



Agenda

Meeting: **Planning and Licensing Committee**
Date: **23 January 2018**
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.

1. **Apologies for Absence**

2. **Declarations of Interest**

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**

To consider and approve, as a correct record, the minutes of the meeting held on 19 December 2017.

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

To receive and note the minutes of the meeting held on 13 December 2017.

Queries about the agenda? Need a different format?

Contact Kate Clark – Tel: 01303 853267
Email: committee@shepway.gov.uk or download from our website
www.shepway.gov.uk

5. **Report from the Head of Planning**

Report DCL/17/32 sets out the planning applications that will be considered by the Planning and Licensing Committee.

6. **Section 106 Agreements - Planning Contributions**

Some planning decisions are subject to Section 106 Legal Agreements that require developers to make financial contributions to the Council and Kent County Council (KCC) or provide for on or off site infrastructure to mitigate the impact of development.

The adequacy and effectiveness of the procedures and controls relating to Section 106 Agreements was reviewed by the East Kent Audit Partnership in 2008. A further review was carried out in 2014 which resulted in a completed report being produced on 5 June 2014. **Report DCL/17/31** recommends that the position regarding planning obligations that involve financial contributions should be reported to members on an annual basis. A progress report by East Kent Partnership was carried out in May 2015.

*Explanations as to different levels of interest

(a) A member with a disclosable pecuniary interest (DPI) must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares a DPI in relation to any item must leave the meeting for that item (unless a relevant dispensation has been granted).

(b) A member with an other significant interest (OSI) under the local code of conduct relating to items on this agenda must declare the nature as well as the existence of any such interest and the agenda item(s) to which it relates must be stated. A member who declares an OSI in relation to any item will need to remove him/herself to the public gallery before the debate and not vote on that item (unless a relevant dispensation has been granted). However, prior to leaving, the member may address the meeting in the same way that a member of the public may do so.

(c) Members may make voluntary announcements of other interests which are not required to be disclosed under (a) and (b). These are announcements made for transparency reasons alone, such as:

- membership of outside bodies that have made representations on agenda items, or
- 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.

Voluntary announcements do not prevent the member from participating or voting on the relevant item



Minutes

Planning and Licensing Committee

Held at:	Council Chamber - Civic Centre, Folkestone
Date	Tuesday, 19 December 2017
Present	Councillors Alan Ewart-James, Clive Goddard (Chairman), Mrs Mary Lawes, Len Laws, Michael Lyons, Dick Pascoe, Damon Robinson (In place of Miss Susie Govett), Russell Tillson and Roger Wilkins (Vice-Chair)
Apologies for Absence	Councillor Miss Susie Govett, Councillor Mrs Jennifer Hollingsbee, Councillor Philip Martin and Councillor Paul Peacock
Officers Present:	David Campbell (Development Management Team Leader), Kate Clark (Committee Services Officer), Claire Dethier (Development Management Team Leader), Beth Lennon (Planning Officer), Lisette Patching (Development Manager) and Jemma West (Senior Committee Services Officer)
Others Present:	

38. Declarations of Interest

Councillor Russell Tillson made a voluntary announcement with regard to Y17/1264/SH as he knows the applicant.

Councillor Michael Lyons made a voluntary announcement with regard to Y17/1264/SH as he knows the applicant.

Both councillors remained in the meeting taking part in discussions and voting on the applications.

39. Minutes

The minutes of the meeting on 28 November 2017 were approved and signed by the Chairman.

40. Report from the Head of Planning

Report DCL/17/28 set out the planning application that were considered by the Planning and Licensing Committee.

**Y17/1201/SH LAND ADJOINING ORCHARD COTTAGE THE STREET
POSTLING KENT**

This application was withdrawn from the Statutory Register and was not considered at this committee meeting.

**Y17/1264/SH PEDESTRIAN PRECINCT SANDGATE ROAD
FOLKESTONE KENT**

Use of land as a street market

Mrs Viv Kenny, resident, spoke against the application.
Mr Richard Wallace, Folkestone Town Council, spoke on the application.
Mr Ben Sharp, applicant's agent, spoke on the application.

It was noted that there is a maximum of 104 days of markets per year and this to be added as part of the conditions.

Proposed by Councillor Michael Lyons
Seconded by Councillor Dick Pascoe and

RESOLVED:

That planning permission be granted subject to the following conditions:

- 1. Development to begin within 3 years**
- 2. Layout / number of stalls (as shown on submitted plans) with stalls facing outward.**
- 3. Days of operation . other than December, each market event to last no more than 7 consecutive days with a minimum of 5 days between market events. Maximum 104 days of markets per year.**
- 4. Stalls to be removed at the end of each market event**
- 5. Refuse and recycling to be cleared at the end of every day the market is in operation**
- 6. All market stalls should be uniform in appearance and maintained in good condition by the operators of the market.**

(Voting: For 6; Against 3; Abstentions 0)

Councillor Mrs Mary Lawes requested her vote against this application was recorded.

Y17/1434/SH 20 MINTER AVENUE DENSOLE FOLKESTONE KENT

Demolition of existing free standing garage and timber porch and erection of single storey attached garage (resubmission of Y17/0688/SH).

It was noted that Councillor Philip Martin had contacted the planning officer advising his support that permission should be granted. He was not present at this committee meeting.

Councillor Tony Hutt, Swingfield Parish Council, spoke against refusal of this application.

Mr Paul Kegos, applicant's agent, spoke on the application.

Members noted the design and position of the proposed development.

Proposed by Councillor Dick Pascoe
Seconded by Councillor Michael Lyons

That planning permission is granted as the development is not considered to adversely affect the streetscene, it fits within the plot and will not appear out of character with other buildings; and that delegated authority be given to the Head of Planning to impose necessary conditions.

(Voting: For 2; Against 7; Abstentions 0)

Upon being put to the vote to grant permission for this application the MOTION was LOST.

Proposed by Councillor Russell Tillson
Seconded by Councillor Damon Robinson and

RESOLVED:

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

- 1. The proposed extension is of a poor design featuring a large flat-roof and odd form which would fail to relate to the existing character of the dwelling. In addition, the proposal would project forward of the principle elevation of the dwelling, resulting in a prominent development that is unsympathetic and incongruous to the character and appearance of the street scene. The proposal is therefore considered to be unsustainable development that constitutes poor design and is therefore contrary to saved policies SD1, BE1 and BE8 of the Shepway District Local Plan Review and policy DSD of the Shepway Core Strategy.**

(Voting: For 7; Against 0; Abstentions 2)

Y17/1370SH 17 SANDGATE HIGH STREET SANDGATE KENT

Change of use of ground floor and basement from retail (Class A1) to self-contained flat and associated alterations to the facade, together with installation of a rear dormer and other external alterations in connection with alterations to internal layout of existing upper floor flats, and installation of weatherboarding.

Proposed by Councillor Roger Wilkins
Seconded by Councillor Michael Lyons and

RESOLVED:

That planning permission be granted subject to the following conditions:

- 1. Standard Three Year Condition.**
- 2. Approved plans.**
- 3. Details to be submitted to and approved prior to commencement of development for the following;**

- Colour/ materials of proposed weatherboard to rear elevation

- 4. Provision and retention of refuse/recyclables storage**
- 5. The new windows/ doors on the front elevation shall be timber. Joinery details for them to be submitted and approved.**

(Voting: For 8; Against 0; Abstentions 1)

UNRESTRICTED MINUTES

41. Minutes of the Licensing Sub-Committee

The minutes of the meeting held on 27 November 2017 were approved and signed by the Chairman.

42. Unauthorised use of land

Report DCL/17/29 considers the appropriate action to be taken regarding the unauthorised use of a piece of land adjoining 76-78 High Street, Dymchurch for the storage cars for car sales in connection with the existing business to the south of the site. Retrospective planning permission has been sought under reference Y17/0944/SH for the continuing use of the land for this purpose but this has been refused.

David Campbell, Development Management Team Leader, presented this report along with a series of photos showing land use over the past ten years.

Proposed by Councillor Roger Wilkins
Seconded by Councillor Dick Pascoe and

RESOLVED:

- 1. To receive and note the report DCL/17/29.**
- 2. That an Enforcement Notice be served requiring the unauthorised use of the land for the storage and parking of vehicles to cease and all vehicles be removed from the land together with the removal of associated fencing, hard-standing and all associated structures and the site returned to grass.**
- 3. The Head of Planning be given delegated authority to determine the exact wording of the Notice.**
- 4. That the period of compliance with the Notice be (six) 6 months.**

5. That the Head of Democratic Services and Law be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

(Voting: For 8; Against 1; Abstentions 0)

43. Unauthorised development of land

Report DCL/17/30 considers the appropriate action to be taken regarding the unauthorised development at land adjoining 3 Millfield Folkestone. The report recommends that delegated authority is giving to the Head of Planning to serve an Enforcement Notice requiring the unauthorised development to be demolished if there is no successful appeal against the refusal of planning permission Y17/0886/SH

Proposed by Councillor Russell Tillson
Seconded by Councillor Michael Lyons and

RESOLVED:

- 1. To receive and note the report.**
- 2. That delegated authority be given to the Head of Planning to serve an Enforcement Notice requiring the removal of the terrace of 3 x 3 storey houses after 6 months following the date of refusal of planning permission Y17/0886/SH if no valid appeal against the decision is submitted or, if an appeal is submitted, following the Inspector's decision on the appeal if the appeal is dismissed.**
- 3. That the Head of Planning be given delegated authority to determine the exact wording of the Notice.**
- 4. That the period of compliance with the Notice be (six) 6 months.**
- 5. That the Head of Democratic Services and Law be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.**
- 6. That if an appeal against the refusal of planning permission is allowed, no Enforcement Notice be served and no other formal action be taken by the Council in respect of this particular breach of planning control.**

(Voting: For 8; Against 1; Abstentions 0)

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Minutes

Licensing Sub-Committee

Held at:	Council Chamber - Civic Centre Folkestone
Date	Wednesday, 13 December 2017
Present	Councillors Michael Lyons, Russell Tillson and Roger Wilkins
Apologies for Absence	Councillor Miss Susie Govett
Officers Present:	Arthur Atkins (Environmental Health and Licensing Manager), Kate Clark (Committee Services Officer), Nicola Everden (Solicitor), Wai Tse (Environmental Protection Officer) and Briony Williamson (Licensing Officer)
Others Present:	Heath Thomas, (Solicitor, Harrison Clark Rickerbys), Scott Cheeseman (Designated Premises Supervisor, Saga) and Mr Banks (local resident)

38. **Appointment of Chairman**

Councillor Russell Tillson was appointed Chairman for this meeting.

39. **Declarations of interest**

There were no declarations of interest.

40. **Declarations of lobbying**

Lobbying forms were signed and returned to Committee Services.

41. **An application for a new premises licence to cover the whole of Saga, Enbrook Park Sandgate High Street, Sandgate (including the external areas)**

Report DCL/17/27 set out the facts for the Licensing Committee which were considered in determining a new premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It was, therefore not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the

legislation of the Licensing Act 2003. Therefore, there are no comments from Legal, Finance or other officers included in the report.

Mrs Briony Williamson, Licensing Officer, presented the report. She advised members that although an objection had been received from the Environmental Health Team under prevention of public nuisance, this had since been withdrawn due to amended conditions which are detailed in the resolution below.

Heath Thomas, Solicitor from Harrison Clark Rickerbys., spoke about the application. He stated that Saga is a long established well known company and is involved in various community events. The main reason for this application was primarily due to planning an annual Garden fete consisting of live music as well as other activities.

Mr Thomas was impressed at the local residents' support to Saga, although was sympathetic to their perceived concerns with regard to noise and disturbance as outlined in their representations.

Ultimately, Mr Thomas was keen to point out to members that the changes to the application are minimal and reminded them of the Live Music Act 2012. His client understands that any concerns of nuisance can be brought back to this Committee in future.

Members asked about CCTV, Mr Scott Cheeseman, Designated Premises Supervisor at Saga, Enbrook Park explained there are various cameras around the site which are monitored 24 hours a day by security staff and recorded.

Members noted Mr Cheeseman's comments with regard to types of events to be held, parking and customer dispersal policy.

Mr Banks, local resident, spoke against the application. He was concerned about the number of events to be held and although he did not have any issues with the current licence, he felt that any increase in events could cause noise disturbance especially in the summer. Mr Banks felt further regular contact was needed between local residents and Saga.

Members suggested that with regard to events, Mr Cheeseman could contact Sandgate Parish Council on a regular basis with a view to relaying upcoming event information.

The applicant, their legal representation and the local resident were asked for any further comments before the sub-committee retired to consider the application.

Following consideration of the application the Sub-Committee unanimously **RESOLVED** as follows:

- 1. To note the contents of Report DCL/17/27.**

2. To grant the new Premises Licence based on the licensing objectives:

- **The prevention of crime and disorder**
- **The prevention of public nuisance**

Subject to the following conditions:

- 1. No more than 12 external events per year, seven events to cease at 2300 hrs and five events to cease at 1900 hrs.**
- 2. The DPS must liaise with an Environmental Protection Officer with regard to event management plans prior to events.**
- 3. All doors and windows to remain closed for the duration of any performances inside.**
- 4. Advisory signage to be posted to remind patrons to keep noise to a minimum when leaving the premises and to and from parked vehicles.**
- 5. Advisory signage to be posted in designated smoking areas to remind patrons to keep noise to a minimum.**
- 6. A manned contact number to be provided to local residents and the Council during live licensable events.**
- 7. The applicant must introduce a system for staff to supervise patrons to ensure that they leave the premises quickly and with minimum disruption to residents.**

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PLANNING AND LICENSING COMMITTEE

23 JANUARY 2018

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS

**1. Y17/1105/SH
(Page 15)**

29 RADNOR CLIFF, FOLKESTONE, KENT, CT20 2JJ

Erection of second floor extension and roof terrace

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Application No: Y17/1105/SH

Location of Site: 29 Radnor Cliff, Folkestone, Kent, CT20 2JJ

Development: Erection of second floor extension and roof terrace

Applicant: Mr and Mrs Jonathan and Libby Carreck

Agent: Mr Matt Whitby
Guy Hollaway Architects
The Tramway Stables
Rampart Road
Hythe
CT21 5BG

Date Valid: 07.09.17

Expiry Date: 02.11.17

PEA Date: 31.01.18

Date of Committee: 23.01.18

Officer Contact: Alex Kalorkoti

SUMMARY

This report considers whether planning permission should be granted for the erection of a second floor extension and roof terrace, including glazed balustrades, atop the existing flat-roofed main house of the application site. The report recommends that planning permission be granted as it is considered that the design and materials of the proposed extension reflect the architectural style and detailing of the main house and would not be detrimental to its appearance or character, or incongruous in the street scene within the Conservation Area. The amenities of existing and future occupants are considered to be safeguarded. Land stability concerns can be addressed by condition and there are no highway safety concerns.

RECOMMENDATION: That planning permission be granted subject to the conditions set out at the end of the report.
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1.0 THE PROPOSAL

- 1.1 The proposed second floor extension would cover part of the existing large first floor flat-roof of the main house and would be aligned with the rear of the property but set back from the side and front elevations of the existing house by 3.4m from the western edge, 4.4m from the front of the property and 2.5m from the eastern edge. The proposed extension would provide for the addition of a sunroom at the new second floor level, with an existing store room at first floor level removed to provide a staircase to the new second floor.
- 1.2 Accessed from the proposed second floor extension, a terrace is proposed for part of the roof area, enclosed by 1.8m high privacy screens to the sides, set in 1.2m and 2.5m from the western and eastern sides respectively, and a 1.1m glazed balustrade to the front and rear elevations, with the front balustrade set back 2.8m from the front of the building.
- 1.3 The proposed extension includes a full height glazed opening to the rear elevation which would extend from the existing first floor level to the proposed second floor and would be finished with white render, vertical timber cladding, white painted fascia boards and dark grey aluminium windows/glazing.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:
 - Inside settlement boundary
 - Sandgate Conservation Area
 - Area of Special Character
 - Latchgate Area
 - TPO No.04 of 2009

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 The application property is a distinctive 1960s dwelling house arranged over two floors with a large flat-roofed first floor that overhangs the footprint of the ground floor, providing an undercroft driveway. The building featured in the 'The Buildings of England' book series by Nikolaus Pevsner and Edward Hubbard, which praised the design that provides 180-degree views of the sea.
- 3.2 The building is clad in aluminium and timber, with hanging tiles. The existing ground floor layout of the house includes an entrance hallway, utility room, workshop/store, shower room, sitting room/bedroom.
- 3.3 At first floor level, the layout includes two bedrooms, bathroom, store room, study and a large open-plan living room/kitchen/dining room. To the rear of

properties on the north-side of Radnor Cliff is a group Tree Preservation Order.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The most relevant planning history in relation to this application is Y14/0356/SH, which was approved with conditions for the erection of a second floor flat-roofed extension, including a balcony, the re-cladding of external walls, and alterations to the fenestration and the replacement of a ground floor garden room with a utility room. This expired, unimplemented, on 07.05.2017.

5.0 CONSULTATION RESPONSES

- 5.1 Consultation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below.

5.2 Sandgate Parish Council

Object on the grounds that the application is not compliant with the Sandgate Design Statement, the roof height is excessive in relation to surrounding buildings, the impact on neighbouring residents in terms of privacy, light, massing and proximity of boundaries. The Parish Council also consider that this proposal is much larger than the 2014 permission, and that the property, as evidenced by Pevsner and others, makes a positive impact in its current design to the Conservation Area.

6.0 REPRESENTATIONS

- 6.1 Representation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below:

- 6.2 38 representations were received objecting to the proposal and are available in full on the planning file. The main points raised are summarised below.
- Overshadowing impact/loss of light to neighbouring properties nos. 27 and 31
 - Impact on architectural interest and cultural heritage
 - Detrimental impact on the Sandgate Conservation Area
 - Overbearing/enclosing impact
 - Overlooking/loss of privacy

- Contrary to saved policies BE3, BE4 and BE12 in relation to the Conservation Area and Area of Special Character
- Contrary to saved policy BE8 regarding roof line and impact on neighbouring amenity
- Out of keeping with the street scene
- Land instability concern and structural integrity within the Latchgate Area
- As a non-designated heritage asset within a Conservation Area, the building should remain in its existing form
- Unsympathetic to the site's setting and backdrop (The Cliff)
- The building has been put forward for local listing and should be preserved
- Contrary to Sandgate Design Statement
- Contrary to saved policy BE19 of the Shepway District Local Plan Review in relation to land stability
- The proposal threatens the preservation of a distinctive example of 20th Century architecture

6.3 1 representation was received in support of the proposal and is available in full on the planning file.

6.4 The application has been called in by a ward member for the reasons set out below:

1. Notwithstanding the latest revisions to the plans, there are issues regarding privacy, overlooking, and general detriment to the amenity of the neighbouring properties caused by the extension, and
2. There are issues regarding the architectural heritage of the building.

7.0 RELEVANT POLICY GUIDANCE

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1 and the policies can be found in full via the following links:

<http://www.shepway.gov.uk/planning/planning-policy/local-plan>

<https://www.shepway.gov.uk/planning/planning-policy/documents-and-guidance>

<https://www.gov.uk/government/collections/planning-practice-guidance>

7.2 The following policies of the Shepway District Local Plan Review apply: SD1, BE1, BE4, BE8, BE12, BE19 and TR12.

7.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD

7.4 The following Supplementary Planning Documents apply:

7.5 The following paragraphs of the National Planning Policy Framework are of particular relevance to this application:

17 – Core planning principles

135 – Conserving and enhancing the historic environment

139 – Conserving and enhancing the historic environment

8.0 APPRAISAL

8.1 The relevant issues for consideration with regard to this current application are the impact of the proposal upon the design and visual appearance of a non-designated heritage asset, upon the Sandgate Conservation Area, the impact of the proposal on the amenities of neighbouring occupiers, and parking and highway matters.

Design and Visual Appearance

8.2 By the nature of the proposal's design, it could be considered to conflict with saved policy BE8(c) as the second floor extension would be flat-roofed and visible from the street scene of Radnor Cliff. However, the existing house is flat-roofed and any alternative roof form would be likely to appear incongruous.

8.3 Although the proposed extension would alter the simple form of the existing structure, due to the reduced proportions of the proposed extension relative to the large floor plan at first floor level, which is itself supported above a recessed ground floor, the proposal is considered not to be detrimental to the appearance and composition of the existing property, with the proportions, materials and detailing considered to be reflective of the strong architectural character of the property. The reduced size and sympathetic materials of the proposed extension would also have the benefit of significantly reducing the prominence of the extension in the street scene, safeguarding the character of the Sandgate Conservation Area.

8.4 Turning to the proposed balustrades and privacy screens, although this element of the proposal would introduce new features which are not currently present, it is considered that by virtue of their slim profile and position set back from the edges of the building, that they would not have a strong visual presence on the property or in the street scene.

8.5 In terms of supplementary local policy, the Sandgate Design Statement and Sandgate Conservation Area Appraisal assess the Radnor Cliff area in which the application site falls, identifying distinguished period houses, key views and vistas that make a positive contribution to the Sandgate Conservation Area, as well as the materials, scale and other details of the study area.

8.6 For the reasons set out above, it is considered that the proposal would not be detrimental to the key characteristics identified in the supplementary local policy, or the character and appearance of the undesignated heritage asset that is the dwelling, and is considered to be acceptable. Consequently, it is considered that the proposal accords with NPPF Paragraph 135 which states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application, and that a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.

Amenity

8.7 With regard to overbearing/enclosing presence, it is considered that this would be of principal concern to the occupiers of 27 and 31 Radnor Cliff, which lie to the west and east of the application site respectively. As both the proposed extension and the privacy screens are set away from the edge of the existing structure and are therefore even further from the common boundaries of the neighbouring properties, the proposal would have no significant detrimental impact on the living conditions of neighbouring occupiers.

8.8 With regard to privacy, it is considered that views from the proposed terrace at second floor level would predominantly be into the public realm of Radnor Cliff to the front of the application site, as a consequence of the proposed obscure glazed screens to the side elevations obviating any additional overlooking to the neighbouring properties, nos. 27 and 31. For number 30, directly opposite the application site, there is one window facing the application site at first floor level, which is already viewable from the public realm. It is considered reasonable, should permission be granted, to impose a condition restricting access to the areas outside of the defined terrace to be for maintenance only, in order to restrict use of the wider roof area. Overall, it is considered that the proposal is unlikely to result in any significant detrimental impact on the living conditions of neighbouring occupiers through loss of privacy as a result of overlooking.

8.9 With regard to potential overshadowing, any additional shadow from the proposed development would be cast toward no. 27 in the early morning only, and toward no. 31 in the evening, due to the path of the sun. As both the extension and associated privacy screens would be set in from the side of the property any additional overshadowing is considered likely to be minimal.

8.10 For no. 27 to the west, any overshadowing would fall to the side garden area that lies between the property and the application site. A small patio area is evident, which sits below the floor level of the existing first floor and in close proximity to the western elevation of the application property. Consequently, the existing relationship would curtail significantly the sunlight received in the morning and it is considered that the proposal would not

result in any significant additional overshadowing impact that would be detrimental to the occupiers of no.27.

8.11 Turning to no.31 to the east, there is a raised decked area to the side of the main house, which acts as part of the main garden amenity space, projecting out to the common boundary with the application property. It is considered that the position of the proposed extension and privacy screen away from the edges of the existing roof and the common boundary with the neighbouring property would result in the majority of additional evening shadow falling upon the roof of the application property, with a lesser amount upon the raised deck. However, it is not considered that the level of overshadowing would be so significant as to curtail the reasonable enjoyment of the neighbouring property.

8.12 Overall, the proposal is considered to be acceptable with regard to impact on the amenities of neighbouring occupiers.

Parking and Highways

8.13 As referenced above, the proposal would provide for the addition of a sunroom atop part of the existing first floor flat-roof. As such, the proposal would not result in any change in the number of bedrooms within the main dwellinghouse of the application site and it is considered that the parking requirement of the house would not change as a result of the proposal. The proposed development does not include any works to the ground floor level of the site which would reduce or alter the current provision of off-street parking to serve the house and is considered to be acceptable with regard to parking and highway safety.

Latchgate

8.14 The site is within Class E of the Latchgate Area, which indicates that slope instability problems are almost certainly present and may be active; significant constraint on land use is required. As a result, it is considered that the Latchgate condition requiring further details, prepared by a suitably qualified consultant, to be submitted to and approved by the local planning authority would be required if permission was granted in order to ensure that the additional burden on foundations as a result of the proposed development would not result in any issue of slope stability.

8.15 Subject to a condition, as outlined above, being attached to any permission it is considered that the proposal is acceptable with regard to landslip.

Environmental Impact Assessment Regulations 2017

8.16 In accordance with the EIA Regulations the site does not fall within a sensitive area and the development is below the thresholds for Schedule 2 10(b) urban development projects and therefore does not need to be screened under these regulations.

Human Rights

- 8.17 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.
- 8.18 The application has been called in to Committee by Cllr Love due to concerns over impact on the amenity of neighbouring occupiers, and impact on the architectural heritage of the building.

9.0 BACKGROUND DOCUMENTS

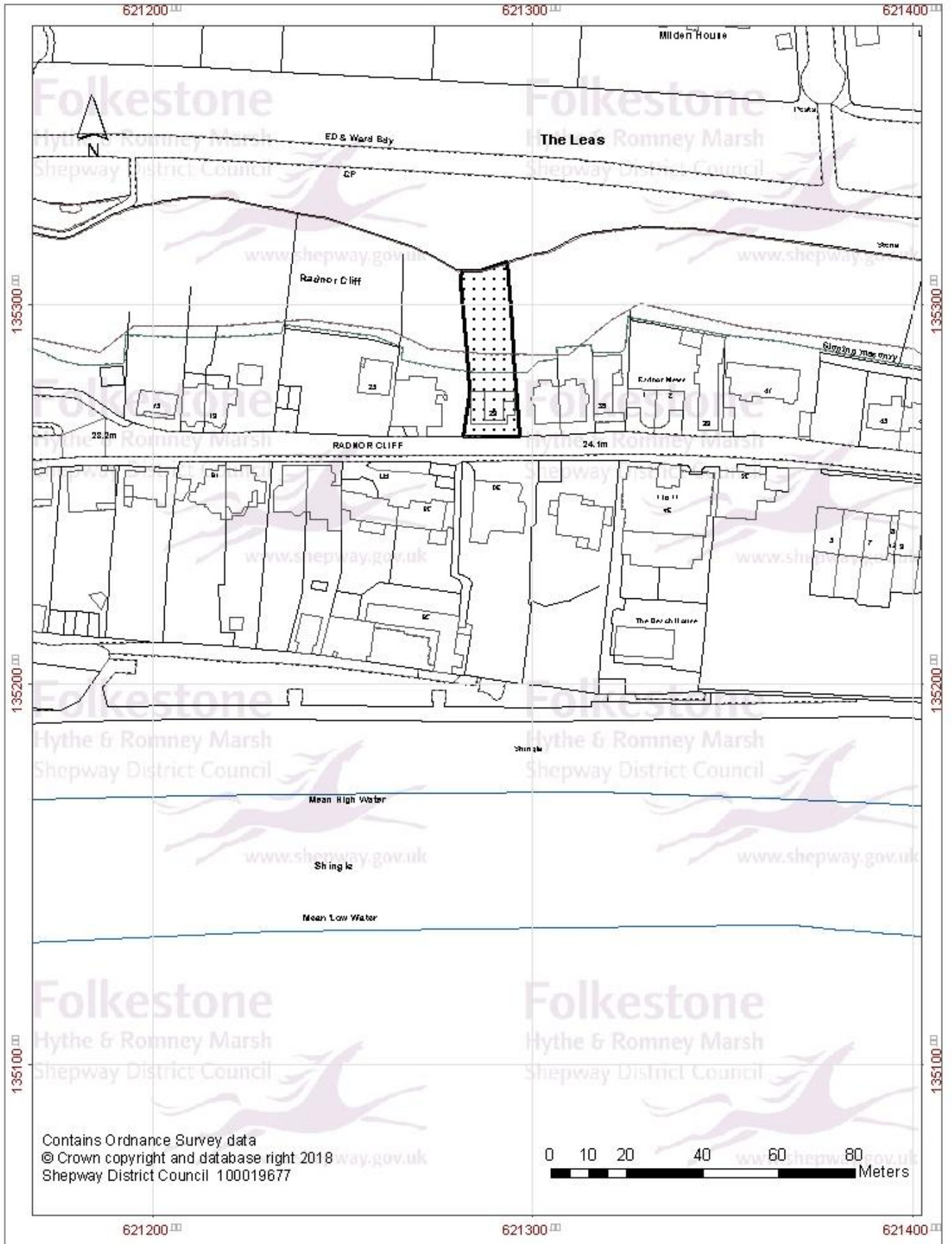
- 9.1 The consultation responses set out at Section 5.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That planning permission be granted subject to the following conditions:

1. Standard time condition
2. Approved plan numbers
3. Materials
4. Latchgate
5. Installation and retention of privacy screens
6. Limiting of access to areas outside of defined terrace

Decision of Committee

Y17/1105/SH
29 Radnor Cliff
Folkestone



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LIST OF DEVELOPMENT PLAN POLICIES

SHEPWAY CORE STRATEGY LOCAL PLAN (2013) & SHEPWAY DISTRICT LOCAL PLAN REVIEW (2006) POLICIES

Core Strategy (2013) policies

Chapter 2 – Strategic Issues

DSD - Delivering Sustainable Development

Chapter 4 – The Spatial Strategy for Shepway

SS1 - District Spatial Strategy
SS2 - Housing and the Economy Growth Strategy
SS3 - Place Shaping and Sustainable Settlements Strategy
SS4 - Priority Centres of Activity Strategy
SS5 - District Infrastructure Planning
SS6 - Spatial Strategy for Folkestone Seafront
SS7 - Spatial Strategy for Shorncliffe Garrison, Folkestone

Chapter 5 – Core Strategy Delivery

CSD1 - Balanced Neighbourhoods for Shepway
CSD2 - District Residential Needs
CSD3 - Rural and Tourism Development of Shepway
CSD4 - Green Infrastructure of Natural Networks, Open Spaces
and Recreation
CSD5 - Water and Coastal Environmental Management in
Shepway
CSD6 - Central Folkestone Strategy
CSD7 - Hythe Strategy
CSD8 - New Romney Strategy
CSD9 - Sellindge Strategy

Local Plan Review (2006) policies applicable

Chapter 2 – Sustainable Development

SD1 - Sustainable Development

Chapter 3 – Housing

- HO1 - Housing land supply – Relates to allocated sites on the Proposals Map and a list of exceptions subject to specified criteria.
- HO2 - Land supply requirements 2001-2011.
- HO6 - Criteria for local housing needs in rural areas.
- HO7 - Loss of residential accommodation.
- HO8 - Criteria for sub-division of properties to flats/maisonettes.
- HO9 - Subdivision and parking.
- HO10 - Houses in multiple occupation.
- HO13 - Criteria for special needs annexes.
- HO15 - Criteria for development of Plain Road, Folkestone.

Chapter 4 – Employment

- E1 - Development on established employment sites.
- E2 - Supply of land for industry, warehousing and offices. Allocated sites on the Proposals Map.
- E4 - Loss of land for industrial, warehousing and office development.
- E6a - Loss of rural employment uses.

Chapter 5 – Shopping

- S3 - Folkestone Town Centre – Primary shopping area as defined on the Proposal Map.
- S4 - Folkestone Town Centre – Secondary shopping area as defined on the Proposal Map.
- S5 - Local Shopping Area – Hythe.
- S6 - Local Shopping Area – New Romney.
- S7 - Local Shopping Area – Cheriton.
- S8 - Local centres – last remaining shop or public house.

Chapter 6 – Tourism

- TM2 - Loss of visitor accommodation.
- TM4 - Static caravans and chalet sites.
- TM5 - Criteria for provision of new or upgraded caravan and camping sites.
- TM7 - Development of the Sands Motel site.
- TM8 - Requirements for recreation/community facilities at Princes Parade.
- TM9 - Battle of Britain Museum, Hawkinge

Chapter 7 – Leisure and Recreation

- LR1 - Loss of indoor recreational facilities.
- LR3 - Formal sport and recreational facilities in the countryside.
- LR4 - Recreational facilities – Cheriton Road Sports Ground/Folkestone Sports Centre.
- LR5 - Recreational facilities – Folkestone Racecourse.
- LR7 - Improved sea access at Range Road and other suitable coastal locations.
- LR8 - Provision of new and protection of existing rights of way.
- LR9 - Open space protection and provision.
- LR10 - Provision of childrens’ play space in developments.
- LR11 - Protection of allotments and criteria for allowing their redevelopment.
- LR12 - Protection of school playing fields and criteria for allowing their redevelopment.

Chapter 8 – Built Environment

- BE1 - Standards expected for new development in terms of layout, design, materials etc.
- BE2 - Provision of new public art.
- BE3 - Criteria for considering new conservation areas or reviewing existing conservation areas.
- BE4 - Criteria for considering development within conservation areas.
- BE5 - Control of works to listed buildings.
- BE6 - Safeguarding character of groups of historic buildings.
- BE8 - Criteria for alterations and extensions to existing buildings.
- BE9 - Design considerations for shopfront alterations.
- BE12 - Areas of Special Character.
- BE13 - Protection of urban open space and criteria for allowing redevelopment.
- BE14 - Protection of communal gardens as defined on the Proposals Map.
- BE16 - Requirement for comprehensive landscaping schemes.
- BE17 - Tree Preservation Orders and criteria for allowing protected trees to be removed.
- BE18 - Protection of historic parks and gardens as defined on the Proposals Map.
- BE19 - Land instability as defined on the Proposals Map.

Chapter 9 – Utilities

- U1 - Criteria to be considered for development proposals relating to sewage and wastewater disposal for four dwellings or less, or equivalent.
- U2 - Five dwellings or more or equivalent to be connected to mains drainage.
- U3 - Criteria for use of septic or settlement tanks.
- U4 - Protection of ground and surface water resources.
- U10 - Waste recycling and storage within development.
- U10a - Requirements for development on contaminated land.
- U11 - Criteria for the assessment of satellite dishes and other domestic telecommunications development.
- U13 - Criteria for the assessment of overhead power lines or cables.
- U14 - Criteria for assessment of developments which encourage use of renewable sources of energy.
- U15 - Criteria to control outdoor light pollution.

Chapter 10 – Social and Community Facilities

- SC4 - Safeguarding land at Hawkinge, as identified on the Proposal Map, for a secondary school.
- SC7 - Criteria for development of Seapoint Centre relating to a community facility.

Chapter 11 – Transport

- TR2 - Provision for buses in major developments.
- TR3 - Protection of Lydd Station.
- TR4 - Safeguarding of land at Folkestone West Station and East Station Goods Yard in connection with high speed rail services.
- TR5 - Provision of facilities for cycling in new developments and contributions towards cycle routes.
- TR6 - Provision for pedestrians in new developments.
- TR8 - Provision of environmental improvements along the A259.
- TR9 - Criteria for the provision of roadside service facilities.
- TR10 - Restriction on further motorway service areas adjacent to the M20.
- TR11 - Accesses onto highway network.
- TR12 - Vehicle parking standards.
- TR13 - Travel plans.
- TR14 - Folkestone Town Centre Parking Strategy.
- TR15 - Criteria for expansion of Lydd Airport.

Chapter 12 – Countryside

- CO1 - Countryside to be protected for its own sake.
- CO4 - Special Landscape Areas and their protection.
- CO5 - Protection of Local Landscape Areas.
- CO6 - Protection of the Heritage Coast and the undeveloped coastline.

- CO11 - Protection of protected species and their habitat.
- CO13 - Protection of the freshwater environment.
- CO14 - Long term protection of physiography, flora and fauna of Dungeness.

- CO16 - Criteria for farm diversification.
- CO18 - Criteria for new agricultural buildings.
- CO19 - Criteria for the re-use and adaptation of rural buildings.
- CO20 - Criteria for replacement dwellings in the countryside.
- CO21 - Criteria for extensions and alterations to dwellings in the countryside.

- CO22 - Criteria for horse related activities.
- CO23 - Criteria for farm shops.
- CO24 - Strategic landscaping around key development sites.
- CO25 - Protection of village greens and common lands.

Chapter 13 - Folkestone Town Centre

- FTC3 - Criteria for the development of the Ingles Manor/Jointon Road site, as shown on the Proposals Map.
- FTC9 - Criteria for the development of land adjoining Hotel Burstin as shown on the Proposals Map.
- FTC11 - Criteria for the redevelopment of the Stade (East) site, as shown on the Proposals Map.

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This Report will be made public on 15 January 2018

Folkestone

Hythe & Romney Marsh
Shepway District Council



Report Number: **DCL/17/31**

To: Planning and Licensing Committee
Date: 23 January 2018
Status: Non-Key Decision
Head of Service: Ben Geering

SUBJECT: SECTION 106 AGREEMENTS - PLANNING CONTRIBUTIONS

SUMMARY:

Some planning decisions are subject to Section 106 Legal Agreements that require developers to make financial contributions to the Council and Kent County Council (KCC) or provide for on or off site infrastructure to mitigate the impact of development.

The adequacy and effectiveness of the procedures and controls relating to Section 106 Agreements was reviewed by the East Kent Audit Partnership in 2008. A further review was carried out in 2014 which resulted in a completed report being produced on 5th June 2014. This recommended that the position regarding planning obligations that involve financial contributions should be reported to members on an annual basis. A progress report by East Kent Partnership was carried out in May 2015.

REASONS FOR RECOMMENDATIONS:

The Committee is asked to note the recommendation set out below so that there is a clear and transparent record regarding financial contributions required and received by the Council as a result of the planning process.

RECOMMENDATIONS:

- 1. To receive and note Report DCL/17/31.**
- 2. To receive and note Appendix 1 and Appendix 2.**

1. BACKGROUND

- 1.1 The objective of the East Kent Audit Partnership review was to provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure all Section 106 agreements are correctly administered and adequate monitoring is undertaken of monies held.
- 1.2 Two of the key recommendations of the report were that Section 106 obligations should be recorded and monitored regularly to ensure that the Council is receiving all of the monies due under the legal agreements and that an update report should be provided to the then Development Control Committee at least on an annual basis.

The last report to committee was in August 2015. Since then that the Council has been working on the introduction of a Community Infrastructure Levy (CIL) scheme which was adopted in August 2016. Officers have also introduced measures to ensure monitoring of S106 agreements is carried out in a regular and appropriate manner across departments. A copy of the Council's CIL report, which was reported to Cabinet in December 2017 is attached as Appendix 2 to this document.

It is recommended that a S106 report, incorporating the CIL report will be reported to the Planning and Licensing Committee within the January of each year as an established agenda item, so as to ensure the recommendations of the audit report are met and that information relating to the collection and allocation of S106 legal agreements is publically available.

- 1.3 The basis for collecting contributions is planning policy SS5 of the Council's adopted Core Strategy Local Plan, as well as other policies within the Local Plan relating to requirements for open and play space provision. The aim of S106 contributions is to mitigate the impact of development on local services such as local schools and social care facilities etc and to ensure that where provision is not made on site off site mitigation is provided. S106 contributions for these services can only be sought on major residential schemes of 10 units or more, whereas under the Council's adopted CIL charging schedule CIL payments are required for all new housing schemes subject to exemptions and also some retail developments. It is important to note that S106 contributions can only be required to mitigate the impact of development, whereas CIL contributions are collected to fund wider infrastructure requirements.
- 1.4 Changes introduced by the Community Infrastructure Levy Regulations 2010 and the introduction of a CIL in Shepway have reduced the amount of contributions which are now collected through the S106 process, as in many cases monies are now collected through CIL instead, or such collection is no longer allowed by the regulations. However, affordable housing is still required to be delivered through S106 agreements as well as infrastructure that is specifically required as a result of the development, for example a new school or on or off site play and open space, which still has to be funded or delivered through S106 agreements.
- 1.5 The table below summarises the income received and payments made for all S106 agreements since 1st April 2015.

	Receipts	Payments	
	£	£	£
Balance at 31 March 2015			(1,517,450)
2015/16	(549,567)	622,805	
2016/17	(956,564)	441,127	
2017/18 (to 31 December 2017)	(1,740,212)	198,355	
Total	(3,246,343)	1,262,287	(1,984,056)
Balance at 31 December 2017			(3,501,506)

- 1.6 The balance of S106 income at 31 December 2017 of £3,501,506 is held for the following purposes:

S106 - Use of Balance Held at 31 December 2017		
	£	£
<u>Kent County Council</u>		
Social Care	65,226	
Libraries	16,464	
Education	167,155	
Community Learning	3,008	
Youth Services	9,687	
Public Rights of Way	55,907	
Transport Related	79,033	
Other	382	
Total KCC		396,862
Other Third Parties		31,711
<u>Shepway District Council</u>		
Affordable Housing	2,734,684	
Open Space & Play	71,078	
Other Community Use	276,171	
Total SDC		3,081,933
Total S106 Held		<u>3,510,506</u>

- 1.7 In 2016 an officer S106 working group was established and this has recently been revised to be led by the Corporate Director for Organisational Change and includes the Cabinet Member for Finance, as well as officers from Planning, Legal, Finance and Property services. The working group has ensured that funds held by the Council have been appropriately distributed and allocated in accordance with s106 requirements.
- 1.8 Appendix 1 is an extract from the monitoring spreadsheet and shows the applications on which S106 contributions have been sought, the amounts received and, where applicable, what they have been spent on, since January 2015.

2. RISK MANAGEMENT ISSUES

2.1 These are set out in the East Kent Audit Partnership's reports and are not relevant to this report which is for information purposes only.

3. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

3.1 Legal Officer's Comments (DK)

There are no legal implications arising directly out of this report.

3.2 Finance Officer's Comments (LW)

The financial information contained in section 1 of the report has been prepared by Financial Services. There are no financial implications arising directly from this report.

3.3 Diversities and Equalities Implications (LP)

There are no implications arising directly from this report.

4. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

Lisette Patching - Development Management Manager
Telephone: 01303 853448
Email: lisette.patching@shepway.gov.uk

The following background documents have been relied upon in the preparation of this report:

None

Appendix 1:

Contributions Required By Section 106 Agreements 2015/17

Appendix 2:

Community Infrastructure Levy (CIL) Annual Monitoring Report 2016/17.

APPENDIX 1

APPLICATION	ADDRESS	TYPE	REPAYMENT TIMESCALE	AMOUNT PAID	DATE RECEIVED	AMOUNT PAID	DATE RECEIVED	AMOUNT PAID	DATE RECEIVED	BALANCE	MOVEMENT	BALANCE C/F	PROJECT CONTRIBUTION USED FOR
Y16/0220/SH	58 Canterbury Road Folkestone	Affordable housing	None										
		Libraries											Additional bookstock
		Indexation											
Y15/1154/SH	Encombe the Esplanade Sandgate	Affordable housing	10 years following date of receipt										
		Community	10 years following date of receipt										Providing, expanding or improving the range of books at the local community library
		Open space	10 years following date of receipt										Providing equipment and the improvement of the coastal park
		Education	10 years following date of receipt										Morehall Primary School
		Indexation											
Y15/1129/SH Y12/0274/SH	Land Rear 18 - 20 Radnor Park Avenue Folkestone	Social Care	None	£1,470.01	09.11.16	N/A	N/A	N/A	N/A	£1,470.01		£1,470.01	
		Community		£300.79		N/A	N/A	N/A	N/A	£300.79		£300.79	
		Education		£15,035.38		N/A	N/A	N/A	N/A	£15,035.38		£15,035.38	
		Libraries		£898.79		N/A	N/A	N/A	N/A	£898.79		£898.79	
		Child Play Space		£12,372.90		N/A	N/A	N/A	N/A	£12,372.90		£12,372.90	
		Indexation		£391.22		03.07.17	N/A	N/A	N/A	N/A	£391.22		£391.22
			£30,469.09							£30,469.09	£0.00	£30,469.09	
Y15/1035/SH	Plot 1 Hurrigan Way (Site A) & Land opposite 10 Defiant Close (Site B) Hawkinge	Libraries	None but contribution to be transferred to KCC within 1 month of receipt	£2,256.74	22.09.17					£2,256.74	-£2,256.74	£0.00	
		Education	None but contribution to be transferred to KCC within 1 month of receipt	£46,038.72	22.09.17					£46,038.72	-£46,038.72	£0.00	Expansion of Hawkinge Primary School
										£48,295.46	-£48,295.46	£0.00	
Y15/0741/SH	Mill Farm Mill Lane Hawkinge	Libraries											
		Education											
		Open space											
		Child Play Space											
		Street Lighting											
		Indexation											
Y15/0720/SH		Health Care											

		Indexation											
Y14/0873/SH	Land Adjacent The Surgery Main Road Sellindge	Monitoring	7 years from final occupation										
		Village Green & Open Space Maintenance	7 years from final occupation										
		Libraries	10 years from final occupation										
		Education	10 years from final occupation									Sellindge Primary School Expansion	
		Health Care	10 years from final occupation									Sellindge Surgery Expansion	
		Bus Services	10 years from final occupation										
Y14/0578/SH	Land at Coach Depot King Street Brenzett	Social Care	None										
		Community											
		Libraries											
		Education											
		Indexation											
Y15/0467/SH	13 Prospect Road Hythe	Affordable Housing	None										
		Indexation											
Y14/0341/SH	Land at Hurricane Way Hawkinge	Affordable housing	10 yrs from date of payment	£142,000.00	23.02.17				£142,000.00		£142,000.00	Off site affordable housing within the district	
		Indexation		£3,788.86	20.02.17				£3,788.86		£3,788.86		
		Education	5 yrs from date of payment	£8,779.05	23.02.17				£8,779.05	-£8,779.05	£0.00	Expansion of Hawkinge Primary School	
		Indexation		£234.25	20.03.17				£234.25	-£234.25	£0.00		
		Libraries		£1,008.33	23.02.17				£1,008.33	-£1,008.33	£0.00	New book stock at Wood Avenue & Folkestone Libraries & Mobile libraries that stop at Haven Drive and Mill Lane Hawkinge	
		Indexation		£26.90	20.03.17				£26.90	-£26.90	£0.00		
					£155,837.39					£155,837.39	-£10,048.53	£145,788.86	
		£9,240.00	21.02.17										
Y14/0300/SH		Monitoring											

Shorncliffe Garrison
Folkestone
Kent

Education	£50,000	Paid direct to KCC						£0.00		£0.00	New primary school
Management & Maintenance of Pavilion											
Management & Maintenance of Toilet Block											
Formal Open Space											
Libraries											
PROWs (HF38 & HBX11)	£55,000.00	21.02.17						£55,000.00	£0.00	£55,000.00	HF55 £34,338 new metalled path; HF38 £5,900 new metalled path, £8294 new wearing course; HBX11 £6,637 new metalled path
Indexation	£907.52	21.02.17						£907.52	£0.00	£907.52	
Footpath (Church Road & Cheriton High Street)	£25,000.00	21.02.17						£25,000.00	£0.00	£25,000.00	Upgrading of existing footpath linking Church Road and Cheriton High Street
Indexation	£412.51	21.02.17						£412.51	£0.00	£412.51	
Cycle Routes	£25,000.00	21.02.17						£25,000.00	£0.00	£25,000.00	Improvements to existing cycle routes in vicinity
Indexation	£412.51	21.02.17						£412.51	£0.00	£412.51	
Signals & Minor Junction improvements	£25,000.00	21.02.17						£25,000.00	£0.00	£25,000.00	Reconfiguration of signal timings an minor works at A20 Cheriton High Street/Risborough Lane signals junction
Indexation	£412.51	21.02.17						£412.51	£0.00	£412.51	
Signal Works	£1,750.00	21.02.17						£1,750.00	£0.00	£1,750.00	Reconfiguration of signal timings Cheriton Rd/Cherry Garden Ave/Beachborough Road signals junction
Indexation	£28.88	21.02.17						£28.88	£0.00	£28.88	

7 years from date of payment for District Council contributions; 10 years from date of payment for County Council contributions.

Bus Service Pump Priming										
	Travel Plan Monitoring	£1,000.00	21.02.17					£1,000.00	£0.00	£1,000.00
	Indexation	£16.50	21.02.17					£16.50	£0.00	£16.50
	Cycle Voucher									
	Public Transport Voucher									
	Indexation									
		£184,940.43						£184,940.43		£184,940.43

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This Report will be made public on 28 November 2017



Report Number **C/17/64**

To: Cabinet
Date: December 2017
Status: Non-key Decision
Head of service: Ben Geering - Strategic Development
Cabinet Member: Councillor John Collier, portfolio holder for the District Economy

SUBJECT: Community Infrastructure Levy (CIL) Annual Monitoring Report 2016/17 and minor amendments to Payment in Kind Policy

SUMMARY: The Council adopted a Community Infrastructure Levy (CIL) in August 2016, herein referred to as 'the levy'. This report provides a copy of the draft CIL Monitoring Report for 2016/17. In addition, minor changes are proposed to the CIL Payment in Kind Policy in order to clarify that the delivery of appropriate infrastructure can satisfy a charge arising from the levy.

REASONS FOR RECOMMENDATIONS:

Cabinet is asked to approve the recommendations set out below in order to enable CIL monitoring reporting to take place in accordance with legislative requirements, and to enable appropriate infrastructure via the Payment in Kind mechanism to be applied, where appropriate.

RECOMMENDATIONS:

1. To receive and note report C/17/64.
2. That the CIL Monitoring Report is agreed by Cabinet and subsequently added to the Council's website in accordance with legislative requirements.
3. That an amendment to the Payment in Kind policy is agreed by Cabinet, so as to clarify that the delivery of appropriate infrastructure to satisfy a charge arising from the levy can be met via a Payment in Kind when appropriate to do so.

1. OVERVIEW

1. CIL Monitoring Report 2016/17

1.1 The introduction of a CIL in August 2016 necessitates the development of new governance arrangements for spending the money to be collected. There are a number of reasons for this. Under CIL, SDC acts as a designated charging authority, conferring responsibility on to the Council to:

- Prepare and publish the CIL Charging Schedule (published August 2016),
- Apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support development of its area (infrastructure requirements are set out in the Infrastructure Delivery Plan), and
- Report to the local community on the amount of levy revenue collected, spent and retained each year.

1.2 The Council must be committed to ensuring the use of CIL is open and transparent and as such needs to publish an annual report, which also includes details provided by Town and Parish Councils, setting out how much CIL money has been received and the infrastructure to which this has been applied (Reg 62).

1.3 The report should inform the Authority Monitoring Report however be a separate entity that is reported to CMT, Cabinet and the Planning and Licensing Committee for information purposes. The report must be published on the Council's website before the end of December following each financial year.

1.4 It is proposed that the draft report, attached as Appendix 1 is reported to and agreed by Cabinet before being published on the Council's website.

2. Suggestions amendments to the adopted CIL 'Payment in Kind' mechanism and further information

2.1 In adopting a CIL, the Council adopted a Payment in Kind Policy. Whilst this policy specifically mentions both Payments in Kind via the provision of land and the provision of infrastructure to comply with the CIL Regulations, the wording of the policy only specifically refers to the transfer of land within key sections and, therefore, the policy is ambiguous as currently worded.

2.2 An updated (draft) Payment in Kind policy is attached as Appendix 2 to this report. It is recommended that this updated policy replace the currently adopted wording, and that following Cabinet approval the Council's website is updated accordingly.

3. Implications

3.1 Please give consideration to the following and provide information here (if relevant):

Legal (DK) – There are no legal implications arising directly out of this report. Regulation 62 of the Community Infrastructure Levy Regulations 2010 (as amended) requires the charging authority to prepare a report for any financial year in which a) it collects CIL, or CIL is collected on its behalf; or b) an amount of CIL collected by it or by another person on its behalf has not been spent. In addition under regulation 73 of the CIL Regulations a charging authority may accept one or more land payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development.

Finance (AK) – This report refers to a change in policy and as such there are no direct financial implications.

4. Contact officers and background documents

- 4.1 Councillors with any questions arising out of this report should contact the following officers prior to the meeting:-

James Hammond, Strategic Policy Officer
Telephone: 01303 853435
Email: James.Hammond@shepway.gov.uk

Ben Geering, Head of Planning
Telephone: 01303 853457
Email: Ben.Geering@shepway.gov.uk

APPENDICES

Appendix 1 – Community Infrastructure Levy (CIL) Monitoring report for the reported year 2016/17

Appendix 2 – suggested changes to Appendix 4 of the Council's Community Infrastructure Levy Charging Schedule

[James Hammond]
[Strategic Policy Officer]

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Community Infrastructure Levy (CIL) Monitoring report for the reported year 2016/17

1. Background

- 1.1 The Community Infrastructure Levy (CIL) is a mechanism to allow local planning authorities to raise funds from new development, in the form of a levy. Following two rounds of consultation and an examination in public, the Council adopted CIL at its meeting of 20 July 2016. CIL charges came into effect in Shepway on the 1st August 2016.
- 1.2 Under CIL, SDC acts as a designated charging authority, conferring responsibility on to the Council to:
- Prepare and publish the CIL Charging Schedule (published August 2016),
 - Apply the levy revenue it receives to funding the provision, improvement, replacement, operation or maintenance of infrastructure to support development of its area, and
 - Report to the local community on the amount of levy revenue collected, spent and retained each year
- 1.3 The relationship between CIL and s106 is complicated and therefore it is necessary to identify which infrastructure will be funded via CIL contributions and those contributions that will be collected via s106, to mitigate the impact of that particular development (see Regulation 123 list, link via Appendix 1). The Infrastructure Delivery Plan (IDP), produced in support of the Core Strategy Local Plan and updated for the CIL examination identified key infrastructure requirements within the district over the plan period. This is currently being updated to include additional infrastructure needs arising from the development proposed within the emerging Places and Policies Local Plan (PPLP).
- 1.4 One of the purposes of CIL, particularly related to the neighbourhood proportion, is to incentivise communities to accept growth. The levy places a responsibility on the Council to pass a 'meaningful proportion' of CIL receipts to Parish/Town Councils twice a year. Government Regulations enacted on 25th April 2013 require that the meaningful proportion should be 25% of CIL receipts where a Neighbourhood Plan is in place and 15% in other areas (capped at £100 per dwelling), as set out in table 1 below:

Table 1 – Local Meaningful Proportion

Parish council	Neighbourhood plan	Levy
✓	✓	25% uncapped, paid to parish
✓	✗	15% capped at £100/dwelling, paid to parish
✗	✓	25% uncapped, local authority consults with community
✗	✗	15% capped at £100/dwelling, local authority consults with community

- 1.5 At present St Mary in the Marsh Parish Council are progressing a neighbourhood plan to consultation, however the plan does not seek to allocate sites for development within the parish. There are no allocations proposed within the PPLP in the parish that do not already have planning permission.
- 1.6 The local meaningful proportion does not have to be spent purely on infrastructure but may be used to fund other measures as long as they address demand placed by development in the area. Where possible the Council and town and parish councils are encouraged to identify agreed priorities for infrastructure in order that both CIL and the 'local proportion' is focused on delivering these priorities.
- 1.7 An additional 5% of receipts can be used for administrative costs after the introduction of CIL in an area. To help charging authorities with initial set up costs, the regulations allow for a 'rolling cap' for a period of three years after introduction (ie. 5% applied to total CIL receipts for the first three years). After this time the cap will be applied annually. The Council will need to utilise the full 5% of administration costs during the first 3 years of implementation so as to ensure the substantial costs in adopting a CIL are recovered in accordance with the provisions of the regulations.
- 1.8 Shepway District Council, as the CIL charging authority is required to prepare a report for any financial year it collects CIL (CIL Reg 62). This annual report for Shepway covers the period 1st April 2016 to 31st March 2017. It should be noted for this period that whilst the Council has issued a number of liability notices the Council did not received any receipts from CIL for the year 2016/17,

2. Report for 2016/17 Period

- 2.1 Table 2 shows an overall summary of CIL payments that have been received by the Council between 1st April 2016 and 31st March 2017 together with the total amount applied to administrative expenses and monies transferred to town or parish areas. As previously stated during the first financial year of collecting CIL, which was introduced midway through the year, no contributions were received.
- 2.2 It is not unusual for no or limited CIL expenditure to be incurred in the early stages of CIL implementation, due to the time lag between CIL introduction and CIL liabilities becoming due as funds are due upon the commencement of development. Officers can confirm that for the current financial year 2017/18 funds are now being received, with the first payment received 8th August 2017 for £13,300.

Table 2: Shepway CIL Summary April 2016 to March 2017

Total CIL receipts during 2016/17	£0
Total CIL Expenditure to support delivery of infrastructure during 2016/17	£0
Total CIL 'local proportion' payments that have been transferred to town and parish councils during 2016/17	£0
Total CIL applied to administrative expenses and proportion of total CIL received	£0 0%
Total CIL retained during 2016/17 and available to be spent on infrastructure to support development in the District	£0

- 2.3 As set out above 15% of all CIL receipts (capped at £100 per dwelling), under the Regulations, must be transferred to the Parish or Town Council where development has occurred in their area. In a regulation 62A report, the Parish/Town Council must publish, on an annual (retrospective) basis the amount of CIL money that it has received, spent, brought forward from previous

years, intends to carry forward in to the following year and on what the money has been spent. Where a Parish Council has an adopted neighbourhood plan in place they will receive 25% of all funding received.

- 2.4 The NPPG makes it clear that Charging authorities and parish, town and community councils are free to decide the timing of neighbourhood funding payments themselves. However, in the absence of such an agreement, regulation 59D specifies that the neighbourhood portion of levy receipts must be paid every 6 months, at the end of October and the end of April. Officers are currently putting in place procedures and guidance ahead of the first payment to Town and Parish Councils in April 2018.
- 2.5 For each year when they have received neighbourhood funds through the levy, Parish and Town Councils must publish the information specified in Regulation 62A. If they haven't received any money they do not have to publish a report, but may want to publish some information to this effect in the interests of transparency. If, at the request of a Town or Parish Council, SDC hold and spend the neighbourhood portion on behalf of the local community, The District Council need to report this information.
- 2.6 In future years the monitoring of CIL will include information provided from Town and Parish Council's within the annual CIL monitoring report presented to cabinet.

Administration

- 2.7 As noted in section 1 of this report the costs of adopting and administering CIL are substantial. As no CIL receipts were received for the year 2016/17 the costs of administering CIL over this period cannot be met. It is however acknowledged that in future years (up until March 2020) there is opportunity to recover the costs of adopting CIL via the retention of up to 5% of income for administration purposes.

CIL Expenditure

- 2.8 There have been no receipts and no infrastructure expenditure from CIL receipts in the monitoring year.
- 2.9 The Council is in the process of updating the Infrastructure Delivery Plan to support the allocation of sites within the Places and Policies Local Plan. The IDP is currently being refined so as to prioritise projects and ensure projects within the IDP are deliverable and that any funding gap is recognised. Details of the infrastructure projects that CIL receipts have supported or will be used to support will be provided in future annual monitoring reports.

Appendix 1 – Regulation 123 List

[https://www.shepway.gov.uk/media/3695/Shepway-R123-list-June-2016/pdf/Shepway_R123_list_\(June_2016\).pdf](https://www.shepway.gov.uk/media/3695/Shepway-R123-list-June-2016/pdf/Shepway_R123_list_(June_2016).pdf)

Appendix 2 – CIL report requirements

- a. Total CIL receipts for year
- b. Total CIL expenditure during year
- c. Summary of CIL expenditure during the reporting year, including
 - The items of infrastructure (including land) to which CIL has been applied
 - The amount of CIL expenditure on each item
 - The amount of CIL applied to repay borrowed money, including any interest, with details of the infrastructure items which that money was used to provide
 - The amount of CIL applied to administrative expenses pursuant to regulation 61 and that amount expressed as a percentage of CLL collected in that year.
- d. The amount of CIL passed to
 - Any local Council under regulation 59A or 59B
 - Any person under regulation 59(4)
- e. Summary details of the receipts and expenditure of CIL to which regulation 59E and 59F applied during the reporting year including –
 - The total receipts that Regulation 59E and 59F applied to
 - The items to which regulations 59E and 59F applied have been applied.
 - The amount of expenditure on each item
- f. Summary details of any notices served in accordance with regulation 59E, including
 - The total value of CIL receipts requested from each local Council
 - Any funds not yet recovered from each local council at the end of the financial year
- g. The total amounts of
 - CIL receipts for the reported year other than those to which regulation 59E and 59F applied and
 - CIL receipts from previous years retained at the end of the reported year other than those to which regulation 59E and 59F applied
 - CIL receipts for the reported year to which regulation 59E and 59F applied retained at the end of the reported year
 - CIL receipts from previous years to which regulation 59E and 59F applied retained at the end of the reported year
- h. In relation to any infrastructure payments accepted by the charging authority
 - The items of infrastructure to which the infrastructure payments relate
 - The amount of CIL to which item relates

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Appendix 2 – suggested changes to Appendix 4 of the Council’s Community Infrastructure Levy Charging Schedule

Appendix 4 Shepway District Council Community Infrastructure Levy (CIL) Payment in Kind Policy: Land, Buildings and Infrastructure (June 2016 as Amended December 2017)

Background

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended), provide a local authority with the discretion to accept land, buildings or infrastructure payments, as all or part of a CIL payment due in respect of a liable development.

Regulation 73 specifies that an agreement to accept land and buildings as payment in kind would be where the value of CIL paid is equal to the agreed value of the land and buildings acquired in kind (as determined by an independent person). Other key aspects of regulation 73 include:

- the amount of CIL payable for a development must be greater than £50,000 (Regulation 73(6) (a));
- the person from whom land is acquired has assumed liability to pay CIL (Regulation 73(6) (c)); and
- an agreement to make a land payment must be entered into before the development is commenced (Regulation 73(6) (d)).

CIL Regulations 73A and 73B also provide a local authority with the discretion to accept infrastructure payments as all or part of a due CIL payment. A key requirement is for an infrastructure payment to be in scope with the types of project covered by a Council’s Regulation 123 list. An agreement for infrastructure payments must also be entered into before development commences.

The benefits of adopting a payment in kind policy include supporting the delivery of developments that are complex in their nature and scale. The disadvantages include a requirement for additional administrative and technical resources and costs for a Council and developers, in the administration of CIL.

Payments in Kind Policy

Shepway District Council has decided to adopt a discretionary payment in kind policy, in support of part or all payment of due CIL, subject to the following conditions:

- 1) The Council must be satisfied that the land to be transferred, and/or the infrastructure provided, represents an appropriate in kind payment to support delivery of the Local Plan.
- 2) The chargeable development must not have commenced before a written agreement is in place with the Council to pay in kind either part or the entire CIL amount due. This agreement must state the value of the land and buildings to be transferred, or the infrastructure provided as verified by an independent valuation.

- 3) The person transferring the land to the charging authority or providing the infrastructure as payment must have assumed liability to pay CIL.
- 4) The land, subject to the transfer, must be free from any interest in the land and any encumbrance to the land, buildings or structures.
- 5) The land, subject to the transfer, must be fit for a relevant purpose to support delivery of the Local Plan. This may require the owner to demonstrate that the land is suitable through the submission of further information to the Council, including but not limited to, topographical information, reports on contamination and archaeology and details of any underground services.
- 6) The Council may transfer at its own discretion, the land, at nil cost, to a third party for the provision of infrastructure.
- 7) The agreement to pay in land or via infrastructure provision may not form part of a planning obligation entered into under Section 106 of the Town and Country Planning Act 1990 (as amended).

The Council is not obliged to accept any offer of payment in kind by land or infrastructure.

Adoption and Review

The Payment in Kind policy will take effect at the same time as the commencement date of the Council's adopted CIL Charging Schedule.

The CIL regulations require a Local Authority to produce an annual report, which indicates how CIL receipts have been used. Any Payments in Kind will be reported as part of this annual report.

SHEPWAY DISTRICT COUNCIL

PLANNING AND LICENSING COMMITTEE – 23 JANUARY 2018

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:

Type of Lobbying:

Email/Letter/Phone

Application No:

Y17/1105/SH 29 Radnor Cliff, Folkestone

SIGNED:

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

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