have been confirmed by the government as having the highest status of protection in relation to landscape and natural beauty.

National Policy Statement for Renewable Energy Infrastructure (EN-3):

EN-3 Covers renewable energy infrastructure comprising solar PV generating above 50MW in England but as with EN-1 is also a material consideration in determining smaller schemes that are not deemed to be nationally significant.

Section 2.10 of the NPS is dedicated to solar photovoltaic generation and states that solar is a key part of the government's strategy for low-cost decarbonisation of the energy sector. Paragraph 2.10.13 recognises that solar farms are one of the most established renewable electricity technologies in the UK and the cheapest form of electricity generation.

The NPS provides support for large scale solar development, by confirming that the government seeks large scale ground-mount solar deployment across the UK, looking for development mainly on brownfield, industrial and low and medium grade agricultural land. It sets out that solar and farming can be complementary, supporting each other financially, environmentally and through shared use of land, and encourages deployment of solar technology that delivers environmental benefits, with consideration for ongoing food production or environmental improvement.

EN-3 states that the key considerations involved in the siting of a solar farm are likely to be influenced by the following factors:

Irradiance and site topography - Irradiance of a site will in turn be affected by surrounding topography, with an uncovered or exposed site of good elevation and favourable south-facing aspect more likely to increase year-round irradiance levels.

Network connection - The capacity of the local grid network to accept the likely output from a proposed solar farm is critical to the technical and commercial feasibility of a development proposal. To maximise existing grid infrastructure, minimise disruption to existing local community infrastructure or biodiversity and reduce overall costs, applicants may choose a site based on nearby available grid export capacity.

Proximity of a site to dwellings – Visual amenity and glint and glare considerations.

Agriculture land classification and land type - Solar is a highly flexible technology and as such can be deployed on a wide variety of land types. While land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. ‘Best and Most Versatile’ agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification.

Accessibility - Applicants will need to consider the suitability of the access routes to the proposed site for both the construction and operation of the solar farm with the former likely to raise more issues.

Public rights of ways - Applicants are encouraged where possible to minimise the visual impacts of the development for those using existing public rights of way, considering the impacts this may have on any other visual amenities in the surrounding landscape.

Security and lighting - Security of the site is a key consideration for developers. Applicants may wish to consider not only the availability of natural defences but also perimeter security measures such as fencing, electronic security, CCTV and lighting, with the measures proposed on a site-specific basis. The visual impact of these security measures, as well as the impacts on local residents should be considered.

Landscape and visual impacts – visual impacts need to be considered carefully taking account of any sensitive visual receptors, and the effect of the development on landscape character, together with the possible cumulative effect with any existing or proposed development. Nationally designated landscapes (National Parks, The Broads and Areas of Outstanding Beauty) are afforded extra protection due their statutory purpose.

Biodiversity and ecological conservation - to achieve environmental and biodiversity net gain.

National Planning Policy Guidance (NPPG)

The NPPG states that in relation to climate change, in addition to supporting the delivery of appropriately sited green energy, effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, local planning authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment.

Renewable and low carbon energy – The guidance states that in shaping local criteria for inclusion in Local Plans and considering planning applications in the meantime, it is important to be clear that:

- the need for renewable or low carbon energy does not automatically override environmental protections;
- cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas;
- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;
- proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration;
- protecting local amenity is an important consideration which should be given proper weight in planning decisions.

7. Appraisal

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

- a) Principle of the development
- b) Character and appearance and landscape impact
- c) Ecology and Biodiversity
- d) Highway Safety
- e) Impact on Residential Amenity
- f) Flooding and Drainage
- g) Heritage and Archaeology
- h) Other Matters

a) Principle of the Development

- 7.2 The Government recognises that climate change is happening, and that action is required to mitigate its effects. One action being promoted is a significant boost to the deployment of renewable energy generation. The Climate Change Act 2008, as amended sets a legally binding target to reduce net greenhouse gas emissions from their 1990 level by 100%, Net Zero, by 2050. Recently, the Government committed to reduce emissions by 78% compared with 1990 levels by 2035. The Clean Growth Strategy 2017 anticipates that the 2050, targets require, amongst other things, a diverse electricity system based on the growth of renewable energy sources.
- 7.3 Government planning guidance set out within the NPPF also recognises the responsibility on all communities to contribute to energy generation from renewable and low carbon sources. Local planning authorities are required to have a positive strategy to promote energy from renewable and low carbon sources as it helps ensure a secure more sustainable supply of energy that reduces carbon emissions minimising the impact of climate change.
- 7.4 In terms of dealing with climate change, paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate and should support renewable and low carbon energy and associated infrastructure. When determining planning applications for renewable energy local planning authorities are advised to approve schemes if the impacts are acceptable or can be made acceptable.
- 7.5 The development is considered 'major development' for the purposes of the NPPF due to the large scale of the proposal, the site's undeveloped character and location and its proximity to the North Downs Way. Therefore, in line with NPPF paragraph 183 an exceptional circumstances test needs to be undertaken and the development would need to satisfy all three aspects of the test, as well as being deemed to be in the public interest.
- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
 - b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
 - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
- 7.6 A further material consideration in the determination of planning proposals is National Policy Statements (NPS) for the delivery of major energy infrastructure. The NPSs recognise that large scale energy generating projects will inevitably have impacts, particularly if sited in rural areas. The updated NPS

statements adopted in January 2024 identify that, as part of the strategy for the low-cost decarbonisation of the energy sector, solar farming provides a clean, low cost and secure source of electricity.

- 7.7 The December 2020 Energy White Paper reiterates that setting a net zero target is not enough, it must be achieved through, amongst other things, a change how energy is produced. The White Paper sets out that solar is one of the key building blocks of the future generation mix. In October 2021, the Government published the Net Zero Strategy: Build Back Greener where under Key Policies it explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable generation such as solar.
- 7.8 At a local level, Core Strategy Review policy SS1 sets out the spatial strategy for the district in terms of long term development with the main element being a set of overarching provisions. Policy SS1 seeks to locate development within the most sustainable areas of the district. The policy states that within the North Downs Area, within the AONB (National Landscape), major development will be refused other than in exceptional circumstances and where it can be demonstrated that the development is within the public interest in accordance with the requirements of the NPPF.
- 7.9 PPLP policy CC6 covers matters relating to renewable energy development, specifically solar farms. The policy sets out a total of 10 criteria for the development of new solar farms or the extension of existing solar farms stating that permission will only be acceptable where it can be demonstrated that:
1. The proposal does not have an adverse impact on the landscape character or have any adverse visual impact on the scenic beauty of the Kent Downs AONB, other sensitive local landscapes or heritage assets;
 2. The proposal does not result in the direct loss of amenity to nearby residential properties by virtue of glare or other disturbance;
 3. Any necessary ancillary building works are minimised so as not to adversely impact on the character of the surrounding area;
 4. There are no adverse ecology impacts arising from the development;
 5. A suitable landscaping and screening strategy is included with the application;
 6. The solar panels and supporting frames are finished in an appropriate colour to minimise visual impact;
 7. The solar panels are removed when no longer operational;

8. The consideration of the need for and impact of security measures such as lights and fencing, are included in the application;
 9. The proposal clearly indicates the installed capacity (MW) of the proposed facility; and
 10. The solar farm will not result in the loss of the best and most versatile agricultural land.
- 7.10 Whilst policy CC6 does not specifically preclude development in the AONB, the preamble refers to the AONB Position Statement stating that it would be 'extremely unlikely' that a suitable location could be found in the AONB for field scale proposals.
- 7.11 The development has a capacity of 18MW at peak capacity, generating a significant amount of electricity from a clean, renewable source. This would meet the energy needs of approximately 5,568 homes. It is acknowledged that this is a substantial benefit that attracts significant weight in planning terms. There are no physical constraints limiting early development of this site and a grid connection offer is in place. As such, the scheme could make an early contribution to the objective of achieving the statutory Net Zero target set for 2050 and the commitment to reducing emissions by 78% compared with 1990 levels by 2035.
- 7.12 It is clear from all of the above that the Government has committed to sustained growth in solar capacity in the UK to ensure the promise to achieve net zero emissions can be met and that solar is a key part of the strategy for low cost decarbonisation of the energy sector. The NPS's support the principle of large scale solar photovoltaic generation whilst recognising that developments of this scale will inevitably have impacts, particularly if they are located within rural areas.
- 7.13 In addition, local plan policy together with the Council's Corporate Plan and Carbon Action Plan and the declared climate emergency all recognise the need for, and support the principle of, renewable energy generation subject to appropriate mitigation against significant adverse impacts (to be considered in subsequent sections of this report). How well a large solar scheme mitigates its impacts in a rural location is therefore key and I turn to that in the following section of this report.
- 7.14 Therefore, in the light of the above I consider that there is a demonstrable and overarching policy drive from both planning and other legislative documents to deliver renewable energy on an increasingly larger scale as a matter of principle. Furthermore, the urgency by which this needs to be delivered should be given weight in the decision making process and any adverse impacts of the development must be considered against this comprehensive and pressing need to deliver energy capacity in the form of renewable sources. Accordingly, my recommendation is that the Local Planning Authority does not raise

objection to the proposal as a matter of fundamental principle. Members need to therefore weigh up the contribution the scheme would make and balance this against the other environmental considerations.

b) Character and Appearance and Landscape Impact

- 7.15 The application site is located wholly within the AONB. Landscapes within the AONB are highly valued; they need to be protected and enhanced to ensure that their nationally important status is maintained. It is also important to protect views into and out of the AONB. The NPPF sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's which have the highest status of protection.
- 7.16 Policy CSD4 of the Core Strategy Review requires planning decisions to have close regard to the need for conservation and enhancement of natural beauty in the AONB, which will be given the highest status of protection in relation to these issues.
- 7.17 Policy CC6 of the PPLP at criteria 1 sets out that proposals for the erection of solar farms, must not have an adverse impact on the landscape character or have any adverse visual impact on the scenic beauty of the Kent Downs AONB, other sensitive local landscapes or heritage assets;
- 7.18 Further policy NE3 of the PPLP states that the impact of individual proposals and their cumulative effect on the Kent Downs AONB and its setting will be carefully assessed, making it clear that planning permission will only be granted where it can be demonstrated that all the following criteria have been met:
1. The natural beauty and locally distinctive features of the AONB and its setting are conserved and enhanced;
 2. Proposals reinforce and respond to, rather than detract from, the distinctive character and special qualities including tranquillity of the AONB. The design scale, setting and materials of new development must be appropriate to the AONB;
 3. Either individually or cumulatively, development does not lead to actual or perceived coalescence of settlements or undermine the integrity of the predominantly open and undeveloped, rural character of the AONB and its setting;
 4. Development is appropriate to the economic, social and environmental well-being of the area or is desirable for the understanding and enjoyment of the area (where this is consistent with the primary purpose of conserving and enhancing natural beauty); and Development meets the policy aims of the Kent Downs AONB.

- 7.19 An LVIA (Landscape and Visual Impact Assessment) has been carried out by the applicant and forms part of the Environmental Statement submitted with the application. The LVIA has identified areas where the site is most visible, including public rights of ways, roads and long distance viewpoints and also parts of the scheme where landscape and visual mitigation (planting) would be required.
- 7.20 The Council's Landscape consultants have undertaken a review of the LVIA methodology (Review) and are satisfied that it provides an approach which should inform a comprehensive and reasonable assessment of the anticipated impacts and effects of the scheme on landscape character and visual amenity. The assessment has been carried out in accordance with best practice, including Guidelines for Landscape and Visual Impact Assessment (GLVIA3).
- 7.21 The LVIA sets out matters which have been under consultation with FHDC and the Kent Downs AONB as part of the scoping for the LVIA and how these have been addressed. The landscape and visual effects are assessed during the Construction Phase (winter), Year 1 of operation (winter) and Year 10 of operation (winter and summer), which is considered reasonable. The assessment of cumulative effects is explained and is considered reasonable. Similarly, the LVIA takes a reasoned approach to assessment of the character of the night sky and to effects on residential receptors.
- 7.22 The LVIA states that the site is *not fully representative of the special landscape components of the AONB*. This is not considered to be accurate, and the council's independent review considers that the contribution of the site to AONB qualities and characteristics, and particularly to the *dramatic landform and views*, is underplayed. The LVIA states that *the site is not located across the scarp-slope and is therefore not part of the dramatic landform*. This statement is not supported as the site is part of the AONB designation and the lower lying plateau at the foot of the scarp which is integral to the contrasting landform and long distance panoramic views does therefore contribute to the dramatic landform. The review also disagrees with the conclusion that *there is no sense of remoteness and a reduced tranquillity and therefore the site is considered not to be representative of this component*. Despite the presence of detractors including the pylons and adjacent road, which do diminish rural character, the site comprises farmland, including hedgerows and trees, and does retain some degree of tranquillity.
- 7.23 The LVIA considers the site within the wider context of the study area and offers a detailed description of the area within the context of landform and hydrology, settlement pattern and land use and concludes that:

The Site is located in a part of the AONB which is already characterised by infrastructure land uses, via the substation and overhead pylons, as well as changes to the agricultural land use via the airfield. The Site is therefore part of a more developed landscape, both within the AONB and its setting.

- 7.24 While this is a matter of judgement, the review questions whether the site and local context are characterised by infrastructure and the site part of a more developed landscape, but agrees that existing infrastructure, notably pylons, power cables and telecommunications infrastructure, does have some influence which diminishes rural character.
- 7.25 The site is within the Postling Scarp and Vale Character Area identified in the Kent Downs AONB Landscape Character Assessment 2020 which includes the following key characteristics:
- *Landform comprises a strongly-crenelated and steep south-facing scarp, with an undulating landscape to the south;*
 - *Springs and ponds occur at the base of the scarp;*
 - *Woodland blocks and shaws throughout the vale, and a distinctive band of trees and shrubs at the base of the scarp slope;*
 - *Large numbers of ash trees;*
 - *Land use predominantly agricultural, with arable and pastoral fields;*
 - *Outstanding views from the scarp and hill tops across the patchwork of fields and woodlands in the vale to the south.*
 - *Sense of tranquillity away from large settlements and transport infrastructure.*
- 7.26 Consultation comments from the Kent Downs National Landscape Unit relating to these characteristics have concluded that:
- The application site and its immediate environs are considered to be largely reflective of these identified characteristics and it makes a positive contribution to the landscape and scenic beauty of the Kent Downs AONB.*
- 7.27 In light of the above, overall, there is a difference of opinion between the council and consultees concerning the assessment of existing character with the LVIA tending to underplay the extent to which the site is a positive contributor.
- 7.28 The site itself is deemed to be of Medium sensitivity within the LVIA and assessment of the site's value is reduced to Medium from Very High, which would normally be afforded by the AONB designation, because the site does not exhibit all of the key characteristics of the designation. However, the review considers that the designation should be given due acknowledgement, notwithstanding identified detracting influences, and suggests that landscape value should be assessed as High rather than Medium.
- 7.29 The site is also within the Kent Stowting Postling Vale character area with its sensitivity concluded to be Medium within the LVIA. The Landscape Character Area (LCA) is described in the published study as *characterised by development, with major roads and rail at the edge of the AONB*, and susceptibility is therefore concluded to be Low. However, as acknowledged by the applicant, the published study assesses the condition of the landscape as "very good" due to a coherent pattern of elements, few detracting features, and

a strong functional integrity. The sensitivity is assessed as “*very high*” due to a strong sense of place and very high visibility across the LCA. As such it is considered that the site and its immediate area do not fully reflect the wider LCA *characterised by* development and could be described as generally peaceful and tranquil with wide open landscape views despite its geographical location.

- 7.30 The assessment of the landscape character area in which the site is located - Postling Scarp and Vale, also seems to underestimate the susceptibility of LCA to the change to the proposed use, stating that the *variation in landform between the scarp slope and lower lying landform across the vale results in a contrasting ability to accommodate change to landform*. The Review considers that the visibility of the site in views from the scarp and thus its contribution to the qualities of the AONB underlines its overall susceptibility and should be considered in the context of the aspirational landscape strategy of the AONB that *the distinctive landforms and skylines of the scarp remain an integral part of the local landscape and are appreciated by both residents and visitors*.
- 7.31 The baseline visual appraisal summarises the visibility of the site. The conclusions of this analysis are that *there would be a reduction in visibility particularly to the east and south and that the theoretical visibility of the site remains very localised to the north and west and is concentrated between the base of the scarp slope and the M20*. Whilst it is agreed that the visibility from the west and south is limited, it is considered that suggesting impacts would be very localised underplays the visibility of the site from the scarp slope of the AONB to the north. Whilst it is agreed that the site may not be continuously visible, and where it is seen within the view it may not be seen in its entirety, it is nevertheless a part of views from the North Downs Way and various parts of the PROW network which crosses the scarp slope and offers elevated views towards the site. The Kent Downs National Landscape consultation response references a number of local landscape character assessments which underline the importance of views from the scarp as a positive contributor to the special qualities of the AONB and the rural landscape. Kent County Council PROW officer also states that *PROW views from the “scarp slope” are the long distance views that give existing character to the area and network and despite current infrastructure, the block form of the solar farm will have significant impact on these views*.
- 7.32 In addition, it is considered that the influence of detracting elements is a matter of degree and that these views are predominantly rural in character. Although existing infrastructure may be visible in these views, and a more prominent element in some views it is not agreed that it can be described overall as a *notable presence*, indeed some of the viewpoints whilst subject to some influence from existing infrastructure and scattered development, are largely rural in character.
- 7.33 The description of magnitude of effects at year 1 within the LVIA acknowledges that the scale and extent of the change in land use, with the introduction of new

structures and change from a rural character to one of solar farm would result in a high magnitude of impact at year 1. The LVIA goes on to say that, at year 10, the above changes to the Site character would remain due to the continued change in land use. Magnitude of impact is therefore concluded to remain high. However, overall effects are reduced from Major Adverse to Moderate Adverse, largely on the assumption that proposed new planting would have matured to deliver biodiversity enhancements. It is however considered that the scale and nature of the change at year 10 relating to land use, land cover and overall landscape character would not necessarily be substantially diminished by the landscape proposals at year 10 more than at year 1. As acknowledged by the LVIA, this would be especially true in winter. It is arguable that effects would remain Major Adverse, especially in winter, but the overall assessment of a Moderate Adverse effect remains an acknowledgement of significant adverse effects.

- 7.34 Effects at all phases of the development on the Stowting: Postling Vale LCA, in which the site is located, are concluded to be Negligible Adverse, largely as a consequence of the assessment of magnitude of impacts as very low. Although a matter of judgement, this conclusion is questioned. Construction impacts, as the LVIA acknowledges, *would be perceived from a wider extent of the scarp slope and low lying land to the east of the Site*. Construction activity would form a notable discordant element in views, most notably those from the scarp, and, within the context of the LVIA stated methodology, considers the assessment of magnitude as very low to be unduly low.
- 7.35 At year 1 the LVIA assessment acknowledges that the solar panels and structures would reduce the openness within the site, but suggests, broadly, that the influence of the existing substation, pylons and road is such that at year 1 the *proposed development would not impact the integrity of the wider landscape*. The local area is described as a part of the LCA already consisting of infrastructure. It could be argued however that although infrastructure does have an influence, the wider area is more reflective of farmland and scattered rural settlement. In view of the proposed scale of change to the existing land use and land cover, a magnitude of very low (defined in the stated methodology as *virtually imperceptible loss or alteration or addition of new features or components that overall retain the character or setting of the area*) seems to underplay the anticipated magnitude. The year 10 assessment of magnitude as very low assumes that *the establishment of the proposed development would reduce the perception of the change in land use, due to the density of vegetation within the site*. Whilst it is acknowledged that the proposed planting would be likely to have a softening effect and to make a positive contribution to landscape character, the scale of change to land cover and land use would remain and the landscape proposals are considered unlikely substantially to diminish magnitude and thus, overall residual effects.
- 7.36 In terms of the summary of effects on the Kent Downs AONB whilst the overall views would be retained, the proposals would impact on the character and quality of the far reaching, largely rural views obtained from the scarp which

are a key component of the AONB special qualities and a primary focus for recreational users of the AONB. As acknowledged in the LVIA visual impact assessment, the proposals are anticipated to have significant adverse effects on these views.

- 7.37 The LVIA concludes that *the predicted landscape effects would reduce with the establishment of the proposed planting via the increased enclosure and reduced perception of the solar panels. The Proposed Development therefore moderates the potential effects to the AONB and whilst significant adverse effects remain at year 10, these are localised and are considered not to harm the natural beauty of the AONB.*
- 7.38 In light of the above, significant adverse residual effects on the AONB are therefore acknowledged by the applicant. The suggestion that this level of harm is rendered acceptable because the effects are *localised* diminishes the importance of the site in the setting to the scarp slope and wider contribution to AONB qualities, including the far reaching extensive views from the scarp which are a key component of the dramatic landform and its contribution to the AONB's special qualities.
- 7.39 Whilst the review of the LVIA has highlighted some areas of disagreement between the applicant and the council in relation to the baseline assessment of sensitivity of landscape receptors, including the site, the overall conclusions with reference to the effects of the proposals on the site itself do acknowledge significant adverse effects from construction through to operation and residually at Year 10.
- 7.40 In conclusion, I consider that from a landscape and visual impact perspective, the scheme as proposed would cause significant harm to local landscape character and visual amenity and the public perception and enjoyment of the local countryside. In addition, the development would detract from and fail to conserve and enhance the natural beauty and locally distinctive features of the AONB. As a result, the development would be contrary to PPLP policies NE3 and part 1 of CC6 and policy CSD4 of the Coire Strategy Review. The proposed landscape mitigation measures are not considered sufficient to overcome these impacts and as such the proposals are contrary to national and local planning policies and guidance.

c) Ecology and Biodiversity

- 7.41 Policy CC6 of the PPLP seeks to ensure that renewable energy schemes do not have significant adverse impacts on ecology. PPLP policy NE2 seeks to protect biodiversity and there is an expectation that development will provide opportunities for enhancing existing ecological features and habitats and to mitigate any potential impacts.
- 7.42 The application is accompanied by an Ecological Appraisal. This considers the potential impacts on protected species and protected habitats. The Ecological

appraisal identifies that, with the exception of ground nesting birds, the majority of the habitats within the site which support the species present or likely to be present within the site will be retained and enhanced. In addition, whilst skylark nesting opportunities would be lost on the site itself, there are other suitable nesting areas nearby and the proposed enhancements are likely to improve foraging opportunities for skylark and other ground nesting birds.

- 7.43 Further, the NPPF seeks to ensure that developments provide biodiversity net gains. The application states that the proposed development would result in substantial benefits for local biodiversity, with a forecast net gain of +86% in Habitat Units, and +48% in Hedgerow Units, far above the mandatory requirement of 10% set by the Environment Act, and 20% set as a target by the AONB Management Plan.
- 7.44 KCC's Ecological advice service have commented on the application and confirm that they are supportive of these measures confirming that if they are established and managed appropriately the proposed Biodiversity Net Gain is achievable however there are concerns that If the grassland can't be managed as intended the anticipated BNG of 85% for habitats is not achievable. Notwithstanding this the proposed uplift in BNG is supported and if planning permission were granted an appropriate management plan could be secured by condition. In light of the above I am satisfied that matters relating to Ecology are appropriately mitigated in accordance with PPLP policy NE2 and part 4 of policy CC6.

d) Highway Safety

- 7.45 In relation to access, Section 9 of the NPPF sets out national policy in relation to promoting sustainable transport. Paragraph 115 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.
- 7.46 Construction and maintenance traffic will access the Site from B2068 Stone Street via the M20 Junction 11, with the access an existing access point in the western boundary of the southern field.
- 7.47 The Transport Statement concludes that in total, there would be a maximum of approximately 153 two-way movements per day during peak activities for 4 weeks of construction (W5-W8). This is inclusive of delivery-related movements and staff trips. For the remainder of the construction period, W9-W32 (24no. weeks), there would be a maximum of approximately 62no. two-way movements per day on average, inclusive of delivery-related movements and staff trips.
- 7.48 This level of trip generation is not considered to be significant and would only take place over a limited and temporary time period.

- 7.49 In terms of deliveries, these would take place from Monday – Saturday (inclusive) within the following hours:
- Monday to Friday 07:30 – 18:00;
 - Saturday 07:30 – 13:00; and
 - No deliveries on Sundays with the exception of one-off abnormal loads or large vehicles such as cranes.
- 7.50 Once operational, trips to the site would be limited to the occasional LGV accessing the site for maintenance purposes, on average once a month.
- 7.51 Given the moderately trafficked nature of the local highway network, and that most trips would be of a limited and temporary nature, the site access arrangements are considered to be appropriate for the scale and nature of the development.
- 7.52 The proposals have been considered by KCC Highways and Transportation who confirms that they have no objections to the proposals subject to conditions, including one requiring a Construction Traffic Management Plan and the provision and maintenance of visibility splays.
- 7.53 Subject to conditions, the proposals are considered to be acceptable with regards to highway safety.

e) Impact on Residential Amenity

- 7.54 The closest residential property to the application site is located approximately 80m south-west of the site off Stone Street and is separated from the site by the Stanford Electricity Substation. There are a cluster of properties off the Stone Street / Pilgrims Way junction located approximately 370m north of the site. The closest settlements are Stanford which is located approximately 350m south of the site, and Postling which is approximately 750m north east of the site.
- 7.55 The submitted LVIA considers whether the proposed development would result in residential visual amenity effects. Whilst a significant adverse effect is predicted to residents of The Outlook, located to the north of the site, this is due to the elevated position of this property in relation to the site and the change to the composition of the view. However, this impact would not result in residential visual amenity effects due to the arrays being orientated away from the dwelling, the existing context of pylons within the view and that longer distance views across the wider landscape would remain. In addition, the main orientation and windows across the property are on the western and eastern facades, not the southern façade which is oriented towards the site.

- 7.56 In light of the above, and taking account of the separation distances, I am satisfied that the proposed development would not be unacceptably harmful to the residential amenity of the occupiers of neighbouring dwellings.

f) Flooding and Drainage

- 7.57 The solar panels would allow rainwater to fall between gaps to the ground below the panels where it would percolate to ground. Erosion would be prevented by maintaining the grass sward beneath the panels that would prevent rilling. Filter drains and swales are proposed at intervals across the site to intercept any potential overground flows and to try and result in betterment over the existing greenfield run-off rates.
- 7.58 It is further proposed that all new site access tracks would be constructed of permeable stone. The transformer stations, Switchroom, Control Centre and DNO Substation would drain to localised filter drains or swales that would allow percolation to ground.
- 7.59 KCC as the Lead Local Flood Authority have provided consultation comments and have raised no objection to the drainage strategy subject to conditions. I am therefore satisfied that matters relating to flooding and drainage can be satisfactorily mitigated in line with the requirements of PPLP policy CC3.

g) Heritage and Archaeology

- 7.60 The Planning (Listed Buildings and Conservation Areas) Act 1990 places statutory duties on local planning authorities in respect of considering the impacts of proposals on listed buildings and Conservation Areas. In addition, policy HE1 seeks to protect important archaeological sites stating that development that would adversely affect them will not be permitted.
- 7.61 The site is not within a conservation area, and there are no listed buildings, other designated heritage assets, or nature conservation designations across the site.
- 7.62 The application is accompanied by a Heritage Statement assessing the potential impacts of the proposals on a range of heritage assets.
- 7.63 Given the separation distance between the proposed site and designated heritage assets such as listed buildings, it is considered that the proposals would not give rise to any adverse impacts on the setting of the assets.
- 7.64 In terms of archaeology, the site lies within an area of multi-period archaeological potential and immediately adjacent to the line of Stone Street, the Roman road linking the port at Lympne with Canterbury.
- 7.65 The County Archaeologist has been consulted on the application and raises no objections to the proposed development subject to a condition to secure the necessary field evaluation surveys. This would take the form of geophysical

survey, controlled metal detecting survey and trial trenching. Should archaeological evidence be found, appropriate mitigation would be secured to avoid impacts through preservation in situ and/or archaeological excavation.

h) Other Matters

Agricultural Land Classification and Soils

- 7.66 Criteria 10 of PPLP policy CC6 requires that solar farms do not result in the loss of best and most versatile agricultural land. This is defined as land falling within grades 1, 2 and 3a of the Agricultural Land Classification. Further the NPPF states that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
- 7.67 The Agricultural Land Classification survey submitted identifies that all of the land within the application site is graded as Grade 3b (moderate quality agricultural land). The survey identifies that the most significant limiting factor (resulting in the ALC grade of 3b across the site) is the wetness of the soils.
- 7.68 Given that the site does not comprise best and most versatile agricultural land there is no conflict with policy CC6 on this point.
- 7.69 The nature of the proposed development is such that it provides potential for the land beneath and around the solar panels to continue in a form of agricultural use during the operational lifetime of the solar farm, with potential for agricultural grazing.
- 7.70 Permanent grassland cover for the lifetime of the development would be beneficial to the health of the soil structure, as it would protect the soil from wind erosion when dry, scour erosion due to runoff from the panels, and damage from trafficking and surface water runoff during periods of wet weather. Further, there would also be no requirement for annual fertiliser applications over the lifetime of the development, which will have an environmental benefit and allow the soils to return to their normal nutrient levels and promote the growth of native species.

Public Rights of Way

- 7.71 The value of the PROW network is in providing the means for residents and visitors to access and appreciate landscapes for personal health and wellbeing, enhancing community connectivity and cohesion, reducing local traffic congestion for economic benefit and improvement in air quality, and much more. The existence of PROWs are a material consideration.
- 7.72 The substantial size of this development will have an adverse impact on the PROW network, through visual impact, and loss of amenity over a significant

period of time. Sustainable Active Travel as well as recreational activity across both the development and the wider area connectivity must be future-proofed.

- 7.73 The amount of use of a PROW is not a factor as a PROW has public rights regardless of use.
- 7.74 KCC's Countryside and Access Service have provided detailed comments in response to the application and disagrees with the applicant's conclusion that the direct effects on the PROW network will be negligible and it is clear that the character of the area would be transformed as a result of the development. As such, the user experience of those utilising the PROW network will be changed for a period of 40 years. Whilst it is accepted that the proposed planting will over time help to mitigate the impact, the planting will not be instantaneous. Further, the user experience would be significantly disrupted during the construction and decommissioning phases.
- 7.75 Notwithstanding this, it is considered that a contribution of £60,000 would go some way to mitigate these concerns providing network improvements. If Planning Permission was resolved to be granting this would need to be secured by means of a planning obligation.

Glint and Glare

- 7.76 Solar panels are designed to absorb, not reflect, irradiation. However, the sensitivities associated with glint and glare, and the landscape/visual impact and the potential impact on aircraft safety, should not be underestimated.

Glint may be produced as a direct reflection of the sun in the surface of the PV solar panel. It may be the source of the visual issues regarding distraction to the viewer. Glare is a continuous source of brightness, relative to diffused lighting but is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

- 7.77 A glint and glare assessment has been carried out in relation to the aviation, dwellings and road receptors. No significant impacts are predicted upon road safety, residential amenity, and aviation activity.

Noise

- 7.78 During the operational phase, the activities would generally be minimal and amount to limited maintenance activities, including servicing of plant and equipment, cleaning of solar PV panels, and vegetation management, including management of grazing activities.
- 7.79 Once operational, solar farms generate very little noise. The only sources of noise at this stage are the transformers (which produce a 'low hum' at close distance) and string inverters.

- 7.80 During construction and decommissioning, some traffic and noise would be generated. This would vary over time and would be limited to the proposed hours of construction.
- 7.81 Given that noise levels are predicted to be low with plant located away from the boundaries of the site and the proposed noise assessment concludes that the site can be designed to operate such that it complies with all appropriate and relevant noise standards and guidance I am satisfied that the issue of noise and disturbance can be appropriately mitigated by condition.

Environmental Impact Assessment

- 7.82 This development has been subject to an EIA Screening Opinion and is considered to be EIA development.

Local Finance Considerations

- 7.83 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

- 7.84 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

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

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

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.
- 7.86 It is considered that the application proposals would not conflict with objectives of the Duty.
- 7.87 In determining this application regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010 in particular with regard 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 characteristics 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.
- 7.88 It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

- 7.89 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 AND PLANNING BALANCE

- 8.1 Local and national planning policies support the development of renewable energy schemes, subject to there being no adverse harm arising from the proposals. It is acknowledged that the Parish Council and local residents have raised significant concerns in respect of the proposed development and those concerns have been considered in this report. Similarly, a number of local people have expressed support for the proposed development.
- 8.2 The proposal would result in the loss of around 27 hectares of farmland although this is not best and most versatile agricultural land and would continue to be used for grazing. This would be replaced by the potential to develop around 18MW of renewable energy for a period of 40 years. This would be sufficient renewable energy to power the equivalent of approximately 5,568 homes a year. This would be a positive benefit towards helping meet the climate change agenda.
- 8.3 The proposals would result in adverse effects on the landscape character and the National Landscape, the latter of which is afforded the highest level of protection. Impacts on views would be limited due to being relatively

localised, however would be experienced by a large number of receptors using the site for recreational purposes particularly from the network of public rights of ways. Therefore, the proposals are considered to be contrary to the requirements of local plan policies NE3 and CC6. As such, the benefits of the proposals are insufficient to outweigh the detrimental change to the quality of the landscape due to failing to conserve and enhance the character of the area.

- 8.4 There are not considered to be any detrimental harms to the setting of designated heritage assets.
- 8.5 The proposals include new planting and biodiversity enhancements and whilst it is not clear if the anticipated BNG of 85% for habitats is entirely achievable the uplift would far exceed the mandatory requirement of 10% set by the Environment Act.
- 8.6 The development would not increase flood risk and it is considered that the approach to drainage is acceptable. In addition, the application deals with matters of residential amenity, highway safety and archaeology satisfactorily.
- 8.7 This is a finely balanced recommendation given national and local support for schemes that provide renewable energy, as demonstrated in this report. However, overall, it is considered that the harm arising from the proposals is considered to outweigh the public and environmental benefits and it is therefore recommended that the application be refused.

9. BACKGROUND DOCUMENTS

- 9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications online pages under planning application reference 23/0580/FH)

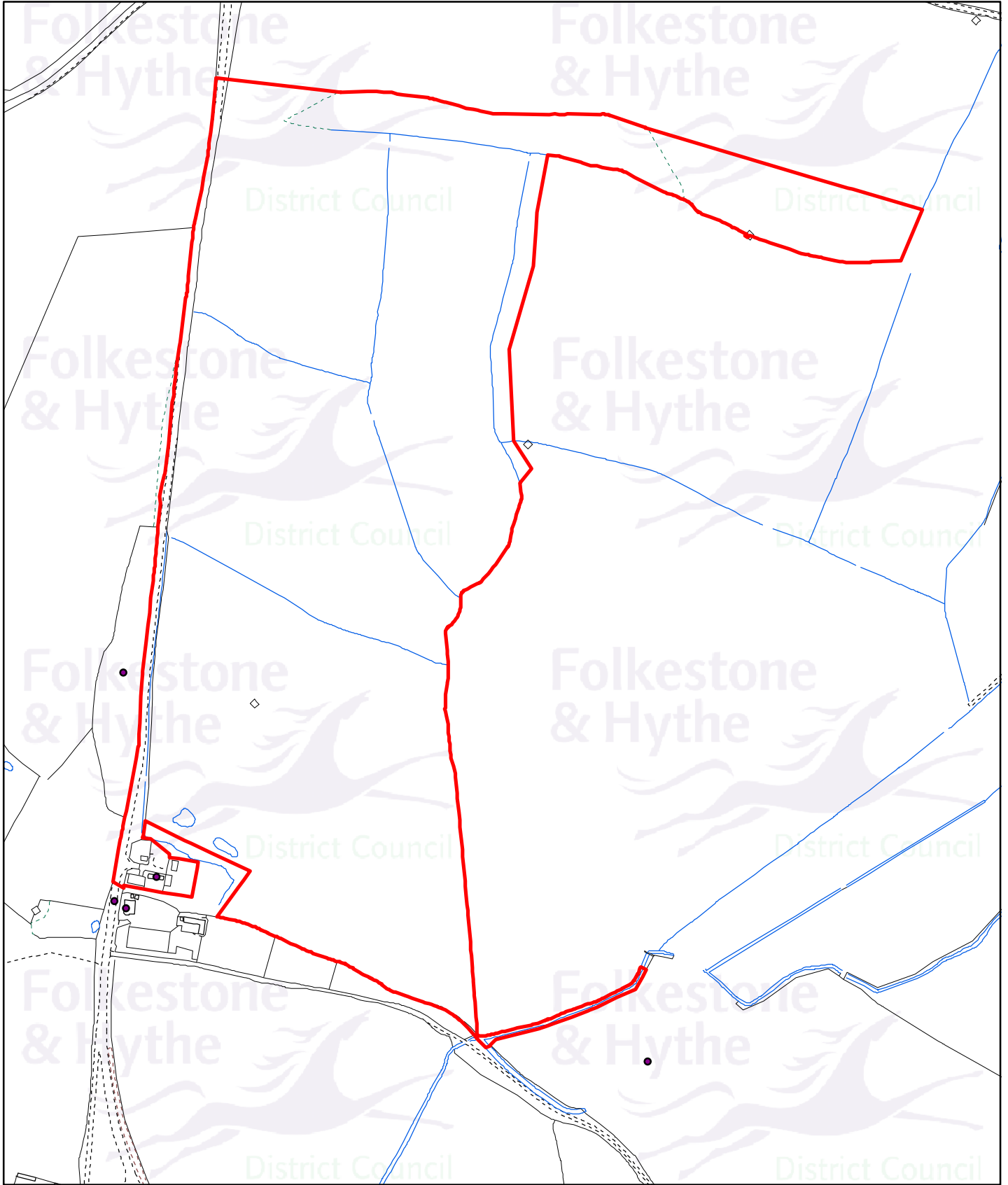
10. RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The proposals would result in a detrimental change to the quality of the strategic landscape, failing to conserve and enhance the character of the North Downs National Landscape. This would result in significant harm to the visual character of the area and thus impact on the enjoyment of the area by receptors using the local public rights of way. The proposed mitigation is insufficient to overcome these harms.

As such the proposals would be contrary to policies SS1, CSD4 of the Core Strategy Review (March 2022), policies NE3 and CC6 of the Places and

Policies Local Plan (September 2020) together with the National Planning Policy Framework and the Kent Downs AONB Management Plan 2021-2026.



Planning Application:
23/0580/FH

Drawn date:
06 Mar 2024

Drawn by:
Carrie Stacey

Drawing ref:
1339/COP/TG

Llywelyn Lloyd
Chief Planning Officer

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Application Number:	23/1798/FH
Location	Lower Works, Cherry Garden Lane, Folkestone, CT19 4AW
Application Description	Change of use of existing workshop to office (Use Class E(i)), erection of a single and two storey extension to the existing building together with other external alterations, the demolition of White Lodge, and associated landscaping works.
Applicant	Affinity Water Limited
Agent	Environment & Planning Service
Officer Contact:	Robert Allan

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. Reason for consideration by the Committee

- 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 is part of Affinity Water Limited's (AWL) site within the defined settlement boundary of Folkestone. The wider operational site comprises a number of buildings, storage areas and car parking. The application property is a single storey building surrounded by existing hardstanding. White Lodge is a detached two-storey property. To the north is woodland and scrub and the M20 beyond. To the west is further AWL land. To the east is the Premier Inn and Pub. To the south is Cherry Garden Lane, with residential properties.
- 2.2 The proposed block plan and elevations can be seen in figures 1, 2 and 3.

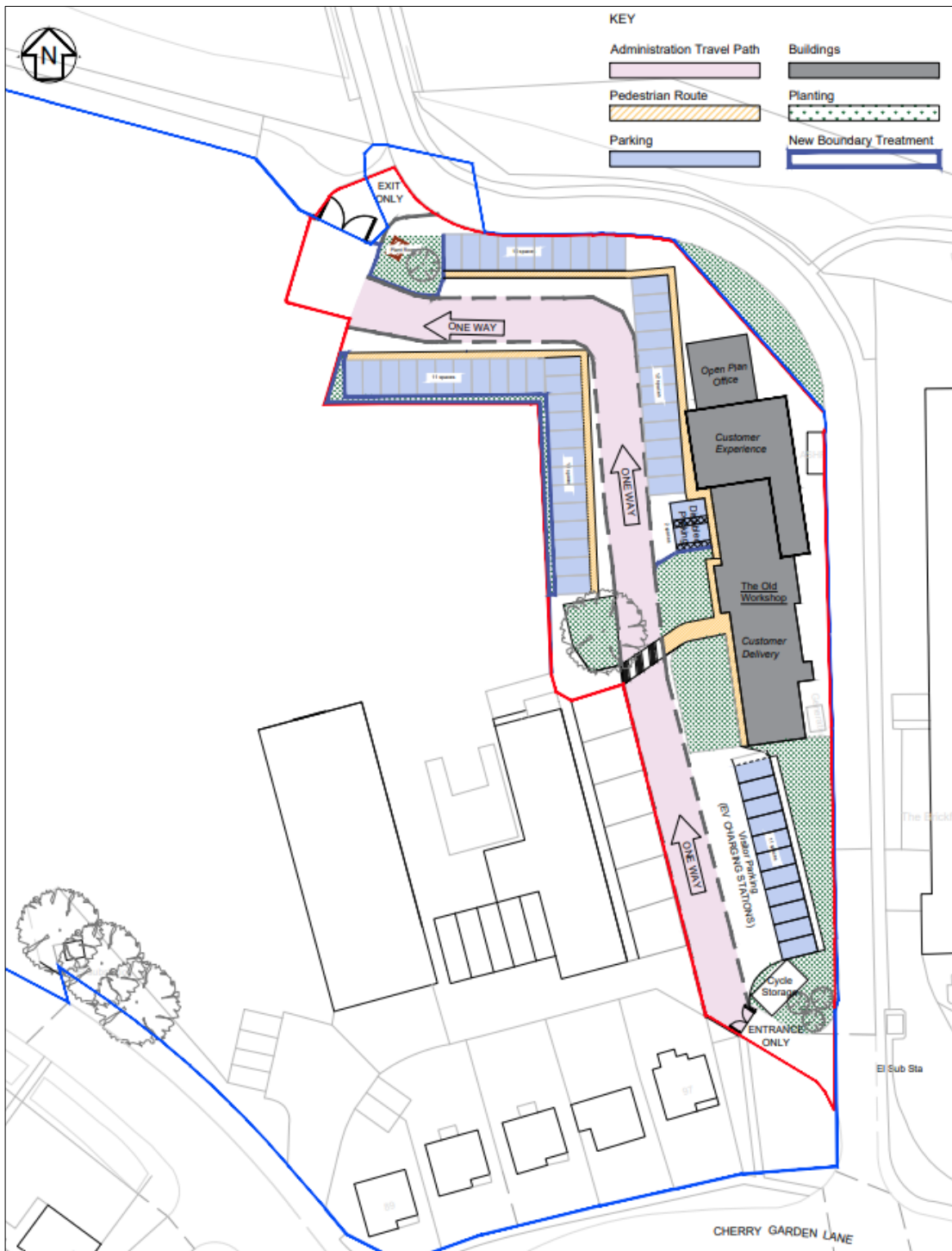


Figure 1: Proposed block plan



Figure 2: Proposed east and west elevations

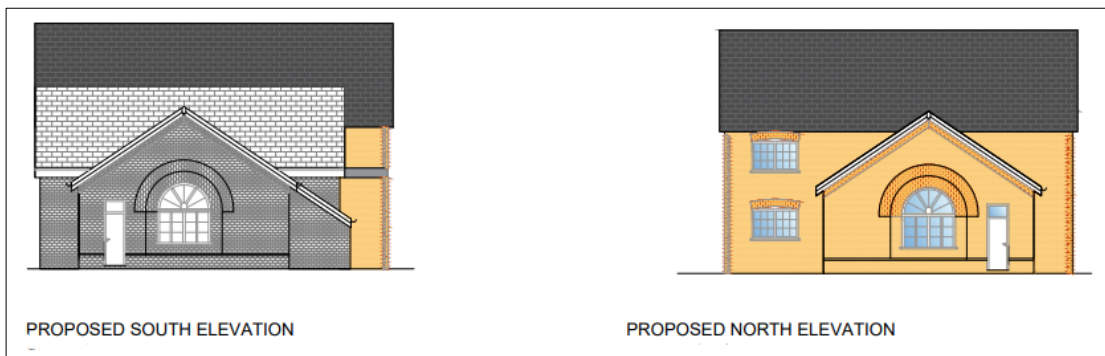


Figure 3: Proposed south and north elevations

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

3. Proposal

- 3.1. Full planning permission is sought for the change of use of the existing workshop to office (Use Class E(i)), erection of a single and two storey extension to the existing building together with other external alterations, the demolition of White Lodge, (a detached dwelling) and associated landscaping works.
- 3.2. The existing Affinity Water Limited offices off Shearway Road and the surrounding land has been allocated within the Place & Policies Local Plan (policy UA11) for the development of 70 dwellings, 3,500sqm of complementary Class B1a (office) commercial floorspace and an area of public open space. As such, AWL is relocating their office to their adjacent workshop and storage site off Cherry Garden Lane/Shearway Road, Folkestone.
- 3.3. The part two-storey, part single-storey extension would be to the north of the existing building, while another single storey extension would be to the east side. The total area of the existing building totals 357sqm, with the proposed extensions adding an additional 420sqm. The proposal includes the formalisation of a car park with designated car parking bays (46 spaces, 11 visitor spaces and 2 disabled bays). One residential building (Whit Lodge - owned by AWL) will be demolished to allow for sufficient car parking spaces and landscaping.
- 3.4. The following reports were submitted by the applicant in support of the proposals:

Supporting Statement

This document sets out the background to the planning application, describing the site and the proposed development, the need for the proposal, and identifying the various considerations. In respect of landscape and visual, it is concluded that the proposals will not result in any adverse landscape or visual impacts, while for heritage and archaeology, the likelihood of disturbing previously undisturbed archaeology is deemed low. For ecology and trees, no adverse impacts are anticipated, with flood risk and drainage setting out that the proposal does not require a flood risk assessment, with no significant effect upon surface water runoff, and that connections will be made to the existing drainage infrastructure. For highways & traffic, the documents set out that the proposed development is unlikely to have significant impact on the use of the local road network, with parking in line with Kent County Council's parking standards, resulting in no impact upon the local highway network and residents. Finally in respect to noise, it is stated that the change of use will not significantly increase noise levels above current levels on site.

The document also broadly reviews planning policy, setting out that the proposal accords with the National Planning Policy Framework paragraphs 11, 38 and 119, and also accords with the Core Strategy Review policy SS1 and Places and Policies Local Plan policies UA11, E2, T2, NE2 and NE3, before concluding that the proposal is in accordance with national and local planning policy.

Preliminary Ecology Appraisal (PEA)

This document contains a desk study, extended United Kingdom Habitat Classification (UKHab) survey and bat roost potential assessment in connection with the proposed development, with the purpose of identifying ecological constraints to the proposals, and to outline further survey and likely avoidance, mitigation and enhancement requirements including the potential to achieve biodiversity net gain. This concludes that the site is of low intrinsic ecological value, being dominated primarily by urban habitats including buildings, hardstanding, vegetated garden, ruderal/ephemeral and introduced shrub. Pockets of modified grassland were also on site as well as mixed scrub, mature trees and one native hedgerow. The appraisal identified a high potential for roosting bats in two buildings and a moderate potential for foraging and commuting bats, requiring further surveys to support the planning application. It also contained recommendations regarding mitigation measures for foraging and commuting bats, nesting birds, recommendations that the hedgerow, mixed scrub and trees on site are retained, and mitigation measures to avoid noise impacts on the habitat of principal importance (HPI) deciduous woodland.

Bat Activity Surveys

This document was produced in response to the findings of the PEA, with three bat emergence surveys carried out on the two high-potential buildings. No bats were recorded emerging from the buildings and a low level of bat activity was recorded over the survey period, although bats were observed flying along the tree line north of the site. The report concludes that the buildings are unlikely to support bats for roosting or shelter, with no impacts predicted on bats, their roosts or places of shelter via the proposed works. Standard precautionary measures are outlined.

4. Relevant Planning History

- 4.1. There is planning history associated with a telecommunications mast, but this is not considered relevant to the consideration of the application.

5. Consultation

Ward Members: Councillor Mike Blakemore, Councillor Polly Blakemore and Councillor Rebecca Shoob are the ward members for Cheriton Ward and are all members of the Planning & Licensing Committee.

- 5.1 The key consultation responses are summarised below.

Consultees

Folkestone Town Council: Object – concerns raised regarding the loss of dwelling.

KCC Highways & Transportation: No objection subject to conditions.

KCC Ecological Advice Service: No objection subject to condition

KCC Archaeology: No objection subject to condition

Environmental Health: No objection subject to condition

Public/Neighbour Consultation

- 5.2 9 neighbours directly consulted. 2 letters of objection, 0 letters of support received and 0 letters neither supporting nor objecting to the application.

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

Objections

- White Lodge not consulted. **[CPO comment – this consultation was carried out]**
- Building should be considered a non-designated heritage asset
- Undisturbed archaeology should be given greater consideration
- Increased traffic, insufficient parking, no bus stop
- Does not comply with policy T2 regarding EV provision
- No cycle storage provision
- Harm to a non-designated asset
- Building recording should be required
- Opening hours are relevant

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

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

6. Planning Policy

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

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

- UA11 Affinity Water, Shearway Road, Cheriton
- HB1 Quality Places Through Design
- HB8 Alterations & Extensions to Buildings
- T2 Parking Standards
- T5 Cycle Parking
- NE2 Biodiversity
- HE1 Heritage Assets

Core Strategy Local Plan (2013)

- SS1 District Spatial Strategy
- SS3 Place-Shaping & Sustainable Settlements 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
47	Applications determined in accordance with the development plan
60	Delivering a sufficient supply of homes
85	Building a strong, competitive economy
115	Highway safety
123	Making effective use of land
127	Making effective use of land – positive approach
131	Achieving well-designed and beautiful places
135	Achieving well-designed and beautiful places
180	Conserving and enhancing the natural environment
182	Conserving and enhancing the natural environment – designated landscapes
186	Habitats and biodiversity
203	Conserving and enhancing the historic environment – proposals affecting heritage assets
209	Conserving and enhancing the historic environment – considering potential impacts

National Planning Policy Guidance (NPPG)

7. Appraisal

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

- a) Is the Principle of development is acceptable?
- b) Is the development is acceptable on visual impact grounds?
- c) Would the proposal would harm neighbour amenity?
- d) Would the proposals result in harm to Highway safety?
- e) What are the ecological considerations associated with the proposal?
- f) Non-designated heritage asset considerations.

a) Is the principle of development acceptable?

- 7.2 The application site is undesignated in the local plan, but the loss of a dwelling (White Lodge) forms part of the proposal. As the existing Affinity Water Limited site is included within the Places and Policies Local Plan in policy UA11 as an allocated housing and commercial site, the rationalisation of their existing uses onto the application site, as set out in the preamble to the policy, will enable the allocated site to be freed up and come forward. Consequently, the net benefit of around 70 dwellings and 3,500sqm of office space is considered to hold significant weight over the loss of a single dwelling. In this regard, there is no adopted policy that resists the loss of residential uses and the NPPF at paragraph 127 encourages Local planning authorities to take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.
- 7.3 The views of Folkestone Town Council are noted, but as there are no Local Plan Policies regarding the retention of residential dwellings and the dwelling could also be demolished following the Prior Approval route, having first notified the LPA with regard to the method of demolition and any proposed restoration of the site, it is considered that it would be unreasonable to refuse the application on grounds that it would result in the loss of a residential dwelling, especially given the net gain in dwellings that would be facilitated through allowing the aims of policy UA11 to be brought forward. .

b) Is the development is acceptable on visual impact grounds?

- 7.4 The application site is not located within any designated landscape areas and is set back from the roadway. The Kent Downs National Landscape (AONB) is located approximately 180m north of the Site, with the M20 and Channel Tunnel Terminal located between the application site and AONB. The site is also within an existing commercial land use area, with extensive areas of hardstanding, chain-link fencing, and open storage.
- 7.5 Although significant areas of car parking are proposed, this is on existing open hard standing and the proposed block plan shows planting and a revised boundary treatment, full details of which can be secured via condition should Members be minded to permit.
- 7.6 The extension has been designed to complement the Victorian/Edwardian architecture of the existing building, as well as its scale and proportions, and is an acceptable extension that would not be detrimental to the character of the area. The consideration of impact upon the non-designated heritage asset is set out under the relevant section below.

- 7.7 The loss of the existing property to the north of the site is not considered likely to be of detriment to the character of the area, which is one of a commercial access road, set in the lea of the motorway and channel tunnel infrastructure.
- 7.8 Overall, the proposed development is deemed to have no impact on the setting of the Kent Downs National Landscape (AONB) and would have no detrimental impact upon the character or appearance of the building or the street scene, in accordance with PPLP policy HB1 and NPPF paragraphs 135 and 182.

c) Would the proposal would harm neighbour amenity?

- 7.9 The site is already used as a workshop / storage area and is proposed to change to office use. The access road is not being relocated and traffic from the existing office area to the southwest would instead arrive at this site, so there would be no net change in vehicle movements / noise. There would be no detrimental impact upon neighbouring uses because of any overlooking, loss of light, or overbearing/enclosing presence. Overall, there would be no likely detrimental impact upon amenity in accordance with PPLP policy HB1 and NPPF paragraph 135.

d) Would the proposal result in harm to Highway Safety?

- 7.10 KCC Highways & Transportation have reviewed the proposal and as the proposals provide adequate car parking for the proposed office development and utilise an existing access point onto Cherry Garden Lane which is capable of accommodating the proposed development, there are no objections, subject to submission of a construction management plan, retention of the parking spaces, provision of cycle storage, access details being completed and maintained, and EV chargers, all of which can be secured via condition. In this regard the scheme is compliant with PPLP policies T2 and T5.

e) What are the ecological considerations associated with this proposal?

- 7.11 An existing hedgerow on site is proposed to be removed as part of the development, but a new native hedgerow is to be planted along the eastern and northeastern perimeter, which is considered suitable mitigation/replacement. Measures to enhance the site for bats have also been included in the proposal and features detailed in the revised Biodiversity Enhancement Layout should be implemented and retained, which can be done via condition.

f) Non-designated heritage asset considerations

- 7.12 During the processing of the application and following discussion with KCC Heritage and Conservation, the buildings are considered to have a degree of significance meriting consideration in planning decisions because of their heritage interest. The Folkestone Waterworks Company was founded in 1848 and the heritage interest derives in part from the physical survival of buildings and, possibly other structures and landforms which may have archaeological interest in the form of physical remains above and below-ground, that are testimony to the important aspect of the history of Folkestone, where water was derived from wells and springs. The heritage interest derives, in part, from the evidential value of the surviving physical elements of this industrial and social history.
- 7.13 In line with paragraph 209 of the NPPF, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 7.14 In this regard, the re-use and conservation of the workshop building is welcomed, but a historic building record should be secured via condition of the building and the property, White Lodge. Groundworks at the site should be the subject of an archaeological watching brief to safeguard potential below-ground archaeological remains.
- 7.15 It is considered that the design of the proposed extensions, subject to materials, are in keeping with the character of the building and would have no detrimental impact upon its historic character or appearance.
- 7.16 The proposal also facilitates the wider development identified within policy UA11, with the preamble to this setting out that the long-term intention is to consolidate the existing offices, headquarters, depot and social club of Affinity Water Limited into one site, to enable a mixed commercial, residential and public open space development to come forward and overall, it is considered that the changes to the building and the loss of the existing dwelling are outweighed by the wider socio-economic gains that would arise from this development in association with other development.

Environmental Impact Assessment

- 7.17 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

7.18 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

7.19 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.

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

Working with the applicant

7.22 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. In this instance the proposal was considered acceptable following the receipt of additional information from the applicant.

8. CONCLUSION

- 8.1. The proposal is for the change of use of an existing workshop and store to offices, together with the erection of extensions and alterations. The loss of an existing dwelling through the demolition of White Lodge, and the alteration and extension of the non-designated heritage asset, are considered to be outweighed by the wider public benefits of facilitating the implementation of Places and Policies Local Plan policy UA11 for the mixed residential, commercial and public open space development on an adjacent site. All other material planning considerations relating to visual impact, neighbour amenity, highways, and ecology are considered to be acceptable and 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. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications online pages under planning application reference 23/1798/FH.

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.

That planning permission be refused/for the following reason(s):

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 except in complete accordance with the following approved drawings and documents:

- Proposed Site Plan 01-02
- Proposed Ground Floor and Roof Plan 02-03

- Proposed Elevations 02-04
- Biodiversity Enhancement Layout 10-01

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

3. Prior to the first use of the development hereby approved, the electric vehicle charging points as shown on the approved plan (01-02), to Mode 3 standard (providing a 7kw output) and SMART (enabling Wifi connection) or an alternative type which has been submitted to and approved in writing by the Local Planning Authority, shall be installed in the locations set out in the approved plans. The charging points shall be retained in working order in perpetuity.

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

4. Prior to the first use of the development hereby approved details of six secure, covered cycle parking spaces shall have been submitted to and approved in writing by the Local Planning Authority, made available and thereafter retained in association with the approved development at all times.

Reason: In the interest of encouraging alternative modes of transport to private motor vehicles and supporting healthy lifestyles.

5. The parking area shown on the submitted plan shall be provided and made available prior to the first use of the development 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.

Reason: In the interests of highway safety and convenience.

6. The access details shown on the approved plan (01-02) shall be provided in full prior to the first use of the development hereby permitted and thereafter maintained.

Reason: In the interests of highway safety.

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

- i. the parking and turning of vehicles of site operatives, construction vehicles and visitors.
- ii. loading and unloading of plant and materials, including timing of deliveries.
- iii. storage of plant and materials used in constructing the development.
- iv. routing of construction and delivery vehicles to / from the site.
- v. wheel washing facilities.
- vi. measures to control the emission of dust and dirt during construction.
- vii. temporary traffic management / signage.

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

8. 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.

9. No development beyond the construction of foundations shall take place (unless specified to the contrary), until the relevant details set out below have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details unless agreed otherwise by the Local Planning Authority in writing. Where relevant, the following details should be provided on drawings at an appropriate scale of 1:50 (where detail needs to be considered contextually related to a façade) and at 1:20 in other cases:-

- (a) full details of glazing and external doors, including all external joinery and framing methods and external colour (1:20),
- (b) 1:20 horizontal and vertical cross sections through typical sections of each of the facades sufficient to show the relationship between the façade and those elements of detail to be embedded within the façade as well projecting from it (such as the extent of recessing of glazing and doors in openings created in the façade, the consequential treatment of window reveals, the details of cills and the extent of projecting elements from the façade),
- (c) prior to installation - Details of rainwater goods, eaves, and fascia (including materials and finish),
- (d) details of all brick detailing (arches, quoins and all other brick detailing).
- (e) mortar colour(s)

Reason: Further details are required to ensure that the external appearance and fine detailing are of an appropriate high quality.

10.A) Prior to any development works the applicant (or their agents or successors in title) shall secure a programme of archaeological works via a Written Specification, which has been submitted to and approved in writing by the Local Planning Authority. The archaeological works shall include a pre-commencement Historic Building Recording (Level 2) and archaeological led monitoring and recording during any ground intrusive works, including clearance and remediation. So that structural building works and groundworks are observed and archaeological information is recorded. The archaeological work shall be undertaken by an archaeologist approved by the Local Planning Authority and in accordance with the Written Specification.

B) The archaeological watching brief and historic building recording, post excavation assessment, analysis and reporting shall be carried out in accordance with the agreed Specification.

C) Within 6 months of the completion of the programme of archaeological works a Report shall be submitted for approval in writing by the Local Planning Authority.

Reason: To ensure that the archaeological interest of the site that would be affected by the development is properly examined and recorded in accordance with local and national planning policy.

11. 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 (including boundary treatment), hard surfacing materials, and an implementation programme.

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

12. 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.

13. 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.

14. No development beyond the construction of foundations shall take place until details of a habitat establishment and management plan shall have been submitted to, and approved in writing by, the local planning authority. The approved details shall include details of how the features to be implemented as part of the Biodiversity Enhancement Layout (including a native hedgerow, two bat boxes and areas of wildflower meadow) will be established and managed for period of at least ten years.

Reason: In the interest of enhancing ecology and biodiversity.

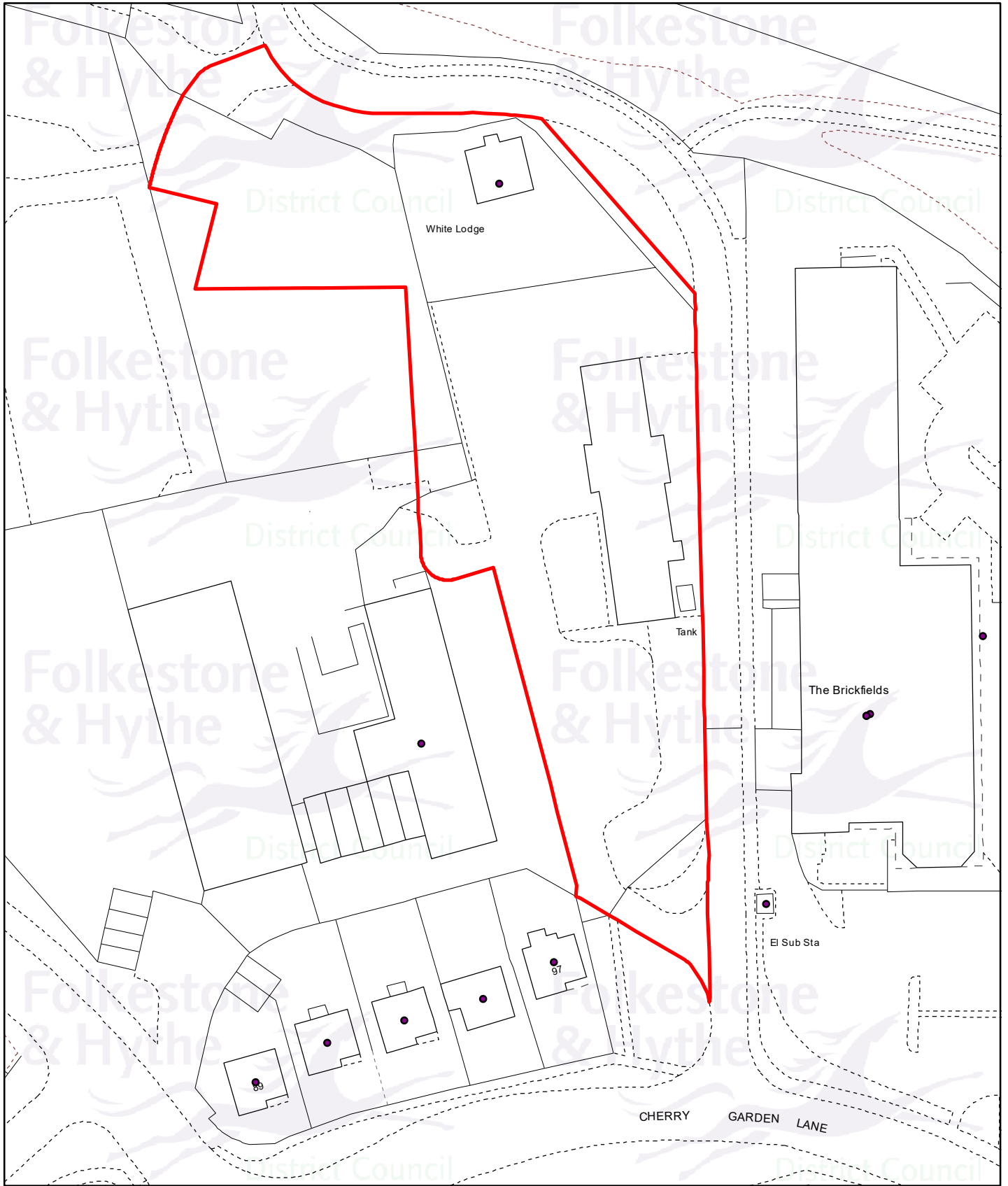
15. The premises shall only be used for purposes within Use Class E(g)(i) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

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

Informatives:

1. The applicant is advised that, in connection with the details to be submitted pursuant to the approval of condition 10 above, the results of the watching brief and historic building recording, combined with the information from the submitted Archaeological Desk-Based Assessment should be combined into a single final report so that a copy can be lodged with the Kent Historic Environment Record for public benefit.

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Planning Application:
23/1798/FH

Drawn date:
06 Mar 2024

Drawn by:
Carrie Stacey

Drawing ref:
2137/COP/TG

Llywelyn Lloyd
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2024



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This Report will be made public on 11 March 2024

DCL/23/48

To: Planning and Licensing Committee
Date: 19 March 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:

That Members note the report.

1. DECISIONS RECEIVED

23/0376/FH - Terlingham Vale, Gibraltar Lane, Hawkinge – **APPEAL ALLOWED**

- 1.1. An extremely unfortunate decision. The Inspector concluded that the proposed concrete and brick retaining wall and fence, which will at its highest be four metres above the level of the road, would not harm the character and appearance of this country lane or the Kent Downs National Landscape, and placed significant weight on the use of landscaping to soften its appearance.
- 1.2. The space available for landscaping between the wall and the highway is approximately 600mm for much of its length and it is difficult to envisage any significant landscaping being able to thrive in such a location. Officers will however seek to ensure that any landscaping scheme submitted is both appropriate and substantial in order to mitigate the harm arising from the development.
- 1.3. The decision is attached at **Appendix A**.

23/0338/FH/CON - Hillcrest, Blackhouse Hill, Hythe – **APPEAL DISMISSED**

- 1.4. This appeal was made against the Council's decision, which refused details of screening pursuant to a condition imposed on a retrospective planning permission

granted for a retaining wall. The purpose of the condition was to ensure that sufficient screening was provided to prevent overlooking of the neighbouring property and harm to residential amenity.

1.5. In dismissing the appeal, the Inspector agreed with the Council that the details submitted were insufficient to mitigate this harm, and that a more robust screen is required.

1.6. The appeal decision is attached at **Appendix B**.

22/2067/FH - Station House, Sandling Road, Hythe – **APPEAL DISMISSED**

1.7. Full support for the Council's decision, with the Inspector concluding that the proposed development would be at odds with the appearance of the dwelling on site, and due to its scale and prominent location, harmful to the character and appearance of the wider area and the scenic quality of the Kent Downs National Landscape.

1.8. The decision is attached at **Appendix C**

22/1030/FH - Lyveden, Stone Street, Westenhanger – **APPEAL DISMISSED, AWARD OF COSTS AGAINST THE COUNCIL REFUSED**

1.9. This appeal was dismissed wholly on the basis that the appellant had failed to demonstrate that the proposal would not give rise to harm to the Stodmarsh SPA.

1.10. In refusing the application for an award of costs against the Council, the Inspector criticises the lack of response by the then case officer (a temporary member of staff who has since left the Council) but concludes that it was inevitable that the application would have been refused, and as such, the appellant was not put to any unnecessary or wasted expense.

1.11. The decision and costs decision are attached at **Appendix D**.

22/02494/FH – St. Margarets Nursing Home, 20 Twiss Avenue, Hythe – **APPEAL DISMISSED**

1.12. Whilst the decision of the Inspector is welcome, it is a matter of concern that they evidently did not receive the Council's statement, despite correspondence with the Planning Inspectorate confirming that it was received and accepted by them.

1.13. The Inspector concludes that the development would result in harm to residential amenity, highway safety and the significance and character and appearance of the Conservation Area and dismissed the appeal accordingly.

1.14. The decision is attached at **Appendix E**.

22/2030/FH - Land at White Horse Lane, Rhodes Minnis – **APPEAL DISMISSED**

1.15. The Inspector gave full support to the Council's decision to refuse this application for a new dwelling in an unsustainable location in the Kent Downs National Landscape, concurring that the proposed development would result in reliance on the private car, that it would harm the character and appearance of the area and the scenic beauty of

the National Landscape. It is of note that the Inspector also concluded, despite the site being cleared of any habitat, that the development could still harm protected species.

1.16. The decision is attached at **Appendix F**.

21/2470/FH - 12 London Road and Ebbor House, Barrack Hill, Hythe – **APPEAL
DISMISSED**

1.17. The Inspector agreed that the development would harm the character and appearance of the immediate area, exacerbated by the loss of protected trees. The application the subject of the appeal was made in outline only, and the Inspector concluded that it had not been demonstrated, on the basis of the information submitted, that the development could take place without harm to residential amenity, highway safety and without an adverse impact on land stability. The Inspector also considered that the lack of on-site provision of affordable housing was unacceptable.

1.18. The decision is attached at **Appendix G**.

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Appeal Decision

Site visit made on 30 January 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/L2250/D/23/3324028

Terlingham Vale, Gibraltar Lane, Hawkinge, Kent CT18 7AE

- 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 Julian Campbell against the decision of Folkestone and Hythe District Council.
 - The application Ref 23/0376/FH, dated 8 March 2023, was refused by notice dated 4 May 2023.
 - The development proposed is the construction of a new boundary retaining wall.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a new boundary retaining wall at Terlingham Vale, Gibraltar Lane, Hawkinge, Kent CT18 7AE in accordance with the terms of the application, Ref 23/0376/FH, dated 8 March 2023, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P4 R1, P8 and P9.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. P8 and P9.
 - 4) No development beyond the construction of foundations shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the development, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023, which I have had

regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes'. Nevertheless, the Framework still refers to AONBs and their legal designation and policy status remain unchanged. Therefore, I will still refer to the Kent Downs AONB within this decision.

Main Issue

4. The main issue in the appeal is the effect of the proposed development on the character and appearance of the surrounding area and the Kent Downs AONB.

Reasons

5. The appeal site is occupied by a two-storey dwelling on a corner plot adjacent to Gibraltar Lane and the entrance to Terlingham Lane. Located within the Kent Downs AONB, the site's immediate surroundings are rural in nature, with Gibraltar Lane characterised by the narrow country road and verdant appearance. However, there are a number of residential properties in the area, particularly on Terlingham Lane and to the rear of the appeal site within the main settlement of Hawkinge, which provide a contrasting suburban setting. The appeal site is unmistakably residential, however the barn like appearance of the host dwelling sits comfortably within the rural surroundings of the AONB.
6. The proposed development would replace the existing boundary treatments to the front and side of the site with a new part brick, part concrete retaining wall. To the front and side of the site, adjacent Terlingham Lane, the proposal would replace timber posts with a brick wall. On the side of the site, adjacent Gibraltar Lane, the proposal would replace a steep grass verge with a concrete wall and a brick wall.
7. Although the proposal does not appear to be significantly different in height than the existing boundary treatments around the site, due to the size of the site the length of the proposed retaining wall is extensive. However, whilst the use of brick and concrete would be less rural in appearance than the current boundary treatment, it would be generally in keeping with the distinct domestic appearance of the site and neighbouring properties and would not appear overly incongruous in such a setting. Furthermore, although in a prominent location on a corner plot and in close proximity to the road, views of the proposed development would be localised and therefore would have a limited impact on the scenic beauty and landscape character of the AONB.
8. The current boundaries to the site are partially obscured by some sporadic hedging and shrub which, along with the existing grass verge, would likely be removed to implement the proposed development. However, whilst this contributes to the rural nature of the surrounds, the current landscaping is not well established or of a particularly high quality. As such, I see no reason as to why the soft landscaping within the boundaries of the appeal site could not be replaced once the works have been complete. Appropriate landscaping would also assist to soften the appearance of the proposal on this rural/domestic

boundary. This could be secured by condition, as recommended by the Council in their submission.

9. For the reasons above, I find that the proposed development would not be harmful to the character and appearance of the surrounding area or the Kent Downs AONB. It would therefore comply with Policies HB1, HB8 and NE3 of the Folkestone and Hythe District Places and Policies Local Plan 2020. These policies collectively seek to ensure that new development provides a clear definition between the public and private realm incorporating high quality boundary treatments, does not adversely impact on the quality and character of the landscape or the rural setting and conserves and enhances the natural beauty and locally distinctive features of the AONB and its setting.

Conditions

10. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision.
11. The Council has suggested a condition in relation to the submission of details of the external finishing materials to be used on the proposed development. However, as such details have been included on the submitted plans, this condition is not necessary. Instead, a condition has been included requiring the use of materials to accord with the approved plans.
12. As outlined above, conditions have been included requiring the appellant to submit, implement and retain a scheme of soft landscaping on the appeal site to replace landscaping which will be lost and to soften the impact of the proposed development on the rural nature of the surrounding area.

Conclusion

13. For the reasons set out above, the appeal is allowed.

E Grierson

INSPECTOR

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Appeal Decision

Site visit made on 30 January 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/L2250/D/23/3323543

Hillcrest, Blackhouse Hill, Hythe, Kent CT21 5UP

- 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 Paul Woodward and Mrs Yvonne Holder against the decision of Folkestone and Hythe District Council.
 - The application Ref 23/0338/FH/CON, dated 2 March 2023, sought approval of details pursuant to condition No 3 of a planning permission Ref 22/1549/FH, granted on 9 December 2022.
 - The application was refused by notice dated 31 March 2023.
 - The development proposed was the retention of retaining wall.
 - The details for which approval is sought are: a 1.8 metre high screen to be erected on the southern retaining wall closest to the common boundary with Boundary House.
-

Decision

1. The appeal is dismissed and approval of the details is refused, namely the details of a 1.8 metre high screen submitted in pursuance of condition 3 attached to planning permission Ref 22/1549/FH dated 9 December 2022.

Main Issue

2. The main issue is whether the details submitted are sufficient to discharge condition 3 attached to planning permission Ref 22/1549/FH in relation to a 1.8 metre high screen.

Reasons

3. Planning permission was granted for the retention of a retaining wall on the appeal site. This was subject to a condition which, within 3 months of the date of the decision, required the submission of details of a 1.8 metre high screen to be erected on the southern retaining wall closest to the common boundary with Boundary House to be submitted to the Local Planning Authority for its written approval. This condition was included by the Council to mitigate any loss of privacy to the occupiers of the neighbouring dwelling resulting from the approved development.
4. In order to discharge condition 3, the appellants have submitted a written statement indicating that they intend to erect a willow wall immediately to the rear of the approved retaining wall for 4.6 metres of the wall length. This includes upright willow rods, horizontal rods and weavers to create a woven diamond pattern which would be at least 1.8 metres in height. The appellants have also stated that they intend to erect 6 metres of evergreen laurel next to the boundary fence with 1 metre of pleaching above the fence. During my site

visit I saw that some planting had been implemented along the boundary with Boundary House. However, in its current state, this did not provide effective screening as required by the condition.

5. Whilst the willow wall would extend to 1.8 metres in height, due to the nature of planting, there is no guarantee that the foliage would provide adequate screening up to this height or would be maintained accordingly. Due to the deciduous nature of willow this is particularly the case in the winter months where coverage would be reduced. Although the use of the appellant's garden may be low during this time, this would not negate the reason for the implementation of the condition. Furthermore, no details have been provided in relation to the density and location of planting or how it would be maintained, including the evergreen laurel. Therefore, it is not possible to fully deduce whether the proposed screen would be sufficient to fulfil its requirement.
6. For the reasons above, I conclude that the details submitted are insufficient to discharge condition 3 attached to planning permission Ref 22/1549/FH in relation to the erection of a 1.8 metre high screen.

Other Matters

7. It is noted that the appellants consider that condition 3 is unnecessary and that the retaining wall does not result in a level of harm to the occupiers of the neighbouring property that requires mitigation. Their statement requests a view as to whether the condition is reasonable. However, the appeal, as detailed on the appeal form submitted, relates to the application Ref 23/0338/FH/CON, in relation to the approval of details pursuant to condition 3. Therefore, the appeal before me is not one against the condition itself and whether the condition is necessary or reasonable does not form part of my considerations.

Conclusion

8. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

E Grierson

INSPECTOR



Appeal Decision

Site visit made on 30 January 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14.02.2024

Appeal Ref: APP/L2250/W/23/3321115

Station House, Sandling Road, Hythe CT21 4HG

- 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 Dean Horlock against the decision of Folkestone and Hythe District Council.
 - The application Ref 22/2067/FH, dated 23 December 2022, was refused by notice dated 17 February 2023.
 - The development proposed is the construction of new unit on the land to the east of the existing dwelling for the sole purpose of holiday letting and a new double garage on the land to the northwest of the existing dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023, which I have had regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes'. Nevertheless, the Framework still refers to AONBs and their legal designation and policy status remain unchanged. Therefore, I will still refer to the Kent Downs AONB within this decision.

Main Issues

4. The main issue in the appeal is the effect of the proposed development on the character and appearance of the host dwelling, the surrounding area and the Kent Downs AONB.

Reasons

5. The appeal site is occupied by a two storey detached dwelling on a relatively large and spacious plot adjacent to Sandling train station and its associated car park. Located within the Kent Downs AONB, the site's surroundings are open and rural in nature, characterised by sporadic residential development on large plots interspersed by expanses of green fields and woodland. Although located adjacent to the train station, the open and spacious environment surrounding

- the dwelling and the traditional residential form cause the appeal site to sit comfortably within its rural AONB surroundings.
6. The proposed development would introduce a two-storey detached structure between the existing dwelling and the neighbouring train station entrance and car park, which would provide holiday accommodation for those visiting the area. The proposal also includes a detached double garage to the northwest of the existing dwelling.
 7. Whilst it would have a residential use, the appellants indicate that the new holiday unit has been designed with a style and materials to replicate the appearance of a traditional signal box in relation to the railway. However, whilst Sandling train station and the trainline may have previously been served by a signal box, no evidence has been provided to suggest that it was ever located on the appeal site. Furthermore, although next to and built in connection with the train station, Station House and its surrounds are now an independent residential unit which has a domestic character and appearance with no visual links to the neighbouring land use. Therefore, the addition of a large signal box style building on this residential plot would appear contrived and would be an incongruous addition, at odds with the current use of the site and the appearance of the host dwelling.
 8. The significant size of the proposed holiday unit and its prominent location, between the host dwelling and the train station entrance, would make it a highly visible addition within the surrounding area. Although development in the area is sporadic and varied in design, surrounding residential properties are traditional in appearance and in keeping with the rural surrounds. The proposed holiday unit would wholly contrast with the style of the surrounding residential development and the rural character of the AONB. Whilst intended to improve the appearance of the site, the design and prominence of the holiday let would appear as an uncharacteristic addition which poorly reflects the prevailing form of development in the area and would be detrimental to the character and appearance of the site, the surrounding area and the scenic beauty of the AONB.
 9. The scale and design of the proposed garage would appear as a subservient outbuilding to the main dwelling, which would be set back from the main road and in keeping with the surrounding style of residential development. Therefore, this aspect of the proposed development would not harm the character and appearance of the host dwelling, surrounding area or the AONB.
 10. However, for the above reasons, I find that the proposed holiday unit would be harmful to the character and appearance of the host dwelling, the surrounding area and the Kent Downs AONB. It would therefore conflict with Policies HB1 and NE3 of the Folkestone and Hythe District Places and Policies Local Plan (2020) and Policy CSD4 of the Core Strategy Review (2022). These policies collectively seek to ensure that proposals make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings with planning permission being granted where it can be demonstrated that the natural beauty and locally distinctive features of the AONB and its setting are conserved and enhanced and that the design, scale, setting and materials of new development must be appropriate to the AONB.
 11. The proposal would also conflict with the Framework which states that great weight should be given to conserving and enhancing landscape and scenic

beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues and that the scale and extent of development within this designated area should be limited.

Other Matters

12. It is noted that the Council accepts the principle of the proposed development and that the proposed holiday unit would be in a sustainable location, close to transport links. However, these are neutral factors which would not weigh in favour of the appeal proposal. The proposed holiday unit would also contribute to the local economy during construction and once in use. However, due to the scale of the development as a single unit, this is given limited weight in my consideration of the appeal. Therefore, these factors would not outweigh the harm identified above.

Conclusion

13. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR

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Appeal Decision

Site visit made on 31 January 2024

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Appeal Ref: APP/L2250/W/23/3319922

Lyveden, Stone Street, Westenhanger, CT21 4HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr John Moberly against Folkestone and Hythe District Council.
 - The application Ref 22/1030/FH is dated 19 June 2022.
 - The development proposed is erection of two detached houses on land to the sides of existing dwelling.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by the appellant against the Council and this is the subject of a separate decision.

Main Issue

3. This is the effect on the integrity of the Stodmarsh Special Protection Area.

Reasons

4. Stodmarsh is a Special Protection Area (SPA), a Ramsar site, a Special Area of Conservation, a Site of Special Scientific Interest and a National Nature Reserve. Excessive nutrients from wastewater discharge are affecting these nationally and internationally important wildlife sites. The appeal site is within the River Stour operational catchment area where Natural England objects to the provision of new overnight accommodation. This is due to the adverse impacts that nitrates and phosphates arising from additional foul drainage would have on the condition of the designated areas.
5. No information has been provided about the implications of the proposal for total nitrogen and phosphorous loading within the catchment area. However, it is reasonable to suppose that this would increase as a result of the two additional dwellings proposed, albeit that the increase would be a modest one. Nevertheless, in combination with other development, the proposal would have a likely significant effect on the SPA. In these circumstances, the Conservation of Habitats and Species Regulations 2017 requires that, before giving permission for any project, an appropriate assessment of the implications for that site must be made.
6. No mitigation is proposed to avoid the effects of the nutrients that would occur. The appellant proposes that the matter be dealt with by condition. However,

the project can only be agreed to if it can be ascertained that it will not adversely affect the integrity of the European site (in this case at Stodmarsh). There is no indication of the detailed measures that would or could be employed to provide mitigation and therefore no indication that they would be likely to work in practice. A high degree of certainty is required in this respect and there is insufficient assurance that imposing a condition would be effective in safeguarding the conservation interests of the SPA.

7. Information from Southern Water indicates that an existing public combined sewer crosses both pieces of land either side of Lyveden. As a result, it may be the case that the drainage strategy for the adjoining Otterpool Park site will need to take account of the development along Stone Street. Whilst discussions between the development team, Southern Water and Natural England are said to be taking place, there is no indication of how or when the matter might be resolved. This possible solution therefore cannot be treated as one that would provide suitable mitigation.
8. Outline planning permission has been granted for 8,500 homes adjacent to the appeal sites at Otterpool Park. According to the appellant, a nutrient neutrality report is to be provided as part of the full planning conditions. However, the memo of February 2023 indicates that Council officers were satisfied that nutrient neutrality could be achieved with appropriate mitigation. Furthermore, that the analysis undertaken was sufficient to discharge the duties under the Regulations. That is not so here and, in any event, the Regulations require this proposal to be assessed and found acceptable in its own right.
9. An appropriate assessment has to be undertaken in conjunction with the appeal and cannot be deferred. In this case, the proposal would adversely affect the integrity of the Stodmarsh SPA because of the nitrogen and phosphorous that would be generated by it. By virtue of the Regulations, agreement cannot therefore be given to the project. The proposal would also be contrary to Policy NE2 of the Places and Policies Local Plan which safeguards and protects sites of European importance.

Other Matters

10. The application is in outline with all detailed matters reserved. There are no other objections to the proposed dwellings which would replace existing outbuildings.

Conclusion

11. The proposed development would not accord with the development plan. There are no material considerations that outweigh this finding. In any event, the adverse effect on the habitats site at Stodmarsh is decisive. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR



Costs Decision

Site visit made on 31 January 2024

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Costs application in relation to Appeal Ref: APP/L2250/W/23/3319922 Lyveden, Stone Street, Westenhanger, CT21 4HS

- 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 Mr John Moberly for an award of costs against Folkestone and Hythe District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for erection of two detached houses on land to the sides of existing dwelling.
-

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 has requested a specific sum to cover additional fees associated with the appeal.
3. The planning application was submitted in June 2022. Despite numerous emails and calls from the applicant and his agent, the matter appears to have stalled leaving the applicant to feel that he had no choice but to appeal in April 2023. The Council regrets this but explains that it was experiencing acute staffing issues at the time and that it was not possible to re-distribute the case to another officer.
4. The PPG on *Determining a Planning Application* states that decisions should be made as quickly as possible and within the statutory time limit. The National Planning Policy Framework also indicates that local planning authorities should work proactively with applicants. The way that the Council dealt with the application was neither timely nor constructive. There is also no evidence to indicate that the position the Council found itself in or any updates about progress were given to the applicant, other than an email in November 2022. This is all unsatisfactory and the length of time that the application remained undetermined was unreasonable.
5. However, even if the Council had provided advice to the applicant about the shortcomings of the proposal, it is unlikely that the appeal would have been avoided. This is because of the strict operation of the Conservation of Habitats and Species Regulations 2017 and the absence of any effective mitigation measures to deal with the nutrients that would affect the important wildlife sites at Stodmarsh. Furthermore, if the Council had determined the application

swiftly then it would have been refused and the applicant would still have had to bear the cost of making the appeal if he wanted to pursue the matter.

6. In conclusion, there has been unreasonable behaviour because of the lengthy delay that the applicant experienced and the lack of meaningful communication. However, this has not resulted in unnecessary or wasted expense. Therefore, an award of costs is not warranted.

David Smith

INSPECTOR



Appeal Decision

Site visit made on 30 January 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/L2250/W/23/3319759

St. Margarets Nursing Home, 20 Twiss Avenue, Hythe, Kent CT21 5NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr & Mrs J Thind against Folkestone and Hythe District Council.
 - The application Ref 22/02494/FH, is dated 22 March 2022.
 - The development proposed is the redevelopment of St Margaret's Nursing Home to provide 14 apartments (10 x 2 beds and 4 x 1 beds) together with associated parking and landscaping.
-

Decision

1. The appeal is dismissed and planning permission for the redevelopment of St Margaret's Nursing Home to provide 14 apartments (10 x 2 beds and 4 x 1 beds) together with associated parking and landscaping is refused.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023, which I have had regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

3. A formal decision was not issued and the Council have not provided any information as part of this appeal as to whether it would have granted or refused planning permission for the proposed development. However, the Council's initial comments on the application and a pre-application response, submitted by the appellant, indicate that their main concerns relate to the impact on the character and appearance of the area and the Conservation Area in which it is located, the impact on the living conditions of the occupiers of neighbouring dwellings and highway safety.
4. Therefore, the main issues in the appeal are the effect of the proposed development on:
 - the character and appearance of the host building and surrounding area and whether it would preserve or enhance the character or appearance of the Hythe Conservation Area;

- the living conditions of the occupiers of the neighbouring dwellings in relation to privacy, outlook and daylight; and
- highway safety in relation to car parking provision.

Reasons

Character and Appearance

5. The appeal site is occupied by a two-storey building, currently used as a residential care home. The appeal building sits at the end of a row of traditionally styled two-storey dwellings on Twiss Avenue. Although it has a larger footprint than the neighbouring properties, the building assimilates well into this pleasant residential road with its green surrounds and location adjacent to the Royal Military Canal. The appeal site is also located within the Hythe Conservation Area, a designated heritage asset.
6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Limited information has been provided, however from my observations on site and the heritage impact assessment provided by the appellant, it would appear that the significance of the Conservation Area relates to the historic nature of the area and the traditional buildings within it. Although relatively unremarkable in design, the appeal property appears as part of the modest, traditional residential dwellings on Twiss Avenue within this domestic section of the Conservation Area, which as a whole makes a positive contribution to the significance of the Conservation Area.
7. Whilst it has three-storeys, the height of the proposed development would not be greater than the ridge height of the existing building. However, it would have a greater footprint than the existing building and a significantly larger volume and massing to the rear of the site. It is noted that the stepped design and use of a variety of materials is intended to break up the overall scale of the building, but this is not sufficient to negate the visual impact of a much larger building in this location when compared to the modestly scaled residential dwellings adjacent. Although set back and clad in black tiles, the box like appearance of the second floor further adds to the overall bulk of the building.
8. The simple contemporary design would not be out of keeping with other development in the Conservation Area, where there are numerous examples of similarly styled buildings. Furthermore, the appearance of a more traditional two-storey section fronting Twiss Avenue would complement adjacent properties. However, the massing of the block to the rear would still be highly visible from the public realm and would visually overpower other dwellings in this location. As such, the proposed scale, in this residential street would appear as an overly prominent and incongruous addition to the area, to the detriment of the character and the appearance of the Conservation Area.
9. It is noted that the proposed building would be smaller in scale than the neighbouring supermarket building. However, the supermarket is not located on Twiss Avenue and, unlike the appeal site, does not form part of the residential setting in this area. Similarly, although in a central location, the appeal site is separated from the main town centre where a higher density and larger buildings may be more commonplace.

10. The appeal site also faces the Royal Military Canal, a scheduled monument, which is a designated heritage asset. However, the appeal site is well separated from the canal by a road, a grass bank, a public footpath and a number of trees which partially block the views between the two. Therefore, the proposal would not have a detrimental impact upon the setting or the significance of this scheduled monument.
11. Nevertheless, whilst the proposed development would not harm the setting of the nearby scheduled monument, it would result in harm to the character and appearance of the surrounding area and the Hythe Conservation Area. Therefore, it would conflict with Policy SS3 of the Folkestone and Hythe District Council Core Strategy Review (the CS) 2022 and Policy HB1 of the Folkestone and Hythe District Place and Policies Local Plan (the LP) 2020. These policies collectively seek to ensure new development contributes to local place-shaping by preserving and wherever possible enhancing conservation areas and their setting, making a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to scale, proportions and massing.
12. Whilst harm has been found, the harm to the significance of the Hythe Conservation Area from the proposed development is less than substantial. The Framework requires, where there would be less than substantial harm, for it to be balanced against the public benefits of the scheme.
13. The proposed development would make efficient use of previously developed land in a sustainable location through the provision of 14 new dwellings, at a time when housing delivery in the area is below the target. However, while the Framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. I consider that the 'less than substantial harm' identified to the character and appearance of the Conservation Area is such that the policies in the Framework relating to heritage assets provide that clear reason for refusing the development. Therefore, this would not weigh in favour of the proposed development and the public benefits of the scheme would not outweigh the less than substantial harm to the heritage asset identified.

Living Conditions

14. The proposed building would extend behind the dwellings at 17 and 18 Twiss Avenue. Although separated by a small garden space, the proposed building would be in relatively close proximity to the boundary between the appeal site and these two neighbouring dwellings.
15. At first floor level there would be two windows serving bedrooms and one window serving a stairwell, directly facing the rear of 17 and 18 Twiss Avenue. Although the windows serving the stairwell could be obscure glazed to prevent any overlooking to the gardens and rear windows of these neighbouring properties, this would not be possible for the bedroom windows. Therefore, due to the orientation, height and proximity, these windows would result in a loss of privacy to the occupiers of these neighbouring dwellings. The landscaping proposed would not be sufficient to fully screen the views between the two properties.

16. The appellant has submitted a daylight and sunlight assessment which concludes that the reduction in daylight to the rooms of the neighbouring buildings would be within acceptable limits set out within the BRE Guidelines. Furthermore, the part of the proposed building closest to the boundary with the neighbouring properties would mostly be only two-storeys in height and therefore would not result in a sense of enclosure or a loss of outlook to the occupiers of the neighbouring properties. Nevertheless, whilst the proposal may not impact the levels of daylight within the neighbouring dwellings or result in a loss of outlook, as outlined above the proposal would result in a loss of privacy to the occupiers of these neighbouring properties.
17. Therefore, the proposed development would have a harmful impact to the living conditions of the occupiers of the neighbouring dwellings, 17 and 18 Twiss Avenue, in relation to privacy and would conflict with Policies HB1 and HB3 of the LP. These policies collectively seek to ensure that proposals do not lead to an adverse impact on the amenity of neighbours, taking account of loss of privacy, and respects existing buildings and land uses along the boundaries of the development site.

Highway Safety

18. The proposed development for 14 apartments includes 6 car parking spaces which are accessible via Twiss Avenue. The appellant has confirmed that this would be below the maximum parking standards by 8 spaces. Whilst there are no car parking restrictions on Twiss Avenue, the road is extremely narrow with limited space for on road parking or vehicle manoeuvring without blocking safe access for other vehicles and pedestrians.
19. Some on road parking provision may be possible on neighbouring Twiss Road. However, this is some distance from the appeal site and it is unlikely that this would be a viable option for long term resident parking. Furthermore, car parking in the neighbouring supermarket car park appears to be time limited and therefore it would not be possible for residents to use this facility.
20. It is noted that the appeal site is located within a town centre location with easy access to services and facilities and that ample cycle parking will be provided on the appeal site. However, public transport is limited to a bus service only and therefore it is still likely that the majority of future occupiers of the proposed development would rely on the use of a car for longer journeys. The substantial lack of on-site car parking would result in the overspill of vehicles onto Twiss Avenue and a large increase in on-street parking which, due to the nature of the road, would have a detrimental impact on highway safety for both vehicle users and pedestrians.
21. As the proposed development would result in harm to highway safety, it would be contrary to Policies HB2 and T2 of the LP. These policies seek to ensure that development provides well integrated parking that does not dominate the street, that there is sufficient parking for residents and visitors and that appropriate parking provision is available or can be provided.

Other Matters

22. It is noted that the appeal site has an extant planning permission¹ for an extension to the care home which the appellant states has a similar footprint to

¹ Ref Y08/0677/SH

the proposed development. Although works to commence this development may have begun in some regards, it seems unlikely that an extension to the care home would be fully implemented, for the viability reasons set out by the appellant. Therefore, this fallback position would not outweigh the harm that I have identified.

23. Whilst the principle of residential development on previously developed land within settlements may be supported, Policy HB11 of the LP states that planning permission will be granted for the demolition of a residential care home and new build development for residential use if a number of stipulations are satisfied. The first includes the provision of a viability report demonstrating that the residential care use is not economically sustainable, extension or adaption is not viable and the property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offers have been made. The appellant has provided marketing evidence which it considers meets this requirement.
24. The second requirement ensures the design and layout take account of the design and sustainable construction policies within the LP. The third is to demonstrate that levels of traffic movements can be successfully accommodated and that parking can be provided in accordance with the requirements of policy T2. As it has been found above that the proposal would not accord with this second or third requirement, regardless of the viability of the care home, it would not accord with the stipulations of Policy HB11 relating to the loss of residential care homes.
25. Policy HB11 also refers to the provision of affordable housing in accordance with Policy CSD1 of the CS. This requires development proposing 11 to 14 dwellings at any location within the district to provide two affordable dwellings on-site. The appellant has stated that they are happy to provide a financial contribution for off-site provision, which is supported by Policy CSD1 if it can be robustly justified. This, along with the planning obligations requested by Kent County Council in relation to education infrastructure, are noted. A draft unilateral undertaking has been submitted by the appellant intended to secure these planning obligations. However, as I am dismissing the appeal, I have not considered this in any further detail.

Conclusion

26. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR

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Appeal Decision

Site visit made on 30 January 2024

by **E Grierson BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2024

Appeal Ref: APP/L2250/W/23/3319436

Land at White Horse Lane, Rhodes Minnis, Canterbury CT4 6XP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Kent against the decision of Folkestone and Hythe District Council.
 - The application Ref 22/2030/FH, dated 27 November 2022, was refused by notice dated 1 February 2023.
 - The development proposed is the erection of a chalet bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023, which I have had regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.
3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became 'National Landscapes'. Nevertheless, the Framework still refers to AONBs and their legal designation and policy status remain unchanged. Therefore, I will still refer to the Kent Downs AONB within this decision.
4. The application which is the subject of this appeal was made as an outline application with all matters (access, appearance, landscaping, layout and scale) reserved for future consideration. As such I have considered the appeal on this basis.

Main Issues

5. The main issues are:
 - whether the proposed development would be in a suitable location for new housing with regard to the accessibility to services and facilities;
 - the effect of the proposed development on the character and appearance of the surrounding area, the Kent Downs AONB and the North Downs Special Landscape Area (SLA); and

- the effect of the proposed development on biodiversity.

Reasons

Location

6. The appeal site is a vacant area of land bordered by fencing with gated access onto White Horse Lane. It is located in a rural area in the AONB and SLA surrounded by open paddocks which are divided by hedging and post and rail fencing, with a number of sporadically located dwellings in the surrounding area. Evidence has been provided showing a building previously on the site, however this was removed some time ago and any remnants of this structure are limited and have largely blended into the landscape.
7. Policy SS1 of the Folkestone and Hythe District Council Core Strategy Review 2022 (the CS) defines the open countryside as anywhere outside settlements within Table 4.4 Settlement Hierarchy. Rhodes Minnis, where the appeal site is located is not included as a settlement within this table. Therefore, the appeal site falls outside of any defined settlement boundary and is within the open countryside.
8. Policy SS3 of the CS states that development is directed towards existing sustainable settlements to protect the open countryside. However, policy CSD3 of the CS states that development in locations outside the settlements identified in the settlement hierarchy may be allowed if a rural location is essential, identifying a list of developments which would be acceptable in principle in these locations. However, no evidence has been provided to suggest that the rural location is essential or that the appeal proposal would fall under any of these exceptions and therefore it would not accord with this policy.
9. Policy SS3 also states that a design-led and sustainable approach should be taken to density and layout ensuring development is suited to the locality and its needs, and transport infrastructure (particularly walking/cycling). Paragraph 83 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include consideration of providing support for local services even in a village nearby. There are very few local services or facilities within close proximity to the appeal site. However, the nearby settlement of Lyminge has a number of facilities, such as several shops and a primary school. A full range of services and facilities are also available within the nearby towns of Hythe and Folkestone.
10. There is a bus stop located in close proximity to the appeal site which, although there are no pavements, is easily accessible by foot. This offers public buses running to Lyminge, Hythe and Canterbury. However, even for a rural location, these are relatively infrequent and only run for limited hours. Therefore, this service could not be reliably used by the future occupiers of the dwellings to access all the services and facilities they require on a day to day basis and throughout the day. The nearest settlements are some distance from the appeal site and there are no footpaths available to provide safe access to them via foot. The surrounding roads are also relatively narrow with no dedicated cycle lanes, thereby making cycling an unattractive option for day to day family needs. As such, the future occupiers of the proposed dwelling would largely be

reliant on the use of a private vehicle to access the necessary services and facilities, contrary to the objectives of Policy SS3.

11. It is noted that there may have been car movements to and from the former use of the site. However, the site has been vacant for a long period of time and therefore additional car use, albeit by a limited number, would result from the proposal. It is also understood that, due to the location, the occupiers of surrounding dwellings are likely to rely on the use a private vehicle. However, this does not negate the requirement for new development to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users. Furthermore, due to the scale of the development, the benefit to services within villages nearby would be limited. Therefore, the proposed development would be given limited weight in relation to paragraph 83 of the Framework.
12. In conclusion, the necessary services and facilities which would be required by the future occupiers of the proposed dwellings would not be readily accessible and one additional dwelling would not provide significant support for local services nearby. Whilst there are some sustainable transport options, such as a public bus, these options are limited and therefore the future occupiers would still largely be reliant on the use of a car to serve their day to day needs on a regular basis. Consequently, the proposed dwellings would not be located within a socially or environmentally sustainable location and would not be in an appropriate location for new housing.
13. Therefore, the proposed development would conflict with Policies SS1, SS3 and CSD3 of the CS as detailed above. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.

Character and Appearance

14. The appeal site is currently an unoccupied piece of land surrounded by open paddocks. Although any hedgerows or vegetation on the site have been removed, its open and spacious appearance at present is still in keeping with the rural nature of the area and has a positive impact on the character and appearance of the surrounding area and the scenic beauty of the AONB. Whilst a building may have been present on the site previously, any remains have blended into the landscape and therefore it does not form part of the current character and appearance of the site or the surrounding area.
15. There are a number of residential dwellings in the surrounding area, set out informally as sporadic development on large plots surrounded by rural fields. Although set in rural fields, the dwelling proposed would be on a relatively small plot. Whilst the site may be able to accommodate such level of development, compared to the size of neighbouring properties, the proposal would appear cramped and out of keeping with the surrounding pattern of development. Furthermore, due to the lack of built form directly adjacent to the appeal site and the open nature of the surrounding fields, a building in this location would be an overly prominent addition to the site.
16. The presence of a residential dwelling on the appeal site, and the paraphernalia this entails, would significantly alter the character of this currently undeveloped site. Whilst the appellant intends the development to assimilate into the surrounding area, it would add to the overall domestication of the area, which

is still predominantly open countryside, to the detriment of the character and appearance of the surrounding landscape and the scenic beauty of the AONB.

17. Therefore, for the reasons given above, I conclude that the proposed development would significantly harm the character and appearance of the surrounding area, the Kent Downs AONB and the SLA and would conflict with Policy CSD4 of the CS. This policy requires planning decisions to have close regard to the need for conservation and enhancement of natural beauty in the AONB and its setting, ensuring new development does not jeopardise the protection and enhancement of the distinctive and diverse local landscapes.
18. The proposal would also conflict with the Framework which states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues and that the scale and extent of development within this designated area should be limited.

Biodiversity

19. The Council's biodiversity officer has indicated that habitats on the appeal site provide the potential for protected and priority species. However, I saw on my site visit that the site has been cleared and any previous grassland, woodland and hedgerow removed and replaced with wood chippings.
20. Nevertheless, due to the rural nature of the site and the surrounding area, protected and priority species could still be present. Therefore, an Ecological Impact Assessment should be provided to establish the impact on protected and priority species from the development proposed. This would require a survey to establish the presence of such species on the appeal site or in the surrounding area. The government circular 06/2005 states that ecological surveys should be carried out before planning permission is granted and only secured by condition in exceptional circumstances. There are no exceptional circumstances in this instance and therefore the ecological appraisal should be completed before planning permission is granted.
21. Therefore, without a suitable assessment to suggest otherwise, the proposed development would harm local biodiversity and would be contrary to Policy CSD4 of the CS and Policy NE2 of the Folkestone and Hythe District Places and Policies Local Plan 2020 (the LP). These policies seek to ensure development avoids a net loss of biodiversity and states that development proposals that would adversely affect protected species will not be supported unless appropriate safeguarding measures can be provided. It would also be contrary to the environmental objectives of the Framework in this regard.

Other Matters

22. A number of sites in the surrounding area have been brought to my attention which were granted planning permission for new residential properties. Limited information has been provided regarding these other sites, however from the Council's submission it appears that these examples are materially different from the appeal proposal as they are either replacement dwellings, located within the settlement boundary or are policy compliant. Therefore, they do not set a precedent for the development proposed.
23. The appellant has stated that the proposal would not result in any loss of privacy to the surrounding neighbouring occupiers, that the proposed

accommodation would meet minimum space standards and that environmentally friendly, sustainable materials would be used. However, these are neutral factors which do not outweigh the harm identified.

24. The Council has stated that the appeal site is located within the Stour Operational Catchment and a likely significant effect on the internationally designated Stodmarsh sites (SAC, SPA and Ramsar site) cannot be ruled out due to increases in wastewater from the proposed development. They indicate that sufficient information has not been provided for a Habitats Regulations Assessment (HRA) to be carried out to ensure the proposed development would not result in an adverse effect on the integrity of the sites identified.
25. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

26. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR

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Appeal Decision

Site visit made on 7 December 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2024

Appeal Ref: APP/L2250/W/22/3313507

12 London Road and Ebbor House, Barrack Hill, HYTHE, CT21 4DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Holbrook Griffith Development Ltd against the decision of Folkestone and Hythe District Council.
 - The application Ref 21/2470/FH, dated 13 December 2021, was refused by notice dated 15 July 2022.
 - The development proposed is Outline application for the demolition and redevelopment to provide 20 residential units incorporating access and landscaping details, with matters of appearance, layout and scale reserved for future consideration..
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made in outline with details of access and landscaping submitted. It is clear that the Council considered the circulation routes within the site as part of the access details. Appearance, layout and scale are reserved for future approval.
3. The appellant has submitted an amended plan¹ which was not before the Council when it made its decision. It shows an amended access road to the site from London Road with the addition of a passing place. The suitability of the access was a matter of dispute between the parties. The Procedural Guide: Planning Appeals – England is clear that the appeal process should not be used to evolve a scheme and that what is considered at appeal is essentially the same scheme that was considered by the Council and interested parties. Although the revised plans would not lead to a substantially different scheme, this is nevertheless a matter that those consulted on this proposal may have wished to have the opportunity to comment on. Applying the Holborn Studios² principles, I have made my decision on the basis of the plans considered by the Council, and on which interested party's views were sought. For the avoidance of doubt, this refers to drawing no EH PL 02 Rev E.
4. The application was amended to reduce the maximum number of units from 36 to 20. The Council made its decision on this basis (net addition of 18), although this was not re-advertised to interested parties. The above description of development reflects the amendment and is that used by the parties on the decision notice and appeal form. The appellant has submitted amended plans

¹ Drawing No EH PLA 24

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

to reflect this. As these plans are indicative only, I consider there would be no prejudice to interested parties from my considering them as part of this appeal.

5. A planning obligation, dated 29 November 2023 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted which sought to address affordable housing, education contributions, public open space and play space. I will return to this in due course.
6. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been materially amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach. I will refer to the updated paragraph numbers in this decision.

Main Issues

7. The main issues are:

- the effect of the proposed development on the character and appearance of the area including the effect on protected trees;
- the effect of the proposed development on the living conditions of neighbouring occupiers;
- whether suitable access to the site can be achieved;
- the effect of the proposed development on land stability; and
- whether there would be suitable provision for affordable housing and open space.

Reasons

Character and Appearance

8. The appeal site consists of two dwellings and their associated gardens. Ebbor House is a large dwelling set in expansive, landscaped grounds. No 12 London Road is also a large dwelling, sited on a spacious plot which faces onto London Road. The site is bounded by the properties fronting onto London Road, Barrack Hill and Turnpike Hill, and the flatted development at Colleton Park. The properties on London Road and Barrack Hill are large dwellings set in spacious plots. The dwellings on Turnpike Hill are set in more modest plots and are separated from the site by a footpath that connects London Road to Dark Lane. The site rises from London Road towards North Road.
9. Ebbor House is atypical of the surrounding area given its expansive garden and lack of frontage to the road. However, there is development around the house and its grounds. As a result, it is an established part of the character and appearance of the area. The entire application site is the subject of Tree Preservation Order No. 5 of 2021, an area order which protects all trees. The site makes a strong positive contribution to both the character and appearance of the area due to the extensive mature tree cover.
10. The Arboricultural Impact Assessment identifies there would be the loss of some 39 of the 81 individual trees it identifies on the site, along with 6 of the 16 groups and 1 of the 5 hedges. The majority of these would be Category C

and it is proposed to retain many of the trees along the boundary to the properties on London Road, and to the footpath. While layout is to be considered at a later stage, the proposed quantum of development nonetheless gives rise to the potential for the considerable loss of trees within the site. Notwithstanding there is an area of the site without significant tree cover, including the site of the present dwelling, the loss of trees would significantly harm the verdant character and appearance of the site and the contribution it makes to the surrounding area. It would not be necessary for the development to take place for appropriate management of the trees to be carried out.

11. Although appearance, layout and scale are reserved matters, the development would be likely to come forward as the flatted development shown on the indicative plans given the proposed quantum and the access details that would be approved at this stage. Although it is indicated that the lower level of any blocks could be sited within the slope, such blocks would nonetheless be of a considerable bulk and massing which would be incongruous with the predominant pattern of two storey dwellings surrounding the site.
12. Taken together, the likely form of the proposed dwellings and the loss of the protected trees would fundamentally harmfully change the character and appearance of the site from its present verdant, suburban character to that of a more urbanised, backland development. This would be detrimental to the character and appearance of the area.
13. Long and medium distance views of the site are limited due to the topography, built form and planting in the surrounding area. Further screening would be provided through the trees that would be retained and the height of the proposed blocks could be limited by condition. However, this would not overcome the localised harm to the character and appearance of the area.
14. The site is of a particularly low density taken in isolation. Although the parties disagree as to the precise proposed density, development between 27 to 33 dwellings per hectare would be broadly typical of that commonly found in residential areas. However, I am mindful of the advice in paragraph 128 of the Framework that while planning decisions should make efficient use of land, the desirability of maintaining an area's prevailing character and the importance of securing well-designed places should be taken into account. Similarly, while the building to plot ratio can provide useful context, it is not in and of itself integral as to the acceptability or otherwise of a proposed development. There is no substantive evidence to demonstrate that the garden is unmanageable for a single dwelling.
15. Colleton Park is a substantial block of flats set over 4 floors. It is further up the incline than the appeal site. I do not have full details of how that scheme came to be approved, however the fact of a similar development adjacent would not alter my assessment of the effect of the scheme before me.
16. The proposed development would therefore have an adverse effect on the character and appearance of the area including from the loss of protected trees. It would be contrary to Core Strategy (2022) (CS) Policies SS1 and SS3 and Places and Policies Local Plan (September 2020) (LP) Policies HB1, HB10, and C1 which, taken together and insofar as they relate to this appeal, require development to preserve and respond to the character and appearance of the area, make a positive contribution to its location and surroundings and respect the massing and form of existing buildings. It would also be contrary to the

advice in paragraph 135 of the Framework which requires development to add to the overall quality of the area and be sympathetic to local character.

17. The Council has referred to LP Policy NE2 in their decision. This relates to protecting the biodiversity value of sites and as such is not directly relevant to the reasons given for refusing the application with respect to protected trees.

Living Conditions

18. The appellant has identified minimum distances that their design solutions would be from the rear gardens of the neighbouring properties on Barrack Hill. While the properties on Barrack Hill have considerable rear gardens, the siting of a potentially three or four storey building 5-10m from the boundary of those gardens would undoubtedly appear dominant and enclose the rear gardens of those properties. This would also be the case for properties which would not directly bound onto where the blocks would likely be sited but which lie further down the slope. The likely bulk and height of the proposed flats would harm the outlook from the rear gardens of those properties.
19. I cannot be certain that the site could be developed for the proposed quantum of development without having an adverse effect on the living conditions of neighbouring occupiers. It would be contrary to LP Policies HB1 and HB10 which, inter alia, require development to not lead to a loss of amenity for neighbours taking account of poor outlook.

Access

20. The A261 London Road is subject to a 30mph speed limit adjacent to the appeal site. There was a steady flow of traffic along it at the time of my site visit. Access would be via the plot of No 12 which has a moderately steep gradient. The submitted drawings show a pedestrian footpath along one side of the access.
21. Although the proposed access would be to serve no more than 20 dwellings, there would be the potential for conflict to occur as a car and large vehicle, such as refuse or delivery lorry, would not be able to pass on the road. This could result in vehicles having to reverse along the access road. This could result in a danger to highway safety, given the likely slope of the access road and position of the access on the main road. There would also be potential danger to pedestrians if vehicles were to mount the pavement to pass.
22. I am therefore not satisfied that suitable access to the site can be achieved. The proposed development would therefore be contrary to Policies HB1 and T1 which require development to facilitate ease of movement and create an environment that is safe for all street users.

Land Stability

23. The submitted desk study noted a number of geotechnical slope stability hazards. It highlighted a high risk area under the access road where slope instability problems were almost certainly present as a significant constraint on land use. A medium risk area, including the footprint of the development, where problems were probably present or have occurred in the past, was identified.

24. These hazards are further identified as arising from reactivation of the existing historical landslips and new landslip movements. It included the potential for these to occur as a result of imposed loadings from the proposed development, removal of support to previously slipped sections of the slope and overly steep or deep excavations. The desk study concluded the landslide risk was significant. There is therefore the potential for the proposed development to have an adverse effect on land stability.
25. It is suggested that this matter could be dealt with by condition, requiring further site investigation to be undertaken. Any such condition must meet the tests set out in paragraph 56 of the Framework. I cannot be certain that the quantum of development proposed could be delivered in a way that would not have an adverse effect on land stability, or that development could be constructed, would be safe over its planned lifetime and would not have an adverse effect on land stability elsewhere. Furthermore, I cannot be certain that the associated costs would not have an effect on the viability of the proposal. Such a condition would therefore not be reasonable in all other respects.
26. The appellant has referred to other sites where site investigation conditions have been used. However, I do not have full details of the information submitted with those cases to be sure that they provide a close parallel. I am also mindful that ground conditions naturally will vary from site to site and note the caveat in the example given in the desk study that the appropriate solution in that case may not be appropriate for this development given the likely different form of the proposed dwellings.
27. Consequently, it has not been demonstrated that the proposed development could be carried out without an adverse effect on land stability. It would therefore be contrary to LP Policy NE6 which requires it to be clearly demonstrated that the site can be safely developed.
28. The Council has referred to LP Policy HB1 in its reason for refusal, however this refers to compliance with other relevant policies within the development plan and as such is not directly relevant to this reason for refusal in its own right.

Affordable Housing and Open Space

29. CS Policy CSD1 is clear that development proposing 15 or more net dwellings or on a site greater than 0.5ha should provide 22% on-site affordable dwellings. The submitted UU proposes a commuted sum towards an off-site contribution in place of this. There is no explanation for this approach which is clearly contrary to the intent of the development plan for housing sites to include a range of tenures.
30. CS Policies C3 and C4 require the provision of open space and children's play space. These should be provided on site unless it would not be appropriate or desirable. The Council accept that a commuted sum towards off-site contributions would be acceptable in this case. I have no reason to disagree with this.
31. The appellant has submitted a UU which seeks to address both of these matters, along with education contributions sought by Kent County Council. Both the Council and the County Council have raised concerns with the drafting

and enforceability of the UU. The parties are also not in agreement with the contributions secured by the UU.

32. Had I been minded to allow the appeal, the issues around the drafting and contributions towards open space and education could have been explored further. However, this would not overcome the lack of justification for there being no on-site affordable housing, or the other harms I have identified.
33. The proposed development would not make suitable provision for affordable housing and open space. It would therefore be contrary to CS Policy CSD1 which requires housing development to create balanced neighbourhoods with a range of tenures, and CS Policies C3 and C4 which require development to make provision to meet the open space and child playspace needs of the proposed dwellings.

Other Matters

34. There would be a benefit from the delivery of additional dwellings, irrespective of the amount of supply the Council can demonstrate. The site is located within an urban area with good access to services and facilities. Although these are issues to be addressed at the reserved matters stage, the dwellings could be designed to achieve acceptable living conditions for future occupiers and could include environmentally friendly features such as sedum roofing. Appropriate parking provision could be made.
35. The application was submitted following positive pre-application advice. The Framework acknowledges the benefits of early engagement and good quality pre-application discussion. While such advice is not binding, it is clearly unfortunate when a different decision is reached on an application. However, I have dealt with the appeal on its planning merits based on the evidence before me. I also note the comments of the appellant with regard to how the amended scheme was dealt with. However, addressing these concerns does not fall within the remit of this appeal.

Conclusion

36. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR

**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 19 MARCH 2024**

Declarations of Lobbying

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

Application No:	Type of Lobbying

SIGNED:

Councillor Name (in CAPS)

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

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