



Agenda

Meeting: **Planning and Licensing Committee**
Date: **24 April 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.

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

Access to the meeting

Please note that the Council Chamber can only seat up to 37 members of the public, therefore there is no guarantee that everyone who wishes to attend the meeting can be accommodated. The Chamber will be opened to the public 15 minutes before the start of the meeting and the seats will be allocated firstly to speakers on the applications, with the remainder allocated on a first come, first served basis. Standing in the public gallery is not permitted and there is no overflow accommodation.

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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 meetings held on 20 March 2018 and 3 April 2018.

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

To consider and approve the minutes of the meeting held on 20 March 2018.

5. **Y17/1099/SH Former Rotunda Amusement Park, Marine Parade, Folkestone (page 33)**

Report DCL/17/45 Section 73 application for the removal of condition 41 (Provision of Sea Sports Centre) and variation of conditions 4 (Reserved Matters), 6 (Phasing), 7 (Reserved Matters Details), 15 (Public Realm), 16 (Play Space/ Amenity Facilities), 18 (Public Toilets), 21 (Wind Flow Mitigation), 23 (Heritage Assets), 25 (Bus Stop), 37 (Wave Wall); and 42 (Provision of Beach Sports Centre) of planning permission Y12/0897/SH (Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as sea sports and beach sports facilities. Improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement) to enable changes to the plot shapes, footprints, maximum height, changes to parameter plans, levels, parking arrangements, how the sea sports and beach sports facilities are provided, and alterations to the Environmental Statement.

6. **Y18/0011/SH -Land Adjoining Jesson Court Caravan Park, Jefferstone Lane, St Marys Bay (page 101)**

Report DCL/17/46 Change of use of agricultural land to the keeping of horses together with the erection of a stable block.

7. **Y17/1317/SH - Haguelands Farm, Burmarsh Road, Burmarsh TN29 0JR (page 111)**

Report DCL/17/47 Construction of detached restaurant/café building (Use class A3), construction of detached indoor play barn (Use Class D2),

alterations to existing farm entrance, provision of new hard standing for disabled visitors, deliveries and fenced bin enclosure, relocation of existing parking to overspill car park with permeable surfacing to tracked routes.

8. **Y18/0066/SH Land At Park Farm Road, Park Farm Road, Folkestone (page 127)**

Report DCL/17/48 Redevelopment of the site to provide a hotel (4,979 sqm GIA) (Use Class C1), restaurant and cafe floorspace (847 sqm GIA) (Use Class A3) and two 'drive through' units (total 451 sqm GIA) together with a new vehicular and pedestrian access from Park Farm Road, parking, servicing and all hard and soft landscaping.

9. **Y18/0209/SH -31 Warren Way Folkestone Kent CT19 6DT (page 149)**

Report DCL/17/49 Erection of two storey side and rear extension with single storey rear element, following demolition of existing single storey garage.

10. **Appeals Monitoring Information - 4th Quarter 1.1.2018 - 31.3.2018 (page 159)**

Report DCL/17/50 Appeals monitoring information – 4th Quarter 1.1.2018 to 31.3.2018.

*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 March 2018
Present	Councillors John Collier (In place of Michael Lyons), Alan Ewart-James, Clive Goddard (Chairman), Miss Susie Govett, Mrs Jennifer Hollingsbee, Len Laws, Philip Martin, Dick Pascoe, Russell Tillson and Roger Wilkins (Vice-Chair)
Apologies for Absence	Councillor Michael Lyons, Councillor Paul Peacock and Councillor Damon Robinson
Officers Present:	Kate Clark (Committee Services Officer), Ben Geering (Head of Planning), Julian Ling (Senior Planning Officer) and Lisette Patching (Development Manager)
Others Present:	

58. **Declarations of Interest**

Councillor Len Laws made a voluntary announcement in that he is a direct neighbour of Planning Application Y18/0060/SH – Due South, Romney Road, Lydd. Councillor Laws left the meeting prior to this item and did not take part in discussions or voting on this item.

Councillor Dick Pascoe made a voluntary announcement with regard to Planning Application Y18/0061/SH – Pent Valley Technology College, Surrenden Road, Folkestone in that he is a member of Kent County Council's Planning Committee.

59. **Minutes**

The minutes of the Planning and Licensing Committee held on 20 February 2018 were submitted, approved and signed by the Chairman.

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

The minutes of the Licensing Sub Committee held on 15 February 2018 were submitted, approved and signed by the Chairman.

61. **Application Number: Y16/1122/SH - Land Rear Rhodes House Main Road Sellindge Kent.**

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 multiuse games area, nature reserve, and associated access, parking, amenity space and landscaping.

This item was deferred to the next Planning and Licensing Committee on 3 April 2018. .

62. **Application Number: Y17/1409/SH - Land Adjacent Framlea Rye Road Brookland Kent.**

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).

Mr Martin Thorpe, local resident, spoke on the application
Mr M Sheardown, applicant, spoke on the application

Proposed by Councillor John Collier
Seconded by Mrs Jenny Hollingsbee and

RESOLVED:

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.

(Voting: For 8; Against 2; Abstentions 0)

63. **Application Number: Y18/0061/SH - Pent Valley Technology College, Surrenden Road, Folkestone, Kent CT19 4ED.**

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)

Mr K Bleach, local resident, spoke against the application
Councillor Peter Gane, ward member, spoke on the application

Proposed by Councillor Ms Susie Govett
Seconded by Councillor Clive Goddard and

RESOLVED:

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.

(Voting: For 4; Against 2; Abstentions 4)

64. Application Number: Y18/0060/SH - Due South, Romney Road, Lydd, Romney Marsh, Kent, TN29 9LN.

Erection of front porch and construction of vehicle crossover

Proposed by Councillor Russell Tillson
Seconded by Councillor Roger Wilkins and

RESOLVED:

That planning permission be refused for the following reason:

- 1. The vehicular crossover proposed to the front of the application site, by virtue of its material and extent 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. As such the development is contrary to saved policies SD1(f) 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.**

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

(Councillor Laws left the Chamber during consideration of this item)

65. Licensing Policy Report

Report DCL/17/39 set out the proposed revisions made to our Licensing Policy Statement. This policy covers the period 2018-2023.

Mr Ben Geering, Head of Planning, presented this report. He drew members' attention to point 3.8 of the report.

Proposed by Councillor Dick Pascoe
Seconded by Councillor Russell Tillson and

RESOLVED:

- 1. To receive and note the report DCL/17/39.**

- 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)**

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

Planning and Licensing Committee

Held at:	Council Chamber - Civic Centre, Folkestone
Date	Tuesday, 3 April 2018
Present	Councillors Alan Ewart-James, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Len Laws, Michael Lyons, Philip Martin, Dick Pascoe, Paul Peacock, Damon Robinson, Russell Tillson and Roger Wilkins (Vice-Chair)
Apologies for Absence	Councillor Miss Susie Govett
Officers Present:	David Campbell (Development Management Team Leader), Kate Clark (Committee Services Officer), Louise Daniels (Senior Planning Officer), Ben Geering (Head of Planning), Lisette Patching (Development Manager), Susan Priest (Head of Paid Service), Matt Rain (Communications Manager), Jemma West (Senior Committee Services Officer) and David Whittington (Planning Policy Team Leader)
Others Present:	Mr Matthew Hogben (Transport and Development Planner, KCC Highways and Transportation), Councillors Miss Carey, Mrs Sacre, McKenna, Mrs Lawes and Mrs Wallace

66. **Declarations of Interest**

Councillor Mrs Jenny Hollingsbee declared an Other Significant Interest with regard to Planning application Y18/1122/SH Land Rear Rhodes House, Main Road, Sellindge. She attended the opening of Elmsted Village Car Park which was constructed by the applicant's agent and she is the President of the Sellindge Sports and Social Club. Councillor Hollingsbee addressed the meeting and then moved to the public gallery prior to debate and voting on this item.

67. **Application Number: Y17/1099/SH Former Rotunda Amusement Park Marine Parade Folkestone**

Section 73 application for removal of conditions 41 (Provision of Sea Sports Centre) and 42 (Provision of Beach Sports Centre) and for the variation of conditions 4 (Reserved Matters), 6 (Phasing), 7 (Reserved Matters Details), 15 (Public Realm), 16 (Play Space/ Amenity Facilities), 18 (Public Toilets), 21 (Wind Flow Mitigation), 23 (Heritage Assets), 25 (Bus Stop) and 37 (Wave Wall) of planning permission Y12/0897/SH (Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as seasports and beach sports facilities. Improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement) to enable changes to the plot shapes, footprints, maximum height, changes to parameter plans, levels, parking arrangements, and alterations to the Environmental Statement.

David Campbell, Development Management Team Leader, presented this report and referring to paragraph 1.17 of the officer's report advised members that the Harbour Master's House is shown to be demolished, however a condition is proposed which will safeguard it until the Local Planning Authority is satisfied on details of what will replace it.

Mr Hourahane, local resident, spoke on the application. His concerns included insufficient parking, lack of public amenities and did not agree that the changes were minor.

Mr Richard Wallace, Folkestone Town Council, spoke on the application and said this development was a bonus and improvement for Folkestone, however his concerns were the building height amendments, affordable housing and infrastructure.

Councillor Mrs Mary Lawes, ward member, spoke on the application. Her concerns were increase in traffic congestion, vehicle accidents and employment factors.

Councillor Mrs Susan Wallace, ward member, spoke on the application and pointed out to members that this was a carefully thought out development, however she was concerned about the level of consultation, affordable housing and rental properties.

Mr Trevor Minter, applicant, spoke on the application. He pointed out this is a viable project and all challenges have been addressed. He was aware of the objections however he was satisfied that the process of the consultation plan had been followed.

Members noted concerns with regard to:

- Guidelines to the description of 'minor alterations'
- Building height adjustments
- Affordable housing
- Parking provisions
- Consultation process and the large amount of objections received
- Suitability of Section 73

Mr Campbell explained the Section 73 process and pointed out that planning permission had already been granted.

Miss Lisette Patching, Development Management Manager, assured members that she was satisfied that the consultation process had been carried out correctly.

Mr Matthew Hogben, Transport and Development Planner, KCC Highways and Transportation, advised members that underground parking would be provided. He noted that since the original plan in 2012, a Controlled Parking Zone had been implemented on Marine Parade which benefits residents and that the parking provision is identical to the 2012 submission and approval.

Proposed by Councillor Michael Lyons
Seconded by Councillor Alan Ewart-James and

RESOLVED:

That for the reasons set out in the report of the Head of Planning, the section 73 application should be granted subject to delegation being given to the Head of Planning for the detailed wording and finalisation of suitable conditions and a deed of variation to the section 106 agreement to deliver the requirements set out in the report.

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

Upon being put the vote for approval was LOST.

A recess was requested by the Head of Planning and agreed by the Chairman, as members were proposing to table a motion to refuse the application on the grounds the s73 was not suitable.

Following the recess the Head of Planning advised members as follows:

- the application has been validated and consulted on in accordance with legislation and that the changes allowed under the S73 process are within the context of the development as a whole (officers having previously advised why they consider the S73 process is suitable)
- members are being asked to determine whether the changes proposed are acceptable in planning terms.
- If members do not consider the changes are in acceptable in planning terms they need to provide clear planning reasons why

- Alternatively, if members want independent legal advice to address concerns over whether the correct application process is S73 or should instead be dealt with under S70 of the Town and Country Planning Act the application can be deferred to get this advice and then brought back to committee.

Proposed by Councillor Dick Pascoe
Seconded by Councillor Russell Tillson and

RESOLVED:

That the Section 73 application is deferred to allow independent legal advice to be sought as to whether S73 is the correct process prior to this application being brought back to the Planning and Licensing Committee at a future date.

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

68. Application Number: Y16/1122/SH Land Rear Rhodes House Main Road Sellindge Kent

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.

Louise Daniels, Senior Planning Officer, presented the report and advised members that since the publication of the supplementary information additional comments have been received from Sellindge Parish Council which include concerns about the Elec Link cable, high voltage cables and traffic congestion. Also four additional neighbour objection letters have been received.

Mr Bob Eddon, local resident, spoke on the application.
Linda Hedley, Parish Clerk at Sellindge Parish Council spoke on the application.
Councillor Miss Susan Carey spoke on the application.
Mr Mark Quinn, applicant's agent, spoke on the application.

Proposed by Councillor Russell Tillson
Seconded by Councillor Alan Ewart-James and

RESOLVED:

- **That, for the reasons set out in the report of the Head of Planning, 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 subject to conditions outlined within the report and any additional conditions which he considers to be necessary.

(Voting: For 8, Against 2, Abstentions 0)

Councillor Mrs Jenny Hollingsbee did not take part in the debate or voting of this application.

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Minutes

Licensing Sub-Committee

Held at: Boulogne Room - Civic Centre Folkestone

Date: Tuesday, 20 March 2018

Present: Councillors Mrs Jennifer Hollingsbee, Michael Lyons and Russell Tillson

Apologies for Absence

Officers Present: Arthur Atkins (Environmental Health and Licensing Manager), Kate Clark (Committee Services Officer), David Kelly (Legal Services Manager), Sue Lewis (Committee Services Officer) and Briony Williamson (Licensing Officer)

Others Present:

44. **Declarations of interest**

There were no declarations for interest.

45. **Application for a Dual Driver's Licence**

This report considers whether an application for a Dual Driver's Licence should be granted.

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

The applicant presented his case for applying for a dual driver's Licence and outlined the background to the incident referred to in the report.

The Committee asked a number of questions and then went into closed session to make their decision with the Council's Legal representative.

Proposed by Councillor Russell Tillson
Seconded by Councillor Mrs Hollingsbee and

Resolved:

A Licensing authority must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. We are required to ask ourselves whether we would be happy letting our spouses or children be driven by the driver.

The Sub-Committee are prepared to return the licence, under the following conditions for the protection of the public, and for applicant himself:-

- 1. To receive and note the report.**
- 2. A temporary return of the licence for a period of 12 months, with a final decision depends upon conduct over that period.**
- 3. That the applicant attends the next available Safeguarding training session.**
- 4. Any car driven by the applicant must be fitted with operational CCTV, which must be permanently switched on.**
- 5. Payment in advance to the employing company for each and every journey where the cost would exceed £40.**
- 6. That the above arrangements to become operational following the request and receipt of satisfactory and appropriate references from Lidl and Folkestone Taxi, to be obtained as soon as possible.**

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

Licensing Sub-Committee

Held at: Council Chamber - Civic Centre Folkestone
Date: Tuesday, 20 March 2018
Present: Councillors Mrs Jennifer Hollingsbee, Michael Lyons and Russell Tillson

Apologies for Absence

Officers Present: Arthur Atkins (Environmental Health and Licensing Manager), Ben Geering (Head of Planning), David Kelly (Legal Services Manager), Beth Lennon (Planning Officer), Sue Lewis (Committee Services Officer), Wai Tse (Environmental Protection Officer) and Briony Williamson (Licensing Officer), Heather Lunney (Environmental Protection Officer) and Tamzin Dunstone (Trainee Legal Executive)

Others Present:

46. Declarations of interest

There were no declarations of interest.

47. An application to review the Premises Licence for - Bank Bar, Basement Premises, 2 Castle Hill Avenue, Folkestone CT20 2QT

Report DCL/17/40 sets out the facts for the Licensing Sub-Committee to consider when a responsible authority applies to the Licensing Authority for a review of a premise licence. The licensing committee is the Licensing Authority acting in a role previously taken by the Magistrates Court. It is, therefore, not appropriate for officers to make additional comments other than in the capacity as a Responsible Authority under the legislation of the Licensing Act 2003. Therefore there are no comments from Legal, Finance or other officers included in this report.

Wai Tse, Environmental Protection Officer, presented the Licensing Sub-Committee with an overview of the report, paying particular attention to the following:

- The premises were being conducted in such a manner as to prejudice the council's licensing objectives, with the management being below standards that are expected in respect of premises operating in the late night economy.
- Community Safety reports and crime reports were evidence of failure to promote the Prevention of Crime and Disorder.
- There is noise pollution, loud music, screaming from patrons, which are in complete disregard of neighbours under the Prevention of Public Nuisance licensing objective.
- A recommendation to include properly staffed door supervisors who adhere to public safety and who should all be SIA accredited. Currently the Door Supervisors do not manage the external areas adequately.
- There are 13 active complaints in place, which mainly relate to the opening hours, noise and patrons being abusive towards neighbours and each other.
- Mr Tse listed the Emergency Response Officers' reports and detailed some of the breaches of the mediation terms.
- Mr Tse detailed the ongoing complaints received from residents and how the reduction in the opening hours would help minimise these complaints.
- Mr Tse provided a number of suggested recommendations which he thought should be agreed by the Sub-Committee and these are listed as part of the final recommendations below.

Beth Lennon (the Planning Officer) confirmed that the Council had received a large number of calls in respect of noise nuisance, which are in breach of planning conditions and the prevention of public nuisance. It is clear that the early hours enhance this noise and therefore do not promote the licensing objectives.

The premises are operating outside of the hours for which they have planning permission, which are 9am until 11pm and these hours are in place so as to protect residential amenities. The evidence presented at the hearing, including that of Mr Lim, suggests the premises have been operating as a night club, which would need independent planning permission.

The Sub-Committee heard a number of representations:

Philip Carter, spoke as a resident and on behalf of the Leas Residents Association, stated that he and the Association did not object to the evening economy but did object to the amount of noise, abuse and anti-social behaviour that is related to the Bank Bar which, in a residential area is unacceptable. The Bar receives patrons migrating from the old town as it is still open. Residents are unable to sleep, enjoy their surroundings and therefore ask that the sub-committee review the license accordingly.

Mr Floria, resident, stated that he works unsociable hours so when he comes home late at night has been subjected to drunken abuse and is then unable to

sleep due to noise nuisance from the patrons from the Bank Bar. He suggested the opening hours are amended or the bar is shut.

Miss Manoli, resident, confirmed all of the above comments made by the residents so far and confirmed that she has very little sleep when the Bank Bar is open, has received verbal and aggressive abuse, witnessed people vomiting and urinating in the residential areas and this is an inappropriate venue for this area. She walks her dogs and if they step on the broken glass left in the street from the bar who would be responsible for the vet bills?

Dawn Hardingham, resident, again confirmed all of the above and both her and her husband feel intimidated by the patrons from the bar and have witnessed drug taking. None of this happens when the bar is closed so it is clear that the issues only arise when it is open. They have heard fighting, loud noise and music which keeps both awake and as others have said they feel scared to leave their properties at certain times of the day. This is not the place for this kind of venue. They can clearly identify people around the back alley of Muddles Passage as patrons of the bar who are drug taking. There have been two police incidents in her building related to the bar patrons. She didn't know how the original extension of the license hours was allowed.

Vanessa Summers, resident, stated that she often had her grandchildren to stay but has now had to stop this due to the noise, language and abusive behaviour that keeps her and the grandchildren awake. This is totally unacceptable in a residential area and agrees with all the previous comments made.

Zoe Bowden, resident, for 12 years referred to the comment by the owners that there is a witch hunt against the bar but insisted that this is not true and that any correspondence between residents is to help each other. She explained that many residents under report various issues. People had contacted the Environmental Health Officer to report issues but would then have to wait half an hour for them to arrive, sometimes at 2 or 3 in the morning; this then causes more distress due to sleep disturbance and so they don't request that the EHO comes out.

She said that on numerous occasions there are no staff present outside of the premises and has witnessed, as others have stated, fights, drug use and abusive behaviour, alongside drunks and parties from the bar. This is not the place for a "nightclub" to be, confirming that it is a nightclub and not a bar as the license says.

John Murray, resident, stated that although the music sound can rise and fall, it is not conducive to a good night's sleep. These issues are really hard to report as it takes so long for things to be activated through the correct channels.

Mr Murray also stated, as others have, that there is a lack of staff presence at the door to the bar and agrees with everything that has already been said.

Emily Coleman, speaking on behalf of her mother, Jane Coleman, and brother who are residents stated that due to her brother being disabled she often sleeps in the living room to help her mother out. She has had little sleep on these

occasions and on one occasion confronted the door staff which resulted in abuse. She has reported a number of issues to the police.

Mr Babulal Kotak, owner of a flat in the area, stated that it is difficult to sell the flat and that the bar is in the wrong place and should not be open. He stated it is a breeding ground for criminals.

Councillor Dick Pascoe, Ward Member, listed a number of reasons as to why this bar should be closed or the opening and closing hours should be reviewed:

- Residential area
- It is a nightclub and not as suggested a bar.
- Numerous complaints have been recorded, 26 pages in the report.
- Does not conform to the Licensing regulations.
- No permanent doorman in view.
- Crime and Disorder – drugs, fights, drunken people, noise all issues previously raised.
- Lack of sleep – noise, abuse and foul language should not be heard or seen by children.
- There is a complete breach of conditions.
- Requested that the Sub-Committee shut down this bar and no Temporary Event Notice should ever to be accepted

The Sub-Committee then heard from the representative appearing on behalf of the License Holder:

Mr William Lim attended and informed the Sub-Committee that he was the bar manager for two years from October 2015 to November 2017. He informed the Sub-Committee that he had reported most of the incidents of crime and disorder to the police which included an attempted break in and racist abuse.

His mother is the Designated Premises Supervisor (DPS) and speaks limited English and that is why she is not attending, she knows what is going on at the bar and delegates her DPS powers to the managers.

Mr Lim did not understand all of the residents' submissions as he had not witnessed what had been stated. If these incidents were reported, he had not had any follow up meetings to discuss the issues with either the Police or the Environmental Health Officer.

Mr Lim did not agree that the Environmental Health Officer had reported that no door staff were on duty when they kept a record of who was on duty and a log is kept of any incidents that occur inside and outside the premises. There have been no visits to the bar to request this information. All events are risk assessed and determine how many door staff are needed.

Mr Lim stated that there had been a mediation meeting, with no residents in attendance and he believed he had actioned everything following this meeting. No follow up of this meeting has taken place. No visits from licensing staff throughout 2016 or 2017.

Mr Lim has never received direct complaints, emails or letters referring to any of the above resident issues.

Licensing Sub-Committee - 20 March 2018

Mr Lim engaged an acoustic specialist and the report features in the representation pack he submitted. Noise here seems to be a key issue. When he applied for this licence he asked for scientific measurements for music levels and never received an answer.

Mr Lim informed the Sub-Committee that 80% of his business is after 11pm and that he has requested a copy of the Licensing policy which he is still waiting for. He considered that there should be a balance between the needs of his business and neighbours. He also considered that it was the responsibility of local estate agents to tell prospective purchasers of adjacent property that there was a bar nearby.

Mr Lim set out his concerns that patrons, the majority of whom arrive after 11pm, are 'preloading' and often arrive at the premises inebriated, with later and later arrivals in recent years. Preloading is when people purchase alcohol from supermarkets and drink at home before coming to the Bank Bar. When challenged by the Sub-Committee as to why he allows entry, he stated that it is often hard for door staff to tell and when he has made this clear to his door staff they do not always ask patrons to leave.

Mr Lim stated that an incident book is kept on site to record any problems that occur, however he was not aware that local people had spoken to door staff about noise and disturbances. The incident book was not presented as evidence at the hearing.

Mr Lim made clear that he no longer works at the Bank Bar and the DPS is not on site. He confirmed that the DPS speaks limited English. He was not aware who has been managing the premises since November 2017, despite events taking place at the premises.

No further information was provided by the Environmental Health Officer or the Licensing Officer but the Planning Officer did confirm that in respect of planning issues the Bank Bar is listed as a bar and not a nightclub and if this is not adhered to then enforcement action could take place.

Following all the submissions, members of the Sub-Committee were given an opportunity to ask questions and the result of these are as follows:

- Planning permission has not been granted for the premises to operate as a nightclub and if it is running as a nightclub then planning enforcement would need to take place.

- Licensing officers have visited the site but not recently.
- Notices requiring patrons to leave quietly are not displayed in or outside of the building and Mr Lim informed the Sub-Committee that they get pulled down by the patrons and it is hard to keep them on display.
- Mr Lim was not aware of any of the issues raised by the residents which members of the Sub-Committee found hard to believe; he said there had been no contact with him or his family about noise nuisance or crime and disorder. He wasn't aware of any residents speaking to his door staff and that if they have let in inebriated patrons he wasn't aware of it.
- Mr Lim informed the Sub-Committee that the DPS for the premises is his mother who speaks little English and so employs bar managers to supervise the site. He has not been the manager since November 2017 and isn't aware of the events they have had since November as he is no longer the manager.
- If the DPS is not on site or in complete control then this surely is an error of judgement by the Licence holder. It was then noted that under the Licensing Act 2003, the DPS will normally be the individual who has been given day to day responsibility for managing the premises by the premises licence holder.
- Mr Lim was asked to clarify how he would address the issues raised and he stated that the people who live in the area have to expect some degree of noise; it is hard to balance noise issues, staffing and abuse.
- Mr Lim was asked to clarify how many issues had been put in his log book that relates to anti-social behaviour and the Sub-Committee was informed that although he could not confirm the exact number, there were a number of incidents that had been recorded whilst he was the bar manager.
- The issue of the incident log book existence was called into question and Mr Lim had not brought the incident book along with him but he did state he would be willing to show all the incident books going over the two years should he need to.
- It was clear that the Bank Bar is not being managed appropriately and this should be acknowledged. Mr Lim informed the Sub-Committee that trends have changed. Mr Lim described his patrons as arriving preloaded with alcohol bought in supermarkets. They usually arrived at between 23.00 and 23.30 already drunk. He considered that they would cause antisocial behaviour wherever they went. If the Bar's hours were cut, the antisocial behaviour would occur earlier. He cannot control this.
- In respect of security supervisors, Mr Lim informed the Sub-Committee that they sometimes have a lapse in judgement when dealing with issues. Mr Lim did not question the judgement of his door staff in identifying intoxicated patrons because it would be a slight on their reputation.

- Again the question as to who actually runs the bar was raised and Mr Lim confirmed that his mother is the License Holder and is also the registered DPS. There have been a variety of different managers since November 2017. It was noted that the Bank Bar cropped up on the CSU group meetings regularly and Acting Sergeant Chris Stephens confirmed that there is concern for residents who have regularly been in contact with them; he has also engaged with door staff but is not aware any actions have been taken. He has concerns around management, day to day control, location and breaches of the licence.

Licensing Sub-Committee - 20 March 2018

The Sub-Committee asked Acting Sergeant Chris Stephens if he had anything to say and he approached the forum from the public gallery and made a formal representation. Acting Sergeant Stephens explained the crime reports that have occurred at this venue and the Police's fear about how the bar is managed. He explained that if Mr Lim is unable to clearly identify who the manager was at present, this is very worrying to the Police. The incidents which have occurred have included a police officer being assaulted and only door staff being involved; management do not come out to talk to the police.

The Sub-Committee asked for officers and those who had submitted representation to sum up:

The Environmental Health Officer did not wish to add anything further other than that he felt the proposed recommendations should be agreed to improve the residents' lives.

The Planning Officer again referred to the License of the Bank Bar as a bar and not a nightclub, as this would not have been agreed if applied for due to the inappropriate location.

Zoe Bowden, a resident, summed up on behalf of all the residents in attendance that no dealings or discussions had taken place with any staff of the bar or patrons due to residents feeling intimidated and scared.

The concern of all the residents is how the premises are run, who manages it and the lack of management. A restriction on hours would certainly be a step in the right direction.

Councillor Dick Pascoe said it was clear from the information provided and heard at the meeting that there is no clear management of the premises, no onsite DPS and insisted that the premises be either shut down or the recommendations put forward by the Environmental Health Department be adhered to. He also suggested that no temporary events licences should be issued. He also said that it is advertised as a nightclub.

Councillor Tillson asked if everyone present had had a fair hearing. All agreed including Mr Lim.

The Sub-Committee thanked everyone for the time and care they had put into the meeting and then went into closed session to deliberate the decision.

Resolved:

The Sub-Committee is required to give comprehensive reasoning of the decision.

The Sub-Committee referred at great length to the issues surrounding this venue and the current licence. The Sub-Committee did not think it was for the owners of the properties to come to the management of the bar and complain directly; the managers of the bar should manage the bar in such a way it limits complaints and knows if its venue is subject to complaints. The lack of management, supervision and control at the bar is one of extreme concern. All warnings and conditions have been disregarded and this is unacceptable in a residential area. Our view is this behaviour is not proportionate and the Bank Bar must take a considerable proportion of the blame.

The Sub-Committee looked at the volume issues, the seriousness of the effects of noise and the seriousness of all the crime reports including intoxication, use of drugs, abuse and fighting when reaching this decision.

Therefore the Sub-Committee wishes to suspend the licence for 3 months from the date of this hearing until the Bank Bar is operating properly.

Further recommendations are that the following conditions be added to those currently on the licence:

In line with the Council's draft Licensing policy, where establishments in a residential area are concerned, the core opening hours will be the period during which customers are permitted to be on the licensed premises: this includes 30 minutes 'drinking up' time (Monday to Sunday: 10:00 - 23:30).

- 1. To minimise the impact of the noise from the premises and from patrons leaving the premises, the current hours to be reduced in line with our draft Licensing policy. To reflect this, live and recorded music to cease and alcohol sales to cease at 23:00hrs and 30 minutes drinking up time so the premises will close at 23.30hrs. This is in line with the Licensing Objective: Prevention of Public Nuisance.**
- 2. A noise limiter to be installed and set at a level to be agreed with the local authority with the inclusion of a meeting at the most sensitive complainants property then the noise level to be agreed and then recorded as the set limit. This is in line with the Licensing Objective: Prevention of public nuisance.**
- 3. A maximum of 10 patrons to use the smoking area at any one time. No inebriated patrons to be permitted within the smoking area. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 4. At least one door supervisor who is SIA registered to be present at all times when the premises entertain live events/music instead of the normal recorded music. This is in line with the Licensing Objective: Public safety.**
- 5. Door supervisors to manage the noise levels of patrons in the smoking area and limit the time spent in this area when not smoking. Door supervisors are also required to control patrons**

- in the immediate vicinity of the premises to ensure that they do not cause noise or crime or disorder. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 6. No alcoholic drinks to be taken outside the premises or in the smoking area after 21.00pm. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder and public safety.**
 - 7. Patrons must be told before leaving the premises to be considerate to the neighbours. Permanent notices should be displayed in and outside of the premises to reflect this. This is in line with the Licensing Objectives: Prevention of public nuisance and Prevention of Crime and Disorder**
 - 8. Install a double door system at the front entrance of the premise to limit the exterior noise leakage and seek planning permission where necessary. This is in line with the Licensing Objective: Prevention of Public Nuisance.**
 - 9. The Licensing Sub-Committee requires that the Designated Premises Supervisor is on site to manage these premises throughout opening hours.**
 - 10. That the current Designated Premises Supervisor is removed and a new appropriate DPS appointed.**

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

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SHEPWAY DISTRICT COUNCIL

Hearing determination

Date of Hearing 20 March 2018

Premises ...Bank Bar, Basement Premises 2 Castle Hill Avenue Folkestone Kent

Licence holder ...Mrs Swee Leng Teong

Reason for Hearing Review of Premises Licence
.....

My colleagues and I have now made a decision in respect of this hearing.

We have heard the evidence from the Environmental Protection Officer and Planning Officer:

- The premises are being conducted in such a manner as to prejudice the Council's licensing objectives, with the management of the premises being below standards that are expected in respect of premises operating in the late night economy.
- Community Safety reports and crime reports were evidenced as a failure to promote the Prevention of Crime and Disorder.
- There is noise pollution, loud music, screaming from patrons, which is a complete disregard of neighbours under the Prevention of Public Nuisance licensing objective.
- A recommendation to include properly staffed door supervisors who adhere to public safety and who should all be SIA accredited. Currently the Door Supervisors do not manage the external areas adequately.
- There are 13 active complaints in place, which mainly relate to the opening hours, noise and patrons being abusive towards neighbours and each other.
- Mr Tse listed the Emergency Response Officers' reports and detailed some of the breaches of the mediation terms.
- Mr Tse detailed the ongoing complaints received from residents and how the reduction in the opening hours would help minimise these complaints.
- Mr Tse provided a number of suggested recommendations which he thought should be agreed by the Sub-Committee and these are listed as part of the final recommendations below.

Beth Lennon (the Planning Officer) confirmed that the Council had received a large number of calls in respect of noise nuisance, which are in breach of planning conditions and the prevention of public nuisance. It is clear that the early hours enhance this noise and therefore do not promote the licensing objectives.

The premises are operating outside of the hours for which it has planning permission, which are 9am until 11pm and these hours are in place so as to protect residential amenities. The evidence presented at the hearing, including that of Mr

Lim, suggests the premises have been operating as a night club, use which would need independent planning permission.

Mr William Lim attended the Hearing and informed those present that he was the bar manager for two years from October 2015 to November 2017. He said that he had reported most of the incidents of crime and disorder to the police which included an attempted break in and racist abuse.

His mother is the Designated Premises Supervisor (the DPS) and speaks limited English and that is why she is not attending the hearing; she knows what is going on at the bar and delegates her DPS powers to the managers.

We have heard the evidence from the representative (Mr Lim) on behalf of the Licence holder:

Mr Lim did not understand all of the residents' submissions as he had not witnessed what had been stated. If these incidents were reported he had not had any follow up meetings to discuss the issues with either the Police or Environmental Health Officer.

Mr Lim did not agree that the Environmental Health Officer had reported no door staff on duty when they kept a record of who was on duty and a log is kept of any incidents that occur inside and outside the premises. There have been no visits to the bar to request this information. All events are risk assessed and determine how many door staff are needed.

Mr Lim informed that there had been a mediation meeting, with no residents in attendance and he believed he had actioned everything following this meeting. No follow up of this meeting has taken place. No visits from Licensing staff throughout 2016 or 2017.

Mr Lim stated he has never received direct complaints, emails or letters referring to any of the above resident issues.

Mr Lim engaged an acoustic specialist and the report features in the representation pack he submitted. Noise here seems to be a key issue. When he applied for this licence he asked for scientific measurements for music levels and never received an answer.

Mr Lim informed that 80% of his business is after 11pm and that he has requested a copy of the Licensing policy which he is still waiting for. He considered that there should be a balance between the needs of his business and neighbours. He also considered that it was the responsibility of local estate agents to tell prospective purchasers of adjacent property that there was a bar nearby.

Mr Lim set out his concerns that patrons, the majority of whom arrive after 11pm, are 'preloading' and often arrive at the premises inebriated, with later and later arrivals in recent years. Preloading is when people purchase alcohol from supermarkets and drink at home before coming to the Bank Bar. When challenged by the panel as to why he allows entry, he stated that it is often hard for door staff to tell and when he has made this clear to his door staff they do not always ask patrons to leave.

Mr Lim stated that an incident book is kept on site to record any problems that occur, however he was not aware that local people had spoken to door staff about noise and disturbance. The incident book was not presented as evidence at the Hearing.

Mr Lim made clear that he no longer works at the Bank Bar and the DPS is not on site. He confirmed that the DPS speaks limited English. He was not aware who has been managing the premises since November, despite events taking place at the premises.

We have heard evidence from Independent Representatives as follows:

Philip Carter
Mr Floria
Miss Manoli
Dawn Hardingham
Vanessa Summers
Zoe Bowden John
Murray Emily
Coleman Babulal
Kotak Councillor
Pascoe
Acting Sergeant, Chris Stephens, Kent Police

The Sub-Committee is required to give comprehensive reasoning of the decision. The Sub-Committee discussed at great length the issues surrounding this venue and the current licence. The Sub-Committee did not think it was for the owners of the properties to come to the management of the bar and complain directly; the managers of the bar should manage the bar in such a way it limits complaints and know if the venue is subject to complaints. The lack of management, supervision and control at the Bank Bar is one of extreme concern. All warnings and conditions have been disregarded and this is unacceptable in a residential area. Our view is this behaviour is not proportionate and the Bank Bar must take a considerable proportion of the blame.

Councillor Tillson asked if everyone present had had a fair hearing. All agreed including Mr Lim.

The Sub-Committee's decision is to suspend the licence for 3 months from the date of this hearing until the Bank Bar is operating properly (as stated below).

The Sub-Committee looked at the volume issues, the seriousness of the effects of noise and the seriousness of all the crime reports, including intoxication, use of drugs, abuse and fighting when reaching this decision. The Sub-Committee recommended that the following conditions be added to the existing licence:

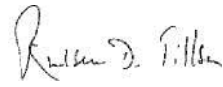
In line with the Council's draft Licensing policy, where establishments in a residential area are concerned, the core opening hours will be the period during which customers are permitted to be on the licensed premises: this includes 30 minutes 'drinking up' time (Monday to Sunday: 10:00 - 23:30).

- 1. To minimise the impact of the noise from the premises and from patrons leaving the premises, the current hours to be reduced in line with our draft Licensing policy. To reflect this, live and recorded music to cease and alcohol sales to cease at 23:00hrs and 30 minutes drinking up time so the premises close at 23.30hrs. This is in line with the Licensing Objective: Prevention of Public Nuisance.**
- 2. A noise limiter to be installed and set at a level to be agreed with the local authority with the inclusion of a meeting at the most sensitive complainants property then the noise level to be agreed and then recorded as the set limit. This is in line with the Licensing Objective: Prevention of public nuisance.**
- 3. A maximum of 10 patrons to use the smoking area at any one time. No inebriated patrons to be permitted within the smoking area. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 4. At least one door supervisor who is SIA registered to be present at all times when the premises entertain live events/music instead of the normal recorded music. This is in line with the Licensing Objective: Public safety.**
- 5. Door supervisors to manage the noise levels of patrons in the smoking area and limit the time spent in this area when not smoking. Door supervisors are also required to control patrons in the immediate vicinity of the premises to ensure that they do not cause noise or crime or disorder. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 6. No alcoholic drinks to be taken outside the premises or in the smoking area after 21.00pm. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder.**
- 7. Patrons must be told before leaving the premises to be considerate to the neighbours. Notices should be displayed in and outside of the premises to reflect this. This is in line with the Licensing Objectives: Prevention of Public Nuisance and Prevention of Crime and Disorder**
- 8. Install a double door system at the front entrance of the premises to limit the exterior noise leakage and seek planning permission where necessary. This is in line with the Licensing Objective: Prevention of Public Nuisance.**
- 9. The Licensing Sub-Committee requires that the Designated Premises Supervisor is on site to manage these premises throughout opening hours.**
- 10. That the current Designated Premises Supervisor is removed and a new appropriate DPS appointed.**

Licensing Sub-Committee members:

Name Councillor Russell Tillson

Signature



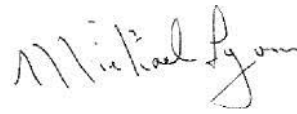
Name Councillor Mrs Jenny Hollingsbee Signature...



...

Name Councillor Michael Lyons

Signature...



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ADDENDUM

Application No: Y17/1099/SH

Location of Site: Former Rotunda Amusement Park, Marine Parade, Folkestone

Development: Section 73 application for the removal of condition 41 (Provision of Sea Sports Centre) and variation of conditions 4 (Reserved Matters), 6 (Phasing), 7 (Reserved Matters Details), 15 (Public Realm), 16 (Play Space/ Amenity Facilities), 18 (Public Toilets), 21 (Wind Flow Mitigation), 23 (Heritage Assets), 25 (Bus Stop), 37 (Wave Wall); and 42 (Provision of Beach Sports Centre) of planning permission Y12/0897/SH (Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as sea sports and beach sports facilities. Improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement) to enable changes to the plot shapes, footprints, maximum height, changes to parameter plans, levels, parking arrangements, changes to how the sea sports and beach sports facilities are provided, and alterations to the Environmental Statement.

Applicant: Folkestone Harbour Limited Partnership

Agent: Mr Edward George
Savills
33 Margaret Street
London
W1G 0JD

Date Received: 06.10.17

Expiry Date: 22.12.17

PEA Date: 01.06.18

Committee Date: 24.04.18

Officer Contact: Lisette Patching

RECOMMENDATION:

a) That that the Head of Planning Services be authorised under delegated authority to grant planning permission subject to:

- Completion of a deed of variation legal agreement with the applicant that secures the social and physical infrastructure and financial contributions, (including contributions towards the existing sea sports centre within the site), detailed within this addendum and the main report and which the Head of Planning Services considers to be acceptable.
- The conditions set out at the end of this addendum and any additional conditions the Head of Planning Services considers to necessary.

b) That in the event that the deed of variation is not finalised by 1st June 2018 and an extension of time has not been entered into by the applicant, the Head of Planning be given delegated authority to refuse planning permission on the following ground:

In the absence of a signed legal agreement there is no mechanism for ensuring the provision of the required the social and physical infrastructure and financial contributions, including contributions towards the existing sea sports centre. As such the development is contrary to policies SS5 and SS6 of the Core Strategy Local Plan which require that the development should provide, contribute to or otherwise address the identified infrastructure needs.

1.0 INTRODUCTION

- 1.1 At the meeting of the Planning and Licensing Committee of 3rd April 2018 it was resolved to defer consideration of application Y17/1099/SH pending the receipt of legal advice regarding the suitability of the consideration of the application under s73 of the Town and Country Planning Act. In particular Members wanted clarification that the application could be legally determined under s73 of the Town and Country Planning Act 1990 (as amended), due to the nature of the alterations proposed. The alterations that they were most concerned about in this respect were the increase in the height parameters of the blocks and the removal of the conditions requiring the provision of the sea sports centre and beach sports centre. Members also queried whether the development under the outline planning permission had commenced.

2.0 REPRESENTATIONS

- 2.1 Since the last report additional letters/emails of objection have been received raising issues that were covered in the main report. They are available in full on the planning file.

3.0 CONSULTATIONS

- 2.1 Since the last report comments have been received from the Council's Heritage Consultant. They were appended to the Supplementary Sheets for the last meeting and are available in full on the planning file.

3.0 THE PROPOSED CHANGES

- 3.1 Planning permission was granted under application reference Y12/0897/SH for the following development, subject to a significant number of conditions and an s106 legal agreement:

Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as sea sports and beach sports facilities.; improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement.

- 3.2 On 4th September 2017 an application was submitted to the Council under s73 of the Town and Country Planning Act 1990 for the following development:

Section 73 application for removal of conditions 41 (Provision of Sea Sports Centre) and 42 (Provision of Beach Sports Centre) and for the variation of conditions 4 (Reserved Matters), 6 (Phasing), 7 (Reserved Matters Details), 15 (Public Realm), 16 (Play Space/ Amenity Facilities), 18 (Public Toilets), 21 (Wind Flow Mitigation), 23 (Heritage Assets), 25 (Bus Stop) and 37 (Wave Wall) of planning permission Y12/0897/SH (Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as sea sports and beach sports facilities; improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement) to enable changes to the plot shapes, footprints, maximum height, changes to parameter plans, levels, parking arrangements, and alterations to the Environmental Statement.

- 3.3 The section 73 application, therefore, sought the removal of two conditions and the variation of a number of other conditions. The description of the application made it clear what the removal and variation of conditions sought to achieve.
- 3.4 The application is EIA development and the application was supported by an updated Environmental Statement (ES). The application was subject to full consultation, as required by the planning and EIA regulations.

4.0 CONTEXT

- 4.1 Prior to October 2009, when a developer wanted to make a small, but material, change to the approved plans of a scheme that already had planning permission, it was often necessary to submit a further full planning application, which led to considerable delay, cost and uncertainty for the applicant and additional work for the local planning authority (LPA). *The Killian Pretty Review – Planning Applications: A Faster and More Responsive System 2008* recommended that a more proportionate approach should be explored. Research by consultants, in consultation with the property industry, revealed that one option was to encourage greater use of the existing section 73 procedure in cases where a condition has been attached to the planning permission listing the drawings and particulars that have been approved. This approach, involving a variation of the relevant condition to refer to amended plans, is discussed in the *Greater flexibility for planning permissions* guidance that was issued in 2009 and revised a year later. The 2010 guidance adds that the government agrees with the definition proposed by consultants: “A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved.” This is not, however, a statutory definition.
- 4.2 Pre-application discussions are encouraged so that the appropriateness of using this route can be judged in advance of an application being submitted, and hence avoid possible wasted work on both sides.
- 4.3 As well as enabling minor material amendments to approved plans, the s73 process also enables applicants to apply to remove or vary any other conditions on the original planning permission.
- 4.4 When considering such s73 applications, planning authorities are advised to recognise that by definition the development will have already been found to be acceptable in principle, by virtue of the granting of the original planning permission. They are also advised to focus their attention on national, development plan policies or other material considerations that may have changed significantly since the original grant of permission with regard to the changes sought.
- 4.5 Where an application under s73 is approved, the effect is to create a new grant of planning permission. Consequently, the decision notice must set out all the conditions the planning authority wishes to impose. Also, because an s73 application cannot be used to vary the time limit for implementation, the “commencement date” conditions must be the same as the original permission.
- 4.6 The extent to which the s73 procedure can be used to vary planning permissions has been the subject of much debate and case law. There are several key points that have come out of case law in relation to this:
- The alterations proposed and any conditions subsequently imposed cannot result in a fundamental alteration of the development that was approved under the original permission. *R v Coventry City Council ex p Arrowcroft Group PLC [2001]*.
 - Whether an alteration results in a fundamental alteration is a question of fact and degree and is a decision which falls to the decision maker (LPA) to assess. This assessment will only be questioned by a Court

if it is irrational. *R (Wet Finishing Works Ltd) v Taunton Deane BC [2018]*.

- Alterations under s73 are not restricted to 'minor' amendments, whatever that may mean in the context of the wider scheme. *R (Vue Entertainment Ltd) v City of York Council [2017]*.
- S73 alterations may increase the quantum of development allowed by the original permission so long as that increase does not constitute a fundamental alteration. *R (Wet Finishing Works Ltd) v Taunton Deane BC [2018]*.

4.7 The Planning Practice Guidance provides some guidance on the use of s73, as set out here.

<https://www.gov.uk/guidance/flexible-options-for-planning-permissions>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/574864/Annex_A_summary_comparison_table.pdf

5.0 EXAMPLES OF THE USE OF SECTION 73

5.1 It is usual for local planning authorities to receive applications under s73 to vary approved plans and vary and remove conditions, particularly for larger applications. This is because they often progressed in phases over a number of years and circumstances change often resulting in conditions that are no longer relevant and changes to the detail of the development.

5.2 Ashford Borough Council has recently used the s73 process for comparable changes to those proposed in the current application. 17/0001/AS was for the proposed variation of condition 8 of planning permission 15/01671/AS (outline and hybrid application for residential and mixed used development) to replace a number of approved parameter plans. Among other things, the revised parameter plans sought to allow for increases in heights from a maximum of 58.75m AOD (to finished roof level not including plant) to 62.65m AOD (to roof level plant). The aim of the proposed amendments was to allow flexibility for changes to the detailed position and height of the residential units, while maintaining the principle established by the original permission.

5.3 Folkestone & Hythe District Council has previously approved the reduction in overall height and changes to the bulk and massing of the multi-storey sports park on land adjoining The Cube under an s73 application.

5.4 The following are examples of recent case law involving s73 applications used to vary parts of large developments.

5.5 In *Vue Developments Ltd v York City Council [2017]*, the issue involved an s73 application to effectively increase the amount of cinema screens from

12 to 13 in the proposed cinema that was part of a large mixed-use development. The proposed planning unit was extensive, incorporating a large community stadium, leisure centre, retail stores and more. There was no condition restricting the size of the proposed cinema.

The claimant argued that the use of s73 was unlawful as it amounted to a fundamental change to the planning permission. The Court held that to determine this issue, it was necessary to look at the permission as a whole and that in the context of a large, mixed-use scheme, the change was not fundamental. Section 73 did not in those terms limit the extent of the amendment of conditions.

The Court found that bearing in mind the need to consider the uses within the overlap proposal, and that the cinema "...was *but one element of a very large mixed-use scheme...*" the s73 proposal did not amount to a fundamental alteration of the approved proposal.

- 5.6 In *R v Coventry City Council* [2001], permission was granted for a large mixed-use development, although not as large as in the York case. It involved a large arena, one food superstore and one variety superstore with associated small retail services and community units. A condition required the provision of the two superstores. A s73 application sought to provide a larger store selling food and non-foods. A smaller store would include variety stores selling various fashion items. There would be no variety superstore.

Although the variety store was only one element, it was an important element, and it was determined that its removal, sought by the s73 application, would have changed the permission.

6.0 APPRAISAL

Section 73 process

- 6.1 Following the deferral of the application at the Planning and Licensing Committee of 3rd April 2018 officers instructed LSR Solicitors and Planning Consultants (LSR) to provide independent legal advice to the Local Planning Authority regarding the suitability of the application being considered under s73, rather than s70 of the Town and Country Planning Act. The applicant instructed their own Counsel, Christopher Lockhart-Mummery QC of Landmark Chambers. His advice was provided to the Council and LSR for consideration.
- 6.2 Following the committee meeting the applicant has submitted further changes to the application as set out below:
1. The removal of the changes to plot H from the application so that the building parameters are returned to the minimum and maximum height parameters, footprint and horizontal deviations as approved under Y12/0897/SH. This

reduces the minimum/maximum height parameters of Plot H from the proposed 31.0m ASD min/35.5m ASD max to 16.0m ASD min/20.5m ASD max. Amended parameter plans will be submitted to show this.

2. An amendment to the description of development, so as to vary condition 42 (beach sports) rather than remove the condition.
 3. Proposed revised wording for condition 42, to state '*Prior to the submission of any application for reserved matters approvals within phase 5 of the development, details of beach sports facilities to be provided on site shall be submitted to the Council for approval unless agreed in writing by the Local Planning Authority*'.
 4. A commitment to agree to a contribution through the S106 deed of variation to provide enhanced facilities at the existing sea sports centre already provided on The Stade within the application site boundary.
- 6.3 The proposed changes to the application have sought to address concerns raised by Councillors and the public at the committee meeting with regard to the extent of changes proposed and the reduction of community facilities within the development (the sea and beach sports centres) and the increases in height proposed, whilst also following advice received from the Local Planning Authority with regard to the consideration of the application under s73 of the Town and Country Planning Act.
- 6.4 Independent expert legal advice provided to the Local Planning Authority by LSR makes it clear that it would be preferable to consider the original changes proposed under section 70 of the Town and Country Planning Act, rather than section 73. However, the amendments now proposed by the applicant make the consideration of the application under section 73 more acceptable as the proposed changes to the height parameters have been minimised and all the community facilities included in the original application description have been or will be provided as set out below.
- 6.5 Plot H had the greatest changes proposed to the height parameters and these have now reverted back to the parameters approved under the outline permission Y12/0897/SH.
- 6.6 A sea sports centre has already been provided by another organisation elsewhere within the red line site boundary and some of the £3.5 million s106 contribution can be used to provide enhanced provision there through a deed of variation to the s106 agreement. As this will be a financial contribution to a recently provided facility, rather than a further new facility, the provision for the financial contribution has to be through a legal agreement and it cannot be dealt with by condition. Therefore, the application still proposes the removal of condition 41. Beach sports facilities will still be provided but will be across the site rather than in a specific centre. As the description of the original application referred in both cases to facilities rather than centres, the changes to the conditions do not fundamentally change the development as

approved, merely how the requirements of providing these facilities are met. The requirements for the beach sports and sea sports facilities are set out in Core Strategy policy SS6 and it is considered that the application, as amended, meets these policy requirements.

- 6.7 The advice from LSR has confirmed that s73 is not restricted to minor material amendments. The legal test is not whether the proposed changes are minor material amendments but whether or not they fundamentally alter the development that was originally approved. The changes now proposed will not result in a development that is fundamentally different from that previously approved for the reasons set out above.

Commencement of development

- 6.8 During consideration of the application at the previous meeting, councillors queried whether or not the development approved under the previous planning permission had commenced. It is an outline permission for a mixed use development with all matters reserved for future consideration and no reserved matters have been submitted or approved. The description of development also included sea sports and beach sports facilities; improvements to the beaches; pedestrian and cycle routes; and accessibility into, within and out of the seafront and harbour, together with associated parking.
- 6.9 All of the works that have been carried out within the application site so far have been carried out either under separate planning permissions or consents as follows:

Harbour Arm

- The physical works to the Harbour Arm were carried out under the Folkestone Harbour Act 1992 (Part II).
- Listed Building Consent for the installation of replacement windows and internal and external alterations to the Pier Head Lighthouse was approved under reference Y15/1050/SH.
- The change of use of the Pier Head Lighthouse from sui-generis to a flexible use spanning use classes A1(shops) and A4(drinking establishments) was granted under reference Y16/0038/SH.
- The change of use of the West Pier units from sui-generis (uses in a class of their own) to A1(shops), A3(restaurant & cafés) and A4(drinking establishments) was approved under reference Y15/1051/SH.
- The installation of public toilets including the infill of existing recesses was granted planning permission under reference Y17/0253/SH.

Boardwalk

- The installation of a boardwalk from the Lower leas Coastal Park to the Harbour Arm was granted planning permission under reference Y17/0514/SH.

Harbour Viaduct & Swing Bridge

- Planning permission and Listed Building Consent for maintenance and repair works, repainting of the Swing Bridge and installation of new handrails and balustrades were approved under references Y16/0855/SH and Y16/0856/SH respectively.
- The change of use and conversion of the Viaduct & Swing Bridge from railway viaduct to public space was approved under reference Y16/1086/SH and Listed Building Consent for the same was approved under reference Y16/1087/SH
- Planning permission and Listed Building Consent for the demolition of two of the four concrete infill supports to the viaduct arches were granted under references Y16/1222/SH and Y16/1223/SH respectively.
- Planning permission and listed building consent for a new public access stair structure and lift from the fountains to the viaduct bridge were approved under Y17/203/SH and Y17/204/SH.
- Planning permission and listed building consent for a public viewing platform on the east-side of the Harbour Viaduct were approved under Y17/0229/SH and Y17/0230/SH.

Onyx Nightclub/Marine Pavilion

- Planning permission for the demolition of the nightclub building was granted under reference Y15/1066/SH.

Customs House

- Change of use from sui generis to museum/exhibition space (Class D2) was approved under Y17/1103/SH.

Fountains

- Planning permission was granted under Y11/0179/SH

6.10 The works set out above do not constitute commencement of the development approved under outline permission Y12/0897/SH as they were implemented under their own separate standalone consents. The applicant has also advised that the works carried out were not intend to be for the implementation of the outline planning permission. Whether or not development has commenced is a legal matter and as such is normally dealt with via an application for a lawful development certificate. The Council has never been asked for its determination on this in relation to planning permission Y12/0897/SH, although the informal view of officers has always been that development under that planning permission has not commenced. Notwithstanding this, even if the view was taken that development had commenced, a S73 application can still be considered and determined provided that the development had commenced prior to the expiry of the planning permission. In this case the planning permission has not expired. This is allowed for under S73A of the Town and Country Planning Act 1990. If Members take the view that the application should be considered under S73a rather than S73 this is not a material change to the application and would not require an further reconsultation as all the issues and relevant planning considerations are the same.

7.0 CONCLUSION

- 7.1 The further changes made by the applicant, following the committee meeting have reduced the scope of the s73 application and ensure beach sport and sea sport facilities are delivered by the development in accordance with the aims of the original outline planning permission.
- 7.2 This addendum report demonstrates that officers consider that the determination of application Y17/1099/SH under s73 of the TCPA 1990 is legally sound and that the determination of the application under this route has provided sufficient opportunities for representations to be made and considered and opportunity for full consideration of all the relevant planning considerations raised in the objections to the application.

RECOMMENDATION

a) That that the Head of Planning Services be authorised under delegated authority to grant planning permission subject to:

- Completion of a deed of variation legal agreement with the applicant that secures the social and physical infrastructure and financial contributions, including contributions towards the existing sea sports centre within the site, which are detailed within the main report and this addendum and which the Head of Planning Services considers to be acceptable.
- The conditions set out below and any additional conditions the Head of Planning Services considers to be necessary following detailed discussions with the applicant.

b) That in the event that the legal agreement is not finalised by 1st June 2018 and an extension of time has not been entered into by the applicant, the Head of Planning be given delegated authority to refuse planning permission on the following ground:

In the absence of a signed legal agreement there is no mechanism for ensuring the provision of the required the social and physical infrastructure and financial contributions, including contributions towards the existing sea sports centre. As such the development is contrary to policy SS6 of the Core Strategy Local Plan which requires that the development should provide, contribute to or otherwise address the identified infrastructure needs.

Recommended conditions

The conditions which are being varied would read as follows (the remainder would be as on the original approval):

4. The submission of reserved matter applications pursuant to this outline application shall together provide for at least 720 and not more than 1000 dwellings and up to 10,000sqm gross commercial floorspace (A1, A3, A4, A5, 81, D1 and D2 uses) and demonstrate compliance with the following Parameter Plans and the text set out on those Plans to fix the development principles:-

Parameter Plan 1 - Planning Application Boundary Rev: B.

Parameter Plan 2 - Buildings Retained/Demolished Rev: A.
Parameter Plan 3 - Plot key and Setting Out Rev: B.
Parameter Plan 4 - Site Access Rev: B.
Parameter Plan 5 - Public Realm Rev: B.
Parameter Plan 6 - Existing and Proposed Site Levels Rev: B.
Parameter Plan 7 - Minimum/Maximum Development Rev: B.
Parameter Plan 8 - Ground Floor Horizontal Deviation Rev: B.

Together with the mandatory design and specifications set out within the Folkestone Seafront Masterplan Design Guidelines Rev: A 11.01.18 and Folkestone Seafront Landscape Guidelines Rev: 2 - 11.01.2018 and Supplementary Information.
(The exact wording to be amended following the receipt of amended parameter plans removing the proposed changes to height parameters for plot H)

Reason:

To determine the scope of this permission in accordance with the submitted documents, to meet the strategic objectives of the Shepway Core Strategy Local Plan 2013, in order to ensure the delivery of a high quality sustainable new neighbourhood.

6. Unless agreed otherwise with the local planning authority the development shall be carried out in accordance with the approved phasing plan No. E and Folkestone Seafront Landscape Guidelines Rev: 2 - 11.01.2018 and Supplementary Information.

Reason:

In order to ensure the development comes forward in conjunction with appropriate infrastructure and is delivered in accordance with the assumptions considered within the Environmental Statement, in accordance with policies SS5 and SS6 of the Shepway Core Strategy Local Plan 2013 and the NPPF.

7. The reserved matters submitted in accordance with Condition 1 shall include the following details to the extent that they are relevant to the reserved matters application in question:

A. Layout

The layout of routes, buildings and spaces, the block form and organisation of all buildings including the locations and plan form of non-residential buildings, the distribution of market and affordable dwellings within that phase including a schedule of dwelling size (by number of bedrooms), the location of dwellings designed to seek to meet the Council's Lifetime Homes guidance (a minimum of 20%), full details of the approach to vehicle parking including the location and layout of adequate residential parking, visitor parking and parking for people with disabilities for each building type together with details of the design approach for access points into, and the ventilation of, any undercroft/underground parking, full details of the approach to residential cycle parking at a ratio of 1 space per bedroom and the approach to commercial and visitor parking strategy including the location, distribution, types of rack, spacing and any secure or non-secure structures associated with the storage of cycles and the location and form of open areas.

B. Access

The access and circulation of modes of travel within the relevant phase or sub-phase, the design of roads and paths and junction layout including the provision of footpaths and cycleways.

C. Scale and Appearance

Scale, form and appearance of the architecture within each phase in accordance with the mandatory parameter and design guidelines, including frontage design and public/private realm definition and boundary treatments

D. Public Open Spaces Public Realm Design Strategy

The extent, layout and specification of public open spaces, in accordance with the mandatory Folkestone Seafront Landscape Guidelines Rev: 2 - 11.01.2018 and Supplementary Information and including details of street furniture (including lighting, seating, signage, bus stops, bins surface treatments, threshold levels) and play space and delivery of Marine Parade, accompanied by a management plan showing how the relevant areas of public open space are to be laid out, paved, planted, equipped and maintained together with a timetable for their implementation.

E. Landscaping

The landscape design and specification of hard and soft landscape works within each phase in accordance with the mandatory Folkestone Seafront Landscape Guidelines Rev: 2 - 11.01.2018 and Supplementary Information.

F. Playspace

The amount and location of play space including:

- a) A plot specific play space strategy including details of the play equipment proposed
- b) An overarching play space strategy which should have regard to the play space provision within preceding plots and proceeding plots as appropriate.

Reason:

In order to ensure the development delivers development of the quality envisaged in the illustrative masterplan as required by the mandatory design guidelines, in accordance with saved policies TR5, TR11 and TR12 of the Local Plan Review, policy SS6 of the Shepway Core Strategy Local Plan 2013 and the NPPF.

15. The reserved matters submitted in relation to any development to east of harbour approach road/phase 5 as shown on illustrative Plan E shall include the retention of the public realm improvements to the Harbour Viaduct and Harbour Arm already completed and include measures to ensure these are accessible to the public to the reasonable satisfaction of the Local Planning Authority prior to the occupation of any dwellings within plot PH01/Phase 6.

Reason:

In order to ensure the delivery of appropriate open space and public realm to serve the development and deliver the identified public realm improvements to the harbour as required by policy SS6 of the Shepway Core Strategy Local Plan 2013.

16. The reserved matters submission for phase 6/plot G1 shall include play space and communally accessible amenity facilities (eating areas, tables, seating etc) within the communal gardens, inclusive of details of opening hours to residents and the public.

Reason:

In order to ensure the provision of adequate open, amenity and play space in accordance with saved policies LR9 and LR10 of the Local Plan Review and policy SS6 of the Core Strategy Local Plan.

18. Reserved matters application submitted in relation to Plot A shall include details of publically accessible toilets, inclusive of details for their long term management and maintenance.

Reason:

In order to ensure the provision of adequate facilities in accordance with policies SS5 and SS6 of the Shepway Core Strategy Local Plan 2013.

21. The reserved matters submitted in accordance with Condition 1 for phase 6/plot G1 shall include mitigation measures to reduce the impact of wind flow downwash. Such measures shall include Computational Fluid Dynamics (FD) assessment of wind effects once massing has been designed and include evidence to demonstrate how the results of the assessment have informed the detailed design of the proposed development.

Reason:

In order to minimise wind flow downwash in the interests of the amenity of residents in accordance with the development mitigation measures set out within the approved ES addendum dated 24th April 2013.

23. Prior to the commencement of development in phases 5 and 6 details of protection measures for the retained heritage assets as shown on parameter plan 2 shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be implemented in accordance with the agreed schedule.

Reason:

To protect the identified heritage assets and ensure that heritage is appropriately incorporated in to the development, in accordance with the NPPF, Shepway Core Strategy 2013 policy SS6 and retained local plan policies SD1 and BE5.

25. Prior to the occupation of phase 2 details of and a timetable for the provision of a new bus stop shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In order to appropriately mitigate the impact of the development on the local highway network and ensure public transport is accessible to the residents of the properties hereby approved, in accordance with policies SD1, TR11 and TR12 of the saved Local Plan, policy SS5 of the Shepway Core Strategy Local Plan 2013 and the NPPF.

37. Development within phase 6 hereby permitted shall not be commenced until such time as a detailed design of the proposed wave wall on the Southern Quay has been submitted to, and approved in writing by, the Local Planning Authority. The wave wall shall be constructed in accordance with the approved design to the reasonable satisfaction of the Local Planning Authority prior to the first occupation of Phase 6 unless an alternative timetable is agreed, in writing, by the Local Planning Authority. The wave wall shall be thereafter maintained in accordance with the approved details or as otherwise agreed, in writing, by the Local Planning Authority.

Reason:

To reduce flood risk to the proposed development and to ensure the long term management and maintenance of flood defence infrastructure in accordance with policy SS5 of the Shepway Core Strategy Local Plan and the NPPF.

42. Prior to the submission of any application for reserved matters approvals within phase 5 of the development details of beach sports facilities to be provided on site shall be submitted to the Council for approval and no work shall commence on phase 5 of the development until the approval beach sports facilities have been provided.

Reason:

In order to ensure the provision of the beach sports facilities as part of the development as required by policy SS6 of the Shepway Core Strategy Local Plan.

Any details pursuant to the conditions which have previously been approved would not need to be resubmitted, unless details have changed as a result of the Section 73 application.

In addition to the changes to the original conditions the following additional conditions are recommended

1. The Harbour Master's House shall not be demolished until the reserved matters applications for phases 5 and 6 of the development as shown on Illustrative Plan E Rev: B have been approved by the Local Planning Authority.

Reason:

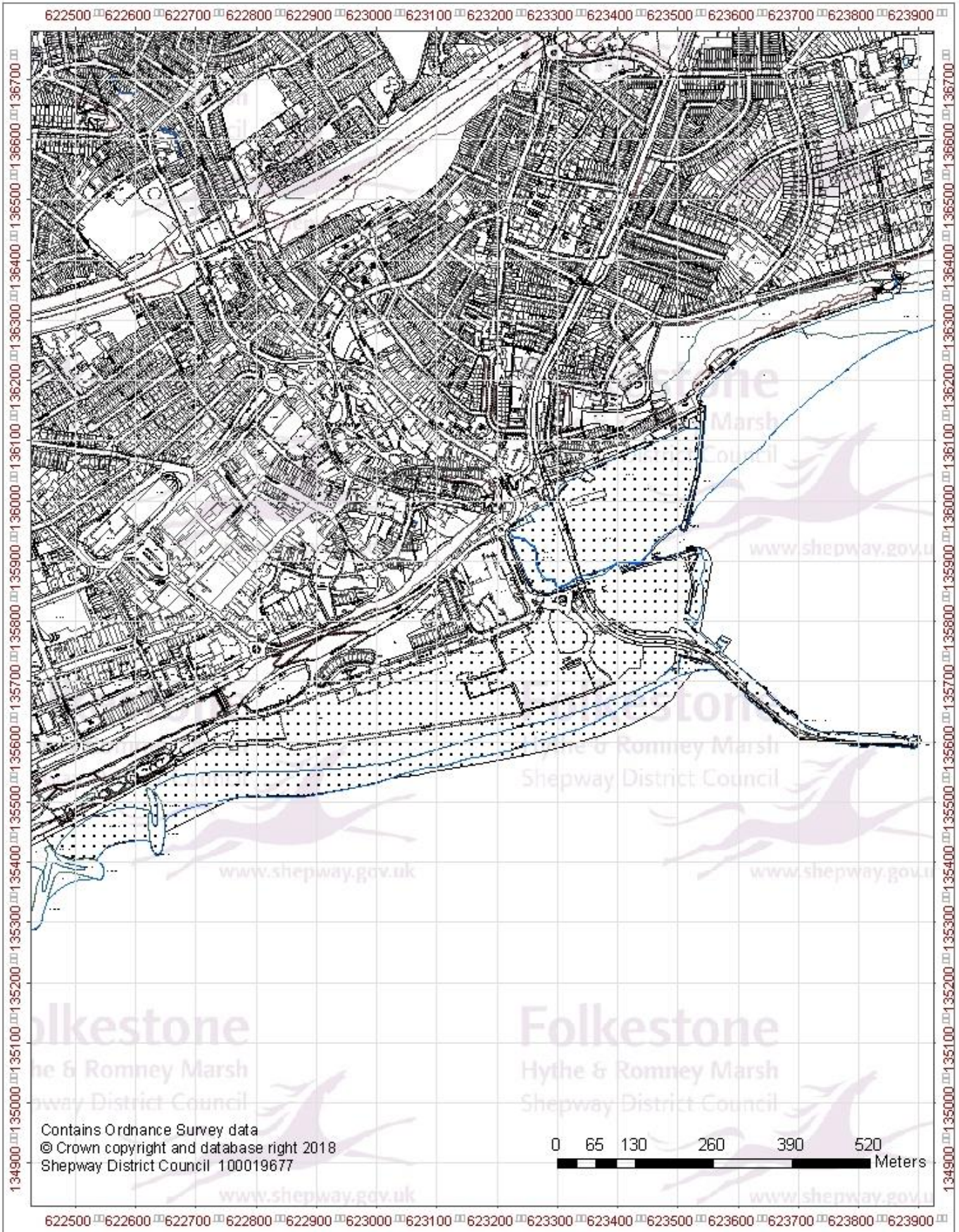
To ensure that every opportunity has been explored for the retention of the non-designated historic asset or to ensure that a high quality development would proceed in its place in accordance with paragraphs 135 and 136 of the National Planning policy Framework.

2. Details of the improvements to Station Square shall be submitted to and approved in writing by the Local planning Authority and shall include details of implementation and timings. No above ground development works on phases 5 and 6, as shown on Illustrative Plan E Rev: B, shall commence until such details have been approved.

Reason:

In order to ensure the development delivers development of the quality envisaged in the illustrative masterplan as required by the mandatory design guidelines, in accordance with, saved policies TR5, TR11 and TR12 of the Local Plan Review, policy SS6 of the Shepway Core Strategy Local Plan 2013 and the NPPF.

Y17/1099/SH
Former Rotunda Amusement Park
Marine Parade
Folkestone



Application No: Y17/1099/SH

Location of Site: Former Rotunda Amusement Park, Marine Parade, Folkestone

Development: Section 73 application for the removal of condition 41 (Provision of Sea Sports Centre) and variation of conditions 4 (Reserved Matters), 6 (Phasing), 7 (Reserved Matters Details), 15 (Public Realm), 16 (Play Space/ Amenity Facilities), 18 (Public Toilets), 21 (Wind Flow Mitigation), 23 (Heritage Assets), 25 (Bus Stop), 37 (Wave Wall); and 42 (Provision of Beach Sports Centre) of planning permission Y12/0897/SH (Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as sea sports and beach sports facilities. Improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement) to enable changes to the plot shapes, footprints, maximum height, changes to parameter plans, levels, parking arrangements, how the sea sports and beach sports facilities are provided, and alterations to the Environmental Statement.

Applicant: Folkestone Harbour Limited Partnership

Agent: Mr Edward George Savills
33 Margaret Street
London
W1G 0JD

Date Valid: 06.10.17

Expiry Date: 22.12.17

PEA Date:

Date of Committee: 3rd April 2018

Officer Contact: David Campbell

SUMMARY

This report considers whether the amendments to the parameter plans, design and landscape guidelines, changes to conditions and other alterations set out in the description of the Section 73 application should be approved.

The application site is a strategic allocation within the Core Strategy as stated in policy SS6 and is needed by the Council to meet its 5 year supply of housing as required by the NPPF and as such would positively contribute to meeting the housing needs of the District. The proposal would provide new open spaces, improved parking facilities and connectivity, over and above the previous approval

and includes highway mitigation for the increased traffic. The changes to the parameters including the alterations to the scale, form of the plots and heights have been considered and their impact on heritage assets such as the setting of the conservation area and listed buildings and the demolition of Harbour House, a non-designated heritage asset. The scheme has been assessed as having less than substantial harm as defined by paragraph 134 of the NPPF and as such the public benefits of the scheme such those mentioned above and the £3.5m contribution towards community projects such as the refurbishment of the Leas Lift, are considered to mitigate and outweigh the less than substantial harm caused.

This Section 73 application is considered an appropriate way of dealing with the changes, however much of the detail will be provided at reserved matters stage. Where officers have concerns with the current illustrative material this has been highlighted in the report, however as a set of parameters, it is considered that they provide a framework on which development on site could be carried out and deliver a high quality scheme on an important brownfield site in Folkestone.

No impacts have been identified at this stage that suggests that the scheme would have a significantly more harmful impact than the approved scheme based on the issues identified in this report such as flooding, drainage, ecology, contamination, neighbouring living conditions, highway, the England Coastal Path and through the completion of a legal agreement will provide sufficient mitigation to offset any other impacts of the development. An addendum to the Environmental Statement has been produced and external consultants have confirmed that this is acceptable for the purposes of the EIA 2017 regulations. It is therefore considered that the proposal complies with the polices of the NPPF and the development plan and therefore should be granted subject to the completion of a legal agreement and suitable conditions.

RECOMMENDATION: That the section 73 application should be granted subject to delegation being given to the Head of Planning for the detailed wording and finalisation of suitable conditions and a deed of variation to the section 106 agreement to deliver the requirements set out in the report.

1.0 THE PROPOSAL

1.1 This application is a Section 73 Planning Application to Planning Permission Y12/0897/SH which was granted planning permission in 2015. The existing permitted outline permission included for site enabling works / demolition on site and the delivery of the following development:

‘Outline Planning Application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1,000 dwellings (C3), up to 10,000m² of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as seaports and beach sports facilities. Improvements to beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking.’

- 1.2 A copy of the original officers report and minutes of the meeting can be seen here - <http://www.shepway.gov.uk/moderngov/ieListDocuments.aspx?CIId=122&MIId=2678>

It should be noted that this report provides a description and consideration of the changes made, and the original report should be referred back to for all matters not under consideration as part of this section 73 application.

- 1.3 The previous approval also included the following in terms of infrastructure and Section 106 contributions (the triggers were all included in the legal agreement):

Infrastructure	Amount or Provision	Phasing
Sea sports centre (incl public toilets)	Provision	1
Beach Sports Centre	Provision	1
KCC developer contributions	Contribution of £3,253.27 per dwelling	TBC, at various trigger points – every 50 units for example
Cliff path provision and improvement	Minimum of £30k/direct provision	1 and 2
Natural England & Open Space	Contribution of £200 per unit	TBC
Play Space	Both -	Strategy TBC, delivery at each phase
Highway improvements – Tontine St	S106 contribution	TBC with KCC Highways
Highway improvements – J5	S106 contribution	TBC by KCC Highways
Bus infrastructure	On site provision	TBC
GP Premises & Nursery building (500m ²)	On site provision	Phase 6/plot PH01
Harbour Arm open space & restoration of lighthouse	On site provision	TBC – prior to final phase
Inner Harbour Bridge green link	On site provision	TBC – prior to final phase
Heritage asset retention	On site provision	TBC – prior to final phase
Flood defences	On site provision throughout development	TBC – phasing schedule to be agreed
Lifetime homes	On site provision	20% of each phase or in accordance with phasing plan to be agreed by LPA
Improvements to Marine Parade	On site provision	TBC, likely phase by phase approach
Affordable Housing	On site provision	In accordance with phasing schedule

- 1.4 This application is a Section 73 application (Minor Material Amendment) for the removal of conditions 41 (Provision of Sea Sports Centre) and 42 (Provision of Beach Sports Centre) as these facilities will no longer be provided.

- 1.5 The remaining conditions which are the subject of this application are to be varied to accommodate changes to the design and phasing of the development. Condition 4 is proposed to be varied to refer to amended parameter plans / Masterplan Design Guidelines and Landscape Guidelines, condition 6 varied to refer to amended phasing plan and Landscape Guidelines and condition 7 varied to refer to amended Landscape Guidelines. Conditions 15, 16 and 21 are to be varied to refer to the amended phasing plan and new plot names, condition 18 is to be varied to amend plot names in relation to amended parameter plans and condition 23 is to be varied to refer to the amended parameter plan and phasing plan. Conditions 25 and 37 are to be varied to refer to appropriate phase and conditions 41 and 42 are to be removed as the sea and beach sports facilities are no longer proposed to be delivered by the development.
- 1.6 As with the approved planning permission the application seeks approval for parameter plans, masterplan design guidelines and landscape guidelines, with the two guideline documents providing guidance on the proposed development design, setting out the structure and vision and how this should be translated in to design within future reserved matters. These provide guidance at the plot by plot basis, as well as for character areas within the proposed development.
- 1.7 The most significant proposed changes to the parameter plans are in relation to the plot shapes and heights, with the changes to the plot shapes and names set out in Parameter Plan 1a. The parameter plans establish how big each individual plot is in terms of horizontal and vertical deviation, with parameter plans 7a and 8a providing details of minimum and maximum development. As with the approved development, the building deviations are given as a range so the precise height of each individual building will not be known until reserved matters stage, when applications will be made in accordance with the parameter plans and guideline documents.
- 1.8 The main difference between the consented parameter plans and the proposed parameter plans is the shape and height of the plots, with the current scheme seeking to achieve sea views for as many properties as possible to the south of Marine Parade and to achieve greater connectivity from North to South when moving through the site by providing for a number of crescent shaped plots along Marine Parade (plots B-E), whilst plot A incorporates an alternative car park use to the plot previously identified for sea sports and plot F-1 and F-2 provide for a greater amount of public realm due to the removal of beach sport facilities. The applicant has confirmed the most western plot L has been removed from the application plans. Plot H, fronting on to the inner harbour proposes a taller building, with a smaller footprint.
- 1.9 The parameter plans also include details for setting out the development (plot key and setting out, parameter plan 3a, existing and proposed site levels and areas of public realm (parameter plans 5a and 6a) and access (parameter plan 4a) which is identical to that approved.

- 1.10 As per the existing permission the application still seeks to provide up to 1000 dwellings and up to 10,000 sqm of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses. The applicants have stated in their supporting statement that the proposed changes to the plot shapes also allow for a greater open space to be created at the base of the Leas Lift to the west of the site, and a retained opening opposite Marine Crescent. They also explain that the proposed plot shapes also allow for greater areas of open space between the plots, using shingle areas within the development area to integrate the landscape of the established public beach with the proposed development, allowing for greater north to south connectivity within car free/low use, beachscape public realm.
- 1.11 The application also proposes replacing the sea and beach sports with a contribution of £3.5m to additional community benefits directly linked to the scheme and to be mutually agreed. This community benefits fund has been agreed as an amendment to the section 106 Agreement. Examples of such community benefits include funding towards the restoration of the Leas Lift, further enhancements to the Lower Leas Coastal Park, increased or improved provision at the sea sports centre on the Stade and enhanced play and exercise equipment in public spaces to be funded from this contribution. Opportunity is also available to fund improvements to cycle, walking and parking provision within or adjoining the site, whilst the NHS South Kent Coastal CCG have requested an off-site contribution towards Primary Health to mitigate the impact of the development, rather than an on-site space.
- 1.12 The table below sets out the height changes proposed to the plots – it should be noted that within each plot (as before) there is height variation from north to south and east to west and this is explored in more detail within the description of each plot.

Consented Plot No.	Consent Height (m) ASD	Proposed Plot No.	Proposed height (m) ASD
LL01	16-20.5 & 25-29.5	A	25-29.5
MP01	16-20.5	B (West)	25-28.5
MP01	12-16.5	B (East)	16.5-25
MP02/ MP03	12-16.5	C-1 (East & West)	16-20.5
PH03	12-16.5	F	16-20.5
PH02	16-20.5	H	31-35.5

- 1.13 The consented outline scheme, approved parameter plan 2 Rev B (Buildings Retained / Demolished) showed the retention of the Harbour Master's House to the east of the site adjacent to the station and included the demolition of the former historic station itself. The current application proposes to include the demolition of the Harbour Master's House, however now seeks to retain the Harbour Station as a core component of the public realm of the development, connecting through to the harbour arm and swing bridge and viaduct to provide for a continuous north to south linear route providing for public realm, open space and commercial activity within designated and undesignated heritage assets.. Other buildings previously on site have been demolished following the outline planning consent have been removed from the amended parameter plan 2a.

1.14 The table below gives the maximum number of storey of each plot of the development as set out in the revised design guidelines and illustrative masterplan and how this compares to the approved scheme.

Previous Plot Number	Maximum mandatory storeys	Current Plot Number	Maximum mandatory storeys
LL01 & LL03	7 reducing to 5 & 2 reducing to 1	A	9 (including basement) and 2
MP01	6 reducing to 2 storeys	B	7 reducing to 3
MP02 & MP03	6 reducing to 2 storeys	C1	6 reducing to 3
DW02	2 storeys	C2	2 storeys
MP04	6 reducing to 2 storeys	D1	6 reducing to 3
DW03	2 storeys	D2	2 storeys
MP05	6 reducing to 2 storeys	E1	6 reducing to 3
DW04	2 storeys	E2	2 storeys
PH03, PH04 & PH09	6 reducing to 2 storeys	F1	6 reducing to 3
DW05	2 storeys	F2	2 storeys
PH01	12 storeys	G1	12 storeys
PH05	3 storeys	G2	4 storeys
PH02	6 storeys	H	8 storeys
PH06	3 storeys	I	4 storeys
PH07	Lift	J	Lift
PH08	2 storeys	K	2 storeys
LL02	2 storeys	L	Removed

1.15 The application is seeking approval for the following documents:

Parameter Plans

- Parameter Plan 1 – Rev: A Planning Application Boundary
- Parameter Plan 2 – Rev: A Buildings Retained/ Demolished
- Parameter Plan 3 – Rev: A Plot Key and Setting Out
- Parameter Plan 4 – Rev: A Site Access
- Parameter Plan 5 – Rev: A Public Realm
- Parameter Plan 6 – Rev: A Existing and Proposed Site Levels
- Parameter Plan 7 – Rev: A Minimum/ Maximum Development
- Parameter Plan 8 – Rev: A Ground Floor Horizontal Deviations

1.16 Parameter Plan 1 Rev A – Planning Application Boundary.

1.17 Parameter Plan 2 Rev A – Buildings Retained/Demolished. Parameter plan 2(b) identifies those structures to be retained and those to be demolished, as well as listed buildings within and adjoining the application site. Within the site the following buildings are stated as being retained: Harbour Master’s House, Signal Box, Customs House, Harbour Arm, partial retention of Platform

Canopies and Screens, Lighthouse, Swing Bridge and viaduct (Harbour as a whole).

- 1.18 Parameter Plan 3 – Rev A – Plot key and Setting Out. Provides a plot key, setting out the numbering and extent of each building plot and its exact position (eastings and northing) using GPS.
- 1.19 Parameter Plan 4 Rev A – Site Access. This plan outlines the vehicle and pedestrian access for the planning application site. The routes are differentiated as existing and proposed.
- 1.20 Parameter Plan 5 Rev A – Public Realm. This plan identifies all areas of public realm, both within the applicant's and other ownership.
- 1.21 Parameter Plan 6 Rev A – Existing and Proposed Site Levels. This plan identifies where levels in the site are to be altered, as recommended in the engineer's flood risk assessment.
- 1.22 Parameter Plan 7 Rev A – Minimum/Maximum Development Plot Level. This plan defines the maximum and minimum deviation of each plot above Ordnance Datum Level. Each building or group of buildings shall be as tall as the minimum vertical deviation and no taller than the maximum vertical deviation indicated on these plans.
- 1.23 Parameter Plan 8 – Rev A – Ground Floor Horizontal Deviation. This plan defines the permitted maximum and minimum horizontal deviation for each development plot. Facades must be located on or within the space between the minimum and maximum horizontal deviations.

Illustrative Plans

- 1.24 The following plans have been submitted and are illustrative:
 - Illustrative Plan A – Rev: A Names and Places
 - Illustrative Plan B – Rev: A Transport
 - Illustrative Plan C – Rev: A Use Classes
 - Illustrative Plan D – Rev: A Land Ownership
 - Illustrative Plan E – Rev: A Indicative Phasing Plan
- 1.25 Illustrative Plan A – Rev: A Names and Places – Provides possible future names for the development plots.
- 1.26 Illustrative Plan B – Rev: A Transport – Provides details on the existing access routes and the proposed bus routes.
- 1.27 Illustrative Plan C – Rev: A Use Classes – Provides an indication of the proposed use classes for each block.
- 1.28 Illustrative Plan D – Rev: A Land Ownership – Provides details of land ownership across the site.

- 1.29 Illustrative Plan E – Rev A – Indicative Phasing Plan – Following discussions with the applicant it is agreed that the phasing plan should form a document seeking approval.

Other Documents/ Supporting Information

- 1.30 The Environmental Statement Addendum and Transport Statement Addendum have also been submitted with the application.
- 1.31 Other documents include the Masterplan Design Guidelines Rev: A, Parameter Plans and Illustrative Scheme Comparison, Folkestone Seafront Landscape Guidelines Rev: 2, Folkestone Seafront FS3 Supplementary Information and Planning Statement

Masterplan Design Guidelines/ Landscape Design Guidelines

- 1.32 The development masterplan, produced by ACME provides a an indicative example of what the applicant currently considers the most viable and appropriate interpretation of the requirements of the Parameter Plans and Design and Public Realm documents following consultation with the public, local authorities and other statutory agencies. Approval is not sought for the masterplan, nor illustrative elements set out within the design guideline documents, with the mandatory elements clearly defined. Whilst illustrative, much of the level of detail set out within the Design Guidelines and Public Realm Design guide for approval identifies how the extent of public realm, streetscape and the dwelling typologies and locations are agreed within the outline application, and therefore the illustrative masterplan provides an accurate representation of how the development could appear in its completed form, should Reserved Matters applications follow this approach. The Illustrative masterplan proposes a total of 784 units, as set out below. This amount of development is considered to be the most viable and appropriate to the site in current market conditions, a similar quantum to that shown in the previous illustrative masterplan produced for the site.
- 1.33 The Landscape Design Guidelines have also been updated to reflect the alterations to the parameter plans. It includes details of the open space, connectivity and landscape principles. There are also indicative proposals for planting and materials that should inform Reserved Matters applications.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:

- Inside settlement boundary
- Folkestone Leas and Bayle Conservation Area
- Town Centre and Seafront Redevelopment Site
- Area of open space value or potential
- Area of archaeological potential
- Area at risk of fluvial/ tidal flooding

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 The application site boundary, as set out in the parameter plans comprises the area known as Folkestone Seafront, the former Rotunda and Folkestone Harbour an area of 23 Hectares, located at the southernmost point of the town centre, largely below the West Cliff and Leas and to the east of the Coastal Park. The site extends on to the beach to the south and includes the inner and outer harbours and the harbour arm.
- 3.2 The Folkestone Leas and Bayle Conservation Area surrounds the site to the north, east and west, with small areas of the site – to the south of Marine Terrace and surrounding the northern edge of the Harbour and Stade located within the Conservation Area. The Conservation Area Appraisal recognises that the Conservation Area includes different character areas. Within close proximity to the site the Conservation Area includes The Leas and grade II listed ‘zig zag’ path and pulhamite caves. Fronting the site to the northern side of Marine Parade are the listed properties of Marine Crescent and 4-7, 8-9 and 10-15 Marine Parade, all 4 storey stuccoed properties with basements and attics dating from the 1870’s. The Grade II* listed Leas Water Lift, brake and weighting rooms, providing vertical transport between the site and the Leas above are located to the north of the application site towards its western extent and date from 1885. Whilst not within the Conservation Area the Harbour forms a considerable part of its setting, forming a close relationship with the mediaeval ‘old town’ core of the Bayle and Old High Street.
- 3.3 Sitting below the Leas Cliff, the site is generally flat in appearance, with levels ranging from 5.7 metres above sea level (Above Ordnance Datum (Newlyn) -AOD) along the southern extent of the existing concrete apron to 6.5 metres AOD along Marine Parade and surrounding the harbour. There are also a number of ‘spot levels’ higher than the surrounding area, including in front of the Leas Lift (8.5m AOD) and adjacent to the former Harbour Pilot Station (7.6m AOD), whilst the beach drops away to the south.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The full planning history of the site is given in the committee report of the original outline application Y12/0897/SH. Given this application is an amendment to the outline, the planning history is not repeated here.
- 4.2 Application Y18/0232/SH for the demolition of a single storey building adjacent to Harbour Master’s House was deemed to required prior approval for demolition. This was because it was deemed to be not urgently necessary in the interests of safety or health.

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 Folkestone Town Council

Folkestone Town Council commented as follows and voting was carried out on individual issues as stated below. For reference the letters used below indicate the following: F – for the motion, Ag – against the motion and Ab – abstentions.

- 1) The Committee supported the original Folkestone Seafront scheme although with some worries which it thought would be resolved over time and wishes to see proposals provide an exciting replacement for the derelict ferry sheds, nightclub and fun-fair. (F:6, Ag:0, Ab:0).
- 2) The Committee are concerned with various technical matters, whilst deferring to the views of the experts involved. There are concerns with the impact on future sea levels and particular the low level parking and on road access. The Committee consider that the alterations to Tram Road as successful but not the alterations to Tontine Street. If the section 73 application leads to more bedrooms on the development, this may cause more traffic and parking issues. The Committee is also concerned about the provision of schools and surgery facilities for the new Harbour area. (F:6, Ag:0, Ab:0).
- 3) The Committee objects to the increase in the height of the blocks of flats as these seem to take the development too close to The Leas and The Bayle. There are concerns that the roofs of these flats will be ugly and contain unscreened equipment with the potential for throwing stones and rubbish from The Leas to the roofs.
- 4) The Committee likes the alteration from blocks to seafront crescents and the greater space around the Leas Lift and Marine Crescent area. It can appreciate that some of this is a trade off with greater height elsewhere, but is still opposed to the excessive height very near The Leas and next to the fountains. (F:6, Ag:0, Ab:0).
- 5) The Committee is disappointed about the 8% affordable housing and the lack of real social housing. The majority feels that the Harbour Arm is not pure planning gain to be offset. (F:5, Ag:1, Ab:0).
- 6) The Committee is very disappointed about the Section 73 proposals to demolish the 1850's Harbour Master's House but will defer to Historic England's judgement. (F:6, Ag:0, Ab:0).
- 7) The Committee considers that the proposals are significant enough to justify a general public meeting to answer any criticisms and clarify the difference between the two schemes. Consideration should be given for a separate video room for public use. (F:6, Ag:0, Ab:0).
- 8) The Committee is concerned about the impact of the building works and the plans to minimise disturbance to the public. (F:6, Ag:0, Ab:0).

5.3 The National Planning Casework Unit

Have no comments to make on the Environmental Statement.

5.4 Environment Agency (EA)

The EA raised concerns with the original submission on the grounds that the proposed basement car parking would be below the maximum predicted flood level for the site. The EA have subsequently withdrawn their objection on the basis of the new information provided in January 2018. They have noted section 4 of the Environmental Statement Addendum states that the previously submitted Flood Risk Assessment and Drainage Strategy has been amended to remove reference to the previously recommended self-activating flood-barriers. They have also commented that the revised statement recommends that the threshold to the parking area is retained at 6.5maODN unless subsequently agreed in writing. They explain that a lower threshold should be avoided and that they would only consider an alternative if it can be adequately demonstrated that this could not be achieved.

5.5 Southern Water

Comments provided for the 2012 application remain unchanged.

5.6 Historic England

Historic England has previously engaged in proposals to redevelop Folkestone Harbour and Seafront in response to planning application ref: Y12/0897/SH. The biggest change to the approved scheme is a move away from the formality of the previous layout, towards a more informal sinuous arrangement of blocks along the seafront. They note that this approach contrasts the more formal character of the Old Town in Folkestone which is characterised by a network of streets laid out in a grid pattern. However, they have no objections given the proposed character references the crescents of some historic seafront development such as Marine and Clifton Crescents.

Historic England think there are areas of the new scheme which would be more harmful to the significance of designated heritage assets including the grade II listed Marine Crescent, a terrace of c1870 designed to capitalise on sea views. While it is acknowledged those views were reduced by the approved scheme, they would not wish to see them reduced further by this proposal. They note that the latest scheme includes some development in the centre of block C1, whereas the previous scheme proposed a complete gap between blocks MP02 and MP03. While they note the additional development here will be no more than 4m, i.e. a single storey structure, this nevertheless has the potential to impede views out from the crescent to a greater extent than the permitted scheme and we maintain some concerns for this reason. (Since Historic England issued their comments, the applicants have confirmed that the 4m single storey sloped structure will now be no higher than 2.5m.

They therefore think the Council must satisfy itself that any additional harm here is justified as per the terms of the NPPF, Paragraph 132. They also note that the gap between taller blocks on either side could be marginally narrower than was consented and suggest the Council check whether this is the case. If it is so, then we think the applicant must demonstrate why a wider gap between flanking blocks cannot be retained in this instance.

They also draw the Council's attention to changes close to the grade II* listed Leas Lift. This building, which transported visitors and locals between the

seafront and the Lees, derives some significance from the way it was designed to take advantage of sea views which became in essence a pleasure activity associated with its primary functional role as a lift. Diminishing an experience of the sea in views out from the lift thus causes some harm to the significance it derives from its sea facing location.

They note this scheme proposes higher blocks flanking the lift (up to 8-9 storeys), whereas the previous scheme proposed lower blocks to the lifts immediate south. Nevertheless, they acknowledge that the greater separation between the high blocks will allow for wider views of the lift and out from it. They think this is something that we can be content with provided that the higher blocks do not rise above the top of the cliff. They suggest the Council must satisfy itself that this is the case and that any lift overrun for the higher blocks will also not be visible above the cliff top.

At the site's eastern end the major change proposed is around the railway station. They are very pleased that the station itself will be retained, refurbished and made assessable to the public and will be located between blocks F1 and G1. They think the retention of undesignated heritage assets is a welcome move which assists in delivering a development which reinforces and reveals aspect of local distinctiveness as advocated by Paragraph 131 of the NPPF.

However, that is not to say that there is no harm to non-designated heritage here and they acknowledge that the proposed demolition of the Harbourmasters House would be regrettable. Nevertheless, they understand the reasons behind this decision, in that it could open views of the basin edge from the station and they are willing to be persuaded that its loss might be outweighed by retaining the station if the latter was demonstrably made part of a positive heritage strategy which seeks to sustain, enhance and celebrate retained structures from the historic station. We advise that the loss of the Harbourmasters House should be treated in the manner of Paragraph 135 of the NPPF.

Historic England has concerns regarding the application on heritage grounds and recommends that the Council considers whether harm arising from this proposal, which may be more harmful than the consented scheme, is minimised as per the terms of the NPPF Paragraph 129 and justified in line with the requirements of Paragraph 132. It will then be for the Council to weigh any remaining harm to designated heritage assets against the public (including heritage) benefits of this proposal in the manner of Paragraph 134 of the NPPF.

5.7 Stagecoach

The changes to Tontine Street to facilitate two way working for buses mean that the eastern end of the Harbour Area now served in both directions with four buses per hour between the town centre and the Old High Street and six buses per hour in the other direction. This level of service adequately satisfies the current level of demand from the Harbour Area.

If the scheme is built out, there may be a case for providing additional journeys, which would terminate in a loop working via Marine Parade, Marine Terrace and Harbour Street and utilise the existing bus stop currently unserved in Marine Parade. This would require additional funding until it becomes commercially viable. They do not expect to divert existing journeys as this would disadvantage existing users for little gain. The bus stop in Marine Parade would need to be upgraded to meet current accessibility standards.

A bus service linking the western end of the proposed development and the town centre would be circuitous and unlikely to attract sufficient patronage, even with the development fully built out to be commercially sustainable. The town centre would be more easily accessible by utilising the Leas Lift and therefore they support the views expressed by KCC in this respect.

5.8 South Kent Coastal CCG (Healthcare Provision)

South Kent Coastal CCG have confirmed that they would be keen to progress with an off-site contribution rather than the proposed 350 sqm facility as part of the development.

CCG are looking to develop a Folkestone solution which would see fewer, larger premises in the town as opposed to numerous small surgeries which are unsustainable. A facility of 350 sqm would not even allow us to relocate an existing surgery. The development will obviously have an impact on the local delivery of primary care, however we would no longer support a small facility as the solution. These are calculated using the following formula:

Predicted Occupancy rates

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

For this particular application the example below gives a likely maximum contribution: 1000 dwellings (occupancy unknown) would mean $1000 \times 2.8 \times \text{£}360 = \text{£}1,008,000$.

NHS Kent and Medway therefore propose to seek a contribution of up to £1,008,000 plus support for our 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.

5.9 Natural England

Natural England requested additional information with regards to the impact on the England Coastal Path and were not in a position to support the application. However, Natural England have now reviewed the additional documentation. They have advised the Council that the amended plans allow

for the England Coast Path (ECP) to be aligned predominantly along the boardwalk that runs on the seaward side of the development on the shingle beach. They advise that, subject to the ability to vary the ECP so that it substantively aligns with the boardwalk as detailed in the Planning Statement Addendum, Natural England is satisfied with the proposals, and has no further comment to make.

5.10 KCC Highways and Transportation

KCC have made the following comments:

- 1) Vehicle tracking for an 11.4m long refuse vehicles should be submitted to show that it can enter the service route and then exit back onto Marine Parade.
- 2) The accessibility of the site to the town centre is worse than when the Leas Lift was in operation as pedestrians now need to use the non DDA compliant steps from Marine Crescent/ Lower Leas Coastal Park or the Road of Remembrance. This acts as a barrier for future residences and visitors accessing the site. Folkestone Central Railway Station is now outside a 15 minute walk to the site. Funding for the Leas Lift should be provided for five years. The previous application proposed off site footpaths improvements to improve connectivity to areas to the west and north of the site. These paths are not DDA compliant to a 1 in 20 gradient and as such the contribution to the Leas Lift is required.
- 3) Buses should be re-routed to serve the site via Folkestone Promenade, Marine Parade and then Marine Terrace.
- 4) KCC wish to see the junction 5 improvement constructed by the applicant and the Local Highway Authority do not have the resources. This should be constructed prior to the occupation of 100 dwellings on the site as set out in the correspondence for the 2012 application.
- 5) All other Section 106 requirements remain the same as previously agreed in the 2012 application.

5.11 KCC Archaeology

No objection subject to watching brief condition.

5.12 KCC Contributions

All contributions agreed in the 2012 application should be carried forward to this application. The sums of money however should be linked back to the original indexation agreed in the previous Section 106 agreement.

5.13 KCC Ecology

No comments as the application does not change anything that relates to ecology from the approved scheme.

5.14 KCC Public Rights of Way (PROW)

PROW would like to highlight the England Coast Path which passes directly through the site which a new National Trail is a walking route being developed by Natural England. The path is not recorded on the PROW Definitive Map but the trail gives the public a right of access around the English coastline. The

section in Folkestone was officially opened in July 2016 and is now managed by the KCC PROW Access Service in partnership with Natural England.

With reference to the movement diagram, pedestrian movement would have a significant impact on the coast path as the new dwellings would obstruct sections of it. To address this, the applicant has proposed a new route for the England Coastal Path, which passes along the beach boardwalk and connects with the Harbour Approach Road. This is welcome but the applicants would need to engage with Natural England. KCC would want to be included in these discussions.

5.15 KCC Sustainable Drainage

No comments to make as the section 73 application does not propose to vary the surface water drainage conditions. They would be happy to comment further when details for these conditions are submitted for approval.

5.16 Arboricultural Manager

No objection subject however the final landscaping details will need to be formally submitted and approved at a later date following the submission of final layout plans when the specific species, size and maintenance can be discussed formally. Play provision will be dealt with in the Section 106 agreement so the proposals within the landscape document are appropriate for the areas detailed.

5.17 Conservation Consultant

(Please note the Conservation Consultant's comments are currently in draft form while officers address some factual inaccuracies. Councillors will be updated on the supplementary sheets with any changes that arise).

The current application now shows a level of detail that demonstrates the extent of the proposals in an architectural form rather than as a series of diagrammatic parameter heights and plans and, in addition, the combination of Accurate Visual Representations and architectural visualisations demonstrates, for the first time, the possible appearance of the scheme and its impact on the setting of Folkestone, the Harbour and the existing Heritage assets along the Marine Parade, these, in particular, including:

- The Leas Lift and Lower Lift Station
- Marine Crescent
- Terraces at no's 5-15 Marine Parade

These all within the Conservation Area and Grade II Listed

As well as the buildings clustered around the southern end of the Swing Bridge and the Marine Station

- The Customs House
- Signal Box
- Harbour House
- Marine Station

These outside the Conservation Area and unlisted but to be considered as Heritage Assets.

In addition, the AVR's demonstrate the impact of the development from viewpoints up on The Leas and from The Bayle in the Old Town Conservation Area.

I have also tried to classify these impacts to the Heritage Assets by the means included in the NPPF (as Substantial or Less than Substantial) and at the most general level, the development could be considered to have a Substantial Impact on the character of the lower town (Marine Parade) element of the Conservation Area and on the harbour itself (which is not Conservation Area). The impact on views of the town from the south (from the Harbour Arm and from the sea) will also be Substantial, but perhaps the views from the Leas and from the old town, at The Bayle could be considered to be Less than Substantial (although the view from The Bayle, in particular is very significant).

The increased level of visuals helps with the appreciation of the scheme in general and certainly some of the broader changes from the approved outline scheme could be considered as distinct improvements, these including:

- The change in the general principle of the development from a more urbanised scheme to a series of curved promontory blocks separated by shingle gardens.
- The change from a share surface roadway along the beach to a fully pedestrianised Boardwalk
- The increase in the gap between blocks A and B, Leas Lift Square (but see my reservations about this below)
- The change to a symmetrical plan – Block B
- The reduction in the gap between blocks E1 and F1 and the street here becoming a beach garden
- Reduction in plan area – Block H
- Increase in size of Station Square and its connectivity to the Harbour
- The new circulation route between Blocks F1 and G1 – connecting to the Harbour Arm
- The retention of the Marine Station and its conversion to a principal pedestrian circulation route

However, the AVR's, in particular, identify a number of significant concerns. Some of these were previously identified in November 2017 but the expanded presentation throws these into sharper focus.

These include:

- The gap between blocks A and B – wider than before but still not wide at Leas Lift Square and the non-alignment with the axis of the Leas Lift itself (Substantial)
- The size, height and prominence of Block A in wider views of the town and especially as experienced as one progresses along the Lower Sandgate Road/ Marine Parade and the seafront walks, in either direction, and also the way in which it rises up in front of the wooded Leas Slopes to almost merge with the buildings atop it in the Leas (Less than Substantial)
- The increased height of the end pavilions of Block B and their impact, particularly the eastern pavilion on Marine Crescent (Substantial)

- The increase in height along the Marine Parade frontage of Block C1 and the increase in height of its end pavilions, out of scale with Marine Crescent opposite.(Substantial)
- The manner in which Block C1 separates Marine Crescent from its sea views with the proposed gap at the centre raised up to first floor level insufficient to maintain a meaningful connection with the sea here (Less than Substantial)
- The height of Block H and its possible dominating impact on the scale of the inner harbour and in wider views of the town (Less than Substantial)
- The impact of the heights of Blocks F1 and G1, in particular intruding into the views out to sea from The Bayle (Less than Substantial)
- The demolition of Harbour House (Substantial)
- A general scepticism over the density and proposed character of the Beach houses (blocks C2 – F2)

5.18 Environmental Health

Agree with the Contamination consultants and have no other comments to make.

5.19 Merebrook (Contamination Consultants)

The submissions do not appear to impact the land contamination aspects of the scheme and there are no proposed changes to the contamination conditions. Land Contamination has been scoped out of the recent EIA submission and therefore they have no comments to make.

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:

6.2 237 letters/emails received objecting on the following grounds:

Principle

- No objection to the development of the site.
- Objections remain despite the submission of additional information.
- Concerns about the stability of land to support the development.
- The amendments are too significant to be considered under a Section 73 application and fundamentally changed the plan.
- The current LPA team should be ashamed of what their predecessors allowed.
- Some of the visual representations are incorrect, incomplete and poorly scanned.
- Contrary to the Core Strategy, Local Plan, the Spatial Strategy for Folkestone Seafront and the Kent Design Guide.
- Ignores Folkestone's history.

Proposed uses/ amount of development

- Removal of leisure facilities such as sea and beach sports centres.
- Acknowledgment that there is significant public realm investment, but this is not a substitute for lack of leisure facilities. These are needed to attract people to Folkestone.
- How can the leisure facilities be deemed unsustainable if the Roger de Hann Charitable trust is already running a successful one?
- Would destroy any traditional seaside trade and price many people out of the area's proposed facilities.
- No provision of a museum.
- Overdevelopment of the site
- 25% increase in number of bedrooms will have an impact on local facilities such as GP's, schools, water, parking and on local roads.
- Use classes have changed significantly.
- It is not clear what the use of plot LL will be.
- The developer does not have to construct all the homes, the precise number is unknown
- Pile driving could make crumbling cliffs worse. The nature of the sub soil is not ideal.
- Will fisherman and recreational users lose their moorings?
- The development will be used as second homes.
- Leisure and other tourism activity beyond walking eating and drinking should be provided to ensure the seafront contributes positively to Folkestone's economy.
- The three car parks could easily be used for large structures and would not spoil views from neighbouring properties.
- There are already too many vacant shop units in Folkestone.
- There are already enough cafes.
- The uses which have been lost are not replaced by the Creative Quarter which only appeals to a minority of people.
- Nightlife is virtually non-existent in the town
- The opportunity to provide all year round family entertainment has been ignored.
- The town was previously promised a cinema and bowling alley.
- The application lacks adult's fitness equipment and children's play space.
- Should have a military museum on the scheme.
- Getting rid of the amusements killed Folkestone, something needs to be built for young people.

Design, mass, height and bulk of the proposed buildings

- The proposed buildings have been significantly altered, including the removal of some and the addition of others.
- The buildings are out of scale and not in keeping with their surroundings.
- The plots have changed significantly in shape and height.
- Poor design.
- Site heights have been altered.
- The reduction in height of plot B is not significant.
- Would have a detrimental visual impact and appear as a concrete jungle.

- Comparisons with the Burstin are unhelpful as many believe this should not have been built.
- The maximum heights should include the lift overruns and anything else on the roof.
- Only a few metres from the top of the Leas.
- The designs are only indicative at this stage.
- Any cantilevers on Plot I would not be feasible because of the rocks and may need piling into the seabed.
- The Burstin should not be used as a precedent or justification for the heights of the buildings as this is already intrusive.
- The improved beach gardens and crescents do not compensate for harmful design.
- There is insufficient detail with the application.
- Would harm views of and compete with the iconic white cliffs. Would also spoil view to see and France.
- The current scheme is worse than the previous one and will ruin Folkestone, the coastline and the openness of the harbour.
- Folkestone's image as a fishing harbour will be lost.
- Wasted opportunity for a high quality development, particularly as the harbour is a great asset for the town.
- The development appears like a self-sufficient village.
- Architecture in the area will be ruined.
- The single gardens are a cheap cop-out.
- There is a strong local vernacular along Marine Parade, Marine Crescent, The Leas, The Bayle and The Stade.
- Comparisons to large cities have no bearing on Folkestone.
- The beach houses have no defensible space and open spaces appear to be left-over land.
- Has regard for disabled facilities been had for future residents?
- Most people dislike the design.
- No consideration has been given to the town's architecture or integration with the beach.
- Looks like Benidorm.
- The previous scheme by Fosters was rejected for being too tall.
- Why not take inspiration from the newer flats in Hythe and Imperial Hotel?
- Public gardens have been removed from the application.
- Views of the roofscape will be harmful.
- Should be a substantial planting scheme.
- Properties in The Bayle have lost gardens due to landslips.

Harm to residential living conditions

- Loss of a view.
- Loss of light.
- Overshadowing of neighbouring properties.
- Could cause damage to homes at the top of the cliff.
- The Council has the power to overrule public opinion. This is undemocratic.
- Increase in anti-social behaviour and vandalism.
- 20 years to build the scheme will make living in the area miserable.

Heritage issues

- The Harbour Master's House should be retained as a heritage asset.
- Will have a negative impact on the listed Marine Parade and Marine Crescent listed buildings.
- There will be worse views from the Grade II* listed Leas Lift.
- The Conservation Area Appraisal identifies the view from The Leas as a key view which will be harmed.
- The Burstin is visible from the Bayle Conservation Area and this mistake should not be repeated.
- Retention of harbour station is positive but does not justify the demolition of Harbour Master's House. This is an important part of the history of the site.
- The Council should require the west end to be re-designed to ensure heritage assets are protected. Building surrounding the inner harbour are particularly damaging.
- Archaeology and monuments should be preserved.

Highways/ PROW

- Deviation from the England Coastal Path.
- Lack of parking.
- Insufficient visitor parking.
- Concerns of underground parking for residents.
- The proposed undercroft parking appears to ignore the advice of the EA and could be a risk to life.
- Insufficient information on how much parking there will be.
- The boardwalk is not a suitable replacement for the England Coastal Path as it keeps needed repair work, is often covered in shingle and may need to be closed during bad weather. It could also represent a hazard for disabled people particularly those in wheelchairs and sections are not suitable for cyclists.
- The viaduct does not make for a suitable replacement for the pavement if it is intended to be built on.
- KCC Highways and Stagecoach consider that the Leas Lift should be brought back into use.
- KCC Highways have commented on the lack of pedestrian access.
- Harmful impact on traffic flows.
- Increased pollution.
- Harm to public safety, cyclists and pedestrians.
- Existing residents may need parking permits in the future.
- Increase risk of traffic accidents.
- Insufficient public car parking.
- What about cycle parking and mobility parking.
- Provision for refuse collection, lorries and buses should be considered.

Affordable housing and contributions

- The suggestion that the application could fund the Leas Lift is surprising as it was understood that the applicant was going to do this anyway.
- It is acknowledged that the Roger De Haan Charitable Trust has paid for surveys on the Leas Lift to be done, they are not the applicants.
- 30% affordable housing target will not be achieved.

- The affordable housing provision only offers a subsidy of around 20% of the price. The units will not be affordable to first time buyers or families.
- There is no social housing on the development.
- People are being forced to live in Dover or Ashford as they are unable to afford Folkestone.
- The developers should keep to the same legal agreement where issues have not changed.
- The scheme has already received £5 million public money to prepare the site so public interest should be paramount.
- This will not help with the housing shortfall as there is no affordable and many will be holiday lets.
- A new school at Shorncliffe will be no use to future residents of the scheme.
- We have a housing waiting list which will not be addressed.
- A new application would trigger CIL payments and bring much funding.

Consultation

- Lack of public consultation/ presentation.
- Should be more dialogue with the community.
- The applicants have not responded to requests from member of the public.
- The proposal neglects the opinions of local people including those who currently enjoy the space and spoil the good work the coastal park and harbour arm have done.

Other issues

- Previous police concerns of increased crime.
- Regard should be had for the Folkestone Harbour Revision Order.
- The process has been flawed.
- Is the land stable enough to accommodate the development?
- Would lead to loss of tourism.
- No public toilets in the scheme.
- Similar mistakes have been allowed elsewhere around the world.
- The town centre should be redeveloped to deal with the increase in people.
- Will not help job creation.
- Increase in flooding and problems during high tide.
- Will lead to empty flats as too many units flood the market.
- The scheme is aimed at Londoners.
- Does the Council hate the town? Is the Council a puppet of the developer?
- Impact on the port has not been fully considered.
- The Marine Management Organisation should be involved.
- Storms have previously caused damage in the area.
- Only benefits profits for the developer and not the town.
- The development will have a negative impact on property prices.
- Harm to sea defences.
- The website has gone down during the consultation process.
- Expressions of support for much of the work the applicant has done in the town.
- Will lead to gentrification of the area.

6.3 6 letters of support can be summarised as follows:

- Injecting much needed revenue into the town.
- More homes are needed
- With new amenities including sea sports hopefully more people will be attracted into the town and much needed trade.
- More jobs for the economy.

6.4 The Bayle Residents' Association

- Strongly object to the application and comment that the additional information has not addressed concerns.
- Do not accept that these are minor material amendments.
- The illustrative material exacerbate fears regarding the design, even if this will be determined later.
- Concerns raised over the building heights, claustrophobic and overpowering effect and reduced beachfront. Especially along Marine Parade.
- Only building heights from one part of The Bayle are shown.
- The high buildings will be visible from every direction detrimentally affecting views all around.
- Strong objections to the increase in the height of Plot H and strongly disagree that this balance the dominance of The Burstin.
- The Burstin is not a suitable reference point as it is out of scale with its surroundings. The application will make this worse.
- They do not accept that the two plots at the western end need widening or that it would sufficiently improve public space as this also involves the increase in height.
- The development is over-dense and would lead to loss of light and over-shadowing.
- Loss of openness. The previous buildings on site were much lower.
- The retention of the station and other public benefits do not outweigh the loss of the Harbour Master's house. Although it is not listed it should be retained even at the expense of open space and should not be a payoff for all the positive refurbishment that has already taken place.
- Noise and disturbance during construction works.
- Insufficient car parking

6.5 Go Folkestone

- Strongly supports the development of the seafront and feels the owner has the town's best interests at heart.
- The site a redundant buildings are useless in their current state.
- Could be good for Folkestone's economy, tourism and image.
- Members worry that the proposed shops will have an impact on the town centre.
- Geology and water issues could make this an expensive build and therefore has to be fairly dense.
- Outline permission has already been given.
- The changes are extensive enough to warrant public comment.
- Historic England only reluctantly accepts the loss of the Harbour Master's House which will be missed but difficult to keep. Some members believed it would make a good pub or restaurant.

- The heights of the blocks have been re-jigged and were originally much lower nearer the cliff and Marine Crescent. They will be 10m away from the cliff but 3m below. Two stories appear to have been added.
- Go Folkestone backs Historic England's concern with the heights of the building particularly Plot A near the Leas Lift.
- The sea sports centre was trialled but was not a success. An urban sports centre is already being built.
- Supports Historic England and any amendment backs provides a better relationship between the frontage and the elevations of Marine Crescent.
- A multi-storey car park may be a better solution to accommodate all the parking.
- Appears to be better than the approved scheme from the 2000's.
- No one has the right to a view and blocks of flats are inevitably going to block some views.
- The Leas is a tourist and residential showpiece so should be as well designed as possible.
- Here should be some studies which look at the impact from the developments on the Leas.
- Should be studies on the noise impact now the roofs are closer to The Leas.
- The roofscape is important and perhaps green roofs, screening artwork and reduced building heights should be considered. Air conditioning units should be hidden.
- Trees on the slopes above Lower Sandgate Road should not be felled, put-thinned out and coppiced.
- Go Folkestone support the scheme overall as an answer to the decay of several parts of Lower Sandgate Road, Marine Terrace and the Harbour district and to bolster the future of Folkestone in general.
- The ferry and the railway are history.

6.6 No.1 The Leas Residents Association

- Has concerns regarding the area around the Leas Lift
- They note the welcome modification to the layout of the buildings opposite the Leas Lift providing direct views of the sea when exiting the lift.
- Concerned with the increase in height on Plot A and the western end of Plot B.
- There is no visual smooth between the buildings and the Coastal Park.
- The buildings are out of scale adjacent to the site boundaries.
- The submitted documents do not appear to have considered the view from the Leas Lift.
- Visual amenity from the top of the development at roof level should be protected by conditions and any equipment restricted.
- Visual impact from the Memorial Arch should be protected.
- There have been many planning errors in the past, this should not be another
- There should be more public amenities such as the sports centres rather than increase profits for the developer.
- Will lead to a 'wind city' with so many high buildings.

6.7 The New Folkestone Society

- The New Folkestone Society has long been anxious to see the benefit of the site which has long been empty and gives the area a forlorn appearance.

- Regret that they are opposed to the development.
- The proposed height and design would be completely unacceptable and would block many historic views.
- Does not compliment the Victorian character of the town.
- There must be a better way of developing the site.

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, HO2, HO4, LR9, LR10, BE1, BE4, BE5, BE11, BE16, BE17, U4, U9, SC1, S2, TR2, TR5, TR6, TR11, TR12, TR13, TR14, CO11, FTC4, FTC5, FTC6, FTC7, FTC8, FTC9, FTC10, FTC11.

7.3 The following policies of the Shepway Local Plan Core Strategy apply: SS4, SS5, SS6, CSD1, CSD2, CSD4, CSD5, CSD6

7.4 The following Supplementary Planning Documents apply:

- National Planning Policy Framework
- Kent Design Guide & associated appendices
- Building for Life 12
- Affordable Housing SPD

7.5 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that the determination of any planning application shall be in accordance with the development plan, unless material considerations indicate otherwise.

7.6 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied, replacing a large number of Planning Policy Statements and Planning Policy Guidance, amassed over the last 20 years. As set out in Section 38(6) (above) Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, and the NPPF forms a material consideration in plan formulation and decision taking.

7.7 Central to the NPPF (paragraphs 14 and 17) is a presumption in favour of sustainable development, for decision taking this means:

Approving development that accords with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within this framework taken as a whole, or
- Specific policies in this Framework indicate development should be restricted.

7.8 Much of the NPPF is relevant to the current application, with further discussion of the application's detailed compliance within the relevant section of the report. Key sections of NPPF relevant to this application are its focus on –

- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Promoting sustainable forms of transport
- Delivering a wide choice of quality homes,
- Promoting healthy communities,
- Meeting the needs of climate change , flooding and coastal change,
- Conserving and enhancing the historic environment, and
- Ensuring viability and delivery

7.9 Paragraphs 186 and 187 make it clear that Local Planning Authorities should approach decision taking in a positive way to foster the delivery of sustainable development. The relationship between decision making and plan making should be seamless, translating plans into high quality development on the ground. The NPPF stipulates that local planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible. Local Planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental considerations of the area.

7.10 In terms of heritage issues, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that within Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that [conservation] area. Considerable importance and weight should be attached to this duty. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on the District Planning Authority as regards listed buildings in exercise of its planning functions. It provides that, in considering whether to grant planning permission for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraphs 128-137 of the NPPF seek to protect heritage assets. In summary:-

7.11 Paragraph 129 provides that local planning authorities should identify and assess the particular significance of any heritage assets that may be affected by a proposal (including development which affects its setting) taking account of the available evidence and any necessary expertise. Paragraph 132

advises 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;

7.12 Paragraph 133 advises 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 such harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or other criteria applied, which are not applicable in this case; and

7.13 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.

7.14 As such, the NPPF acknowledges that harm to designated heritage assets may be acceptable if outweighed by public benefits. Less than substantial harm does not translate to less than substantial objection. Preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged. The NPPF defines 'significance' in the context of heritage assets as 'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.'

8.0 APPRAISAL

8.1 The relevant material planning considerations are considered to be the following:

- Suitability of a Section 73 application
- Site Specific Policy
- Removal of sea sports and beach sports facilities
- Changes to parameter plans
- Indicative design/ landscaping details
- Living conditions
- Highway safety/ public rights of way
- Flooding
- Ecology
- Affordable housing/ Contributions
- Environmental Impact Assessment Regulations 2017
- Other issues
- Conclusion
- Local finance considerations

Suitability of a Section 73 application

- 8.2 This application has been made under section 73 of the Town and Country Planning Act 1990, and is known as a Material Minor Amendment which can be made to vary or remove conditions associated with a planning permission. Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made.
- 8.3 Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A section 73 application is considered to be a new application for planning permission under the 2011 Environmental Impact Assessment Regulations and is subject to the same full consultation as an application made under section 70 of the Town and Country Planning Act 1990 (as amended).
- 8.4 There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. In this instance the application is seeking to remove conditions 41 and 42 (provision of sea and beach sports facilities) and vary conditions 4, 6, 7, 15, 16, 18, 21, 23, 25 and 27 of that approved for application Y12/0897/SH, which granted permission for up to 1,000 dwellings and 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses. The current application seeks the same number of dwellings and the same uses as per the approved application.
- 8.5 As such, the overarching nature of the application is not considered to have significantly changed, what is under consideration are the changes made to the proposal via the variation and removal of conditions, in particularly changes to the Parameter plans and Design Guidelines and the suitability of these changes when considered against development plan policy and the removal of sea and beach sports facilities.
- 8.6 The objections from members of the public in this respect are noted, however it is the professional view of officers that this can be assessed as a material minor amendment under Section 73 of the Act. However any proposal submitted under Section 73 of the Town and Country Planning Act is seeking a new planning permission, is subject to full consultation and that the requirements of planning policy and the Environmental Impact Regulations fully apply in considering the suitability of the application.

Site Specific Policy

- 8.7 The adopted Core Strategy 2013 includes policy SS6 which is the Spatial Strategy for Folkestone Seafront. It states: Folkestone Seafront is allocated for mixed-use development, providing up to 1,000 homes, in the region of 10,000 sqm of floorspace comprising small shops and retail services (A use classes), offices (class B1) and other community and leisure (C1, D1, D2 and sui generis) uses; together with beach sports and sea sport facilities and with

associated and improved on- and off- site community and physical infrastructure. Planning permission will only be granted where:

a. Proposals clearly support the delivery of planned incremental redevelopment for a distinctive, unique and high-quality seafront environment, with a mix of uses providing vitality for the whole site and Folkestone.

b. The proposals directly contribute to the regeneration of Folkestone by reconnecting the town centre to the Seafront, and enhancing the attractiveness of Folkestone and its appeal as a cultural and visitor destination, complementary to the Creative Quarter and existing traditional maritime activities.

c. Development is appropriately phased to ensure benefits can be fully realised, with infrastructure improvements delivered at appropriate stages to ensure on-and off-site facilities are available to create a sense of place and community and to manage environmental improvements in relation to infrastructure capacity.

d. Sufficient contributions are made to highways, public transport and parking arrangements so as to provide sustainable connectivity between the Seafront development, the town centre and central and eastern Folkestone, including improved pedestrian, cycle and bus links and according with SS5.

e. Appropriate financial contributions are provided to meet additional school pupil places generated by the development.

f. Design is of very high quality, preserving the setting of the key heritage assets and archaeological features of the site, sympathetic to the landscape and coastal character of the area including the retention of the Inner Harbour Bridge.

g. The layout is planned to achieve sufficient ground floor active/commercial uses in and around the Harbour and at the Pier Head Quarter to ensure a sense of vitality can be maintained, fully utilising the setting, and also featuring a central avenue and a range of open and enjoyable coastal environments.

h. Development delivers 300 affordable housing dwellings for central Folkestone, subject to viability (or if the total residential quantum is less than 1,000 units, a 30% contribution).

i. Residential buildings achieve a minimum water efficiency of 90litres/person/day, plus Code for Sustainable Homes level 3 or higher. All development must be designed and constructed to achieve high standards of environmental performance, and buildings should be designed to allow convenient waste recycling.

j. All development is located within the site in accordance with national policy on the degree of flood risk and compatibility of specific use and, where necessary, includes design measures to mitigate flood risk.

k. Development proposals include an appropriate recreational access strategy to ensure additional impacts to Natura 2000 site(s) are acceptably mitigated against, in accordance with policy CSD4.

Any detailed planning application submitted in relation to any of the site will only be granted if it is supported by and consistent with either:

- A masterplan for the whole site produced in line with this policy, or
- An outline/detailed planning application for the whole site that provides satisfactory masterplanning in line with this policy, including phasing proposals and necessary viability assessments.

Masterplanning for the site should accord with the core principles shown in Figure 4.5.

Contribution to five year housing land supply

- 8.8 The district has a healthy housing supply of 7.1 years (2016/17), which consists of allocated sites in the Core Strategy (2013) and sites with planning permission. (The council is currently updating its housing land supply figures for the examination into the Places and Policies Local Plan.) The Seafront Development is important for a continued healthy housing supply for two reasons.
- 8.9 The first relates to the contribution larger sites make to the overall supply. There are six sites that are over one hundred dwellings but these make up almost half of the overall supply. The Seafront development is one of these sites. The remaining sites with planning permission consist of sites of between 10 and 100 dwellings. This means that there is a high turnover of developments, as sites are brought forward through the planning process, start on sites and are completed; many being completed within two or three years. The larger sites, especially the Seafront development Nickolls Quarry and Shorncliffe Garrison with around one thousand dwellings each, ensure that there is continual sound supply for the full five years and beyond.
- 8.10 The second reason is the longer term maintenance of the five year supply. The District Council is currently in the process of producing two Local Plans, the Places and Policies Local Plan and the review of the Core Strategy Local Plan. The former, which allocates a variety of smaller and medium-sized residential sites across the district, is at a later stage in the plan making process and will be subject to an Examination in Public later in the year; although many sites allocated within the plan are coming forward for development. The Core Strategy Local Plan Review, which allocates larger strategic sites, is about to be published for the first time for public consultation. The Core Strategy Review looks to a longer period, to 2037, and contains strategic sites which are likely to take a number of years to come forward and be built out. The evidence base supporting the review of the Core Strategy identifies that the district has an housing need that is significantly above that within the current Core Strategy – 633 dwellings per year for the period 2014-2037 rather than the target of 400 homes per year

and requirement of 350 homes per year up to 2031. It is therefore vital that in planning for additional growth within the Core Strategy Review existing sites allocated within earlier plans contribute significantly to meet the current and emerging need.

- 8.11 As neither Plan has been adopted, there could be a void in the short term in larger sites coming forward and contributing to the five year housing supply. The Seafront development is important for maintaining the five year supply whilst the Plans make their way through the plan making process and during early years of their adoption.

Removal of sea sports and beach sports facilities

- 8.12 The changes to the design and parameter plans are assessed in the next section, which also includes the impact on heritage assets. This section considers the acceptability of the removal of the sea sports and beach sports facilities, as required by policy SS6 and then sets out what is to be delivered in its place. The applicants have stated that since the previous application was approved, a trial sea sports centre was operated for four years within the site. After this time, it was deemed that due to the steep beach and sea conditions that a permanent facility was not viable.

- 8.13 In the meantime consultation with local groups The Shepway Sports Trust was established on the Stade and caters for sailing, canoeing and paddle boarding and is operated as a charity run project. It is considered that the location of this facility is more suitable than that approved as part of the outline and is within the immediate vicinity of the site. This was not carried out as part of the outline and therefore is a stand-alone entity, however delivers the policy requirement for sea sports facilities outside of the application site, with opportunity for further investment to be delivered at this facility via s106 agreement.

- 8.14 Similar circumstances have also been applied to the beach sports facility, with a lack of a potential operator coming forward to operate the site. The applicants have highlighted that in the local area there is now an indoor sports park planned in the area (Urban Sports Park) due to open in 2019, Lower Leas Coastal Park, improvements to the Harbour Arm, children's play fountain and Three Hills Sports Park, with opportunity for further provision to be delivered via s106 agreement.

- 8.15 The applicants contend that given the proximity of the new facilities, there is no need to have another on the site and as such the requirements of policy SS6 in this respect no longer need to be delivered on site. The applicants have instead offered the cost of such facilities as a contribution in its place for additional community benefits, which amounts to £3.5m. This would be included in a legal agreement should the Section 73 application be approved. These projects could include refurbishment of the Leas Lift, Lower Leas Coastal Park, additional cycling, walking and parking opportunities in the area, contributions to the sea sports centre on the Stade and enhanced play and exercise equipment in public spaces to be funded from this contribution.

- 8.16 It is considered that there is unlikely the need for two sea sports facilities or indeed a beach sports facility in the area given the improved recreational offering that Folkestone has since the granting of the original consent. It is also considered that when the original outline permission was granted the, scheme responded to needs at the time of the decision, however circumstance have changed since then and now there are other projects which could have a greater positive impact if delivered. For example, it is considered that bringing the Leas Lift back into operation would be a huge benefit for the town and significantly improve connectivity between the site and the town, whilst opportunities exist to expand beach activities within and adjoining the site utilising funding from the development that will mitigate the loss of the beach sports centre.
- 8.17 As such it is considered that the scheme is acceptable on these grounds and the replacement of the sea sports and beach sports facilities with the equivalent financial contribution would allow the scheme to respond to needs of the area today, as opposed to when the scheme was originally granted. There are therefore no objections to this part of the application.

Changes to parameter plans

General Comments

- 8.18 The current changes to the parameter plans are seeking to establish the plot shapes and height. There are no final design proposals as the application is at outline stage. It should also be noted that the images provided at this stage are illustrative only and are not seeking approval. This section assesses the changes to the overall masterplan and each of its sections in turn. (Please note again, the Conservation Consultant's comments are currently in draft form.)
- 8.19 To assist with the visual assessment, the applicants provided an assessment of the most important views of the scheme and these have been scrutinised by officers and by the Conservation Consultant. The most recent version of this is found in the Environmental statement Addendum dated 12 January 2018. It is important to note that this is very similar to the approved visual assessment and that this only applies maximum parameters, rather than requirements set out within design guidelines and therefore does not represent a true representation of what could be built, only a three dimensional representation of the plot parameters within the landscape.
- 8.20 In terms of the general layout, Historic England comment that the biggest change to the approved scheme is a move away from the formality of the previous layout, towards a more informal sinuous arrangement of blocks along the seafront. They note that this approach contrasts the more formal character of the Old Town in Folkestone which is characterised by a network of streets laid out in a grid pattern. However, they have no objections given the proposed character references the crescents of some historic seafront development such as Marine and Clifton Crescents. The Conservation Consultant also had no objections to this revised approach.

- 8.21 The comparison between the approved master plan (which was a more simple grid of urban development extended as far the Boardwalk), with the proposed masterplan which comprises a series of curved blocks extending south from Marine Parade towards the Boardwalk with shingle gardens between the blocks, smaller individual houses to the south of the Boardwalk spilling out onto the shingle beach zone and with the more concentrated commercial development at the east end on the old harbour parking areas. In terms of the overall design, while the proposed scheme takes a different design approach, there are no objections to this in principle. It is considered that the changes to the parameter plans allow for the creation of an appropriate development form that promotes local character and distinctiveness and ensures the development is well connected with the beach, with greater provision of public open space, drawing the shingle of the beach north towards Marine Parade.
- 8.22 In terms of parking the main change is the provision of undercroft parking to the five peninsular blocks whilst retaining on street visitor parking only along Marine Parade and removing all parking from beach side houses. The main change in terms of pedestrian circulation is the removal of conventional streets extending south from Marine Parade, replaced by a more irregular network of shared surfaces or pedestrianised areas. The circulation in the commercial block at the east end is simplified with a simple spine route through this block leading to the Harbour Arm. In terms of circulation in general, it is considered that the revised proposals would provide good circulation around the scheme and may even offer an improvement on the original scheme in this respect, particularly with regards to the reduction in surface level parking.
- 8.23 In terms of public spaces, the proposed layout now provides a series of shingle gardens between the blocks and introduces the idea of a pedestrian route through the Harbour Station. There is a larger square on the South Quay of the harbour, to either side of where the swing bridge joins it and a much larger street through the middle of the commercial block. It is considered that the use of shingle and the increase amount of public open space should mean the scheme would integrate with the beach and provide high quality public open spaces. This has been achieved while increasing the heights of several buildings and utilising curved modern buildings in place of a more traditional grid layout. There are no objections to the revised approach as it is considered the scheme could still deliver high quality design, although in a different form to the original, drawing strongly on local character – in particular the plan form of the west end of Folkestone and the nearby Grade II listed Marine Crescent.
- 8.24 However, there has been a significant amount of local opposition to the scheme on design grounds. While it is the parameter plans that are being formally changed at this stage, the visual representations showing large white blocks have attracted a significant level of public criticism. Many people have acknowledged that the external appearance would be considered at a later stage; however this has not stopped unfavourable comparisons with The Grand Burstin Hotel and numerous references to Spanish coastal resorts. A

discussion of the suitability of the illustrative masterplan and material is set out later within this report.

- 8.25 The following sections have been separated into different areas comprising the Leas Lift Area, Marine Parade Area and Harbour Area, where each are discussed in more detail.

Leas Lift Area

- 8.26 In terms of the individual areas of the revised masterplan, there have been some fairly significant changes to accommodate the above. Firstly Plot L has now been deleted from the masterplan as the sea sports facilities are no longer being proposed. The former plots LL03 and LL01 are being merged to form plot A. There has been a reduction in the footprint of Plot A and no changes to its maximum height. There is also the introduction of a car parking area under an area of public open space on plot A with the parameters allowing another storey of uses on top of this. Previously this was to be retail/commercial to compliment to sea sports. There is also now greater separation between Plots A and B, from 8m to 14m, which has in turn allowed greater views of the Leas Lift than in the approved scheme.
- 8.27 The Conservation Consultant has commented that the separation is still not wide enough and is not aligned with the axis formed by the lift since it will be that view of the sea, experienced by lift passengers. He has also concerns about the general bulk and height of the Block A and its impact in views along the seafront and considers that these cause substantial and less than substantial harm respectively. However it is considered that as the Council have already approved a similar height it terms of Plot A and a narrower gap between buildings, substantial harm as defined by paragraph 133 of the NPPF has not taken place and the application is providing an improved vista to the grade II* listed Leas Lift.
- 8.28 Historic England have also commented in respect of the impact on the grade II* Leas Lift and say that this derives some significance from the way it was designed to take advantage of sea views which became in essence a pleasure activity associated with its primary functional role as a lift. Diminishing an experience of the sea in views out from the lift thus causes some harm to the significance it derives from its sea facing location, although they acknowledge that the approved scheme has restricted this already. They note this scheme proposes higher blocks flanking the lift (up to 8-9 storeys), whereas the previous scheme proposed lower blocks to the lifts immediate south. Nevertheless, they acknowledge that the greater separation between the high blocks will allow for wider views of the lift and out from it. They think this is something that we can be content with provided that the higher blocks do not rise above the top of the cliff. They suggest the Council must satisfy itself that this is the case and that any lift overrun for the higher blocks will also not be visible above the cliff top. The applicants have already provided a drawing which demonstrates that the scheme will not be higher than the cliff. With this in mind, officers are clear that the scheme does not give rise to substantial harm, with the parameters improving the opening at the base of the Leas Lift.

- 8.29 The shape of Plot B has changed to a crescent with two 'bookends' of taller blocks to the east and west ends and also a raised garden area adjacent to Marine Parade. The central elements of the plot are to be 11m high facing Marine Parade, reduced from 16.5m and the section facing the sea now 15m high, an increase from the 11-13.5m of the consented scheme. The bookends are now to be a maximum of 28.5m high, an increase from 20.5m at the western end and 13.5m-16.5m at the eastern end. The maximum increase in height at certain aspects of Plot B is significant at certain locations, however this needs to be balanced against the increase in terms of the gap between plots, an increase from 8m to 14m. This has allowed greater visibility at The Leas Lift and increased opportunity for public open space. The new symmetry in Plot B would also allow for high quality design which features a curved elevation, maximising sea views from the new properties. It should also be noted that the design guidelines restrict the tallest element of plot B to 7 storeys in height, with opportunity for the design of the building to reduce impact by recessing of the upper floor(s) at Reserved Matters stage recommended to address concerns raised by the Conservation Consultant.
- 8.30 There are some concerns with both Plots B regarding the ground level frontage directly onto Marine Parade, also it is acknowledged that this will have to be assessed at reserved matters stage. The concerns relate to the possibility of blank walls which have been included to provide the undercroft parking spaces. The proposal is to use Green Walls on the open void of the undercroft parking could be screened from Marine Parade. This needs to be assessed again at reserved matters stage, perhaps with the advice of an arboriculturalist, at which point officers would expect significant detail to be provided in support of a design solution to demonstrate that such an approach is acceptable particularly as the wall faces north within a marine environment.
- 8.31 The Conservation Consultant considers that the bookends appear too large (7-8 storey) and compares unfavourably with the six storey design of Block C and the historic Marine Crescent opposite which is lower still. He considers these cause substantial harm and suggests that these should be reduced by at least two storeys, a view not expressed by Historic England as the national heritage body who also provided detailed comments on the original application. He goes on to suggest each could be surmounted by a penthouse set back from the edge to reduce the apparent bulk as seen from the street. In terms of setting in a potential penthouse, this is a design detail which would normally be assessed later and while he has raised concerns regarding the height, there does appear the potential for a design solution within the parameters and design guidelines that are seeking approval that can be addressed at Reserved Matters stage.
- 8.32 There have been objections from members of the public on this issue which are also noted, however the assessment of Plot B must consider the increase in height over and above the approved plans, in conjunction with the positive improvements which have been highlighted above and the restriction on storey heights set out within the design guidelines. Although neither officers nor Historic England consider substantial harm has taken place, the increased impact on the listed building along Marine Parade and the conservation area

mean that less than substantial harm has occurred. As such under paragraph 134 of the NPPF, the public benefits of the scheme should be weighed against the harm caused. This is a judgement that relates to the scheme overall, however it is noted that the increase in height has allowed for increases in public open space and greater visibility for the Leas Lift. It is also considered that the new relationship between the Leas Lift and Seafront, bring further connectivity to the scheme. The Leas Lift is not currently operational and requires a large amount of investment to get it into working order again and this application provides an opportunity to do that. It is considered that in this case, the opening of the Leas Lift is a public benefit, (there are currently no views from a lift that is out of operation), and this application could provide the funds needed to make this happen. Therefore, on balance, there are no objections to this section of the development and the ability to secure a viable and long term future for a grade II* listed designated heritage asset is a significant material consideration and appropriate mitigation to the limited additional harm caused to its setting.

Marine Parade Area

8.33 Plot C-1 is located directly opposite Marine Crescent and replaces what was plots MP02 and MP03. The revised proposal changes from the original scheme of a rectangular block with a central 28m wide street set on the axis of Marine Crescent and with blocks a maximum of 16.5m along the street to a solid block, still with 16.5m frontage to Marine Parade but bisected by a 26m gap through the centre of the plot, with taller 20.5m bookends at either end of the reversed crescent, (an increase from the previous 16.5m of 4m). The architectural visualisation envisages the gap as a raised area of gardens ramping up from Marine Parade to the boardwalk to the south, while still maintaining views of the sea, with the design guidelines confirming the height through this central area will be between 0m and 2.5m ASD.

8.34 Historic England consider that the current scheme would have more of a harmful impact than the previous scheme, particularly in views from Marine Crescent. They acknowledge these views were reduced by the approved scheme and would not wish to see them reduced further by this proposal. They note that the latest scheme includes some development in the centre of block C1, whereas the previous scheme proposed a complete gap between blocks MP02 and MP03. However it should be noted this is limited to 2.5m maximum height (subsequently confirmed by the applicants), rather than the 4m stated in their comments and this area is proposed to form a public park area, sloping between the beach and Marine Parade, as set out in the mandatory landscape and design guidelines. Historic England consider that this has the potential to impede views out from the crescent to a greater extent than the permitted scheme. Officers consider that the 2.5m high slope would not significantly impede views of the sea and given that public open space with no on street parking is to be provided may improve views from this area. The Conservation Consultant considers that the increase in the height of Plot C causes substantial harm and that it is out of scale with Marine Crescent. He also believes that in filling the gap is insufficient to maintain a meaningful connection with the sea and has deemed this less than substantial harm. These views are again not shared by Historic England or officers, who have

responded to the Conservation Consultants draft comments to question his consideration of the design guidelines alongside the parameter plans. An update on this matter will be reported in due course.

- 8.35 While it is acknowledged that there would be less visibility from the public domain, given that the raised section would provide an opportunity for public realm, off street parking while maintaining views of the sea. It is therefore considered that in this instance there are no objections to this element of the scheme. Historic England have not objected to the increase in height to Plot C, whereas the Conservation Consultant has called it substantial. Given the previous approval and Historic England's comments, officers are clear that substantial harm has not taken place, and that substantial harm is usually defined by demolition or loss of a designated heritage asset, which is not proposed in this instance. However, given that Historic England have confirmed that the scheme would be more harmful than the previous less than substantial harm could be considered to apply here, based largely on the additional impact upon the setting of the listed buildings opposite plot C.
- 8.36 It is considered that the public benefits of the scheme outweigh the increased harm caused and that further detailed design will be subject to consultation. It also has to be taken into account that the setting of the listed buildings on Marine Parade will change significantly given the building upon the southern side of Marine Parade has already been established by the permission in place and would do in any event should the approved scheme be constructed. It is considered that the increased harm, identified by Historic England, is compensated by the benefits of the scheme that have already been identified. There are therefore no objections to the impact of Plot C.
- 8.37 In terms of the Crescent Way Connections which are opposite the south end of Harbour Approach Road, it is proposed to redesign and narrow down the gap between blocks E-1 and F-1 from 26-30m to 13.5-22m. The approach of introducing curves is also applied to plots D-1 and E-1, with the heights being similar to the previous scheme. However, to the south of this facing the sea, the blocks open out rapidly to either side. It is considered that whilst the gap between blocks is narrower, the way in which the blocks curve away rapidly from the pinch point to create a rapidly widening shingle beach zone is a distinct improvement on the approved scheme (which consists of a wide street between blocks MP06 and MP03). The pinch point gap is still generous, with information provided by the applicant showing it is of a similar width to successful public spaces in the town, such as Rendezvous Street and the architectural visualisation shows how this may appear. This change is considered to be an improvement by officers and the Conservation Consultant.

Harbour Area

- 8.38 The Conservation Consultant has serious reservations about the demolition of Harbour House as it is one of the few remnants of the historic harbour complex. Harbour House is not listed and not in a conservation area, but is considered to be an undesignated heritage asset. He considers that whilst it is suggested that the building is an impediment to pedestrian flows to the

station route, if retained, would form a very fitting focal point for the square and indeed the positioning of the building is part of the formal arrangement of the whole area, being also positioned as the focal point at the end of Marine Parade and seen from right along the length of the parade. He therefore does not support its loss and considers that instead the designs need to be modified to respond to the presence of a retained Harbour House, as well as the retained Harbour Station that is proposed for demolition within the approved development.

8.39 Historic England have also commented on the loss of Harbour House which they acknowledge would be regrettable. Nevertheless, they understand the reasons behind this decision, in that it could open views of the basin edge from the station and they are willing to be persuaded that its loss might be outweighed by retaining the station if the latter was demonstrably made part of a positive heritage strategy. Therefore, whilst having regard to the comments of both the Conservation Consultant and Historic England, as well as paragraph 135 of the NPPF, it is considered that in the absence of a Historic England objection it would not be possible for the Council to refuse the application on these grounds and successfully defend its action at appeal. Officers agree with Historic England's assessment and that the scheme as whole could benefit from Harbour Houses' removal, given the retention of the Harbour Station. However Officers consider this should be demonstrated at reserved matters stage. A condition preventing its demolition prior to the approval of the reserved matter application for Harbour Square is recommended as officers consider there is significant opportunity to explore the retention of the Harbour Master's House within future reserved matters applications and would expect designs for the square to seek to retain the undesignated heritage asset where possible to do so. The provision of such a condition would ensure that the undesignated heritage asset is retained unless it was demonstrated its removal was necessary to deliver a scheme of a higher quality.

8.40 It is considered that the retention of the station as part of a heritage strategy could assist in generating a high quality public area that relates well to its surroundings; and a condition requiring the delivery of the station improvements alongside a phase of the development is recommended. It is acknowledged that on the basis of the illustrative layout, that circulation around this part of the scheme would be improved if Harbour House was demolished and that this would allow for the area to be comprehensively re-developed, however given the longevity of the development it would be short-sighted to allow for its removal now ahead of the detailed design of this space, which may change as the scheme is developed. There is also no reason to believe that redevelopment would not happen, with paragraph 136 of the NPPF in mind. Both Historic England and the Conservation Consultant are pleased that Harbour Station is to be retained. This aspect of the application is therefore welcomed. The revised scheme allows for a more open character to the area with more connectivity between the station square and the harbour itself. The retention of the station platforms is considered to be a significant improvement on the proposed scheme, which did not retain the station at all and should complement the regeneration of the Harbour Arm particularly with high quality landscaping of the station platform.

- 8.41 At Station Square, to the west of the where the swing bridge meets the South Quay, Plot H is between the square and the harbour, formally Plot PH02. Plots PH03, DW05, PH09, PG04 of the previous scheme to the south of the square is renamed F1 and Plot PH01, a commercial block to the east of the station platforms is renamed G-1. The main changes include Plot H increasing in the maximum parameter from 20.5m to 35.5m and The Harbour House being demolished. Plot F-1 is unified as a single block mostly of the same height as previously proposed but with development along the south side of the square higher (20.5m from 16.5m) with to the south of it a smaller block F-2 which is to remain the same height as the previous DW05 and PH09. Plot G-1 remains a similar height to that previously proposed.
- 8.42 In terms of Plot H, the applicant has confirmed that whilst the parameter plan is seeking a building of up to 35.5m ASD the design guidelines are clear that the building will be required to be tiered and will not exceed 8 storeys in height, with a 40% decrease in footprint when compared to the approved scheme and a further 20% reduction in volume delivered by the tiers. As such, officers consider the building is likely to be significantly less intrusive than the parameter plan applied for suggests, due to the mandatory requirements of storey heights and setbacks set out within the application that must be adhered to at Reserved Matters stage. Officers consider that the Design guidelines controls provide appropriate reassurance to ensure that future reserved matters applications on this plot will deliver a building of appropriate quality and scale that would not harm the setting of the harbour and wider Conservation Area.
- 8.43 The changes in the other surrounding blocks are not considered significant and in the context of the space of the proposed Station Square, the increase in the height of the south side of the square (F1) from 16.5m to a maximum of 20.5m is considered to be acceptable. The area identified as South Quay (formerly Plot PH01 now G-1), occupies the same footprint as before but the pattern of development, previously this formed a series of blocks with a frontage block on the north side facing the harbour and four blocks south from this. Instead, the plot is bisected by a main route way which connects the South Quay with the area at the start of the Harbour Arm, with the development arranged all around the perimeter of the block and varying between 20.5m (along South Quay) and rising to two towers of 40.5m at the extreme eastern edge overlooking the sea. These are the tallest buildings in the development.
- 8.44 The Conservation Consultant also commented that the heights of Plots F, G and H would lead to them being too dominant, and in his view would equate to less than substantial harm. Historic England did not object to these elements and it is considered that the increases in plot F and H are acceptable for the reasons set out above, with plot G remaining unchanged from that approved, subject to the controls within the design guidelines and appropriate detailed design. It is acknowledged that the character of the area will change completely if the development is constructed and this would have been considered when the Core Strategy allocated the site in the first instance and further when permission was granted under reference Y12/0897/SH, however

subject to the final design of these buildings at reserved matters stage, there are no objections to these elements either. As such Plot F and G parameters are considered acceptable however the illustrative material, in particular for plot G is not considered suitable to the maritime harbour character of the area and will need an entirely different approach at reserved matters stage submission to be suitable, as discussed further in the report.

- 8.45 There is also the introduction of the north-south route through the centre of Plot G which is considered to be a positive change that improves the connection with the Harbour Arm. The proposed heights of the plot are unchanged from the approved scheme. Whilst some elements could be improved, such as the design of the junction with Customs House, this can be explored in detail at a later stage, as advised by the Conservation Consultant.
- 8.46 Plot I is to be a four storey high block containing residential units with commercial on the ground floor and residential above. The parameter envelop shows the building overhanging the harbour. The reserved matters application would have to demonstrate how this was going to be achieved. Plot J is intended to be a public lift and stair to provide access to the viaduct from the Harbour Square. There are no objections to either of these plots subject to a suitable design being approved at reserved matters stage.

Beachfront and Boardwalk

- 8.47 In terms of the Beachfront and Boardwalk, this is a substitution for the previously approved Dune Way, a shared surface road connecting lower Sandgate Road to the west with the harbour station. The new Boardwalk (which has been built) is in roughly the same position as previously proposed and is to be reclaimed grade A hardwood sleepers. This is intended to relate to Folkestone railway heritage. It is considered that the idea of a fully pedestrian boardwalk is a significant improvement, giving the seafront area a more pedestrian friendly character. However this is subject to the views of Natural England which are considered later.
- 8.48 The Shingle Gardens are now proposed as four roughly triangular spaces set between the peninsular blocks. These are open spaces substituted for the two more street-like spaces that previously connected Marine Parade with the Boardwalk (part of the approved scheme). The concept of these spaces which will extend the beach like character of the real beach to the south of the Boardwalk into the development is a significant improvement on the more urbanised feel of the approved scheme and is a very welcomed change. However, to achieve this, the heights of buildings on other parts of the scheme have had to increase, and as such will form part of the overall balance in the assessment of the scheme.
- 8.49 The Conservation Consultant is concerned that this will undermine the underlying concept and density of this part of the development and will mean that the Boardwalk area will become, in the summer, an extremely densely populated space. These are legitimate concerns, however their character is

very similar to the previously approved scheme and as such it is not considered that the Council could defend a reason for refusal on these grounds. However, it is considered that attention should be given to these when formulating detailed designs, to ensure the best possible scheme.

Summary

- 8.50 Both the Conservation Consultant and Historic England have concerns regarding the application on heritage grounds and as such the Council should consider whether these issues, which may be more harmful than the consented scheme, is minimised as per the terms of the NPPF Paragraph 129 and justified in line with the requirements of Paragraph 132 while considering any public benefits in line with Paragraph 134 of the NPPF. It is considered that the scheme taken as a whole will have less than substantial harm on both the setting of the conservation area and on the setting on the surrounding listed buildings and as such paragraph 134 of the NPPF needs to be considered in terms of the public benefits the scheme provides. Therefore the increased gap around the Leas Lift, the increase in public open space, the funding to bring the Leas Lift back into operation, the ability to provide off street parking and in the interests of securing the maximum benefits on an urban brownfield site, it is considered that there are public benefits that would outweigh the harm. It is also considered that the scheme does not give rise to substantial harm as defined by paragraph 133 of the NPPF. Although the Conservation Consultant has indicated that parts of the scheme do, Historic England do not share these concerns and officers agree with Historic England in this respect.
- 8.51 It should also be noted that although the heights of the building have been the focus of much of the discussion in this report, consultee comments and local resident representation, the horizontal development parameters have also been considered for each plot and have been found to be acceptable. The assessment has considered the maximum deviation in each case, however each plot will have to demonstrate its acceptability at reserved matters stage. Site levels are also proposed to be altered across the site to accommodate the undercroft parking, although there are no plans to increase site levels above those already approved. The main consideration here is whether this would make the flooding situation worse and this assessed later in the report.
- 8.52 On balance therefore it is considered that although some of the buildings are getting higher, the parameters for these are suitable for the site. It is considered that design solutions, such as setting in elements of the scheme or different materials could be used to good effect at reserved matters stage, and it is at this stage that applications will need to be assessed to ensure appropriate design quality is delivered, using the parameter plans and guidelines as mandatory requirements. It is considered that the design of the parking elements, the increase in public open space, the integration with the beach and greater connectivity will result in the scheme being high quality.

Indicative design/ landscaping details and Illustrative masterplan

- 8.53 The final designs for the scheme will be approved at future reserved matters stage and not under this section 73 application, which established the parameters and guidelines within which future applications must operate. As with the previous proposals designed by Farrell's the application is supported by an indicative masterplan and illustrative material within the design and landscape guidelines, provided by ACME and Spacehub. As illustrative material the application does not seek approval of the detailed design shown within this information, however as supporting information it is important officers comment on the suitability of the approach shown, so as to ensure future Reserved Matters are appropriately informed at the outset. Officers have raised concerns over the suitability of illustrative material with the applicant, who has recognised that future applications will need to be subject to detailed and full pre-application advice, with a requirement for this secured by condition.
- 8.54 Following the granting of outline planning permission significant areas of public realm and heritage, including the Harbour Arm and Viaduct, Boardwalk and restored Signal Box and Customs House have been delivered by the applicant within the masterplan area, ahead of the requirements of the extant planning permission. These requirements, which all form part of the placemaking requirements of the development (and funded through the development) have had a profound impact on the area, reconnecting Folkestone with the sea and attracting significant numbers of visitors to the town. The delivery of these elements has demonstrated that the applicant has a commitment to quality and Officers are keen to ensure the development builds on this through future reserved matters applications.
- 8.55 The changes to the plot parameters, in particular plots A to F and H inform the illustrative masterplan proposals. Whilst there is scope for some variation within each plot parameter and guideline, the changes are such that the opportunity for variety when compared to the earlier approval is far more limited, with the exception of plot G where parameters have undergone very limited change.
- 8.56 The changes to the parameters allow for the delivery of significantly greater areas of public realm, in particular with the formation of significant shingle gardens between plots B/C, C/D, D/E and E/F. The Spacehub mandatory guidelines provide sufficient detail to ensure the public realm will be of the highest quality, and this is reflected in the illustrative masterplan, which identifies a network of connected shared spaces, via the boardwalk between the beach and marine parade, with public squares at the western (Leas) and eastern (harbour Sq) ends of the boulevard.
- 8.57 It is considered that the changes to parameters, in particular plots B to E allow for the creation of high quality, contemporary crescents that draw strongly from the local vernacular that will create a place of real architectural character and quality. Officers have raised concerns with the applicant over the risk that the masterplan will appear monotonous. In response, the applicant has provided a breakdown of how a wide mix of unit types to provide for high density living, with access to private and shared outside space can be

provided for within each crescent. The final design and form of the crescents will be subject to detailed reserved matters approval, where it will be important that architectural detailing, set backs, finish and material, as well as variation and consideration of the important roofscape and relationship with the streetscene and active frontages are considered with the utmost care for future reserved matters applications.

- 8.58 At the western end of Marine Parade the application proposes a significantly larger Leas Lift Square. Whilst enlarged, the square is also enclosed by the increase in height of the western corner element of plot B. It is recommended that the openness to the front of the Leas Lift is maximised for Reserved Matters submissions, with the upper floors of the corner plot staggered to increase views from the Lift on its descent and reduce the impact of the additional scale on the area. The adjacent plot A is in the main the same scale as previously approved however now incorporates a car park plot adjacent to the coastal park. Very little information has been provided in relation to this plot, the detailed design of which will need significant consideration given its entrance location to the coastal park, with reserved matters expected to minimise the height of this building and instead utilise the site topography to deliver underground parking spaces within an architecturally innovative clad structure at street level.
- 8.59 At the eastern end of Marine Parade is the proposed Station Square. Officers have raised concerns over the demolition of the Harbour Masters House, though on balance consider the retention of the Harbour Station as a connected heritage asset outweighs this loss opportunity should be further explored within the future masterplan for its retention. The form and structure of plot F, as shown in the illustrative material is considered broadly suitable, however Station Square should provide for a significant area of public realm at the heart of the development that allows for informal and formal activities to take place.
- 8.60 Plot H represents a significant amendment to the approved parameter plans. The illustrative material identifies a curved, tiered 8 storey building that steps up from its eastern side in height towards the Grand Burstin hotel to the west. The requirements to tier the building and have a maximum of 8 storeys are set out in the design guidelines and these will allow for the creation of an elegant, standalone building via detailed design. It is vital that this building provides for significant interaction at the ground floor with the surrounding public realm (ideally with commercial or community uses) and also that the detailed design utilises materials that reduce the enclosure of the inner harbour. The illustrative masterplan gives very little detail of the final design and as such significant pre-application discussion is recommended for this building.
- 8.61 Whilst Plot G, the Harbour has undergone very little change with regards to the parameters Officers have concern over the suitability of illustrative material provided within the Design Guidelines, both in the shape of the artists impressions and examples of development from elsewhere. Officers have communicated these concerns to the applicant who is aware that the relationship between the inner and outer harbour and the development and

views to and from the Stade are of the utmost importance. Officers have identified to the applicant that a more ordered, vertical emphasis and traditional form to the harbour should be pursued for future reserved matters applications, with an opportunity for a taller, feature building(s) at the eastern extreme of the plot acting as an exclamation mark to the development and town itself at its transition to open water.

8.62 The submitted Landscape Guidelines is considered to be a very useful document and sets out the principles that the site could be developed under. It gives information on the connectivity of the site as well as areas of public open space. It is considered that the details of this document would make a positive contribution towards achieving and enhancing a high quality development and there are no objections at this stage to this document. Further more specific details would be required at reserved matters stage to ensure high quality design for the resultant buildings.

Amenity

8.63 It is considered the alterations to the parameter plans, together with the changes to the design guidelines and landscape guidelines will not result in additional harm to residential amenity of existing occupants by reason of overlooking, loss of outlook or overshadowing. As with the approved scheme, there is no right to a view and the application proposes substantial development to the south of Marine Parade that will significantly alter the character of the locality, as it has changed significantly in past and recent years. The key issue here is to assess the differences between the two schemes to establish whether there would be any increased harm in living conditions as a result of the scheme. The most affected neighbouring properties would be those located on the opposite side of Marine Parade which could suffer an increased impact where the proposed buildings are getting higher. The precise details are not yet known and as such issues such as overlooking cannot be fully assessed as it is currently unknown where the windows and balconies will be on the proposed development.

8.64 It is considered that Marine Parade is wide enough to ensure that there will be no detrimental harm to neighbouring living conditions, however this will have to be re-assessed at reserved matters stage before the final designs are approved. Other issues such as the size and mix of the units would also be assessed at reserved matters stage. There are therefore no objections on these grounds at this stage.

Archaeology

8.65 There are no changes to the scheme proposed with respect to archaeology. As such there are no further comments to make.

Highway safety/ public rights of way

- 8.66 KCC Highways and Transportation have commented on the need for vehicle tracking for an 11.4m long refuse vehicles, a contribution to ensure the Leas Lift is operational again, buses to be re-routed, road improvements and to maintain the previous Section 106 requirements. Stagecoach have also requested money to upgrade the bus stop on Marine Parade. KCC have not raised any objections in terms of traffic movements or the level of parking. It is considered that the tracking for refuse vehicles would need to be provided at reserved matters stage to ensure these requirements could be met in terms of the final designs. The applicants have also agreed that funds could be directed towards the Leas Lift which would fulfil the requirements for this. The remaining section 106 requirements are to remain the same as the previous one including the trigger point for the junction 5 improvements.
- 8.67 There has been a considerable amount of objections to the scheme on highway grounds. However, the quantum of development from the approved scheme has not changed and as such the majority of these objections could not be defended at appeal. Whilst it is acknowledged that the increase in the number of bedrooms could have an impact in terms of highway impact, particularly at the later stages of the development. (It could also have an impact on schools, GP surgeries and other facilities) the development remains within the approved parameters, with contributions already identified to mitigate impact on this basis. As has been mentioned previously, at this stage the quantum of development has not changed since the previous approval and as such there are no objections on highway grounds.
- 8.68 Both KCC PROW and Natural England have highlighted the England Coast Path which passes directly through the site which a new National Trail is a walking route being developed by Natural England. The path is not recorded on the PROW Definitive Map but the trail gives the public a right of access around the English coastline. KCC have welcomed the new route for the England Coastal Path, which passes along the beach boardwalk and connects with the Harbour Approach Road. However the applicants would need to vary the England Coastal Park and engage with Natural England for this to be implemented.
- 8.69 Natural England have now reviewed the additional documentation. They have advised the Council that the amended plans allow for the England Coast Path (ECP) to be aligned predominantly along the boardwalk that runs on the seaward side of the development on the shingle beach. And that they are satisfied with the proposals in this respect. This is therefore considered to be acceptable and no objections are raised on planning grounds.

Flooding & Drainage

- 8.70 The EA raised concerns with the original submission on the grounds that the proposed basement car parking would be below the maximum predicted flood level for the site. The EA have subsequently withdrawn their objection on the basis of the new information provided in January 2018. They have noted section 4 of the Environmental Statement Addendum states that the previously submitted Flood Risk Assessment and Drainage Strategy has

been amended to remove reference to the previously recommended self-activating flood-barriers. They have also commented that the revised statement recommends that the threshold to the parking area is retained at 6.5maODN unless subsequently agreed in writing. They explain that a lower threshold should be avoided and that they would only consider an alternative if it can be adequately demonstrated that this could not be achieved. KCC also have no objections to the scheme on drainage grounds as this part of the development is not changing.

- 8.71 It is therefore considered that subject to the amended information, the scheme is acceptable on flooding grounds. These parts of the scheme would be assessed at each reserved matters stage to ensure that this remains the case, with details to be agreed by condition.

Ecology

- 8.72 There are no changes to the scheme proposed with respect to ecology. As such there are no further comments to make.

Affordable housing/ Contributions

- 8.73 There have been numerous objections on the grounds of insufficient affordable housing and in particular no social rent housing. The level of affordable housing for the scheme was approved under the previous scheme and the applicants have not sort to change this here. As such the level of affordable housing remains the same as approved and there is no mechanism for the Council to review this..
- 8.74 The situation with the sea sports and beach sports facilities has been covered earlier in the report. The agreed contribution of £3.5m towards additional community benefits directly linked to the scheme has been agreed and will be secured by legal agreement. It has also been agreed that should the money not be spent on appropriate projects within a defined period, then any underspend could be directed towards affordable housing as a commuted sum.
- 8.75 The Planning Policy Team have been liaising with the South Kent Coastal CCG as part of the work carried out to support the emerging local plan and the following advice has been provided. Of the 12 primary care sites in Folkestone, 5 are considered 'Red' Rated which highlights the need for change as they are unfit for purpose, not suited to the provision of primary care in the long term and have limited/no development potential. Using NHS England guidelines on the recommended size of practice premises, Folkestone is considered to be 2570 sqm under provided for the existing patient population. (c. 1,500 sqm within the town centre, 500 sqm in Cheriton and 500 sqm within the surrounding villages). Folkestone has the largest portfolio of poor quality estate in the CCG area with very few development opportunities on existing sites. The CCG will continue to develop the S106 opportunity on the Shorncliffe Barracks site, and will look to work with the

council on a town centre solution for Folkestone which could provide the opportunity to relocate a number of the smaller town practices from the poorest accommodation to purpose built premises.

- 8.76 Primary Care Access Hubs will be opened from April 2018 in Shepway, on the Royal Victoria Hospital site in central Folkestone, and at the New Romney Day Centre, Oaklands Health Centre and New Lyminge Surgery. A multi-disciplinary approach to primary care will be available to over 100,000 patients across Shepway alongside the traditional GP services already available.
- 8.77 As the CCG have made clear in their representation on the seafront application that a financial contribution to mitigate the impact of the development, rather than the provision of on-site space (as required by the current s106) that does not fit the current commissioning model. Negotiation by officers with the applicant has led to confirmation that a sum in the region of £1,008,000 (depending on unit numbers and mix) will be required to mitigate the impact of the development. This sum will be provided to the District Council to use in conjunction with the South Kent Coastal CCG to mitigate the development by funding towards new and improved Primary Care premises within the town centre area serving the development, with phasing of this sum to be negotiated with the applicant.
- 8.78 The applicant has confirmed that this sum will be drawn from the 'place making contribution' of £3.5m, representing the costs associated with the delivery of sea and beach sports facilities on the site, that will also provide further mitigation as set out in the report.
- 8.79 It is considered the funding of off-site primary care, as opposed to the retention of the existing s106 legal agreement requirements of 350sq/m of on-site provision represents a significant betterment that will ensure the development provides appropriate infrastructure to mitigate its impact, as required by development plan policy and the NPPF.
- 8.80 Other contributions as secured in the original Section 106, such as the education contribution would be carried over and would still apply. It is also noted that the Landscape Guidelines that the requirement of public realm improvements and play space in the form of LAPs, LEAPs and NEAPs will also be provided as part of this development. The contribution to the Lower Leas Coastal Park will also still be provided, as will other sums to be provided for offsite improvements set out within the existing s106 agreement.

Environmental Impact Assessment Regulations 2017

- 8.81 In accordance with the EIA Regulations the Council had the amendments to the Environmental Statement Assessed by a consultant to ensure the Environmental Statement (ES) provides the Section 73 application with the information required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (The EIA

Regulations). The Consultants have confirmed that the method used in undertaking the assessment, is in line with the Institute of Environmental Management and Assessment (IEMA). The consultants are the same as those who reviewed the original Environmental Statement with the previous application.

8.82 They have confirmed that the ES is a very clear and concise addendum to the original ES reviewed by WYG in 2012/2013 and clearly sets out the changes that are being assessed. The review has focussed on the content of the ES main text and identified a number of 'critical' and 'desirable' improvements to the ES. The critical issues are those that are regarded as the most important that should be addressed as a minimum. Desirable issues are those which would further improve the quality of the ES to be comparable with best practice.

8.83 WYG have commented that the only critical issue to have been identified is to ensure that the ES and its component assessments clearly set out the limitations experienced in undertaking the assessment in accordance with the requirements set out in the Regulations. A further issue that has been identified as 'desirable' is the presentation of the methodologies that have been used in undertaking the assessments. The methodologies are not presented in the ES addendum and ideally they should be as in accordance with case law the ES 'should not be an unnecessary paperchase'. However, given WYG's historic involvement with the review of the original ES and therefore previous comments on the methodologies employed, they have appended their previous review report to their most recent to cover this area.

Other Issues

8.84 There have been numerous objections to the principle of development or to matters that were determined under the previous application. Other objections have related to issues that will be looked at under the reserved matters and are not for determination under this application. The reserved matters applications will be subject to public consultation as well as discussions with public bodies and a requirement for pre-application advice with the LPA to be achieved via condition. It should also be noted that the parameter plans must be read in accordance with the design guidelines and landscape guidelines and that as a whole it is considered these elements of the application are suitable and accord with development plan policy.

Conclusion

8.85 The application site is a strategic allocation within the Core Strategy as stated in policy SS6 and is needed by the Council to meet its 5 year supply of housing as required by the NPPF and as such would positively contribute to meeting the current and future housing needs of the District. The proposal would provide new open spaces, improved parking facilities and connectivity, over

and above the previous approval and includes highway mitigation for the increased traffic. The changes to the parameters including the alterations to the scale, form of the plots and heights have been considered and their impact on heritage assets such as the setting of the conservation area and listed buildings and the demolition of Harbour House, a non-designated heritage asset. The scheme has been assessed as having less than substantial harm as defined by paragraph 134 of the NPPF and as such the public benefits of the scheme, including the delivery of housing, improvements to open space, the restoration of heritage assets and the efficient reuse of urban brownfield land, together with the additional funding towards community projects such as the refurbishment of the Leas Lift, are considered to mitigate and outweigh any less than substantial harm caused.

- 8.86 This Section 73 application is considered an appropriate way of dealing with the changes, however much of the detail will be provided at reserved matters stage. Where officers have concerns with the current illustrative material this has been highlighted in the report, however as a set of parameters, it is considered that they provide a framework on which development on site could be carried out and deliver a high quality, locally distinctive scheme on an important brownfield site in Folkestone.
- 8.87 No impacts have been identified at this stage that suggests that the scheme would have a significantly more harmful impact than the approved scheme based on the issues identified in this report such as flooding, drainage, ecology, contamination, neighbouring living conditions, highway, the England Coastal Path and through the completion of a legal agreement will provide sufficient mitigation to offset any other impacts of the development. An addendum to the Environmental Statement has been produced and external consultants have confirmed that this is acceptable for the purposes of the EIA 2017 regulations. It is therefore considered that the proposal complies with the policies of the NPPF and the development plan and therefore should be granted subject to the completion of a legal agreement and suitable conditions.

Local Finance Considerations

- 8.88 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.
- 8.89 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. Given this is an amendment to a previously approved consent where the quantum of development is not changing, there will be no CIL payment

that is applicable. It is also noted that policy SS6 is outside of CIL charging schedule as a strategic allocation in the plan.

Human Rights

8.90 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.

8.91 The application is reported to committee as the site is a strategic allocation. It has also been called in by Cllr Mary Lawes due to concerns that the new application is a complete change to original application Y12/0897/SH, the height and size have changed, open spaces (water sports removed), parking and facilities altered and heritage buildings have been removed.

9.0 BACKGROUND DOCUMENTS

9.1 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).

RECOMMENDATION –

a) That that the Head of Planning Services be authorised under delegated authority to grant the Section 73 application, subject to:

- Completion of a legal agreement with the applicant that secures the social and physical infrastructure and financial contributions detailed within this report and which the Head of Planning Services considers to be acceptable.
- The key conditions as imposed on the previous application and as 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.

b) That in the event that the legal agreement is not finalised by 1st August 2018 and an extension of time has not been entered into by the applicant, the Head of Planning be given delegated authority to refuse planning permission on the following grounds:

In the absence of a signed legal agreement there is no mechanism for ensuring the provision of the required levels of affordable housing on site. The application is therefore contrary to policies SS5 and SS6 of the Shepway Core Strategy Local Plan which requires that development should provide, contribute to or otherwise address the current and future infrastructure needs of the district.

Decision of Committee

Y17/1099/SH
Former Rotunda Amusement Park
Marine Parade
Folkestone



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Application No: Y18/0011/SH

Location of Site: Land Adjoining Jesson Court Caravan Park,
Jefferstone Lane, St Marys Bay

Development: Change of use of agricultural land to the keeping of horses together with the erection of a stable block.

Applicant: Mr Keith Pope

Agent: Mr Nigel Seymour
29 Hardy Road
Greatstone
New Romney
Kent
TN28 8SF

Date Valid: 29.01.2018

Expiry Date: 26.03.2018

PEA Date: 30.04.2018

Date of Committee: 24.04.2018

Officer Contact: Paul Howson

SUMMARY

This report considers whether planning permission should be granted for a change of use of agricultural land to the keeping of horses together with the erection of a stable block. The report recommends that planning permission be granted as it is considered that the proposal complies with saved policy CO22 which is the principle planning policy consideration for applications regarding the keeping of horses. It is considered that the proposed stable block is suitably proportioned for the keeping of approximately three horses for private 'family' use, and that the layout and design minimises the impact on the locally designated landscape, and local residents' amenity. Jefferstone Gardens is an unadopted road, and it is considered the proposed equestrian use can be adequately serviced without resulting in adverse highway safety issues. As such, it is considered that with suitably worded conditions to protect neighbour amenity and the local landscape, the application is acceptable.

RECOMMENDATION: That planning permission be granted subject to the conditions set out at the end of the report and any additional conditions the Head of Planning Services considers to be necessary.

1.0 THE PROPOSAL

- 1.1 This application is for a change of use of agricultural land to the keeping of horses together with the erection of a stable block.
- 1.2 The proposed 'L' shaped stable block includes three stables and a hay/ feed store, and would be sited close to the garden perimeter of 9 Jefferstone Gardens. The proposed timber stables would be finished in shiplap

cladding, with black 'Onduline' roof panels, and translucent roof panels to provide natural light to the individual horse boxes and hay store. Each horse box would also be served by a timber window and stable door. Access would be via a recently constructed entrance at the end of the private road known as Jefferstone Gardens. The parking area would be located directly in front of the entrance and slightly to the north-west, with a further access gate from it to the stables and surrounding field. The parking surface and area in front of stables would be EcoPark Polypropylene units infilled with soil and grass, with a concrete path in front of the stables. The grazing area within the paddock comprises 9357sqm of managed grassland.

- 1.3 The application is accompanied by a Design and Access Statement, a flood risk assessment (FRA), and plans of the site and the proposed stable block. Plans have been amended during the course of the application to remove an LPG tank from the scheme, to include a concrete path in front of the stables, and to extend the use of the Eco Park units.

2.0 SITE DESIGNATIONS

2.1 The following apply to the site:

- The site is outside of any settlement boundary.
- The site is within a Local Landscape Area.
- It is within an Area of archaeological potential.
- The site is within Flood Zones 2 & 3 on the Environment Agency maps, and is shown to be at low-moderate risk from flooding on the Council's SFRA when allowing for climate change in 2115.

3.0 LOCATION AND DESCRIPTION OF SITE

3.1 The site is a relatively flat agricultural field enclosed by post and wire fences and drainage ditches. The field is featureless with managed grass cover across the entire field. New metal gates have been installed in the north eastern corner of the field connecting to the adjacent farmland, and in the centre of the northern perimeter to provide access from Jefferstone Gardens. Jefferstone Gardens is an unmade private road (approximately 3.8m wide) which provides the site access to the public highway (Jefferstone Lane).

3.2 Abutting the site on the north eastern side is a roughly rectangular cluster of 27 dwellings within a sharp bend on Jefferstone Lane. Jefferstone Gardens dissects the cluster into approximately two halves, and serves 8 of the 27 dwellings to the rear of the building line along Jefferstone Lane. The other three boundaries are adjacent to arable fields.

4.0 RELEVANT PLANNING HISTORY

4.1 There is no relevant planning history. An application for residential development of the land was refused in 1976.

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 St Mary in the Marsh Parish Council
Object on grounds that the logistics are unacceptable.
Access road is unsuitable, impact on residential properties is not acceptable, and the development is not appropriate in a rural area.
- 5.3 Environmental Health
No objection subject to no burning of straw bedding or manure on site.
- 5.4 Environment Agency
No objection subject to an informative regarding fuel, oil and chemical storage.
- 5.5 Romney Marsh Internal Drainage Board
Has not commented on the proposal.

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

- The access (Jefferstone Gardens) is narrow and cannot be accessed by utility or emergency vehicles, or provide turning areas.
- Tight turning area for access from Jefferstone Lane.
- The road is unmade and not suitable for increased vehicle movements from riders, vets, horse boxes, hay/feed deliveries, manure removal, and LPG fuel deliveries.
- It is a private (unadopted) road, the maintenance of which is the responsibility of residents.
- Jefferstone Gardens belongs to the residents not the applicant.
- Increased vehicle movements would exacerbate damage to the road surface of Jefferstone Gardens.
- Increased risk of damage to resident's boundary walls from large vehicles backing down the lane (due to no large vehicle turning area).
- Odour from manure storage.
- Fire risk from LPG storage tank.
- Concern wash off from stables will be directed to drainage ditches around the site.

- Culvert erected at site entrance is causing back-filling of ditch, impacting neighbouring property.
- The stable block and associated activity would cause noise and disturbance to nearby residents.
- Visual impact of stables on residents.
- Impact of increased vehicle movements on residents' amenity.
- Keeping horses will impact negatively on the landscape.

6.3 1 Letter of support has been received stating that:

- They understand there will not be an increase in traffic or big lorries
- The stables will be near the applicants house
- Horses do not make much noise
- Look forward to seeing the horses in the field

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, CO1, CO5, CO22, TR11, TR12, U4, U15

7.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, CSD3, SS3

7.4 National Planning Policy Framework

Paragraph 7 – Achieving sustainable development

Chapter 7- Requiring good design

Chapter 10 – Meeting the challenge of climate change, flooding and coastal change.

8.0 APPRAISAL

Relevant Material Planning Considerations

8.1 The relevant issues for consideration with regard to this current application are the principle of the change of use and compliance with saved policy CO22; design and layout of the stable block and parking surface; visual impact on the local landscape; residential amenity of neighbouring occupiers; protected archaeology; highway issues; flooding; and other issues raised in the representations.

Principle of the change of use

8.2 The keeping of horses is considered to be an appropriate use of land in the rural environment, and routinely sits side by side with agricultural land in the Kent countryside. Core Strategy policy CSD3 states that equine development is an acceptable use in the countryside. Therefore, planning applications relating to equestrian use are considered to be appropriate in principle where proposals meet the criteria of saved policy CO22. The criteria as set out in Policy CO22 are addressed in the relevant sections of the report below. Saved policy CO1 seeks to protect the countryside more generally.

Design and Layout

8.3 The timber clad stables are considered to be of an appropriate design and material palette to minimise the impact on the landscape, and the proposed roof material enables a low pitch roof to diminish the bulk and massing of the building to the minimum practical for the proposed function. The preamble to saved policy CO22 suggests that individual stables should be no larger than 13.3sqm and should not exceed 3.4m in height. The proposed stable block would be approximately 3.1m high and each stable would be approximately 12sqm, well within the aforementioned guidelines. As such, the proposed stable block is considered to be sufficiently low level and modestly scaled to not be visually intrusive, and the design would be considered to be appropriate for the proposed equine use and the rural location. EcoPark panels would be set in the ground to provide the parking area, and to stabilise the land in front of the stables. As they allow the grass to grow through, they are considered to be more conducive to the natural environment, and are preferable to an alien concrete hardsurface which would visually jar within the landscape. The proposed layout and relationship of the proposed stables with the parking area is considered to be logical for the proposed use, and keeps the active area clustered around the site entrance to avoid spread of development into the open countryside. Overall, the scheme is considered to have been well thought out in terms of minimising visual impact, and would be of a suitable form and proportions for the rural character of the locality.

Local landscape

8.4 The site is located within a Local Landscape Area (The Romney Marsh Local Landscape Area) which is protected by saved policy CO5. This landscape area is deemed to have particular landscape value, contributing to local environmental identity. The land the subject of this application is undeveloped agricultural land, which is fairly level and roughly rectangular. The overriding principle in the siting of new buildings for equestrian use is to utilise existing features in the landscape to screen them. With this in mind, the built up area of dwellings would screen the proposed development from the public highway to the north. Roadside hedges along Jefferstone Lane would provide partial screening from the highway to the west, and hedges to the east field boundary would screen views of the development from Jefferstone Lane to the east and from the Caravan Park. There are no public footpaths from where the proposed development would be visible. In wider views where the lane wraps around the site, the modest stable block

would be relatively inconspicuous against the backdrop of the bungalows in Jefferstone Gardens. The surrounding land is defined by being flat and relatively featureless, and as such siting the proposed stables out on the extremities of the site, would not be appropriate as it would result in a visually prominent structure, which would visually jar in the characteristically expansive, open, flat Romney Marsh landscape. This would compromise the distinguishing uninterrupted long distant views across the marshland, which is one of the landscape characteristics that have been identified as making it distinctive and being worthy of protection by saved policy CO5. As such, by keeping the proposed development close to the cluster of residential dwellings on Jefferstone Lane, the proposed stable block and associated vehicles would be seen in the context of the backdrop of the bungalows, where it would be in-line with 9 Jefferstone Gardens. It would not be considered appropriate to have a spread of large vehicles and caravans onto the open field, as this would exacerbate the visual impact of the proposed development, and this should be restricted to the residential curtilage of 9 Jefferstone Gardens by planning condition. In conclusion, it is considered that by having the proposed stables close to the existing built area against the backdrop of the residential dwellings, the proposed development would have very little impact on the character and appearance of the locally designated rural landscape, and as such would protect the landscape character in accordance with saved policies CO5 and CO22.

Residential Amenity

8.5 The closest neighbouring property is 9 Jefferstone Gardens, which is under the ownership of the applicants. The two other closest dwellings are 8 and 9a Jefferstone Gardens, both houses being approximately 40m away from the proposed stable block (although the curtilage of 8 Jefferstone Gardens runs right up to the entrance of the application site). Although views are not a planning consideration, this is considered to be sufficiently far away to not blight the views of the respective occupiers. Consideration needs to be given to the impact on neighbours from the noise and disturbance from equestrian activity, and potential odours generated from the waste products associated with the activity. It is considered that as the use is for private use only (which can be secured by planning condition) and the number of horses would be limited by the capacity of the stables (which can also be secured by planning condition), it would not be an over-intensive use that would generate excessive noise and disturbance to neighbouring occupiers. Equally, location of manure storage can be controlled by planning condition to ensure impact to residential occupiers is minimised. Furthermore, details can be requested by planning condition to secure an appropriate system is in place for dealing with wash off and drainage from the active area around the stables, which can be extended to encompass not interrupting the existing drainage ditches. Finally, neighbours have raised concern about disturbance from increased traffic movements. It is considered that as the proposal is for private use and not for commercial equestrian use, the amount of additional vehicle movements (if any) would be minimal, and therefore potential disturbance from vehicles would not be considered to be significant. Overall, it is considered that neighbours' concerns can be mitigated by appropriately worded planning conditions to control the nature of the equestrian use and that the proposal is acceptable in terms of impact on neighbouring amenity.

Archaeology

- 8.6 The site falls within an archaeological protection zone. KCC Archaeology have not replied to the consultation on this application, however, it is considered the nature of the proposed development would not disturb any buried remains which may exist.

Highway Issues

- 8.7 The proposed change of use would utilise the private road Jefferstone Gardens to access the site, over which the applicant has right of way by virtue of being a resident of Jefferstone Gardens. It is acknowledged that Jefferstone Gardens is a very narrow road with an uneven surface. The site visit revealed that the applicant already has a horse box and caravan in situ within the residential curtilage, and as such turning space is available within the front curtilage (under the control of the applicant) for such vehicles to safely access the public highway (Jefferstone Lane) in forward gear, and there is sufficient width for such vehicles to navigate this rigidly straight road without causing damage. Deterioration of the road surface would be a civil matter between residents which is not a material planning consideration. However, as a resident the applicant would presumably be liable for contributions for its up-keep. Notwithstanding the above, the applicant has confirmed that hay would be delivered monthly in a small pick-up, and vehicle movements would actually decrease, as the applicants presently makes twice daily visits to another site where the horses are currently kept. In light of the above there would be no detrimental impact on the public highway, and no planning reason on highways grounds to warrant refusal of the application.

Environmental Impact Assessment Regulations 2017

- 8.8 In accordance with the EIA Regulations the site does not fall within a sensitive area and the development is below the relevant thresholds, and therefore does not need to be screened under these regulations.

Flooding

- 8.9 The Environment Agency has raised no objection to the proposal. Horse keeping is not listed in the flood risk vulnerability classification, however the closest comparable use listed are agricultural buildings, which are classified as a less vulnerable use. Less vulnerable uses are considered to be appropriate uses of land in flood zones 2&3. This, combined with the fact that the site is at a reasonably low risk of flooding (low-medium) according to the Council's Strategic Flood Risk Assessment (SFRA), the proposed change of use and erection of stables is considered to be acceptable in terms of flood risk. In this case there is no need to apply the sequential or exceptions test as these do not apply to applications for change of use, and the size of the stables is within the minor development threshold.

Other Issues

- 8.10 The matters raised by neighbours are covered in this report. The proposed LPG tank has now been removed from the application.

- 8.11 The application states that only three horses will be kept in the field, and the number of horses can be restricted by condition. It is considered the field comfortably provides sufficient space for private equestrian use, and for the welfare of the horses to be catered for without excessive deterioration of the field in accordance with criteria d. of saved policy CO22.

Local Finance Considerations

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

In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge.

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. New Homes Bonus payments are not a material consideration in the determination of this application.

Human Rights

- 8.13 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.

- 8.14 This application is reported to Committee due to being called in by Cllr Roger Wilkins raising concerns that Jefferstone Gardens is a narrow private road of 3 meters in width, (emergency services and public utilities are unable to get into the road). Concern is also expressed over highway safety, loss of amenity (noise and disturbance), flooding and drainage; and, due to the views of the Parish Council (paragraph 5.2 above).

9.0 BACKGROUND DOCUMENTS

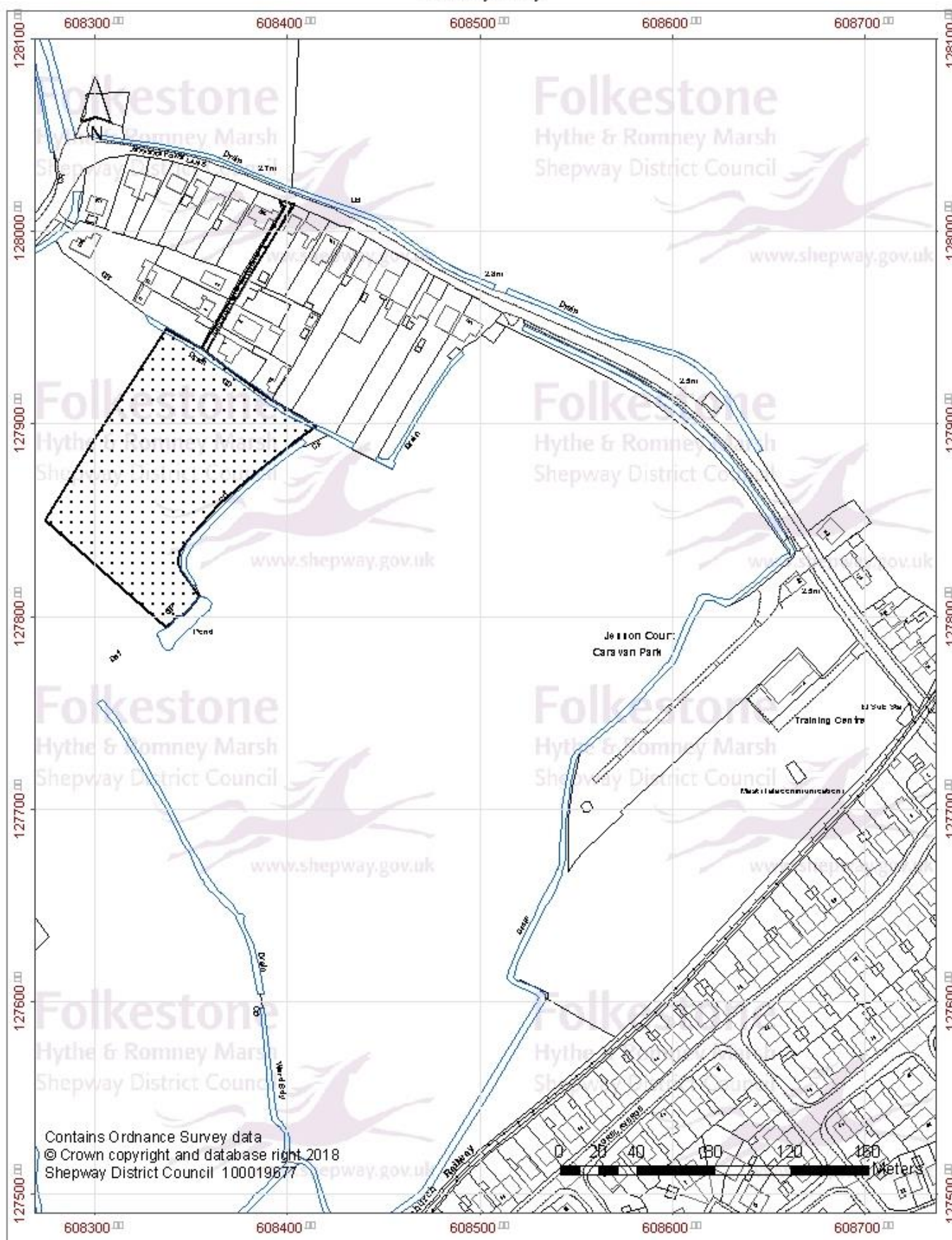
- 9.1 The consultation responses set out at Section 5.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That planning permission be granted subject to the following conditions and any additional conditions the Head of Planning Services considers to be necessary:

1. Standard time condition
2. Approved plans
3. Materials as stated in application
4. Restriction to private use only (restriction on number of horses to 3)
5. Details of disposal of run-off and drainage to be submitted for approval
6. Jumps and other paraphernalia to be removed when not in use
7. Stable block shall be removed when use ceases
8. Details of manure storage to be submitted for approval
9. No permanent sub-division of the land
10. No horse boxes, horse transporters, trailers or caravans shall be stored on the land (restricted to curtilage of 9 Jefferstone Gardens)
11. No burning of straw bedding or manure on site
12. Details of lighting to be submitted

Decision of Committee

Y18/0011/SH
Land adjoining Jesson Court Caravan Park
Jefferstone Lane
St Marys Bay



Application No: Y17/1317/SH

Location of Site: Haguelands Farm, Burmarsh Road, Burmarsh TN29 0JR

Development: Construction of detached restaurant/café building (Use class A3), construction of detached indoor play barn (Use Class D2), alterations to existing farm entrance, provision of new hard standing for disabled visitors, deliveries and fenced bin enclosure, relocation of existing parking to overspill car park with permeable surfacing to tracked routes.

Applicant: Mrs SA Clifton-Holt

Agent: Mr M Judge
Judge Architects Ltd

Date Valid: 26.10.2017

Expiry Date: 21.12.2017

PEA Expiry Date:

Date of Committee: 24.04.18

Officer Contact: Julian Ling

SUMMARY

This report considers whether planning permission should be granted for the erection of a detached restaurant/ cafe building and a detached indoor play barn as well as alterations to an existing access and provision of new hard standing areas for car parking and bin storage. The application site is outside of the settlement boundary and within the Romney Marsh Local Landscape Area where the development plan seeks to ensure new development is provided in accordance with the settlement hierarchy and in sustainable locations. The application also proposes recreational facilities in the countryside that fail the detailed policy criteria of Local Plan policy LR3. In addition, insufficient information has been submitted to address key material planning considerations. As town centre uses that are not in an existing centre and that are not in accordance with an up-to-date Local Plan, the development has failed to demonstrate that the application satisfies the sequential test in terms of town centre uses. As such it has not been demonstrated that the businesses need to be located within this rural location as opposed to a more sustainable settlement location. Furthermore insufficient information has been submitted to satisfactorily demonstrate an acceptable vehicular access can be achieved, acceptable parking levels and vehicular tracking and that the development is not constrained by protected species or if so can be appropriately mitigated. The application is also considered to be unacceptable in terms of proposing a visually harmful car park within the countryside that would be detrimental to the Romney Marsh Local Landscape character. For these reasons the application is recommended for refusal. It is considered that the development is acceptable in flood risk terms and the amenities of existing and future occupants would be safeguarded.

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

1.0 THE PROPOSAL

- 1.1 This application seeks detailed planning permission for the construction of a detached restaurant/cafe building (Use Class A3), construction of detached indoor play barn (Use Class D2), alterations to an existing farm entrance, construction of a new hard standing area for disabled visitors, deliveries and fenced bin enclosure, and construction of a car park with permeable surfacing to tracked routes.
- 1.2 The two new buildings would be sited within the existing farm yard area and the yard area known as Haguelds Farm Village and close to the main entrance of the farm yard. Both buildings would be sited to face into the farm yard area with access from within this area. The restaurant building would have a floor area of approximately 213 sqm and a ridge height of 7 metres and an eaves level of 3.6 metres. Internally this would consist of a kitchen area, serving area, seating area and customer wc's. It would be constructed with a shallow pitched gable roof and consist of artificial slate roof tiles, upvc windows and doors and a composite panel wall cladding system. The play barn building would be larger and sited adjacent to the restaurant to the north east. This would have a floor area of approximately 517 sqm and consist of a main play area as well as a reception area, office with kitchenette and a locker room with wc. This building would have a ridge height of approximately 10.3 metres and an eaves level of 6.3 metres and constructed with a pitched gable roof and have a steel panel composite wall cladding and roofing system.
- 1.3 Positioned to the south east of the two new proposed buildings it is also proposed to create an area of disabled parking, delivery area and bin storage area. This would have an approximate area of 626 sqm and be constructed of a paved surface. Within this area three disabled parking bays, a parking space for a van and an enclosed fenced area for bin storage is proposed. In terms of access, it is proposed to hard surface the existing secondary vehicular access off Burmarsh Road positioned to the south east and dedicate this for the Haguelds Farm village traffic to allow the main entrance to be used solely for farm traffic.
- 1.4 Further to the south east outside of the farm yard area and within a grass paddock area it is proposed to construct an overspill parking area of approximately 2762 sqm. This would consist of 96 car parking bays and access roads which would be accessed from the farm yard area. This would be constructed using a permeable rolled granular material.
- 1.5 The application is accompanied by an ecological report and a flood risk assessment (FRA) both of which have been drafted by the applicants' planning agent.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:
 - Outside settlement boundary
 - Romney Marsh Local Landscape Area

- Area of archaeological potential
- Environment Agency Flood zones 2 and 3a
- Strategic Flood Risk Assessment 2115 hazard rating moderate and significant
- Grade 2 agricultural land.

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 Haguelands Farm is located approximately 600 metres to the north of the junction with the Burmarsh Road/A259 and some 1.2 miles from the Dymchurch village centre. The site has diversified over recent years and has a mixed use of agricultural as well as various small retail and craft businesses, seasonal tourism attractions, leisure and storage facilities.
- 3.2 Numerous substantial agricultural buildings occupy the site around the main farm yard which are highly visible in the local landscape. The farmhouse is located to the north west of the main farm yard and to the south and east are agricultural fields.
- 3.3 The application site is located towards the front of the wider farm site adjacent to the main access and Burmarsh Road. This is part of the main farm yard and consists of a large area of hard standing as well as a block of single storey retail units and a restaurant and larger agricultural storage buildings.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The site has a long and varied planning history which relates to all parts of the farm. However the most relevant history is summarised below.
- 4.2 In 2005 planning permission was granted under reference Y05/0467/SH for the change of use of redundant farm buildings to farm shop and cottage industry units together with associated parking. Subsequently in 2006 amendments were approved relating to the external alterations of the building under reference Y06/0055/SH. Both applications were granted subject to conditions including conditions restricting them to a B1 use (condition 4) and limiting the farm shop to the sale of foodstuffs only with a maximum of 20% of turnover derived from the sale of produce imported to Haguelands Farm and not be operated as a separate A1 use (condition 7).
- 4.3 In 2010 planning permission was granted to vary conditions 4 and 7 of planning permissions Y05/0467/SH and Y06/0055/SH to permit use as retail (Class A1) and a mixed use of educational/eating use. This was controlled by a planning condition restricting the additional creation of floor area, the display of the sale of goods outside the individual units at any time, and external lighting and a section 106 legal agreement with the covenants set out in 4.4 below.
- 4.4 In 2016 a request was made to remove the planning obligation covenants 1-7 of the section 106 agreement reference Y16/0206/SH as many of the

units are not used in accordance with the conditions/106 covenants. However the application was refused because it would have allowed unrestricted A1 retail use which is likely to have detrimentally affected the local town centres of Dymchurch, New Romney and Hythe. Covenants 1-7 were as follows:

1. Not to sell anything from the units within the site other than locally sourced food and items ancillary thereto provided always that not more than 10% of the floor area of each individual unit shall be used for the sale of ancillary items.
2. Not to sell hot food takeaway from any part of the site even on an ancillary basis.
3. Restriction on opening hours.
4. Set aside defined areas to be used solely for the retail sale of local seasonal produce.
5. To display details of the owners Covenants set out in this schedule in a prominent position in each retail unit.
6. Not to carry out any frying of food anywhere on the site which requires the use and installation of large external ventilation and extraction equipment.
7. To maintain membership of Produced in Kent and to advertise this membership.

It was refused for the following reason:

"It is considered that covenants 1, 2, 3 and 6 continue to serve a useful purpose in controlling retail development in the countryside outside of any defined settlement boundary, village or service centre safeguarding the vitality and viability of nearby high streets and shopping areas as well as the amenities of the area. The proposed discharge of this planning obligation would render the site unsustainable and unacceptable in planning terms and therefore would be contrary to saved Local Plan policies SD1, CO1, CO5, CO16 and CO19, Core Strategy policies SS1, SS2, SS3, SS4 and CSD3 and the NPPF: 2012."

- 4.5 Concerning this front farm yard area there are also applications pending and awaiting determination - Y17/1457/SH for the change of use of units 1-7 to retail (Class A1) and application Y17/1318/SH for the construction of a detached retail and flexible office space building, alterations to existing farm entrance, provision of new hard standing for disabled visitors, deliveries and fenced bin enclosure, the relocation of existing parking to overspill car park with permeable surfacing to tracked routes. These are as yet undetermined.
- 4.6 The rest of the relevant planning history is listed below which relates to other parts of the farm and surrounding land;

Y11/0759/SH - Change of use of field from agricultural to a leisure use for the sport of paintball, together with the retention of 2.4 metre high perimeter safety netting and other paintball structures. Approved.

Y12/0982/SH - Change of use of land for the sport of paint ball, together with the siting of a storage container and erection of safety netting. Approved with conditions.

Y14/0143/SH - Change of use of part of agricultural field for an area for dog training. Approved.

Y14/0183/SH - Continued use of the land as a seasonal tourism maize maze facility (July - September) and visitor overflow car park, together with the retention of timber structures on the land. Approved.

Y14/0182/SH - Continued use of the land as a seasonal tourism fun yard. Approved.

Y17/1167/SH - Certificate of lawfulness for existing use of former agricultural building for the storage of building materials. Approved.

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 Burmarsh Parish Council

Object on the basis of a lack of need within a countryside location (contrary to policy CO1 of the Local Plan), visual impact where the new buildings will appear as an industrial-like appearance and create a harmful visual impact and road safety where the proposed new entrance would be on a bend in the road which would be unsatisfactory and extremely dangerous.

5.3 KCC Highways and Transportation

Further information is required in respect of;

- Confirmation for the arrangements for deliveries to the restaurant.
- If the current farm access is to be used, tracking details for delivery vehicles.
- A visibility splay plan and speed survey will be needed for the new access.
- Measures to prevent the discharge of surface water onto the highway.
- The use of a bound surface material for the first 5 metres of the access.
- Provision of gates to open away from the highway.
- Insufficient disability and motorcycle parking.

5.4 KCC Archaeology

No comments received.

5.5 KCC Ecology

Insufficient information has been submitted to assess ecological impact.

5.6 Southern Water

No objection. The applicant is advised to consult the Environment Agency directly regarding the use of a private wastewater treatment works or septic tank drainage.

5.7 Environment Agency

No objection. The EA has assessed this application as having a low environmental risk. The EA have not commented on flood risk.

6.0 PUBLICITY

6.1 Neighbours letters expiry date 17.11.2017

6.2 Site notice expiry date 29.11.2017

7.0 REPRESENTATIONS

7.1 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:

7.2 3 letters/emails received objecting on the following grounds:

- The proposed entrance would be on a dangerous blind bend.
- The road is very narrow and busy and already used by heavy machinery, tractors and harvesters, tourists during summer months, builders' lorries (who use some of the farm buildings) and waste disposal lorries.
- There are no footpaths leading to Haguelds Farm so most customers would be arriving by car.
- This would compete with Lathe barn that is close by and therefore would not be viable.
- An over-intensive development.
- Disturbance from noise and increased traffic movement.

7.3 3 letters/e-mails of support received on the following grounds.

- This is needed in the area where it is good for local families and children rather than going further afield.
- Good for local business by increasing footfall.
- An exciting new phase for Haguelds Farm.
- A great addition to the local area.
- A great addition to the current facilities.

7.4 1 e-mail making the following general comments (neither objecting to nor supporting).

- The new access to the site would be better positioned and safer further south away from the sharp and blind bends that runs past the site.
- A 30 mph speed limit should be applied to this road.

8.0 RELEVANT POLICY GUIDANCE

- 8.1 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>

- 8.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, BE1, BE16, CO1, CO5 CO11, CO13, TR5, TR6, TR11, TR12, U2, U15, LR3.
- 8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3, CSD3, CSD4
- 8.4 National Planning Policy Framework

Paragraph 7 – Achieving sustainable development

Chapter 7- Requiring good design

Chapter 10 – Meeting the challenge of climate change, flooding and coastal change.

Chapter 2 – Ensuring the vitality of town centres.

Chapter 11 - Conserving and enhancing the natural environment

9.0 APPRAISAL

Background

- 9.1 Whilst Haguelands Farm remains an active agricultural holding it has, over time, gradually introduced alternative commercial activities which includes craft retail, tourism and leisure business and activities as well as storage uses. The most relevant in this regard are the developments relating to the farm yard and the retail units that were originally approved in 2005 which are set out above in the planning history section.
- 9.2 In 2005 planning permission was granted under reference Y05/0467/SH for the change of use of redundant farm building to farm shop and cottage industry units together with associated parking. Subsequently in 2006 amendments were approved relating to the external alterations of the building under reference Y06/0055/SH and later on in 2010 Members granted permission to vary conditions 4 and 7 of planning permissions Y05/0467/SH and Y06/0055/SH. It is considered that the majority of the uses

operating on the site are not in accordance with the planning permissions granted.

Relevant Material Planning Considerations

- 9.3 The material planning issues for consideration with regards to this application are whether the proposed uses would be acceptable sequential in terms of impact on existing town centres; whether it has been justified that the proposal essentially requires this rural location and would be a sustainable development in the countryside; and whether it complies with saved policy LR3 in respect of providing recreational facilities within the countryside, the visual impact upon the surrounding countryside/ local landscape area, highway safety, ecology, flood risk and the impact upon the amenities of residents.

Town Centre Uses

- 9.4 In accordance with annex 2 of the NPPF: 2012, a restaurant and play barn facility are considered to be town centre uses. In this regard para 24 of the NPPF advises that the sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. The NPPF advises that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. In this regard, the core principle here is protecting the viability and vitality of nearby commercial centres, in this case Dymchurch, Hythe and New Romney.
- 9.5 At the local level the Core Strategy Local Plan reflects national planning policy where policy SS4 requires that a town centre first policy will operate for applicable uses in line with national policy. Policy SS4 advises that town centre activities should be located sequentially, looking firstly at locations within town centres, then on the edge of centres, and only then out of centre; and with regard to their impact on the vitality and viability of the defined town, district and local centres. In addition, Core Strategy policy SS1 advises that the future spatial priority for new development in the Romney Marsh area is on accommodating development at the towns of New Romney and Lydd, and at sustainable villages; improving communications; protecting and enhancing the coast and special habitats and landscapes.
- 9.6 In this regard, the application site is not in or on the edge of a town or local centre and the development proposal is not in accordance with an up-to-date Local Plan and therefore in order to comply with the NPPF the application needs to be sequentially tested. The National Planning Policy Guidance clearly advises that it is the responsibility of the applicant/agent to demonstrate compliance with the sequential test and not the Local Planning Authority (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Where appropriate, the potential suitability of alternative sites should be discussed between the

developer and local planning authority at the earliest opportunity. However in this instance, the application has failed to provide any assessment of sequentially preferable sites to demonstrate compliance with the test and the appropriateness of this rural location. In such circumstances, the Council would expect a statement of need to justify the rural location and why this development cannot be located within or on the edge of a local centre or sustainable settlement, considering and ruling out alternative sites. As such in line with paragraph 26 of the National Planning Policy Framework, given that the proposal has failed to satisfy or even attempt to demonstrate such a test has been undertaken, the proposal fails the sequential test and as such, the application is therefore recommended for refusal on this ground.

Development within the countryside

- 9.7 When considering the impact upon the countryside, there is a general presumption in favour of protecting the countryside as required by saved Local Plan Review policy CO1. Development is normally only permitted in such locations if it is required for agriculture or where a rural location is essential. In this regard the site is located within the Romney Marsh Local Landscape Area where saved Local Plan policy CO5 seeks for development proposals to protect or enhance the landscape character and functioning of these areas.
- 9.8 Core Strategy policy SS1 also requires that additional development should be focused on the most sustainable towns and villages as set out in policy SS3. Development in the open countryside and on the coast will only be allowed exceptionally, where a rural/coastal location is required. In this regard for the Romney Marsh, policy SS1 advises that the future spatial priority for new development in the Romney Marsh Area is on accommodating development and Lydd and at sustainable villages in accordance with the settlement hierarchy. Core Strategy policy SS3 also advises that development within the District is directed towards existing sustainable settlements to protect the open countryside and the coastline.
- 9.9 In this regard, Burmarsh is not a sustainable location being within the countryside and is a location that falls completely outside of the settlement hierarchy in recognition of its unsustainable location. For development in the countryside outside of the settlement hierarchy, Core Strategy policy CSD3 does support rural tourism but requires that development may only be allowed if a rural or coastal location is essential. In this instance, such a rural location is not considered to be essential where it has not been demonstrated there is a need for such facilities in this location. However, chapter 3 of the NPPF does seek to support economic growth in rural areas where proposals are sustainable. This development is not sustainable for a number of reasons set out below in this report and therefore the provision of additional jobs and rural tourism facilities is not an overriding justification to support this development which is considered to be unsustainable.
- 9.10 Furthermore, saved Local Plan policy LR3 relates to recreational facilities in the countryside. In this regard it supports such development subject to meeting the following policy criteria being met:

- must be compatible with the character of the local landscape,
- does not result in the irreversible loss of the best and most versatile agricultural land,
- is well located in relation to existing settlements and the highway network and can achieve an appropriate standard of access,
- accessibility by transport alternatives to the car
- Does not unacceptably impact the amenity of local residents and other users of the countryside and protects or provides satisfactorily for existing public rights of way.
- built development is appropriate in scale and appearance to its surroundings
- Does not include as part of the proposals functionally unrelated ancillary development.

9.11 In this regard the development is considered to be contrary to this policy in several aspects, namely is not considered to be compatible with the character of the local landscape; it is poorly related in relation to existing settlements; it has not been demonstrated that an appropriate standard of access can be achieved; and it is not acceptable in scale and appearance to its surroundings being harmful to the countryside. These are considered in further detail below under each material consideration.

Visual Impact

9.12 The site is located within the open countryside and in an area that is predominantly rural in character being within the Romney Marsh Local Landscape Area (policy CO5). 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.

9.13 The development proposes to erect two additional new buildings within the farmyard being a restaurant building and secondly a larger play barn. Both buildings are considered to be acceptable in siting, scale and design proposing fairly utilitarian style buildings of a basic form that is considered would sit comfortably within the farmyard setting and adjacent to large agricultural steel framed and brick built farm buildings. The buildings would be built on existing hardstanding areas and not on a greenfield area where it is considered that there is sufficient room to accommodate these buildings without appearing cramped or over-intensive. The buildings would be screened from wider landscape views and would not appear visually prominent in the landscape as they would be viewed in the context of the farm yard and other large buildings. As such the individual buildings are considered to be visually acceptable in terms of saved Local Plan Review policies SD1, BE1 and CO1.

9.14 However as part of the development a large car park is proposed to be constructed within the south east part of the site as existing car parking will be displaced due to the siting of the proposed new buildings. This would be constructed with a rolled permeable granular material surface within an

existing agricultural field/paddock that is within a publicly visible prominent location. The size of the car park is considered to be substantial and it would appear visually bland and devoid of any detail or features of interest. As such would result in the loss of a large area of green field that contributes to the rural setting of the area. This would be a permanent feature in the countryside that would encourage the parking of vehicles throughout the year which would be unsightly and add to built development in the countryside and detract from the rural setting. Furthermore the functioning as a working agricultural landscape has not been conserved as a car park would not protect nor enhance this functioning as required by the policy CO5 and the development is not compatible with the character of the local landscape and is considered inappropriate in scale and appearance, contrary to saved Local Plan policy LR3. As such the development is considered contrary to saved Local Plan Review policies SD1, CO1, CO5 and LR3 where it is considered that the development would result in an adverse visual impact upon the landscape and the rural setting and is therefore recommended for refusal on this basis.

Highway safety

9.15 The application proposes to utilise the existing secondary access positioned to the south east of the farm yard off Burmarsh Road. It is proposed to hard surface this secondary entrance so that it can be dedicated to the farm village traffic (typically cars and vans) as well as the other existing tourist activities.

9.16 In terms of the access, based on the current information submitted it is considered that insufficient information has been submitted for Kent Highways and Transportation Services to be able to assess the suitability of the access as well as parking and tracking details. In this regard the application lacks details on the visibility splays required for the access, details for delivery arrangements and vehicular tracking as well as a shortfall of disabled parking and motorcycle parking. As such, based on the information submitted it has not been demonstrated that the development is acceptable and safe in highways and transportation terms and as such is recommended for refusal on highways grounds contrary to saved Local Plan Review policies TR11, TR12 and LR3.

Ecology

9.17 In terms of ecology, the site does not have any national or international nature designation. However part of the site is a grassed field within a rural area and forms part of a farm where there are existing old buildings, vegetated areas, hedgerows, watercourses and ponds which could all offer opportunities for protected species and habitats. A hedgerow also appears to be being removed as part of the development. On this basis a preliminary ecological appraisal must be undertaken, along with any specific species surveys for species identified during the preliminary survey, in order to assess if there will be any likely impacts on ecology. Paragraph 99 of the Government Circular (ODPM 06/2005) Biodiversity and Geological

Conservation – Statutory Obligations and their Impact within the Planning System states that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision”. In addition, saved Local Plan policy CO11 and Core Strategy policy CSD4 seek to safeguard protected species and their habitats and avoid a loss of biodiversity.

9.18 Whilst such a document has been submitted it is considered insufficient where further detailed information is required to enable Officers to be able to determine the application. Following consultation the KCC’s Ecologist has advised that the report submitted is inadequate and that further detailed information is required to consider possible impacts upon ecology before a decision can be made.

9.19 The KCC Ecologist has advised that the report should include details on reptiles, foraging bats and breeding birds, as well as a hedgerow survey. The Natural England standing advice advises that for reptiles, the survey should be carried out by an experienced ecologist and be carried out in April, May and September avoiding July to August and November to February searching for basking animals on banks, piles of wood and edges of woodland, laying out artificial refuges such as corrugated iron sheets (for slow worms) and using carpet tiles or roofing felt bedded down well into the vegetation. For bats, a person who is licensed should carry out these surveys which should include visual inspection of buildings or other structures, inspection of trees, use of bat detectors, using netting and harp trapping and the use of radio-tracking which should be done at the correct times of year. For birds, Natural England advice recommends that for a desk top survey, existing data should be gathered from: local record centres, bird clubs and county birds reports which will then inform possible surveys. The quality of hedgerows on the site is also needed in such an ecology report for this site using the hedgerow evaluation and grading system (HEGS).

9.20 The report fails to provide this information therefore on the basis that the application has failed to properly consider ecology the application is considered unacceptable and contrary to saved Local Plan Review policy CO11, policy CSD4 of the Core Strategy as well as the NPPF: 2012 and thus recommended for refusal on ecology grounds.

Flood Risk

9.21 The site is identified to be within the Environment Agency flood zones 2 and 3a and therefore the development needs to be considered in terms of the flood risk. The NPPF advocates a risk based approach to planning for development in such areas. This includes reducing the adverse impacts of flooding by avoiding inappropriate development in areas at risk of flooding. This is carried out by the requirement for each development to be assessed against the sequential test and, if required, the exceptions test. The sequential test seeks to direct development to sites at the lowest probability

of flooding as informed by the Council's Strategic Flood Risk Assessment (SFRA). Only when these sites have been developed should higher risk sites then be considered for development.

922 When assessing the level of risk, restaurant and leisure uses are not considered to be high risk uses in respect of risk to life where the technical guidance to the NPPF advises that these uses are considered to be of a less vulnerable use and are considered to be development that is appropriate within flood zones 2 and 3a.

9.23 Turning now to the application of the sequential and exceptions test, the Folkestone and Hythe District Strategic Flood Risk Assessment shows the site to be partly within a moderate flood risk zone and partly within a significant flood risk zone up to the year 2115. Following consultation, the Environment Agency has not raised objection, and considers the development to have a low environment risk. This is considered to pass the sequential test as there are no other allocated sites or developments that already have the benefit of planning permission or a likely to come forward for such a restaurant and leisure use within the Romney Marsh character area that are at a lower flood risk.

9.24 Following the sequential test the NPPF advises that for less vulnerable development such as this, the exceptions test does not need to be applied. Therefore, given the proposed uses and low risk, it is considered that the development is acceptable on flood risk grounds in accordance with the NPPF: 2012.

Residential amenities

9.25 The nearest residential properties are located some distance away from the application site with intervening landscaping and it is therefore not anticipated that the proposed buildings would result in any significant amenity issues to locals residents. In this regard, it is considered that there would be no overbearing or overshadowing issues or loss of privacy.

9.26 In terms of general disturbance issues the proposed uses are not considered to be unduly intensive uses where the majority of noise would be contained within the building and the hours of opening could be controlled by planning condition, in the event that members are minded to grant permission. Owing to the good separation distances away from the nearest properties to the south of approximately 180 metres from the proposed play barn and restaurant and 120 metres from the car park, together with existing boundary hedgerows the proposed development is also not considered to give rise to a significant impact from disturbance. Whilst there would be a general increase in traffic movement, this is not considered would be significantly greater given the existing level of traffic movement that the farm generates and the busy nature of Burmarsh Road to give rise to a significant impact upon residential amenities. As such, the development is considered to safeguard residential amenities in accordance with saved Local Plan Review policy SD1.

Environmental Impact Assessment Regulations 2017

9.27 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.

Other Issues

9.28 In terms of archaeology, whilst the site is within an area of archaeological interest, the development would be partly on previously disturbed land where it is considered that the likelihood of finding any buried historical assets to be low. Kent County Council Archaeological Officers have not responded to the consultation and in this respect no further action is considered necessary given that the application is recommended for refusal. In the event that members are minded to grant permission a watching brief could be imposed via condition to control this further.

Human Rights

9.29 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.

9.30 This application is reported to Committee at the request of Cllr Clive Goddard who believes this is good for the local economy and the Romney Marsh needs a facility like this.

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).

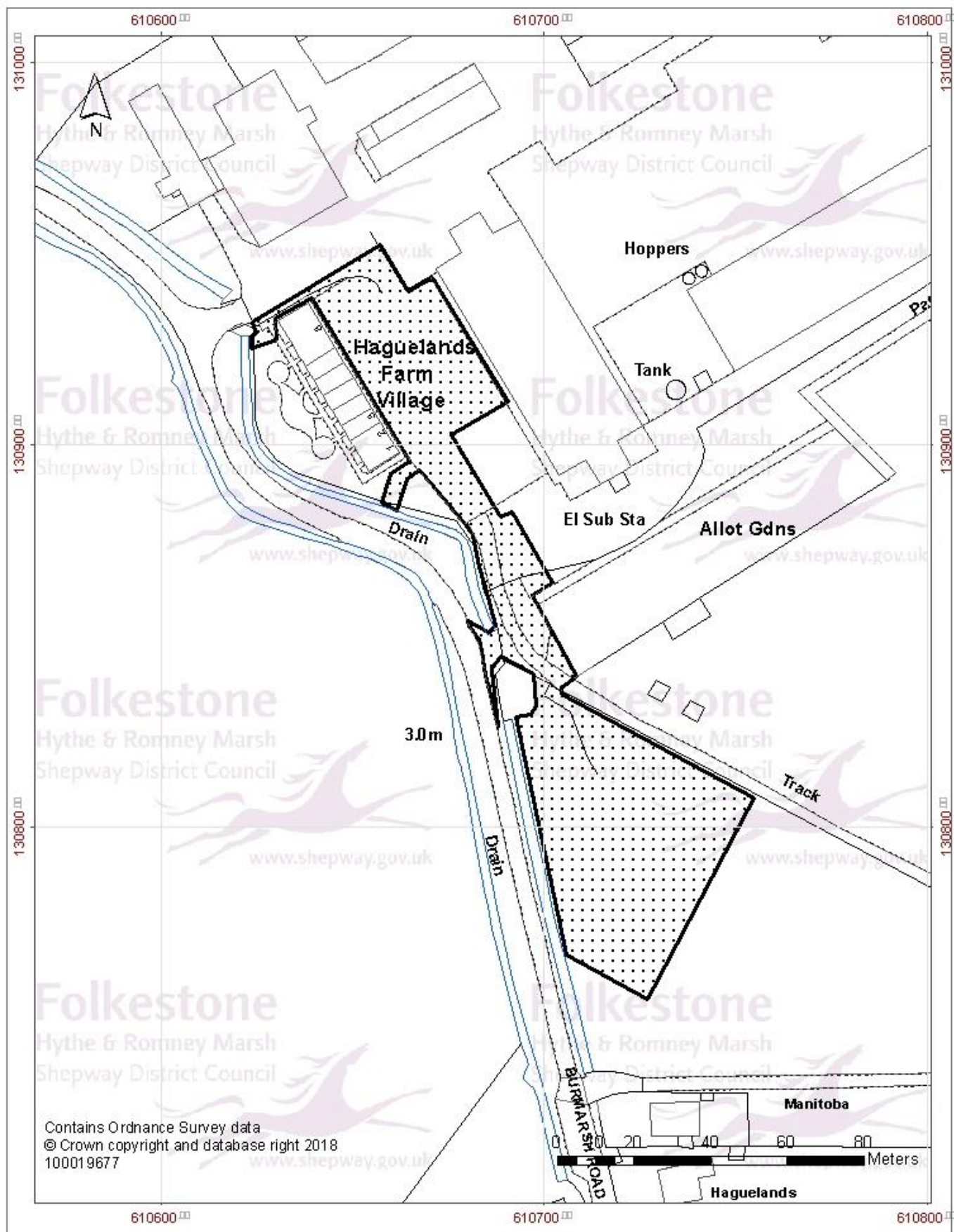
RECOMMENDATION – That planning permission be refused subject to the following reason(s):

1. It has not been demonstrated that this proposal for main town centres uses outside of a recognised centre in a remote rural location would be acceptable in terms of impact on established town and local centres. The

application fails to provide evidence showing that a sequential approach has been carried out or to demonstrate that the development requires a rural location outside of a town or local centre. As such the proposed development is considered contrary to saved Local Plan Review policy SD1, Core Strategy policies SS1 and SS4 and the NPPF: 2012 paragraph 24 which require town centre uses to be sequentially tested and to direct such retail and leisure developments to existing sustainable towns and service centres and failing that, rural centres and primary villages.

2. The site lies within the open countryside outside of any defined settlement boundary as set out in policy CO1 of the Shepway District Local Plan Review. It has not been demonstrated that such a rural location is essential and therefore proposes unacceptable built development within the countryside that is unsustainable, contrary to saved Local Plan Review policies SD1, CO1 and CO5, Core Strategy policy SS1, SS3 and CSD3 and the NPPF: 2012.
3. The site is located within a rural area and within the Romney Marsh Local Landscape area. The proposed development would, by virtue of the construction of the car park, its scale, bland appearance and the loss of the open field character, result in a harmful impact upon the wider landscape and rural setting. As such the development would be contrary to Saved Local Plan Review policies SD1, BE1, CO1 CO5 and LR3, policies SS1 and CSD3 of the Shepway Core Strategy Local Plan as well as the NPPF: 2012 which require developments to protect the particular quality and character of the countryside and the rural setting and the functioning of the Local Landscape Area.
4. In the absence of sufficient information, it has not been satisfactorily demonstrated that the proposed vehicular access would be able to achieve a safe and suitable vehicular access with the required visibility splays and vehicular turning facilities. The development also fails to propose sufficient off street disability and motorcycle parking in accordance with current adopted guidelines. As such the development is considered to be contrary to saved Local Plan Review policies SD1, TR11 and TR12 and the NPPF: 2012 that require development proposals to provide a safe and suitable access for vehicle traffic, cyclists and pedestrians and makes provision for off street parking on or near the site in accordance with current adopted parking standards.
5. In the absence of an adequate ecology survey together with a mitigation strategy (if required) and enhancement measures, it is considered that it has not been satisfactorily demonstrated that the proposal would not be constrained by ecology or result in a harmful impact upon protected species and their associated habitat. As such, the development is considered to be contrary to saved Local Plan Review policies SD1 and CO11, Core Strategy policy CSD4 and guidance contained within Government Circular 06/2005 and the NPPF: 2012 that require developments to minimise the impact upon the natural environment and safeguard protected species.

Y17/1317/SH
Haguelands Farm
Burmarsh Road
Burmarsh



Agenda Item 8

Application No: Y18/0066/SH

Location of Site: Land At Park Farm Road, Park Farm Road, Folkestone

Development: Redevelopment of the site to provide a hotel (4,979 sqm GIA) (Use Class C1), restaurant and cafe floorspace (847 sqm GIA) (Use Class A3) and two 'drive through' units (total 451 sqm GIA) together with a new vehicular and pedestrian access from Park Farm Road, parking, servicing and all hard and soft landscaping.

Applicant: Ravensbourne Investments Limited

Agent: Mr Peter Keenan
Q and A Planning Ltd
One Mortimer Street
Third Floor
London
W1T 3JA

Date Valid: 13.01.2018

Expiry Date: 14.04.2018

PEA Date:

Date of Committee: 24.04.2018

Officer Contact: David Campbell

SUMMARY

This report considers whether the proposal for the redevelopment of the site to provide a hotel, restaurant and cafe and two 'drive through' units together with a new vehicular and pedestrian access from Park Farm Road, parking, servicing and all hard and soft landscaping is acceptable in terms of impact on the town centre, the sequential test, design, the setting of the AONB, flooding, drainage, ecology, contamination, neighbouring living conditions, and highway impacts. Also through the completion of a legal agreement, the proposal will provide the travel plan and the associated monitoring fee.

It is therefore concluded that the proposal is suitably designed, would preserve the setting of the AONB and would mitigate its impact in terms of highway. Both the sequential test and the impact assessment that have been carried out by the applicants are considered to demonstrate that the proposals would not cause harm to Folkestone Town Centre and as such no objections are raised on this issue. It is also considered that the B use classes as request in the emerging policy could be secured at the second phase of the development which would be subject to a subsequent application. The emerging policy position has also been taken into account in the report below and no environmental impacts have been identified that would result in withholding planning permission.

It is therefore considered that the proposal complies with the polices of the NPPF and the development plan and therefore should be granted subject to the completion of a legal agreement and **Page 127** conditions.

RECOMMENDATION:

a) That that the Head of Planning Services be authorised under delegated authority to grant planning permission subject to:

- Completion of a legal agreement with the applicant that secures the travel plan and monitoring fee and which the Head of Planning Services considers to be acceptable.
- The conditions set out at the end of this report and any additional conditions the Head of Planning Services considers to necessary.

b) That in the event that the deed of variation is not finalised by 1st June 2018 and an extension of time has not been entered into by the applicant, the Head of Planning be given delegated authority to refuse planning permission on the following ground:

In the absence of a signed legal agreement there is no mechanism for ensuring the provision and effective monitoring of a travel plan covering the development. The application is therefore contrary to saved policy TR13 of the Shepway District Local Plan which requires travel plans for major development that are likely to have significant transport implications.

1.0 THE PROPOSAL

- 1.1 This application is for a six storey, 131 bed hotel with gym and two restaurants within the hotel; two drive-through units; new vehicle and pedestrian access, parking, services and landscaping. The hotel extends to approximately 4,979 sqm GIA and of the 131 bedrooms in the hotel, 8 would be accessible. The ground floor of the hotel would include the reception area, meeting rooms and informal working areas and the first floor a gym. The two restaurants on the ground floor of the same building would be 364 sqm GIA and 483 sqm GIA respectively and are intended to be run separate from the hotel.
- 1.2 Two drive through units, which also incorporate internal seating are proposed with unit A being 284sqm GIA, which is currently intended for KFC with a mixed A1/ A3/ A5 use classes and unit B being 167 sqm GIA which is currently proposed to be a coffee shop operator with a mixed A1/ A3 use. The illustrative masterplan for the whole site shows that 'B' class office uses are to be delivered on the remainder of the site (outside the red line boundary) and as such do not form part of the current application.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:

- Inside settlement boundary
- Employment area

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 The site is located on the Park Farm Industrial Estate within the urban confines of Folkestone on the northern periphery of the town, approximately 1.2 miles from the town centre. The area is one of a commercial and industrial character where the immediate built environment is characterised by various commercial style buildings located upon the west and east sides of the main Park Farm Road.
- 3.2 The site is located upon the west side of Park Farm Road approximately mid-way within the estate and comprises 1.97 hectares in area, extending to 3.87 hectares if all the land within the blue line is included. The site comprises the location of the former Silver Spring soft drinks manufacturing buildings and the Builder Centre builder's merchants. The land is currently unused and the former manufacturing and storage buildings have been demolished. The site has been cleared and now comprises an extensive area of hard standing.
- 3.3 Under the adopted saved policy of the Local Plan Review, the area is safeguarded for employment uses where the estate includes a number of 'B' Class uses and small businesses. However the northernmost part of the Estate along Park Farm Road is predominantly characterised by a number of retail warehouse units such as Bunnings Warehouse, Home Bargains and Pets at Home in immediate proximity.

4.0 RELEVANT PLANNING HISTORY

- 4.1 There is a long and varied history to this site, which mainly refers to the former uses. The most recent include Y11/0890/SH and Y13/0693/SH which were 28 day demolition notifications and Y13/0022/SH which was an outline application for the development of up to 10,684 sqm of retail Class A1 comparison floorspace (9890 sqm) and 189 sqm of restaurant/hot food takeaway Class A3/A5 floor space, together with associated car parking, landscaping and new vehicular and pedestrian access of Park Farm Road. The application was refused for the following reasons:
 - In the absence of a robust and comprehensive retail impact assessment that fully scenario-tests the possibility of a greater amount of trade being diverted from Folkestone town centre and the possibility of existing retailers in Folkestone town centre relocating to the application site, it has not been satisfactorily demonstrated that there would not be an adverse and significant retail impact upon the vitality and viability of Folkestone town centre. The development is therefore considered to be unacceptable and contrary to the NPPF: 2012 (paragraphs 26-27) and Core Strategy Local Plan Policy SS4 which seeks to protect existing, committed and planned public and private investment in town centres.
 - Given the location of the site within a Priority Centre of Activity on allocated employment land, and in the absence of a robust and comprehensive marketing strategy, the Local Planning Authority is not satisfied that sufficient efforts have been made to secure a commercial B Class use for the site and therefore a purely A1 comparison retail development as currently proposed is not justified.

The development is therefore considered to be contrary to Core Strategy Local Plan policy SS4 and saved Shepway District Local Plan Review policies E1 and E4 which seek to protect existing employment sites and resist development where it results in a net loss of on-site B Class uses and jeopardises the identified commercial purposes of these areas.

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 Folkestone Town Council

Support the principle of some development on the lower half of the former Silver Spring site at Park Farm and is happier with a hotel development than with previous shopping centre applications that would affect the town centre. However, the Highway Officer's comments seem well judged and should be addressed. There have been housing and school developments that have added to the traffic. The committee supports the application subject to the resolution of highway issues. The committee did not like the vague indication on the design of the hotel.

5.3 Kent Downs AONB Unit

Have objected to the application on the following grounds:
The AONB boundary lies on the north side of Churchill Avenue and the site forms an important part of the setting of the AONB, by virtue of its proximity and would be visible in views. The AONB Management Plan, which is adopted, 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 proposals, their distance and incompatibility with their surroundings likely to affect impact. Policy SD8 of the Management Plan should be noted. The NPPG confirms that AONB Management Plans can be relevant material considerations. Core Strategy policy CSD4 and emerging policy NE3 state the need for conservation and enhancement of the AONB and its setting. This is also recognised in emerging policy RL11.

The AONB Unit disagrees with the LVA assessment as a development of the height and mass proposed, should use materials which are recessive in colour. They are concerned the proposed grey render and Portland Stone cladding tiles, by virtue of their pale colour will increase the prominence of the building in views from the AONB and they consider that much darker colours to be used instead or a green wall. They are concerned that the large amounts of glazing, lighting at night time would lead to visual intrusion on the AONB. Similar concerns are raised to the signs if these are also illuminated.

In respect of landscaping, no plan is included showing retained trees. They would wish to see the retention of as many trees around the perimeter of the site as possible and landscaping enhanced, through the incorporation of

additional trees which have the capacity to establish large crowns to maximize the mitigating impact when viewed from the higher topography of the Kent Downs.

5.4 Southern Water

Exact location of sewers must be determined by the applicant and should be protected during development and tree planting kept 3m clear. Public sewers may be crossing the site. Southern Water is unable to accommodate the proposals without the development providing additional local infrastructure as it would increase flows into the wastewater sewerage system and increase flooding into the area. The developer could discharge foul flow no greater than existing levels and ensure that there is no overall increase in flows. A condition requiring a foul drainage strategy should be attached.

Arrangements for the long terms maintenance of SUDS and details should be submitted to the LPA. Surface water drainage is to be dealt with by means of surface water drainage into a watercourse. The Council should be convinced this is adequate. A wastewater grease trap should be provided on the kitchen waste pipe or a drain installed and maintained by the owner/ operator of the premises.

5.5 The Environment Agency

No comments to make

5.6 Natural England

No comments to make but refer to their standing advice

5.7 KCC Highways and Transportation

Have raised no objections and the following points:

The local bus company Stagecoach have requested that raised kerbs and shelters should be installed for the existing two bus stops on Park Farm Road. The applicant has undertaken a Stage 1 Safety Audit of the proposed right hand turn lane priority junction which has not raised any issues that cannot be dealt with through the Stage 2 detailed design process. The applicants have undertaken vehicle tracking for the largest vehicles which are likely to access this site (13 metre long articulated vehicle).

The applicants have undertaken a sensitivity test with a 30% reduction for linked / pass-by / diverted trips for the restaurant which shows that the impact is minimal when compared to a 50% reduction. The junction of Park Farm Road / Pavilion Road / Radnor Park Road has subsequently been re-modelled and the impact of the development on the junction is not severe subject to the lengthening of the cycle times in the AM peak to 134 seconds as has been agreed with the traffic signals team at KCC Highways and Transportation. The signal timing changes to the junction should be secured through a suitably worded planning condition. The impact of the development on all other junctions in the vicinity of the site is minimal (1-2%) and therefore it would be reasonable to request any further improvements to these junctions.

The car parking provision has been increased from 212 to 228 spaces (an increase of 16 spaces). Although this is a shortfall of 6 spaces when compared to the maximum parking demand of 234 spaces it should be noted

that this is based on every customer using the drive through restaurants making use of the car park. This is unlikely to happen in practice as the majority of customers will drive-through and then re-join the local highway network.

Further analysis has been undertaken by the applicant in the respect of seasonality due to the original traffic surveys having been undertaken in July 2017. Automatic Traffic Count Surveys have been undertaken by the applicant at the site frontage by the applicant in October 2017 (which is a traffic neutral month) and an analysis of WEBTRIS data for the four slip roads at M20 Junction 13. The seasonality factors are acceptable to KCC Highways and Transportation and have been included in the 2031 base model. A future year scenario of 2031 has been used for traffic growth, which is acceptable to KCC Highways and Transportation as this represents the current timeframe for Shepway District Council Places and Policies Plan.

The applicant has agreed to provide to widen the footway to the south of the proposed site access to the southernmost junction of land within their control (being proposed as part of Phase 2) to 3 metres to act a shared footway / cycleway. This should be secured through a suitably worded planning condition. Electric vehicle charging points should also be provided at a rate of 10% of the total car parking provision.

Conditions should include a construction management plan, vehicle parking spaces, electric vehicle charging points, vehicle loading/unloading and turning facilities, cycle parking facilities, access details, closure of the 4 existing access points along Park Farm Road with the re-instatement of all of the existing dropped kerbs, provision of two new bus stop shelters and raised kerbs, provision of a 3 metre shared footway / cycleway, alterations to the proposed cycle times and a framework travel plan. The proposed framework travel plan should be secured through a Section 106 Agreement together with a £5,000 auditing fee (£1,000 per annum over 5 years). The proposed right hand turn lane priority junction will be subject to a Section 278 Highway Agreement with KCC Highways and Transportation.

5.8 KCC Archaeology
No comments.

5.9 KCC SUDS

The application is supported by a Flood Risk Assessment prepared by DHA Environment (January 2018), which assesses the existing surface water connections from the site and proposes a drainage strategy to serve the proposed development. The drainage strategy proposes combining the discharges to the Pent Stream to a calculated QBAR rate of 21 l/s. Permeable pavement serves two of the catchment areas and cellular storage controls the other two catchments.

They support the surface water management approach proposed but would recommend that water quality treatment measures are appropriately considered. The CIRIA SuDS Manual considers surface water runoff from commercial and retail parking areas as having a medium pollution hazard level. As this attenuation system would discharge directly to the Pent Stream it would be recommended that water quality treatment is provided prior to discharge. The crates are located below a verge area and may

accommodate surface collection prior to attenuation within a swale/rain garden. The permeable pavement within the other parking areas would serve this function in those areas. Notwithstanding the comments above, if your authority is minded to grant approval to this application they would recommend the following conditions: detailed SUDS scheme, SUDS operation and maintenance details, verification report for the SUDS scheme

5.10 Heritage Consultant

There is no in-principle objection to the development from a Conservation viewpoint, since the development of the site and its perimeter planting will help to enhance the local character of the Park Farm Industrial Estate.

The Applicant should be encouraged to select colours from a more muted palate of colours than is proposed currently, with more use of darker colours instead of the white and pale grey currently proposed. In particular they should be directed towards a choice of colours in the grey-green end of the spectrum since colours with a greenish tinge are most effective in blending back into the wider environment. The roof colours also need to be chosen from this palate, but the Applicant should perhaps be urged to consider the use of a green 'living roof' over the flat roofed areas of the hotel blocks and its podium, which would create a better appearance when seen from above.

The Applicant should be encouraged to provide semi-mature tree planting of native species within the landscaped area and the avenue of trees across the car park on its eastern side and, in particular, should be encouraged to provide a second avenue across the car park towards its western side. The Council's Arboricultural consultant may wish to comment further on this. Consideration should be given to the framing of conditions restricting the extent of internally illuminated signage used on the three development buildings

5.11 Merebrook Contamination Consultants

Agree with the findings of the applicants report and recommend that Phase 2 further investigation and testing be carried out.

5.12 Environmental Health

Air Quality – No objections to additional information subject to a condition requiring the mitigation measures to be carried out.

Contamination - Environmental Health agrees with its contaminated land consultants, a Phase 2 further investigation and testing are required to fully characterise the ground conditions at the site.

6.0 PUBLICITY

6.1 Neighbours letters expiry date 20.04.2018

6.2 Site notice expiry date 16.03.2018

6.3 Press notice expiry date 01.03.2018

7.0 REPRESENTATIONS

7.1 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:

7.2 5 letters/emails received objecting on the following grounds:

Principle/ uses proposed

- The uses would provide low quality and low paid jobs.
- The site should be reserved for industrial or commercial units.
- Impacts cannot be fully assessed as it is for only half the site.
- Contrary to the current development plan/ emerging policy (RL8).
- Current policy allocates the site for employment.
- Failed to demonstrate compliance with the sequential approach.
- Adversely affect development in the town and seafront site.
- No weight should be given to draft policies due to outstanding objections.
- No reason to approve contrary to the development plan and national policy.
- No deals reached with potential occupiers.
- No guarantees that the employment uses in the masterplan would come forward.
- The sequential test is flawed and does not demonstrate sufficient flexibility in the identification and assessments of sites.
- The sequential test fails to assess whether the individual elements of the scheme could be provided on separate sites. (For example could the Burstin accommodate the A3 uses?)
- The seafront site could accommodate some of the uses.
- The impact assessment is inadequate.
- A single restaurant would normally be sufficient to support a hotel.
- Does not consider jobs that would be lost.
- Welcome the hotel.
- Objections to the hotel.
- No strong case for the release of employment sites (except one in Lydd) as stated in the employment land review.
- There is a requirement for employment land.
- Will cause damage to existing hotels particularly listed buildings and non-designated heritage assets.
- Would harm visitor numbers to the town centre.

Design & Scale

- That is significantly taller than other buildings in the vicinity.
- Should be 3-4 storeys.
- Will be overbearing in the area.
- Will spoil the view of the hills around Folkestone.

Parking/ traffic & access

- The assertion that hotel occupancy is likely to be less than 75% is absurd, Occupancy rates are likely to exceed 90%.
- Parking capacity needs to be increased.
- Increase in accidents.
- Would be harder to access neighbouring businesses.
- More information needed.

- The road network is inadequate.
- The choice of location is clearly to service the Channel Tunnel / Dover traffic so private vehicles will be the main means of transport.
- No assessment appears to have been made of the traffic generated by those attending meetings in the meeting rooms or of the impact of this on traffic arriving/leaving the site.
- Is the gym for use of the overnight guests? If not, no estimate of vehicle traffic has been made for those people using the site for gym use, and no parking provision has been made for them.
- There is very little on-street parking in the area so it is essential that adequate parking is provided if this development goes ahead.
- Inadequate staff parking. The hotel has three staff parking spaces identified.
- No identified parking for staff working in the restaurants or drive-throughs.
- The spacing between the two rows of parking dedicated for caravans appears to be just 6m. This does not appear to be enough room to allow all but the most experienced caravan owners to reverse into one of these spaces.
- The Transport plan proposes a new access off Park Farm Road, laid out as a 'priority right junction'. The meaning of this is unclear.
- If it is intended to give traffic turning right into/out of the site priority, then this is fraught with risk.
- Traffic on Park Farm Road should have priority, and any traffic turning right into or out of the site should give way.
- The alternative would be to build a roundabout to facilitate free flow into and out of the site.
- The assessment of their traffic flows and routes are nebulous.
- The Transport Assessment suggests the impact on the Park Farm Road/Radnor Park Road traffic light junction could be mitigated by varying the cycle time.
- Increase in pollution.
- There are significant omissions on the traffic modelling.
- Use of the site for lorry parking is not logical.
- Data on former employees/ lorry movements is misleading/ irrelevant.
- There will be a significant impact on numerous junctions.

Trip rates

- Arbitrary trip rates used to calculate junction performance are remarkably low.
- Councillors may wish to consult the nearby McDonald's restaurant to see if they will divulge how many customers they currently see at these times.
- The impact on road junctions could be significantly different if more traffic originates from within Folkestone and particularly if it arrives from the Park Farm Road/Radnor Park Road junction trip rates for the hotel at peak times seems reasonable although the arrival/ departure split seem to be unreasonably skewed in favour of arrivals.
- The Hotel trip allocation seems unreasonable and appears to skew results away from people travelling to from the continent.
- Many restaurants on hotel sites offer breakfast.

8.0 RELEVANT POLICY GUIDANCE

8.1 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>

8.2 The following policies of the Shepway District Local Plan Review apply: SD1, BE1, BE16, U4, U10a, U15, E1, E2, E4, TR5, TR6, TR11, TR12 and TR13

8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS2, SS3, SS4, CSD4 and CSD6

8.4 The following Supplementary Planning Documents apply:

- Kent Design Guide & associated appendices
- Building for Life 12
- The Employment Land Review, 2011
- KCC Retail Need Assessment Survey 2010
- AONB Management Plan 2014 to 2019

8.5 The following sections of the National Planning Policy Framework are of particular relevance to this application:

- Achieving sustainable development
- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Promoting sustainable forms of transport
- Requiring good design
- Promoting healthy communities,
- Meeting the needs of climate change , flooding and coastal change,
- Conserving and enhancing the historic environment, and
- Ensuring viability and delivery

9.0 APPRAISAL

Relevant Material Planning Considerations

9.1 The relevant issues for consideration with regard to this current application are as follows:

- Loss of employment site
- Impact on town centre
- Design and layout
- Setting of AONB

- Amenity,
- Archaeology
- Highway safety.

Loss of an employment site

- 9.2 The application site is identified under saved policy E1 of the adopted Shepway District Local Plan Review as part of a site allocated for business and commercial development, known as Park Farm Industrial Estate. Permissible uses are shown to be Use Classes B1 (light industrial including office) and B8 (storage and distribution). The proposal is therefore a departure from that policy and as such the needs of the district in terms of employment space should be assessed.
- 9.3 The Council has carried out an Employment Land Review (ELR) in the district and the overall conclusions indicate that one of the weaknesses of the district as a business location is the lack of good quality commercial space that would meet modern occupier needs. The current office provision is extensively concentrated in Folkestone which largely comprises small to medium sized offices of older stock, with limited supply of new office accommodation available. The shortage of high quality office space is seen as the main barrier to attracting new firms to the local market (as well as retaining existing). Forecasted growth and the supply of land would, numerically, meet future needs but only 44% of this is located in Folkestone, where the demand is. With regard to industrial space, this is a similar story. The supply for the future needs in Shepway appears to be sufficient to support demand but in the absence of higher quality industrial space to meet modern requirements coming forward, there is a risk of the district losing business to other locations in Kent. With regard to the Silver Spring site, the ELR suggests that the results of market feedback indicate that there is a demand for industrial uses within strong locations, especially those that benefit from good access to the M20, and that policy considerations should be given to safeguard and support B class development opportunities at this site.
- 8.5 Leading on from the ELR Policy RL11 of the draft Places and Policies Local Plan (PPLP) Submission Draft seeking to allocate the site for mixed use development consisting of business uses (B1), leisure (D2), retail (A1), restaurants/ café (A3) and a hotel (C1). The policy requires a comprehensive approach to development, suitable access arrangements and transportation improvements including a bus stop. The impact on the town centre is discussed in the section below.
- 9.6 Paragraphs 11.67-11.72 of the draft PPLP discuss how the Council wishes to see the site developed. It identifies that there are two issues that need to be considered in the redevelopment of the site. Firstly to provide good business accommodation in Folkestone and secondly to reflect the changing nature of the Park Farm Estate, which now contains a large retail area, including two DIY stores and a supermarket. The Employment Land Review has identified the need for providing good quality office space in Folkestone and this site offers an opportunity to achieve this and encourage businesses to locate in the district. The masterplan identifies that employment uses are to be provided in phase two of the development, and while it would have

been preferable to see B class office space provided with this application, it is acknowledged that the current proposals would not prejudice the provision of B class office space in the second phase on the wider site.

- 9.7 As can be see above, there is a changing stance from the Council's adopted policy position in relation to the development of the site. The current scheme would provide the A3, D2 and C1 uses, but would not provide the A1 use required by the draft policy. The A5 uses are not part of the Council's current vision for the site although it is considered that these could assist the viability of the scheme and could be brought forward by the developer.
- 9.8 The need for good quality office accommodation has also been recognised by the Locate in Kent team which have indicated that the lower interest in Folkestone compared to other areas is owing to the lack of modern space. Existing stock of older office space in the town is declining owing to permitted development rights to change its use and this is expected to continue. Nevertheless, Folkestone has larger office users (e.g. Saga) and a greater share of small businesses (10-49 employees) using such space. Experian predict that a further 700 office jobs can be expected in the area by 2026 but there is a reducing supply of office space. The trend towards out-of-town offices is recognised as an important dimension to building a sustainable cluster of commercial activity and modern occupier needs. Where better quality business space has been provided it has been quickly taken up and achieves high occupancy rates. So the site designation is important in meeting the primary need for good quality office accommodation within an attractive development that includes high quality supporting uses.
- 9.9 Therefore it is considered to be important to deliver office development on the site and it would have been beneficial to have had some included in this scheme. Nevertheless the office development could still be delivered on the other part of the site and would remain policy compliant both in terms of the current policy and the emerging. It is therefore considered that this would not therefore be a reason to refuse the application alone. It is also noted that the site has been vacant for a few years with no developer coming forward.
- 9.10 In terms of whether a hotel is appropriate on the site, this would clearly conflict with the adopted policy. However it would conform to the emerging policy which shows the Council's direction in the future and may present a more viable development on a site that has been vacant for a few years. The amount of weight which can be attributed to this policy is reduced given that there are outstanding objections to it and it is not yet adopted. However it arises from a more recent and up to date ELR than policy E1 which was adopted in 2006. It is considered that on balance it is acceptable to consider the uses proposed, subject to an Impact Assessment and sequential test, which are considered below.

Town Centre Impact

- 9.11 The NPPF (Para 24) and NPPG advocate a 'town centre first' policy. Folkestone Town Centre is a designated Town Centre and also listed as a Priority Centre of Activity Strategy in Policy SS4 of the Core Strategy (2013). As previously stated, the site forms part of the Park Farm Industrial Estate,

an out-of-centre employment site located on the urban fringe of Folkestone and allocated under Policy E1 of the Shepway District Local Plan Review (2013) for which the permissible uses include B1 and B8.

- 9.12 The NPPF (Para 26) and Policy SS4 also states that when assessing applications for retail, leisure and office development outside of town centres (in this case Folkestone), which are not in accordance with an up-to-date Local Plan, an impact assessment is required if the development is over a proportionate, locally set floorspace threshold. If there is no locally set threshold, the default threshold is 2,500 sqm.
- 9.13 Therefore, in line with the NPPF (Para 24) and policy SS4 a sequential test should be administered and submitted with the application. This should focus on town centre activities, or those creating a significant transport demand, looking firstly at locations in the town centre, then edge of centre and only then out-of-centre locations. The sequential test has explored alternative site and these include the area around the bus station and an area at Guildhall Street, but these could only meet the mid or long term demand given their availability. The availability of sites like the Grand Burstin and the seafront site have also been assessed in the applicants' supporting documentation, but are not considered to be available and would not deliver the quantum of development currently proposed. The Council therefore agrees with the applicant's assessment in that, as far as to accommodate the proposals, these sites do not appear to be appropriate.
- 9.14 The Shepway Town Centre Survey (2015) recently concluded that developments of less than 2,500 sqm could potentially cause significant adverse effects on some of the district's retail centres, depending on the occupier and location. The Study recommended that a threshold of 500 sqm be adopted for schemes outside major town centres. This locally set threshold is actively being pursued through the emerging Policy RL8 of the draft Places and Policies Local Plan; however at present the default threshold of 2,500 sqm applies.
- 9.15 The other supporting 'main town centre uses' that form the overall scheme include A3 and A5 uses that amount to 1298sqm which does not exceed the 2,500 sqm default threshold. However, the applicants have still carried out a test in light of the 500 sqm threshold in the emerging policy. It should be noted that hotel uses are not mentioned with regard to the need for an impact assessment in paragraph 26. It is considered that the drive through units would not necessarily have an impact on the town centre as there are not any existing drive through units in the town centre and this is not generally where they are found. It is noted that McDonalds and Subway have a drive through at Park Farm as well as town centre premises in Folkestone and as such there is no reason to believe that KFC (or similar) would be any different. It is considered that the same justification could be applied to the proposed coffee shop, where the offer of a drive through facility is not considered to put at risk the facilities in town as it is a different form of coffee shop/takeaway use. The use of a small gym is considered to compliment the hotel well and it is common to find the two uses delivered simultaneously. A condition has been attached requiring the gym to remain for hotel guests to ensure that it remains ancillary to the main hotel use.

- 9.16 In terms of the A3 uses, the applicants point out in their Impact Assessment that the town centre is currently deficient in terms of these uses and argue that they are likely to be national chains rather than local restaurants. The operators at this stage are unknown, so a decision cannot be based on the second point, however due to their size and that only two are proposed, it is not considered that these would likely give rise to any harmful impacts on the town centre. It is also considered that the A3 uses would complement the hotel.
- 9.17 There are therefore no objections to the sequential test or impact assessments and as such it is considered that the proposed uses are acceptable and that paragraph 27 of the NPPF, which states that applications that fail the sequential test or likely to have significant adverse impact should be refused, does not apply. It is also considered that the previous reasons for refusal have been overcome, supported by the change in the emerging policy.

Design and Layout

- 9.18 The NPPF identifies that good design is a key aspect of sustainable development, indivisible from good planning and that it should contribute positively to making places better for people. It also highlights that design policies should focus on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development and promote local distinctiveness. The NPPF specifically states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Policies in the adopted local plan, seek to provide a framework for the consideration of design matters and encourage high quality design.
- 9.19 The proposed development would be visible from a number of vantage points around Folkestone, the highway network, from public rights of way and AONB to the north. As such, the proposal would clearly have an impact upon the character and appearance of the area and careful consideration needs to be given to the design and appearance of the proposed buildings. A Landscape and Visual Impact Assessment (LVIA) has been carried out by the applicant and is helpful in assessing the impact of the scheme.
- 9.20 The site is already prominent when considering views to the town from the north and west due to its raised location. Development of the scale proposed would be extremely visually prominent both in views to and from the town, and higher than the surrounding development on the Park Farm industrial estate. Current views of the estate are not attractive when viewed from the M20 or the surrounding area, and as such the site provides the opportunity to introduce positive change through the construction of a landmark building.
- 9.21 The above ground floor elements of the hotel/ restaurant building are proposed to be between 14.5m and 19.5m tall with the highpoint being approximately 22m high. The upper floors are between 35m and 70m wide and have an approximate depth of 17m. The main elevations are faced with insulated pale grey render with Portland stone facing tiles facing the AONB.

The windows are generally grey with grey panels and fascias to the single storey podium block and bronze effect fascias to the hotel bedroom blocks.

- 9.22 Of the two drive through units, Unit A is to be approximately 28m deep and 11m wide and Unit B 11m wide and 16m deep excluding the entrances. Unit A is to be 5m high at the tallest point and Unit B approximately 5.4m high, both excluding the signage. Unit B is to feature white rendered walls, natural western red cedar and grey aluminium windows and grey fascias. Unit A has been amended in terms of its materials part way through the application to more closely match Unit B. This is considered to be an improvement.
- 9.23 To assist with the assessment of the application, the applicants have provided a Landscape and Visual Assessment showing the outline of the hotel from a series of views including from the AONB. In many of these views the introduction of a six storey high hotel will clearly have an impact on the landscape, however it is considered that most of these views, particularly from the viewpoints on higher land, would be seen against the backdrop of the industrial estate. As such it is not considered that the development of a six storey high building is objectionable in principle subject to the external appearance being high quality. The single storey drive through units would be acceptable as they would be smaller in size than many of the existing units which would surround them.
- 9.24 The AONB Unit disagrees with the LVA submitted by the applicants and considers that as the development is significantly taller than existing development, it is imperative that materials which are recessive in colour are utilised as the proposed pale colours will increase the prominence of the building in views from the AONB. They consider darker colours such as the brick and tile used in the Sainsbury's superstore or a green wall on the north facing wall, would help development recede in views. Officers understand their concerns but believe that samples of the materials would be needed before a conclusion was reached. These concerns have been passed on to the applicants and it is considered that materials and their finishes could be secured by condition. They have also raised concern with lighting and illuminated signs, particularly at night, given the large areas of glazing in the scheme. Both of these matters can be conditioned to ensure that the development is acceptable in these respects and as such it is not considered that an objection should be made on those grounds. There is no objection made to the design approach to either the hotel/ restaurant building or to the drive through units, subject to the aforementioned conditions, as they are considered to be entirely appropriate to their surroundings and in keeping with the character of the industrial estate. The signage would also be subject to a detailed application for advertisement consent.
- 9.25 In respect of landscaping the AONB Unit would wish to see the retention of as many trees around the perimeter of the site as possible. The proposed landscaping has been enhanced, through the incorporation of additional trees. The masterplan has been amended since it was first submitted and now includes additional planting in the form of 13 tree pits within the car park which are considered to assist in the screening of the large parking areas. The landscaping would also be conditioned to ensure that it was suitable to the site and that any trees to be retained are protected during the

development. On this basis the landscaping and the proposed masterplan are considered to be acceptable.

- 9.26 Policy SS3 requires proposals to be designed to contribute to local place-shaping and sustainable development by appropriate sustainable construction measures, including water efficiency and a proportion of energy from renewable/ low carbon sources on new-build development. It is therefore proposed to condition the application to ensure the minimum of a BREEAM very good rating is achieved, as required by emerging policy.
- 9.27 The remaining part of the site, phase 2, which is not covered by this application will be assessed at a later date, should it be submitted. In conclusion it is considered that the scheme complies with the NPPF and the policies of the development plan, in that the design is acceptable and the setting of the AONB would be preserved. There are therefore no objections subject to the conditions suggested above.

Amenity

- 9.28 Policy SD1 of the Shepway District Local Plan Review and the NPPF (paragraph 17) require that consideration should be given to the residential amenities. There are no immediate residential neighbouring properties to the development site which would be negatively affected by the proposals. It is not considered that any of the adjoining uses would be harmed should the development proceed. There are therefore no objections on these grounds.
- 9.29 In terms of noise, it is considered that given the location of the development, there are no concerns with this. It is also not considered necessary to limit the opening hours of the restaurants as there are no planning grounds to do so.

Archaeology

- 9.30 The applicants have commissioned an Archaeological Desktop Study to establish the likeliness of finding anything of interest during construction. This report has concluded that this remains very unlikely. KCC Archaeology have not commented on the application and as such it is considered that this is acceptable.

Highway Safety

- 9.31 KCC have commented that the applicant has undertaken a Stage 1 Safety Audit of the proposed right hand turn lane priority junction which has not raised any issues that cannot be dealt with through the Stage 2 detailed design process. It is therefore considered that the access arrangements into the site are acceptable, with the next stage in the process being dealt with by KCC under a Section 278 Highways Agreement. The applicants have also undertaken vehicle tracking for the largest vehicles which are likely to access this site which are 13 metre long articulated vehicles, where it has been demonstrated that this would not present an issue. There are therefore no objections on the grounds of access

- 9.32 In terms of parking, provision has been increased from 212 to 228 spaces (an increase of 16 spaces) following an original objection by KCC. Although this is a shortfall of 6 spaces when compared to the maximum parking demand of 234 spaces, KCC have noted that this is based on every customer using the drive through restaurants making use of the car park. This is unlikely to happen in practice as the majority of customers will drive-through and then re-join the local highway network. KCC are therefore satisfied that the amount of parking provided is acceptable and should be sufficient to accommodate the development. They have also requested that electric vehicle charging points be provided at a rate of 10% of the total car parking provision. This can be conditioned and as such there are no objections to the parking provision.
- 9.33 In terms of sustainable transport, the applicant has agreed to provide a widened the footway to the south of the proposed site access to the southernmost junction of land within their control (being proposed as part of Phase 2) to 3 metres to act a shared footway / cycleway. While this falls outside the application site, given that the applicants control the land this is considered to be a reasonable request and as such a Grampian condition has been recommended. Stagecoach have requested that raised kerbs and shelters should be installed for the existing two bus stops on Park Farm Road which again could be achieved by condition. It is therefore considered that the application would improve sustainable forms of transportation in the area.
- 9.34 The impact of the development on the road junctions in the vicinity of the site has been assessed as minimal (1-2%) and therefore KCC consider that it would be unreasonable to request any further improvements to these junctions. The junction of Park Farm Road / Pavilion Road / Radnor Park Road has been re-modelled and the impact of the development on the junction is not severe subject to the lengthening of the cycle times in the AM peak to 134 seconds. This has been agreed with the traffic signals team at KCC Highways and Transportation, and the changes to the junction's signal timings could be secured through a planning condition.
- 9.35 KCC have also assessed the applicant's suggested trip rates and have found these to be acceptable. Further analysis has been undertaken in the form of Automatic Traffic Count Surveys at the site frontage in October 2017 (which is a traffic neutral month) and an analysis of data for the four slip roads at the M20 Junction 13. The seasonality factors are acceptable to KCC Highways and Transportation and have been included in the 2031 base model. A future year scenario of 2031 has been used for traffic growth, as this represents the current timeframe for the Places and Policies Plan.
- 9.36 KCC have also requested a series of conditions which are all considered to be reasonable. They have also requested the travel plan and a monitoring contribution for the travel plan be secured through a Section 106 Agreement together with a £5,000 auditing fee (£1,000 per annum over 5 years). This is considered to be acceptable.

9.37 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 an Environmental Statement is not required on this occasion.

Other Issues

9.38 In terms of drainage, the submitted details are considered to be acceptable and further details will be sought through planning condition. KCC, as Lead Local Flood Authority, have raised no objections. The EA have no objections as the site falls within Flood Zone 1.

9.39 In terms of contamination, the details received so far are considered to be acceptable by Environmental Health and requested conditions are proposed.

9.40 In terms of air quality, the applicants have done a further report at the request of Environmental Health and this has also been deemed acceptable, subject to a condition requiring the mitigation measures to be carried out.

9.41 The site is not considered to have any ecological constraints as it is hard surfaced with limited vegetation.

9.42 Emerging policy HW1 states that the Council will refuse planning permission for new take away shops that fall within 400m of a school. The location of the proposed KFC building is outside the 400m and would be further away than McDonalds from the closest school. There are therefore no objections.

Local Finance Considerations

9.42 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.

9.43 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £100 per square metre for new retail floor space.

Human Rights

9.44 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.

9.45 This application is reported to Committee due to the views of Folkestone Town Council.

10.0 BACKGROUND DOCUMENTS

10.1 The consultation responses set out at Section 5.0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

Recommendation:

a) That that the Head of Planning Services be authorised under delegated authority to planning permission subject to:

- Completion of a legal agreement with the applicant that secures the travel plan and monitoring fee and which the Head of Planning Services considers to be acceptable.
- The conditions set out below and any additional conditions the Head of Planning Services considers to be necessary following detailed discussions with the applicant:
 1. Standard time condition
 2. Approved plan numbers
 3. Materials
 4. Parking
 5. Cycle Parking Facilities
 6. Access arrangements
 7. Electric Vehicle Charging Points
 8. Construction Management Plan
 9. Turning & loading and unloading facilities
 10. Sight lines
 11. Closure of the 4 existing access points along Park Farm Road
 12. Re-instatement of all of the existing dropped kerbs,
 13. Provision of two new bus stop shelters
 14. Provision of a 3 metre shared footway / cycleway,
 15. Alterations to the proposed cycle times and a framework travel plan.
 16. Landscaping
 17. Tree protection measures
 18. Archaeological watching brief
 19. Foul drainage strategy
 20. Sustainable Urban Drainage Systems
 21. Surface water drainage
 22. Verification report for the drainage system
 23. Wastewater grease trap/ similar details for kitchen waste
 24. Contamination

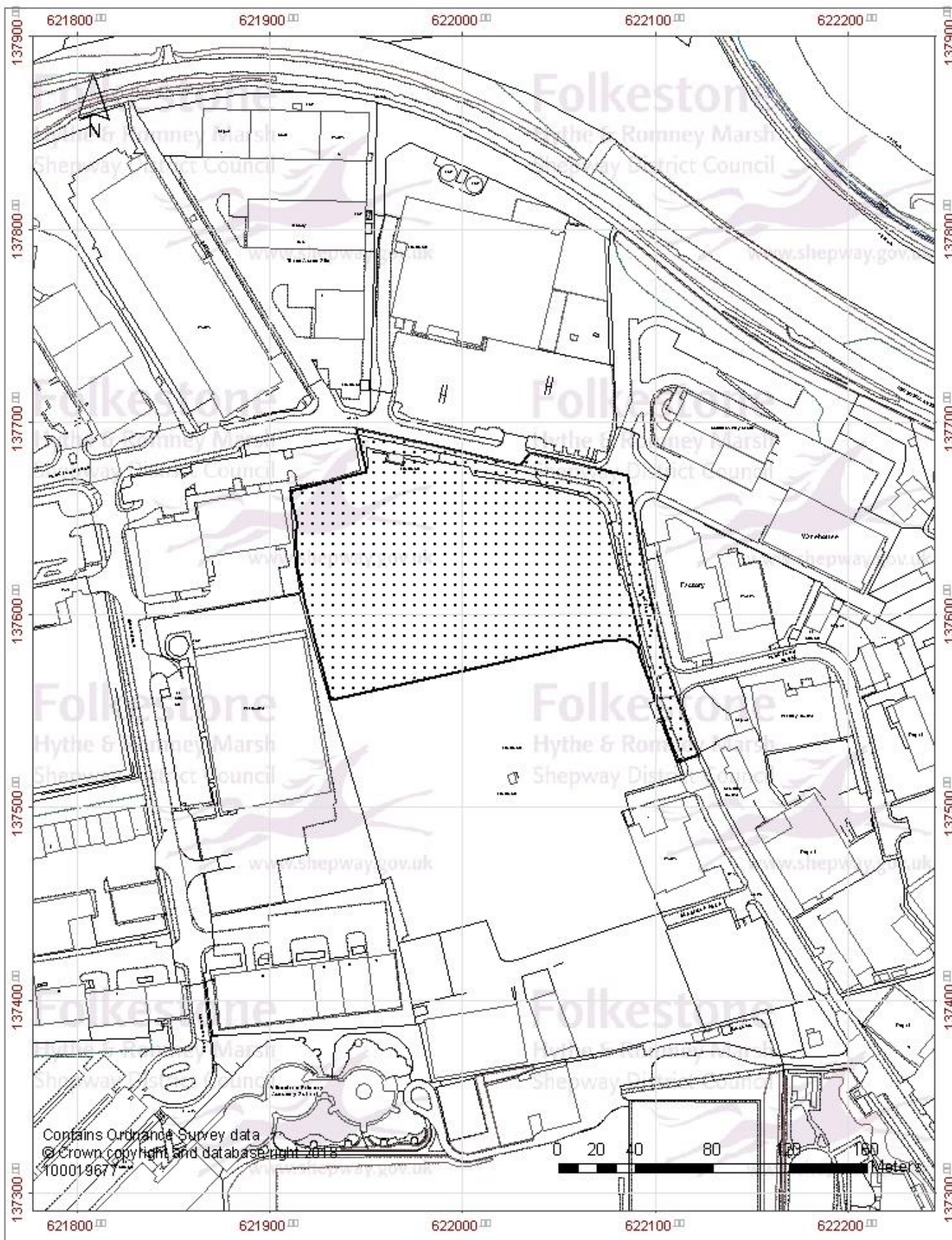
- 25. Air quality mitigation measures
- 26. Refuse details
- 27. Use of the gym for hotel guests only
- 28. Street furniture
- 29. Energy efficiency measures

b) That in the event that the legal agreement is not finalised by 1 July 2018 and an extension of time has not been entered into by the applicant, the Head of Planning be given delegated authority to refuse planning permission on the following grounds:

In the absence of a signed legal agreement there is no mechanism for ensuring the provision and effective monitoring of a travel plan covering the development. The application is therefore contrary to saved policy TR13 of the Shepway District Local Plan which requires travel plans for major development that are likely to have significant transport implications.

Decision of Committee

Y18/0066/SH
Land at Park Farm Road
Park Farm Road
Folkestone



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Application No: Y18/0209/SH

Location of Site: 31 Warren Way Folkestone Kent CT19 6DT

Development: Erection of two storey side and rear extension with single storey rear element, following demolition of existing single storey garage.

Applicant: Mr Adam Smith

Agent: Mr Dan Kincaid

Date Valid: 12.02.18

Expiry Date: 09.04.18

Consultation Expiry Date: 20.04.18

PEA Date: 01.05.18

Date of Committee: 24.04.18

Officer Contact: Miss Beth Lennon

SUMMARY

This report considers whether planning permission should be granted for a part two storey, part single storey side and rear extension to the existing dwelling. The report recommends that planning permission be granted as it is considered that the design of the proposed extension is in keeping with the character and appearance of the host dwelling and would not be harmful to the streetscene. It is also considered that the amenities of neighbouring occupants would be safeguarded.

RECOMMENDATION: That planning permission be granted subject to the conditions set out at the end of the report and any additional conditions the Head of Planning Services considers to be necessary .

1.0 THE PROPOSAL

- 1.1 This application is for the erection of a two storey side and rear extension with a single storey rear element, following the demolition of the existing single storey garage.
- 1.2 The proposed extension would extend to the shared boundary with no 29 at ground floor but would be set away by 1 metre from the boundary at first floor and at the rear element of the extension. The proposed extension would extend 4 metres from the existing rear elevation of the dwelling. The rear extension would have a total width of 6.6 metres, with the two storey element having a width of 4.1 metres and the single storey element having a width of 2.5 metres.

- 1.3 The single storey element at the rear of the dwelling would have a flat roof with a roof lantern and the two storey element would have a pitched, hipped roof. At ground floor the extension would comprise a WC, cloakroom and kitchen / dining room area. At first floor the extension would provide a fourth bedroom.
- 1.4 Proposed materials would be clay roof tiles to match the existing dwelling, render to the external elevations (to match the existing dwelling) with timber cladding to the rear elevation and white uPVC fenestration. With regards to windows, the extension would include two additional windows on the front elevation (one at ground floor and one at first floor), one additional first floor window and one window and a set of bi-fold doors at ground floor on the rear elevation. No additional side windows are proposed.

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 application site is a semi-detached, two storey dwelling sited along Warren Way. The property is constructed of red brickwork with painted render to the first floor. The dwelling has an attached single storey garage to the side with hardstanding to the front which provides off street parking. The dwelling has a long rear garden which backs onto Warren Close.
- 3.2 Warren Way is characterised by semi-detached dwellings of similar character, many of which have single storey side additions extending up to the boundary.

4.0 RELEVANT PLANNING HISTORY

4.1 There is no planning history for the site.

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 Folkestone Town Council

Object on grounds of the size of the extension being overbearing and intensive with unacceptable daylight angles.

6.0 PUBLICITY

6.1 Neighbours letters expiry date 08.03.2018

6.2 Neighbours consulted on amendments expiry date 20.04.2018

7.0 REPRESENTATIONS

7.1 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:

7.2 1 email received objecting on the following summarised grounds:

- Size and scale would be imposing
- Overbearing impact
- Overshadowing / loss of light
- Loss of light would result in conservatory being uninhabitable
- No dimensions on the plans
- Rear extension has been drawn incorrectly on the site plan to make the neighbours' extension look larger than it is or the extension to look smaller than it is
- No side elevation from the perspective of the neighbouring property
- Side extension extends up to the boundary line (terracing effect)
- Floor plans show the front door extending outward but this is not reflected on the front elevation
- Materials are vague
- Vertical timber cladding is not in keeping with the brick character of the property

8.0 RELEVANT POLICY GUIDANCE

8.1 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>

8.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, BE1, BE8

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

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

7 – Achieving sustainable development

9.0 APPRAISAL

Relevant Material Planning Considerations

9.1 The relevant issues for consideration with regard to this application are design and visual impact, neighbouring amenity, and parking and highways.

Design and Visual Impact

9.2 Saved policy BE8 states that extensions to existing dwellings should reflect the scale, proportions, materials, roof line and detailing of the original building and should not have a detrimental impact upon the streetscene. Saved policy BE8(d) also states that “permission will not be given for flat-roofed extensions, unless the proposed extension would not be generally visible from a public place and would serve only as an adjunct to the main building, or the provision of a flat roof is the only practicable means of providing an extension”.

9.3 It is recognised that the proposed extension would be large, however, it is not considered to dominate the existing building as it would be a subservient addition with a lower ridge line to the existing dwelling and the proposed front elevation would also be set back slightly from the front elevation of the existing dwelling. It is therefore considered that the proposed extension would clearly be read as an extension and would not significantly alter the scale or proportions of the existing dwelling.

9.4 With regards to materials, the proposal would include rendered external elevations and clay roof tiles which would match the materials used in the existing dwelling and are therefore considered acceptable. The proposal would also include timber cladding to the rear elevation of the extension and while this is not a material which features on the dwelling at present, it is considered that as it would not be highly visible from a public place, the use of cladding would not be significantly detrimental and therefore on balance is considered to be acceptable as it would not result in harm.

9.5 The proposed two storey element would have a pitched and hipped roof which would reflect the roof pitch of the existing dwelling. The proposed extension would also include a flat roof to the single storey rear element which would only have a width of approximately 2.5 metres and would therefore be an adjunct to the main building. As the proposed flat roof

element would be to the rear of the property it would not be highly visible from a public place. As such, the proposed flat roof element is considered to meet the requirements of saved policy BE8(d) and is therefore considered acceptable in this instance.

- 9.6 Saved policy BE8(b) also states that “side extensions may be added to detached or semi-detached dwellings where space is available; care should be taken to avoid creating a terracing effect which could result by extending up to the boundary; a minimum distance of 1 metre should be maintained from the boundary and any part of the extension above single storey level including the roof”. The proposed extension would extend to the boundary at ground floor level however, following amendments to the plans, the first floor element would now be set in by 1 metre and therefore meets the requirements of saved policy BE8(b) and would not result in a terracing effect. The existing dwelling has a single storey garage which extends up to the shared boundary and therefore the proposal to have a single storey element to the boundary with the first storey element set in would still result in the dwelling being clearly read as a semi-detached dwelling, even if the neighbouring property (no 29) were to have a two storey side extension in the future.
- 9.7 For the reasons set out above, it is considered that the proposed extension would be in keeping with character and appearance of the host dwelling and would not be harmful to character of streetscene, complying with saved policy BE8 and is therefore considered to be acceptable in design terms.

Neighbouring Amenity

- 9.8 Saved policy SD1 states that all development proposals should “Safeguard and enhance the amenity of residents” and saved policy BE8 states that extensions to existing buildings should not adversely affect the amenity enjoyed by the occupiers of neighbouring properties. Paragraph 17 of the NPPF states 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”.
- 9.9 Part (a) of saved policy BE8 states that “extensions should not cause undue overshadowing of neighbouring property and should allow adequate light and ventilation to existing rooms within the building; single storey extensions should be designed so as to fall within a 45-degree angle from the centre of the nearest ground floor window of a habitable room or the kitchen of the neighbouring property. In the case of two-storey extensions, the 45-degree angle is taken from the closest quarter-point of the nearest ground floor window of a habitable room or kitchen.”
- 9.10 In this instance, the 45 degree line has been shown on the submitted plans and it has been demonstrated that the proposed extension would not breach the 45 degree line on either of the adjoining properties (Nos. 29 and 33 Warren Way) and it is therefore considered that the proposed extension would not result in undue overshadowing to neighbouring property. The impact of the two storey element on upper floor windows has also been

considered and it is considered that the two storey element is set sufficiently away from the boundary so that it would not cause overshadowing to the first floor windows of no 33 (which are set further back than the existing ground floor conservatory belonging to this neighbour) and would also meet the 45 degree line set out in saved policy BE8.

- 9.11 The two storey element is also considered to be set sufficiently away from the boundary so that it would not result in an overbearing impact to either neighbouring property.
- 9.12 With regards to overlooking, saved policy BE8(e) states that “alterations or extensions which cause undue loss of privacy for occupiers of neighbouring properties through overlooking windows, doors or balconies should be avoided”. In this instance, the existing dwelling and both adjoining properties have first floor rear windows and in an urban area such as this, some level of overlooking would be accepted. The proposed extension would not include any additional windows on the side elevations and would only include one first floor window on the rear elevation of the proposed extension. It is considered that this first floor rear window would not result in any significant increase in overlooking to the private amenity space of neighbouring properties when compared to the existing first floor rear windows.
- 9.13 The proposed ground floor window and bi-fold doors are not considered to result in a significant increase in overlooking. The proposed windows on the front elevation of the dwelling would look out onto a public place and would therefore not result in overlooking to private amenity space.
- 9.14 as such, it is considered that the proposed development would not result in undue loss of privacy for the occupiers of neighbouring properties and their amenity would therefore be safeguarded in accordance with saved policies SD1, BE8 and paragraph 17 of the NPPF.

Parking and Highways

- 9.15 The proposed extension would provide one additional bedroom in the dwelling, resulting in a total of four bedrooms. Kent Highways Services IG3 (residential parking) recommends 2 independently accessible spaces per unit for 4+ bedroom dwellings in a suburban location such as this. Garages are no longer considered as parking space by Kent Highways and therefore the loss of the existing garage is not considered to result in the loss of off street parking on site.
- 9.16 The existing dwelling has hardstanding to the front which provides off street parking for one dwelling. This parking space would be retained but no additional parking would be provided within the site. As such, the proposal would be deficient by one off street parking space. However, the proposal would only increase the number of bedrooms within the dwelling by one and due to the availability of unrestricted on street parking it is considered that the lack of one additional parking space is not considered to be sufficiently detrimental to warrant refusal of planning permission on this ground.

9.17 As such, the proposal is not considered to have a significant impact in terms of parking and highways and is therefore considered to be acceptable in this regard.

Other issues

9.18 One point raised within the objection received was that no dimensions are shown on the plans. The submitted drawings have been drawn to an identified scale and therefore even though no dimensions have been identified, the plans can be measured on the public portal which is standard practice and considered to be acceptable in accordance with national validation requirements. The objection also raised the point that the side elevation facing no 33 had not been submitted, this drawing has since been received.

Human Rights

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

9.20 This application is reported to Committee as the applicant's partner is an employee of the Council and an objection has been received.

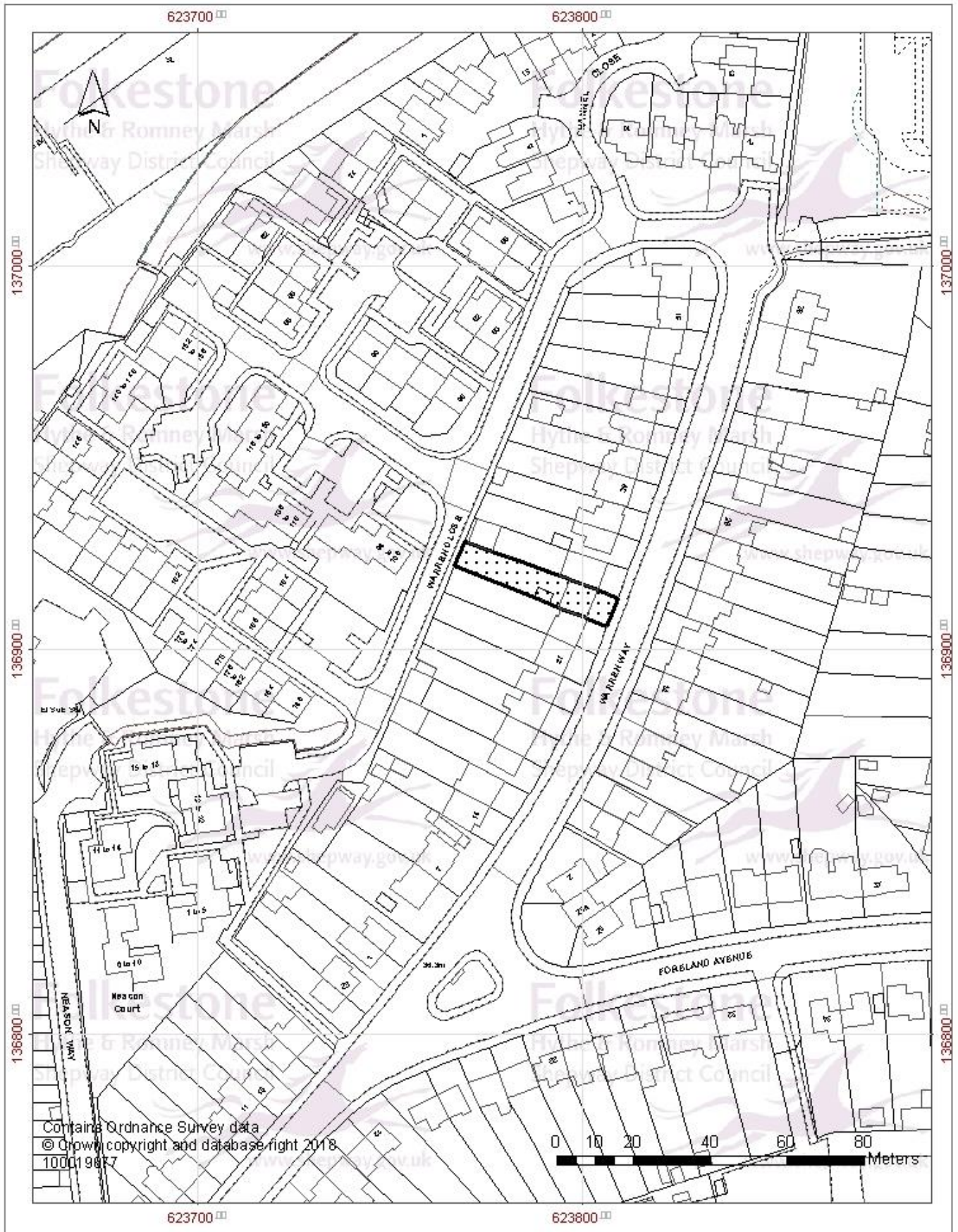
10.0 BACKGROUND DOCUMENTS

10.1 The consultation responses set out at Section .0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

RECOMMENDATION – That planning permission be granted subject to the following conditions and any additional conditions the Head of Planning Services considers to be necessary:

1. Standard time condition
2. Approved plan numbers
3. Materials as per application

Y18/0209/SH
31 Warren Way
Folkestone



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APPEALS MONITORING INFORMATION – 4th QUARTER 1.1.2018 – 31.3.2018

Application No: Y16/0456/SH

Site Location: 7 Bournemouth Road Folkestone Kent CT19 5BA

Proposal: Erection of a two storey block of 6 flats, following removal of existing buildings.

Officer Recommendation: - **Committee Decision:** - **Delegated Decision:** Refused

Outcome: Appeal Dismissed **Date of Decision:** 15th January 2018 **Costs Awarded:**

Application No: Y16/0913/SH

Site Location: New Inn 37 High Street New Romney Kent

Proposal: Erection of three terrace houses with associated parking and landscaping.

Officer Recommendation: - **Committee Decision:** - **Delegated Decision:** Refused

Outcome: Appeal Dismissed **Date of Decision:** 6th February 2018 **Costs Awarded:**

Application No: Y17/0013/PA

Site Location: Pepperland Nursery Straight Lane Brookland Romney Marsh

Proposal: Determination as to whether prior approval is required under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use and conversion from an agricultural building to one dwellinghouse (Class C3).

Officer Recommendation: - **Committee Decision:** - **Delegated Decision:** Prior Approval Refused

Outcome: Appeal Dismissed **Date of Decision:** 16th February 2018 **Costs Awarded:**

Application No: Y17/0257/SH

Site Location: Beachlands Cannongate Road Hythe Kent

Proposal: Lawful Development Certificate (proposed) for the erection of infill extension to front

Officer Recommendation: - **Committee Decision:** - **Delegated Decision:** Refuse

Outcome: Appeal Dismissed **Date of Decision:** 19th February 2018 **Costs Awarded:** No

Agenda Item 10

Agenda Item 10

Application No:	Y16/0866/SH
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Site Location: Redlynch House 19 Hillcrest Road Hythe Kent

Proposal: Demolition of existing building (former residential home) and erection of 9 new apartments with associated car parking and amenity areas.

Officer Recommendation: **Committee Decision:** **Delegated Decision:** Refused

Outcome: Appeal Dismissed **Date of Decision:** 13th March 2018 **Costs Awarded:**

Application No:	Y17/1038/SH
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Site Location: 4 Octavian Drive Lympne Hythe Kent

Proposal: Erection of a single storey detached summerhouse in rear garden

Officer Recommendation: - **Committee Decision:** - **Delegated Decision:** Refused

Outcome: Appeal Dismissed **Date of Decision:** 15th March 2018 **Costs Awarded:**

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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**SHEPWAY DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 24 April 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:

Application No:	Type of Lobbying

SIGNED:

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

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