



# Agenda

Meeting: **Planning and Licensing Committee**  
Date: **20 March 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 20 February 2018.

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

To consider and approve, as a correct record, the minutes of the meeting held on 15 February 2018.

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

Contact Kate Clark – Tel: 01303 853267  
Email: [committee@shepway.gov.uk](mailto:committee@shepway.gov.uk) or download from our website  
[www.shepway.gov.uk](http://www.shepway.gov.uk)

5. **Application Number: Y16/1122/SH - Land Rear Rhodes House Main Road Sellindge Kent. (Page 13)**

Report DCL/17/42 - Outline planning application for a neighbourhood extension for the creation of up to 162 houses including affordable, self-build and retirement housing, up to 929 square metres Class B1 Business floorspace, allotments, recreational ground and multi-use games area, nature reserve, and associated access, parking, amenity space and landscaping.

6. **Application Number: Y17/1409/SH - Land Adjacent Framlea Rye Road Brookland Kent. (Page 57)**

Report DCL/17/42 - Hybrid application (part outline, part detailed) for up to 9 self/custom build dwellings (outline element) with associated supporting road infrastructure, access, open space and landscaping (detailed element).

7. **Application Number: Y18/0060/SH - Due South, Romney Road, Lydd, Romney Marsh, Kent, TN29 9LN. (Page 73)**

Report DCL/17/42 - Erection of front porch and construction of vehicle crossover

8. **Application Number: Y18/0061/SH - Pent Valley Technology College, Surrenden Road, Folkestone, Kent CT19 4ED. (Page 81)**

Report DCL/17/42 - Consultation by Kent County Council in respect of the renewal of the temporary permission for the 'Sharman Block' modular building, erection of a 2.4 metre high fence and gates to separate it from the rest of the former Pent Valley School, construction of a 1.8 metre wide access path to a new 2.2 metre high gate onto Bowen Road, and erection of a 2.2 metre high fence between the building and the electric substation. (KCC Application PA/KCC/SH/0343/2017)

9. **Licensing Policy Report (Page 93)**

Report DCL/17/39 sets out the proposed revisions made to our Licensing Policy Statement. This Policy will cover the period 2018-2023

## Planning and Licensing Committee - 20 March 2018

### \*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

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## Minutes

### Planning and Licensing Committee

Held at:	Council Chamber - Civic Centre, Folkestone
Date	Tuesday, 20 February 2018
Present	Councillors Alan Ewart-James, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Len Laws, Michael Lyons, Philip Martin, Dick Pascoe, Paul Peacock, Carol Sacre (In place of Mrs Mary Lawes), Russell Tillson and Roger Wilkins (Vice-Chair)
Apologies for Absence	Councillor Miss Susie Govett and Councillor Mrs Mary E Lawes
Officers Present:	David Campbell (Development Management Team Leader), Ben Geering (Head of Planning), Julian Ling (Senior Planning Officer), Wendy Simpson (Senior Planning Officer) and Jemma West (Senior Committee Services Officer)
Others Present:	Councillor Collier

#### 49. **Declarations of Interest**

Councillor Lyons declared an interest in report Number DCL/17/35, relating to the land at Shepway, Lympne Hill, as the applicant was known to him. He left the Chamber during consideration of this item.

#### 50. **Minutes**

The minutes of the Planning and Licensing Committee held on 23 January 2018 were submitted, approved and signed by the Chairman.

#### 51. **Appeals Monitoring Information 3rd Quarter 2017/18 - 1 October to 31 December 2017**

The Planning Committee Members noted the Appeals Monitoring update.

#### 52. **Application Number: Y17/0710/SH - Ingles Meadow Garden Centre Jointon Road Folkestone Kent CT20 2RF**

Report DCL/17/38 set out the Full planning application for the erection of 40 No. dwellings with associated access, parking, landscaping and open space.

Councillor Jacqui Meade of Folkestone Town Council spoke on the application. Mr Nathan Anthony, the applicant's agent, spoke on the application.

Proposed by Councillor Ewart-James,  
Seconded by Councillor Tillson; and

**RESOLVED:**

That planning permission be granted subject to the signing of a S106 agreement to secure developer contributions and the conditions set out below and that delegated authority be given to the Head of Planning to determine the wording of the S106 agreement and any additional conditions which are considered reasonably necessary subject to the following amendments to the recommendations of the report:

1. That the financial contribution to be secured via s106 to mitigate the development for open and play space, as required by policies LR9 and LR10 of the Local Plan, instead go towards providing for an off site contribution to meet identified affordable housing need, as required by policy CSD1 of the Core Strategy.
2. That a claw back clause be included within the s106 agreement that ensures that 50% of the uplift in any sales value be captured towards off site affordable housing contribution, up to the equivalent of a 30% off site contribution value in order to meet the requirements of policy CSD1 and ensure that the development was providing an appropriate proportion of affordable housing, subject to viability.
3. That the application to be referred back to committee should these requirements not be secured.

.Whilst the need for off site mitigation was clear within the report, Members concluded that the need for affordable housing contributions was greater than the need for contributions to mitigate the lack of open and play space within the development and that the use of CIL could extend to offsite play and open space improvements within the district.

**Conditions:**

1. 3 year standard time condition
2. Drawing numbers
3. Materials as specified
4. Additional investigations be carried out in respect to asbestos/the recommendations of the submitted report/mitigation
5. Remaining parts of the standard contamination condition
6. Site wide surface water drainage scheme
7. Drainage management and maintenance

8. No infiltration drainage in areas of contamination
9. No piling or penetrative foundation design without agreement of the LPA
10. Archaeological watching brief
11. Measures to enhance biodiversity
12. Construction Environmental Management Plan
13. Tree Protection Measures
14. Fronting Shorncliffe Road - use of double glazing with 16mm air gap between 4mm glazing, acoustic airbricks and window vents
16. Pedestrian table required across T-junction
17. Landscaping condition including replacement trees
18. Landscape management plan for communal landscape areas
19. Replanting if landscaping fails
20. Details of low wall/railings
21. Standard water efficiency condition
22. TRO to change and provide double yellow lines around the new access (Grampian condition)
23. Garages retained unrestricted for parking purposes at all times
24. Provision of access roads in each phase
25. Details of play area equipment
26. Provision of the open space and play space
27. Installation of high speed fibre optic broadband (FTTP)
28. Removal of permitted development rights in respect to rear extensions on some properties
29. Provision and maintenance of vision splays.
30. Architectural detailing

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

53. **Application Number: Y17/1310/SH - Home Farm Longage Hill Rhodes Minnis Canterbury**

Report DCL/17/38 set out an application for the Change of use and conversion of barn to a residential dwelling, including the demolition of existing derelict farm buildings & erection of new garage and store building.

James Govier, the applicant's agent, spoke on the application

Proposed by Councillor Wilkins,  
Seconded by Councillor Lyons; and

**RESOLVED:**

**That planning permission be granted subject to the following conditions:**

- 1. Standard time condition**
- 2. Approved plan numbers**
- 3. Materials**
- 4. Construction details**

5. Door/window details
6. Roof light details
7. Rainwater goods
8. Landscaping
9. Boundary treatment
10. Parking
11. Cycle parking
12. Contamination
13. Drainage (foul and surface water)
14. Removal of PD Rights (classes A, B, C, D, E & F).
15. Garage building first floor to be used for ancillary purposes only.
16. Ecology
17. Water efficiency

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

54. **Exclusion of the Public**

Proposed by Councillor Wilkins,  
Seconded by Councillor Martin; and

**RESOLVED**

That the public be excluded for the following items of business on the grounds that it is likely to disclose exempt information as defined in paragraphs 2 and 6 of Part 1 of Schedule 12A to the Local Government Act 1972:

(2) Information which is likely to reveal the identity of an individual. Information falling within paragraph 2 is exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

(6) Information which reveals that the authority proposes:  
to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment.

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

55. **Unauthorised use of land**

Report DCL/17/35 considered the appropriate action to be taken regarding the change of use that has taken place on Land at Shepway, Lympne Hill, Lympne, Hythe. No planning permission had been granted for the use of the land or the siting of two self-contained yurts and associated decking. The report recommended that an Enforcement Notice be served requiring the unauthorised use of the land for the stationing of yurts to cease and the yurts and decking erected to be removed from the land.

Proposed by Councillor Tillson,



Seconded by Councillor Pascoe; and

**RESOLVED:**

1. That report DCL/17/35 be received and noted.
2. That an Enforcement Notice be served requiring the use of the land for the siting of yurts to cease and their removal along with the removal of the associated decking.
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.

(Voting: 10 for, 0 against, 0 abstentions).

*(Councillor Lyons left the chamber during consideration of this item)*

**56. Unauthorised development of land**

Report DCL/17/36 considered the appropriate action to be taken regarding the erection of a fence the laying of hard standing (being used as parking) and the formation of vehicular access onto Lions Road to the rear of Cinque Ports Arms, New Romney, which is a Grade II Listed Building. All these works had been carried out without the necessary planning permission and listed building consent. This report recommended that an Enforcement Notice be served to require the removal of the fence and hard standing, the reinstatement of grass and the cessation of the use of the vehicular access.

Proposed by Councillor Laws,  
Seconded by Councillor Sacre; and

**RESOLVED:**

1. That report DCL/17/36 be received and noted.
2. That an Enforcement Notice be served requiring the removal of the unauthorised fence; the erection of a replacement wooden fence topped with trellis and with wooden gravel boards and wooden posts; the removal of the hardstanding and the reinstatement of the site to grass; and the cessation of the use of the vehicular access,
3. That the period for compliance be 6 months
4. That the Head of Planning be given delegated authority to determine the exact wording of the Notice;
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: 10 for, 1 against, 0 abstentions).

**57. Unauthorised development of land**

Report DCL/17/37 considered the appropriate action to be taken regarding the erection of a large barn with glazed sections on the north, east and west

elevations, within the grounds of Horton Priory, which is a Grade I Listed Building. Planning permission was granted in 2016 for the erection of two barns and vehicular access. The two barns had been merged and enlarged and constructed as a single 'L' shape building, approximately in the same location as approved but with different eaves heights and differing in other ways from the approved plans. This report recommended that an Enforcement Notice be served requiring the removal of the barn to allow for the proper construction of the two barns granted planning in 2016.

Proposed by Councillor Laws,  
Seconded by Councillor Lyons; and

**RESOLVED:**

- 1. That report DCL/17/37 be received and noted.**
- 2. That an Enforcement Notice be served requiring the removal of the unauthorised barn and for development to be carried out in accordance with the approved plans.**
- 3. That the period for compliance be 6 months**
- 4. That the Head of Planning be given delegated authority to determine the exact wording of the Notice;**
- 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: 11 for, 0 against, 0 abstentions).

## Minutes

### Licensing Sub-Committee

Held at: Boulogne Room - Civic Centre Folkestone

Date: Thursday, 15 February 2018

Present: Councillors Mrs Mary Lawes, Michael Lyons and Philip Martin

Apologies for Absence

Officers Present: Arthur Atkins (Environmental Health and Licensing Manager), David Kelly (Legal Services Manager), Sue Lewis (Committee Services Officer) and Briony Williamson (Licensing Officer) Lisa Wheatley (Parking Administration Officer)

Others Present: Mr Andrew Burnett (applicant) and Mr John Palmer (operator for Channel Cars)

#### 42. **Declarations of interest**

There were no declarations of interest.

#### 43. **APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

Report DCL/17/33 considers whether an application for a Private Hire Driver's Licence should be granted.

The Licensing Officer presented the application to the members of the Sub-Committee, together with legislation in respect of Common Assault and the Local Government Association guidance on the fit and proper test to be considered for this application.

The applicant Mr Andrew Burnett presented his case for applying for a Private Hire Driver's Licence.

The Committee asked a number of questions and then went into closed session to make their decision. The determination is attached to these minutes for information.

Proposed by Councillor Michael Lyons  
Seconded by Councillor Philip Martin and

**Resolved:**

- 1. To receive and note Report DCL/17/33.**
- 2. To grant Mr Andrew Burnett a Private Hire Driver's Licence, subject to each of the following:**

**It is a condition of this licence that Mr Burnett shall give up all other work and will be under the exclusive supervision of the operator, Mr John Palmer of Channel Cars for not less than 1 year.**

**It is a condition of this licence that Mr Burnett will remain exclusively with Channel Cars for not less than 1 year.**

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

**Application No:** Y16/1122/SH

**Location of Site:** Land Rear Rhodes House Main Road Sellindge Kent

**Development:** Outline planning application for a neighbourhood extension for the creation of up to 162 houses including affordable, self-build and retirement housing, up to 929 square metres Class B1 Business floorspace, allotments, recreational ground and multi-use games area, nature reserve, and associated access, parking, amenity space and landscaping.

**Applicant:** Quinn Estates and The Bucknell Trust  
C/o Agent

**Agent:** Mr Ben Harvey  
Iceni Projects Ltd  
Flitcroft House  
114 - 116 Charing Cross Road  
London  
WC2H 0JR

**Date Valid:** 13.10.16

**Expiry Date:** 30.03.18

**PEA Date:** 30.03.18

**Date of Committee:** 20.03.18

**Officer Contact:** Miss Louise Daniels

## **SUMMARY**

This report considers whether outline planning permission should be granted for a neighbourhood extension for the creation of up to 162 houses including affordable, self-build and retirement housing, up to 929 square metres Class B1 Business floorspace, allotments, recreational ground and multi-use games area, nature reserve, and associated access, parking, amenity space and landscaping. The report recommends that planning permission be granted as it is considered that the site is within a sustainable location, adjacent to the settlement boundary of Sellindge with good transport links and within an identified area for planned growth in the future Regulation 18 consultation draft of the Core Strategy Review. The application proposes additional housing in a sustainable location which delivers infrastructure needs and accords with the adopted settlement hierarchy, over and above the Councils 5 year housing supply, is supported by the NPPF and as such, it is considered that on balance the addition of housing together with expanded and improved infrastructure for the village of Sellindge would deem this proposal to be, on balance an acceptable departure from the development plan.

<p><b>RECOMMENDATION: That the Head of Planning be authorised under delegated authority to grant planning permission, subject to the completion of a section 106 legal agreement with the applicant that secures the infrastructure and financial contributions detailed within this report and</b></p>
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**subject to conditions outlined within the report and any additional conditions which he considers to be necessary.**

## **1.0 THE PROPOSAL**

1.1 This is an outline application for the provision of 162 houses and up to 929 square metres of Class B1 Business floorspace for consideration of access only, together with a landscaping and land use parameter plan. All other matters (design, layout, landscaping and scale) reserved for future consideration.

This application is supported by the following documents:

- Landscape parameter plan;
- Land use parameter plan;
- Land use and landscape parameter plan;
- Planning statement;
- Design and access statement;
- Sustainability Assessment;
- Concept master plan;
- Access parameter plan;
- Five year housing land supply assessment;
- Analysis of housing supply;
- Flood risk assessment and preliminary surface water drainage strategy;
- Preliminary services appraisal;
- Ecological appraisal;
- Landscape and visual impact assessment;
- Arboricultural Impact Assessment (including addendum);
- Economic benefits statement;
- Archaeological Desk-Based Assessment;
- Air quality assessment;
- Noise assessment;
- Contamination assessment;
- Groundsure Enviroinsight report;
- Statement of community involvement;
- Transport assessment;
- Agricultural land classification and soil resources report;
- Road safety audit – stage 1;
- Plans relating to proposed site access and off-site improvement works;
- Heritage assessment

1.2 The proposed houses would comprise an allocation of affordable housing, self-build and retirement housing, alongside general market housing. The layout takes a new access from the A20 South of Rhodes House with a fully engineered junction, which will involve the removal of part of the small woodland alongside the road at this point.

1.3 The indicative layout shows a circuit road around the centre of the site with new houses mostly within the road but with an additional area of housing within a secondary loop at the north end of the site.

- 1.4 An indicative separate access road leads from just within the entrance, east alongside the embankment of the M20, to serve the business units with an area for parking, located between this road and the line of overhead pylons. An area of landscaped ground under the pylon line would separate the business development from the housing to the north. Allotment plots are also proposed in this location. The east of the site is shown on the Landscape Parameter Plan as the location for a nature reserve. An indicative footpath line is intended to encircle the site, with other links across the site.
- 1.5 Additional planting is proposed along the line of the pylons, along the north-east boundary with the farmland, at the junction with the existing village development and along the perimeters outside of the garden plots of Rhodes House and Little Rhodes.
- 1.6 As part of the proposal, an area of land to the north of Sellindge Primary School (as shown on submitted plan number 14.138.02 Rev C) has been sourced to enable the future expansion of the school to up to 2 forms of entry.

## **2.0 SITE DESIGNATIONS**

- 2.1 The following apply to the site:
  - The application site boundary is located just outside the defined settlement boundary of Sellindge.
  - There are two Grade II listed buildings in the immediate vicinity of the site, Little Rhodes and Rhodes House.
  - TPO No.16 of 2016.

## **3.0 LOCATION AND DESCRIPTION OF SITE**

- 3.1 The site is approximately 10 kilometres to the south east of Ashford (connected by the A20) and 15.5 kilometres to the west of Folkestone.
- 3.2 Sellindge is a rural settlement dating back to Norman times, which developed as a linear settlement through the 18<sup>th</sup> and 19<sup>th</sup> centuries as a stopping point between Folkestone, Hythe and London. The village underwent significant suburban expansion in the mid twentieth century alongside growth in private car ownership, with a number of new estates built either side of Swan Lane. The construction of the M20 in the 1980s had a significant impact on the role of the village, with the majority of traffic using the motorway to travel to and from the coast and the settlement no longer being located on the Strategic Road Network. Despite this the A20, with a 40mph speed limit, forms a significant divide within the village, separating the residential core to its north from many of its services to the south.
- 3.3 The application site consists of six arable fields located on the south east edge of Sellindge, north of the M20. The site area is of an irregular shape, measuring approximately 480m north-south and 680m east-west. The A20 Ashford Road is located to the western boundary with a site road frontage of

about 80m, from where site is currently accessed, comprising a thick belt of trees along this frontage. The west boundary of the site skirts around the rear of the landscaped grounds of the Grade II listed Little Rhodes and Rhodes House buildings and the rear of modern housing development on the east side of Swan Lane (Whitehall Way, Leafield, Forge Close and Lourdes Manor Road).

- 3.4 Swan Lane is located at the northernmost point of the site where it abuts Homelands Close, a short cul-de-sac of modern houses, before returning south and east. This north-east boundary of the site adjoins other undeveloped farmland and the boundary is marked by hedgerows with occasional hedgerow trees extending approximately 500m towards the south east.
- 3.5 In this area the site diminishes to a point at the eastern end of the site and the boundary then returns towards the south-west forming the south-east boundary with more farmland to the east. This boundary is marked by a stream and dense woodland alongside it.
- 3.6 At the southern end, another more minor stream or ditch joins the stream not far from where the boundary returns westward, forming the southern boundary of the site, against the M20 motorway which at this point is elevated on an embankment close to the boundary. This south boundary follows the motorway along to where it crosses the A20 on an overbridge.
- 3.7 The site has a complex landform with the highest part up against the North boundary where it abuts the rear of houses in Whitehall Way forming a low hill at this point with the farmland gently falling away to both the south and east.
- 3.8 On the east side a secondary stream rises close to the north-east boundary and forms a small wooded valley as it crosses the site southwards. This joins another water course that flows across the south-east boundary, entering from the east and crossing under the M20 embankment before continuing to flow away to the west on the far side of the motorway.
- 3.9 The main part of the site to the west of the secondary stream forms a gentle hillside falling towards the stream to the east and to the south towards the motorway. This hillside is divided into four main fields with the largest at the top, north, end of the site and incorporating the brow of the promontory. Two further long fields about 40m x 350m are arranged east-west on the hillside and below these, the last field is the remains of a third field truncated by the construction of the M20 motorway in the 1980s. The boundaries of all these fields are marked with scrappy hedgerows with occasional hedgerow trees.
- 3.10 On the far side (east) of the north-south watercourse valley, a further large triangular field about 330m x 300m occupies the land between the north-east and south-east boundaries. Again this is defined with hedgerows and trees but there is more substantial woodland alongside the stream which runs alongside the south-east boundary. Within this field the land falls away



forming a very gentle ridge towards the central valley and the stream on its south side.

- 3.11 A high voltage overhead line crosses the bottom of the site near the south boundary and there are two high voltage pylons located within the site.

#### **4.0 RELEVANT PLANNING HISTORY**

- 4.1 A Screening Opinion was carried out by the LPA (reference Y16/0001/SCR) for land rear Rhodes House under Regulation 5(1) of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 for a neighbourhood extension for the creation of up to 175 houses including affordable and self-build housing, up to 929sqm B1 Business floorspace, allotments, recreational ground and multi-use games area, nature reserve, and associated access, parking, amenity space and landscaping. The Screening Opinion concluded that the proposal, with mitigation measures in place, is unlikely to have significant effects on the environment due to its nature, size and location and that an EIA was not required. It was issued 05.09.16 and Screening Opinions are valid for 2 years, therefore, there is no requirement for this development to be screened again.
- 4.2 A Hybrid application (reference Y14/0873/SH) for the redevelopment of land between the A20 and M20 (land adjacent to The Surgery) in Sellindge, was approved with conditions on 22.01.16. The application was for:
- outline permission (with all matters reserved except access) comprising of 200 dwellings, local mixed use centre containing parish offices (sui generis up to 100m<sup>2</sup>), and associated storage (sui generis up to 100m<sup>2</sup>, 40m<sup>2</sup> as closed storage and 60m<sup>2</sup> as secure outdoor storage) commercial floorspace (a1/a3/a5 uses up to 200m<sup>2</sup>) together with access from the A20, associated roads, parking, earthworks, open space including attenuation features and landscaping.
  - full application comprising 50 dwellings, village green and play equipment, access from the A20, associated roads, community car parking, earthworks, open space including attenuation features and landscaping.

#### **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 Sellindge Parish Council  
Object on the following grounds:

- Outside the settlement boundary for Sellindge and within the countryside.

- The site was put forward as a submission site in the call for sites for the Places and Policies Local Plan (SHLAA ref 328, where it was rejected).
- This would be a large greenfield expansion into the countryside, with a site boundary vulnerable to further growth in the future to the North East of the site.
- The entrance/exit to the site will be 80m from the main entrance to the already approved Taylor Wimpy site, phase 1 for 50 dwellings, and the amount of traffic at peak times would worsen the air pollution and odour pollution already experienced.
- Health and safety concerns regarding the high voltage overhead power lines that cross the site.
- Surface water migrates to the East Stour River which is to the south of the M20. Concerns the culvert would not be able to cope with the extra surface water runoff generated by this development, raising the frequency of major flooding events locally.
- No contamination details submitted however the Parish Council knows of an incident adjacent to the site at Homelands Close, caused by oil and fuel.
- Loss of agricultural land.
- There are records reported in the KCC comment of hedgehogs and badgers in the area, further work required.
- The applicant has not provided a conclusion as to why the development is really needed.
- One entrance/exit could result in gridlock should there be an accident.
- Primary school provision and doctors' surgery.

### 5.3 KCC Archaeology

The site is located in a landscape that is generally rich in archaeological remains and there is good potential for the site to contain remains of archaeological interest, potentially including significant archaeology that may warrant preservation in situ. This could be addressed through the use of a planning condition.

The retention of the historic hedges as shown on the revised Landscape Parameter Plan is an improvement.

### 5.4 KCC Ecology

No objection subject to conditions requesting the submission of additional information with regard to:

- Hedgerow and tree protection during construction.
- Construction Environmental Management Plan (CEMP) to be submitted to include provisions for bats, reptiles, water voles, common toads, breeding birds and badgers, and shall be based on the guidance outlined in the submitted Ecological Appraisal.
- Lighting Design Strategy for biodiversity, including details of dark corridors to ensure there is no detrimental impact to bats.
- Mitigation Strategy.
- Details of a scheme for the enhancement of biodiversity, to include the timing/phasing of the respective elements forming the scheme, and those measures set out within the submitted Ecological Appraisal.

- A Landscape and Ecological Management plan (LEMP) to ensure the dedicated nature reserve and ecological corridors are managed appropriately for maximum ecological benefits.

5.5 Environmental Health

No objection subject to conditions.

5.6 Contamination (Idom Merebrook consultants)

No objection subject to contamination condition. Following the submission of a revised report (Phase 1 Land Contamination Assessment for Land at Sellindge, Ashford by Ecologia (ref: EES 14 .249.1v2) for Quinn Estates Ltd dated 6 January 2017) which now takes account of a historic pollution incident and the report now fulfils the requirements of the first part (desk study & conceptual site model) of Shepway's standard land contamination planning condition.

5.7 Highways England

No objection following the submission of additional information and satisfied that the proposed development will not affect the operation of the Strategic Road Network.

5.8 KCC Highways and Transportation

No objection subject to conditions requiring the changes to the A20 to be carried forward by this proposal if the other site has not already carried out their obligation.

Kent County Council Highways and Transportation will be seeking the developer to deliver the Newingreen junction scheme. The developer contributions already accepted by KCC and SDC to this end will be available should this application be granted permission.

5.9 Housing Strategy

No objection. From the 162 properties on site proposed we would expect the development to deliver 30% affordable housing units which would equate to 49 units with the following to be achieved from this site:

The affordable housing units: 49 units mixed tenure for affordable housing – 60% affordable rent and 40% shared ownership:

- 10 units for retirement
- 23 units for affordable rent general need
- 16 units for shared ownership
- Some of the 49 affordable units could be delivered for self-build, potentially as a community housing initiative. The homes could be for rent or shared ownership.

A local lettings plan should be factored in so that local people to Sellindge would be given priority for a proportion of the affordable housing rental units and the properties delivered by an affordable housing provider to be approved by the Council. The location of the units on the site to be in agreement with the Council.

#### 5.10 Kent Wildlife

No objection subject to the recommendations regarding enhancing the boundary features with a comprehensive long-term management plan including penetrable boundary fencing and the creation of characteristic habitats of acid grassland and heath, wet woodland and wood pasture conditioned.

#### 5.11 Natural England

No objection to revised and additional viewpoints and addendum to the submitted Landscape Visual Impact Assessment. Natural England consider that the additional viewpoints submitted provide a better representation of views of the proposed development from the AONB from which it is clear that the development would be visible in part from few locations within the AONB. It would be most visible from south of Farthing Common car park. Natural England conclude, therefore, that the proposals are not likely to have a significant visual impact on the setting of the AONB.

#### 5.12 Southern Water

No objection subject to conditions. The results of an initial desk top study indicates that Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework, The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised. If approved a condition for a drainage strategy shall be conditioned together with a foul and surface water sewerage disposal.

#### 5.13 KCC Lead Local Flood Authority

No objection subject to conditions requiring a surface water drainage scheme, a timetable for its implementation, and a management and maintenance plan for the lifetime of the development.

#### 5.14 KCC Education & Economic Development

No objection. Sellindge Primary School occupies a site which is insufficiently large to accommodate a 1 Form Entry school, prohibiting its expansion. This has been recognised and accepted by application Y14/0873/SH and Shepway District Council. Therefore, should application Y14/0873/SH be developed, the County Council will receive land to facilitate the expansion of the school to 1FE from the current 0.5FE and further land would be required to further expand this school in response to this application, increasing the school to at least 1.5FE or ultimately to 2FE.

The following contributions are required:

Primary School	37 additional Primary School places (excluding the 30 retirement units) amounting to £528,000
Secondary School	Currently no requirement
Community Learning	£21.08 per dwelling (x 162) = £3414.40
Youth Service	Currently no requirement

Libraries	£108.32 per dwelling (x162) = £17,547.92
Social Care	£73.87 per dwelling (x 162) = £11,966.94, plus 2 wheelchair adaptable home delivered as part of the on-site affordable delivery

The County's planning obligation requirements for a construction contribution and additional land for Sellindge Primary School are essential to mitigate the education demand from this development. Without this obligation the developer would fail to mitigate the service demand being created and consequently his development would not be acceptable.

A condition be included for the provision of Superfast Fibre Optic Broadband.

5.15 Arboricultural Manager

No objection to revised landscape masterplan.

5.16 Rural Planning Ltd (agricultural advice)

Table 2: Agricultural Land Classification:

Grade Description	Area (ha)	% of agricultural land
1 Excellent quality	7.0	38
2 Very good quality	7.4	40
3a Good quality	2.2	12
3b Moderate quality	2.0	10
Total Agricultural	18.6	100

5.17 Environment Agency

No objections subject to conditions requiring a remediation strategy, a site investigation scheme, verification plan and details regarding the infiltration of surface water/drainage systems.

5.18 Landscape and Urban Design Officer

No objection.

5.19 Kent Downs AONB Unit

No objection. Although the site is not within the boundary of the Kent Downs AONB, the boundary lies approximately 1.25 km north/north-east of the application site and therefore this site forms part of the setting of the AONB, by virtue of the scale of the development, proximity to the AONB boundary and the fact that the proposed development will potentially be visible in views from the AONB. The AONB Unit is satisfied that the amended LVIA now provides a satisfactorily assessment of the impact of the proposal on the Kent Downs AONB.

Development must conserve and enhance the setting of the AONB and secure local distinctiveness through careful design, appropriate materials and layout as well as mitigation measures including landscaping and avoidance of external lighting.

The incorporation of the nature reserve and woodland and landscape buffer along the northern edge of the site is welcomed, as is the linear area of

public open space running east west between the recreation ground and nature reserve. As the application is made in outline, in order to ensure these features are maintained as part of any future reserved matters application, the Kent Downs AONB Unit considers it imperative to ensure that the principles set out in Landscape Parameter Plan are carried through to any subsequent proposals.

#### 5.20 Listed Building Consultant

No objection.

Listed buildings: There will be no adverse impact on the setting of the Grade II listed houses Rhodes House and Little Rhodes.

Visual impact: The access junction will cause the removal of much of the woodland along the frontage of the site alongside Ashford Road and the character will be markedly changed as a result. Junction improvements are also proposed for the Newingreen junction about 3.5km to the South along Ashford Road but these traffic management measures are confined to the highway and should not impact significantly of the character of the area of that junction.

Effect on the Landscape Setting: The development will be visible in many local views of the site and in more distant views, particularly from Farthing Corner. The proposed layout of the site, with large areas of green open space at the East end (the nature reserve) and at the North West side, where the higher open ground is being retained, will help alleviate this impact.

Comments on the Indicative Design: There are aspects of the indicative design which would benefit from adjustment and improvement so as to, in particular, help the road and development layout integrate more successfully with the ground forms and layout.

#### 5.21 Kent County Council PROW

No objection subject to conditions.

#### 5.22 NHS Property Services Ltd - Kent & Medway

A need has been identified for contributions to support the delivery of investments highlighted within the Strategic Service Development Plan. These improvements to the primary care infrastructure will enable support in the registrations of the new population, in addition to the commissioning and delivery of health services to all. This proposed development is expected to result in a need to invest in the local surgery, Sellindge Surgery, which is within 1 mile of the development. This contribution will be directly related to supporting the improvements within primary care by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

The application identifies unit sizes to calculate predicted occupancy multiplied by £360 per person. When the unit sizes are not identified then an assumed occupancy of 2.34 persons will be used.

Predicted Occupancy rates:

- 1 bed unit at 1.4 persons
- 2 bed unit at 2 persons
- 3 bed unit at 2.8 persons
- 4 bed unit at 3.5 persons
- 5 bed unit at 4.8 persons

The contribution has been calculated as such:

Predicted Occupancy rates	Total number in planning application	Total occupancy	Contribution sought (Occupancy x £360)
Unknown	162	380	£136,800.00

Ashford CCG seeks a contribution of £136,800.00 plus support for legal costs in connection with securing this contribution. This figure has been calculated as the cost per person needed to enhance healthcare needs within the NHS services.

## 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 Ten letters/emails have been received objecting on the following grounds:

- What provision has been made for long trucks of up to 60 metres long at the Royal Oak, Stone Street junction? If traffic lights and other street furniture are placed at the junction, lorries will not be able to negotiate it.
- Completely out of keeping with local and neighbourhood plans.
- No communication from developers.
- Cheap and nasty development.
- Over development of Sellindge - cumulative impact with other approved and forthcoming developments.
- Ruin the uniqueness of the area and lead to loss of identity for Sellindge.
- Lack of infrastructure to support the development such as schools, doctors, hospital places and roads.
- Will increase traffic onto the A20 with more accidents and further tailbacks.
- Occupants will need to travel to Hythe, Folkestone, Ashford for work congesting roads.
- Increased air pollution from traffic detrimental to health.
- Development next to a lorry park will be affected by diesel air pollution.
- Development would be affected by high voltage cables and pylons running through site, detrimental to resident's health.
- Drainage and sewage facilities in the area not suitable to accommodate development – area suffers from surface water flooding.
- Within the countryside on good agricultural ground.

- No need for any more houses in the area.

6.3 Eleven letters of support have been received and are summarised as follows:

- The development will provide much needed affordable housing to help local families get on the property ladder.
- The electricity pylons and cables and lorry park would be a long way from the houses and would not be an issue.
- Would provide immense benefits to the area which would transform the village.
- Self build units are good idea.
- Well designed and considered to bring much needed green links to the area.
- Built on low grade land and not good agricultural land.
- Better to have housing than an extended lorry park.

## **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, HO1, LR8, LR9, LR10, BE1, BE5, BE16, U2, U4, U13, U14, U15, TR2, TR5, TR11, TR12, TR13, CO11 and CO13.

7.3 The following policies of the Shepway Core Strategy Local Plan apply: DSD, SS1, SS2, SS3, SS5, CSD1, CSD2, CSD4, CSD5 and CSD9.

7.4 The following paragraphs of the National Planning Policy Framework are of particular relevance to this application: 14, 17, 47, 49, 58, 100, 109, 131, 143, 186-187.

## **8.0 APPRAISAL**

### **Community Involvement & Pre-application Discussions**

8.1 The planning application is supported by a Statement of Community Involvement (SCI) which provides a summary of public consultation carried out by the applicant prior to the submission of the planning application.

8.2 The applicants have undertaken pre-application consultation with the local community including two public exhibitions and meetings with Sellindge Parish Council. Consultation has also included discussions with local councillors, local residents, businesses, and interested organisations. In



addition, a pre-application meeting was held in August 2016 with officers from Shepway District Council to discuss the main policy issues and site constraints and opportunities.

- 8.3 A request for a screening opinion was made by the applicants on 12<sup>th</sup> August 2016 and a response was issued on 5<sup>th</sup> September 2016 confirming that it was the Council's opinion, based on consultation responses from relevant internal departments and external bodies, that an Environmental Impact Assessment was not required as it was considered that the proposed development is unlikely to have any significant impacts on the environment and any harm arising from the development could be addressed sufficiently through mitigation.

### **Relevant Material Planning Considerations**

- 8.4 The main considerations in the determination of this application are the acceptability of the principle of development in this location, whether the proposed development would promote sustainable patterns of growth having regard to its scale and size and access to local services and facilities especially whether there is sufficient capacity within Sellindge Primary School and local NHS surgeries to accommodate the development or whether the development can mitigate such impacts.
- 8.5 In addition, the visual impact of the development upon the landscape and the open countryside, amenities of local residents, ecology, trees, flood risk, highways and transportation matters, heritage and archaeology are also considerations and whether adequate mitigation is proposed to address any adverse impacts.

### **Background**

- 8.6 Following consultation within Sellindge on 'Preferred Options' in the summer of 2009 community feedback identified a number of improvements to the village that could be delivered alongside housing development on alternative land within the village.
- 8.7 In early 2010 Shepway District Council successfully bid to the Homes and Communities Agency (HCA, now Homes England) for Rural Masterplan funding for Sellindge, with Urban Initiatives commissioned to complete this study. The study aimed to provide a clear spatial vision for Sellindge to ensure growth in the village is sustainable and provides tangible benefits to existing and new residents, assessing development within a number of locations.
- 8.8 The report, 'Sellindge's Future' was produced in March 2011 and set out a vision for the growth of the village as well as opportunities for new development to support new and existing facilities within the area. The document details a thorough investigation and analysis of growth options for the village, formulated in conjunction with local residents, the Sellindge and District Residents Association and Parish Council before outlining a preferred masterplan for growth within the village.

8.9 The main principles of this development include:

- To create a new residential spine, running through the development parallel to the A20 to provide a continuous route through the new development and access to residential properties.
- To create a new village green public open space around the existing social activity of the village hall, primary school and GP practice.
- To create a pattern of streets and lanes with a rural quality which respects and responds to existing hedgerows, mature trees and water courses.
- To create perimeter blocks where the front of properties overlook the public realm and back gardens adjoin other back gardens.

8.10 The findings of the Sellindge's Future project and report were used to inform policy CSD9 of the Core Strategy, which underwent Examination in Public (EiP) before the Planning Inspectorate in May 2012 with a further hearing on modifications in May 2013 (which did not relate to the Sellindge proposals).

8.11 Following the publication of the Inspector's Report in June 2013 Shepway District Council adopted the Core Strategy Local Plan in September 2013. The Inspector concluded (para. 95) that "The location of the core development area responds to both the settlement's existing built form and the clear local wish to create a new village green/open space area in a central position. On balance, these elements of policy CSD9 are adequately justified".

8.12 Policy CSD9 of the Core Strategy identifies Sellindge as a broad location for development to deliver a central village green/common, a more pedestrian/cycle-friendly Ashford Road, and other community facilities, financially enabled by limited residential development.

8.13 Planning permission Y14/0873/SH was granted on 22<sup>nd</sup> January 2016 for the provision of 250 dwellings on land between the A20 and M20 at Sellindge for outline permission. In addition, the applicants Taylor Wimpey secured a site to enable the extension of Sellindge Primary School from ½ to 1 form of entry. This is Belvedere Cottage and its curtilage which lies immediately to the west of the existing school. Taylor Wimpey secured the option to purchase Belvedere Cottage and were prepared to make this available to KCC for the purposes of extending the school without requiring any land payment. This was secured by a section 106 which was also to prevent the commencement of development until a binding offer to transfer Belvedere Cottage to KCC has been made. The full detailed part of this permission (Phase 1) has not been implemented and the Council has not as yet received submission of the reserved matters applications pursuant to the outline approval of this development. Taylor Wimpey has confirmed to the Council that they have now taken title of Belvedere Cottage and will shortly be writing to KCC, as required by the s106 agreement as the first stage of the transfer of site.

## Housing Need

8.14 The adopted Core Strategy Local Plan (2013) sets out the housing delivery requirement of 7,000 dwellings for the district until 2026, which equates to a minimum of 350 dwellings a year, with a target of 8,000 (400 per year). Since the Core Strategy Local Plan was adopted, Shepway District Council has undertaken work to update the Strategic Housing Market Assessment (SHMA) in 2016/2017 to inform a review of Shepway District Council's planning policies through the Core Strategy Review, to ensure they are up-to-date and in conformity with the NPPF

(Strategic Housing Market Assessment Part 1 – Objectively Assessed Need):

[https://www.shepway.gov.uk/media/4474/Strategic-Housing-Market-Assessment-2017/pdf/2017\\_08\\_08\\_Final\\_SHMA\\_Pt1.pdf](https://www.shepway.gov.uk/media/4474/Strategic-Housing-Market-Assessment-2017/pdf/2017_08_08_Final_SHMA_Pt1.pdf)

8.15 The Core Strategy Local Plan, adopted post-NPPF and following the revocation of the Regional Spatial Strategies (RSS), considered the RSS set target of 290 dwellings per annum over the period to 2026 and states that:

*“this is lower than the rate of delivery achieved in Shepway, which has been in the order of 300 to 500 dwellings in a year for most years between 1990 and 2006. Local evidence in the SHMA and SHLAA also suggested that future housing needs, and potentially, land availability were greater than identified in the South East Plan”.*

8.16 Although the Core Strategy Local Plan was adopted following the publication of the NPPF, the housing target was derived from an old-style SHMA which was carried out prior to the publication of the Planning Practice Guidance (PPG) and does not follow the required method within the NPPF. However, the PPG is clear that this does not necessarily render the housing targets out of date. With regard to housing requirements, the PPG states that:

*“Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs”.*

8.17 Regarding progress towards meeting the 2013 Core Strategy target, over the period 2006/07 to 2016/17 the total plan requirement is for a net additional 3,850 dwellings (11 years at 350 dwellings a year). Over this period the total number of homes delivered was 3,208, an undersupply of 642 homes. However, this largely reflects a reduction in housing completions following the recession. Work currently being undertaken for the emerging Places and Policies Local Plan indicates that completions from the current monitoring year (ending 31 March 2018) are likely to substantially reduce this deficit. The Council's housing land supply equates to 7.1 years against the adopted plan requirement of 350 homes per year.

8.18 Nevertheless, it is considered that significant new evidence has come to light since the adoption of the Council's adopted Core Strategy Local Plan in 2013. Specifically, the updated SHMA (2017) assessed the Objectively Assessed Need (OAN) for housing in Shepway at 633 dwellings per year over the period to 2036/37 (14,560 dwellings) which reflects current housing need, although this has not yet been through the examination process. This number is significantly greater than that in the adopted Core Strategy Local Plan and also includes a market signals adjustment based on the most up-to-date evidence and statistical data. A review of the Core Strategy is taking place to ensure the district meets its housing need. The review will help ensure that the uplift in housing numbers can be accommodated within Shepway and that the jobs and infrastructure that the new homes will need can also be successfully delivered.

8.19 Further evidence base work to support the review of the Core Strategy has been undertaken by the Council through the commissioning of an independent Strategic Growth Options Study by consultants AECOM to review possible options for future growth, so as to establish a robust high-level spatial strategy that can be carried forward in the development of planning policies as the central element in the partial review of the Core Strategy to meet the growth identified in the updated SHMA.

8.20 The Strategic Growth Options Study that has been undertaken comprises three elements: a High Level Options Report, a Phase Two Report and a High Level Landscape Appraisal that informs both the High Level Options Report and the Phase Two Report. The Phase Two report builds on the evidence presented within the High Level Options report to set out the final conclusions of the Strategic Growth Options Study. The Phase Two report identifies land in the district which is suitable for strategic-scale development and includes the application site, named Area A in the report. The report concludes:

*“it is considered that there is one parcel of land within Area A suitable for strategic-scale development. It seems suitable on the transport, landscape, infrastructure, heritage, economic development potential and spatial opportunities and constraints criteria. This parcel of land is located to the east of Sellindge and would comprise an expansion of the existing settlement. However, it is of a small enough scale to maintain the identity and character of Sellindge as a free-standing village, through avoiding, for example, coalescence with other settlements”.*

8.21 It is concluded that the up-to-date evidence base, comprising the Council's updated SHMA and the objectively assessed need figure of 633 dwellings per annum, which specifies the housing need of the District to 2036/37; coupled with the independently-prepared Strategic Growth Options Study that defines where, in spatial terms, land considered suitable for strategic-scale development is to be located has been used to inform the policy formation for a partial review of the adopted Core Strategy Local Plan and are material considerations in decision taking. The District Council is to go out to Regulation 18 consultation on the Core Strategy Review in Spring

2018. Therefore, whilst the emerging Core Strategy Review is based on an extensive evidence base reflecting updated development requirements for new homes in the district it is a material consideration of limited weight in decision taking.

### **Five Year Housing Supply**

- 8.22 The NPPF is a key consideration, particularly with regard to the national planning priority to boost significantly the supply of housing to meet identified needs in paragraph 47 which states that local planning authorities should “identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.
- 8.23 Paragraph 14 of the NPPF states that at the heart of the NPPF is a presumption in favour of sustainable development, stating that for decision-taking this means where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless; any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. An appeal in Wychavon (ref: APP/H1840/W/15/3005494) saw the Inspector reach the following conclusion: *“It is agreed between the parties that the Council can demonstrate a 5 year supply of deliverable housing sites as required by paragraph 47 of the Framework. Under these circumstances, the decision-taking criteria contained in paragraph 14 of the Framework are not engaged. Whilst this is so, the Framework seeks to boost significantly the supply of housing and the ability to demonstrate a 5 year housing land supply should not be seen as a maximum supply.”* The development was allowed.
- 8.24 In recent appeal decisions, Inspectors have increasingly been concluding that housing need carries enough weight for a development to be permitted even where a local authority can demonstrate a five-year supply of housing land, as required by paragraph 49 of the NPPF. The Secretary of State called-in an appeal in Cherwell (ref: APP/C3105/A/14/2226552) and allowed permission for 54 homes where the application had been refused on the grounds that Cherwell could demonstrate a 5 year housing supply and their neighbourhood plan resisted developments larger than 20 homes. However, the Secretary of State responded stating the following: *“The proposal would be sustainable development and paragraph 187 of the Framework states that decision takers should seek to approve applications for sustainable development where possible.”*
- 8.25 A further appeal in Shropshire (ref: APP/L3245/W/15/3001117) saw 215 homes allowed outside the settlement boundary on the grounds that the proposal constituted sustainable development and generally accorded with the development plan. The Inspector identified that they could demonstrate a

healthy 5 year housing land supply but also conceded that: *“the existence of a 5YHLS is no impediment to the grant of permission for the development in view of the foregoing conclusions in its favour.”*

- 8.26 There are examples where national housing need rather than that of the local housing market area has been cited as a reason for approval. For example, in February 2016, the Secretary of State upheld the conclusions of an Inspector who allowed 605 homes at Ashby-de-la-Zouch in Leicestershire (ref: APP/G2435/A/14/2228806). North West Leicestershire was able to demonstrate a five-year supply of housing land, but the Secretary of State noted that his decision was supported by the fact that *‘local planning authorities must also plan for housing supply beyond the five year period, [and] that there is also a current national imperative to boost the supply of housing’*.
- 8.27 These appeals are evidence that the existence of a 5 year housing land supply, to which Shepway District Council can demonstrate against the adopted Core Strategy requirements, does not preclude new sustainable development as the NPPF seeks to significantly boost the supply of housing and approve applications for sustainable development where possible. As such, consideration must be given to the suitability of the development against the overarching requirements of the development plan and NPPF and a balance made between this and the conflict with policy CSD9 of the Core Strategy Local Plan that identifies Sellindge as suitable for up to 250 dwellings within the broad location policy allocation.

### **Principle of Development**

- 8.28 Policy SS3 in the Core Strategy (2013) identifies Sellindge as a Rural Centre in the Settlement Hierarchy. Rural Centres are able to develop consistent with enhancing the natural and historic environment in a manner that supports its role as an integrated tourist and local centre providing shops and services for a significant number of residents, visitors, and also for other villages in the North Downs. Paragraph 4.67 of the Core Strategy states that Rural Centres *‘are larger or better-served rural settlements within their character area, and as a group of locations there may be potential, subject to further examination of environmental impact, for modest expansion from their current built limits to meet rural development needs.’*
- 8.29 More specific to the North Downs Area, paragraph 5.142 states that *‘in accordance with the strategic aims of the Core Strategy development, should enhance the identity and profile of settlements and environments in this rural area through expanded local public open space and village services, additional employment, and contributing to the identified housing growth need of Shepway.’* The subsequent paragraph 5.143 focuses down on to the Sellindge area and states *‘The southwest of the North Downs, outside of the AONB, may now require the greatest intervention to ensure sustainable development of the district. Sellindge, Lympne and Stanford are located in close proximity to highway and rail infrastructure but may benefit from additional local facilities, especially those that help foster the coherence of individual communities.’*

- 8.30 The Shepway Core Strategy (2013) policy CSD9 (Sellindge Strategy) establishes the principal of major residential-led development at Sellindge within a broad location. Figure 5.8 within the Core Strategy, although indicative, shows the proposed application site as an alternative for possible supporting residential development to the 'core area'. In line with Policy CSD9, criteria a) the proposal has been comprehensively master planned following public engagement and the full area has been included within the application. The application follows the outline approval of application Y14/0873/SH which addresses the 'core development area' and is expected to commence on site imminently. As such it is considered that the application site will be developed in parallel and therefore will not impede the delivery of the core area as specified by criteria b). The application proposes 30% affordable housing will be provided, as required by criteria c). The provision of a village green referred to in criteria d) is location specific and is being delivered as part of core development area. In addition, the Policy states at criteria f) that proposals must include satisfactory arrangements for the timely delivery of necessary local community facilities including a primary school extension and provision of allotments. It is understood that the applicant has secured the land required to facilitate an expansion to the local school and is prepared to gift this in addition to making a financial contribution to its construction. The timing is to be set out in an accompanying S.106 legal agreement. Allotments have been identified as part of the core development area; however these are not included as part of the hybrid application Y14/0873/SH. It is therefore considered that this proposal would help to meet the mix of necessary local facilities for Sellindge identified by policy CSD9 alongside the development to the south of the A20 and core development area.
- 8.31 In addition to policy CSD9, at either end of the broad location the Sellindge Strategy identifies (in Figure 5.8) areas of integration to the countryside, one of which is on the eastern extent, which forms this application site. It is considered that the application addresses this requirement through the inclusion of a nature reserve and landscape buffers. The AONB unit and Kent Wildlife Trust have also given their support to these measures. Furthermore Figure 5.8 identifies an arc to the southeast of the broad location for employment uses, part of which falls within the application site.
- 8.32 The 2017 Employment Land Review (ELR) highlights the spatial distribution of the Districts employment land as being heavily concentrated around Folkestone with some smaller clusters in key settlements at Hythe and New Romney; only 3% of all B Class Uses is located in the North Downs Character Area. This is due to the effect of the AONB limiting economic development in this part of the District. It is considered that the provision of circa 900 sqm B1 Class uses presents an opportunity to further support the creation of a sustainable settlement at Sellindge, providing much needed new modern B class employment space, supporting the rural economy; and making best use of land close to the motorway, positioned within the corridor created between it and the high voltage pylons and thus sterilised for residential purposes.

- 8.33 The emerging Core Strategy Review seeks to allocate the application site under an expansion of the broad location in accordance with policy CSD9. The draft policy change to CSD9 introduces a Phase 2 of housing for Sellindge, over and above the Phase 1 housing, which comprises a broad location for development in the adopted Core Strategy (2013). The application site forms one of two development areas that jointly comprise Phase 2. The draft CSD9 policy wording contains a set of key development criteria for Phase 2 and a set of key development criteria that apply to all identified development in Phases 1 and 2. It is considered that this site accords with the Council's future vision and development strategy for Sellindge. In addition, through the land and financial contribution to Sellindge Primary School the application scheme is meeting a key development requirement for Sellindge. Whilst this policy represents the emerging vision of the Council and its approach to meeting identified housing need, it has not been subject to public consultation nor examination and therefore has limited weight as a material consideration in decision taking.
- 8.34 The Council's updated SHMA identifies that the housing needs of the district are significantly greater than the requirements of the adopted Core Strategy Local Plan 2013, and therefore the Core Strategy Review and the proposed sites within it set out the spatial strategy the district is seeking to deliver to meet this need. This site would positively contribute to housing supply which, when seen in the broader context at the national level the NPPF seeks to "significantly boost" the supply of housing, and paragraphs 186-187 endorse the approval of schemes judged to represent sustainable development, and the approval of such schemes can proceed even where a Local Planning Authority can demonstrate a 5 year housing land supply.
- 8.35 It is acknowledged that the emerging Local Plan process is within its early stages however the site is in line with emerging policy requirements and the evidence base behind this allocation, identifies this site as being within a sustainable location adjacent to the existing Sellindge village and where future growth could be directed, maintaining Sellindge as a Rural Centre within the settlement hierarchy. It is therefore considered that the evidence provided, the broad compliance with wider development plan policies and the requirements of the NPPF offers suitable justification as a material consideration for the development of the application site in order to ensure identified housing need is met within the district.

### **Agricultural Land Classification**

- 8.36 The NPPF requires the presence of best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the agricultural land classification) to be taken into account alongside other sustainability considerations. The framework expresses a preference for development to be directed to land outside of this classification (3b, 4 and 5).
- 8.37 The adopted Core Strategy (2013) states in policy SS2: Housing and the Economy Growth Strategy that, to promote sustainable development and prioritise urban regeneration, a target is set for at least 65% of new dwellings



to be provided on previously developed ('brownfield') land by the end of 2030/31. The emerging Places and Policies Local Plan allocates a range of brownfield sites in the Urban, Romney Marsh and North Downs Areas, having assessed potential development sites through the Strategic Housing Land Availability Assessment (SHLAA) process whilst the adopted Core Strategy includes strategic allocations on previously developed land at Folkestone Seafront, Shorncliffe Garrison and the former Romney Marsh Potato Company site.

8.38 The emerging Core Strategy Review takes account of committed development provided through planning permissions and existing allocations and identifies proposed strategic site allocations to meet remaining development needs. A comprehensive assessment has been undertaken to identify sites and this is set out in the Shepway District Growth Options Study (AECOM, High Level Options Report, 2016 and Phase Two Report, 2017). Through this assessment, and site assessments undertaken for the 2013 Core Strategy and emerging Places and Policies Local Plan, brownfield opportunities have been investigated and, where available and deliverable, brownfield sites have always been prioritised for development. In addition, adopted and emerging development plan documents include an allowance for 'windfall development' (small brownfield sites that continue to come forward for development outside the development plan process), which has been deducted from the District's development targets. Nevertheless, taking account of these sites and the windfall allowance, there is still an unmet housing requirement to meet the needs of the recent SHMA that must be met through the allocation of greenfield sites in the Council's emerging plans.

8.39 The Council's High Level Landscape Appraisal (HLLA) states that although most of the application site comprises Grade 2 agricultural land much of the Grade 3 land that does exist, (which is a preferable location for development) is already occupied by the village of Stanford or lies very close to the southern boundary of the AONB, meaning that it is in any case less suitable in terms of the spatial opportunities and constraints of those sites and the landscape impact respectively. As such, the pattern of agricultural land grading within the application site does not provide a strong guide in terms of which locations would be relatively more suitable for development. The HLLA goes on to state that the limited suitability of the application site, to the east of Sellindge, on the grounds of agricultural quality is considered to be outweighed by its suitability on a range of other criteria. As such, the loss of agricultural land is considered to be outweighed by the requirement to deliver sustainable development.

### **Landscape Visual Impact**

8.40 Policy BE16 requires development proposals to retain important existing landscape features and make appropriate provision for new planting using locally native species of plants wherever possible. Policy C05 states that proposals should protect or enhance the landscape character and functioning of Local Landscape Areas unless the need to secure economic and social well-being outweighs the need to protect the areas local

landscape importance. Policy CSD4 of the Shepway Core Strategy recognises the importance of the AONB and its setting stating the need for conservation and enhancement of natural beauty in the AONB. Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The intrinsic character and beauty of the countryside should be recognised.

- 8.41 The Kent Downs AONB Management Plan 2014 to 2019 advises that the weight to be afforded to setting issues will depend on the significance of the impact with matters such as the size of the development, distance and incompatibility with their surroundings likely to affect the impact.
- 8.42 The designated area of the Kent Downs AONB lies approximately 1.25km north/north east of the application site, thus the site forms part of the setting of the AONB by virtue of the scale of the development, proximity to the AONB boundary and would be potentially visible in views from the AONB.
- 8.43 The south of the site covers the area of collapsed cliff forming the Lympe Escarpment (to the North of the Romney Marsh). To the north and east, the Postling Vale and Sellindge Plateau Farmlands, an area of mixed agriculture, hedges and remnant woodlands, extends right up to the scarp of the Downs (Elham East Kent Downs), from which there are magnificent views south towards Romney Marsh and to the west. Farthing Common, located where Stone Street drops down from the Downs, provides the best public viewpoint and is about 2 ½ km North of the proposed site.
- 8.44 Natural England's Countryside Character Map identifies the Site within the Wealden Greensand Area. At the county level the Kent County Council Landscape Character Assessment notes that the overall condition of the landscape is poor, with the landscape described as fragmented with many detractors associated with road and rail transport corridors, linear development and agricultural buildings and poor tree cover. The Sensitivity is considered to be moderate given the high visibility.
- 8.45 The Landscape Parameter Plan, which can be controlled by condition, has been revised in response to comments from the Council's Arboricultural and Landscape and Design officers, the Kent AONB unit and Natural England, to retain existing landscape features including mature trees, hedgerows, ditches and ponds and required additional information on additional viewpoints within the AONB and further viewpoints via a Zone of Theoretical Visibility. In addition, an addendum to the submitted Landscape Visual Impact Assessment has been submitted to provide further justification to the conclusions reached in the LVIA with regard to the impact of the development on the AONB particularly with regard to the north end of the site at its highest point.
- 8.46 The area of farmland to the east of Sellindge possesses an attractive landform and the arrangement of fields and field boundaries remains unchanged from the c19th (except where cut by the railway and M20 motorway). The form and arrangement of the fields on the hillside within the

site would suggest a far more ancient arrangement of Manorial Fields dating back to the Middle Ages. The development will be visible from many local views of the site and in more distant views, particularly from Farthing Common. The proposed layout of the site, with large areas of green open space at the east end (the nature reserve) and at the north west side, where the higher open ground is being retained, will help alleviate this impact. The proposed engineered access junction will remove some of the woodland along the frontage of the site however, replacement planting either side of the proposed entrance could be controlled by condition.

8.47 The conclusions of the applicants LVIA and addendum are that through the effects of distance and an undulating topography and intervening vegetation structure, the development will not be readily perceived from within the AONB and will not result in significant harm to the visual environment of the AONB. Therefore, the proposed development can be integrated in this location and would not significantly alter the character of the area.

8.48 The Kent Downs AONB unit have been consulted and consider that the submitted addendum to the LVIA provides a satisfactory assessment of the impact of the development on the AONB and recognise that whilst the application is submitted in outline, care must be taken over orientation and layout with a maximum height of 2 storeys, provide significant tree planting to mitigate the impact of views from the AONB, use non-reflective materials and colours, careful use of street lighting and external lighting to avoid light pollution and the need for high quality, and quantity, of green infrastructure throughout the development. The incorporation of the nature reserve and woodland buffer along the northern edge of the site is welcomed as is the linear area of public open space running east west between the recreation ground and nature reserve. It considers it imperative that the revised indicative landscape parameter plan is carried through to any future reserved matters application.

8.49 Natural England have been consulted and consider that the additional viewpoints submitted provide a better representation of views of the proposed development from the AONB from which it is clear that the development would be visible in part from few locations within the AONB. It would be most visible from south of Farthing Common car park within a substantial, wide landscape vista. Natural England conclude, therefore, that the proposals are not likely to have a significant visual impact on the setting of the AONB.

8.50 As such, it is concluded that although the wider setting of the countryside and AONB will be altered, it is likely that the proposed development would have a less than substantial impact on the natural and local environment and the intrinsic character and beauty of the AONB and open countryside and therefore complies with development plan policy and the NPPF in this regard.

## **Design and Layout**

- 8.51 Policy BE1 of the Shepway District Local Plan Review states that a high standard of layout, design and choice of materials will be expected for all new development, sympathetic to the local vernacular and in keeping with the existing building form, mass and height.
- 8.52 Core Strategy Policy SS3 (Part C) states that proposals should be designed to contribute to local place-shaping and sustainable development by conserving and enhancing all heritage assets. Part D of this policy states that a design-led and sustainable access approach should be taken to density and layout, ensuring development is suited to the locality and its needs and transport infrastructure.
- 8.53 Paragraph 17 of the NPPF states that Planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 56 attaches great importance to the design of the built environment and considers it key to sustainable development. It is indivisible from good planning and should contribute positively towards making places better for people. Paragraph 58 states that developments should function well and add to the overall quality of an area, establish a strong sense of place, optimise the potential of the site to accommodate development, respond to local character and history, create safe and accessible environments and be visually attractive as a result of good architecture and appropriate landscaping.
- 8.54 The Kent Design Guide (2005) (KDG) emphasises that design solutions should be appropriate to context and the character of the locality. Development should reinforce positive design features of an area; include public areas that draw people together and create a sense of place; avoid a wide variety of building styles or mixtures of materials; form a harmonious composition with surrounding buildings or landscape features; and seek to achieve a sustainable pattern and form of development to reduce the need to travel and improve the local context.
- 8.55 As the application is outline with all matters reserved for future consideration except for access, the submitted revised masterplan layout is indicative of what could possibly be achieved on the site. The proposed layout uses the existing landscape features and constraints to dictate the general layout and is shown to protect and retain the existing landscape resources including the most important trees of quality subject to TPO's and historic hedgerows within the site incorporated within the housing layouts as 'green fingers' through the built up areas.
- 8.56 The site would be served by a main access from Ashford Road, incorporating a fully engineered junction, with a main access road which branches off approximately 100m into the site to the east providing an access to the commercial development to the south of the site where 929m<sup>2</sup> of B1 business space units would be located with an area for parking, located between the access road and the line of overhead pylons. An area of landscaped ground under the line of pylons would separate the business development from the housing to the north where a rectangular area of allotment plots would be situated.

- 8.57 The main access road runs up the western side of the site serving the residential portion of the site which apart from market housing would include bungalows, retirement housing, self-build sites and affordable housing. The main access route is shown to diverge away from the rear of the plots of Rhodes House and Little Rhodes and leaving a large area of the highest ground nearest the ridge as a recreation ground which would act as a buffer to the existing residential development providing a green focal hub and pleasing views from the main access road, overlooked by houses from the eastern edge. The road continues a circuit around the centre of the site with new houses mostly within the road but with an additional area of land laid out a second loop up at the North end of the site. A footpath line is intended which would encircle the whole site. It is disappointing that there are no pedestrian connections to Swan Lane proposed, particularly at Homelands Close and whilst this isn't considered to be a reason for refusal, an informative would be applied to request that every effort should be made to deliver improved pedestrian connectivity via this route ahead of the submission of future Reserved Matters applications to allow better connectivity to and from the development to the village and in particular facilities at the Sellindge Sports and Social Club.
- 8.58 The line of the north-south water course crossing the site in a shallow valley would be retained and this contains the development area to the west of it. To the east, the triangular field at the eastern end of the development is retained as a nature reserve together with the woodland strip alongside the stream, which runs along the South East boundary.
- 8.59 Indicative additional planting is included along the line of the pylons, along the length of the north-south stream, along the north-east boundary with the farmland at the junction with the existing village development and along the perimeters outside of the garden plots of Rhodes House and Little Rhodes, boundaries which are already sheltered by extensive planting within the garden plots, already visually separating them from the site beyond.
- 8.60 The indicative masterplan identifies a coherent and well developed movement network, layout and landscape structure. Future Reserved Matters application/s would need to provide full details of layout, scale, appearance and landscaping however it is considered the indicative masterplan demonstrates that the site can accommodate a layout that could be suitable in design terms.

### **Highways**

- 8.61 Policy TR11 of the Shepway District Local Plan Review sets out the criteria for proposals which involve the formation of a new access or intensification of an existing access. Policy TR5 refers to the provision of cycle storage facilities and TR12 refers to car parking standards.
- 8.62 Criteria (e) of policy CSD9 of the Shepway Core Strategy states that development should deliver a more pedestrian/cycle-friendly A20 through (as a minimum) informal traffic calming features at key locations, and perceived

narrowing of the carriageway outside Sellindge primary school and associated highways improvement.

8.63 The application site is located approximately 4.1km from the nearest railway station at Westernhanger to the east which serves Kent and provides services to London Charing Cross and changes at Ashford to London St Pancras via Ebbsfleet and Stratford. The village is served more directly by the existing frequent half hourly 10/10a (Folkestone-Hythe-Sellindge-Ashford) Monday to Saturday service and the less frequent 18a (Hythe-Canterbury) service.

8.64 The application has been supported by a detailed Transport Assessment and additional Transport Technical Note, which consider the traffic and transportation implications and present capacity testing of highway junction models in close vicinity of the site and whether they have sufficient capacity with the additional development traffic flows. Highway mitigation measures are subsequently recommended to address the increase in traffic associated with the application site and other relevant committed development sites. The committed Taylor Wimpey development within the centre of the village Y14/0873/SH would deliver street improvements to achieve a better balance between pedestrians/cyclists and motor vehicle traffic, which dominate the public realm to the detriment of the amenity of its village and occupants. The works comprise of:

- Introducing a reduction from 40mph to 30mph speed limit within the defined area (A20 improvement scheme is as shown on drawing 2013/1673/009 Rev B dated November 2014 prepared by RGP with the consented scheme at 'Land Adjacent The Surgery Main Road Sellindge' under reference Y14/0873/SH. The scheme extends from a point south of 'Meadow Grove', eastern extent, to a point immediately east of the access that serves 'Grove House', western extent).
- Provision of gateway treatments at the western and eastern ends of the scheme.
- Narrowing of the carriageway to 6.1 metres from between 7.3 metres – 9 metres.
- Introduction of 3 metre wide shared footway/cycleway on north side of the A20.
- Introduction of 2 metre wide footway on south side of the A20.
- On street parking laybys.
- Zebra crossing outside of primary school.
- Zebra crossing outside local centre.
- 3 T-Junctions to access the proposed residential land to the south of the A20.
- Improved bus stop provision.

8.65 The Transport Assessment sets out how the proposed development would build on these measures and recommends additional measures that would be necessary to accommodate additional traffic and pedestrian flows. The proposed main access junction to the site would be designed as a priority junction with a right turn bay on the A20 with relocated bus stop location (from that to be delivered by the Taylor Wimpey development) and separate

emergency access. The junction visibility is based on a 30mph speed on the basis that the traffic calming scheme is implemented within the village through the Taylor Wimpey development. As such, the general thrust of the submitted Transport Assessment would indicate that the proposed development, if granted permission, could only be implemented after the Taylor Wimpey development is built out and highway mitigation measures completed. The Taylor Wimpey development seeks to gain Vacant Possession of the land adjacent to Sellindge Primary School imminently and once this takes place Taylor Wimpey hope to start works on the highway improvements in December 2018.

8.66 With regard to trip generation and traffic flow, the Assessment takes the following committed development into consideration:

- Y14/0873/SH – Taylor Wimpey development to the south of the A20 within Sellindge village to provide 250 dwellings, village green, and mixed use centre.
- Y06/0552/SH – 52,000sqm of employment floor space on Otterpool Lane, Lympne.
- Y06/1079/SH – Ward Homes site at Nickolls Quarry Hythe for 15,000sqm employment floor space, 1050 dwellings and a local centre.
- Consideration has been given to Operation Stack site at Stanford, however, its impact is considered to be negligible on the basis that access would be provided via a new slip road from the M20.

8.67 Junction capacity testing has been undertaken to assess the impact of the additional traffic flows on the function of the following junctions:

- Site access/A20 Main Road
- Swan Road/A20
- A20/A261 Hythe Road/Stone Street
- Otterpool Lane/A20
- M20 junction 11

8.68 The modelling shows that the Swan Road/A20 junction would operate within sufficient capacity. The A20 Stone Street junction would operate within capacity on all arms in both peak periods. The site access junction with the A20 would have sufficient capacity to accommodate the traffic from the proposed development. The Otterpool Lane/A20 junction would also operate within sufficient capacity to accommodate future growth and the proposed development. The A20/Stone Street/M20 junction 11 would also have sufficient capacity to accommodate future growth and the proposed development. However, the A20/A261 Newingreen junction would not have sufficient capacity to accommodate future growth with or without the proposed development and mitigation is required.

8.69 The mitigation originally proposed was to provide a priority layout for Hythe Road/A20 to a traffic signalised junction and includes the priority junction of Stone Street/A20 and the interaction between them both. This would provide sufficient capacity for identified future growth and committed development in the area plus the proposed development. However, a representation has

been made from a local steel manufacturing business which confirms that they use 50m to 60m long trucks which travel through the A20/A261 Newingreen Junction from their depot at the Lympne Industrial Estate and would not be able to negotiate the signalised mitigated junction. In response to this issue, the applicants have submitted a Technical Note to consider localised mitigation of the A261 Hythe Road/A20 Ashford Road Newingreen junction using a nil detriment approach by comparing the future base case model with the development flows included. Adjustments to the flare length on the exiting arm of the junction are now proposed incorporating alterations to the southern kerb of the A261 Hythe Road with available road space for large cars to queue two abreast for a queue length 23m. The proposed changes to the existing kerb would be within the extent of the adopted highway. The junction capacity analysis concludes that the junction would operate within capacity for the “with development” scenario in the PM peak for the existing layout and for the amended mitigated layout.

- 8.70 KCC Highways have been consulted and raise no objection to the proposed mitigation solution, proposed site access layout and highway alterations to the A20 in the vicinity of the site and have all been supported by revised plans and necessary safety audit information. However, the revised layout of the A20, materials palette and acceptance of visibility splays for a 30mph speed limit are all dependant on the Taylor Wimpey site carrying out their conditioned highway alterations to the A20. The supporting information states that if the Taylor Wimpey site has not carried out their obligation in regards to the A20 highway improvements, then these items will be taken forward by this proposal. These highway improvements would be secured by condition by referencing the drawings of the A20 improvement (prepared as part of the Taylor Wimpey scheme) within a worded condition to be agreed by KCC Highways. A second condition that deals specifically with the formation of the site access arrangement for this application which explicitly states that the site access cannot be formed until such time that the A20 improvement scheme has been implemented to the satisfaction of the local highway authority would also be applied. If the Taylor Wimpey development came forward and implement the A20 highway improvements before this development, as expected then these conditions would act as a failsafe to ensure suitable access can be provided to the site.
- 8.71 Turning to public transport, the Transport Assessment does capture the point that the pair of bus stops that are currently to the frontage of the Co-op store are to be moved further south, thereby benefitting future occupiers of the application site whilst the approved permission for Y14/0873/SH includes the funding of further bus services.
- 8.72 On a minor technical issue raised by KCC Highways in relation to traffic generation figures from the application site regarding concerns that the TRICS data used are different in scale from the proposals and thus are not appropriate comparisons to draw from. This matter has not been addressed by the applicants. However, KCC Highways have advised that a more appropriately sized selection of sites could well reduce the trip rate associated with the proposed development rather than increase it, thus is not a significant matter of concern.



## **Neighbouring Amenity**

- 8.73 Policy SD1 of the Shepway District Local Plan Review states that all development proposals should safeguard and enhance the amenity of residents.
- 8.74 Paragraph 17 of the NPPF sets out that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.75 The residential properties most affected by the proposed development would be those to the east side of Swan Lane, Whitehall Way, Lourdes Manor Close and Homelands Close.
- 8.76 The impact upon surrounding residential amenity will be very limited due to the separation distance of the built up area of the site from the nearest residential properties and the presence of mature trees and vegetation surrounding the site. Whilst a number of objections have been received with regards to the impact upon residential properties within Otham and Langley, due to the distance between this site and the village, it is considered that there would be no significant harm caused by this proposal to these residents in terms of overlooking, overshadowing, or the creation of a sense of enclosure. Similarly, there would be very little, if any, harm caused by noise and disturbance from the occupation of the development, only from the construction of the development albeit for a temporary period and during working hours.
- 8.77 The applicants have undertaken an Air Quality Assessment to assess both constructional and operational impacts of the proposed development. In terms of the construction phase, the Assessment concludes that prior to the implementation of appropriate, mitigation measures such as dust suppression set out within a Dust Management Plan and that the risk of impacts from the construction phase has been assessed as 'negligible'.
- 8.78 With regard to the effects of the proposed development from traffic associated with the development, ADMS Roads dispersion modelling has been carried out to assess the suitability of the site for residential development considering local air quality and levels of nitrogen dioxide concentrations and particulate matter, mainly as a direct result of the impact of additional vehicle movements primarily on the A20 and M20 roads. The assessment concludes that the significance of nitrogen dioxide exposure and particulate matter exposure would be well below the relevant objectives across the site. Future occupants of the site would not be exposed to pollutant concentrations above the relevant objective limits, therefore the impact of the proposed development with regard to new exposure to air quality is considered to be negligible.
- 8.79 Traffic generated by the operational development would result in a negligible impact on both NO<sub>2</sub> and PM<sub>10</sub> levels with concentrations remaining at less than 75% of the objective limits at all selected receptors.

- 8.80 The impact of the development could be further mitigated by planning conditions/s106 to reduce the reliance on car use, promote alternative modes of transport and provision of pedestrian paths into surrounding sites and routes. As such a Travel Plan should be secured via s106 for the development.
- 8.81 With regards the noise impact, the proposed development is not expected to have an 'adverse impact' on health or quality of life. Similarly, it is considered that all 'adverse impacts on health and quality of life' (relating to noise) are mitigated by the use of an appropriate glazing and ventilation strategy as set out in the submitted noise assessment.
- 8.82 Environmental Health have been consulted and raise no objection to the conclusions of the assessments. As such, subject to conditions, it is considered that the proposed development is not likely to result in an unacceptable impact on existing or future residents in respect of additional noise, or air quality.

### **Ecology & Arboriculture**

- 8.83 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising the impacts on biodiversity where possible and Policy C011 of the Shepway District Local Plan Review states that planning permission will not be granted for development if it is likely to endanger protected species or cause the loss of, or damage to, habitats and landscape features of importance for nature conservation, unless;
- i. there is a need for development which outweighs these nature conservation considerations and
  - ii. measures will be taken to minimise impacts and fully compensate for remaining adverse affects.
- 8.84 The habitat on site is predominantly arable farm land which provides limited ecological benefits, however there are features of ecological interest, especially around the periphery of the site. The submitted ecological report outlines that a single species rich hedgerow (H1) and a block of woodland (W2) will be lost through the development, and therefore, compensatory planting will be provided. The revised masterplan shows that hedgerow (H1) will now be retained and the majority of habitats of interest will be retained through the development and protected during construction.
- 8.85 Bat activity surveys have been carried out with low levels of bat activity recorded. The report states that the development will not negatively impact any foraging or commuting areas for the on-site bats. Survey work has been undertaken on the trees present on site with bat potential and these trees have been subjected to detailed inspection work and downgraded to low bat potential appropriately. One tree has been subjected to a bat emergence survey, with no bats found. Mitigation measures are proposed to include updated surveys if more than 12 months pass since after first inspection, soft

felling of trees and ecological watching briefs. With regard the impact of lighting on foraging and commuting, the submitted ecological report outlines the retention of dark corridors within the site, and if implemented, will provide exceptional ecological benefits.

8.86 The KCC Ecology officer considers that these measures should be secured via conditions along with the recommended measures for subsequent species and a lighting strategy adhering to the Bat Conservation Trust's Bats and Lighting in the UK.

8.87 Reptile surveys have been undertaken with low levels of common lizards and slow worms being recorded. As these populations are small and restricted to mainly retained habitats around the periphery of the site, precautionary mitigation measures have been provided to include a habitat manipulation exercise involving a staged clearance of vegetation within areas of potential reptile habitat during suitable weather conditions under ecological supervision followed by a supervised destructive search to remove remaining area of habitat. Any reptiles encountered during these works would be moved to suitable areas of reptile habitat within the surrounds of watercourse WC1 and the methodology set out within a detailed method statement produced prior to works commencing and secured by condition. KCC Ecology consider that the recommended mitigation measures are appropriate to ensure that there will be no detrimental impact to these species.

8.88 The applicants have submitted a badger survey report which has found that the site accommodates 4 badger setts within and bounding the site. Sett S1, located within the far east of the site, was recorded to consist of 9 entrances in total during the April 2015 survey, of which 6 were considered to be active and considered to be of high importance and unaffected by the development. Sett S2, located to the south-west of sett S1 along the southern boundary of the site, was recorded to support 5 entrances during the April 2015 survey and considered to be of low importance and unaffected by the development. Sett S3, located along hedgerow H2 (section E), was recorded to support a single entrance of a size and shape typical of use by Badger during the April 2015 but not during the July 2016 survey where this section of hedgerow was covered in dense nettle growth and is considered to be of low importance and affected by the development. Sett S4, located mid-way along hedgerow H4, was not recorded to be present during the initial survey work in April 2015, but was identified during site work in June 2016. This sett was recorded to support 4 entrances, all of which were recorded to be clear of debris and supporting fresh spoil heaps and considered to be medium to high importance and affected by the development.

8.89 The submission of a revised masterplan includes retention of hedges H2 and H4 where setts S3 and S4 are situated. However, the applicants ecologists have responded to confirm that the impact of the proposed development on these setts will not change and thus the following proposed mitigation is unchanged:

- 8.90 Sett 3: Works within the vicinity of sett S3 are carried out under a disturbance licence from Natural England, with implementation of safeguarding measures as detailed below. Should works be required within the 20m buffer zone, consideration will be given to the need for closure of the sett prior to the commencement of works. A full accompanying mitigation strategy, method statement and survey report to accompany a licence application to include the clear marking out and protection of a 20m 'Badger Exclusion Zone' around the sett, with works within the near surrounds to be carried out under an ecological watching brief.
- 8.91 Sett 4: Require full closure prior to the start of works to permanently exclude Badgers from the sett through obtaining a licence from Natural England. As with the disturbance of sett S3 above, a full accompanying mitigation strategy, method statement and survey report to involve the installation of ground proofing / fencing and one-way gates on the sett entrances, and monitoring for a minimum period of 21 days to ensure Badgers have been excluded from the sett followed by digging out or infilling the tunnels.
- 8.92 KCC Ecological Advice Service has been consulted on the strategy and has responded to confirm that measures to retain Sett 3 and provide a 20m exclusion zone is acceptable. However, it is not clear if the mitigation strategy for the removal of Sett 4 involves any compensatory measures to provide an artificial sett and if this is achievable. If it is a main sett then compensatory measures would be required. As such, it is considered that it is not possible to fully assess the impact the proposed development would have on badgers.
- 8.93 The application involves the removal of a number of trees and hedge line to facilitate the main access entrance junction to the site, and removal of trees within the site to facilitate development. The application would be conditioned to ensure that trees and planting were replaced on either side of the entrance into the site. The revised landscape masterplan shows that the historic hedgelines within the centre of the site would be retained together with many of the trees which spread along their lengths.
- 8.94 A Tree Preservation Order (no.5 1989) designation exists on an off-site group of trees within influence of the north western boundary. A recent TPO designation (no.16, 2016) is to protect trees to the area site entrance and six other groups to the north and west of the site. Thus the revised layout would predominantly retain most of that set out within the TPO except for the removal of several trees to facilitate the main site entrance from the A20 and a small group of trees to the north of the site. Compensatory measures are proposed with the provision of significant tree and native species planting throughout the site and the creation of green fingers within the proposed built up areas. The Council's arboricultural officer has been consulted on the revised layout and raises no objection to the proposed development subject to conditions.

## **Enhancements**

- 8.95 One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged". The development includes the creation of a dedicated wildlife nature reserve which has the potential to provide exceptional benefits for biodiversity. This nature reserve includes the creation of large amounts of woodland, grassland and species specific enhancements.
- 8.96 Other enhancements include the creation of green corridors and other open space shown on the landscape strategy plans are proposed creating habitat linkage within and around the site, management of the watercourse vegetation to maximise its ecological potential, new hedgerow, tree and shrub planting with native species, enhancement of attenuation basins providing opportunities for a range of wildlife, amphibians and aquatic invertebrates allowing the development of a complex invertebrate community to form a food source for birds and bats, the retention of dead wood on-site for hibernating reptiles would be supplemented by the creation of log piles made up of logs and bat roosting features and bird nesting boxes would be incorporated into the proposed development.
- 8.97 It is considered that there is a need to ensure that these enhancement measures will be managed appropriately to benefit biodiversity and the creation of any SUDS scheme has potential to provide ecological benefits as well as drainage benefits and their design should have full consultation with an appropriately qualified ecologist, secured as a condition requiring the submission of a Landscape and Ecological Management Plan.
- 8.98 In conclusion, KCC Ecology considers that the submitted ecological information to support this outline application is sufficient subject to conditions and no further information is required in order to determine the application.

## **Flooding/Drainage/Contamination**

- 8.99 Policy SS3 of the Shepway Core Strategy Local Plan states development located within zones identified by the Environment Agency as being at risk from flooding, or at risk of wave over-topping in immediate proximity to the coastline, site-specific evidence will be required in the form of a detailed flood risk assessment to demonstrate that the proposal is safe and meets with the sequential approach within the character area of Shepway and (if required) exception tests set out in national policy. It will utilise the Shepway Strategic Flood Risk Assessment (SFRA) and provide further information.
- 8.100 Paragraph 100 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

- 8.101 The application site is located within Flood Zone 1 and thus is therefore at little to no risk of fluvial flooding and there are no historic records of flooding within the watercourses to the east of the site according to the EA flood mapping. There is no requirement therefore for sequential and exception tests.
- 8.102 With regard to surface water flooding, this mainly occurs along the water courses to the south eastern corner of the site but where no housing is proposed. The risk of surface water flooding at the site is, therefore, assessed as low. The surface water strategy (SUDS) for the outline proposals is set out within the Flood Risk Assessment and can be controlled via condition. This includes the use of porous paving, open attenuation and wetland areas and deep soakaways to recharge the secondary aquifer.
- 8.103 The site is located outside of a groundwater protection zone but is underlain by a secondary aquifer within the bedrock deposits. With regard to groundwater vulnerability, the site is underlain by 2 aquifers (major and minor) where the soil has high leaching potential. Groundwater was encountered in the form of small seepages in 5 of the 7 trial pits and is not therefore considered to be a problem. No historical groundwater flooding incidents have been recorded at the site, thus it is considered that the risk of groundwater flooding is not significant.
- 8.104 The foul drainage strategy is to connect to the existing local public sewers with improvement works if required to be funded by the applicant or Southern Water. Provision is made within the viability report for upgrade works to the sewerage network.
- 8.105 The Environment Agency have been consulted and raise no objection to the outline proposal subject to conditions. In addition KCC Lead Local Flood Authority raise no objection subject to conditions but raise advisory informatives in relation to submission of a detailed SUDS strategy at reserved matters stage.
- 8.106 The Council's contamination consultants have been consulted on the revised phase 1 land contamination assessment and consider the report addresses concerns relating to an historic pollution incident included in the revised site conceptual model and is highlighted for further assessment and the findings of the report are accepted and would fulfil the requirements of the first part (desk study & conceptual site model) of Shepway's standard land contamination planning condition.
- 8.107 It is considered that subject to appropriate conditions as requested by the Environment Agency and Southern Water, the proposed development meets with Policies SS3 of the Shepway Core Strategy Local Plan and the NPPF with regards to flood risk, surface and foul water drainage and contamination.

## Archaeology/Heritage

8.108 Sections 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that decision makers pay special regard to the desirability of preserving heritage assets potentially affected by the scheme or their settings or any features of special architectural or historic interest that they may possess. Such special regard has been paid in the assessment of this planning application.

8.109 Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

8.110 Paragraph 132 sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

8.111 Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

- 8.112 Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Planning Practice Guidance (PPG) states that 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. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of development on such assets.
- 8.113 Policy BE5 of the Shepway District Local Plan Review states that applications will be refused for development which would adversely affect the setting or character of a listed building. The applicants have submitted a Heritage Statement to support the application and its potential impact on surrounding heritage assets.
- 8.114 There are no Conservation Areas within or close to Sellindge. Sellindge and the site is located just to the West of the Postling Vale which surrounds the area to the North and the Lympne Escarpment is to the South of the motorway and so the area of Sellindge is not covered by either the AONB or the Landscape Character Areas identified by 'Kent Downs'. Nevertheless, the area of the farmland to the East of Sellindge possesses an attractive landform and the arrangement of fields and field boundaries remains unchanged from the c19th (except where cut by the railway and M20 motorway). The form and arrangement of the fields on the hillside within the site would suggest a far more ancient arrangement of Manorial Fields dating back to the Middle Ages. This is not addressed in either the submitted Heritage or Archaeological Statements provided.
- 8.115 Although the Grade I church is ancient and there are a number of listed buildings scattered about the village, most of the surrounding development is modern post-war houses and bungalows. There are only a few listed buildings in the vicinity of the site. The closest of these is Little Rhodes (Grade II) and Rhodes House with their gardens immediately joining the site on the west side and with their buildings only about 50-70m from the site boundary. The Council's listed building consultant has been consulted and considers that the indicative layout is generally well thought out and includes significant areas of open space at the highest ground to the west behind the existing village development and on the east side where the nature reserve is proposed. As the layout is indicative, it is considered that this basic plan layout is protected and which will help limit its impact on the surroundings.
- 8.116 With regard to archaeology, the submitted Heritage Statement fails to address the archaeological significance of the site and the historic landscape. The KCC Archaeological Officer has been consulted and considers that the historic landscape features are not utilised to inform the original submitted masterplan and does not provide any consideration of the extent to which its present appearance is a reflection of the past. The title map for Sellindge dating to 1842 shows the site and the field boundaries within it which form a clear and distinctive pattern with boundaries which



correspond to the present day field boundaries. It was recommended therefore that further specialist assessment of the significance of the hedgerows be sought.

8.117 A revised indicative masterplan has been submitted showing the historic hedgerows and many trees subject now to a designated TPO to be retained and integrated into the proposed layout which serve to improve the proposed indicative layout and address the historic significance of the landscape. On balance, it is considered that the revised masterplan layout addresses the historic landscape features within the site where the Council's Conservation Consultant and the Council's Arboricultural Officer raise no objection to the proposed development.

8.118 As such, on balance it is considered that there are insufficient heritage grounds to justify refusal of this application on these grounds and the revised proposal would have no significant impact on the significance of surrounding Heritage assets and their setting and would thus amount to less than substantial harm.

8.119 Concerning potential buried archaeological remains, an Archaeological Desk Based Assessment has been submitted which considers the sites potential to be mainly low to moderate. KCC Archaeology consider that the potential is significantly greater than that in particular to Prehistoric and Romano-British periods and that the site is potentially rich in archaeological remains including archaeology that may warrant preservation in situ. As such, it is recommended that if permission were to be granted for the proposed development, a condition would be necessary requiring completion of trial trenching prior to submission of detailed reserved matters in order that results can inform the detailed layout brought forward.

### **Open and Play Space**

8.120 The development proposes open space and play space on site and therefore addresses the requirements of policy LR9 and LR10 of the Local Plan. The management and maintenance of the open spaces and play spaces can be controlled and delivered by a S.106 agreement.

### **Contributions**

8.121 Any request for contributions needs to be scrutinised, in accordance with Regulation 123 of Community Infrastructure Regulations 2010. These stipulate that an obligation can only be a reason for granting planning permission if it is:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

### **Affordable Housing**

8.122 Policy CSD1 of the Shepway Core Strategy Local Plan states that development proposing 15 dwellings or more should provide 30% affordable dwellings on-site, subject to viability. As such, from the 162 dwellings proposed, the affordable housing units would equate to 49 units and the applicant has confirmed that the application will be policy compliant and deliver 30% affordable housing on site, meeting the requirements as set out by the Housing Strategy Manager and significantly contributing to meeting affordable housing need within the district.

### **Sport Provision**

8.123 The District Council's Infrastructure Officer has worked alongside the consultants that are preparing the Playing Pitch and Sports Facilities Strategy for the District to calculate the playing pitch demand associated with the growth in local population that will specifically arise from the development. The calculation, which is based on a standardised methodology applied by Sport England, generates a developer contribution of £34,536 (capital cost) and £5,175 annual lifecycle costs. The emerging Playing Pitch Strategy has included extensive site visits to rate the standard of current pitches and associated facilities. The pitches at Sellindge Sports and Social Club are rated as 'poor' quality and have no current spare capacity to accommodate additional demand. On that basis the intention is for the S.106 contribution to be used to upgrade the pitch quality at the Sellindge Sports and Social Club ensuring the impact of the development is mitigated and local pitch quality is improved.

### **Education**

8.124 Kent County Council confirmed that the proposed development would generate an additional 37 primary school places amounting to a contribution of £528,000.00 for expansion of Sellindge Primary School and provision of additional land to extend the school.

8.125 Sellindge Primary School has 105 places and is currently operating at 110% capacity due to local demand and is the only primary school in the area serving the children across a predominantly rural area. Since the submission of this application, the applicants have addressed the impact of the proposed development on the school's capacity and have secured a separate piece of land to enable the school to be expanded either in the absence of the Taylor Wimpey development (Y14/0873/SH) being built out, or in addition to that site being developed. The applicants have secured a field to the north of Sellindge Primary School to ensure they could deliver the expansion of the primary school by up to 1 form of entry as required by KCC, who will require the transfer of serviced land to them in accordance with their standard requirements via the S.106 agreement. The field would allow for the playground and outdoor facilities to be moved northwards to allow for expansion of the school on the existing playground.

8.126 The expansion of Sellindge Primary School would be in accordance with Policy CSD9 of the Shepway District Council's Core Strategy which specifies that any major residential led development in Sellindge must include

satisfactory arrangements for the timely delivery of necessary local community facilities including a primary school extension. Due to the complexities relating to phasing of the expansion of the school from planning permission Y14/0873/SH (which delivers land and funds to increase from 0.5FE to 1FE) there will need to be a clause within the s106 that ensures this development delivers the further expansion, beyond that identified. This can be achieved by clauses within the s106 agreement, whilst officers have been in regular dialogue with Taylor Wimpey over the phasing of the transfer of the school land (Belvedere Cottage) and the timing of the commencement of development that will ensure the school expansion already secured is delivered.

### **NHS Requirements**

- 8.127 NHS England have been consulted and have responded to confirm that the Sellindge NHS surgery, located within 1 mile of the application site, would require extension, refurbishment and/or upgrade in order to provide the required capacity.
- 8.128 The application identifies unit sizes to calculate predicted occupancy multiplied by £360 per person. When the unit sizes are not identified then an assumed occupancy of 2.34 persons will be used which would result in a contribution of £136,800.00 plus support for legal costs in connection with securing the contribution. This figure has been calculated as the cost per person needed to enhance healthcare needs within the NHS services. This cost specifically relates to the development and therefore should be delivered via s106, rather than CIL and will sit alongside funding for expansion that also has been collected via the s106 for Y14/0873/SH.

### **Environmental Impact Assessment Regulations 2017**

- 8.129 In accordance with the EIA Regulations the site falls within a sensitive area and within Schedule 2 10(b) urban development projects. A screening opinion has been carried out and it has been concluded that the development is not EIA development and as such an Environmental Statement is not required. A copy of the screening opinion is available on the planning file.

## **9.0 SUMMARY**

- 9.1 Having regard to all of the sections set out in detail above, it is considered that the proposed development constitutes a sustainable development, as defined by the NPPF and that on balance is acceptable and is recommended for approval.
- 9.2 Although the site is classed as being within the countryside and is therefore a departure from development plan policy, it is located directly adjacent to the settlement boundary of Sellindge adjacent to the M20 within a sustainable location with good transport links, within an identified area for planned growth in the future in Regulation 18 consultation draft of the Core Strategy Review. Additional housing in a sustainable location that delivers infrastructure needs and accords with the adopted settlement hierarchy, over

and above the Councils 5 year housing supply is supported by the NPPF and as such, it is considered that on balance the addition of housing together with expanded and improved infrastructure for the village of Sellindge would deem this proposal to be acceptable.

- 9.3 With regard to infrastructure, Sellindge Primary School occupies a site which is insufficiently large to accommodate a 1FE school, thus prohibiting its expansion without an additional site being provided. Planning permission Y14/0873/SH secures land and funding to the County Council to facilitate the expansion of the school to 1FE, meeting the needs of allocated development. The applicant has addressed the impact of the proposed development on the school's future capacity and have acquired the additional land required to enable the school to be expanded further, so that together with the approved Taylor Wimpey development that is shortly to commence there is sufficient land and funding to accommodate the growth of the school to meet the needs of the development, to 1FE and beyond to 1.5FE as required. Without this obligation, the demand created by the proposed development could not be mitigated against. Therefore, it is considered that the proposed development would be in accordance with policies CSD9, SS3 and SS5 of the Shepway District Core Strategy and paragraph 17 of the NPPF in that the proposal would support a sustainable pattern of growth.
- 9.4 In terms of the Highway impact, the thrust of the submitted Transport Assessment indicates that the proposed development could only be implemented after the Taylor Wimpey development (Y14/0873/SH) highway works are built out. However, it is stated that the applicant is prepared to carry out the A20 highway improvement measures if required and a legal agreement will be sought together with details of phasing as to how this would be facilitated so as to ensure the development cannot be occupied until works to reduce the speed limit of the A20 through Sellindge to 30mph are in place. Ultimately the site access is reliant on a 30mph speed limit being in place to be safe and therefore without the changes to the highway that are to be delivered, and which are also required for the Taylor Wimpey development opposite, the site could not provide acceptable access.
- 9.5 The proposed development would have no significant impact on ecology where significant enhancements would be provided in the form of a nature reserve, native tree and hedge planting and a mitigation strategy for protected species. A Mitigation Strategy will be conditioned to ensure compensatory measures are put in place. As such, the proposal is considered to be in accordance with The Conservation of Habitat and Species Regulations 2010, Policy C011 of the Shepway District Local Plan Review and paragraph 109 of the National Planning Policy Framework.
- 9.6 In terms of the potential visual impact of the development on the landscape, it is considered that the proposed development would alter the wider setting of the countryside and AONB but would have a less than substantial impact on the natural and local environment and the intrinsic character and beauty of the AONB and open countryside and would not be readily perceived from within the AONB. Natural England and the Kent AONB unit have been

consulted and raise no objection to the proposal subject to conditions and restrictions on height, scale, design and materials.

- 9.7 The conclusion on the heritage/archaeology impact is that although the wider historic setting will be altered, this may well have a less than substantial impact on the locality and certainly, due to the character of the garden plots to the two listed Buildings (Rhodes House and Little Rhodes), the impact on the listed buildings will also be less than substantial. The archaeological impact can be addressed via conditions.
- 9.8 With regard to drainage the proposed development would connect to the existing local public sewers with improvement works if required to be funded by the applicant or Southern Water. The Environment Agency have been consulted and raise no objection to the outline proposal subject to conditions and KCC Lead Local Flood Authority raise no objection on flood risk grounds subject to conditions but raise advisory informatives in relation to submission of a detailed SUDS strategy at reserved matters stage.

### **Local Finance Considerations**

- 9.5 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.
- 9.6 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. Under the scheme the Government matches the council tax raised from new homes for the first six years through the New Homes Bonus. The Government has consulted councils earlier in the year seeking to reform the New Homes Bonus to be paid over 4 years instead of 6 years, with a possible transition to 5 years. As such only a 4 year value for the New Homes Bonus would be calculated. New Homes Bonus payments are not considered to be a material consideration in the determination of this application.
- 9.7 In accordance with policy SS5 of the Shepway Core Strategy Local Plan, the Council has introduced a CIL scheme that in part replaces planning obligations for infrastructure improvements in the area. The site is located in charging zone D and the CIL levy in the application area is charged at £136.75 per square metre for new dwellings. Thus, based on a gross internal floorspace calculation of approximately 11,000 sqm of residential floorspace taking affordable housing provision into consideration, this development would be liable for a CIL charge of £1,504,250.00, alongside direct mitigation to be delivered via s106.

### **Human Rights**

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

9.9 This application is reported to Committee due to it being a departure from the development plan.

## 10.0 BACKGROUND DOCUMENTS

10.1 The consultation responses set out at Section 4.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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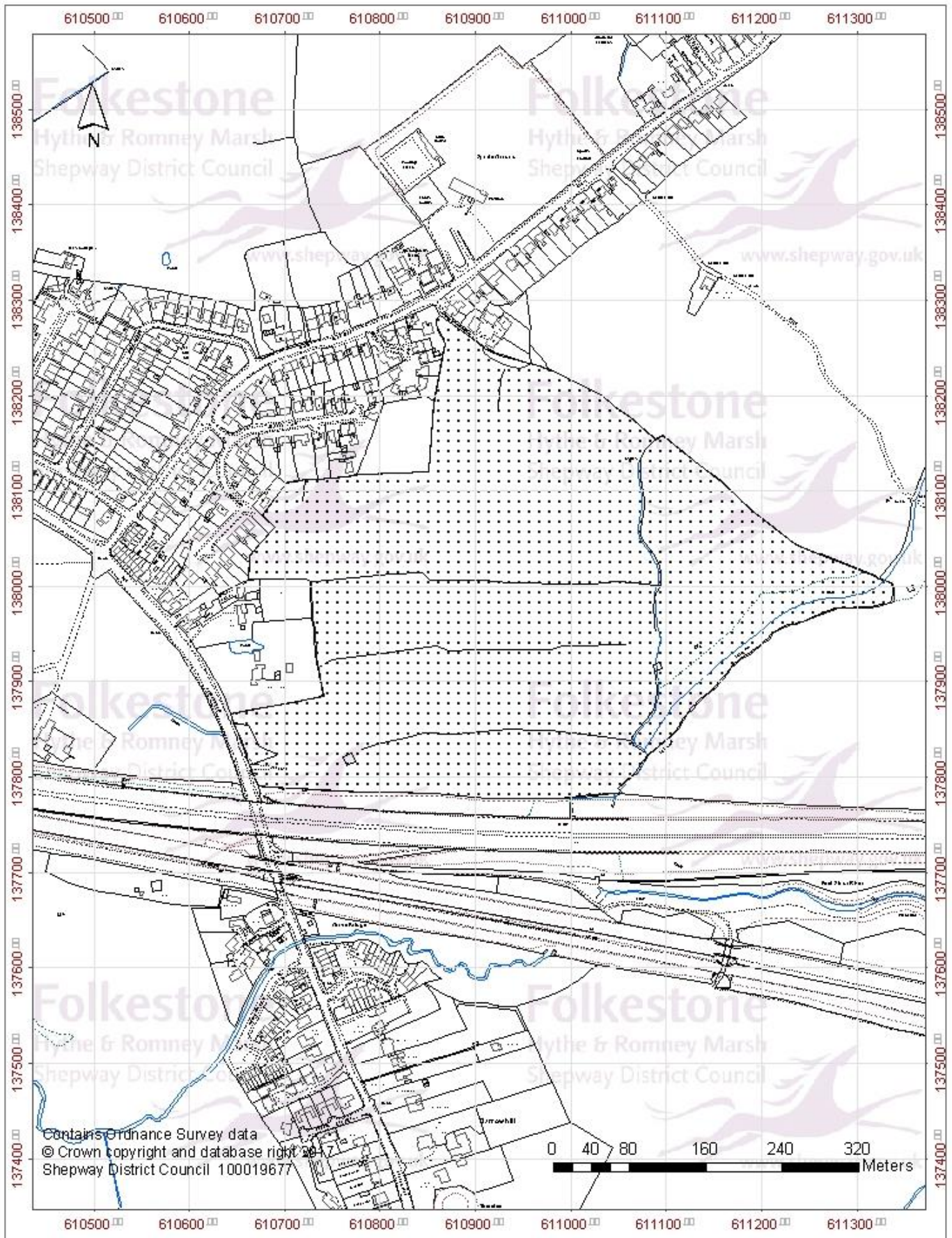
RECOMMENDATION – That the Head of Planning Services be authorised under delegated authority to grant outline planning permission, subject to:

- Completion of a section 106 legal agreement with the applicant that secures the infrastructure and financial contributions detailed within this report and which the Head of Planning Services considers to be acceptable;
- The conditions discussed in this report and any amendments and additional conditions the Head of Planning Services considers to be necessary following detailed discussions with the applicant.

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Decision of Committee

Y16/1122/SH  
Land rear Rhodes House  
Main Road  
Sellindge



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**Application No:** Y17/1409/SH

**Location of Site:** Land Adjacent Framlea Rye Road Brookland Kent

**Development:** Hybrid application (part outline, part detailed) for up to 9 self/custom build dwellings (outline element) with associated supporting road infrastructure, access, open space and landscaping (detailed element).

**Applicant:** Invicta Self and Custom Build Ltd

**Date Valid:** 16.11.17

**Expiry Date:** 11.01.18

**PEA Date:** 27.03.18

**Date of Committee:** 20.03.18

**Officer Contact:** Mr Julian Ling

## **SUMMARY**

This report considers whether planning permission should be granted for the erection of nine self/custom build dwellings (outline element) with associated supporting road infrastructure, access, open space and landscaping. Whilst the application site is outside of the settlement boundary and the application forms a departure from the development plan it is recommended, on balance that planning permission be granted as the development constitutes sustainable development as set out in the NPPF. The land is proposed to be allocated in the Places and Policies Local Plan Submission Draft (Reg. 19) for housing development where it is considered that the proposal presents a sustainable housing development for self-build housing that makes efficient use of the land, that would be visually acceptable and safe from flood risk in accordance with emerging and established Local Plan policies. The development is acceptable in highways terms and the amenities of existing and future occupants would be safeguarded, subject to an acceptable design (to be agreed later at the detailed planning stage). Archaeology, contamination and landscaping matters can all be safeguarded by condition.

**RECOMMENDATION:** That delegated authority be given to the Head of Planning to grant planning permission upon the expiration of site and press notices advertising the application as a departure, subject to the conditions set out at the end of the report, with any amendments or additional conditions required delegated to the Head of Planning.

## **1.0 THE PROPOSAL**

- 1.1 The application has been submitted as a hybrid application seeking outline planning permission for up to nine houses with all matters relating to the houses reserved for future consideration and detailed planning permission

for a new access, access road, open space and landscaping outside of the house plots.

- 1.2 The application has been submitted in this format in order to enable each self-builder to be able to bring forward a reserved matters application at a later date that relates solely to their plot. This prevents the individual plot owners/ builders from having to construct the road access and the areas beyond their plot, essential for the delivery of self and custom build.

#### Detailed part of the proposal

- 1.3 In terms of the proposed access and access road, a new access is proposed from Rye Road within the north-west section of the site. A new access road is proposed within the site (including hard landscaping beyond the road) which would measure approximately 70 metres in length and 4.5 metres in width. The new access road and hard standing would provide direct access to each proposed plot.
- 1.4 A significant landscaped area of public space is proposed on the northern side of the site close to Rye Road. The open space would contain a surface water catchment area in the form of a dry pond which is proposed to form part of a Sustainable Urban Drainage System (SUDS) for dealing with surface water on the site.

#### Outline part of the proposal

- 1.5 In terms of the houses, the proposal is for up to 9 dwellings (but this number potentially could reduce) allowing flexibility within the number of units to be provided to respond to local needs and requirements for self-build. An indicative masterplan layout and elevations have been submitted to show how a scheme of nine self-build homes could be delivered. The future layout, design and scheme parameters are proposed to be guided by a design code that sets out some basic design principles to follow including siting, form, heights, fenestration and materials. Whilst these details are indicative at this stage, it is recommended that a condition be attached should Members grant planning permission ensuring that the individual self-build dwellings adhere to the design code to ensure a level of uniformity at the Reserved Matters stage.
- 1.6 The indicative plans show nine detached plots positioned across the rear of the site facing north towards Rye Road with rear gardens adjacent to the A259 behind a landscaping screen in a linear horizontal layout. The indicative plans and design code indicate that each property will benefit from a parking area to accommodate two cars. In terms of scale and appearance, the design code shows the dwellings to be two storey with a maximum ridge height of 8.7 metres and eaves level of 5.7 metres with a traditional rural form and appearance incorporating features such as chimney stacks and pitched roofs. Materials as set out within the design code are proposed to be a mixture of brick, render, tile hanging and timber board elevations with slate, Kent Peg or concrete roof tiles and timber or UPVC windows and doors of a traditional style.

1.7 The application is accompanied by the following supporting documents;

- Planning Statement,
- Design and access statement,
- Design code,
- Flood risk assessment
- Utilities statement
- Ecology survey
- Transport survey

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site.

- Outside the settlement boundary, within the countryside.
- Romney Marsh Local landscape Area.
- Environment Agency Flood Zones 2 and 3a
- Strategic Flood Risk Assessment Year 2115 hazard rating – no flood risk.
- Area of archaeological potential.

## **3.0 LOCATION AND DESCRIPTION OF SITE**

3.1 The application area comprises an area of 0.63ha of greenfield land bounded by the A259 on the south-eastern boundary and the Rye Road on the north-western boundary within the rural village of Brookland.

3.2 The site is accessed from Rye Road and is generally flat. There are established trees and hedging along the boundary with the A259 and a group of trees beyond the northern boundary of the site. The boundary with Rye Road is partially defined by tall hedging, with a gap toward the northern end. There is little vegetation within the site, which is currently used as grazing land.

## **4.0 RELEVANT PLANNING HISTORY**

4.1 Planning permission has previously been refused in 2016 under reference Y15/0499/SH. This was an outline application for eight residential dwellings with a village green and childrens playground, associated access, parking and landscaping, with matters of appearance, landscaping, layout and scale reserved for future consideration. This application was refused on grounds relating to unacceptable residential development in the countryside and visual impact upon the landscape. A subsequent appeal was dismissed on the same grounds.

## **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 Brookland Parish Council

- Sewage disposal to an existing poor public system
- landscaping and loss of hedgerows
- insufficient parking
- concerned about access and egress
- development in the countryside outside of settlement boundary
- erosion of the visual rural character of the village
- the number of houses is out of proportion to the number of houses in the village
- poor infrastructure and services (bus services, shops, broadband),
- houses are too large
- increased flood risk from run off and surface water drainage.

## 5.3 KCC Highways and Transportation

No objection subject to conditions;

- safeguarding a construction management plan
- use of a bound surface for the first five metres of the access
- prevention of surface water onto the highway
- car parking, cycle parking and turning facilities
- construction of site infrastructure prior to first occupation of the dwellings and visibility splays.

## 5.4 KCC Archaeology

No objection subject to a condition requiring a programme of archaeological works.

## 5.5 KCC Ecology

No objection subject to ecological enhancement measures.

## 5.6 Arboricultural Manager

No objection. Supports landscaping proposals.

## 5.7 Environment Agency

No objection subject to;

- Finished floor levels being set no lower than 300mm above existing ground level.
- No single storey dwellings and all sleeping accommodation be situated on the first floor or above.

## 5.8 Environmental Health

No objection, subject to contamination condition.

## 5.9 Southern Water

No objection subject to a condition for the means of foul and surface water to be submitted.

5.10 Romney Marsh Internal Drainage Board

Highlight that consent will be required from the drainage board for connection to the land drainage system.

## 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 Three letters/emails received objecting on the following grounds:

- The previous grounds of refusal still stand.
- Surface water flooding.
- Poor sewage system.
- Traffic congestion.
- The access is on a bend and would be hazardous.
- Dangerous for children/parents crossing the main A259 to go to school.
- Loss of a greenfield site and the open space.
- Harmful to the local wildlife.
- This type of housing is not needed in the village.

## 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, BE16, CO1, CO5, CO11, U2, U4, U10a, HO1.

7.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3, SS5, CSD1, CSD3, CSD4, CSD5.

7.4 The following supplementary planning documents apply:  
Kent Design Guide

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

- 7 – Achieving sustainable development
- 14 – Presumption in favour of sustainable development
- 17 – Core planning principles
- 49 and 50 – Delivering a wide choice of high quality homes
- 56 and 64 – Requiring good design
- 109 – Conserving and enhancing the natural environment
- 99, 100, 101, 102, 103 – Meeting the challenge of climate change, flooding and coastal change.
- 216 – Annex 1 Implementation

7.6 Policy RM13 – Lands north and south of Rye Road Brookland of the emerging Places and Policies Local Plan, now at regulation 19 submission consultation stage seeks to allocate this site for residential development. The emerging Places and Policies Local Plan Submission Draft holds limited weight at this stage due to the fact it has not yet been through public examination. The plan is, however, at an advanced stage in its preparation, having been through several rounds of public consultation and as such is a material consideration in the determination of this application.

## **8.0 APPRAISAL**

### **Background**

8.1 Since the previous refusal of planning permission and appeal the emerging Places and Policies Local Plan submission draft has been published which proposes to amend the settlement boundary of Brookland so as to include the application site within the village settlement boundary and to allocate the land for residential development.

### **Relevant Material Planning Considerations**

8.2 The relevant issues for consideration with regard to this current application are the acceptability of the site for housing development in terms of a departure from development plan policy due to the countryside location outside of the designated settlement boundary, the provision of self-build developments in light of Local and National policy and the weight to be given to the emerging Places and Policies Local Plan, as well as visual impact, flood risk and drainage, highways and transportation, impact upon the amenities of local residents, ecology, archaeology and contamination.

### **Acceptability of countryside location outside settlement boundary**

8.3 Paragraph 55 of the NPPF seeks to prevent isolated new homes in the countryside, which is reflected in Policy SS3 of the Shepway Core Strategy Local Plan 2013, which directs development toward existing sustainable settlements. The Core Strategy identifies that the strategic priority for the Romney Marsh area is to accommodate development in the towns of New

Romney and Lydd, and at sustainable villages. Brookland is identified in the Core Strategy as a primary village which is able to contribute to strategic aims and local need with the potential to grow and serve residents, visitors and neighbourhoods in the locality. Currently the site is not considered to be within the village of Brookland as it is outside of the settlement boundary. Saved Policy CO1 of the Local Plan also seeks to protect the character of the countryside.

- 8.4 Although the previous application for housing on the site was refused on the grounds of being unsustainable development that would have a detrimental impact upon the visual character of the countryside, the application site is proposed as an housing allocation within the emerging Places and Policies Local Plan (PPLP) and it is proposed to alter the settlement boundary to include this site (in accordance with the settlement hierarchy which identifies Brookland as a primary village with the potential to grow). Paragraph 216 of the NPPF advises that decision-takers may give weight to relevant policies in emerging plans according to the stage of preparation of the plan; the extent which there are unresolved objections to relevant policies; and the degree of consistency of the emerging policies in the plan to the policies in the NPPF.
- 8.5 The emerging PPLP is at a relatively advanced stage of preparation, with the Submission Draft currently out for consultation (until 19<sup>th</sup> March 2018) having already been through the Preferred Options Consultation, where the site allocation received 8 representations; 3 commenting, 3 supporting and 2 objecting. As such, there are currently 2 unresolved objections; though these may be resolved during the current round of consultation. Following the current and final round of consultation, the plan will be submitted to the Secretary of State for independent examination.
- 8.6 Whilst the current development plan acknowledges the principle of further housing development in Brookland village to be acceptable and the site is allocated for development within the emerging PPLP, the application site is currently in a countryside location outside of the defined settlement boundary.
- 8.7 In determining the principle of the proposed development of this site for residential development, Members should consider the likely allocation of the site within the emerging Local Plan and that in proposing to allocate the site, the Local Planning Authority has considered the site to be sustainable. As such, the principle of residential development on this site has already been assessed and considered to be acceptable in order to meet the Council's 5 year housing land supply figures going forward. Arguments of prematurity are unlikely to be supported on appeal should the application be refused as the National Planning Policy Guidance (NPPG) advises that a prematurity reason for refusal cannot be justified other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
- 8.8 In terms of the emerging policy RM13, this sets out thirteen criteria and development is considered to be generally in accordance with these as set

out in more detail in specific sections of the appraisal below. There are, however, some criteria that have not been addressed within this submission:

1. There is no overall master plan for the three proposed allocated sites because this is a standalone application. The majority of the application is proposed as outline and relates well to the adjoining land.
2. The 30mph speed limit has not been required by Kent Highways Services for this site and therefore cannot be insisted upon.
3. Having a strong frontage to Rye Road is achievable and the details of this will be dealt with under a later Reserved Matters application
3. In respect of impact on the Conservation Area and Listed Building, these are both some distance from the site being some 130 metres and 200m away respectively. The indicative plans show two storey dwellings which would not result in harm to the setting of either, which can be further considered at the Reserved Matters stage.

### **Self-build Development**

- 8.9 In addition to the potential site allocation, there is an emerging self-build and custom housebuilding policy within the PPLP which is supportive of this type of development. Although this policy also carries limited weight at this point, pending examination, the Self-build and Custom Housebuilding Act 2015 (as amended) places a duty on district councils to have regard to the self-build register that relates to its area when carrying out its planning functions. Paragraph 50 of the National Planning Policy Framework (NPPF) aims to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The Council's self-build register currently contains details of 96 people and the provision of up to nine self and custom build dwellings would help the Council in delivering sites to serve the needs of these parties and meet the aim of National Policy. As such, the provision of a self-build development in combination with the advanced stage of the Places and Policies Local Plan further justifies the recommendation for approval despite being a departure under the current local plan and is recommended to be secured by condition.

### **Visual Impact and Design Code**

- 8.10 The Romney Marsh Character Area is identified by the Core Strategy, amongst other things, as an area where landscapes are to be protected. Policy CO5 also required proposals to protect or enhance the landscape character and functioning of the Romney Marsh Local Landscape Area.
- 8.11 The site lies on the main approach to Brookland and forms a significant defining feature of the village's character and appearance. Whilst facing residential development to the west and flanked by the busy A259 to the east, the site has a rural character and appearance, and contributes to the distinctiveness of the village accordingly.
- 8.12 As described in section 1.0, landscaping and retention of the existing features is proposed as part of the scheme which, once established, will



help visually soften the site and integrate it into the surrounding area. However, it is acknowledged that any development of the site involving up to nine dwellings would involve the introduction of significant built form into the countryside, with an increased perception of built development in the Local Landscape Area. As such it is considered that whilst in the short term there would be some harm to the character of the area, long term, once the landscaping has matured, the proposal would protect the character of the Local Landscape Area.

- 8.13 With regards to the proposed density, the illustrative master plan shows sufficient land and space to accommodate nine houses and the access road without the development appearing cramped or over intensive, proposing an indicative layout that accords with the character of the surrounding development.
- 8.14 In terms of appearance, scale, layout and landscaping of the houses and plots, these matters have been reserved for future consideration. However, it is proposed that a design code is approved that sets out the basic parameters for the houses, covering their form, position, height, dimensions and material palette as also set in section 1.0. The submitted design code is considered acceptable and in keeping with the general character of the area.

### **Flood Risk and Drainage**

- 8.15 The site is located within the Environment Agency tidal flood zones 2 and 3a, where in accordance with the NPPF, the sequential and exceptions test should be applied based on the Strategic Flood Risk Assessment (SFRA) and Environment Agency flood risk zones due to the type of development being considered a 'more vulnerable' use.
- 8.16 According to the Shepway District Council Strategic Flood Risk Assessment, the site falls outside of the flood risk zone in 2115, however, it is still necessary to sequentially test the site for preferable alternatives in flood risk terms due to the location within flood zones 2 and 3. During the site allocation process for the emerging Places and Policies Local Plan a sequential test was carried out where the site was considered to be sequentially acceptable as there were no other similar sites that were available for allocation within the Romney Marsh character area.
- 8.17 As the site is not yet allocated it is necessary to carry out a further sequential test to determine whether there are any sequentially preferable sites within the Romney Marsh character area that are available, meaning they have an extant planning permission or are already allocated. Having checked the HIA (Housing Information Audit) which documents extant planning permissions, and existing allocations within the local plan, there are no sites of a similar size available. As such, the site is considered to pass the sequential test.

- 8.18 Following the sequential test the NPPF also advises that the exceptions test should then be applied. This requires the development to provide wider sustainability benefits to the community and for the development to be safe for its lifetime without increasing flood risk elsewhere. In this regard, it is considered that the site passes the exceptions test where the development would contribute towards the valuable housing provision in the Romney Marsh and help to meet our housing need within this area and also provide much needed self-build housing. In addition, the development can be made safe from flood risk for its lifetime as advised by the FRA (Flood risk Assessment) which recommends that to reduce any residual risk further, flood resilience measures should be incorporated into the development and in implementing these recommendations will also ensure flood risk is not increased elsewhere. As such, the development is considered to pass the exceptions test.
- 8.19 For foul drainage, the area is served by a public foul vacuum main system. With such systems, the number of connections are limited and therefore the point of connection will be specified by Southern Water, with any new connections constructed by them, as required. Southern Water have raised no objection to the proposal and consequently the foul water drainage is considered acceptable in accordance with Shepway District Local Plan Review saved policy U2.
- 8.20 In terms of surface water disposal there is no public system to discharge to and the applicant is proposing a Sustainable Urban Drainage System using a collection pond as part of the open space which is considered to be acceptable. However, concern is had over the fact that the FRA illustrates that if the drainage system was to fail, or become overwhelmed following an extreme rain event, water would exit the system and would flow overland, causing localised surface water flooding. However it is calculated that with the exception of one proposed dwelling, any localised flooding is unlikely to significantly impact the development or existing properties within the area around the site. For the single unit which could be impacted by surface water flooding it is proposed that by raising the threshold of the property a minimum of 300mm above existing ground levels this should mitigate against the flood risk. As such the risks of surface water flooding is considered to be low and therefore acceptable. It is recommended that details of the drainage be controlled via condition as well as floor levels.

### **Highways and Transformation**

- 8.21 A new vehicular access is proposed from Rye Road within the north-western part of the site with an internal access driveway through the middle. The access and road are considered acceptable in terms of width to allow single way traffic and the required sight lines can be achieved. The indicative plans show each property to have two parking spaces and a turning area. This meets the required maximum standards for parking and Kent Highways and Transportation Services have raised no objection subject to some standard conditions. However, these are matters that will be dealt with under a later reserved matters application and the parking provision assessed against the number of bedrooms in each dwelling. As such the development is

considered acceptable in highways and transportation terms in accordance with saved Local Plan Review policies SD1, TR11 and TR12.

### **Residential Amenities**

8.22 The development site is located adjacent to and opposite of residential areas and therefore resident's amenities will be affected by this development. As a hybrid application with the outline part reserving all matters for future consideration for the houses, it is difficult to assess this in detail, however some broad conclusions can be reached. In this regard the most affected would be those residing at Framlea to the western side boundary. However it is considered that there would be no significant overbearing or overshadowing impacts where there are only two windows upon the east elevation of Framlea and an approximate separation distance of 5 metres (based on the indicative layout). There would be no impacts to the south (rear) where the A259 is directly to the rear and none to the east (side) where there are no dwellings. To the north (front) owing to the spacious separation distances, it is considered that there would also be no impact from residents of houses on Rye Road. As such, it is considered that there is sufficient space on site to adequately provide nine detached dwelling without resulting in any significant impact to neighbouring amenities.

8.23 In terms of future occupiers the dwellings would be located within spacious plots with good size gardens suitable for family size dwellings and could achieve suitably sized rooms with adequate light and ventilation to all habitable rooms. As such it is considered that the amenities of future residents would be safeguarded in accordance with saved Local Plan Review policy SD1.

### **Ecology**

8.24 In terms of ecology, the site does not have any national or international nature conservation status and has been surveyed for protected species. The ecology report confirms that the site has limited potential for protected species or habitats and is therefore not constrained by ecology. It is recommended that for each self-build house ecological enhancements be incorporated into the plots.

### **Archaeology**

8.25 The site falls within an archaeological protection zone. KCC Archaeological Officers have not responded to the consultation, however, based on the amount of excavations required, it is recommended that a condition be imposed for a watching brief to safeguard any below ground heritage asset found.

### **Contamination**

8.26 The Council's Environmental Health Manager recommends that the site be surveyed for ground contamination and recommends the standard contamination condition be imposed which is acceptable and good practice.

### **Open space/ play space**

8.27 The open space proposed at the front of the site meets the requirements for open space provision in accordance with the local plan and the number of bedrooms created would be below the threshold for the need to provide play space on the site.

### **Environmental Impact Assessment Regulations 2017**

8.28 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.

### **Local Finance Considerations**

8.29 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. New Homes Bonus payments are not considered to be a material consideration in the determination of this application but are to be reported.

8.30 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. Under the scheme the Government matches the council tax raised from new homes. Initially this was for a period covering the first 6 years, but has been reduced to 4 years for new additions as a result of the Government's response to the recent consultation on the New Homes Bonus scheme (Dec 2016) As such only a 4 year value for the New Homes Bonus has been calculated. In this case, an estimated value of the New Homes Bonus as a result of the proposed development would be £16,400.00 for one year and £65,600.00 for four years and calculated on the basis of council tax bands B and F average dwellings. The consultation response also changed the methodology for assessing further New Homes Bonus monies for authorities. In summary, the basic calculation has remained the same, but a 0.4% threshold has been introduced, meaning that if an authority records an overall increase in new homes in any one year, but this increase is below the threshold, the authority will not receive any New Homes Bonus funding relating to that particular year. This is a significant change, and amongst other things, it means that estimated New Homes Bonus payments for any specific future development is not guaranteed funding. New Homes Bonus payments are not a material consideration in the determination of this application.

8.31 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning obligations for infrastructure improvements in the area. As a self-build development this would be exempt from the CIL Levy (each plot owner would need to apply for the exemption individually).

8.32 This application is reported to committee due to the views of Brookland Parish Council and as a departure from the development plan.

## **Human Rights**

8.34 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.

## **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).

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**RECOMMENDATION – That delegated authority be given to the Head of Planning to grant planning permission upon the expiration of the site and press notices advertising the application as a departure, subject to the following conditions, with any amendments or additional conditions required delegated to the Head of Planning:**

### **Full planning permission conditions:**

1. Standard time condition
2. Approved plan numbers
3. Use of a bound material for the first 5 metres of the access
4. Completion of the following works between a dwelling and the adopted highway prior to first occupation of any dwelling hereby permitted;
  - A) Footways/footpaths except the wearing course
  - B) Carriageways except the wearing course but including, highway drainage, street lighting, street name plates and highway structures (if any).
5. Provision and retention of the vehicle turning facilities prior to first occupation.
6. Provision and maintenance of 43 x 2.4 x 43 metres visibility splay lines.
7. Archaeology programme of works
8. Contamination

9. Open space landscaping details including ecological enhancement.
10. Provision of the open space and details of the responsibility of the long term management of the open space.
11. Materials for the road
12. Drainage/ SUDS details, implementation and maintenance

Outline planning permission conditions (for the dwellings):

13. The dwellings shall be limited to self/build custom plots only.
14. Standard Outline Condition A
15. Standard Outline Condition B
16. Standard Outline Condition C
17. Approved plans
18. Maximum no of dwellings (9)
19. Archaeology programme of works
20. Contamination
21. Raised floor levels a minimum of 300mm above existing ground levels for all dwellinghouses.
22. no single storey dwellings and all sleeping accommodation be situated on the first floor or above
23. Water efficiency
24. Details of bin stores, provision and retention
25. Removal of PD rights class F
26. Reserved matters for each plot to be submitted showing,
  - Details to confirm compliance with design code.
  - Samples of materials to be used for the exterior of the dwelling(s)
  - Details of ridge lines, eaves levels, finished floor levels in relation to the existing ground levels.
  - Details of hard and soft landscaping for individual plots, including information on planting specification, boundary treatments, hard surfaced areas and maintenance details.
  - Details of cycle storage provision and permanent retention.
  - Details of car parking and turning within each plot, its provision and retention.

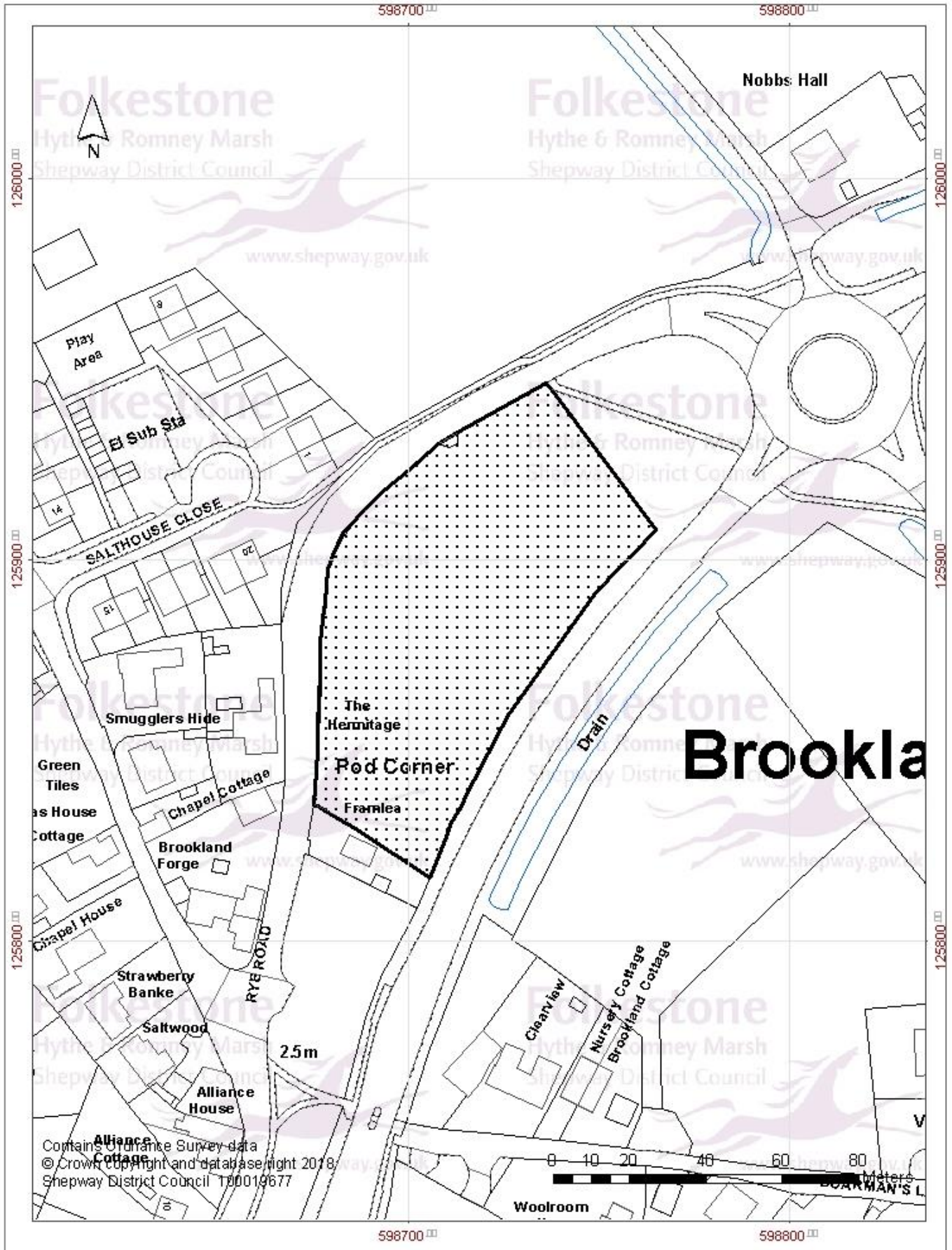
## INFORMATIVES

1. Highways
2. Southern Water

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Decision of Committee

Y17/1409/SH  
Land adjacent Framlea  
Rye Road  
Brookland



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**Application No:** Y18/0060/SH

**Location of Site:** Due South, Romney Road, Lydd, Romney Marsh, Kent, TN29 9LN

**Development:** Erection of front porch and construction of vehicle crossover

**Applicant:** Mr Clive Kattenhorn

**Agent:** Mr Keith Hammond

**Date Valid:** 12.01.18

**Expiry Date:** 09.03.18

**PEA Date:** 27.03.18

**Date of Committee:** 20.03.18

**Officer Contact:** Alex Kalorkoti

## SUMMARY

This report considers whether planning permission should be granted for the erection of a front porch and construction of a vehicle crossover. The report recommends that planning permission is refused as the extent of the parking area proposed to the front of the application site in proportion to the front garden area as a whole, in conjunction with the tarmac crossover, would be incongruous in the street scene and would have a detrimental visual impact on the application site and the surrounding area, contrary to saved policies SD1 and BE1 of the Shepway District Local Plan Review.

**RECOMMENDATION: That planning permission be refused for the reason set out at the end of the report.**

## 1.0 THE PROPOSAL

- 1.1 The proposal would see the existing porch demolished to make way for a larger pitch roofed porch which would extend 2.4m beyond the front elevation of the house and would be 3.7m wide, providing for an entranceway and bathroom. It would be finished with slates to match the roof of the main house and white painted render over the blockwork.
- 1.2 The proposal is also for the setting out of three parking spaces to the front of the main house, including a vehicular crossover, all finished with permeable tarmac. This would span 7.45m of the site's total width of 8.3m and would extend out from the front of the proposed enlarged porch up to the proposed vehicle crossover providing access to the highway.

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site:

- Outside settlement boundary
- Area of Archaeological Potential
- Romney Marshes Internal Drainage Board Area
- Adjacent to Local Wildlife Site
- Adjacent to SSSI

## **3.0 LOCATION AND DESCRIPTION OF SITE**

3.1 The application site is located on the north west side of the main road into Lydd and is a two storey semi-detached dwellinghouse finished with painted brick, a mixture of uPVC and timber windows, and a tiled roof.

3.2 There is access to an existing garage at the rear of the property via an unmade road to the north east of the other half of the semi-detached pair. At the front of the property, it can be seen that the owner has been parking on the grass-covered front garden area.

3.3 The property to the north east has no parking on the front garden area, whilst that to the south west has an access from Romney Road, to allow parking to the side of the house, retaining the front garden.

## **4.0 RELEVANT PLANNING HISTORY**

4.1 There is no relevant planning history in relation to this application.

## **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 Lydd Town Council  
Support the proposal.

5.3 Kent Highways and Transportation  
Raised no objection subject to the use of a bound surface for the first 5 metres of the access from the edge of the highway, and provision of measures to prevent the discharge of surface water onto the highway being secured.

5.4 KCC Archaeology

No response received.

## **6.0 REPRESENTATIONS**

6.1 No representations were received in relation to this proposal.

## **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, BE8, TR11, TR12.

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

7.4 The following Supplementary Planning Documents apply:  
Kent Design Guide

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

17 – Core planning principles

## **8.0 APPRAISAL**

8.1 The main considerations in the determination of this application are design and visual appearance, amenities of neighbouring occupiers, parking and highways, and archaeology.

### **Design and Visual Appearance**

8.2 Beginning with the proposed front porch extension as described in section 1.1, it is considered that the design and materials would be acceptable with no significant or detrimental impact on the character or appearance of the house or the street scene.

8.3 Turning to the proposed parking spaces and vehicle crossover, these would span 7.45m of the site's total width of 8.3m and would extend out from the

front of the proposed enlarged porch up to the proposed vehicle crossover providing access to the highway. The street scene is predominantly turfed front gardens and a grass verge punctuated by narrower accesses to driveways. The large area of tarmac hard-standing, together with the level of parking to the front of the main house – up to three cars – would present a stark and urbanising form of development in this edge-of-settlement, semi-rural site that would be both incongruous and detrimental to the established character of the application site and the surrounding area, contrary to saved policies SD1 and BE1 of the Shepway District Local Plan Review.

### **Amenities of Neighbouring Occupiers**

- 8.4 It is considered that the proposed porch would not result in any detrimental impact upon the living conditions of neighbouring occupiers by way of overshadowing impact or overbearing/enclosing presence. Likewise, it is considered that the parking and vehicle crossover are not of sufficient scale or of a use which would lead to any significant or detrimental impact on the amenities of neighbouring occupiers from comings and goings.
- 8.5 With regard to overlooking, the proposed front porch does include a window to the side elevation, however it is noted that this would serve a wet-room and could therefore reasonably be obscure glazed by condition. In any case, it is noted that the side elevation of the neighbouring property does not include any openings which could be susceptible to interlooking and any additional overlooking would fall to the front of the houses which are not considered to constitute private amenity space, being readily visible from the public realm. Consequently, there is considered to be no likely loss of privacy.
- 8.6 In light of the above, the proposal is considered to be acceptable with regard to safeguarding the amenities of neighbouring occupiers in accordance with saved policy SD1 of the Shepway District Local Plan Review. .

### **Parking and Highways**

- 8.7 The proposal would not result in any increase in the number of bedrooms within the main house of the application site, nor would it result in any decrease in the off-street parking provision to the serve the house. As a result, the proposal is considered to be acceptable with regard to the provision of parking and highway safety issues which could arise from the need for additional on-street parking in the surrounding area.
- 8.8 Having established that the verge can remain unobstructed, Kent Highways and Transportation have raised no objection with regard to visibility splays and have requested that a bound surface is secured for the first 5 metres of the access from the edge of the highway, along with measures to prevent the discharge of surface water onto the highway. As the proposed parking area is shown to be permeable tarmac this isn't an issue. and can reasonably be secured by condition.

8.9 In light of the above, the proposal is considered to be acceptable with regard to highway safety in accordance with saved policies TR11 and TR12 of the Shepway District Local Plan Review.

### **Archaeology**

8.10 No response was received from KCC Archaeology, but as the proposed enlarged front porch would fall partly on the footprint of an existing front porch structure which is to be demolished and within close proximity to the existing house on what is likely to be previously disturbed ground, it is considered that this element of the proposal would be unlikely to impact on the safeguarding of remains of archaeological interest. Further, it is considered that due to the minor level of excavation required to lay a permeable tarmac surface between the principal elevation of the house and the highway, this element of the proposal would also not result in a detrimental impact in this regard.

8.11 In light of the above, it is not considered necessary to require an archaeological watching brief and the proposal is considered to be acceptable with regard to safeguarding remains of archaeological interest.

### **Biodiversity**

8.12 The application site is on the opposite side of the road to the Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) and the Lydd Common and Pastures Local Wildlife Site. As the application site was not in or likely to affect the SSSI, being separated by the existing carriageway, in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 and Natural England's Impact Risk Zones for Sites of Special Scientific Interest, comments were not sought from Natural England. The same consideration was applied in respect of the Local Wildlife Site and the Kent Wildlife Trust were not consulted.

### **Environmental Impact Assessment Regulations 2017**

8.13 In accordance with the EIA Regulations, as the site does not fall within a sensitive area and is not deemed likely to impact upon one, it does not need to be screened under these regulations.

### **Human Rights**

8.14 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.

8.15 The application is being presented to Committee as the officer recommendation differs strongly from the view of the Town Council, which supports the proposal.

## **9.0 BACKGROUND DOCUMENTS**

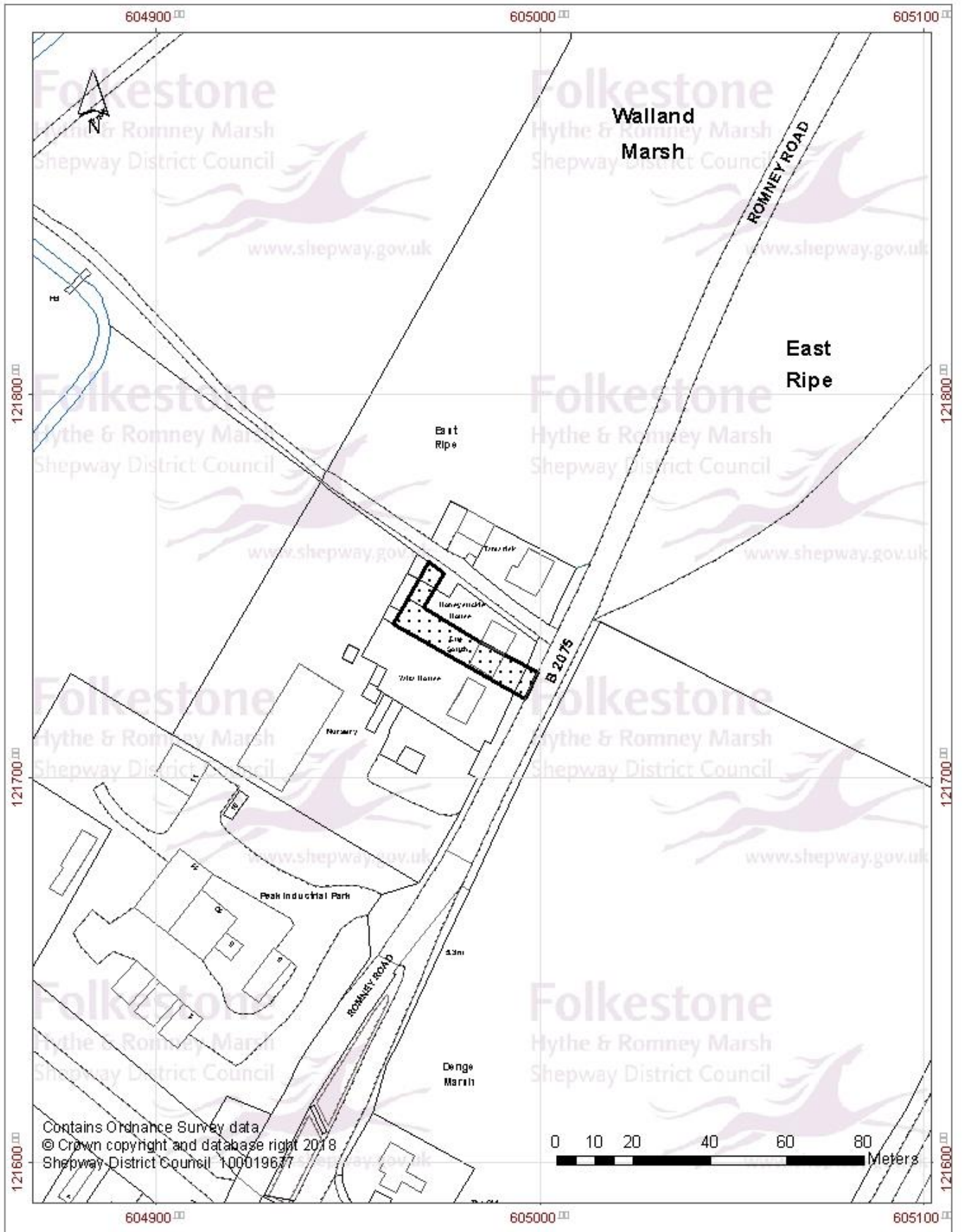
9.1 The consultation responses set out at Section 5.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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### **RECOMMENDATION – That planning permission be refused for the following reason:**

1. The parking area and vehicular crossover proposed to the front of the application site, by virtue of their material and extent in proportion to the front garden area, would appear unattractive and incongruous in the established street scene and would have a detrimental visual impact upon the character of the application site and the surrounding area. This would be exacerbated by the parking of cars across the site frontage. As such the development is contrary to saved policies SD1 and BE1 of the Shepway District Local Plan Review, which seek to maintain and improve the character of the built environment, ensure a high standard of layout and design for all new development, and ensure that it would accord with existing development in the locality.

Y18/0060/SH  
Due South  
Romney Road  
Lydd



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**Application No:** Y18/0061/SH

**Location of Site:** Pent Valley Technology College, Surrenden Road, Folkestone, Kent CT19 4ED

**Development:** Consultation by Kent County Council in respect of the renewal of the temporary permission for the 'Sharman Block' modular building, erection of a 2.4 metre high fence and gates to separate it from the rest of the former Pent Valley School, construction of a 1.8 metre wide access path to a new 2.2 metre high gate onto Bowen Road, and erection of a 2.2 metre high fence between the building and the electric substation. (KCC Application PA/KCC/SH/0343/2017)

**Applicant:** Gen 2 on behalf of KCC

**Date Valid:** N/A

**Expiry Date:** N/A

**PEA Date:** N/A

**Date of Committee:** 20.03.18

**Officer Contact:** Wendy Simpson

## SUMMARY

This is a consultation by KCC in respect of a planning application that has been submitted to them. KCC is the determining authority, not the district council.

It is considered that the continued use of the building for education purposes, the erection of fencing separating the application site from the wider Pent Valley Technology College site and the introduction of a pupil access gate from Bowen Road accords with current policy and guidance and would not harm the visual amenity or residential amenity of the area.

**RECOMMENDATION:** That no objection be raised subject to conditions to prevent general access through from Bowen Road to the wider Pent Valley Technology College site and to remove the gate to Bowen Road if the proposed use ceases.

## 1.0 THE PROPOSAL

1.1 Shepway District Council is being consulted in respect of a planning application for :

- the renewal of the temporary permission to enable the retention of the 'Sharman Block' modular building for a further five years;

- the erection of a 2.4 metre high fence and gates to separate it from the wider Pent Valley Technology College;
  - the construction of a 1.8 metre wide access path, to:
  - a new 2.2 metre high pedestrian gate (palisade style) into the existing boundary fence to provide pedestrian access onto Bowen Road;
  - the erection of a 2.2 metre high fence between the building and the electricity substation.
- 1.2 The fencing design is partially of a palisade style (galvanised finish) and partly wire mesh (powder coated green).
- 1.3 The need for the proposal is to allow the relocation of the educational support service from an existing facility at Cheriton Road, which has been deemed to be unsuitable. It involves the reuse of the vacant, modular building within the Pent Valley Technology College site.
- 1.4 The applicant has advised that the unit will provide alternative curriculum support for schools in the Folkestone area and will be run by local schools, providing for a maximum of 24 pupils aged 11 to 16 years old. Pupils would access the site from the new pedestrian access off Bowen Road and staff will park within the Pent Valley Technology College site. The majority of the pupils currently use public transport to go to the Cheriton Road site and others walk. It is anticipated that the majority will use public transport to travel to this site.

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site:

- Inside settlement boundary

## **3.0 LOCATION AND DESCRIPTION OF SITE**

- 3.1 The site is located in the south western corner of the grounds of Pent Valley Technology College. It contains a white, flat roofed, single storey, modular building in a good state of repair. The site is accessed from the main school grounds, to the north-eastern and eastern sides of the site. Immediately to the east of the site is an electricity substation.
- 3.2 To the southern, western and north-western sides of the site are residential dwellings in Wells Road, Bowen Road, Darlinghurst Road and Postling Road.

## **4.0 CONSULTATION RESPONSES**

- 4.1 As Shepway District Council is a consultee on the application and not the determining authority no consultations were required to be carried out by the

district council. Notwithstanding, the following representation was received from the town council:

#### 4.2 Folkestone Town Council

Object subject to there being more details on what the access actually serves. Bowen Road is a side road and the corner is 90 degrees. It is not clear whether the access will be a busy one or not.

### 5.0 REPRESENTATIONS

5.1 As the district council is a consultee no consultations were required to be carried out by the district council. Comments from neighbours in respect of the proposal were required to be sent to KCC, as directed on the site notice and neighbour letters sent out by KCC.

5.2 Comments received into Shepway District Council from members of the public are therefore not reported but can be viewed on the Council's web page at:

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

### 6.0 RELEVANT POLICY GUIDANCE

6.1 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>

6.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, BE1

6.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3

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

7 – Achieving sustainable development

11 – Determination in accordance with the development plan

17 – Core planning principles

56 – Good design

## **7.0 APPRAISAL**

### **Relevant Material Planning Considerations**

7.1 The site has an extant use for education purposes and as such the use of the building as intended does not require planning permission. However, the retention of the building for a period of a further five years does require planning permission. Relevant issues for consideration are the suitability of the modular building for retention on the site and the design of the gates and fencing in terms of visual amenity; and the acceptability of the new fencing and pedestrian access onto Bowen Road in terms of neighbouring amenity.

### **Design**

7.2 The modular building is existing and is in a good state of repair. The only additional structures to be erected under this application are the fencing/gates to separate the building from the wider school area and the new pedestrian gate which is to be inserted into the existing boundary fence to Bowen Road.

7.3 The proposed wire mesh fence is of a design that means it cannot be climbed. Visually this has a minimal impact whilst effectively achieving the separation of this site from the main school site. Some small lengths of palisade style fencing are also proposed where single gates are required to give access to areas inside the site. All of the fencing proposed is of a utilitarian design to suit its purpose but none runs adjacent to boundaries of the site adjoining the street or residential boundaries and as such it will not harm the street scene or character of the area. The appearance of the pedestrian gate is considered acceptable.

7.4 No objection is raised to the design and appearance of the development or its impact on the street scene.

### **Amenity**

7.5 The use of the site for education purposes is not changing and therefore the use as intended does not require planning permission. Due to the size of the building there is a limit to the number of pupils/staff that can use the building at any one time.

7.6 As the building is existing, to retain it for a further period of five years will not result in any additional impacts to neighbours' amenities in terms of loss of outlook, daylight, privacy matters or overshadowing.

7.7 The additional fencing proposed will not result in harm to neighbours' amenities in terms of loss of outlook, daylight or overshadowing.

7.8 The Town Council and residents have raised concern in respect of the introduction of the new pedestrian access gate into the boundary fence to Bowen Road. To date there is no access to the Pent Valley Technology Collage site from Bowen Road. Such concern is understood if the gate were to provide general access to the whole site and officers have raised this with

the KCC case officer. The applicant now further advises that: the access gate to Bowen Road will be unlocked by the first member of staff arriving at the unit and locked at the end of the day; the gate between the site and the wider Pent Valley Technology College site will be fitted with a key fob opening system so staff parking in the main school site can come through to the application site. Also they advise that staff will need to use the key fob to access between the sites if the fire alarm sounded or if a wheelchair user needed to access the application site.

- 7.9 Therefore, if only the pupils of the support service unit are to be using the proposed access gate from Bowen Road then the introduction of this additional footfall in Bowen Road is not considered to be of such a frequency or scale that it would result in harm to the residential amenity of Bowen Road.
- 7.10 Furthermore, notwithstanding that most pupils are expected to come to the site on public transport, if some pupils are dropped off and collected by car in Bowen Road, again the frequency and scale of this activity would not be so great as to justify the district council raising an objection to the planning application.
- 7.11 Therefore no objection is raised to the proposal in terms of impacts on neighbours' amenities subject to the use of a condition that ensures that there is no general access through the site from Bowen Road to the wider Pent Valley Technology College site. A further condition should also be used so that if the use of the application site as a separate education facility should cease, or the site should be used in association with any of the adjacent school/education site, then the gate providing pedestrian access from Bowen Road shall be removed and fencing reinstated prior to the commencement of the alternate educational use of the site, or site and building.

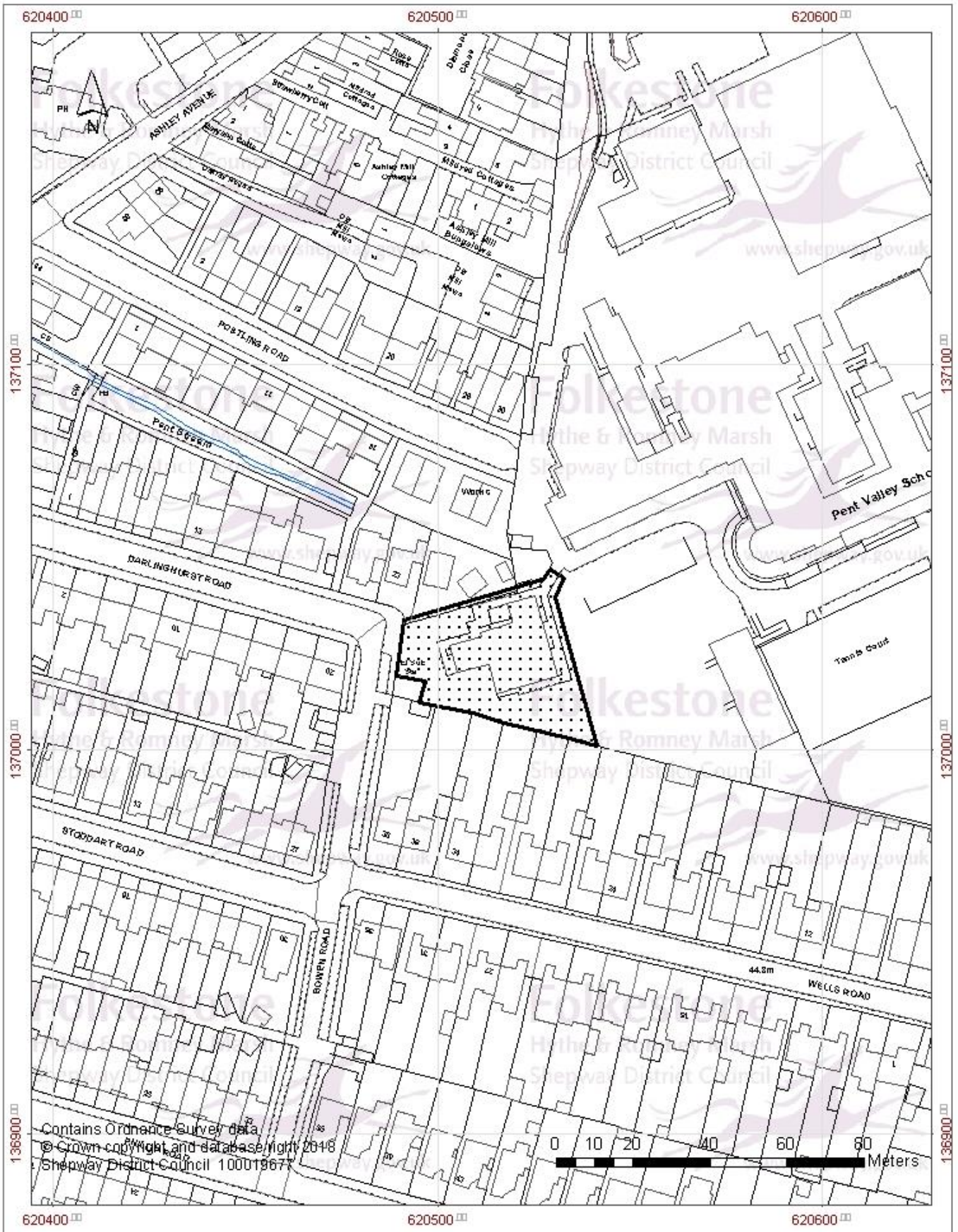
### **Other matters**

- 7.12 Cllr Collier has raised concern of 'over intensive development' but the modular building is existing and has been used for many years as an education building. The use as intended does not require planning permission. All that can be considered in this respect is the pedestrian traffic off Bowen Road, which it is not considered will be of such a level as to be significantly harmful to residential amenity.
- 7.13 This application is reported to Committee at the request of Cllr Collier due to concerns of over intensive development, parking/traffic implications of pupil drop off and pick up.

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**RECOMMENDATION – That no objection be raised subject to conditions to prevent general access through from Bowen Road to the wider Pent Valley Technology College site and to remove the gate to Bowen Road if the current use ceases.**

Y18/0061/SH  
Pent Valley Technology College  
Surrenden Road  
Folkestone



## 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 12 March 2018

**Folkestone**

Hythe & Romney Marsh  
Shepway District Council



**DCL/17/39**

**To: Planning and Licensing Committee**

**From: Ben Geering, Head of Planning**

**Date: 20 March 2018**

**Subject: Licensing Act 2003 – Licensing Policy Statement Revision**

**Summary:** This report sets out the proposed revisions made to our Licensing Policy Statement. This Policy will cover the period 2018-2023

**Recommendations:**

In accordance with the requirements of the Licensing Act 2003 the Licensing Authority is required to publish a statement of policy every successive five year period. Following a recent review amendments to our existing policy are proposed to ensure it meets corporate objectives and legislative best practice.

The Planning and Licensing Committee is therefore asked to approve the following recommendation:

- 1. To receive and note the report.**
- 2. To agree the draft revised Licensing Policy Statement for the period 2018-2023 to be consulted on for a 10 week period.**
- 3. To delegate the Head of Planning in consultation with the chairman of Planning and Licensing Committee to approve any minor amendments to the Policy as a result of the consultation, before being presented to Full Council for approval. (See Appendices for the draft Licensing Policy Statement)**

## **1. Introduction**

- 1.1 On 26<sup>th</sup> October 2016 Council adopted the current Licensing Policy Statement, proposed to cover the period 2016 to 2021, replacing the 2005 policy that had been reviewed without change in 2011.
- 1.2 This adopted policy contains additional supportive information in accordance with Section 13 of the Revised Guidance issued under section 182 of the Licensing Act 2003. It also contains the updates to the Licensing Act 2003 issued by the Home Office since 2011 and includes the relevant updates brought in by the Deregulation Act 2015.
- 1.3 Consultation on the policy was undertaken over a 10 week period following CMT and Licensing Committee approval. Consultation was undertaken with Responsible Authorities, Parish and Town Council's and local businesses.
- 1.4 The Licensing Act 2003 requires that the Council, in its role as a licensing authority, determines its Licensing Policy Statement with respect to the exercise of its licensing functions every five years. As such, it is not a requirement for the Council to review the current policy until 2021.
- 1.5 However, following a number of high profile licensing applications, together with an internal review of the current policy against best practice examples both locally and nationally Officers commissioned an early review of the current policy. This review has been carried out by the author of Canterbury's recently adopted Licensing Policy, who also acts as an independent expert Licensing Solicitor.

## **2. Requirements**

- 2.1 The draft policy strictly adheres to the ethos of the Licensing Act 2003, namely it is a 'light touch' piece of legislation with the presumption of grant and the licensing objectives detailed in section 4 of the 2003 Act dictate every aspect of the application process, representations, hearings and appeals.
- 2.2 The draft policy is robust, transparent and efficient and is written in straightforward English to promote and assist license holders, applicants, responsible authorities, persons submitting representations, residents, public and enforcement agencies with a consistent approach. The policy includes numerous appendices that promote best practice and ensure a consistent approach is taken to all aspects of licensing.
- 2.3 Section 4 of the Licensing Act 2003 requires the Licensing Authority to carry out the functions under the Act so as to promote the licensing objectives. These are:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm

Each of these objectives is considered to be of equal importance for the purpose of this policy.

2.4 The draft policy has a number of significant changes (detailed below) to the current policy so that it works in harmony with the Council's Corporate Plan. The review of the license has been undertaken alongside a refresh of the Licensing pages of the Council's website and the introduction of a Licensing Pre-Application Advice Service (to be introduced from April 2018). These changes seek to ensure the Council offers a 21<sup>st</sup> Century Licensing service that promotes the use of technology and self-service and ensures the community has access to information and the ability for their voices to be heard in decision making and the ongoing management of premises.

2.5 A copy of the final draft amended policy is attached as Appendix 1 to this document.

### **3. Significant changes to the current policy**

3.1 **The inclusion of a code of conduct** will provide detailed guidance as to what is reasonable and proportionate to expect of applicants and license holders.

- It provides a comprehensive guide to applicants when preparing applications and in particular, how to draft an essential part of the form known as the operating schedule. A poorly drafted operating schedule will increase the likelihood of objections being lodged by both responsible authorities (e.g environmental protection, the police) and interested parties (eg residents).
- It assists persons making representations to lodge appropriate and proportionate objections in a timely fashion
- Improved applications and representations will reduce the number of sub-committee hearings required and if they are required, narrow the issues for consideration
- In accordance with the Council's preference for 'digital by default' it promotes customer self-service to complete and lodge applications./representations without repeated enquiries to officers
- Endorses the ethos of the Act in respect of 'light touch' and the presumption of grant

3.2 **A toolkit in the form of a 'full risk assessment template'** Applicants will be recommended to complete the assessment in support of their applications so as to:

- Allow the applicant to tailor the application to the individual merits of the application whilst providing clear direction as to what matters should be addressed by the operating schedule – for example CCTV provision within a town centre public house should be installed unless there is a very good reason not to do so
- Allow responsible authorities and interested parties to assess whether it is appropriate to seek a condition rather than logging an objection – for example the use of bins during certain hours only to reduce the impact of noise
- Allow officers and councillors to investigate with applicants why they have not adopted measures in circumstances that such measures would usually be expected
- Provide a comprehensive document that can consider cumulative impacts and identify how such impacts can be mitigated

3.3 **The introduction of a licensing forum** so that:

- the policy can develop in line with changes to legislation and or social issues and provide opportunities for proactive interaction and discussion between groups, businesses, residents, councillors and officers
- To promote, develop and review the policy so as to ensure it remains up to date and incorporates best practice

3.4 **The use of intervention meetings** to promote resolution, compromise and neighbourliness and ensure the correct balance is being met between the needs of residents and businesses –

- An intervention meeting provides the opportunity, particularly for residents to seek an early resolution with a premise license holder
- As an informal and voluntary process the meeting can resolve issues ahead of a formal review, ensuring parties are more likely to engage with each other with neutral support of the Licensing Officer rather than in the more guarded environment of a hearing based on evidence
- An intervention meeting will seek to resolve issues without the need for a licensing hearing, providing a cost effective mechanism for the Council, taxpayer, premises license holder and residents, with the aim that issues are resolved and that the number of review hearings is reduced
- A review meeting could resolve issues in a number of weeks, rather than months
- The process is voluntary and does not interfere with anyone's individual statutory rights, however as a voluntary process based on agreement allows for flexibility and negotiation
- The code of conduct and risk assessment template can be used to manage expectations and produce a realistic outcome for all parties

3.5 The inclusion of the **Institute of Licensing's standard conditions** to ensure that all conditions proposed, agreed or imposed are reasonable, proportionate and enforceable, removing inconsistencies between local premises, reducing risk of legal challenge and adopting a national approach.

3.6 **Enforcement guidance** is now included within the policy

- It is good practise to clearly state what enforcement policy is within the document
- The policy can be produced at hearings to demonstrate that the Council has taken a reasonable, proportionate and consistent approach when dealing with cases on an individual basis
- Reduces risk of litigation and arguments over process

3.7 **Specified core hours for the district.** Applications for hours within the core hours set out below in this policy will generally be granted, subject to not being contrary to other elements in the policy. Applications for hours outside of the core hours will be considered on their own merits, subject to other relevant policies and particular with regards to

- demonstration of the licensing objectives,



- whether there is residential accommodation in the proximity of the premises that would likely to be adversely effected by late opening or operations
- the existing hours of activity and the past operation of the premises and hours of licensable premises in the vicinity
- Whether customers and staff have access to adequate public transport when arriving at or leaving the premises
- The capacity of the premises
- The type of use proposed and activities that are taking place
- Active measures that will be employed for a winding down period and arrangements for people to be collected from the premises or/and to travel home safely
- Conditions may be imposed that restrict the sale of alcohol a considerable time before customers are required to leave the premises
- The licensing authority may reduce hours, if necessary to meet licensing objectives
- Applications should be precise in specifying the days in which nonstandard hours are sought. Nonspecific days should be covered by TENS or variation applications

The proposed core hours are as follows:

**3.8 Core opening hours** when customers are permitted to be on the premises in **residential and residential/non-residential areas**; this includes 30 minutes 'drinking up' time:

For premises for the supply of alcohol for consumption on the premises:

- Monday to Sunday: 10:00 - 23:30

For premises for the supply of alcohol for consumption off the premises:

- Monday to Saturday: 08:00 to 23:00
- Sundays: 10:00 to 22:30

For premises for the provision of other licensable activities:

- Monday to Sunday: 09:00 - 23.30

**Core opening hours** when customers are permitted to be on the premises in **non-residential areas**; this includes 30 minutes 'drinking up' time:

For premises for the supply of alcohol for consumption on the premises:

- Monday to Thursday and Sunday: 10:00 - 23:30
- Friday, Saturday 10:00 – 01:00
- Sunday prior to a bank holiday Monday 10:00 – 01:00

For premises for the supply of alcohol for consumption off the premises:

- Monday to Saturday: 08:00 to 23:00
- Sundays: 10:00 to 22:30

For premises for the provision of other licensable activities:

- Monday to Thursday and Sunday: 10:00 - 23:30
- Friday, Saturday 10:00 – 01:00
- Sunday prior to a bank holiday Monday 10:00 – 01:00.

**Clear justification and reasons for the core hours** are set out within the policy, linking to the Councils wider corporate and strategic objectives and the important balance between the needs of residents and businesses.

#### **4. Next Steps**

4.1 Consultation will be undertaken with:

- All responsible authorities
- Businesses in general (including via Shepway Business Advisory Board)
- Councillors
- South Kent Coastal and Ashford CCG
- Residents, community groups and the public via the Council's website
- Licensing consultants who have submitted applications in the last 2 years
- Taxi and private hire representatives
- Town and Parish Councils
- All of Kent's licensing authorities

4.2A public notice will be published in the press, advising of a consultation period of 10 weeks, advising of how to participate in the consultation exercise.

4.3 Following consultation delegated authority is proposed to be given to the Head of Planning, in consultation with the Chairman of the Planning and Licensing Committee to make amendments to the policy, where required. The draft policy will then be required to be reported to full Council for adoption.

#### **5. Implications**

##### **5.1 Legal Officer's Comments (DK)**

Under section 4 of the Licensing Act 2003 the Council (as a licensing authority) must carry out its functions with a view to promoting the following licensing objectives:

- (a) The prevention of crime and disorder
- (b) Public safety
- (c) The prevention of public nuisance
- (d) The prevention of children from harm

The Council must ensure that its policy is based on these objectives and in accordance with section 5 of the Licensing Act, for each five year period, the Council must (a) determine its policy with respect to the exercise of its licensing functions, and (b) publish a statement of that policy before the beginning of each five year period. The policy must be kept under constant review by the Council.

##### **5.2 Finance Officer's Comments (LW)**

There are no financial implications arising from this report.

##### **5.3 Diversities and Equalities Implications**

There are no diversity or equalities implications arising from this report.

##### **5.4 PR Implications (ML)**

The Communications Team will help publicise the consultation through appropriate channels. A policy that addresses how to resolve instances of conflict between neighbours and licensed premises could help in protecting the council's reputation when disputes arise over issues such as noise or inappropriate behaviour.

**1 Appendices:**

Appendix 1 – Shepway District Council - Licensing Policy Draft Statement 2018-2023

**2 Contact Officers and Background Documents**

Ben Geering – Head of Planning  
Telephone: 01303 853457  
Email: ben.geering@shepway.gov.uk

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

Licensing Act 2003  
Revised Guidance issued under section 182 of the Licensing Act 2003 – March 2015  
Deregulation Act 2015 – March 2015

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# Shepway District Council

Licensing Policy Statement

Licensing Act 2003

XXXX 2018



**Folkestone**

Hythe & Romney Marsh  
Shepway District Council



[www.shepway.gov.uk](http://www.shepway.gov.uk)

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## Foreword

The Licensing Act 2003 (henceforth known as the Act) requires that each licensing authority publishes a “Statement of Licensing Policy” that sets out the policies the authority will apply in the exercise of its licensing functions under the Act. Each licensing authority is obliged by the Act to review this policy every five years.

This policy has been prepared in accordance with the provisions of the Act and having regard to the statutory **guidance (revised guidance 13 July 2017)** issued under Section 182 of the Act (“the Guidance”). This policy will take effect on **XXX 2018** and will remain in force for a period of not more than 5 years, during which time it will be kept under review.

Ben Geering MRTPI  
Head of Planning  
Planning & Communities  
January 2018



## Consultation

This policy has been consulted on by members of the public, community stakeholders, specific groups and individuals as listed in section 5(3) of the 2003 Act. These are:

- The Chief Officer of Police for the area;
- The Fire and Rescue Authority for the area;
- Each Local Authority's Director of Public Health in England;
- Persons/bodies representative of local premises licence holders;
- Persons/bodies representative of local club premises certificate holders;
- Persons/bodies representative of local personal licence holders;
- Persons/bodies representative of businesses and residents in its area;
- The Child Protection Agency, and
- Advertised on Shepway District Council's website.

The views of all these bodies, and evidence presented, were given due weight in the determination of this policy.

This policy was put before Council for approval in **XXXX 2018**.

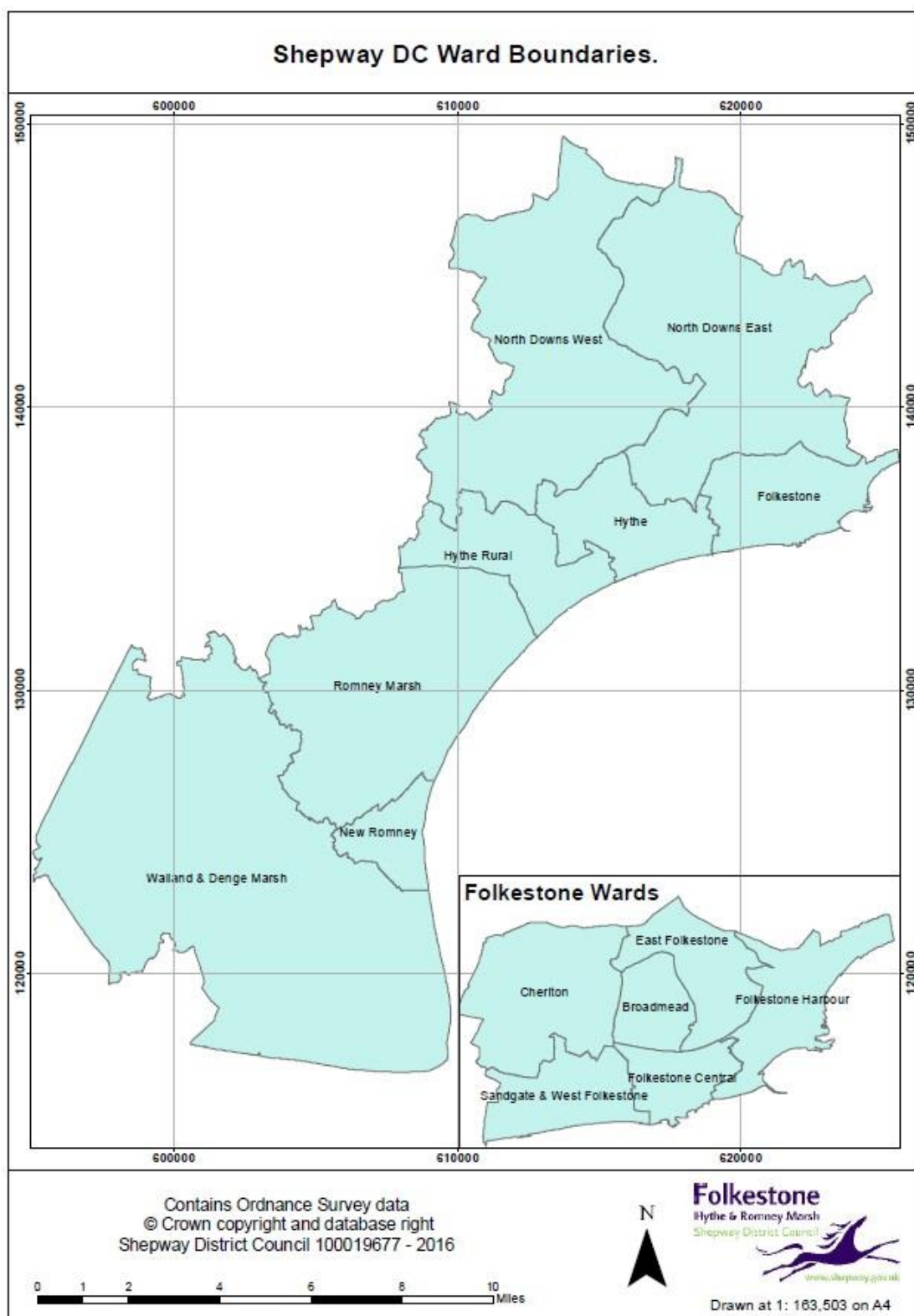
Further details on the requirements that need to be met can be obtained from the licensing authority.

## About Shepway District

Shepway District covers an area of 35,670 hectares (140 sq. miles) on the east Kent coast about 75 miles from London. It has a population of around 109,500 (2014) most of whom live in the Folkestone and Hythe Urban area, but there are also settlements at Lydd and New Romney, **North Downs area** and along the coastal strip.

The District occupies a key strategic position between the United Kingdom and mainland Europe at the end of the M20 motorway and with the Channel Tunnel, the port of Folkestone and Lydd Airport providing gateways to continental Europe. The location of the District is set out in the map below.

Shepway District Council is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total. Each is represented on the Kent & Medway Regulatory Licensing Steering Group (K&MRLStGp) whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.



There are **588** licensed premises in the District, of which **545** hold premises licences and **43** hold club premises certificates. Premises licensed include shops, village and community halls, pubs, bars, nightclubs, restaurants, open spaces, takeaways, barns, vineyards, hotels and private member clubs. In addition, the licensing authority has granted over **1,605** personal licences.

## Part A – Introduction

Shepway District Council, the licensing authority for the District of Shepway, makes this Statement of Licensing Policy in accordance with Section 5(1) Licensing Act 2003.

**The Act requires that the licensing authority carry out its various licensing functions so as to promote the following four licensing objectives:**

- **The prevention of crime and disorder;**
- **Public safety;**
- **The prevention of public nuisance; and**
- **The protection of children from harm.**

Each objective is of equal importance and there are no other licensing objectives. These four objectives are of paramount consideration at all times. These four licensing objectives are considered in more detail in Part B.

### Licensable Activity

The policy relates to all those licensing activities identified as falling within the provisions of the Act, namely:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of ‘regulated entertainment’ – to the public, to club members or with a view to profit
- A performance of a play
- An exhibition of a film
- An indoor sporting event before 08.00 or after 23.00 or to more than 1,000 spectators
- Boxing or wrestling entertainment
- Performance of live music on an unlicensed premise or on a licensed premise before 08.00 or after 23.00 or to more than 500 people
- Any playing of recorded music on an unlicensed premise or on a licensed premise before 08.00 or after 23.00 or to more than 500 people
- A performance of dance before 08.00 or after 23.00 or to more than 500 people
- The supply of hot food and/or drink from any premises between 23.00 to 05.00 hours (late night refreshments).

### Applications

The scope of the policy covers new licence applications, transfers and variation of operating schedules and temporary event notices (both standard and late TENs – see Appendix H).

Due to the similarity between the application processes for both premises licences and club premises certificates, a reference to a premises licence in this section will also be a reference to an application for a club premises certificate.

All applications for new premises licences and variations must be accompanied by an operating schedule. The schedule should specify (amongst other things) the steps which the applicant proposes to promote each of the four licensing objectives.

If no responsible authority or 'other person' lodges an objection (known as a 'relevant representation') to the application, the licensing authority must grant the application as set out in the operating schedule, subject only to mandatory conditions under the Act. The steps proposed by the applicant will become interpreted **into** legally enforceable licence conditions. The licensing authority will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule.

Where, however, there are relevant representations, then a hearing of the opposed application before a licensing sub-committee will normally follow. At the hearing the sub-committee will, having regard to the representations, **this Policy and the Guidance issued under Section 182 of the Licensing Act 2003**, take such steps as it considers appropriate to promote the four licensing objectives. These may include granting or refusing the application or adding to or modifying the conditions proposed in the operating schedule.

In exercising its discretion, the licensing sub-committee will have regard (amongst other things) to this Policy. Therefore, in drawing up their operating schedule, applicants would be well advised to read this Policy carefully, **in particular the Code of Conduct at Appendix D**. Where an operating schedule complies with this Policy, it is generally less likely that any 'other person' or responsible authority will object to it, or that an objection will succeed. Therefore, compliance with this Policy is likely to assist the applicant to avoid the delay and expense of a contested licensing hearing, and the risk of a refusal or the addition of unwanted conditions.

This is not to say that an opposed application which complies with this Policy will necessarily be granted or that an opposed application which does not comply with it will necessarily be refused. Where there have been relevant representations, **the licensing authority will always consider the individual merits of the case**, and interfere with the operating schedule only when, and to the extent, appropriate to promote the four licensing objectives. Blanket or standard conditions will not be applied without regard to the merits of the individual case. So, for example, the licensing authority will not interfere with an operating schedule which does not comply with this Policy where the steps proposed are sufficient to meet the four licensing objectives in the individual circumstances of the case.

However, this Policy represents the licensing authority's view of the best means of securing the four licensing objectives in most normal cases. It has been drawn up in consultation with other expert bodies and responsible

authorities, together with community stakeholders. While the contents of the operating schedule are a matter for the applicant, where there is objection to a schedule which departs from this Policy, the licensing sub-committee, hearing an opposed application, will normally expect to be given a good reason for the departure if it is asked to make an exception to this Policy.

In this Policy, there are a number of references to the licensing authority's expectation of applicants. As explained above, this Policy is only engaged where the licensing authority has a discretion following the receipt of a relevant representation. In such cases, the licensing authority will not apply this Policy rigidly, but will always have regard to the merits of the case with a view to promoting the four licensing objectives.

Further, the licensing authority may use this Policy when exercising other licensing functions. For example, when considering an application for review of a licence, the licensing authority is likely to view with concern premises which are being operated in clear breach of the terms of this Policy.

Nothing in this Policy will:

- Undermine the rights of any person to apply under the Act for a variety of permissions and have each such application considered on its individual merits; and/or,
- Override the right of any person to make representations on any application or seek a review of a licence or certificate where provision has been made for them to do so under the Act.

A prime responsibility of the licensing authority in licensing activities in premises is to work with the business community to maintain the level of business activity in towns and villages in a manner that has due regard for public enjoyment, tourism and commerce, while balancing this with the promotion of the four licensing objectives **to prevent an adverse impact for the community as a whole.**

Licensing is also about regulating licensable activities on licensed premises, by qualifying clubs or at temporary events within the terms of the Act. The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case.

In addressing this matter, the licensing authority will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the vicinity concerned.

The licensing authority acknowledges that licensing law is not the primary mechanism for the general control of nuisance or anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control

and licensing law will always be part of a holistic approach to the management of the daytime, evening and night-time economy.

The Act requires applicants to consider carefully this Policy when drafting their applications. Applicants should show that they have considered the practical effects of managing their business to accord with this Policy.

Shepway District Council expects holders of a premises licence, club premises certificate or temporary event notice to make every effort to minimise the impact of their activities and any nuisance or anti-social behaviour by their patrons within the vicinity of their premises.

The Human Rights Act 1998, incorporating the European Convention on Human Rights, makes it unlawful for a local authority to act in a way, which is incompatible with a Convention right. The licensing authority will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following relevant provisions of the European Convention on Human Rights:-

Article 6 – In the determination of civil rights and obligations every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 – Everyone has the right to respect for his private and family life, his home and his correspondence.

Article 1 of the First Protocol – Every person is entitled to the peaceful enjoyment of his or her possessions.

### **Determining a Licence Application**

Where an application is properly made and no responsible authority or other person makes representations, the licensing authority must grant the application, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the act. This should be undertaken as a simple administrative process by the officers of the licensing authority.

If representations are made by a responsible authority or other person, it is for the licensing authority to decide whether those representations are relevant to the licensing objectives and not frivolous or vexatious. If the licensing authority decides that any representations are relevant, then it must hold a hearing to consider them, unless the representations are withdrawn with agreement of all parties before a hearing.

At a hearing, the licensing authority may:

- Grant the application subject to modifying **hours/conditions** that are consistent with the operating schedule in a way it considers appropriate for the promotion of the licensing objectives;
- Reject one or more requested licensable activities;

- Reject the application; and/or
- Refuse to specify a person as a designated premises supervisor.

All decisions of the licensing authority, and any conditions imposed, must be appropriate for the promotion of the licensing objectives. Parties that disagree with the licensing authority's decision, have a right of appeal to the magistrates' court.

### **Administration, Exercise and Delegation of Functions**

The powers of the licensing authority under the Act may be carried out by Shepway District Council's licensing committee, by its licensing sub-committees or by one or more officers acting under delegated authority.

In the interests of speed, efficiency and cost-effectiveness to all parties involved in the licensing process, the Council has established a scheme of delegation to deal with applications received under the Act.

This form of delegation is without prejudice to the officers referring an application to the licensing sub-committee, or the sub-committee to the licensing committee, if considered appropriate in the circumstances of any particular case, and only in accordance with the Act.

The Council's approved table of delegation, showing the decision-making process for applications under the Licensing Act 2003, is attached at Appendix B to this Policy document.

### **Partnership Working**

The licensing authority will seek proper integration with Kent Police, planning, transport, employment, tourism and cultural strategies. In reviewing this policy the Council is consulting with the public and representative bodies and the views of all those responding to the consultation will be given appropriate weight when determining this policy.

The licensing authority will endeavour to work with other local authorities, particularly where licensing authority boundaries meet, to try and ensure a consistent approach is taken to licensing matters while respecting the differing needs of individual communities throughout the county.

### **Planning**

The use of any licensed premises or places may be subject to planning controls which differ to that of licensing. Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process, which relates to the use of the premises.

There is no legal basis for a licensing authority to refuse a licence application because it does not have the relevant planning permission. **However, the licensing authority strongly encourages applicants to resolve any planning**



issues before any licensing application is made. The licensing sub-committee will consider an application on its individual merits but may adjourn an application in order to avoid anomalies in the decisions of the two regimes, eg different opening hours.

### **Promoting Cultural Life**

Licensing is not solely about control but about promoting a diverse and vibrant cultural life for all. A well-regulated, varied day-time, evening and night-time economy can benefit both residents and businesses and contribute to the promotion of the licensing objectives. This statement of licensing policy will therefore also support through integration with other strategies a number of other aims and purposes:

- The use of proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations;
- Greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
- The encouragement of more family friendly premises where younger children can be free to go with the family;
- The maintenance of a safe and family friendly environment within the District, particularly within town centres;
- The further development within communities of our rich culture of live music, dancing and theatre, and other forms of entertainment both in rural areas and in our towns;
- The regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
- The necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

This policy will seek to reflect local requirements and recognise the need to encourage and promote live music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with these wider benefits. Through consultation the licensing authority will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing.

### **Enforcement**

The Council delivers a wide range of enforcement services aimed at safeguarding the environment, the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The licensing authority will aim to ensure effective and efficient public protection services and practice by carrying out its regulatory functions in a fair, open and consistent manner.

The licensing authority has adopted the principles of the government's enforcement guidance designed to ensure effective and efficient public

protection services. Specifically, the licensing authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.

Enforcement is based on the principles that licence holders / businesses should:

- receive clear explanations from an enforcement authority of the steps they need to take and the period for compliance
- have opportunities to resolve matters before enforcement action is taken - unless immediate action is needed
- receive an explanation of their rights of appeal.

The licensing authority will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. Proportionate but firm action will be taken against those who breach the conditions of their licence or break the law.

The licensing authority has set clear standards of service and performance that the public and businesses can expect. The policy explains how the licensing authority will undertake its enforcement role effectively and fairly.

The licensing authority's corporate complaints procedures, (comments, complaints and compliments), are available from website: [licensing@shepway.gov.uk](mailto:licensing@shepway.gov.uk)

The licensing authority will also carry out regular monitoring visits in and around licensed premises.

See appendix J for the enforcement actions/options.

Shepway District Council will continue to support and participate in the Kent & Medway Licensing Steering Group – a county forum which aims to:-

- Help develop consistency between the statutory agencies responsible for licensed premises;
- Develop potential for a joint approach to implementation and administration;
- Act as a strategic forum for licensing in Kent;
- Develop liaison with agencies and other relevant organisations;
- Promote best practice; and
- Enhance the potential for sharing resources.

The licensing authority recognises the need to avoid duplication with other regulatory regimes as far as possible. This Policy is not intended to duplicate existing legislation and regulatory regimes that place duties upon employers and operators. In the event that conduct of activity related to the business has been found to be in contravention of other regulatory regimes the licensing

authority will have regard to such conduct in considering licensing applications.

Some regulations do not cover the particular circumstances that arise in connection with entertainment. The licensing authority may (when its discretion is engaged), for example, attach conditions to premises licences and club premises certificates where these are considered appropriate for the promotion of the four licensing objectives and are not already provided for in any other legislation.

### **Cumulative Impact**

A cumulative impact policy creates a rebuttable presumption that applications within a particular area of the District for new premises licences or club premises certificates or material variations thereto will normally be refused, if relevant representations are received about the cumulative impact on the four licensing objectives.

The licensing authority will review the need for a special policy on cumulative impact at least every five years in line with the review of this policy to see if circumstances have changed and one is needed.

In addition to the review each five years the licensing authority may consider a special policy on cumulative impact at any time if circumstances change and evidence supports this course of action.

No area of the District is currently covered by a special policy on cumulative impact. **The council does not have a special policy as there is no evidential basis for such a policy taking into account the seven sources detailed in the statutory guidance. However, if an issue is identified requiring a special policy in the future, the matter can be revisited by the council at any time.**

**The absence of a special saturation policy does not prevent any responsible authority or other person making evidence based relevant representations on an application for the grant/variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.**

### **Early Morning Restriction Orders (EMRO)**

An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12 a.m. and 6 a.m. in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

The licensing authority will review the need for an EMRO at least every five years in line with the review of this policy to see if circumstances have changed and any are needed.

In addition to the review each five years the licensing authority may consider an EMRO at any time if circumstances changed and evidence supported this course of action.

No area of the District is covered by an EMRO at present.

### **Late Night Levy**

A Late Night Levy enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.

The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate ("holders"), in relation to premises in the authority's area, which authorise the sale or supply of alcohol on any days during a period (the "late night supply period") beginning at or after midnight and ending at or before 6am.

The licensing authority will review the need for a Late Night Levy at least every five years in line with the review of this policy to see if circumstances have changed and one is needed.

In addition to the review each five years the licensing authority may consider a Late Night Levy at any time if circumstances changed and evidence supported this course of action.

No area of the District is covered by a Late Night Levy at present.

### **Variation of Licences**

When considering an application for the variation of a licence, the licensing authority will consider the impact of the variation in terms of the policies in this document and the four licensing objectives. It will not use such an application as a means to review the licence terms and conditions already granted.

### **Minor Variations**

A premises licence/club premises certificate holder may apply under the minor variation procedure for small variations that will not impact adversely on the four licensing objectives.

A minor variation may be appropriate in cases:

- Where there is a minor change to the layout of a premises that would not affect public safety or nuisance;

- A reduction in the hours of operation of a premises;
- The removal of conditions that have become obsolete due to changes in legislation;
- The addition of voluntary conditions.

Minor variations are not permitted to increase the hours for the sale or supply of alcohol. There is no right to a hearing if the minor variation application is rejected, although an application for a full variation application may be made.

### **Removal of Designated Premises Supervisor from a Community Premises**

Where community premises hold a premises licence allowing the sale/supply of alcohol, the licence holder can apply to have the mandatory condition requiring a designated premises supervisor to be appointed, be removed. This passes the responsibility for the sale/supply of alcohol to the premises' management committee.

### **Licensing Hours**

The Act does not promote or prohibit longer licensing hours, however the licensing authority recognises that the statutory guidance issued by the Secretary of State emphasises that the aim through the promotion of the four licensing objectives should be to reduce the potential for concentrations of and a slower dispersal of, people from licensed premises through flexible opening times. This may be important to ensure that large concentrations of people do not leave premises at the same time and it may reduce the friction at late night hot food outlets, taxi ranks, taxi or private hire operators' offices and other sources of transport that can lead to disorder and disturbance.

The Policy applies to all types of premises licences and club premises certificates. It should be noted that the operating schedules must specify both the hours in which premises are open to customers and the hours when licensable activities are taking place.

In its revised guidance, the government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas and that licensing authorities are best placed to make decisions regarding licensing opening hours as part of the implementation of its licensing policy statement.

### **Core fixed hours**

This policy does not apply retrospectively and therefore premises with the benefit of hours outside the core hours will continue to operate in the same fashion. However, there is nothing to prevent the Licensing Sub-committee, on a review application, to consider the operating hours afresh if the business, club etc is having an adverse impact on the licensing objectives.

## **Residential areas, non-residential and mixed residential / non-residential areas**

The licensing authority considers that set fixed hours in residential and non-residential areas will promote the licensing objectives and in particular prevent of public nuisance.

It is the intention to generally grant licences or variations to licences where the hours when customers are permitted to be on the premises are within the 'core hours' as set out. This is not a policy to refuse applications for hours longer than the core hours and consideration will be given to the individual merits of each application.

Where an application is made to operate outside the core hours each application will be considered on its individual merits against the criteria as set out in paragraph below.

The licensing authority expects applicants to consider how people using the premises are to depart from the premises and from the area and make reference to it in their operating schedule. As part of applications for premises that intend to operate after midnight, operating schedules should include particular consideration to the availability of transport after the bus and train services cease operation.

- (i) Applications for hours within the core hours set out below in this Policy will generally be granted, subject to not being contrary to other elements in the Policy.
- (ii) Applications for hours outside the core hours set out below in this Policy will be considered on their individual merits, subject to other relevant policies and with particular regard to the following:
  - a) the demonstration of the promotion of the licensing objectives, in particular, prevention of crime and disorder, public safety and prevention of public nuisance associated with the likelihood of the effect of the grant of a licence for later or earlier hours on those objectives
  - b) whether there is residential accommodation in the proximity of the premises that would be likely to be adversely affected by premises being open or carrying out operations at the hours proposed
  - c) the proposed hours of the licensable activities and when customers will be permitted to remain on the premises
  - d) the proposed hours when any music, including incidental music, will be played
  - e) the hours when customers will be allowed to take food or drink outside the premises or be within open areas which form part of the premises
  - f) the existing hours of licensable activities and the past operation of the premises (if any) and hours of licensable premises in the vicinity

- g) whether customers and staff have adequate access to public transport when arriving at and leaving the premises, especially at night
- h) the capacity of the premises
- i) the type of use: recognising that premises that sell alcohol, play music for dancing, provide fast food, are more likely to be associated with crime and disorder and public nuisance than restaurants, theatres, cinemas, other performance venues or qualifying clubs
- j) the licensing authority will take into account the active measures proposed for a 'winding down' period including arrangements for people to be collected from the premises to travel home safely
- k) conditions on hours may be attached that require that the supply of alcohol for consumption on the premises ceases a suitable period of time before customers are required to leave the premises
- l) the licensing authority may reduce hours if, after review, it is necessary to impose conditions specifying shorter hours in order to promote the licensing objectives
- m) specific days for non-standard hours should be identified and justified as part of the application to allow responsible authorities and other persons to evaluate the impact that these licensable activities may have, and to plan accordingly. The consideration of applications for later hours for bank holiday Mondays will take into account that later hours are generally granted for preceding Sundays and that the next day is a working day. Non-specific days are expected to be covered by TENs or variation applications.

**Core opening hours** when customers are permitted to be on the premises in **residential and residential/non-residential areas**; this includes 30 minutes 'drinking up' time:

For premises for the supply of alcohol for consumption on the premises:

- Monday to Sunday: 10:00 - 23:30

For premises for the supply of alcohol for consumption off the premises:

- Monday to Saturday: 08:00 to 23:00
- Sundays: 10:00 to 22:30

For premises for the provision of other licensable activities:

- Monday to Sunday: 09:00 - 23.30

**Core opening hours** when customers are permitted to be on the premises in **non-residential areas**; this includes 30 minutes 'drinking up' time:

For premises for the supply of alcohol for consumption on the premises:

- Monday to Thursday and Sunday: 10:00 - 23:30
- Friday, Saturday 10:00 – 01:00
- Sunday prior to a bank holiday Monday 10:00 – 01:00

For premises for the supply of alcohol for consumption off the premises:

- Monday to Saturday: 08:00 to 23:00
- Sundays: 10:00 to 22:30

For premises for the provision of other licensable activities:

- Monday to Thursday and Sunday: 10:00 - 23:30
- Friday, Saturday 10:00 – 01:00
- Sunday prior to a bank holiday Monday 10:00 – 01:00.

Applicants are expected to comply with paragraphs 8.39 and 8.40 of the revised guidance to:

- (a) ensure that they obtained sufficient information in respect of the layout of the local area and physical environment to promote the licensing objectives and
- (b) determine the category of area that the premises is situated in, ie residential or non-residential or residential/non-residential as this will provide guidance as to which core hours should be applied.

If there is any dispute as to the category of area, this will be determined by the Licensing Sub-committee if an application requires a hearing. Reasons for the licensing authority's category determination will be included in the facts and reasons provided in support of the overall decision.

The licensing authority may consider imposing stricter conditions in respect of noise control where premises are situated in areas that have dense residential accommodation and/or are close to sensitive areas, for example hospitals, schools, places of worship, nursing homes, **especially if the licensing authority departs from its policy in respect of core hours**. However, regard will be given to the individual merits of any application, and the licensing authority would only have discretion to consider attaching such conditions where a relevant representation is received in respect of an application, and then only where considered appropriate for the promotion of the four licensing objectives.

### **Justification and reasons for core hours Policy**

Shepway district has a large number of licensed premises, particularly located within Folkestone in close proximity to residential properties or within mixed residential and non-residential areas. There is extensive late-night opening and a range of closing hours throughout the night, which often leads to groups of people moving between premises, late at night within residential areas. There is significant number of licensed premises in the area which operate after midnight. Often these premises are located within more historic parts of the town, within the Leas and Bayle Conservation Area whereby properties have single glazing and close interaction with the street.



Many of these premises obtained these hours through the process of conversion of licences during the transition period and continue to provide a variety of later operating times.

Since 2005, when the significant majority of premises closed at 22:30 there has been a constant increase in the number of businesses and facilities with a premises licence. The current position has been reached through a continual creeping extension to the night-time economy geographically, the number of premises and duration of the licensable activities, eg premises regularly extending the opening hours with a piece-meal strategy of applying for an extra 30 – 60 minutes every 12 – 18 months.

The number of residents in Folkestone town centre has also increased, alongside investment in the housing stock, changes of use of office buildings to residential and regeneration of the old town Creative Quarter. The council has received significantly more complaints and representations that the occupants of properties within the town centre and surrounding residential area are having their fundamental human rights to (a) quiet enjoyment of their homes and (b) sufficient sleep to ensure that their health and general well-being is not being compromised due to an imbalance between the promotion and development of businesses and those who live and work in the town. The Anti-social Behaviour, Crime and Policing Act 2014 supports these rights as a primary consideration to be made by authorities investigating complaints.

It is the role of the District as Licensing Authority to get the balance right between the licensing trade, residents, the licensing objectives and the availability of TENs to premises licence holder. This is therefore, an appropriate juncture to introduce fixed hours to maintain this balance. Adoption of fixed hours will mean that current premises licence holders will continue to operate in exactly the same way where they do so without problems. The fixed hours will only affect new premises licence applications, applications to vary existing licences beyond their current / core hours and those premises subjected to a review application. This adoption of fixed hours will have the added advantage of encouraging all applicants and licence holders to promote the four licensing objectives, the principal objective of the Licensing Act 2003.

The local authority, as do residents, recognise that the vast majority of licence holders operate safe and professional establishments but that problems are caused by groups of people migrating through the town centre and residential areas to different establishments. The minimum adverse interference caused is boisterous and excited behaviour of large numbers of people walking along key routes through and towards the town - these are the main routes used by pedestrians moving between and to / from licensed premises.

More serious anti-social behaviour endured is noise breakout from the premises, shouting, screaming, vomiting, urinating and defecating on private property or within the street.

The limited availability of night time public transport in the town centre means that people (a) remain in the town centre or walk home, often in loud groups or (b) use taxis and private hire vehicles, both of which extend the period and levels of noise.

Evidence submitted at review hearings and objections lodged, confirm that crime and disorder incidents occur in line with the hours premises are open.

In the particular circumstances of the Shepway district with its already extensive late opening, the council welcomes the inclusion in guidance of the government's acknowledgement on the primacy of the licensing authority to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement, and recognising that licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities.

In accordance with the guidance:

- the licensing authority will always consider each application and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application
- where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and / or different hours from those requested
- shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The council does not accept that in the circumstances of the district the granting of generally longer hours would result in a reduction in crime and disorder and public nuisance. It is prepared generally to grant premises licences for hours that will provide for longer hours at the end of the week but that still enable people to travel home relatively easily by train, bus, and taxi, while retaining opportunities for residents to have an additional respite on Sunday. It expects applicants to consider how people using the premises are to depart from the premises and from the area and make reference to it in their operating schedule. As part of applications for premises that intend to operate after midnight, operating schedules should for instance give particular consideration to the limited availability of transport in the early hours of the morning and the impacts of people dispersing from the premises.

Hours later than the core hours will be considered on their merits in relation to other sections of the policy. Folkestone Town Centre has seen considerable investment in recent years, with a growth in the restaurant, micropub and bar sectors and investment within town centre hotels. The Council wishes to see a less alcohol led and a more diverse range and variety of entertainment available later at night, capitalising on existing resources such as the Leas Cliff Hall and Quarterhouse and will allow for greater flexibility to those

premises that add to a more varied offer of entertainment, cultural activity, healthy activities etc. The council wishes to encourage a wider range of people to frequent the venues, both so that they can enjoy what it has to offer and because a wider range of age groups can act to curb anti-social behaviour; in doing this it will further the licensing objectives of prevention of crime and disorder and public nuisance.

The consideration of hours of operation will be in the context of the particular circumstances of each application and the licensing objectives of preventing crime and disorder and public nuisance.

The hours at which noise may occur and disturbance of residents' rest, relaxation and sleep will be of particular concern. In general, the conditions will be framed to ensure that closing hours on nights when residents have to get up for work the next morning are earlier than when it is less likely that they will have to do so.

Activity associated with late night licensed premises may have an impact on the local environment and may cause public nuisance. The effect of noise is greater later at night when ambient noise levels are lower and residents are at home relaxing or wishing to sleep.

The licensing authority in considering the imposition of conditions will focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning, when residents in adjacent properties will want to relax, or sleep.

Conditions relating to noise may also prove necessary to address any disturbance anticipated from the activities of customers in the vicinity of the premises. Applicants should carefully consider the hours that they will wish to operate each licensable activity and when to close their premises for the entry of customers and when to require them to leave. They should consider each licensable activity separately and carefully reflect this in their operating schedules. The licensing authority will similarly consider hours for licensable activities and closing times and appropriate conditions.

The benefits of "winding down" periods (after the last sales of alcoholic drinks, while food and non-alcoholic drinks are still available, when the volume and tempo of music is reduced and the levels of lighting are increased). These are very widely recognised as helping to reduce crime and disorder and public nuisance.

Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should consider stopping playing dance music and to switch to quieter, slower tempo music with a less pronounced beat while other licensable activities continue.

The consumption of alcohol on licensed premises is not directly regulated as a licensable activity under the Act but is clearly relevant in assessing whether the premises promote the licensing objectives. Similarly, the time to which

customers are permitted to remain on licensed premises, and subsequently leave those premises, is also relevant. Notwithstanding that some licence holders, as a matter of good management, may restrict the sale and consumption of alcohol for a period of time before the end of opening hours as part of a “winding down” strategy described above, the licensing authority will, subject to other conditions and restrictions, impose conditions on a licence to restrict the time at which alcohol may be consumed on the premises and / or require that all customers leave the premises by a certain time where it considers it appropriate to do so to promote the licensing objectives.

Applicants are encouraged not to apply for later hours than they will in fact operate; particularly the seeking of 24 hour licences where there is no intention of operating on a 24 hour basis. Responsible authorities and other persons will generally be more likely to make objections the later the hour that licensable activities are proposed to take place.

Premises where regulated entertainment is provided to a seated audience eg cinemas, theatres and concert venues, provide a diverse range of cultural and entertainment facilities and are attended by a wide range of age groups. They generally have little association with crime and disorder or public nuisance; because of this, these types of premises will be given the opportunity to operate more flexibly late at night. Any relevant representations received and the availability of transport will be matters for careful consideration.

In the past qualifying clubs have had little association with crime and disorder or public nuisance. Through their membership requirements, they exert a degree of control over behaviour in and around their premises. Any relevant representations received and the availability of transport will also be matters for careful consideration.

It is recognised that there is likely to be an increase in cultural, business, and tourism opportunities at the later hours but also that these activities may bring associated challenges for residents and public service providers. The council recognises that the scale, diversity and concentration of the night time economy, particularly in town centres is unique and brings cultural and financial benefits to the whole district. The council believes that good management of town centres, and investment in a diverse evening economy, and of the street environment within which it operates, is essential to the continued success of the area, and in attracting a wide range of people who want to work, visit or live in the area.

Statutory licensing policies are key tools in managing the competing pressures that the successful night time economy brings. They have been developed over many years to balance the benefits and impacts that arise for businesses, residents and visitors.

#### Non-standard hours

In order to have conditions that are clear and enforceable the circumstances in which the non-standard hours will apply must be identifiable. This is to give an opportunity for representations to be made in relation to particular events

and in order to provide predictability as to when non-standard hours will apply for the benefit of those who may be affected.

The inclusion of particular national saints' days will have to be considered in relation to the overall number of events. The particular clientele of premises may be a reason to seek non-standard hours for other national days. There should be no expectation of specific non-standard hours for any particular day. Premises not benefiting from exemptions for New Year's Eve must seek it specifically or use a temporary event notice.

### **Transfer of Licenses**

When considering an application for the transfer of a premises licence, the licensing authority will only have regard to the exceptional circumstances of the case as set out in any objection raised by the police on the grounds that the transfer will undermine the crime prevention objective. The effect on the crime prevention objective will be considered against the background of the policies contained in this document.

### **Provisional Statements**

An application for a provisional statement will be considered in the same way as would an application for a premises licence or club premises certificate, on the assumption that the works are completed as per the schedule of works submitted by the applicant.

### **Sexual Entertainment Venues**

Where premises are to be used on twelve or more occasions within a 12 month period for relevant sexual entertainment, the premises must also be licensed as a Sexual Entertainment Venue under the Local Government (Miscellaneous Provisions) Act 1982. Relevant sexual entertainment includes lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

### **Complaints, Reviews and Appeals**

The licensing authority will investigate complaints relevant to the four licensing objectives in relation to licensed premises. In the first instance, complainants will be encouraged to raise the **concern**/complaint directly with the licensee or business concerned. Where a responsible authority or any 'other person' has made:

- valid representations about licensed premises; or
- a valid application for a licence to be reviewed

then the licensing authority may initially arrange a **mediation/intervention meeting** to address, clarify and try to resolve the issues of concern.

The mediation process is used to assist applicants and those making representations in respect of new/variation applications to investigate as to

whether agreement can be reached as to hours, conditions, operations etc thereby avoiding hearing. Even if full agreement cannot be achieved, mediation can narrow the issues for consideration by the licensing sub-committee.

Intervention meetings are available as alternative to review proceedings and are arranged and facilitated by the council to assist in a swift resolution of concerns and issues of residents and licence holders. This facility is available in order to avoid unnecessary, expensive and protracted legal process and hearings.

A structured process will allow a person to identify the root cause of any concern and provide the premises licence holder the opportunity to review their operation so that a resolution can be explored.

It is important to note that:

- a) it is a completely voluntary process and any person can withdraw from the process at any time
- b) a person's statutory rights are unaffected and may pursue alternative actions, eg a review hearing application may be lodged.

The intervention meeting form can be found at Appendix E.

This process will not override the right of any responsible authority or any 'other person' to apply for a review of the premises licence or club premises certificate, or for any licence holder to decline to participate in a mediation meeting.

Applicants and those making representations in respect of applications and reviews to the licensing authority have a statutory right of appeal to the magistrates' court against the licensing authority's decisions.

### **Shops, Stores, Supermarkets and Garages**

The licensing authority will normally consider licensing shops, stores, supermarkets and garages to sell alcohol for consumption off the premises within the core hours defined above.

The licensing authority may consider whether there are very good reasons for restricting those hours. For example, a limitation of opening hours may be appropriate following relevant representations from the police in the case of shops known to be the focus of disorder and disturbance because people gather there and engage in nuisance and/or anti-social behaviour.

### **Mandatory Conditions**

The Licensing Act 2003 provides Mandatory Licensing Conditions that apply to all relevant premises in England and Wales. These conditions are amended from time to time by Statutory Instruments. Current Mandatory Conditions can

be viewed by visiting our website, [www.shepway.gov.uk/licensing](http://www.shepway.gov.uk/licensing) or requesting a copy by post.

### **Deregulation Act 2015**

The Deregulation Act 2015 introduced a number of changes to the Licensing Act 2003. This Act was to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes. **Appendix I provides a summary of activities that are exempt from the requirement of a premises licence or TEN.**

An overview of key points relevant to this policy is below.

- Temporary Event Notices - increased maximum number of events at a premises from 12 to 15 per calendar year
- Personal licences – it is no longer a requirement to renew a personal licence
- Sale of liqueur confectionery to children under 16 - this offence has been abolished
- Late night refreshment – a Local Authority may exempt supplies by designating areas, descriptions of premises and times specified
- Removal of requirement to report loss or theft of licence etc to police before copies may be issued – this applies to premises licence or summary, club premises certificate or summary, temporary events notice and personal licence
- Exhibition of films in community premises - the provision of entertainment consisting of the exhibition of a film at community premises is not to be regarded as the provision of regulated entertainment for the purposes of this Act, a number of conditions have to be satisfied.

### **Licensing Forum**

**The Licensing Officer will arrange and facilitate a licensing forum for licence holders, residents, responsible authorities, councillors, interested parties or specific issues / groups, eg area member panel matters, to address issues of mutual concern. The aims and objectives will be driven by solely the licensing objectives and a general consensus to support / develop business, culture and the well-being of the residents of the district.**

## PART B – The Licensing Objectives

### Each licensing objective is of equal importance

#### Prevention of Crime and Disorder

The prevention of crime and disorder objective is to protect the public from crime and anti-social behaviour caused by irresponsible licensed premises.

#### Best Practice in Crime Prevention

The licensing authority strongly encourages the implementation of best practice in licensed premises in the District in order to promote the crime prevention objective. Types of premises vary throughout the District, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are encouraged to **refer to the Code of Conduct (Appendix D) and to carry out a risk assessment (Appendix F)** of their premises by reference to the following items of best practice:

- Training given to staff in crime prevention measures appropriate to the premises;
- The physical security features installed in the premises. This may include matters such as the position of cash registers; the place where alcohol is stored in “off-licences”; the standard of CCTV that is installed and the retention period for images; the use of plastic, toughened or similar safety drinking glasses in pubs and clubs; and the secure storage of waste which could potentially be used as weapons;
- Measures to prevent the supply and consumption of illegal drugs, including any search procedures, entry policies and retention of seizures;
- Measures to raise staff awareness of, and discourage and prevent the use of, drugs on the premises;
- Arrangements to provide secure facilities to store seized drugs in a secure place;
- Additional to age verification requirements, the licensing authority and partners supports **the Challenge 25 initiative**;
- The likelihood of any violence, public order or policing problem if the licence or certificate is granted;
- Whether the applicant is a member of the Pubwatch scheme (or similar) within the District.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning



permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

The licensing authority will work in partnership with local Pubwatch initiatives in supporting licence holders to actively prevent crime and disorder and to form strategies to reduce current levels by meeting as necessary with members of the initiative. The strategies seek to address matters such as under-age sales, problems associated with drunken individuals, use of illegal drugs, violent and anti-social behaviour.

### **Public Safety**

The public safety objective is concerned with the physical safety of the people, including any performers appearing at the premises, attending licensable activities at the relevant premises.

The licensing authority is committed to ensuring public safety across the District by working in close partnership, in particular with Kent Police, Kent Fire and Rescue Service, licensees, and with any other relevant bodies.

### **Best Practice in Public Safety**

The licensing authority strongly encourages the implementation of best practice in licensed premises in the District in order to promote the public safety objective. Types of premises vary throughout the District, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are reminded that it is a requirement of legislation that any licensed premises carry out a fire risk assessment and to record the significant findings in writing (Regulatory Reform (Fire Safety) Order 2006 Article 9 paragraph 6).

**When preparing their operating schedules, applicants are encouraged to refer to the Code of Conduct (Appendix D) and to carry out a risk assessment (Appendix F) of their premises by reference to the following items of best practice:**

- **Occupancy limits** – The authority will not generally impose conditions as to occupancy levels where these are adequately addressed by other controls but may do so in any other case where relevant representations are made. Capacities should be addressed in the fire risk assessment;

- Fire safety – The fire risk assessment completed in relation to the use of the premises, should assist applicants in satisfying Kent Fire and Rescue Authority that the public safety objective will be met;
- Levels of door supervision adequate to control access to and egress from premises in order to ensure the public safety;
- Training for current and future staff in matters relating to public safety, where not already required by other legislation;
- Prevention of injury – Where there is evidence of a current or past problem in relation to particular premises or a particular locality, or in all circumstances it is considered likely that such a problem might occur, and/or premises are to be used primarily for the sale or supply and consumption of alcohol on premises (particularly if those premises have little seating for patrons relative to their size/capacity). Applicants should give consideration to a policy of using plastic, polycarbonate or toughened glass, and a policy not to pass glass bottles over the bar, either throughout the period of operation or at certain times or on certain occasions;
- Measures to reduce the impact of noise both in terms of staff safety and protection of hearing of the public and staff at the premises, where such measures are not already required by other legislation;
- Measures to ensure that litter does not cause a nuisance or a health hazard to the public or a fire hazard to the vicinity, as generated by the activity at or near to the premises.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

### **Prevention of Public Nuisance**

In considering the promotion of this licensing objective, the licensing authority will focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate or unreasonable.

The licensing authority is likely to be concerned with noise nuisance, light pollution, noxious smells and litter.

Under the Act, “public nuisance” retains its broad common law meaning. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a person living locally as well as major disturbance affecting

the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of any other person.

### **Best practice in the Prevention of Public Nuisance**

The licensing authority strongly encourages the implementation of best practice in licensed premises in the District in order to promote the prevention of public nuisance objective. Types of premises vary throughout the District, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are encouraged to refer to the Code of Conduct (Appendix D) and to carry out a risk assessment (Appendix F) of their premises by reference to the following items of best practice:

- Measures to prevent noise and vibration escaping from the premises, including; music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning (though this may add to the problem, especially if left on overnight), acoustic lobbies and sound limitation devices;
- Measures to prevent disturbance by patrons/customers arriving at or leaving the premises, particularly between the hours of **23:00** and **07:00**;
- Measures to prevent queuing or, if queuing is inevitable, to divert queues away from neighbouring premises, or otherwise to manage the queue to prevent disturbance or obstruction;
- Measures to ensure that customers/patrons and staff leave the premises quietly;
- Arrangements for parking by patrons/customers, and minimisation of the effect that parking will have on local residents and businesses;
- Measures to reduce the impact that the use of gardens, **smoking areas** or other open-air areas will have on local residents and businesses;
- The positioning of external lighting, including security lighting that is installed appropriately;
- Accessibility to local public transport services, including taxis and private hire vehicles;
- Measures to minimise the impact of refuse storage or disposal (including noise associated with bottle delivery and disposal **eg not before 08:00 or after 10:00**), or additional litter (including fly posters and unauthorised placards) in the vicinity of the premises;
- Measures to minimise noxious smells **emitting** from the premises.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary

or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

### **Protection of Children from Harm**

The protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language, sexual imagery and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided. However, in the context of many licensed premises such as pubs, restaurants, café bars and hotels, the licensing authority recognises that the development of family friendly environments should not be frustrated by overly restrictive measures in relation to children.

The licensing authority also recognises that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions unless the Act itself imposes such a restriction or there are good reasons to restrict entry or to exclude children completely. The licensing authority will focus on enforcing the law concerning the consumption of alcohol by minors.

**The council encourages all premises selling / supplying alcohol to operate the Challenge 25 Scheme.**

**When preparing their operating schedules, applicants are encouraged to refer to the Code of Conduct (Appendix D) and to carry out a risk assessment (Appendix F) of their premises by reference to the following items of best practice:**

### **Access to Licensed Premises**

The Act prohibits unaccompanied children from entering certain premises and between certain hours. It is an offence under the Act to:

- a) permit children under the age of 16 who are not accompanied by an adult (aged 18 or over) to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authority of a premises licence, club premises certificate or temporary event notice, and
- b) permit the presence of children under the age of 16 who are not accompanied by an adult between midnight and **05:00** at other premises supplying alcohol for consumption on the premises under the authority of a premises licence, club premises certificate or temporary event notice.

Other than set out above, and subject to the licence holders, the Act does not prevent unaccompanied children from having free access to any licensed premises where the consumption of alcohol is not the exclusive or primary activity.

The licensing authority will consider the individual merits of each application, and then only when an application attracts relevant representations, before deciding whether it is appropriate to limit the access of children to any given premises. The following are examples of premises that will raise particular concern:-

- Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking;
- Where there is a known association with drug taking or drug dealing;
- Where there is a strong element of gambling on the premises;
- Where entertainment of an adult or sexual nature is provided;
- Where films with age-restricted classifications are to be shown.

Where relevant representations are received in respect of an application, the licensing authority may consider the following additional measures (which may be adopted in combination) for limiting the access of children to licensed premises in order to prevent harm:

- Limitations on the hours when children may be present;
- Limitations on ages below 18;
- Limitations or exclusion when certain activities are taking place;
- Restrictions or exclusions in respect of parts of premises;
- Requirements for an accompanying adult;
- Full exclusion of all persons under 18 years of age from the premises when any licensable activities are taking place.

### **Children and Cinemas**

In the case of premises giving film exhibitions, the licensing authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification/**local authority classification**.

### **Illegal Sales of Restricted Goods**

The licensing authority, Kent County Council's (KCC) Trading Standards and the police take a serious view of the sale to minors of age-restricted goods. Trading Standards in Kent will continue to seek to ensure that there is no illegal sale of age restricted goods. The work of KCC Trading Standards in setting up systems to avoid sales to minors taking place is acknowledged and welcomed by the licensing authority. This work will continue and the licensing authority will welcome reports from KCC Trading Standards on any relevant licensing matter. The licensing authority has particular regard to addressing

problems caused by the link between alcohol sales to minors and crime and disorder issues.

### **Best Practice in the Protection of Children from Harm**

The licensing authority strongly encourages the implementation of best practice in licensed premises in the District in order to promote the protection of children from harm objective. Types of premises vary throughout the District, as do the types of licensable activities carried on at those premises, and therefore the steps appropriate to promote this objective will vary by premises.

When preparing their operating schedules, applicants are encouraged to carry out a risk assessment of their premises by reference to the following items of best practice:

- Staff training on the law with regard to restricted sales;
- Training records and documentation to be kept available for inspection;
- Staff training to include; checking identification (ID) for proof of age, through a secure system. Ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark;
- A responsible person (as identified by Section 153 (4) of the Act) who is present and responsible for transactions made through staff that may be under 18 years of age;
- Procedures in place to record refusals of sales, with such records kept available for inspection;
- Vending machines dispensing age-restricted goods to be positioned to allow for proper supervision at all times;
- Arrangements for restricting children from viewing age-restricted films, classified according to the recommendations of the British Board of Film Classification (BBFC) or the licensing authority.

Where the majority of the intended audience at regulated entertainment is expected to be children or the entertainment offered is of a nature likely to be of interest to children (e.g. theatre productions or film shows), the following are considered best practice arrangements in order to control their access and egress and to assure their safety:-

- Each event/facility to assess requirements has undertaken specific risk assessments to identify ratios/regulations required for applicant may be asked to provide proof of risk assessment;
- A “lost child” policy which identifies arrangements for the safe care of lost children until they are reunited with the parent/guardian;
- A staff-to-children ratio which will ensure adequate supervision.

Applicants are expected to include the above items of best practice in their operating schedules, where relevant to the premises. Where they elect not to do so, they are advised to include information explaining the omission. This might be because a risk assessment has shown that the step is unnecessary or because the item is already the subject of another consent, e.g. a planning permission or statutory obligation. If such information is not included, it may result in a relevant representation being made, leading to the cost and delay of a hearing before a licensing sub-committee.

The steps volunteered in the operating schedule will become conditions of the licence or certificate, and therefore applicants should consider carefully the steps appropriate for the promotion of the four licensing objectives at their particular premises.

### **Applications which Receive Objections**

If a relevant representation is made, the licensing authority will have discretion to take such steps as are appropriate to promote the four licensing objectives. In exercising its discretion, it may where relevant, take into account whether the applicant proposes to follow the best practice set out above.

The licensing authority recognises the need to avoid duplication with other regulatory regimes as far as possible, including avoiding replicating offences set out in the Act and other legislation. The Licensing Authority will, when considering an application following receipt of relevant representation, consider attaching conditions to licences and certificates intended to promote the licensing objectives, and these should reflect the general principles regarding licence conditions set out in Chapter 1 of the Guidance issued under section 182 of the Act.

Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected/permitted/licensed to take place there.

## PART C – Temporary Event Notices (TENs)

Where a person wishes to use premises for one or more licensable activities for a period not exceeding 168 hours, that person can serve a;

- **Standard temporary event notices** (TEN) must be served on the licensing authority, the police and the local authority exercising environmental health functions (EHA) on whose area the event is held, no later than ten clear working days before the event is to begin. To avoid confusion, the ten working days does not include weekends, public holidays, the day of receipt of the TEN and the day of the event itself.
- **Late temporary event notices** (late TEN) can be served up to five working days but no earlier than nine working days before the event. The late TEN must be served on the licensing authority, the police and the local authority exercising environmental health functions (EHA) on whose area the event is held, no later than five clear working days before the event is to begin. To avoid confusion, the five working days does not include weekends, public holidays, the day of receipt of the TEN and the day of the event itself.

The maximum number of persons allowed on the premises at the same time during the temporary event is 499.

If alcohol is to be supplied, all supplies must be carried out by or under the authority of the person serving the TEN, and that person need not hold a personal licence.

Only the police and EHA may object to the staging of a temporary event. If they believe that any of the four licensing objectives will be undermined by the event they will issue an 'objection notice'.

Where an objection notice is received in relation to a standard TEN, if required the licensing sub-committee will convene within seven working days of it being issued. The licensing authority will notify all relevant parties of the time and venue for the hearing. A hearing will not always be necessary if an agreement can be reached beforehand.

Where an objection notice is received in relation to a late TEN, the event will automatically be refused authorisation. There is no right of appeal in this instance.

There are limitations on the number of TENs that individuals can give and which can be given in relation to a particular premises:

- Any premises can only be used for 15 temporary events per calendar year, up to a total maximum of 21 days;
- Personal licence holders can give 50 TENs (made up of standard and late TENs) a year; non personal licence holders can only give 5 (made up of standard and late TENs);



- Personal licence holders can give 10 late TENS a year; non personal licence holders can only give 2;
- There must be at least 24 hours between temporary events organised by the same person or an associate in relation to the same premises.

The 2003 Act provides that only the licensing authority can impose conditions (from the existing conditions on the premises licence or club certificate) to a TEN. The licensing authority can only do so:

- If the police or EHA have objected to the TEN;
- If the objection has not been withdrawn;
- If the licensing authority considers it appropriate for the promotion of the four licensing objectives to impose one or more conditions.

Where the limitations on a temporary event cannot be fulfilled, for example due to the large numbers attending, a premises licence will be required. The licensing authority would strongly advise applicants to submit early notice of such a major event to allow responsible authorities to discuss and agree operating schedules.

Please see [Appendix H](#) for a summary of standard and late TENS.

## PART D – Club Premises Certificate

Members' clubs can operate under club premises certificate instead of premises licence. This means, for example, that they are not required to have a designated premises supervisor, and sales of alcohol do not need to be authorised by a personal licence holder.

### Qualifying Clubs

To be classified as a club for the purpose of this certificate, a group must meet several conditions. These include:

- Legitimacy - each applicant must be a real club with at least 25 members, **a constitution and club rules**;
- A membership process that takes at least two days between application and acceptance;
- Alcohol must not be supplied on the premises other than by the club;
- Alcohol must be purchased by a committee made up of members all of whom are at least 18 years old;
- Alcohol for the club must be purchased legally.

Other legal restrictions for clubs operating under a club premises certificate are in the Act and applicants are advised to contact the licensing authority for advice.

## PART E – Personal Licences and Designated Premises Supervisors (DPS)

### Personal Licences

A personal licence is not required in order to be employed in a pub or other business that sells alcohol. Premises licensed to sell alcohol must have a designated premises supervisor, who holds a personal licence.

The one exception is a community premises that has successfully applied to waive the DPS requirement under section 41(d) of the Act.

Anyone who does not hold a personal licence must be authorised to sell alcohol by a **DPS**. There is no such requirement for the supply of alcohol in a members' club.

Personal licences allow you to sell alcohol on behalf of any business that has a premises licence.

In order to apply, you must be aged 18 years or over, and hold a licensing qualification - for example, a BII Level II examination certificate for Personal Licence holder and a basic criminal conviction check, no more than three months old showing no relevant convictions.

Where a criminal record check discloses an unspent relevant conviction (see Schedule 4 of the Act) and the police object to the application on crime prevention grounds, the licensing sub-committee will normally refuse such an application unless there are exceptional and compelling circumstances to justify the granting of a licence.

The aim of the qualification is to ensure that licence holders are aware of licensing law and the wider social responsibilities involved in the sale of alcohol.

The personal licence is designed to ensure that anybody running or managing a business that sells alcohol will do so in a professional fashion. **Only holders of personal licences can become designated premises supervisors for any business that sells alcohol.**

The Licensing Authority encourages premises licence holders to have as many employees as possible, in addition to the DPS, to obtain a personal licence / personal licence qualification as this raises knowledge, awareness and competences which in turn, promotes the licensing objectives. If a business adopts such an approach, this can be raised as a reason for departing from the Policy when addressing the individual merits of an application.

### Designated Premises Supervisors

A designated premises supervisor (DPS) is normally the person who has been given the day-to-day responsibility for the running of the premises by the premises licence holder.

All businesses and organisations selling **alcohol**, except certain community premises must have a designated premises supervisor.

Whoever holds this role must be named in the operating schedule, which needs to be completed as part of the application process when applying for a premises licence or by submitting an application to vary a premises licence to specify an individual as a DPS.

The DPS will act as primary contact for the licensing authority and the responsible authorities, including the police. They must understand the social issues and potential problems associated with the sale of alcohol, and also have a good understanding of the business itself. While they need not be on site at all times, they are expected to be involved enough with the business to be able to act as its representative.

If the licensing authority or police have any questions or concerns about the business, they will expect to be able to reach the DPS.

Each business may have only one supervisor selected for this role, but the same person may act as the designated supervisor at more than one business.

The Act requires the DPS and all personal licence holders take responsibility for the sale and supply of alcohol. This is because of the impact alcohol has on the wider community, on crime and disorder, and antisocial behaviour. Because of these issues, selling alcohol carries greater responsibility than licensing regulated entertainment and late night sales of food and non-alcoholic drinks.

### **Further Information**

If you need more details about the licensing process or making an application please contact the Licensing Department, Shepway District Council, Civic Centre, Castle Hill Avenue, Folkestone CT20 2QY. Tel: 01303 853000. [licensing@shepway.gov.uk](mailto:licensing@shepway.gov.uk)

## Appendix A: Responsible Authorities

Below is a list of Responsible Authorities:

- The relevant licensing authority and any other licensing authority in whose area part of the premises are situated
- Chief Officer of Police
- The local Fire & Rescue Authority
- The relevant authority under the Health & Safety at Work Act 1974
- Local authority exercising environmental health functions (EHA)
- The local Planning Authority
- A body that represents those who are responsible for or interested in matters relating to the protection of children from harm (Kent County Council social services)
- Each local authority's Director of Public Health (DPH) in England (Kent public health department)
- The local Weight and Measures Authority (Kent County Council trading standards)
- Home Office - Immigration

Addresses for these bodies can be found in Appendix C.

## Appendix B: Exercise and Delegations of Functions

All decisions on licensing matters under the 2003 Act, with the exception of the approval and review of its Statement of Licensing Policy, will be taken in accordance with the following scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

These delegations are without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate by the Licensing Officer or Sub Committee in the circumstances of any particular case and where permitted by legislation.

Matter to be dealt with	Sub Committee	Officers
Application for grant licence	If representation made	If no representation made
Decision whether to revoke personal licence when convictions come to light after grant	All cases	
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If representation made	If no representation made
Application for provisional statement	If representation made	If no representation made
Application to vary premises licence/club premises certificate	If representation made	If no representation made
Application to vary designated premises supervisor	If Police representation made	All other cases
Request to be removed as designated premises supervisor		All cases
Application to transfer premises licences	If Police representation made	All other cases
Applications for Interim Authorities Application to review	If Police representation made All cases	All other cases

premises licence/club premises certificate		
Decision whether a representation is irrelevant, frivolous, vexatious etc*		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of a police representation to a temporary event notice	All cases	
Determination of application for the alternative licence condition to be included in the licence instead of the conditions in section 19(2) and (3))	If police representation made	If no police objection is made
Determination of application by community premises to disapply the mandatory conditions for alcohol on a premises	If police representation made	If no police objection is made
Determination of application for a review: supply of alcohol from community premises	If police representation made	
Determination of application for expedited reviews	If police representation made	
Determination of application for Interim steps	If police representation made	
Determination of application for a review of premises licence following review notice	If police representation made	

Application for a Minor Variation of a Premises Licence		All cases including if representation is made
Application for a Minor Variation of a Club Premises Certificate		All cases including if representation is made

**\*Irrelevant, frivolous, vexatious and repetitious representations**

The licensing authority will not consider representations which are irrelevant, made out of time or which are, in the council's opinion, repetitious, frivolous or vexatious.

Representations must be relevant before the licensing authority can consider them.

This means that they must:

- address one or more of the licensing objectives
- be made by a responsible authority or other person
- have some evidential link to the premises in question.

Officers will be delegated with the authority to reject a representation.



## Appendix C: Useful Addresses

Licensing Team  
Shepway District Council  
Civic Centre  
Castle Hill Avenue  
Folkestone  
Kent CT20 2QY  
01303-853526 / 853407  
[licensing@shepway.gov.uk](mailto:licensing@shepway.gov.uk)

### Responsible Authorities

#### Police

Police Licensing (East Division)  
CSU  
Canterbury Police Station,  
Old Dover Road,  
Canterbury  
Kent CT1 3JQ  
01622 690690

#### Fire

Fire Safety Officer  
Folkestone Fire Station  
Park Farm Road  
Folkestone  
Kent CT19 5DH  
01303-227201

#### Environmental Health

##### (Health & Safety)

##### Commercial Team Leader

Environmental Health  
Shepway District Council, Civic  
Centre, Castle Hill Avenue,  
Folkestone, Kent  
CT20 2QY  
01303-850388

#### Planning Control

Planning  
Shepway District Council, Civic  
Centre, Castle Hill Avenue,  
Folkestone, Kent  
CT20 2QY  
01303-850388

##### (Noise Pollution)

##### Environmental Protection Team Leader

Environmental Health  
Shepway District Council, Civic  
Centre, Castle Hill Avenue,  
Folkestone, Kent  
CT20 2QY  
01303-850388

#### Trading Standards

Kent County Council, Trading  
Standards, Invicta House, County  
Hall, Maidstone, Kent ME14 1XX  
01622-221012

#### Social Services

Kent County Council - Social  
Services  
Queens House, Guildhall Street,  
Folkestone, Kent CT20 1DX  
01303-253476

#### Primary Health Care Trust

Kent Public Health  
Room 1.60 Sessions House, County  
Hall, Maidstone Kent ME14 1XQ  
01622 694175

**Home Office (Immigration)**  
Alcohol Licensing Team  
Lunar House, 40 Wellesley Road,  
Croydon CR9 2BY

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## Appendix D

## **Code of practice for licensed premises**

### **Introduction**

The Licensing Act 2003 (the Act) focuses on the promotion of four statutory licensing objectives which must be addressed when licensing functions are undertaken. The four licensing objectives are:

- **the prevention of crime and disorder**
- **public safety**
- **the prevention of public nuisance**
- **the protection of children from harm.**

### **Aim of the code**

The aim of this code is to provide applicants and licensees with guidance on good practice for the promotion of the four licensing objectives which are the paramount considerations at all times. The code is consistent with the Home Office guidance issued under section 182 of the Act and with the Shepway District Council's statement of licensing policy.

It outlines what the Shepway District Council licensing authority and its responsible authority partners expect in practical terms from applicants when completing their operating schedules and from licensees when operating their premises under the terms of a premises licence.

Applicants and licensees are encouraged to make a proactive commitment to preventing problems from occurring at licensed premises through the voluntary adoption of this code.

The code will provide a consistent approach for licensees, responsible authorities, councillors, officers and members of the community, particularly residents and businesses in close proximity to licensed premises.

### **Risks associated with licensed premises**

Risks associated with licensed premises can vary dependent on the premises type and characteristics, the design, layout and general environment, the location, the policies in place and the events being held there.

This code identifies many of the possible risks associated with the sale of alcohol and the provision of entertainment or late night refreshment and sets out good practice measures to mitigate those risks. It provides a key mechanism for the promotion of the licensing objectives, for well-run premises and a responsible approach to the provision of alcohol, entertainment and late night refreshment in the district.

It is recognised that not every risk will be relevant to every premise and it is unlikely that any one premise will need to address all of the measures. Indeed some premises may only need to introduce one or two measures.

The code cannot anticipate every possible risk, problem or circumstance that may arise from licensed premises. Neither does the code restrict an applicant or licence holder from promoting the licensing objectives through alternative means.

## **How will the code be used?**

### **Applicants and licensees**

A proactive and preventative approach is a key aspect of good management at licensed premises. The Shepway District Council licensing authority therefore encourages applicants to have regard to this code when completing their operating schedule.

Applicants have the opportunity to (a) certify that they have read the licensing policy and the code and (b) complete an assessment of the premises to assist applicants and licence holders have addressed that relevant elements of the policy in relation to their premise.

If problems occur at licensed premises after a licence has been granted and a reactive approach is needed, licensees are advised to put additional operational measures in place to manage and prevent those problems from recurring. The Shepway District Council licensing authority encourages licensees to have regard to this code when considering additional operational measures and use the assessment tool to improve promotion of the licensing objectives.

### **The licensing authority and responsible authorities**

Use of the code is not a statutory or policy requirement but it will be taken into consideration and used by the licensing authority and responsible authorities as follows:

- when offering advice to applicants either at the design and planning stage or during pre-application discussions
- when responding to licence applications where the licensing objectives have not been adequately addressed in the operating schedule
- as a first point of dealing with licensed premises encountering problems, to raise standards to promote the licensing objectives in those premises and avoid further problems and
- for the review of licences where there is evidence that licensees have not promoted the licensing objectives.

### **Dealing with problem premises**

The routine monitoring of licensed premises will be undertaken by the licensing authority and responsible authorities and findings under the four licensing objectives will be raised.

Problems or concerns with licensed premises will be identified and flagged up at an early stage and advice will be offered to licensees with a view to improving standards at their premises and to prevent or minimise subsequent problems.

Where problems have been identified, the licensing authority and responsible authorities will seek to agree appropriate measures from the code with the licence holder to be implemented at the premises. The aim of the code is to avoid the need for enforcement action such as prosecution or review but it will not replace enforcement action where it is necessary.

### **General – all four licensing objectives**

This section provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the general promotion of the licensing objectives after a licence has been granted.

Licensees and their staff have responsibility for the effective and safe management of their premises and the promotion of the four licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and

manage risks associated with licensed premises. Training should be provided to all staff and should be about both preventing and managing problems occurring at premises. Training should be regularly updated.

Risk		Good Practice Measure
<p><b>Lack of knowledge or understanding of the Licensing Act 2003</b></p>	<p><b>G1</b></p>	<p>(a) Well trained staff will contribute to well run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment. Formal qualifications for your staff, either to personal licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>(b) All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>(c) Training should also be provided on premises' specific policies relevant to the operation of the business.</p> <p>(d) A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.</p>

### Prevention of crime and disorder

This section provides guidance on good practice for the prevention of crime and disorder from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of crime and disorder from their premises after a licence has been granted.

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti-social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

All applications for new licences and variations should address the steps proposed to prevent crime and disorder and this is best achieved through a premises risk assessment. Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make an important difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder.

Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
Security in and around the premises	CD1	<p>(a) <b>An alarm or other security measure</b> should be installed at the premises to protect it when closed or empty.</p> <p>(b) Emergency exits should be alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering.</p> <p>(c) Any staff or private areas and cellars should be kept locked and secured whilst the premises are open to the public.</p>
	CD2	<p>(a) <b>CCTV</b> should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct.</p> <p>(b) The recordings should be in real time and on hard drive with the availability to copy disks for other agencies such as the police.</p> <p>(c) For analogue systems, tapes should be changed daily and used no more than 12 times.</p> <p>(d) Recordings should be kept for a minimum period of 28 days.</p> <p>(e) Staff should be trained in the maintenance and operation of such systems with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(f) A trained member of staff should be on duty to operate the system whenever the premises are open.</p>
	CD3	<p><b>External lighting</b> provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.</p>
	CD4	<p>(a) <b>Security systems should be integrated</b> so that the alarm, CCTV and lighting work together in an effective manner.</p> <p>(b) The alarm should be linked to a system that will notify the police if it is activated.</p>
	CD5	<p>(a) <b>Door staff and / or stewards</b> should be employed at the venue supervise admissions and customers inside the venue.</p> <p>(b) Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working.</p> <p>(c) Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.</p>

		<p>(d) Door staff should sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded.</p> <p>(e) Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.</p>
	<b>CD6</b>	<p>(a) <b>Effective security policies</b>, based on risk assessments, can protect your premises, staff and customers from threats, conflict or violence.</p> <p>(b) Security policies should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must be aware of a premises security policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(d) Premises should be searched inside and out for suspect packages before, during and after opening hours. Staff should be trained to remain vigilant during opening hours and report any suspicious activity to the police.</p>
	<b>CD7</b>	<b>Security reviews</b> should be held regularly and at least every three months with minutes kept.
	<b>CD8</b>	<p>(a) <b>Daily staff briefing and debriefing</b> will enable licensees to improve working practices in their premises.</p> <p>(b) Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p>
<b>Crime and disorder in and around the premises</b>	<b>CD9</b>	<p>(a) <b>Promoted events</b> may attract larger than usual crowds.</p> <p>(b) Such events must have a comprehensive risk assessment undertaken by the licence holder and submitted to the <b>Shepway District Council Events Team</b>.</p> <p>(c) It is expected that promoters should have obtained the BIIAB level 2 for large scale music events for over 1500 people.</p> <p>(d) In the event that a problem should arise during a promoted event, this should be documented by the licence holder and it is expected that a written debrief will be provided to the Shepway District Council licensing officer and the police licensing officer within 48 hours of the event.</p>
<b>Crime including</b>	<b>CD10</b>	(a) <b>Proper management of the door</b> will depend on the size and type of venue. The number of door supervisors should



<p><b>conflict, violence or aggression in and around the premises</b></p>		<p>be determined by a risk assessment taking into account the size of venue and the type of crowd the entertainment is likely to attract, but at the very least on a ratio of 1 door supervisor per 50 customers.</p> <p>(b) Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.</p>
	<p><b>CD11</b></p>	<p><b>A door admissions policy</b> including any age restrictions, expected dress standards or the screening of hand bags should be widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.</p>
	<p><b>CD12</b></p>	<p>(a) <b>Ejecting or refusing entry to persons</b> from the premises if they do not meet your admissions standards or they are known to be violent or aggressive.</p> <p>(b) In such cases, an entry should be made in an incident or log book.</p> <p>(c) Identification scanners should be considered if this would aide (i) swift entry procedures and (ii) identify customers with a history of problems at other venues.</p>
	<p><b>CD13</b></p>	<p>(a) <b>A policy to manage capacity</b> should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p>(b) For promoted events and large venues, the use of clickers is essential to record the number of patrons inside the premises.</p> <p>(c) For other events or smaller venues, ticket sales or head counts may be appropriate.</p> <p>(d) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.</p> <p>(e) Where a premises holds a special event which is expected to attract a greater than usual number of patrons and in excess of 1500 people, the premises licence holder will be expected to notify the Shepway District Council licensing officer and the police licensing officer licensing team at least 14 days in advance of the event.</p>
	<p><b>CD14</b></p>	<p>(a) <b>Alternatives to glass drinking vessels</b> should be considered to prevent glassware being used as an assault weapon, particularly during promoted events.</p> <p>(b) Drinking vessels made from plastic or polycarbonate would be preferential particularly in outside areas.</p>

		(c) Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.
	<b>CD15</b>	<p>(a) <b>Measures to preserve a crime scene</b> until police arrival, following the outbreak of disorder or any other crime should be clearly documented in a policy.</p> <p>(b) Such a policy should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must receive training on the policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<b>CD16</b>	<p>(a) <b>Staff training</b> in conflict management should be provided to give them the knowledge and confidence to deal with difficult situations and reduce crime and disorder at the premises.</p> <p>(b) Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>(c) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<b>CD17</b>	<b>Sharing of information</b> with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub / club watch scheme will enable information to be passed on about trouble makers and common problems in the area.
<b>Drugs and weapons being brought into the premises</b>	<b>CD18</b>	<p>(a) <b>A zero tolerance policy</b> to the use of drugs, including 'legal highs' and carrying of weapons in the premises should be adopted with a clear "<i>No search. No entry</i>" message.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of zero tolerance policy.</p>
	<b>CD19</b>	<p>(a) <b>Effective search policies</b> will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.</p> <p>(b) The use of search arches and wands may be appropriate in some cases.</p> <p>(c) Search policies should be formulated in consultation with the police licensing officer.</p>

		<p>(d) Search policies must be advertised widely on tickets, promotional leaflets and on websites and prominently in the premises entrance and queuing area.</p> <p>(e) Searches should always be carried out in public areas and covered by CCTV.</p> <p>(f) All staff must be trained on search policies with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<b>CD20</b>	<b>Calling the police</b> if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.
	<b>CD21</b>	<p>(a) <b>Seizing, retaining and documenting</b> any drugs or weapons found with a clear audit trail and a process for surrendering them to the police.</p> <p>(b) A search policy should clearly set out procedures that must be followed by staff should they find drugs or weapons during a search including circumstances when the police should be called; the use of tamper proof bags and safe storage of seized items in a lockable box; details that need to be recorded and how / when seized items should be surrendered to the police.</p>
	<b>CD22</b>	<p>(a) <b>Supervising toilet areas</b> can be effective in discouraging drug selling or use.</p> <p>(b) A toilet attendant may be appropriate for promoted events or on busy nights such as Friday and Saturday.</p> <p>(c) Regular toilet checks such as swabbing should be considered and where conducted, these should be documented with date, time and finding recorded.</p> <p>(d) Removal of flat surfaces in toilet areas can reduce the likelihood of drug misuse.</p>
	<b>CD23</b>	<b>Drug awareness training</b> should be provided for all staff. A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.
<b>Theft from premises or lost property</b>	<b>CD24</b>	<b>Bag hooks (Chelsea clips) and bag bells</b> should be provided to prevent bag snatching.
	<b>CD25</b>	<b>Clear signage</b> should be displayed throughout the premises about crime prevention and to warn customers of the potential for pickpockets and bag / laptop snatchers.

	<b>CD26</b>	<b>Property patrols, managed cloakrooms</b> and toilet attendants can be employed to prevent theft from patrons or the premises.
	<b>CD27</b>	<b>Premises layout and lighting</b> should be considered. Secluded or dimly lit parts of the premises should be avoided as they can encourage crime.
	<b>CD28</b>	<b>Mirrors</b> used throughout the premises can aid supervision and act as deterrents to thieves.
	<b>CD29</b>	<b>A lost and found policy</b> should be in place in relation to lost / found property at the premises. The policy should include procedures regarding the logging and disposal of property and in particular any valuable property. Passports and any other ID found should be handed in to any police station.
	<b>CD30</b>	(a) <b>Carefully positioning alcohol</b> in retail premises can reduce theft from the premises. Alcohol is a key target for shop thieves so it is best not to place alcoholic beverages within the first few metres near the door as this allows thieves to 'grab and run'.  (b) It may be helpful for alcohol display areas to be covered by CCTV if possible.
	<b>CD31</b>	<b>Security tagging</b> any items considered a specific target for theft, particularly alcoholic drinks over a certain price level will deter thieves.
<b>Disorder from customers queuing to enter the premises or when leaving the premises</b>	<b>CD32</b>	(a) <b>Reduce the potential for excessive queue lines</b> with a well managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. Searches should therefore be conducted as quickly and effectively as possible.  (b) Door staff will be required to refuse entry to premises to customers who do wait outside premises in a quiet and orderly fashion.
	<b>CD33</b>	(a) <b>A customer dispersal policy</b> can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels.  (b) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.
	<b>CD34</b>	(a) <b>Staff training</b> in preventing disorder should be provided to give them the knowledge and confidence to deal with difficult situations.

		(b) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or Licensing Authority
<b>Customers getting drunk and dealing with drunken customers</b>	<b>CD35</b>	<p>(a) <b>Drinks promotions</b> should be socially responsible and not encourage excessive drinking.</p> <p>(b) A documented policy on responsible drinks promotions should be in place at the premises and should adhere to industry codes such as those recommended by the British Beer and Pub Association (BBPA) and The Portman Group. This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</p> <p>(c) Any drinks promotion should market the availability of soft drinks.</p>
	<b>CD36</b>	<p>(a) <b>Staff training</b> on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</p> <p>(b) Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate 'cut off' points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.</p> <p>(c) When staff are collecting glasses, they can interact with customers and assess the levels of drunkenness. Any concerns should be reported back to a manager.</p> <p>(d) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<b>CD37</b>	<b>A duty of care policy</b> regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.
	<b>CD38</b>	<b>Drink-aware posters</b> can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.
<b>Consumption of alcohol on the street and street drinkers</b>	<b>CD39</b>	<b>Restrict the sale</b> of strong beer and cider above 5.5% ABV and the sale of single cans or bottles of beer and cider. Such sales can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by street drinkers or persons who are already drunk.

<b>Sale of alcohol outside permitted hours</b>	<b>CD40</b>	<b>Lockable shutters</b> can be fitted on display units for alcohol in retail premises, which can be closed and locked at the end of permitted hours.
<b>Tackling sexual harassment and discrimination</b>	<b>CD41</b>	<b>Staff and SIA operatives training</b> in a zero tolerance policy to sexual harassment and discrimination to deal with:  (a) unwelcome sexual gestures and sexual innuendos confidence to deal with drunken patrons. (b) groping, pinching or smacking someone's body without consent (c) exposing sexual organs to someone (d) entering the opposite sexes toilet (e) derogatory comments or gestures based on someone's age, gender, race orientation or ability.
<b>Reporting criminal offences</b>	<b>CD42</b>	<b>Premises licence holders are requested to report all criminal allegations to the police</b> , eg theft, drug possession, fraudulent documentation. It is then a matter for the police as to what is the appropriate action to take.

### Public Safety

This section provides guidance on good practice for the promotion of public safety at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the promotion and management of public safety at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks to the safety of the public (including performers) attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing public safety at their premises.

All applications for new licences and variations should address the steps proposed to promote public safety and this is best achieved through a premises risk assessment.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to achieve the highest possible standard of safety.

Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with their premises and measures implemented to prevent, manage and respond to those risks.

<b>Risk</b>		<b>Good Practice Measure</b>
<b>General safety of staff and customers</b>	<b>PS1</b>	(a) <b>A full risk assessment</b> taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. A risk assessment should be regularly reviewed, at least once every 12 months.

		<p>(b) All staff should be made aware of the risk assessment and precautionary measures therein.</p> <p>(c) A copy of the risk assessment should be kept at the premises and made available for inspection.</p>
	<b>PS2</b>	<b>First aid boxes</b> should be available at the premises and maintained with sufficient in-date stock.
	<b>PS3</b>	<p>(a) <b>A recognised qualification in first aid</b> should be held by at least one member of staff who should be on duty at all times the premises licence is in use.</p> <p>(b) Other staff should be trained to a basic first aid standard with records kept of the date and name of person trained.</p>
	<b>PS4</b>	<b>A first aid room</b> or quiet room should be made available to anyone requiring medical attention.
	<b>PS5</b>	<b>Temperature levels</b> and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. Premises should be adequately heated and ventilated to avoid this. This can be achieved through use of air conditioning systems or natural ventilation in non-residential areas. Before installation, please check with the Council's Planning Department for advice as to whether this is permissible.
<b>Overcrowding</b>	<b>PS6</b>	<b>A documented capacity</b> should be set for the premises overall and for individual rooms within the premises. Capacity can be determined by a risk assessment in consultation with the fire safety authority. The risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time and available fire exits.
	<b>PS7</b>	<p>(a) <b>A policy to manage the capacity</b> should be adopted to prevent overcrowding and localised overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p>
<b>Accumulation and disposal of glasses / drinking vessels</b>	<b>PS8</b>	<p>(a) <b>A glass collection policy</b> should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>(b) Perimeter checks should be made outside the premises for any glasses or bottles.</p>

		(c) All staff must be made aware of the glass collection policy and their responsibility for the task.
	<b>PS9</b>	<b>Spillages and broken glass</b> should be cleaned up immediately to prevent floors from becoming slippery and unsafe.
	<b>PS10</b>	<b>Bottle bins</b> should be secure at all times and away from public areas.
<b>Accident or other emergency incident on the premises</b>	<b>PS11</b>	<p>(a) <b>A written policy</b> to deal with all types of accidents and emergency incidents should be in place at the premises.</p> <p>(b) The policy should be based on risk assessments and include matters such as emergency management, contingency planning and evacuation procedures in the event of fire, bomb threats or suspect packages and when to contact emergency services.</p> <p>(c) Evacuation responsibilities and roles should be clearly communicated to staff, routes and exits should be well defined and evacuation plans exercised regularly.</p> <p>(d) A copy of the fire risk assessment should be kept at the premises and made available for inspection by the fire authority and licensing authority.</p>
	<b>PS12</b>	<b>A fire detection system</b> should be in place at the premises and should be fully functional at all times. The system should be tested regularly with records kept and made available for inspection.
	<b>PS13</b>	<p>(a) <b>Means of escape</b> in case of any emergency must be clearly visible, unobstructed and well maintained including areas outside exits leading to a place of ultimate safety such as the street.</p> <p>(b) Checks should be carried out before opening each day to ensure that exits are unlocked and unobstructed.</p>
	<b>PS14</b>	<b>Equipment should be checked and maintained</b> regularly with a record kept of the date and findings of the checks.
	<b>PS15</b>	<p>(a) <b>Staff training in fire safety</b> and any premises safety policy should be provided for all staff to give them the knowledge and confidence to deal with emergency situations, including location of equipment, utilities, services and layout of premises. Training should include how to use fire extinguishers.</p> <p>(b) Records should be kept of the date and name of person trained and made available for inspection.</p>



	<b>PS16</b>	<b>An accident book</b> should be kept in order to record all accidents or incidents and made available for inspection.
<b>Drug use or drink spiking</b>	<b>PS17</b>	(a) <b>A zero tolerance policy</b> to the use of drugs in the premises should be adopted.  (b) Posters can be displayed throughout the premises to remind customers of the zero tolerance policy.
	<b>PS18</b>	<b>Refusing entry</b> to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log book.
	<b>PS19</b>	(a) <b>A duty of care policy</b> regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary.  (b) All staff must be briefed on the policy. A record should be kept of the date and name of person trained.
	<b>PS20</b>	(a) <b>Prevent the possibility of drink spiking</b> by offering various anti-drink spiking products to customers.  (b) If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.
	<b>PS21</b>	<b>A 'chill out' area</b> should be provided. This should be cooler and quieter than rest of venue.
<b>Smoking on the premises</b>	<b>PS22</b>	<b>Staff should be aware</b> of their responsibilities regarding smoke-free legislation and for monitoring compliance.
<b>Safety of customers when leaving the premises</b>	<b>PS23</b>	<b>Discourage drink driving</b> by promoting schemes such as designated driver, with notices clearly displayed throughout the premises.
	<b>PS24</b>	(a) <b>Display information</b> to customers with regards to safe options for travelling home. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport facilities including night bus options.  (b) Provide a free taxi phone service and a safe waiting area for customers inside the premises.

	<b>PS25</b>	<p>(a) A <b>'chill out' period at the end of an evening</b> can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues.</p> <p>(b) Provision of food and non alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.</p>
	<b>PS26</b>	<p>(a) <b>Increased lighting</b> inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.</p> <p>(b) <b>Increased external lighting</b> particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises. Care should be taken so that lighting does not impact on neighbours, particularly in and close to established residential areas.</p>

### **Prevention of public nuisance**

This section provides guidance on good practice for the prevention and management of public nuisance from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of noise and other public nuisance issues from their premises after a licence has been granted.

Excessive noise and nuisance from licensed premises is a major concern for persons living or working in the area. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing public nuisance from their premises.

All applications for new licences and variations should address the steps proposed to prevent public nuisance. Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to historical noise problems at the premises with measures put in place to prevent them from recurring.

Licence holders should have clear documented policies and procedures in place which identify all public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

Risk		Good Practice Measure
<b>Music, singing and speech noise breakout from the premises</b>	<b>PN1</b>	<p>(a) <b>A noise management policy</b> should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</p> <p>(b) The policy should be based on the findings of an acoustic consultant's assessment.</p> <p>(c) All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</p> <p>(d) DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p>
	<b>PN2</b>	<p>(a) <b>Windows and doors should be kept closed</b> whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means.</p> <p>(b) Windows should be sound insulated.</p> <p>(c) Emergency exits should be sealed acoustic doors.</p> <p>(d) A lobbied area should be provided at the entrance and exit to the premises.</p> <p>(e) Doors should be fitted with self closing devices.</p>
	<b>PN3</b>	<p>(a) <b>A sound limiting device</b> should be installed, set and sealed at a level approved by an acoustic consultant.</p> <p>(b) The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events.</p> <p>(c) Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p>
	<b>PN4</b>	<p>(a) <b>Locate entertainment facilities</b> such as DJ booth, stage and loud speakers away from doors and windows.</p> <p>(b) Rubber speaker mounts can be used to minimise structure borne noise.</p>
	<b>PN5</b>	<p>(a) <b>Methods for monitoring noise</b> should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder / staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.</p>

		(b) Noise monitoring should actively be carried out on a regular basis and in particular when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.
	<b>PN6</b>	(a) <b>A log book</b> should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.  (b) The log book should be made available for inspection by the licensing authority or environmental health responsible authority.
	<b>PN7</b>	<b>A contact telephone number</b> should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The telephone line should be available at all times the licence is in use.
<b>Noise and nuisance from customers arriving and leaving the premises</b>	<b>PN8</b>	(a) <b>Reduce the potential for excessive queue lines</b> with a well managed and efficient door policy.  (b) Long queues should be avoided and any queues should be directed away from residential properties.  (c) Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated.  (d) Door staff should refuse entry to anyone behaving in an anti-social way.  (e) Restrict admittance or re-admittance to the premises after 23:00.
	<b>PN9</b>	(a) <b>A customer dispersal policy</b> can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.  (b) A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.  (c) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.

	<b>PN10</b>	<p>(a) <b>Display prominent notices</b> close to the exit doors, requesting patrons to leave the premises quickly and quietly.</p> <p>(b) Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</p> <p>(c) Make announcements at the end of an evening, requesting patrons to (i) leave the premises and area quickly and quietly; (ii) to use toilet facilities before leaving.</p>
	<b>PN11</b>	<p>(a) <b>Provide a free taxi phone service and an internal waiting area</b> for customers to prevent noise disturbance to neighbours.</p> <p>(b) Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.</p>
<b>Noise and nuisance from customers using external areas such as beer gardens or forecourts</b>	<b>PN12</b>	<b>Display prominent signs</b> in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.
	<b>PN13</b>	<b>Restrict the use of external areas</b> after 22:00 if premises are in a residential area.
	<b>PN14</b>	<p>(a) <b>Door supervisors or staff</b> should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.</p> <p>(b) For private forecourts, a physical barrier such as a rope should be used to mark the boundary of the area outside the premises where customers are allowed.</p> <p>(c) Limit the number of smokers permitted outside at any one time after a certain time.</p> <p>(d) Discourage smokers from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p> <p>(e) Locate smoking areas away from residential premises.</p> <p>(f) Do not permit customers to congregate on and block the public highway to passers by.</p>

<b>Noise from staff and entertainment providers leaving the premises</b>	<b>PN15</b>	<b>Staff and performers</b> who depart late at night or in the early hours on the morning when the business has ceased trading, should conduct themselves in such a manner as to avoid causing disturbance to nearby residents. This includes the loading and unloading of artists' equipment.
<b>Noise and disturbance caused by deliveries, collections and waste disposal</b>	<b>PN16</b>	<b>Commercial deliveries, collections and storage / disposal of waste</b> , including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 08:00 and 18:00 Monday to Friday.
<b>Litter and waste around the premises</b>	<b>PN17</b>	(a) <b>Flyers should not be distributed outside the premises</b> by the licence holder or any staff employed by the licence holder.  (b) Licence holders should ensure that promoters of events at their premises do not distribute flyers outside the premises.
	<b>PN18</b>	(a) <b>Procedures should be in place</b> for the prompt collection of street litter generated by the premises for example flyers, cigarette butts or food wrappers.  (b) Regular patrols of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.  (c) Use wall or floor mounted cigarette bins in designated smoking areas for customers.
<b>Disturbance from external lighting</b>	<b>PN19</b>	<b>External lighting</b> for the premises should be turned off after the premises are closed to the public.
<b>Noise or odours from plant and machinery</b>	<b>PN20</b>	<b>Plant and machinery should not cause nuisance</b> to local residents by way of noise, odours or vibration. Acoustic measures such as screening, enclosures, anti-vibration mounts, silencers or timing clocks should be used if necessary.

### **Protection of children from harm**

This section provides guidance on good practice for the protection of children from harm at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the protection and management of children from harm at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises. It is

therefore recommended that applicants and licensees take a proactive approach to protecting and managing the well being of children at their premises.

All applications for new licences and variations should address the steps proposed to protect children from harm and this is best achieved through a premises risk assessment.

Licence holders should have clear documented policies and procedures in place which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
<b>Children accessing licensed premises</b>	<b>CH1</b>	<p>(a) <b>A documented policy</b> setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premise including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises.</p> <p>(b) All staff including door staff and bar staff should be trained on the policy.</p>
	<b>CH2</b>	<p>(a) <b>Restrict access to children</b> depending on the nature of the business and / or circumstances.</p> <p>(b) The admission of children can be restricted up until a specified time in the evening.</p> <p>(c) The admittance of children can only be permitted if they are accompanied by an adult.</p>
<b>Underage sales of alcohol</b>	<b>CH3</b>	<p>(a) <b>Operate a strict 'No ID, No Sale' policy. 'Challenge 25' scheme</b> serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p> <p>(b) A 'Challenge 25' scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>(c) Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID. If you accept other forms of ID such as EU National ID cards, these must bear a photograph, date of birth and holographic mark.</p> <p>(d) Use till prompts to remind staff to ask for proof of age.</p> <p>(e) Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p>

	<b>CH4</b>	<b>Display posters at the premises</b> stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).
	<b>CH5</b>	<b>Adverts or promotions for alcohol should not</b> appeal to young persons.
	<b>CH6</b>	<p>(a) <b>Keep a refusals book</b> (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.</p> <p>(b) The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>(c) The book should be made available to police and authorised council officers on request.</p> <p>(d) The book should be reviewed on a regular basis to see if any patterns emerge.</p>
	<b>CH7</b>	<p>(a) <b>Staff training</b> in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary.</p> <p>(b) A record should be kept of the date and name of person trained.</p>
<b>Access to age restricted films</b>	<b>CH8</b>	<p>(a) <b>Adequate provisions for restricting children</b> from viewing age restricted films should be in place at the premises.</p> <p>(b) Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).</p>
<b>Access to age restricted gaming machines</b>	<b>CH9</b>	<b>Age restricted gaming or vending machines</b> should have suitable signage setting out the age restrictions and should be in full view of staff for monitoring.
<b>Access to entertainment of an adult nature</b>	<b>CH10</b>	<b>Children under the age of 18 should be excluded</b> from the premises or part of the premises when specified activities such as adult entertainment are taking place.
	<b>CH11</b>	<b>Adverts for entertainment of an adult nature should not be displayed externally</b> on the premises or in any part of the premises internally where they can be seen by young persons.





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## Appendix E

## **Intervention Meeting**

Welcome to Shepway where the leisure industry is an important part of our District's cultural, employment and financial life. Equally important is the residents' right to enjoy their homes. Shepway District Council wants members of the public, residents, local business, Councillors and Officers to engage in constructive dialogue to resolve any issues that arise through compromise and cooperation.

The Council is keen to support the local economy whilst ensuring that this aligns this with the needs of the local community as a whole, and in particular, residents and neighbours.

The experience of the Officers is that a significant:

- (i) number of concerns relate to noise levels and / or anti-social behaviour
- (ii) proportion of issues can be solved amicably without the need for a formal complaint.

Shepway District Council would like to offer the opportunity for premises licence holders and anyone that has a concern about the operation of a business with a premises licence, eg public house, restaurant, bar, club etc to discuss any issues in an informal atmosphere in order to reach an acceptable and reasonable solution for all concerned.

It must be stressed that no one is compelled to participate in the process but parties are encouraged to take part as an Intervention Meeting could provide a speedy, satisfactory and cost effective conclusion without resorting to lengthy and onerous enforcement action and / or Licensing Sub-Committee Hearings and / or Court proceedings. In addition, a positive outcome for all concerned, promotes good relations in the future to resolve issues directly.

If you wish to request an Intervention Meeting, please complete the form below and return it to Licensing Team, Shepway District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY [licensing@shepway.gov.uk](mailto:licensing@shepway.gov.uk)

Information received by all parties will be exchanged before the meeting, so parties can understand and look to address any issues raised with the aim to find a resolution within the meeting. The process will terminate at any stage if any person wishes to withdraw.

**Part 1 Name (*Please print*):**

**Contact details – please complete on reverse**

**Premises concerned:**

**Address of premises:**

	Party 1	Party 2 Premises Licence Holder	Premises Licence Implications SDC Licensing Officer	Resolution / Outcome Review Date
What is /are the issues which you are looking to address and resolve?				
Is this an issue that you have raised before, and if so what was the outcome?				
What would you hope to see put in place to address and resolve the issues				

**Name (*Please print*):**

**Address:**

**Contact details:    e-mail**

**Telephone number(s)**

**Please tick this box if you authorise The Licensing Officer to share your contact details with other parties, including the premises licence holder, in respect of this matter. The information will only be shared for the purposes of the Intervention Meeting.**

**Please return the completed form to**

Licensing Team, Shepway District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY

[licensing@shepway.gov.uk](mailto:licensing@shepway.gov.uk)

## Appendix B

## Full Risk Assessment Template

### **Guidance**

This template is an aide to prospective and existing licence holders to make a full risk assessment of their premises and business in order to discharge their statutory duty to promote the licensing objectives.

Applicants are encouraged to submit an assessment with any new or variation application in order to demonstrate to the licensing authority and assist responsible authorities and other persons that the licence holder is prepared to take all reasonable steps act as a responsible operator and good neighbour.

An applicant is not required to incorporate every good Practice measure into their business, merely demonstrate that they have considered them; if a measure is not applicable, it should be marked as such. For example, a small independent convenience store is very unlikely to need SIA staff so it can be ticked as 'not applicable' (N/A).

However, if a large TOWN public house does not intend to install an appropriate CCTV system, the applicant may indicate that it is not applicable to their business but the applicant is advised to state why it is not necessary. Responsible authorities and / or other persons are entitled to disagree with the applicant's assessment and lodged an objection to the application or seek appropriate conditions.

This approach endorses the foundation of the application process in that each application is considered on its individual merits.

If conditions are offered by an applicant or sought by a responsible authority / other person, the Institute of Licensing's standard conditions should be adopted, when published, whenever possible.

If a good measure is adopted, the applicant should include this in the operating schedule, explaining exactly how it will apply to this particular premise.



<b>Name of premise</b>	
<b>Premises reference number</b> <i>(If there is one)</i>	
<b>Address</b>	
<b>Contact</b> Mobile telephone numbers  Landline number  e-mail address	
<b>Date assessment completed</b>	
<b>Name and position of person who completed assessment</b>	<ul style="list-style-type: none"><li>• Premises licence holder / proposed premises licence holder / designated premises supervisor (DPS)</li><li>• Personal licence holder</li><li>• Legal representative</li><li>• Licensing representative</li></ul> <i>(Delete as appropriate)</i>

Risk		Good practice measure for general matters	Adopted	N/A	If the measure would normally be adopted, reason(s) why N/A
Lack of knowledge or understanding of the Licensing Act 2003	G1	<p>(a) Well trained staff will contribute to well run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment. Formal qualifications for your staff, either to personal licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>(b) All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>(c) Training should also be provided on the premises' specific policies relevant to the operation of the business.</p> <p>(d) A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.</p>			

Risk		Good practice measure for the prevention of crime and disorder	Adopted	N/A	If the measure would normally be adopted, reason(s) why N/A
Security in and around the premises	CD1	(a) <b>An alarm or other security measure</b> should be installed at the premises to protect it when closed or empty.			

		<p>(b) Emergency exits should be alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering.</p> <p>(c) Any staff or private areas and cellars should be kept locked and secured whilst the premises are open to the public.</p>			
	<b>CD2</b>	<p>(a) <b>CCTV</b> should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct.</p> <p>(b) The recordings should be in real time and on hard drive with the availability to copy disks for other agencies such as the police.</p> <p>(c) For analogue systems, tapes should be changed daily and used no more than 12 times.</p> <p>(d) Recordings should be kept for a minimum period of 28 days.</p> <p>(e) Staff should be trained in the maintenance and operation of such systems with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(f) A trained member of staff should be on duty to operate the system whenever the premises are open.</p>			

	<b>CD3</b>	<b>External lighting</b> provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.			
	<b>CD4</b>	<p>(a) <b>Security systems should be integrated</b> so that the alarm, CCTV and lighting work together in an effective manner.</p> <p>(b) The alarm should be linked to a system that will notify the police if it is activated.</p>			
	<b>CD5</b>	<p>(a) <b>Door staff and / or stewards</b> should be employed at the venue supervise admissions and customers inside the venue.</p> <p>(b) Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working.</p> <p>(c) Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.</p> <p>(d) Door staff should sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded.</p> <p>(e) Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.</p>			

	<b>CD6</b>	<p>(a) <b>Effective security policies</b> based on risk assessments can protect your premises, staff and customers from threats, conflict or violence.</p> <p>(b) Security policies should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must be aware of a premises security policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(d) Premises should be searched inside and out for suspect packages before, during and after opening hours. Staff should be trained to remain vigilant during opening hours and report any suspicious activity to the Police.</p>			
	<b>CD7</b>	<b>Security reviews</b> should be held regularly and at least every three months with minutes kept.			
	<b>CD8</b>	<p>(a) <b>Daily staff briefing and debriefing</b> will enable licensees to improve working practices in their premises.</p> <p>(b) Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p>			

<b>Crime and disorder in and around the premises</b>	<b>CD9</b>	<p>(a) <b>Promoted events</b> may attract larger than usual crowds.</p> <p>(b) Such events must have a comprehensive risk assessment undertaken by the licence holder and submitted to the Shepway District Council events team.</p> <p>(c) It is expected that promoters should have obtained the BIIAB level 2 for large scale music events for over 1500 people.</p> <p>(d) In the event that a problem should arise during a promoted event, this should be documented by the licence holder and it is expected that a written debrief will be provided to the Shepway District Council licensing officer and the police licensing officer within 48 hours of the event.</p>			
<b>Crime including conflict, violence or aggression in and around the premises</b>	<b>CD10</b>	<p>(a) <b>Proper management of the door</b> will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment taking into account the size of venue and the type of crowd the entertainment is likely to attract, but at the very least on a ratio of 1 door supervisor per 50 customers.</p> <p>(b) Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.</p>			
	<b>CD11</b>	<b>A door admissions policy</b> including any age restrictions, expected dress standards or the screening of hand bags should be			

		widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.			
	<b>CD12</b>	<p>(a) <b>Ejecting or refusing entry to persons</b> from the premises if they do not meet your admissions standards or they are known to be violent or aggressive.</p> <p>(b) In such cases, an entry should be made in an incident or log book</p>			
	<b>CD13</b>	<p>(a) <b>A policy to manage capacity</b> should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p>(b) For promoted events and large venues, the use of clickers is essential to record the number of patrons inside the premises.</p> <p>(c) For other events or smaller venues, ticket sales or head counts may be appropriate.</p> <p>(d) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.</p> <p>(e) Where a premise holds a special event which is expected to attract a greater than usual number of patrons and in excess of 1000 people, the premises licence holder will be expected to notify the Shepway District Council licensing officer and the police licensing officer licensing team at least 14 days in advance of the event.</p>			

	<b>CD14</b>	<p>(a) <b>Alternatives to glass drinking vessels</b> should be considered to prevent glassware being used as an assault weapon, particularly during promoted events.</p> <p>(b) Drinking vessels made from plastic or polycarbonate would be preferential particularly in outside areas.</p> <p>(c) Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.</p>			
	<b>CD15</b>	<p>(a) <b>Measures to preserve a crime scene</b> until police arrival, following the outbreak of disorder or any other crime should be clearly documented in a policy.</p> <p>(b) Such a policy should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must receive training on the policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority</p>			
	<b>CD16</b>	<p>(a) <b>Staff training</b> in conflict management should be provided to give them the knowledge and confidence to deal with difficult situations and reduce crime and disorder at the premises.</p>			



		<p>(b) Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>(c) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>			
	<b>CD17</b>	<b>Sharing of information</b> with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub / club watch scheme will enable information to be passed on about trouble makers and common problems in the area.			
<b>Drugs and weapons being brought into the premises</b>	<b>CD18</b>	<p>(a) <b>A zero tolerance policy</b> to the use of drugs, including 'legal highs' and carrying of weapons in the premises should be adopted with a clear "<i>No search No entry</i>" message.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of zero tolerance policy.</p>			
	<b>CD19</b>	<p>(a) <b>Effective search policies</b> will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.</p> <p>(b) The use of search arches and wands may be appropriate in some cases.</p> <p>(c) Search policies should be formulated in consultation with the police licensing officer.</p>			

		<p>(d) Search policies must be advertised widely on tickets, promotional leaflets and on websites and prominently in the premises entrance and queuing area.</p> <p>(e) Searches should always be carried out in public areas and covered by CCTV.</p> <p>(f) All staff must be trained on search policies with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>			
	<b>CD20</b>	<b>Calling the police</b> if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.			
	<b>CD21</b>	<p>(a) <b>Seizing, retaining and documenting</b> any drugs or weapons found with a clear audit trail and a process for surrendering them to the police.</p> <p>(b) A search policy should clearly set out procedures that must be followed by staff should they find drugs or weapons during a search including circumstances when the police should be called; the use of tamper proof bags and safe storage of seized items in a lockable box; details that need to be recorded and how / when seized items should be surrendered to the police.</p>			
	<b>CD22</b>	(a) <b>Supervising toilet areas</b> can be effective in discouraging drug selling or use.			

		<p>(b) A toilet attendant may be appropriate for promoted events or on busy nights such as Friday and Saturday.</p> <p>(c) Regular toilet checks such as swabbing should be considered and where conducted, these should be documented with date, time and finding recorded.</p> <p>(d) Removal of flat surfaces in toilet areas can reduce the likelihood of drug misuse.</p>			
	<b>CD23</b>	<b>Drug awareness training</b> should be provided for all staff. A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.			
<b>Theft from premises or lost property</b>	<b>CD24</b>	<b>Bag hooks (Chelsea clips)</b> should be provided to prevent bag snatching.			
	<b>CD25</b>	<b>Clear signage</b> should be displayed throughout the premises about crime prevention and to warn customers of the potential for pickpockets and bag / laptop snatchers.			
	<b>CD26</b>	<b>Property patrols, managed cloakrooms</b> and toilet attendants can be employed to prevent theft from patrons or the premises.			
	<b>CD27</b>	<b>Premises layout and lighting</b> should be considered. Secluded or dimly lit parts of the premises should be avoided as they can encourage crime.			

	<b>CD28</b>	<b>Mirrors</b> used throughout the premise can aid supervision and act as deterrents to thieves.			
	<b>CD29</b>	<b>A lost and found policy</b> should be in place in relation to lost / found property at the premises. The policy should include procedures regarding the logging and disposal of property and in particular any valuable property. Passports and any other ID found should be handed in to any police station.			
	<b>CD30</b>	(a) <b>Carefully positioning alcohol</b> in retail premises can reduce theft from the premises. Alcohol is a key target for shop thieves so it is best not to place alcoholic beverages within the first few metres near the door as this allows thieves to 'grab and run'.  (b) It may be helpful for alcohol display areas to be covered by CCTV if possible.			
	<b>CD31</b>	<b>Security tagging</b> any items considered a specific target for theft, particularly alcoholic drinks over a certain price level will deter thieves.			
<b>Disorder from customers queuing to enter the premises or when leaving the premises</b>	<b>CD32</b>	(a) <b>Reduce the potential for excessive queue lines</b> with a well managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. Searches should therefore be conducted as quickly and effectively as possible.  (b) Door staff will be required to refuse entry to premises to customers who do wait outside premises in a quiet and orderly fashion.			

	<b>CD33</b>	<p>(a) <b>A customer dispersal policy</b> can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels.</p> <p>(b) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p>			
	<b>CD34</b>	<p>(a) <b>Staff training</b> in preventing disorder should be provided to give them the knowledge and confidence to deal with difficult situations.</p> <p>(b) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority</p>			
<b>Customers getting drunk and dealing with drunken customers</b>	<b>CD35</b>	<p>(a) <b>Drinks promotions</b> should be socially responsible and not encourage excessive drinking.</p> <p>(b) A documented policy on responsible drinks promotions should be in place at the premises and should adhere to industry codes such as those recommended by the British Beer and Pub Association (BBPA) and The Portman Group. This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</p>			

		(c) Any drinks promotion should market the availability of soft drinks.			
	<b>CD36</b>	<p>(a) <b>Staff training</b> on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</p> <p>(b) Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate 'cut off' points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.</p> <p>(c) When staff are collecting glasses, they can interact with customers and assess the levels of drunkenness. Any concerns should be reported back to a manager.</p> <p>(d) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>			
	<b>CD37</b>	<b>A duty of care policy</b> regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.			

	<b>CD38</b>	<b>Drink-aware posters</b> can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.			
<b>Consumption of alcohol on the street and street drinkers</b>	<b>CD39</b>	<b>Restrict the sale</b> of strong beer and cider above 5.5% ABV and the sale of single cans or bottles of beer and cider. Such sales can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in open spaces by street drinkers or persons who are already drunk.			
<b>Sale of alcohol outside permitted hours</b>	<b>CD40</b>	<b>Lockable shutters</b> can be fitted on display units for alcohol in retail premises, which can be closed and locked at the end of permitted hours.			
<b>Tackling sexual harassment and discrimination</b>	<b>CD41</b>	<b>Staff and SIA operatives training</b> in a zero tolerance policy to sexual harassment and discrimination to deal with:  (a) unwelcome sexual gestures and sexual innuendos confidence to deal with drunken patrons. (b) groping, pinching or smacking someone's body without consent (c) exposing sexual organs to someone (d) entering the opposite sexes toilet			

		derogatory comments or gestures based on someone's age, gender, race orientation or ability.			
<b>Reporting criminal offences</b>	<b>CD42</b>	<b>Premises licence holders are requested to report all criminal allegations to the police,</b> eg theft, drug possession, fraudulent documentation. It is then a matter for the police as to what is the appropriate action to take.			

<b>Risk</b>		<b>Good practice measure for public safety</b>	<b>Adopted</b>	<b>N/A</b>	<b>If the measure would normally be adopted, reason(s) why N/A</b>
<b>General safety of staff and customers</b>	<b>PS1</b>	<p>(a) <b>A full risk assessment is</b> encouraged taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. A risk assessment should be regularly reviewed at least every 12 months.</p> <p>(b) All staff should be made aware of the risk assessment and precautionary measures therein.</p> <p>(c) A copy of the risk assessment should be kept at the premises and made available for inspection.</p>			



	<b>PS2</b>	<b>First aid boxes</b> should be available at the premises and maintained with sufficient in-date stock.			
	<b>PS3</b>	(a) <b>A recognised qualification in first aid</b> should be held by at least one member of staff who should be on duty at all times the premises licence is in use.  (b) Other staff should be trained to a basic first aid standard with records kept of the date and name of person trained.			
	<b>PS4</b>	<b>A first aid room</b> or quiet room should be made available to anyone requiring medical attention.			
	<b>PS5</b>	<b>Temperature levels</b> and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. Premises should be adequately heated and ventilated to avoid this. This can be achieved through use of air conditioning systems or natural ventilation in non-residential areas. Before installation, please check with the Council's planning department for advice as to whether this is permissible.			
<b>Overcrowding</b>	<b>PS6</b>	<b>A documented capacity</b> should be set for the premises overall and for individual rooms within the premises. Capacity can be determined by a risk assessment in consultation with the fire safety authority. The risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time and available fire exits.			

	<b>PS7</b>	<p>(a) <b>A policy to manage the capacity</b> should be adopted to prevent overcrowding and localised overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p>			
<b>Accumulation and disposal of glasses / drinking vessels</b>	<b>PS8</b>	<p>(a) <b>A glass collection policy</b> should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>(b) Perimeter checks should be made outside the premises for any glasses or bottles.</p> <p>(c) All staff must be made aware of the glass collection policy and their responsibility for the task.</p>			
	<b>PS9</b>	<b>Spillages and broken glass</b> should be cleaned up immediately to prevent floors from becoming slippery and unsafe.			
	<b>PS10</b>	<b>Bottle bins</b> should be secure at all times and away from public areas.			
<b>Accident or other emergency</b>	<b>PS11</b>	(a) <b>A written policy</b> to deal with all types of accidents and emergency incidents should be in place at the premises.			

<p><b>incident on the premises</b></p>		<p>(b) The policy should be based on risk assessments and include matters such as emergency management, contingency planning and evacuation procedures in the event of fire, bomb threats or suspect packages and when to contact emergency services.</p> <p>(c) Evacuation responsibilities and roles should be clearly communicated to staff, routes and exits should be well defined and evacuation plans exercised regularly.</p> <p>(d) A copy of the fire risk assessment should be kept at the premises and made available for inspection by the fire authority and licensing authority.</p>			
	<p><b>PS12</b></p>	<p><b>A fire detection system</b> should be in place at the premises and should be fully functional at all times. The system should be tested regularly with records kept and made available for inspection.</p>			
	<p><b>PS13</b></p>	<p>(a) <b>Means of escape</b> in case of any emergency must be clearly visible, unobstructed and well maintained including areas outside exits leading to a place of ultimate safety such as the street.</p> <p>(b) Checks should be carried out before opening each day to ensure that exits are unlocked and unobstructed.</p>			
	<p><b>PS14</b></p>	<p><b>Equipment should be checked and maintained</b> regularly with a record kept of the date and findings of the checks.</p>			

	<b>PS15</b>	<p>(a) <b>Staff training in fire safety</b> and any premises safety policy should be provided for all staff to give them the knowledge and confidence to deal with emergency situations, including location of equipment, utilities, services and layout of premises. Training should include how to use fire extinguishers.</p> <p>(b) Records should be kept of the date and name of person trained and made available for inspection.</p>			
	<b>PS16</b>	<b>An accident book</b> should be kept in order to record all accidents or incidents and made available for inspection.			
<b>Drug use or drink spiking</b>	<b>PS17</b>	<p>(a) <b>A zero tolerance policy</b> to the use of drugs in the premises should be adopted.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of the zero tolerance policy.</p>			
	<b>PS18</b>	<b>Refusing entry</b> to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log book.			
	<b>PS19</b>	(a) <b>A duty of care policy</b> regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary.			

		(b) All staff must be briefed on the policy. A record should be kept of the date and name of person trained.			
	<b>PS20</b>	(a) <b>Prevent the possibility of drink spiking</b> by offering various anti-drink spiking products to customers.  (b) If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.			
	<b>PS21</b>	<b>A 'chill out' area</b> should be provided. This should be cooler and quieter than rest of venue.			
<b>Smoking on the premises</b>	<b>PS22</b>	<b>Staff should be aware</b> of their responsibilities regarding smoke-free legislation and for monitoring compliance.			
<b>Safety of customers when leaving the premises</b>	<b>PS23</b>	<b>Discourage drink driving</b> by promoting schemes such as designated driver, with notices clearly displayed throughout the premises.			
	<b>PS24</b>	(a) <b>Display information</b> to customers with regards to safe options for travelling home. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport facilities including night bus options.  (b) Provide a free taxi phone service and a safe waiting area for customers inside the premises.			

	<b>PS25</b>	<p>(a) <b>A 'chill out' period at the end of an evening</b> can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues.</p> <p>(b) Provision of food and non alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.</p>			
	<b>PS26</b>	<p>(a) <b>Increased lighting</b> inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.</p> <p>(b) <b>Increased external lighting</b> particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises. Care should be taken so that lighting does not impact on neighbours, particularly in and close to established residential areas.</p>			

<b>Risk</b>		<b>Good practice measures for the prevention of public nuisance</b>	<b>Adopted</b>	<b>N/A</b>	<b>If the measure would normally be adopted, reason(s) why N/A</b>
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<p><b>Music, singing and speech noise breakout from the premises</b></p>	<p><b>PN1</b></p>	<p>(a) <b>A noise management policy</b> should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</p> <p>(b) The policy should be based on the findings of an acoustic consultant's assessment.</p> <p>(c) All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</p> <p>(d) DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p>			
	<p><b>PN2</b></p>	<p>(a) <b>Windows and doors should be kept closed</b> whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means.</p> <p>(b) Windows should be sound insulated.</p> <p>(c) Emergency exits should be sealed acoustic doors.</p> <p>(d) A lobbied area should be provided at the entrance and exit to the premises.</p> <p>(e) Doors should be fitted with self closing devices.</p>			

	<b>PN3</b>	<p>(a) <b>A sound limiting device</b> should be installed, set and sealed at a level approved by an acoustic consultant.</p> <p>(b) The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events.</p> <p>(c) Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p>			
	<b>PN4</b>	<p>(a) <b>Locate entertainment facilities</b> such as DJ booth, stage and loud speakers away from doors and windows.</p> <p>(b) Rubber speaker mounts can be used to minimise structure borne noise.</p>			
	<b>PN5</b>	<p>(a) <b>Methods for monitoring noise</b> should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder / staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.</p> <p>(b) Noise monitoring should actively be carried out on a regular basis and in particular when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.</p>			



	<b>PN6</b>	<p>(a) <b>A log book</b> should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.</p> <p>(b) The log book should be made available for inspection by the licensing authority or environmental health responsible authority.</p>			
	<b>PN7</b>	<b>A contact telephone number</b> should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The phone line should be available at all times the licence is in use.			
<b>Noise and nuisance from customers arriving and leaving the premises</b>	<b>PN8</b>	<p>(a) <b>Reduce the potential for excessive queue lines</b> with a well managed and efficient door policy.</p> <p>(b) Long queues should be avoided and any queues should be directed away from residential properties.</p> <p>(c) Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated.</p>			

		<p>(d) Door staff should refuse entry to anyone behaving in an anti-social way.</p> <p>(e) Restrict admittance or re-admittance to the premises after 23:00.</p>			
	<b>PN9</b>	<p>(a) <b>A customer dispersal policy</b> can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.</p> <p>(b) A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.</p> <p>(c) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p>			
	<b>PN10</b>	<p>(a) <b>Display prominent notices</b> close to the exit doors, requesting patrons to leave the premises and quickly and quietly.</p> <p>(b) Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</p>			

		(c) Make announcements at the end of an evening, requesting patrons to (i) leave the premises and area quickly and quietly (ii) to use toilet facilities before leaving.			
	<b>PN11</b>	(a) <b>Provide a free taxi phone service and an internal waiting area</b> for customers to prevent noise disturbance to neighbours.  (b) Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.			
<b>Noise and nuisance from customers using external areas such as beer gardens or forecourts</b>	<b>PN12</b>	<b>Display prominent signs</b> in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.			
	<b>PN13</b>	<b>Restrict the use of external areas</b> after 22:00 if premises are in a residential area.			
	<b>PN14</b>	(a) <b>Door supervisors or staff</b> should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.  (b) For private forecourts, a physical barrier such as a rope should be used to mark the boundary of the area outside the premises where customers are allowed.			

		<p>(c) Limit the number of smokers permitted outside at any one time after a certain time.</p> <p>(d) Discourage smokers from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p> <p>(e) Locate smoking areas away from residential premises.</p> <p>(f) Do not permit customers to congregate on and block the public highway to passers by.</p>			
<b>Noise from staff and entertainment providers leaving the premises</b>	<b>PN15</b>	Staff and performers who depart late at night or in the early hours of the morning when the business has ceased trading, should conduct themselves in such a manner as to avoid causing disturbance to nearby residents. This includes the loading and unloading of artists' equipment.			
<b>Noise and disturbance caused by deliveries, collections and waste disposal</b>	<b>PN16</b>	<b>Commercial deliveries, collections and storage / disposal of waste</b> , including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 08:00 and 18:00 Monday to Friday.			

<b>Litter and waste around the premises</b>	<b>PN17</b>	<p>(a) <b>Flyers should not be distributed outside the premises</b> by the licence holder or any staff employed by the licence holder.</p> <p>(b) Licence holders should ensure that promoters of events at their premises do not distribute flyers outside the premises.</p>			
<b>Litter collection</b>	<b>PN18</b>	<p>(a) <b>Procedures should be in place</b> for the prompt collection of street litter generated by the premises for example flyers, cigarette butts or food wrappers.</p> <p>(b) Regular patrols of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.</p> <p>(c) Use wall or floor mounted cigarette bins in designated smoking areas for customers.</p>			
<b>Disturbance from external lighting</b>	<b>PN19</b>	<b>External lighting</b> for the premises should be turned off after the premises are closed to the public.			
<b>Noise or odours from plant and machinery</b>	<b>PN20</b>	<b>Plant and machinery should not cause nuisance</b> to local residents by way of noise, odours or vibration. Acoustic measures such as screening, enclosures, anti-vibration mounts, silencers or timing clocks should be used if necessary.			

Risk		Good Practice Measure for Protection of Children from Harm	Adopted	N/A	If the measure would normally be adopted, reason(s) why N/A
<b>Children accessing licensed premises</b>	<b>CH1</b>	<p>(a) <b>A documented policy</b> setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises.</p> <p>(b) All staff including door staff and bar staff should be trained on the policy.</p>			
	<b>CH2</b>	<p>(a) <b>Restrict access to children</b> depending on the nature of the business and / or circumstances.</p> <p>(b) The admission of children can be restricted up until a specified time in the evening.</p> <p>(c) The admittance of children can only be permitted if they are accompanied by an adult.</p>			
<b>Underage sales of alcohol</b>	<b>CH3</b>	<p>(a) <b>Operate a strict ‘No ID, No Sale’ policy. ‘Challenge 25’ scheme</b> serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p>			

		<p>(b) A 'Challenge 25' scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>(c) Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID. If you accept other forms of ID such as EU National ID cards, these must bear a photograph, date of birth and holographic mark.</p> <p>(d) Use till prompts to remind staff to ask for proof of age.</p> <p>(e) Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p>			
	<b>CH4</b>	<b>Display posters at the premises</b> stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).			
	<b>CH5</b>	<b>Adverts or promotions for alcohol should not</b> appeal to young persons.			
	<b>CH6</b>	(a) <b>Keep a refusals book</b> (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.			

		<p>(b) The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>(c) The book should be made available to police and authorised council officers on request.</p> <p>(d) The book should be reviewed on a regular basis to see if any patterns emerge.</p>			
	<b>CH7</b>	<p>(a) <b>Staff training</b> in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary.</p> <p>(b) A record should be kept of the date and name of person trained.</p>			
<b>Access to age restricted films</b>	<b>CH8</b>	<p>(a) <b>Adequate provisions for restricting children</b> from viewing age restricted films should be in place at the premises.</p> <p>(b) Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).</p>			



<b>Access to age restricted gaming machines</b>	<b>CH9</b>	<b>Age restricted gaming or vending machines</b> should have suitable signage setting out the age restrictions and should be in full view of staff for monitoring.			
<b>Access to entertainment of an adult nature</b>	<b>CH10</b>	<b>Children under the age of 18 should be excluded</b> from the premises or part of the premises when specified activities such as adult entertainment are taking place.			
	<b>CH11</b>	<b>Adverts for entertainment of an adult nature should not be displayed externally</b> on the premises or in any part of the premises internally where they can be seen by young persons.			

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## Appendix G

## Declaration

*Completion of the declaration is completely voluntary*

<b>Name</b>	
<b>Name of premises and premises reference number</b> <i>(If there is one)</i>	
<b>Address</b>	
<b>Contact</b> Mobile telephone numbers  Landline number  e-mail address	
<b>Date</b>	
<b>Position of person who completed Declaration</b>	<ul style="list-style-type: none"> <li>• Premises Licence Holder / Proposed Premises Licence Holder / Designated Premises Supervisor (DPS)</li>   <li>• Personal Licence Holder <i>(Delete as appropriate)</i></li> </ul>
<b>Statement of Licensing Policy</b>	I hereby declare I have read the Statement of Licensing Policy including the Code of Practice <i>(Delete as appropriate)</i>
<b>Full Risk Assessment</b>	I hereby declare I have / have not completed the Full Risk Assessment template <i>(Delete as appropriate)</i>



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# Standard Temporary Events Notice Information Sheet

<b>When is it required?</b>	To cover <i>Licensable Activities</i> for a maximum of 499 people
<b>What are Licensable Activities?</b>	<ul style="list-style-type: none"><li>• Sale of alcohol</li><li>• Supply of alcohol</li><li>• Provision of regulated entertainment, eg plays, films, indoor sporting event, boxing, wrestling, performance of live music, playing recorded music, performance of dance</li><li>• Provision of late night refreshment</li></ul>
<b>Who may apply?</b>	Anyone aged 18 years and over, subject to <i>Limitations</i>
<b>What are the Limitations?</b>	<ul style="list-style-type: none"><li>• 50 times per calendar year for a Personal Licence holder</li><li>• 5 times per calendar year for other people</li><li>• 12 (15 from 01.01.16) times per calendar year for particular premises (</li><li>• Maximum period for each TEN is 168 hours / 7 days</li><li>• Maximum of 21 days in a calendar year to individual premises</li></ul> <p><i>NB</i> if an event starts before midnight and ends after midnight, it counts as 2 days</p>
<b>How do I apply?</b>	Electronic Application via gov.uk to Shepway District Council – SDC will then notify the Police and Environmental Protection OR 2 hard copies of the Application to SDC – the Applicant must also serve a copy on the Police and Environmental Protection
<b>When do I apply?</b>	<u>10 working days before the Event</u>  In calculating the period, the following are not counted <ul style="list-style-type: none"><li>• The date the Notice is received</li><li>• Saturdays, Sundays, Bank Holidays, Christmas day and Good Friday</li><li>• The first date of the Event</li></ul>
<b>Who may object?</b>	The Police and Environmental Protection
<b>When may they object?</b>	<u>3 working days excluding the day of receipt from when they are given notice of the Application BUT they can only object in accordance with any of the 4 Licensing Objectives:</u> <ol style="list-style-type: none"><li>1. <i>Prevention of crime and disorder</i></li><li>2. <i>Public Safety</i></li><li>3. <i>Prevention of public nuisance</i></li><li>4. <i>Protection of children from harm</i></li></ol>
<b>What happens if no objection is lodged?</b>	The TEN is validated and you will be sent the Notice
<b>What happens if an objection is lodged?</b>	SDC will arrange a hearing before the Licensing Sub-Committee to consider the Application; the Sub-Committee may Grant the Application, impose Conditions, if TEN on Licensed Premises, or refuse the Application

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# Late Temporary Events Notice Information Sheet

<b>When is it required? What are Licensable Activities?</b>	To cover <i>Licensable Activities</i> for a maximum of 499 people <ul style="list-style-type: none"><li>• Sale of alcohol</li><li>• Supply of alcohol</li><li>• Provision of regulated entertainment, eg plays, films, indoor sporting event, boxing, wrestling, performance of live music, playing recorded music, performance of dance</li><li>• Provision of late night refreshment</li></ul>
<b>Who may apply?</b>	Anyone aged 18 years and over, subject to <i>Limitations</i>
<b>What are the Limitations?</b>	<ul style="list-style-type: none"><li>• 10 out of 50 times per calendar year for a Personal Licence holder</li><li>• 2 times out of 5 times per calendar year for other people</li></ul> <p><i>NB</i> if an event starts before midnight and ends after midnight, it counts as 2 days</p>
<b>How do I apply?</b>	Electronic Application via gov.uk to Shepway District Council – SDC will then notify the Police and Environmental Protection OR 2 hard copies of the Application to SDC – the Applicant must also serve a copy on the Police and Environmental Protection
<b>When do I apply?</b>	<u>Not less than 5 but no more than 9 working days before the Event</u>  In calculating the period, the following are not counted <ul style="list-style-type: none"><li>• The date the Notice is received</li><li>• Saturdays, Sundays, Bank Holidays, Christmas day and Good Friday</li><li>• The first date of the Event</li></ul>
<b>Who may object?</b>	The Police and Environmental Protection
<b>When may they object?</b>	<u>3 working days excluding the day of receipt from when they are given notice of the Application BUT they can only object in accordance with any of the 4 Licensing Objectives:</u> <ol style="list-style-type: none"><li>1. <i>Prevention of crime and disorder</i></li><li>2. <i>Public Safety</i></li><li>3. <i>Prevention of public nuisance</i></li><li>4. <i>Protection of children from harm</i></li></ol>
<b>What happens if no objection is lodged?</b>	The TEN is validated and you will be sent the Notice
<b>What happens if an objection is lodged?</b>	The Ten is not validated and the Notice is terminated. No right of hearing or appeal

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## Appendix I

### Non-regulated entertainment

The following are designated as non-regulated entertainment and are therefore exempt from requiring either a premises licence / certificate or temporary events notice.

Plays, dance not adult	Films	Indoor sport	Boxing, wrestling	Live music unamplified	Live music amplified	Recorded music	'Cross activity' any entertainment
<b>At any time between 08:00 and 23:00 daily</b>							
Audience up to 500		Audience up to 1,000		-	Audience up to 500		-
-	Consent from premises  Observe age rating  Not for profit <b>and</b> on community premises	-	Greco-Roman <b>or</b> Freestyle		Premises with an on-licence <b>or</b>  Church hall, village hall, or community hall or similar, with consent of person responsible <b>or</b>  Non-residential LA premises, school or hospital, with consent of body responsible <b>or</b>  workplace (live music only)	On LA/hospital/school premises where provided on behalf of same <b>or</b>  at a travelling circus, provided (a) not films, boxing or wrestling <b>and</b>  (b) within moveable structure accommodating audience <b>and</b>  (c) not there for more than 28 days	
<b>End Box</b>							

How to use the above table to decide whether you need a licence or TEN; if you cannot pass through all the boxes to the End Box, you must get a licence or TEN.

Examples:

**Live band with electric guitars and singer in a pub for 600 people from 20:00 – 22:00.**

Go to Live Music box

PASS to next box

Between 08:00 and 23:00

PASS to next box

Up to 500 people

FAIL – obtain premises licence or TEN or reduce capacity to 499. If capacity reduced to 499, PASS to End Box

**Recorded music with a DJ and disco at a university for 350 people, entry fee of £5, event from 19:00 – 23:00.**

Go to Recorded Music Box amplified

PASS to next box

Between 08:00 and 23:00

PASS to next box

Audience 350

PASS to next box

It is a university (not a school)

FAIL – check any premises licence that may cover area and event or apply for a TEN.

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## Appendix J

## Enforcement Actions/Options

1	<p>The initial contact between the licensing authority and licence holder/business will normally be informal with the provision of advice, guidance and support.</p>
2	<p>Enforcement action can include the following progressive approach to achieve compliance:</p> <ul style="list-style-type: none"> <li>• verbal advice which may be documented</li> <li>• written advice</li> <li>• verbal warning which will be documented</li> <li>• written warning</li> <li>• statutory notice</li> <li>• formal caution</li> <li>• prosecution</li> </ul> <p>The individual circumstances of the breach of the legislation will determine the appropriate level of enforcement. In the case of a premises licence, the council or a responsible authority or other person may apply for a review.</p> <p>All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.</p> <p>On conviction of a relevant offence magistrates may endorse, suspend or revoke a personal licence.</p> <p>Council officers, police or crown prosecution service may relating to such a conviction remind the Magistrates of their power to endorse, suspended or revoke a personal licence.</p>
3	<p>When prosecution is being considered, the relevant enforcement bodies will on a case-by-case basis decide which is the lead authority to prosecute the offence.</p> <p>Regard will be taken of the code of practice made under Section 10 of the Prosecution of Offences Act 1985 and issued by the Crown Prosecution Service. Due consideration will be given to any guidance and/or advice issued by government, local authority, association and other professional and technical bodies.</p> <p>Statements will be provided as regard to evidence from one agency to another as necessary.</p> <p>Before deciding whether to prosecute the following factors will be considered:</p> <ul style="list-style-type: none"> <li>• the seriousness of the alleged offence</li> <li>• the history of the person/business concerned</li> <li>• the willingness of the business/individual to prevent a reoccurrence of the problem and the level of cooperation with council officers, police and/or other agencies</li> <li>• whether it is in the public interest to prosecute</li> <li>• the realistic prospect of conviction</li> <li>• whether any other action (including a formal caution) would be appropriate</li> <li>• the views of the complainant and other parties with an interest in prosecution.</li> </ul> <p>The licensing authority takes a proactive stance towards proper regulation of, and</p>



enforcement of the provisions of the legislation.

The licensing authority will normally take the lead on issues including:

- noise
- production and display of relevant licences and documents
- unauthorised licensable activities in relation to the provision of regulated entertainment
- breaches of conditions of Premises Licences
- breaches of requirements under Temporary Events Notices
- exposing and keeping alcohol for unauthorised sales.

Other breaches of the Act will be dealt with either directly or jointly as indicated above. The licensing authority will give full cooperation to any other agency in carrying out their investigations.

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**SHEPWAY DISTRICT COUNCIL  
PLANNING AND LICENSING COMMITTEE – 20 MARCH 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:

<b>Application No:</b>	<b>Type of Lobbying</b>
Y161122SH – Land rear Rhodes House	..... .....
Y171409SH – Land adj Framlea	.....
Y180080SH – Due South	..... .....
Y180061SH – Pent Valley	..... ..... .....

SIGNED: .....

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

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