



Agenda

Meeting: **Planning and Licensing Committee**
Date: **17 December 2019**
Time: **7.00 pm**
Place: **Council Chamber - Civic Centre, Folkestone**

To: **All members of the Planning and Licensing Committee**

The committee will consider the matters, listed below, at the date, time and place shown above. The meeting will be open to the press and public.

Members of the committee, who wish to have information on any matter arising on the agenda, which is not fully covered in these papers, are requested to give notice, prior to the meeting, to the Chairman or appropriate officer.

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

Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 3 - 4)**

Members of the committee should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);

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c) voluntary announcements of other interests.

3. **Minutes (Pages 5 - 8)**

To consider and approve, as a correct record, the minutes of the meeting held on 26 November 2019.

4. **Minutes of the Licensing Sub-Committee (Pages 9 - 12)**

To approve the minutes of the Licensing Sub Committee meetings held on 25 November and 9 December 2019.

5. **Y12/0980/SH - Royal Victoria Hospital, Radnor Park Avenue, Folkestone CT19 5BN (Pages 13 - 44)**

Hybrid application comprising a full planning application for the change of use, conversion and part demolition of the main former Royal Victoria Hospital building to provide 18 residential units and associated parking, together with an outline application for the redevelopment of the remaining parts of the site, including demolition of outbuildings to provide up to 26 houses and associated car parking with all matters reserved for future consideration.

6. **Y18/1073/FH - Land 85 Metres South Grace Cottage, Hoad Road, Swingfield (Pages 45 - 64)**

Change of use of land for the stationing of two caravans for gypsies.

7. **Y19/0979/FH - 5 Radnor Park Crescent Folkestone Kent CT19 5AS (Pages 65 - 84)**

Change of use from 6-person HMO (House in Multiple Occupation) (Use Class C4) to 7-person HMO (Sui-Generis).

a) **Supplementary Information**

Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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Minutes

Planning and Licensing Committee

Held at: Council Chamber - Civic Centre, Folkestone

Date: Tuesday, 26 November 2019

Present: Councillors Danny Brook, John Collier, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Jim Martin, Philip Martin (Vice-Chair), Connor McConville, Jackie Meade, Ian Meyers, Georgina Treloar and David Wimble

Apologies for Absence

Officers Present: David Campbell (Development Management Team Leader), Kate Clark (Committee Services Officer), Louise Daniels (Senior Planning Officer), Sue Lewis (Committee Services Officer) and Lisette Patching (Development and Enforcement Manager)

Others Present:

36. Declarations of Interest

Councillors Meade and Jim Martin declared a voluntary interest as they are both members of the Planning and Works Committee at Folkestone Town Council in relation to Y19/0490/FH Manor Court. They remained in the meeting for discussions and voting on this item.

Mrs Lisette Patching, Development and Enforcement Manager, made a voluntary announcement as Karen Banks, speaking to Y19/0313/FH, is a close personal friend. Mrs Patching left the meeting during discussions and voting on this item.

37. Minutes

The minutes of the meeting held on 29 October 2019 were submitted, approved and signed by the Chairman.

38. **Y19/0409/FH - Redlynch House, 19 Hillcrest Road, Hythe**

Section 73 application to vary condition 2 of application Y18/0215/SH to enlarge the lower ground floor and enlarge the first floor, increase of balcony sizes, alterations to and additional windows, enlargement of front entrance, roof design altered to pitched roof with a concealed flat roof, dormer height increased, 1 additional parking space provided and other external alterations.

Mrs Sophie Pettifer, local resident, spoke against the application.
Mr Leo Griggs, agent, spoke on the application.

Proposed by Councillor David Wimble
Seconded by Councillor John Collier and

Resolved:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

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

39. **Y19/0490/FH - Manor Court, 38 Manor Road, Folkestone, Kent, CT20 2SE**

Erection of a four storey and roof terrace mixed use development comprising 7 self-contained apartments and flexible A1/A2/A3/A4/B1/D1 commercial space.

Mr David Campbell, Development Management Team Leader, presented this report and advised members this is a five storey building as shown in the plans but that the description incorrectly stated four storeys. He requested that if Members are minded that planning permission should be granted, delegated authority be given to the Chief Planning Officer to grant planning following a two week consultation on the corrected description provided no substantial new issues are raised that have not already been considered. He also advised members of emails received from Richard Wallace, on behalf of Folkestone Town Council and James Dodwell declaring their objections to this development.

Mr James Dodwell, local resident, spoke against the application.
Mr Richard Wallace, Folkestone Town Council, spoke on the application
Mr Arthur Wood, agent, spoke on the application.

Proposed by Councillor John Collier
Seconded by Councillor David Wimble and

Resolved:

That delegated authority be given to the Chief Planning Officer to grant planning permission following a two week reconsultation on the corrected description, provided no substantial new issues are raised that have not been considered by the Planning and Licensing Committee; that the planning permission be subject to the conditions at the end of the officers' report; and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

(Voting: For 7; Against 4; Abstentions 0)

40. Y19/0313/FH - Shepherds Meadow Woodland Road Lyminge Folkestone Kent CT18 8DW

Erection of a replacement dwelling following demolition of existing dwelling.

Karen Banks, agent, spoke on the application.

Proposed by Councillor Mrs Jenny Hollingsbee
Seconded by Councillor Philip Martin and

Resolved:

That planning permission be approved subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

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

41. Appeals Monitoring - 2nd Quarter 1.7.2019 - 30.9.2019

Members noted the Appeals Monitoring – 2nd Quarter 1 July to 30 September 2019.

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Minutes

Licensing Sub-Committee

Held at:	Council Chamber - Civic Centre Folkestone
Date	Monday, 25 November 2019
Present	Councillors Gary Fuller, Philip Martin and Ian Meyers
Officers Present:	Nicola Everden (Solicitor), Tim Hixon (Legal Specialist), Jack Pearce (Legal Trainee), Andrew Rush (Corporate Contracts Manager), Jemma West (Senior Committee Services Officer) and Briony Williamson (Senior Licensing Officer)
Others Present:	Mr Hamilton Boyd (Applicant) Mr O'Connor (interested party).

7. **Election of Chairman for the meeting**

Proposed by Councillor Meyers,
Seconded by Councillor Fuller; and

RESOLVED:

That Councillor P Martin be elected Chairman for the meeting.

(Voting figures: 3 for, 0 against, 0 abstentions).

8. **Declarations of interest**

There were no declarations of interest at the meeting.

9. **Declarations of lobbying**

There were no declarations of lobbying. Lobbying forms were signed and returned to Committee Services.

10. **Hearing for an application for a new Premises Licence: Folklore, 69 The Old High Street, Folkestone, CT20 1RN**

Report DCL/19/20 outlined the application made by the People's Café, Folkestone Ltd, for a new Premises Licence in the Old High Street in Folkestone. Two representations had been received and therefore the Licensing Sub-Committee needed to determine the outcome for the application.

The Chairman introduced those present and explained the process to be followed at the meeting.

Mrs Briony Williamson, Senior Licensing Officer, presented the Committee with an overview of the report. She advised that representations had been made by the District Council's Planning Department and a member of the public. She outlined the representation which had been submitted by the Planning department, which was included within the agenda pack.

Mr Hamilton Boyd, the applicant, was invited to speak. He made points including the following:

- The venue would be a free events space for the local community.
- It was a new business and he had been through a rigorous application process both with the landlord, and in terms of the EU generation grant application.
- The focus of the premises would be a relaxed, happy atmosphere high end cocktail bar. There would be no drinks deals or happy hour, no dancefloor, and no beer would be served.
- A resident's loyalty scheme would also be implemented, to attract local residents.
- Mr Hamilton Boyd had 22 years of experience in the licenced trade, 11 of which were as a personal license holder with experience of venues that had a capacity of 1,000 people.
- He was confident in his ability to meet the licensing objectives.
- There were three licensed premises in the vicinity of the Bail steps which could be contributing towards incidents of anti-social behaviour.
- Local taxi numbers would be on display in the premises, and customers would be allowed to wait inside the premises while waiting for their taxi to arrive.

The Chairman then invited Mr O'Connor, an interested party, to outline his representation. He made points including the following:

- His representation also reflected the views of neighbours and the residents association.
- To add to the existing premises would exacerbate the existing issues.
- In the period May 2018 to May 2019, there were 491 incidents of anti-social behaviour offences in the area. Although reported crime was now down, violent crime had increased and anti-social behaviour had not decreased at all.
- He was not objecting to the existence of the premises, but the late night hours were the biggest concern.
- The applicant had an opportunity to show an understanding of the market and the community, and he had failed in the latter.
- The stairway to another nearby venue regularly had to be hosed down, and other local shop keepers had experienced damage to their premises.

The Sub-Committee Members then asked questions of the applicant and interested party.

The interested party responded, and advised that there was evidence that the commercial aspect of drugs could find an audience in the area. There was also increased police activity, and evidence of exploitation of young people. There was evidence of drugs paraphernalia within a ten minute walk of the premises.

The applicant responded to questions of the Sub-Committee and made points including the following:

- An automatic closer would be fitted on the front door of the premises. None of the windows would be opened. There was an air circulation system within the premises. There was an outside seating area, with space for around 6-8 people. In the summer months it was hoped that the door to the outside seating area could be kept open, but if there was noise leakage, this would not be an option.
- Under 18's would not be allowed on the premises after 8pm, and the staff would check ID of those who look under 25. Blinds were installed on the windows so no films could be viewed from outside.
- A log would be kept of anyone who was asked to leave the premises.
- Thursdays would be performance nights, for comedy or open mic. Thursdays did tend to be quieter and more subdued so it was felt there was no need for a security guard.
- Sundays would be more background music rather than full blown live music. Any live music would likely be more daytime orientated.

At the Chairman's request, all present confirmed they were satisfied with the conduct of the hearing.

The Sub-Committee then adjourned to make a decision, in private. The legal officer and committee services officer accompanied them.

The Sub-Committee returned to the Chamber and the Legal Officer read out the decision of the Sub-Committee and were mindful of all four licensing objectives being met, namely:

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

RESOLVED:

- 1. That report DCL/19/20 be received and noted.**
- 2. That the application be granted, but with reduced hours, as shown below:**

Films - Monday and Tuesday 17:00 – 23:00 and Sunday 17:00 – 22:00

Live Music – Thursday 18:00 – 22:00 and Sunday 13:00 – 22:00

Recorded Music - Monday, Tuesday and Wednesday 08:00 – 23:00,

Thursday 08:00 – 23:30, Friday and Saturday 08:00 – 00:00 and Sunday 08:00 – 22:00

Supply of Alcohol On and Off Sales - Monday, Tuesday and Wednesday 12:00 – 23:00, Thursday 12:00 – 23:00, Friday and Saturday 12:00 – 23:30 and Sunday 12:00 – 22:00

Opening Hours – Monday, Tuesday and Wednesday 08:00 – 23:30, Thursday 08:00 – 23:30, Friday and Saturday 08:00 – 00:00 and Sunday 09:00 – 22:30.

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Application No: Y12/0980/SH

Location of Site: Royal Victoria Hospital, Radnor Park Avenue, Folkestone
CT19 5BN

Development: Hybrid application comprising a full planning application for the change of use, conversion and part demolition of the main former Royal Victoria Hospital building to provide 18 residential units and associated parking, together with an outline application for the redevelopment of the remaining parts of the site, including demolition of outbuildings to provide up to 26 houses and associated car parking with all matters reserved for future consideration.

Applicant: RVH Folkestone Ltd.

Agent: Mr. P. Carnell, Strutt and Parker

Officer Contact: Robert Allan robert.allan@folkestone-hythe.gov.uk

SUMMARY

The report considers a hybrid planning permission (part detailed, part outline with all matters reserved for future consideration) for the change of use, conversion and part demolition of the former Royal Victoria Hospital building that fronts onto Radnor Park, to provide 18 residential units together with associated off-street parking, alongside outline consent for up to 26 dwellings and associated car parking on the remaining part of the site, following demolition of the outbuildings, with all matters reserved for future consideration. The report finds that the principle of development at this location is sound and aligns with the emerging site allocation in the Places and Policies Local Plan, with issues pertaining to design and layout, residential amenity, ecology and biodiversity, contamination, drainage, archaeology and highway safety all considered to be acceptable. Further, and in light of the submitted Financial Viability Assessment, the findings of which have been independently verified, the off-site commuted sum in respect of affordable housing, with no contribution toward play and open space or KCC contributions, is considered reasonable and acceptable in this instance and it is recommended that planning permission is granted.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing £195,000 as a commuted sum toward off-site affordable housing and £5,000 toward the provision of a shelter at the Radnor Park bus stop and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

1. INTRODUCTION

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

2. SITE AND SURROUNDINGS

- 2.1. The application site is located to the north of Radnor Park Avenue, from which it is also accessed from, and includes buildings and land that were formerly the original Royal Victoria Hospital. All the buildings within the site are vacant following the transfer of services to the Royal Victoria Community Hospital, located immediately to the west of the application site.
- 2.2. The site includes the main Victorian hospital building at the front of the site, which has been subject to significant extensions to the side and rear. Within the remainder of the site were an array of outbuildings, including a former hall, chapel and mortuary, although most have now been demolished (Y19/0424/FH - application for prior notification of the proposed demolition of former Royal Victoria Hospital outbuildings, together with the demolition of side and rear extensions to main Royal Victoria Hospital building under Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 11, Class B).
- 2.3. To the eastern, northern and western boundaries are trees and groups of trees covered by TPO No.10 of 2008. There are residential properties to the east of the site entrance fronting Radnor Park Avenue, to the east of the site fronting Radnor Park Road and within Radnor Park Gardens. The latter is a residential cul-de-sac that abuts the eastern boundary of the site. These properties are predominantly three storey, semi-detached, Edwardian/Victorian dwellings of red brick construction, with pitched, tiled roofs and period detailing. The properties in Radnor Park Gardens are located at a significantly lower level than the application site.
- 2.4. To the south of the site is Radnor Park and to the west, beyond the Royal Victoria Community Hospital site, is the Radnor Park boating pond. To the north of the site is the Pent Stream, which is outside of the application site boundary.
- 2.5. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 The application is a hybrid planning application comprising a full planning application for the change of use, conversion and part demolition of the main former Royal Victoria Hospital building to provide 18 residential units (15 two-bed and 3 one-bed) and 18 associated car-parking spaces, together with an outline application for the redevelopment of the remaining parts of the site, following the demolition of the outbuildings, to provide up to 26 houses and associated car parking, with all matters (appearance, landscaping, layout, scale, access) reserved for future consideration.
- 3.2 For the detailed full element of the application, it is intended to retain the original Royal Victoria Hospital building, but remove the later additions, with internal re-organisation to provide the proposed level of residential accommodation, alongside the installation

of a lift to all floors. To the front of the building, 18 car parking spaces would be provided to serve the units. To the rear, a communal landscaped area is proposed, together with a combined bin and bike store. Vehicular access would be from Radnor Park Avenue, utilising the existing entrance. Pedestrian access to the building would be via the existing access on the front elevation and a new access to the rear, which would provide level access.

- 3.3 The outline part of the application seeks permission for up to 26 units, with the areas to the east and north cleared of all structures and additions. This has taken place to some extent already, under demolition notice Y19/0424/FH through the Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 11, Class B. An indicative layout and dwelling mix for this part of the site has been provided, but these are indicative only and are not for consideration under this application.
- 3.4 The following reports were submitted by the applicant in support of the proposals:

Design and Access Statement

The Design and Access Statement, as updated, sets out the principles behind the proposal and describes the existing site and its context, public consultation that took place on the scheme when submitted, and gives detail on the use, amount, layout, scale, landscaping, appearance and access of the detailed development, as well as including indicative layout, scale and access for the outline aspect of the scheme. An Addendum to the Design and Access Statement has also been submitted that clarifies several points on access, pre-application advice received, public consultation and the indicative information provided.

Planning Statement and Addendum

- 3.5 The Planning Statement describes the site, the application proposal, the pre-application discussions that were held, sets out the policy context for the proposal at local and national level, as well as the applicant's analysis of the proposal within this policy context. Again, there is a more recent Addendum to this document, updating the relevant policies to take account of changes to both local and national policy since 2012.

Desk Study and Ground Investigation Report

- 3.6 This report was carried out to assess the ground conditions at the site to provide initial geotechnical design recommendations and to carry out a risk assessment of potential chemical contaminants to establish the suitability of the site for the proposed use. The report contains the findings from a desk study (covering current and former land uses, geology hydrogeology, hydrology and geo-environmental data) and intrusive ground investigation (including boreholes, gas and water monitoring, chemical testing and geotechnical testing), with the findings of these presented alongside the risk assessment and recommendations for the development.
- 3.7 The following conclusions and recommendations are made in respect of geo-technical matters:

- The site is not at risk from flooding;

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- In consideration of site preparation, earthworks and landscaping, there may be an increased incidence of bricks and general building rubble; no construction is recommended within 4 metres of the eastern site boundary; deep excavations should be shored up; excavations may need dewatering in the northern section of the site; sandstone may be encountered; unknown thicknesses of concrete may be found;
- The ground conditions dictate that a combination of shallow trenchfill foundations and piled foundations will be appropriate, with the need for piling dependent upon the height of the proposed development;
- Suspended floor slabs are recommended due to the plasticity of the soil;
- Soakaways are technically possible in the main portion of the site but their use should be assessed upon production of final designs. Due to high groundwater levels, they are not recommended for the north of the site;
- Recommendations for any buried concrete are made based upon the environment found at the site;
- Slope stability works are recommended should development be proposed in close proximity to the slope on the northern boundary or the retaining wall on the eastern boundary.

3.8 The following conclusions and recommendations are made in respect of geo-environmental matters:

- In respect of human health, no pervasive contamination is present on site, although additional works are identified for two areas. Provision should be made for a 600mm cover system;
- For controlled waters, higher levels of some substances were found, recommending further discussion with the Environment Agency;
- There are no chemical concerns with regard to plant life;
- For water pipelines, where concentrations of substances within the soil exceed trigger values set out within guidelines, special consideration of material selection or pipeline construction will be required;
- In respect of ground gases, no radon protection is required and no special precautions are required in respect of landfill gases;
- For waste management, site-specific advice should be sought from the Environment Agency;
- A preferred remedial strategy will be required for the site incorporating additional works around identified areas, with risk control measures to remediate the site based around removal of the identified hotspot with imported clean cover to 600mm;
- Additional work is recommended in the vicinity of identified risk areas following demolition.

Surface Water Drainage Strategy

3.9 This report was commissioned to organise a CCTV survey and sewer tracing exercise on the existing underground site drainage in order to report on the possibility of utilising existing drainage where possible, as well as make initial proposals for the new underground drainage arrangement.

3.10 For foul drainage, there is an existing connection to a Southern Water combined sewer in Radnor Park Avenue which, subject to confirmation of discharge rates being no greater than before, would be adequate to serve the conversion of the retained

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former hospital building (the detailed element of the scheme) and could be connected by gravity. For the remainder of the site (the outline element) a sewer exits the northern part of the site and connects to an existing Southern Water network sewer running east to west along Parkfield Road. Again, Southern Water would need to be consulted, but the assessment is that there would be an overall reduction in foul water drainage to the system and capacity is not expected to be an issue.

- 3.11 The report identifies a public sewer from the rear of No. 8 Radnor Park Avenue, which may need either a build-over application or diversion, in consultation with Southern Water.
- 3.12 For surface water drainage across the outline element of the site, the report agrees with the finding of the Desk Study and Ground Investigation Report and finds that roofs should be drained to soakaways serving one or two individual properties, with water from permeable hardstanding area soaking away in the upper strata and utilising storage available within the porous sub-base and capping material, or if non-permeable, having gullies connecting to soakaways beneath these areas, or collecting via swales and soakaways. To reduce the risk of contaminants and silt entering soakaways, all water would pass through maintainable catch pits. Soakaways would provide sufficient storage for 1 in 100 year plus 40% storm event, allowing for climate change, and that they would half empty within 24hrs of the critical storm.
- 3.13 For the detailed element covering the conversion of the former hospital building, the existing arrangement with surface water from roofs and hardstanding draining to the foul water system (a combined system) is proposed to, where possible/practical, retain and dispose of as much surface water on-site via SUDS (Sustainable Urban Drainage System) features.

Preliminary Ecological Appraisal

- 3.14 The report was based upon a desk study of the site and an extended phase 1 habitat survey, finding that the site is within 2km of the Folkestone to Etchinghill Escarpment (SAC and SSSI), Folkestone Warren (SSSI), three local nature reserves and one local wildlife site. Four priority habitat types occur within 1.6km of the site, 54 protected species/priority species records and 13 species of conservation concern were located within 1km of the development site. See Figure 1.
- 3.15 The site itself was found to contain a mosaic of scattered scrub, scattered broadleaf trees and tall ruderal vegetation; dense scrub; mosaic of scattered scrub and poor semi-improved grassland; mosaic of scattered scrub and tall ruderal vegetation; mosaic of tall ruderal vegetation and hardstanding; amenity grassland; introduced shrub; fence; buildings; bare ground; and hard standing as shown in Figure 2.
- 3.16 The site was found to contain suitable habitat for protected species including breeding birds and bats. The recommendations made include:
- Herras fencing and dust sheeting during construction to limit dust impact upon surrounding woodland;
 - Tree planting to be implemented in accordance with BS8545:2014 *Trees: from nursery to independence in the landscape – recommendations*;

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- Retention or re-creation of as much dense scrub, scattered scrub and tall ruderal vegetation, and scattered scrub and poor semi-improved grasslands habitats as possible;
- Site clearance outside of the breeding bird season or under ecological supervision;
- Pre-construction walkover by an ecologist to check legislation compliance;
- Clearance of scrubby habitats undertaken under an ecological watching brief between April to mid-October;
- All open trenches and holes either covered or altered to allow fallen animals to escape;
- Creation of dense hedgerows to allow for mammal movement;
- Preliminary Roost Assessments are undertaken of the buildings and trees on site prior to the start of any works, with the requirement for additional surveys assessed from this.

Phase 1 and Phase 2 Bat Surveys

- 3.17 This was a daytime bat survey conducted on 14th February 2019, updating two previous surveys in 2007 and 2012, which found serotine bat droppings in the roof voids of the main hospital building, the annex to the main building and Wakefield Hall, with no bats seen emerging from buildings, but a single common pipistrelle bat was seen returning to roost on the gable wall of the annex in a dawn survey (2007 survey). In the 2012 survey, pipistrelles were very active over the site, with a small number of serotine passes recorded.
- 3.18 For this most recent 2019 survey, no bats were seen and no fresh droppings recorded in the roof voids. It notes that there is a possibility of bats roosting in soffits or roofs of former roost buildings and recommends that a Phase 2 bat survey is conducted. If that survey confirms bat roosting, a Natural England Bat Mitigation Licence would be required prior to any building works, with detailed mitigation and compensation or enhancement measures agreed to ensure bats can roost on the site in the future. Provisional advice is for roosting features appropriate to serotines to be retained in the roof space of the main hospital building and for roosting provisions for crevice-dwelling bats, such as pipistrelles, to be incorporated into the walls of new buildings on the site.
- 3.19 The phase 2 bat survey was carried out on the evening of 18th April and just before dawn on 19th April 2019, with no bats seen emerging from buildings at dusk, but several species foraging around the site, concentrated around the north of the site where it borders the tree-lined stream. Some bat activity was recorded around dawn, but no bats were seen entering the buildings.
- 3.20 The conclusion drawn within the Phase 2 survey is that the results indicate that bats are not roosting on the site at the present time, although they are very active along the northern boundary and individuals may roost, opportunistically, on the site. A Natural England Bat Mitigation Licence should not be required unless bats move into a building prior to works. Consequently, a detailed method statement for bats should be agreed to allow demolition and building works to take place. The provisional advice included in the Phase 1 survey remains appropriate.

Transport Statement

- 3.21 The AECOM transport statement was submitted to update the URS statement submitted with the application in 2012. The report, based upon traffic data collected in November 2018, concludes that there will be no material impact upon the performance of any junction on the local highway network, noting that the traffic flow generated by the hospital would have been significantly higher before it was gradually downgraded.

Figure 1:

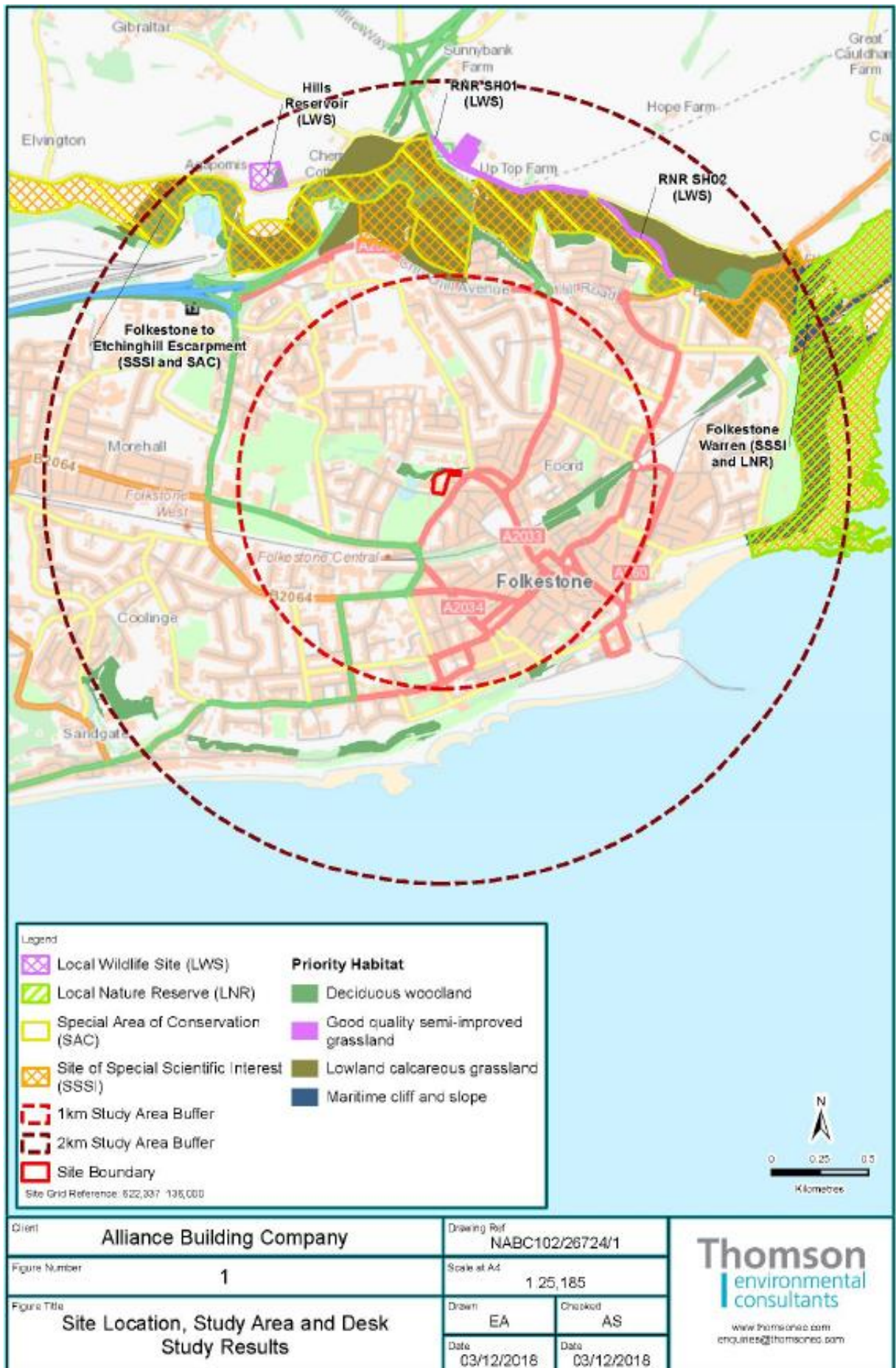
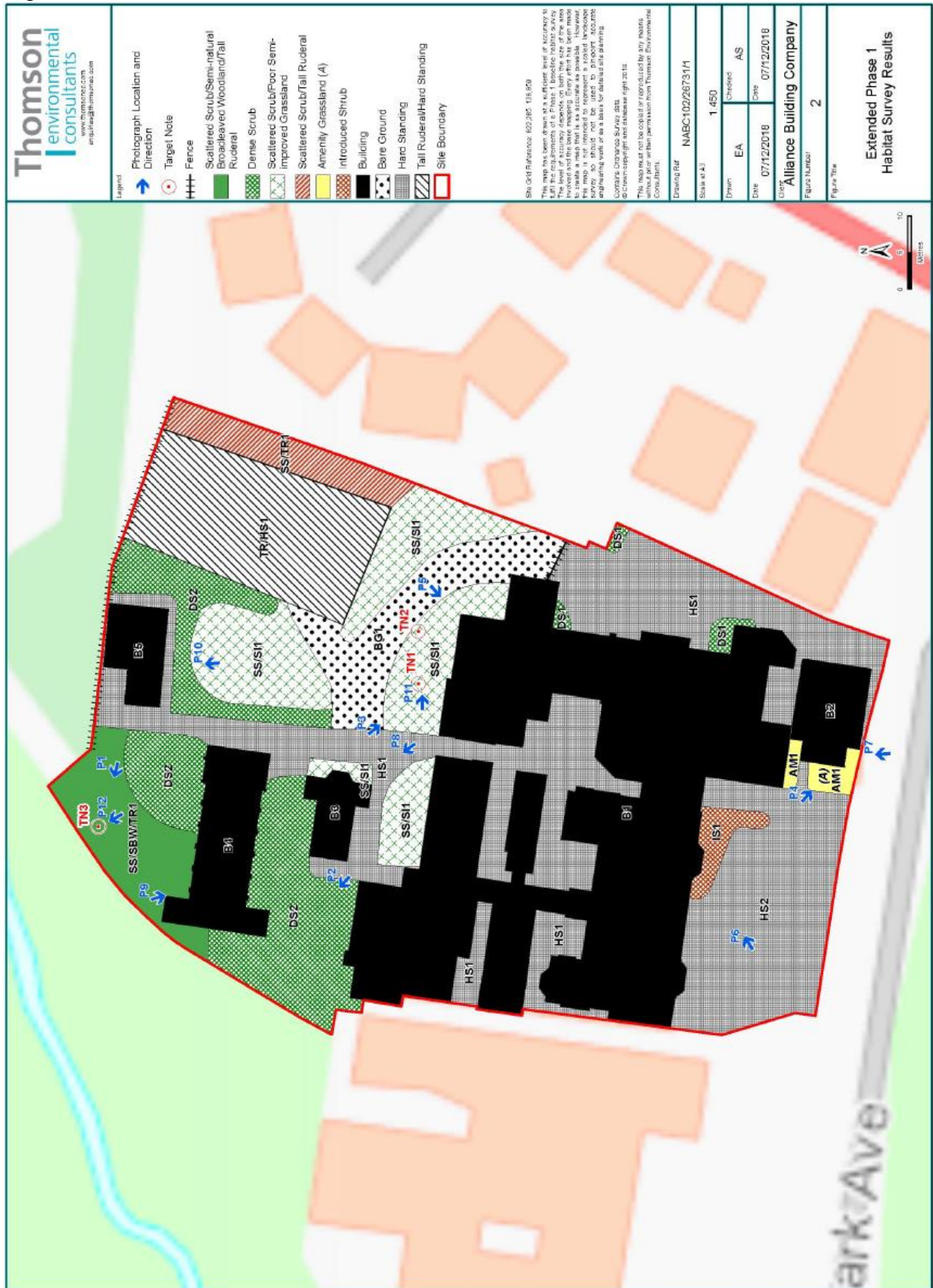


Figure 2:



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- 3.22 The collected data suggests that there is not a specific accident problem on the network surrounding the development site and that the small amount of additional traffic generated will not exacerbate any existing safety issue on the network.
- 3.23 In terms of sustainability, the site is well located to take advantage of public transport facilities, with frequent bus and mainline rail services operating within walking distance of the site. There are a safe network of footways providing access to bus and rail services and to other local facilities including schools and a range of amenities within the town centre. Controlled and uncontrolled crossing facilities provide pedestrians with safe and direct routes.

Tree Inspection Report

- 3.24 The tree inspection report, carried out in December 2018, inspected a total of 74 trees and groups, ranging from under 20 years to circa 140 years of age, with virtually all of the trees being deciduous and mainly Sycamore and Ash. The majority have self-seeded since the 1940's on areas of no/low maintenance with secondary development of follow on generations of the main species and others such as Thorn, Elm, and Elder in small numbers.
- 3.25 Tree health varies considerably, with two individual trees and a cluster of Elms recommended for felling and two trees for dead wooding on safety grounds. Most of the trees present are included in Tree Preservation Order No. 10 of 2008. The tree constraints plan provides guidance on the potential influence above and below ground elements of trees could have upon any redevelopment proposals and account should be taken of future growth potential and shading by trees.

Financial Viability Assessment

- 3.26 This assessment was prepared in May 2019 and identifies that, taking into account the build costs, gross development value (GDV), demolition costs CIL contributions and an accepted 17.5% developer profit, together with abnormal costs at the site for retention and repair of the existing former hospital building, the proposal cannot provide affordable housing on site when taking into account costs and projected values.

4. RELEVANT PLANNING HISTORY

- 4.1 There is no planning history on the site. Members will note the significant period of time that has elapsed since the submission of the application. This was due to multiple changes in land ownership, during which time the application lay dormant.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Support provision of 18 units in main building. Object to up to 26 units as part of the outline application on grounds of inadequate room and extensive overlooking.

KCC Highways and Transportation: Impact from traffic generation for the scheme as a whole is not considered likely to be problematic.

Detailed - cycle parking is adequate and the proposed 18 spaces and layout in front of the building is acceptable. This should allow for an extra 3 visitor parking spaces, however it is accepted that developing the whole site in two parcels and keeping this block separate for construction purposes makes that difficult to achieve. The layout is accepted in the knowledge that these will follow as part of the phase 2 build and only being 3 spaces, there is on street parking available a short walk away which would not cause an obstruction. The vehicular access where it joins Radnor Park Avenue, as an existing well used access, is acceptable. The sight lines are more than adequate taking account of the wide footway and parking restrictions on the north side of the road.

Outline - supporting documents state that cycle parking will be provided to standard, which will need to be demonstrated on plan at the detailed design stage to ensure it can be conditioned. The Transport Statement details the overall on-site parking allowance will be 1 space per dwelling and 11 visitor spaces across the site (the latter conforming to the 0.2 visitor spaces per dwelling requirement). In a suburban location, both IGN3 and parking guidance contained in Folkestone and Hythe District Council's (FHDC) Places and Policies Plan require 1.5 spaces per 3 bed unit across the site. As this is within the outline element of this proposal; it is not a sticking point at this stage, it will however need to be further explored by the developer when subsequent reserved matters submissions are made.

The indicative site plan shows a turning movement for a refuse vehicle at the end of the access road. This will need to cater for an 11.4m refuse vehicle; the vehicle used appears to be less than 10m in length. This detail will need further exploration at reserved matters detailed design stage as the indicative turning movement is already close to building lines and as such is likely to require localised redesign.

In 2012, Stagecoach requested the provision of a bus shelter be conditioned to be installed at the nearby Radnor Park bus stop for services heading out of town. This is still appropriate.

Conditions requested for:

1. Provision of construction vehicle loading/unloading and turning facilities
2. Parking facilities for site personnel and visitors
3. Wheel washing facilities
4. Provision and permanent retention of the vehicle parking spaces
5. Provision and permanent retention of the cycle parking facilities
6. Installation of a bus shelter at the Radnor Park bus stop

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Transportation Manager: Radnor Park is outside of the controlled parking zone (CPZ). There are no current plans to extend the CPZ to include this road. The provision of off-street car parking for this development will help with the demand for on-street parking.

Stagecoach: No comment received.

KCC Ecology: Sufficient information has been received to determine the application. For bats, consideration must be given to the lighting design, with a suggested condition should permission be granted. An informative relating to the timing of works and breeding birds is proposed, as well as a condition to secure the incorporation of ecological enhancements into the development.

KCC Flood and Water Management: Satisfied that the proposals for dealing with surface water, namely infiltration to ground, will not increase the risk of flooding. Suggested conditions for both the outline and detailed aspects of the scheme to address details of a sustainable surface water drainage scheme and verification of its installation and function.

Environment Agency: No objection subject to conditions to secure a strategy to deal with the potential risks associated with any contamination of the site, prevent infiltration of surface water drainage into the ground without written consent, no piling or other driven foundation designs to be used without express written consent, and submission of a comprehensive drainage strategy to ensure no increase in flood risk for the adjacent Pent Stream.

Southern Water: The position of public sewers should be determined by the applicant before the layout is finalised. No new development or new tree planting should be within 3 metres either side of the external edge of the public sewer and all existing infrastructure should be protected during the course of construction. No new soakaways should be located within 5 metres of a public sewer. Initial investigations indicate that Southern Water can provide foul sewage disposal top service the proposed development, but a formal application for connection to the public sewer must be made. Initial investigations indicate that there are no dedicated public surface water sewers in the area to serve the development so alternative means of draining surface water from the development are required.

Contamination Consultant: The requirements of part 1 of the Council's standard land contamination condition have been met. The site investigation is of a reasonable scope and standard given pre-demolition constraints. Additional investigation is proposed where contamination has been identified to allow robust risk assessment. IDOM recommend additional inspections are undertaken following demolition and lifting of building slabs, as these represent a significant area of the site that has not been investigated to date. In particular, further testing for asbestos fibres in soils is recommended.

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Environmental Protection Officer: No objections subject to the comments made by the Councils contaminated land consultants.

KCC Archaeology: No objection subject to conditions requiring a programme of archaeological works and a programme of building recording.

Arboriculture Manager: An updated tree protection plan is required, which can be secured via condition.

Housing Strategy Manager: Confirms that given the outcome of the viability assessment, the preferred approach is to approve the affordable housing financial contribution from the developer. This will enable the Council to secure the delivery of two affordable units on an alternative site in the district. For example, the contribution could assist the Council to deliver additional affordable homes through the new build and acquisition programme.

KCC Economic Development:

	Per applicable House (x26)	Per applicable flat (x15)	Total
Primary	£3324.00	£831.00	£98,889.00
Secondary	£4115.00	£1029.00	£122,425.00

'Applicable' excludes 1 bed units of less than 56 sqm GIA

	Per dwelling (x44)	Total
Community Learning	£21.08	£927.52
Youth Service	Currently no requirement	
Library Bookstock	£48.02	£2112.88
Social Care	£60.37	£2656.28
	1 Wheelchair Adaptable Home as part of the on-site affordable homes delivery	
Broadband:	INFORMATIVE: Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that gigabit capable fibre to	

	<p>the premise Broadband connections. Access to gigabit broadband is an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest gigabit connection. We understand that major telecommunication providers are now offering fibre to the premise broadband connections free of charge to the developer. For advice on how to proceed with providing broadband access please contact broadband@kent.gov.uk</p>
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These figures are to be index linked to the date of payment and are valid for 3 after which they may need to be recalculated

Local Residents Comments

5.2 61 neighbours directly consulted. 7 letters of objection, 0 letters of support received.

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

Objections

- The proximity and elevation of buildings at the north east corner of the site adjacent to Radnor Park Gardens
- Overlooking
- Loss of light
- Insufficient parking provision
- Will there be social housing and where will it be located?
- Measures are needed to mitigate impacts of demolition such as dust etc.
- Bat report was conducted at the wrong time of year
- Not clear if there will be further tree felling
- Insufficient detail on protection of root systems
- Overdevelopment of site
- Land instability
- Proposal for piling could lead to structural damage of properties and would impact detrimentally upon amenity from vibration
- Detrimental impact upon a range of wildlife
- Light pollution
- Increased noise and disturbance
- Pollution from car exhausts at a higher level than Radnor Park Gardens due to the difference in land levels
- There is a colony of bats

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

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

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013)
- 6.2 The new Places and Policies Local Plan Submission Draft (February 2018) has been the subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.
- 6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.
- 6.4 The relevant development plan policies are as follows:-

Shepway District Local Plan Review (2013)

SD1	Sustainable development
HO1	Housing land supply
LR9	Open space provision and protection
LR10	Provision of children's play space in developments
BE1	Standards expected for new development in terms of layout, design, materials etc.
BE16	Requirement for comprehensive landscaping schemes
BE17	Tree Preservation Orders and criteria for allowing protected trees to be removed
U2	Five dwellings or more or equivalent to be connected to mains drainage
U4	Protection of ground and surface water resources
U10	Waste recycling and storage within development
U10a	Requirements for development on contaminated land
TR5	Provision of facilities for cycling in new developments and contributions towards cycle routes
TR11	Accesses onto highway network
TR12	Vehicle parking standards
CO11	Protection of protected species and their habitat

Shepway Local Plan Core Strategy (2013)

DSD	Delivering sustainable development
SS1	District spatial strategy
SS3	Place-shaping and sustainable settlements strategy
CSD1	Balanced neighbourhoods for Shepway
CSD2	District residential needs

Places and Policies Local Plan Submission Draft (2019)

UA3	The Royal Victoria Hospital, Radnor Park Avenue, Folkestone
HB1	Quality places through design
HB2	Cohesive design
HB3	Internal and external space standards
HB4	Self-build and custom housebuilding development
C3	Provision of open space
C4	Children's play space
T2	Parking standards
T5	Cycle parking
NE2	Biodiversity
NE7	Contaminated land
CC2	Sustainable design and construction
CC3	Sustainable Drainage Systems (SuDS)
HE2	Archaeology

Core Strategy Review Submission draft (2019)

SS1	District spatial strategy
SS3	Place-shaping and sustainable settlements strategy
CSD1	Balanced neighbourhoods for Shepway
CSD2	District residential needs

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

Supplementary Planning Guidance/Documents

- Affordable Housing SPG

Government Advice

National Planning Policy Framework (NPPF) 2019

6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11	Presumption in favour of sustainable development
Paragraph 38	Approach decisions on proposed development in a positive and creative way
Paragraph 47	Applications for planning permission be determined in accordance with the development plan
Paragraph 59	Support the Government's objective to significantly boost the supply of homes
Paragraph 112	Planning decisions should support the expansion of electronic communications networks, including full fibre broadband connections
Paragraph 118	Give substantial weight to the value of using suitable brownfield land within settlements for homes

Paragraph 175 Mitigate impacts upon biodiversity and take opportunities to incorporate biodiversity improvements in and around developments

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive
Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'.*
- N3 - Support rich and varied biodiversity

7. APPRAISAL

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

- a) Principle of development
- b) Design and layout
- c) Residential amenity
- d) Ecology and biodiversity
- e) Protected trees
- f) Contamination
- g) Drainage
- h) Archaeology
- i) Highway safety
- j) Play and Open Space
- k) Affordable Housing
- l) Viability
- m) Other issues

a) Principle of Development and Sustainability

- 7.2 The NPPF (2019) is clear that local planning authorities should support the Government's objective to significantly boost the supply of homes (paragraph 59) and that housing applications should be considered in the context of the presumption in favour of sustainable development (paragraph 11). Likewise, Core Strategy policy SS1 of the Core Strategy seeks to direct development to existing settlements, and policy SS3 seeks to protect the open countryside and coastline in accordance with policy SS1.
- 7.3 The site is located within the settlement boundary of Folkestone, identified as a Sub-Regional Town capable of accommodating substantial residential, commercial and social development. The site is also allocated for residential development for approximately 42 dwellings within Policy UA3 of the emerging Places and Policies Local Plan (PPLP).
- 7.4 Eight representations were received relating to Policy UA3 and supporting text. These raised the following issues:
- There is a severe lack of medical facilities in Folkestone, including GP surgeries, and hospital facilities. The building should remain a medical centre;
 - There is one-way traffic flow and limited highway capacity on Radnor Park Avenue. Adequate parking should be provided on-site as any on-street parking restrictions would displace parking to neighbouring residential areas;
 - The policy should include details of walking and cycling links to routes to the north, Radnor Park to the west and south; and
 - There is a lack of respect for the history of the building.
- 7.5 With regard to the first objection, there seems to be some confusion as to the affected property, as the hospital use will remain. Consequently, this is considered to have little impact upon the weight afforded to the policy. The second and third points in the list relate to parking standards and aspects of good design that are addressed via other policy requirements on these topics, rather than solely within the site specific policy and are also, therefore, considered not to impact upon the weight afforded the policy. The final point would also be subject to a consideration of the proposed works upon the character of the unlisted building, also a topic addressed under other policies. Consequently, given the limited amount of specific objection to the aim of the policy and the progression of the local plan past EIP, it is considered that it can be afforded a significant amount of weight.
- 7.6 In terms of the criteria within the emerging policy UA3, the proposed development is assessed as follows:
1. *There is a comprehensive masterplan that ensures a coherent approach to both the conversion of the original Victorian building and the redevelopment of the rear aspect of the site;*
- In this respect, a full suite of drawings has been submitted, with what is considered to be an appropriate level of detail for the conversion aspect of the scheme and the requisite level of detail for the remainder of the site, given that it is an outline element with all matters reserved for future consideration.
2. *A high quality conversion preserves or enhances the character and setting of the Victorian elements of the original hospital building;*

It is proposed to remove later additions to the Victorian building in order to facilitate its conversion, together with internal re-organisation to accommodate the proposed 18 residential units. The acceptability of this aspect of the proposal will be assessed in the sections to follow.

3. *The design and scale of proposals to the rear aspect of the site are of a manner that would enhance the wider setting of the area;*

The rear of the site is part of the outline planning application site, for which all matters are reserved for future consideration. Therefore the design and scale can only be assessed at the stage of submission of those reserved matters and not as part of this application.

4. *Traffic flow and parking provision is assessed to ensure that the development does not put undue pressure on the local highway network and that adequate parking provision is provided so that there are no detrimental parking impacts on Radnor Park Avenue. If required, mitigation measures or parking permit restrictions should be applied to ensure the free flow of traffic;*

KCC Highways and Transportation and the FHDC Transportation Manager have been consulted, with their comments and the parking demand and highway issues associated with the proposal assessed within the relevant section below.

5. *Appropriate and proportionate contributions are made towards the upkeep and/or improvement of open space and existing play facilities at Radnor Park;*

With regard to this consideration and the financial contributions required to offset the impact of the proposed development are set out within the report. The applicant has submitted a Financial Viability Appraisal setting out why the proposal cannot meet all the financial obligations required by adopted policy, including open space and play space contributions.

6. *Mitigation and enhancement measures are incorporated into the design of the development to minimise effects on the local Biodiversity Action Plan Priority Habitat;*

As part of the application process, the submission has been accompanied by a preliminary ecological appraisal and phase 1 and 2 bat surveys, with comments sought from KCC Ecological Advice Service regarding the impacts upon biodiversity and the findings set out in the relevant section below.

7. *Any potential contamination from former use is investigated, assessed and if appropriate, mitigated as part of the development;*

This is a standard requirement for all schemes where previous uses may have left contamination on a site. Consequently, the applicant has submitted a desk study and ground investigation report, which has been reviewed by the Council's contaminated land consultant and the findings set out in the relevant section below.

8. *Access is maintained to the existing underground sewerage infrastructure for maintenance and up-sizing purposes; and*

As part of the planning application process, Southern Water have been consulted, their comments summarised in section 5 above and discussed in the relevant section below.

9. *The archaeological potential of the land is properly considered and appropriate archaeological mitigation measures are put in place.*

As the scheme is within an Area of Archaeological Potential (AAP) KCC Archaeology have been consulted, with their comments summarised above in section 5 and discussed in the relevant section below.

- 7.7 Overall, it is considered that the principle of residential development at this site is acceptable, subject to the detailed consideration of all other material considerations.

b) Design and Layout

- 7.8 The site is located within the defined settlement boundary in an urbanised area characterised by predominantly Victorian / Edwardian buildings. The detail of the residential conversion of the Royal Victoria Hospital building is considered as part of this application, whilst the detailed layout and design of the rear portion of the site will be dealt with at the Reserved Matters stage, should permission be granted. This will allow the opportunity for assessing the layout, scale, design and materials of the proposed houses and how this will impact and interact with the wider setting at that stage.

- 7.9 In consideration of the outline part of the application, this seeks up to 26 units on the rear portion of the site and it is considered that it would possible to design a layout and scale of development for this number of units that would incorporate suitable roadways, landscaping and green areas ensuring that the new buildings are assimilated sensitively into the existing local environment. The indicative plans submitted with this application demonstrate this can be acceptably achieved.

- 7.10 Turning to the detailed element of the site, the proposal would see the existing Victorian main building retained, subject to the removal of the later elements on the eastern and northern elevations, as shown on the submitted demolition plan. It is considered that this will allow a better appreciation of the original structure and its relationship to Radnor Park, as well as improve the street scene through the removal of unsympathetic and poorly-maintained elements that detract from the character of the building and wider street scene.

- 7.11 It is proposed to refurbish the building entirely, together with the replacement of existing window units and it is considered reasonable that the detail of these and any other replacement materials would be secured via condition, in order that they are more sympathetic to the building than the current casement-style UPVC units that are installed. Whilst the building is not listed or in a conservation area, it is an important and attractive building in the streetscene and it as such it is considered reasonable to secure details of the relevant elements of the building which would result in a significant visual improvement.

- 7.12 As is the current situation, car parking to serve the development would be to the front of the site on a hard-standing area, which it is proposed to retain. This would result

in a neutral visual impact upon the street scene, as the current situation would be preserved.

- 7.13 To the rear of the converted building, it is intended to provide a shared landscaped space, with a bin and cycle store to serve this part of the development. This space is not currently visible within the street scene and was occupied by outbuildings, but would become accessible and viewable within the wider development of the site. As such, this improvement to the site is considered a benefit through the provision of green space and would aid a better appreciation of the main former hospital building from within the site.
- 7.14 Consequently, it is considered that, subject to conditions requiring details of how the main structure would be 'made-good' following the demolition of the later elements, together with full details of the materials to be used in the refurbishment of the structure, including fenestration, and details associated with the landscaped area to be provided, that the proposal would accord with saved policies SD1 and BE1 of the Shepway District Local Plan Review and emerging policies HB1 and UA3 of the Places and Policies Local Plan.

c) Residential Amenity

- 7.15 For the conversion of the Royal Victoria Hospital building, the flats proposed all meet the National Space Standards contained within Places and Policies Local Plan emerging policy HB3 for internal space standards, with the landscaped shared space to the rear considered appropriate to meet the requirements for a communal garden for the exclusive use of the residents of a group of flats in place of individual balconies or terraces.
- 7.16 There are no near residential uses to this part of the site, with the adjacent healthcare use unlikely to be affected by a residential use next door. It is noted that the windows in the eastern flank elevation of the current hospital building face toward the windows in the western elevation of the building to be converted, with a mix of bathroom, kitchen and bedroom windows facing west. For the bathroom windows, which are likely to be obscure glazed, and the kitchen windows, which are not considered as habitable rooms, this is considered to be acceptable. For the bedroom windows, the proximity to the existing adjacent use would be likely to require the use of blinds to prevent compromised privacy. However the remainder of the flats, including the living rooms, would afford an acceptable living environment for occupants, with most bedrooms predominantly utilised during evening hours when blinds or curtains may reasonably be expected to be used anyway and the neighbouring hospital use would have ceased. In combination with the access to the communal external space and also the adjacent Radnor Park area, it is considered that future occupants have an acceptable living environment and there would be no significant detriment to residential amenity for future residents.
- 7.17 For the outline element of the scheme, the impact upon the amenity of neighbouring residents as well as future occupants of this element of the scheme would only be able to be established following the consideration of reserved matters and cannot, therefore, be commented upon at this time. However, the quantum of development proposed (up to 26 units) could, theoretically, be supported within the identified site area, but the reserved matters application would be subject to detailed consideration in respect of layout, appearance, scale, access and landscaping, whilst taking into

account the amenities of surrounding uses, topographical variations, ecological constraints and all other material planning considerations.

- 7.18 Overall, it is considered that there would be no detrimental impact upon residential amenities in accordance with saved policy SD1 of the Shepway District Local Plan Review and emerging policy HB1 of the Places and Policies Local Plan.

d) Ecology and Biodiversity

- 7.19 Due to the nature of the site, which has vacant buildings, established vegetation and is near to a watercourse, it could provide a suitable habitat for protected species including breeding birds and bats. The submitted bat surveys and ecological appraisal have been assessed and found to be acceptable, with the KCC Ecologist agreeing with the conclusion that bats were not roosting within the buildings on-site, although there was activity within the wider site, which would mean that external lighting should be sensitively designed to negate impact, with details of this secured by a condition.
- 7.20 In relation to breeding birds, it is recommended that work to vegetation that may contain suitable nesting habitats is carried out outside of the bird breeding season, although if work is carried out within this time, mitigation in the form of an examination by an ecologist prior to works taking place is recommended. An informative reminding the developer of the requirements of the Wildlife and Countryside Act 1981 is proposed. A condition is not required in this instance, as the protection is afforded by separate legislation.
- 7.21 In accordance with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged within development proposals. Consequently, it is proposed that a condition is imposed, should permission be granted, that secures the enhancements contained within the ecological appraisal of the site, in order to ensure there is net biodiversity gain as a consequence of the development.
- 7.22 Overall, the proposal is considered to comply with the aims of saved policy CO11 of the Shepway District Local Plan Review, emerging policy NE2 of the Places and Policies Local Plan and paragraph 175 of the National Planning Policy Framework 2019.

e) Protected Trees

- 7.23 It is noted that some tree removal has taken place on site, with investigation by the Council's Arboriculture Manager confirming that the affected trees were not protected by the Tree Preservation Order No. 10 of 2008. During this inspection, it was also noted that some removal of protected trees has occurred along the eastern boundary, but it is not known when this took place, or who undertook the works. Inspection suggested that the works had been conducted some time ago and was not connected to recent activity.
- 7.24 As identified in section 2.3, the eastern, northern and western boundaries have trees and groups of trees covered by TPO No.10 of 2008. As they lie within the outline application part of the site, with details of the proposed layout reserved for future consideration, it is considered that the likely impact of the proposed development can

only be assessed once such details have been submitted for consideration by the Local Planning Authority, in conjunction with the submitted Tree Constraint Plan, which provides guidance on the potential influence above and below ground, elements of trees could have upon any redevelopment proposals as well as future growth potential and shading by trees. It is considered reasonable to impose a condition upon any outline planning permission seeking a tree protection plan prior to commencement of development. Consequently, the proposal is considered to comply with saved policy BE16 of the Shepway District Local Plan Review and emerging policy HB1 of the Places and Policies Local Plan.

f) Contamination

- 7.25 For contaminated land, the review of the proposal was undertaken by the Council's contaminated land consultant and the imposition of the standard contaminated land condition recommended. The comments of the Environment Agency with regard to the protection of controlled waters through preventing infiltration of surface water to ground are noted, but subsequent conversations have clarified that this could be acceptable subject to the submission of acceptable details of how this would be achieved. As regards the effect upon controlled waters, it is proposed that the use of piling for foundations is controlled by condition also, subject to the submission of a piling risk assessment that demonstrates no unacceptable risk to ground water. Overall the scheme is considered acceptable with regard to contamination issues in accordance with saved policy U4 of the Shepway District Local Plan Review and emerging policy NE7 of the Places and Policies Local Plan.

g) Drainage

- 7.26 In relation to drainage and flooding, the site is outside of any identified flood zones around the nearby Pent Stream and the Environment Agency, Southern Water and Kent County Council as Lead Local Flood Authority (LLFA) are satisfied that there is capacity within the existing system for foul drainage, and that proposals for dealing with surface water, namely infiltration to ground, will not increase the risk of flooding. Conditions are suggested for both the outline and detailed aspects of the scheme to address details of a sustainable surface water drainage scheme and verification of its installation and function, as well as to protect existing infrastructure. Overall the scheme is considered acceptable with regard to flooding and contamination issues in accordance with saved policy U4 of the Shepway District Local Plan Review and emerging policy CC3 of the Places and Policies Local Plan.

h) Archaeology

- 7.27 The application site is within an area of archaeological potential surrounding the Pent Stream and KCC Archaeology have raised no objection subject to conditions requiring an archaeological watching brief and a programme of historic building recording.

i) Highway Safety

- 7.28 For the proposal as a whole, the transport assessment accompanying the application has been assessed by KCC Highways & Transportation and the increased traffic movements associated with the proposal (24 in the AM peak and 21 in the PM peak)

are considered unlikely to have any negative impact upon the wider transport network, especially given that residents will take different routes in the area.

- 7.29 For the detailed aspect of the scheme, the access to the application site is an existing one, with suitable sightlines as to ensure highway safety. In relation to parking provision, it is noted that the 18 spaces identified to serve the conversion of the retained building would be acceptable, but that a further 3 spaces are required for visitor parking purposes. These are identified to be provided within the outline phase of the scheme, so could be required to follow at a later date. As on-street parking is available adjacent to the application site, the interim shortfall would not be so significant as to cause significant obstruction on the surrounding road network.
- 7.30 For the outline aspect of the proposed development, KCC Highways & Transportation have raised issues regarding the levels of cycle parking, numbers of vehicular parking spaces and turning areas for refuse vehicles, but acknowledge that these matters would be considered at the reserved matters stage in light of details that would need to be submitted to the Local Planning Authority for consideration at a later date, should planning permission be granted, so cannot be considered at this stage.
- 7.31 In respect of the provision of a bus shelter to be installed at the nearby Radnor Park bus stop, the views of Stagecoach have been sought and are awaited, but the need is considered to persist and the applicant has agreed to fund this via S.106 contribution.
- 7.32 Overall, it is considered that the proposal would not result in any detrimental highway amenity or safety issues in accordance with saved policies TR11 and TR12 of the Shepway District Local Plan Review and emerging policies T2 and T5 of the Places and Policies Local Plan.

j) Planning Obligations

- 7.33 Planning obligations are used to mitigate the impact of unacceptable development to make it acceptable in planning terms. Planning obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

Play and Open Space

- 7.33 Within Places and Policies Local Plan (PPLP) policy UA5, it is set out that:

5. Appropriate and proportionate contributions are made towards the upkeep and/or improvement of open space and existing play facilities at Radnor Park

This is reinforced by saved policy LR9 of the Shepway District Local Plan Review which requires that, in areas where open space deficiency exists that sites of 25 dwellings or more should provide open space on the site or a commuted sum payment on a scale related to the development; and saved policy LR10, which

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requires that developments containing 20 or more child bed spaces should provide children's play space or make a commuted sum payment towards off site provision.

7.34 PPLP policies C3 (open space) and C4 (play space) have similar requirements, but the threshold is lowered to 20 dwellings in respect of open space, whilst it is moved to 10 family dwellings for play space.

7.35 The figures were calculated for the emerging policies C3 and C4, given the advanced state of the emerging local plan, and were identified to be:

Detailed

C3	£22,582.20
C4	£13,032.50
Total	£35,614.70

Outline

C3	£32,500.80
C4	£22,656.50
Total	£55,157.30

Total contribution £90,772

Affordable Housing

7.36 Policy CSD1 of the Shepway Core Strategy requires that new housing developments of 15 or more units should provide 30% affordable dwellings on-site or through a financial contribution of broadly equivalent value off-site, subject to viability. In this case, 30% would equate to 14 affordable housing units.

Viability

7.37 In light of the above requests for play and open space, affordable housing, the KCC contributions toward education, libraries, community and social care, and the provision of a bus stop, alongside the statutory contribution of the Community Infrastructure Levy (CIL), the applicant has submitted a Financial Viability Assessment that, taking into account the costs associated with the development of the site (section 3.26 above), concludes that the provision of any more than one affordable rent and one shared ownership affordable housing unit on-site would mean that the development would not be viable to commence.

7.38 The Council commissioned consultants to undertake an independent review of the applicant's viability report to determine whether the conclusion reached was acceptable and in accordance with best practice. Following further negotiations the applicant has agreed to a contribution of £200,000, (£195,000 toward off-site affordable housing and £5,000 toward a bus stop). This sum is in accordance with the independent advice received by the Council's consultants and has been agreed on a profit of 17.5% on Gross Development Value.

7.39 The suggested triggers for the payment of the off-site contribution would be £100,000 on the commencement of the new build development and a further £95k on occupation of the 15th built property, or within 18 months of the initial payment, whichever is the sooner, with provision for a viability review if the outline part of the

development were not implemented within twelve months of the grant of permission, all of which would be secured via a s.106 planning obligation.

- 7.40 The Housing Strategy Manager has confirmed that this sum is acceptable, given the viability review conclusion reached by the consultants. It is considered that the application therefore complies with policy CSD1 by providing an appropriate off site affordable housing contribution, subject to viability.

k) Other Issues

- 7.41 Policy CSD5 of the Shepway Core Strategy and paragraph 112 of the NPPF seek the provision of high quality communications infrastructure, to sustain economic growth. Subject to the use of a planning condition to require the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community no objection is raised under policy CSD5 of the Shepway Core Strategy and paragraph 112 of the NPPF.
- 7.42 In terms of water sustainability, policy CSD5 of the Shepway Core Strategy in part requires that all developments should incorporate water efficiency measures. The policy states development for new dwellings should include specific design features and demonstrate a maximum level of usage should be 105 litres per person per day or less. This usage level figure is adjusted to 110 litres per person per day under the guidance of Building Regulations Approved Document G (which came into effect in October 2015). This can be controlled by planning condition.
- 7.43 Places and Policies Local Plan policy HB4 requires all sites within the Folkestone and Hythe Urban Area delivering more than 40 dwellings to supply no less than 5 per cent of dwelling plots for sale to self-build or custom housebuilders on the Council's register. It is considered that this can be secured via condition, with the units located within the outline element of the scheme.

l) Environmental Impact Assessment

- 7.44 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

l) Local Finance Considerations

- 7.45 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.46 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the

application area is charged at £55.58 per square metre for new residential floor space.

n) Human Rights

- 7.47 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.

o) Public Sector Equality Duty

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

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

p) Working with the applicant

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

8. CONCLUSION

- 8.1 The proposal is a hybrid planning application (part detailed, part outline with all matters reserved for future consideration) for a residential use on a brownfield site in a sustainable location, with the detailed aspect of the scheme (the conversion of the existing former hospital building) considered acceptable with regard to the principle of development, residential amenity, ecology and biodiversity, drainage, contamination, design / layout and parking concerns.
- 8.2 The outline element of the scheme is also considered acceptable with regard to the principle of development at this location, drainage, contamination, and ecology and biodiversity, with final consideration of matters relating to residential amenity, protected

trees, parking and archaeology able to be addressed via condition and upon receipt of the applications for approval of reserved matters.

- 8.3 For the scheme as a whole, due to viability issues, the applicant has claimed it is not possible to meet policy requirements for a full suite of contributions toward affordable housing, play and open space, and KCC contributions toward education, libraries, community and social care. In support of this stance, the applicant has submitted a Financial Viability Assessment, which has been independently assessed for the LPA and found to be acceptable, with a reduced contribution of £195,000 toward off-site affordable housing proposed, as well as £5,000 toward a shelter for the Radnor Park bus stop.
- 8.4 On balance, it is considered that while not meeting the full requirements for financial contributions set out within policy, the proposal complies with the overall aims of the Councils development plan and National policy and is considered acceptable subject to securing the recommended conditions.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and the applicant entering into a S106 legal agreement securing £195,000 as a commuted sum toward off-site affordable housing and £5,000 toward the provision of a shelter at the Radnor Park bus stop and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary:

Conditions:

1. 3 year permission for submission of Reserved Matters
2. Development to commence within 2 years of Reserved Matters approval
3. Standard Reserved Matters conditions (details of appearance, layout, scale and landscaping)
4. 3 year permission for detailed element
5. Approved plans
6. Reserved Matters to provide up to 26 dwellings
7. Samples of materials
8. Water efficiency
9. Installation of fibre optic broadband

Ecology

10. Lighting design strategy
11. Ecological enhancement plan
12. Bat method statement

Highways

13. Provision of construction vehicle loading/unloading and turning facilities
14. Parking facilities for site personnel and visitors
15. Wheel washing facilities
16. Provision and retention of vehicle parking spaces (detailed and outline)
17. Provision and retention of secure, covered cycle parking (detailed and outline)
18. Installation of a bus shelter at the Radnor Park bus stop
19. Completion of footways and carriageways between a dwelling and the adopted highway prior to occupation

Trees

20. Tree protection fencing
21. Retained trees

Contamination

22. Parts 2 to 5 of standard land contamination condition

Foul and Surface Water

23. Detailed sustainable surface water drainage scheme to be submitted
24. Verification Report of surface water system to be submitted
25. Details of foul water drainage

Landscaping

26. Planting plans
27. Implementation and Maintenance Schedule
28. Hard landscaping details

Other

29. Secure self-build units
30. Programme of archaeological work
31. Building recording

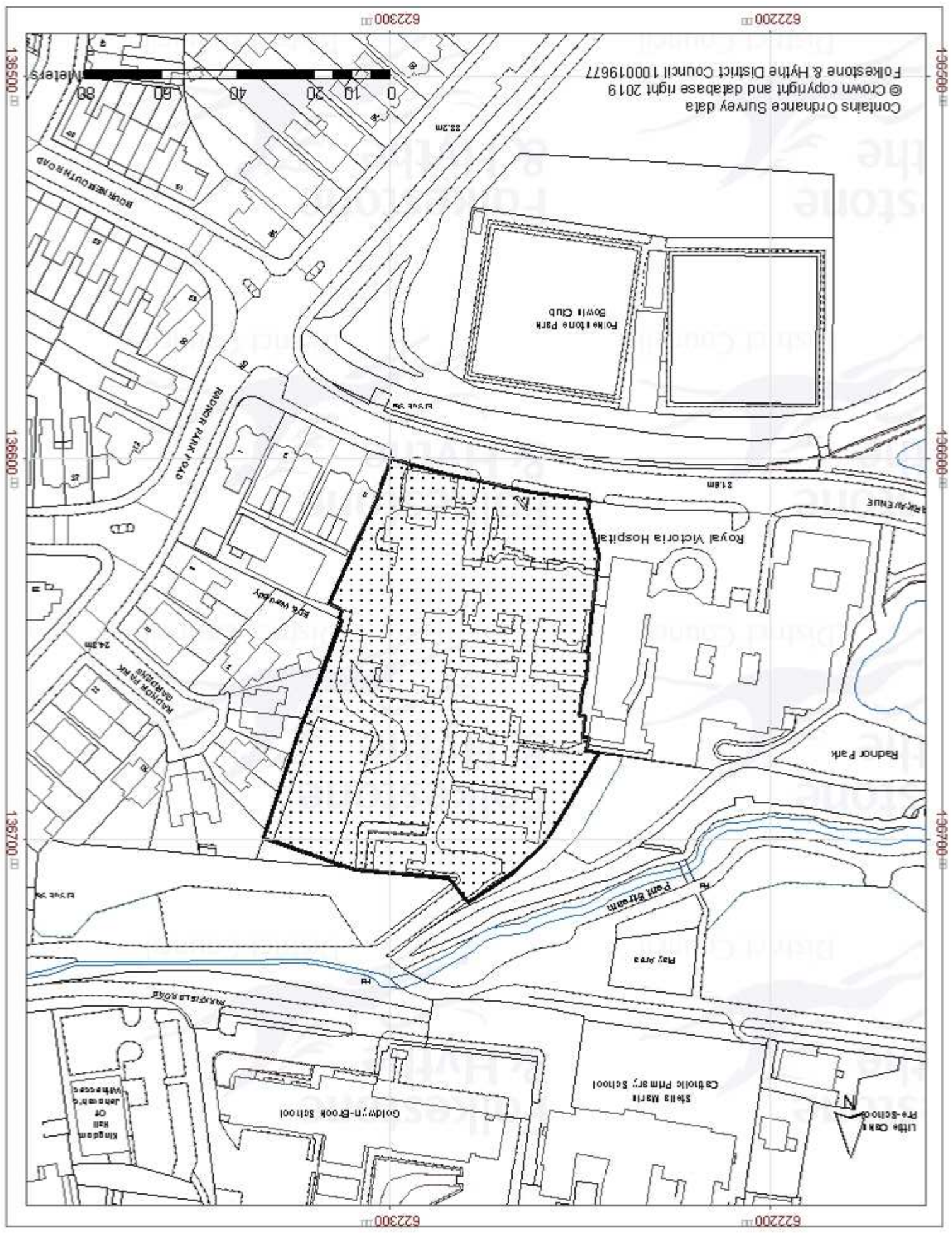
Informatives

Ecology – breeding birds

Southern Water

Street naming and numbering

S106



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Agenda Item 6

DCL/19/29

Application No: Y18/1073/FH

Location of Site: Land 85 Metres South Grace Cottage, Hoad Road, Swingfield

Development: Change of use of land for the stationing of two caravans for gypsies.

Applicant: Mr John Hadley

Agent: Whitstable & Herne Bay Gypsie Support,
Cartref,
Radfall Ride
Whitstable

Officer Contact: Louise Daniels

SUMMARY

This report considers whether planning permission should be granted for the change of use of the land and stationing of two caravans for gypsies. The report recommends that planning permission be refused due to the unsustainable location, the visual impact upon the countryside and AONB and also due to inadequate visibility splays.

RECOMMENDATION:

- a) That planning permission be refused for the reasons set out at the end of the report.
- b)i) That delegated authority be given to the Chief Planning Officer to serve an Enforcement Notice requiring the cessation of the residential use and the removal of the caravans, hardsurfacing, fencing including posts and gravel boards, portaloo, vehicles and all other equipment and paraphernalia on the site.
- ii) That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notice.
- iii) That the period of compliance with the Notice be (twelve) 12 months.
- iv) That the Assistant Director - Governance, Law & Regulatory Services be authorised to take such steps as are necessary, including legal proceedings, to secure compliance with the Notice.

1. INTRODUCTION

- 1.1. The application is reported to Committee because the application is recommended for refusal and as the change of use of the land has already taken place authorisation is sought to serve an enforcement notice to require the use of the land to cease.

2. SITE AND SURROUNDINGS

- 2.1. The application site is located on Hoad Road outside any defined settlement boundary, within the Kent Downs Area of Outstanding Natural Beauty (AONB) and locally designated Special Landscape Area (SLA). There are 5 trees on the site covered by Tree Preservation Order (TPO) No. 14 of 2019.
- 2.2. The site is a triangle shape with Hoad Road bordering the site to the east, and a private access road from Hoad Road to the houses to the north which include Grace Cottage and Hoad Cottages Nos.1-3.
- 2.3. Work has taken place on site, with a number of trees having been removed, hardstanding laid, two caravans placed on one half of the site and occupied by the applicant and his mother and close boarded fencing erected around one part of the site.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 The application seeks planning permission for the change of use of the land for the stationing of two caravans for gypsies. The supporting information says that the use of the site is for the applicant's family. The applicant and his mother moved onto the site in April 2018, therefore, the application is retrospective. Since then the site has been changed over time by the provision of hardstanding, the installation of fencing and the felling of trees. However the application as submitted does not include the fencing or the hardstanding, it is solely for the change of use of the land.
- 3.2 The following reports were submitted by the applicant in support of the proposals:
 - Land registry document showing site ownership transferred to the applicant on 25 April 2018.
 - 2 x character references.

4. RELEVANT PLANNING HISTORY

- 4.1 None relevant

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Swingfield Parish Council: Object on two grounds,

- 1) The site is within the AONB and not suitable for the proposed use
- 2) There are TPOs on site, tarmac and fencing is not suitable for the site

KCC Highways and Transportation: Object. Recommend application is refused as the visibility available over land within the applicant's and/or the highway authority's control is insufficient for the development proposed, to the

detriment of highway safety. Visibility splays of 2.4m x 215m are required in both directions. These have not been demonstrated, and in a south-westerly direction they will cross third party land. Hoad Road is a 'C' class classified road, and as such it is important to ensure the safety of all drivers navigating this stretch of road.

Local Residents Comments

5.2 10 neighbours directly consulted. 10 letters of objection received.

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

Objections:

- Environmental damage, unlawful felling of protected trees.
- The site has no waste facilities or waste collection, no running water or electricity.
- Illegal moving of soil, no soil testing causing contamination
- No regard for planning or abiding by the rules.
- Wild plants and flowers have been cleared.
- Some trees should be replaced and the site is not suitable for multiple caravans.
- The enforcement notice served was ignored and even more trees were removed.
- The gate extends into the road and is dangerous for oncoming traffic, especially at night as the road does not have street lights.
- This was always a natural passing place for cars, now it has tree off cuts making this dangerous.
- As the site has been cleared the caravans, fencing and hardstanding is much more visible than if the trees had been left.
- Bonfires are regularly lit which causes disturbance to neighbours.
- Generator is loud and causes disturbance to nearby residents.
- Unsustainable location, badly serviced and access is problematic
- If passed more caravans would use the site which would be out of keeping with the area within the countryside and AONB.

5.4 Responses are available in full on the planning file on the Council's website:
<https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6 RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013)

6.2 The new Places and Policies Local Plan Submission Draft (February 2018) has been the subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.

6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country

Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

6.4 The relevant development plan policies are as follows:-

Shepway District Local Plan Review (2013)

SD1 - Sustainable Development
CO5 - Protection of Local Landscape Areas
BE1 - Layout, design, materials of new development
TR5 - Cycling facility provision for new developments
TR11 - Access onto highway network
TR12 - Vehicle parking standards
HO1 - Housing land supply
U4 - Protection of ground and surface water resources

Shepway Local Plan Core Strategy (2013)

DSD - Delivering Sustainable Development
SS1 - District Spatial Strategy
SS2 - Housing and the Economy Growth Strategy
SS3 - Place-Shaping and Sustainable Settlements Strategy
SS5 - District Infrastructure Planning
CSD1 - Balanced Neighbourhoods for Shepway
CSD2 - District Residential Needs

Places and Policies Local Plan Submission Draft (2019)

RM15 - Land adjacent to 'The Retreat', Lydd Road, Old Romney
HB1 - Quality Places through Design
HB2 - Cohesive Design
HB14 – Accommodation for Gypsies and Travellers
T1 - Street Hierarchy and Site Layout
T2 - Parking Standards
T4 - Cycle Parking

Core Strategy Review Submission draft (2019)

SS1 - District Spatial Strategy
SS3 - Place-Shaping and Sustainable Settlements Strategy
CSD4 - Green Infrastructure

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

Government Advice

National Planning Policy Framework (NPPF) 2019 and Planning Policy for Traveller Sites (PPTS) (Re-issued)

6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework

(NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF.

- 6.7 The national policy position comprises the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). Both documents were released in 2012 but the PPTS was re-issued in August 2015 with amendments. Together they provide national guidance for Local Planning Authorities on plan making and determining planning applications for Gypsy and Traveller sites. A presumption in favour of sustainable development runs throughout both documents and this presumption is an important part of both the plan-making process and in determining planning applications. In addition there is a requirement in both documents that makes it clear that Councils should set pitch targets which address the likely need for pitches over the plan period and maintain a rolling five year supply of sites which are in suitable locations and available immediately.
- 6.8 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) generally support the provision of gypsy and traveller sites at appropriate locations within the countryside, recognising that it is not normally possible to provide such sites within the designated built up areas. They also aim to minimise harm to visual and residential amenity.
- 6.9 I consider that the following extracts from NPPF paragraph 8 are particularly pertinent:

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) **an economic objective** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) **a social objective** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) **an environmental objective** – *to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and*

- 6.10 In relation to rural housing the NPPF (at paragraph 78) states;

To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive,

especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

6.11 Paragraph 79 continues:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling; or*
 - e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.**

6.12 In relation to conserving and enhancing the natural environment the NPPF, at paragraph 170, states;

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Planning Policy for Traveller Sites (PPTS)

6.13 The PPTS was originally published in March 2012 but it was re-issued in August 2015 with minor changes. Its main aims are set out below:

“The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.” (para 3 PPTS)

To help achieve this, Government’s aims in respect of traveller sites are:

- a. *that local planning authorities should make their own assessment of need for the purposes of planning*
- b. *to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites*
- c. *to encourage local planning authorities to plan for sites over a reasonable timescale*
- d. *that plan-making and decision-taking should protect Green Belt from inappropriate development*
- e. *to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites*
- f. *that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective*
- g. *for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies*
- h. *to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply*
- i. *to reduce tensions between settled and traveller communities in plan-making and planning decisions*
- j. *to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure*
- k. *for local planning authorities to have due regard to the protection of local amenity and local environment.” (para 4 PPTS)*

6.14 In terms of plan making the PPTS advice is that;

“Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) *promote peaceful and integrated co-existence between the site and the local community*
- b) *promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) *ensure that children can attend school on a regular basis*
- d) *provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*

- e) *provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) *avoid placing undue pressure on local infrastructure and services*
- g) *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (para 13 PPTS)*

6.15 For sites in rural areas and the countryside the PPTS advice is that;
“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (para 14 PPTS)

6.16 In relation to the determination of planning applications the PPTS says that;

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.” (para 23 PPTS)

“Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) *the existing level of local provision and need for sites*
- b) *the availability (or lack) of alternative accommodation for the applicants*
- c) *other personal circumstances of the applicant*
- d) *that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites*
- e) *that they should determine applications for sites from any travellers and not just those with local connections”*

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (para 25 PPTS).

“If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary permission. The exception to this is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).” (para 27 PPTS).

6.17 Policy HB14 of the PPLP relates to accommodation for Gypsies and Travellers and states that:

“Planning permission will be granted for gypsy and traveller accommodation which will contribute to meeting the needs of those households conforming to the definition set out in 'Planning policy for traveller sites', subject to the following:

- 1. The development safeguards the health of occupiers and provides a satisfactory level of amenity for them, by reference to factors including but not limited to: the space available for each family; noise; odour; land contamination; other pollution or nuisance; flood risk; and the disposal of refuse and foul water;*
- 2. The site is in a sustainable location, well related to a settlement with a range of services and facilities and is, or can be made, safely accessible on foot, by cycle or public transport;*
- 3. Adequate vehicular access, sight lines and space for turning and manoeuvring can be provided;*
- 4. The development will not give rise to an unacceptable impact on amenity for residents in the vicinity of the development, or, in the case of nearby commercial users, result in the imposition of new constraints on the way in which such users can operate their businesses;*
- 5. If the proposal involves the development of land originally identified in this Local Plan for another purpose, the loss of such land is justified by the desirability of providing additional gypsy and traveller accommodation; and*
- 6. There is no adverse effect on the landscape, environmental or other essential qualities of countryside, including the Kent Downs Area of Outstanding Natural Beauty or Natura 2000 sites, Sites of Special Scientific Interest, national or local nature reserves or heritage assets.*

The exception to the above criteria relate to applications for the expansion of existing permitted gypsy and traveller sites, in which case only criteria 1 and 4 will apply. However, it must be demonstrated that those households still conform to the gypsy and traveller definition, and that expansion will result in additional gypsy and traveller pitches”.

7 APPRAISAL

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

- a) Local plan policy position
- b) Sustainability
- c) Visual impact

- d) Highway safety
- e) Residential amenity
- f) Drainage
- g) Human Rights / best interests of the child

a) Local plan policy position

- 7.2 The Gypsy and Traveller Accommodation Assessment (GTAA) was completed in June 2013 and identified a need for 5 x permanent residential pitches and 2-5 transient pitches in the district. An additional pitch was subsequently granted planning permission on an existing site in Brenzett, which has reduced the overall need to 4x permanent pitches.
- 7.3 During the examination of the Places and Policies Local Plan (PPLP), the Planning Inspector instructed the Council to put forward a Gypsy and Traveller site(s) to address the permanent residential pitch requirements as identified by the Gypsy and Traveller Accommodation Assessment (2018) for the period to 2036/37.
- 7.4 As a consequence, officers undertook a Gypsy and Traveller (G&T) Site Identification Study which concluded that land adjacent to 'The Retreat' Old Romney, was the only available and suitable site in the district. This was consulted on as the Council's preferred site under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012; between the 2nd September and 14th October 2019. A total of 47 representations were received on the proposed site allocation and the accompanying Sustainability Appraisal. Following the close of the consultation, the proposed site allocation, supporting evidence and representations were all submitted to the Planning Inspector for his attention. It has recently been confirmed that site will form part of the Planning Inspector's Main Modifications to the Places and Policies Local Plan. It is expected that the Main Modifications will be published for public consultation in early January 2020.
- 7.5 Any representations on the Main Modifications will be sent to the Planning Inspector for consideration before he issues his final report. On receipt of the Inspector's final report, the Council can then proceed to formally adopt the Places and Policies Local Plan. It is therefore considered that the identified permanent G&T residential pitch requirements for the district are met by the emerging PPLP Policy RM15 which has now gained significant weight in accordance with NPPF paragraph 48. Therefore, as the Council can now demonstrate a 5 year supply of deliverable sites, policy HB14 forms the basis for the assessment of this application, as to whether this site is an appropriate location for an additional permanent G&T residential pitch in accordance with policy HB14.

b) Sustainability

- 7.6 The Council's Settlement Hierarchy seeks to maintain the character and integrity of the countryside, and protect small rural places and the extent of settlements is defined through boundaries separating settlements from open countryside. Focusing development at these existing settlements underpins not only the protection of the district's open countryside, but also seeks the achievement of sustainable places.
- 7.7 The application site is outside any settlement boundary and Swingfield Minnis, (which this site is located just outside of) is not a rural centre or a primary or secondary village. Hoad Road is a rural road which joins with the A260 (Canterbury Road) which is the most direct route to Densole to the south (the closest settlement boundary at 0.64 miles away) and there are no pedestrian footpaths. Therefore, occupants of the application site would be solely reliant on their own private transport to access local amenities in Densole and the town of Hawkinge which is further south. There is a bus stop located on the A260 where services (every 20 minutes) travel north to Canterbury and South to Densole, Hawkinge and Folkestone but the bus stop it is a 6 minute walk away from the application site with no public footpaths. Therefore, it is considered that this site is in an unsustainable location for residential accommodation and as such would not be supported by local policy as there would likely be other sites in more sustainable locations which could support a permanent G&T residential pitch.
- 7.8 It is acknowledged that some gypsies and travellers may require a rural location for their pitches as land values within the built up area make such locations unattainable. However, it has not been demonstrated within the application submission why the permanent G&T residential pitch cannot be located within or on the edge of an existing settlement and why it is required to be located in this particular location in the open countryside. The proposal would therefore fail part 2 of HB14 which requires sites to be within "a sustainable location, well related to a settlement with a range of services and facilities and is, or can be made, safely accessible on foot, by cycle or public transport".

c) Visual impact

- 7.9 As accepted previously, it is acknowledged that some gypsies and travellers may require a rural location for their pitches as land values within the built up area make such locations unattainable, although not demonstrated as such within this application submission. However in these circumstance, Councils always try to direct such applicants to land which is less harmful visually, such as sites within or on the edge of settlements or well screened locations in less sensitive landscapes for sites in the open countryside. The application site by contrast is within the Kent Downs Area of Outstanding Natural Beauty and locally designated Special Landscape Area. The NPPF at paragraph 11 seeks to protect areas such as the AONB which are assets of particular importance.
- 7.10 The Kent Downs AONB Unit identifies the AONB as a designated exceptional landscape whose distinctive character and natural beauty are precious enough to be safeguarded in the national interest. On par with National Parks, they are protected and enhanced for nature, people, business and culture.

- 7.11 Policy NE3 of the PPLP states that development within the AONB should conserve and enhance the natural beauty and locally distinctive features of the AONB and its setting, proposals to reinforce and respond to, rather than detract from the distinctive character and special qualities including tranquillity of the AONB. The design, scale, setting and materials of new development must be appropriate to the AONB and must not undermine the integrity of the predominantly open and undeveloped, rural character of the AONB and its setting.
- 7.12 The locally designated Special Landscape Area (SLA) is protected for its natural beauty and proposals should enhance SLAs in accordance with policy CO4 of the Local Plan.
- 7.13 A large number of the trees which were previously on site have been removed and this change is evident from aerial photography from 2015 – 2019 (fig. 1 and 2). 1.8m high close boarded fencing has been erected surrounding the site and separating it into two. In addition, the site has been gravelled and 2 caravans placed on it in addition to a portable toilet. Prior to any works taken place the site comprised of an unmanaged small woodland where views through the site from Hoad Road to the fields to the rear were not previously possible. The formalisation of the site, particularly with close boarded fencing and hardstanding, has completely changed the character and visual appearance of the site. The site was previously densely covered by trees whereas now in comparison, the site is open and views into and out of the site are now possible, changing the character of the site completely. This change is considered to have resulted in the site becoming visually prominent and in doing so has resulted in a harmful impact upon the character and appearance of the countryside, AONB and SLA in a manner contrary to adopted local and national policies.
- 7.14 The development is therefore considered to be contrary to part 6 of HB14 which requires sites to have “*no adverse effect on the landscape, environmental or other essential qualities of countryside, including the Kent Downs Area of Outstanding Natural Beauty or Natura 2000 sites, Sites of Special Scientific Interest, national or local nature reserves or heritage assets*”. The development is also be contrary to policies NE3 of the PPLP and policy SS1 of the Core Strategy which seek for development to not materially impact upon or to undermine the integrity of the predominantly open and undeveloped, rural character of the AONB and its setting and policy CO4 which seeks to protect the natural beauty of locally designated SLAs.



(Figure 1) 2015 Council's Ariel photograph



(Figure 2) 2019 Ariel photography: Google Maps

- 7.15 Individual TPO protections have been placed on some of the remaining trees within the site with the intention of retaining the remaining trees.

d) Highway safety

- 7.16 Kent Highways and Transportation object to the application due to the lack of required visibility splays as the required visibility splays for this road cannot be achieved over land within the applicants and/or the highway authority's control. Hoad Road is a national speed limit road and as such, speed limits are for 60mph. Use of the access without adequate visibility splays is detrimental to highway safety. Kent Highways stated in their comments dated 26th June 2019 that visibility splays of 2.4m x 215m are required in both directions. These have not been demonstrated, and in a south-westerly direction they will cross third party land. Hoad Road is a 'C' class classified road, and as such it is important to ensure the safety of all drivers navigating this stretch of road.
- 7.17 Planning Officers have met with the Kent Highways Officer on site to assess the splays further and to discuss the application in detail.
- 7.18 No speed survey has been submitted to demonstrate that the actual speeds along Hoad Road are any less than the 60mph speed limit which the road allows. However, Kent Highways have taken a pragmatic approach and state that they would be happy to accept visibility splays of 2.4m x 103m, based on a speed survey that was carried out near to this application site on Hoad Road for a separate planning application, which demonstrated driven speeds of 37mph. However, even when taking account of these potentially reduced speeds, the sightlines required would cross 3rd party land to the south-west of the proposed location and as such, these required vision splays are unachievable and their provision cannot be safeguarded.
- 7.19 In addition there are a number of trees on the application site, fronting the highway, which are protected by the TPO which cannot therefore be cut down and which obstruct sight lines for both plots within the site.
- 7.20 Kent County Council therefore continues to recommend refusal of this application as the visibility available over land within the applicants and/or the highway authority's control is insufficient for the development proposed, to the

detriment of highway safety. The development is therefore contrary to policy TR11 of the Local Plan which requires that development involving the formation of a new access does not have a detrimental impact to the safety of vehicle traffic, cyclists and pedestrians

- 7.21 In addition, part 3 of HB14 for assessing new gypsy and traveller accommodation sites states that “Adequate vehicular access, sight lines and space for turning and manoeuvring can be provided”. The proposal would also therefore conflict with this element of the policy for gypsy and traveller accommodation.

e) Residential amenity

- 7.22 The site is located at the entrance to a private access road to properties to the north which include Grace Cottage and Hoad Cottages. Although a number of objections have been received, it is not considered that use of the site for residential accommodation would give rise to unacceptable impacts upon neighbouring amenity in terms of noise and disturbance, being overbearing, loss of light or loss of privacy, due to the low scale nature of the development together with the separation distance between, which is approximately 50m to Grace Cottage. As such, the application is not considered to be in conflict with policy SD1 of the Local Plan which seeks to safeguard and enhance the amenity of residents or policy HB1 of the PPLP which seeks for development to not have an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.

f) Drainage

- 7.23 The caravans are not proposed to be connected to any mains drainage with the application stating within the waste collection section of the application form that a portable toilet would be used on site. There are no details of how this waste will be disposed of, but if planning permission were to be granted this could be dealt with by a condition requiring the provision of a septic tank or other suitable method.

g) Human Rights / best interests of the child

- 7.24 It is noted that the applicant plans for his family, including children, to live on the site with him. It is recognised the substantial benefits are to be gained from the applicant's children having access to regular schooling that is afforded by a settled base. However it has not been demonstrated that such access can only be provided from this site, and that it cannot be provided from other sites elsewhere that are in a more sustainable location and with a less sensitive landscape. It is therefore considered that the wider public harm from this unsustainable development and to the AONB and SLA arising from occupation of this site outweighs these benefits.

Environmental Impact Assessment

- 7.25 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and it is considered to fall within Schedule 2 and although under the threshold for screening schedule 2 projects, it requires screening as the application site is within a sensitive area (AONB). A screening opinion has been carried out by the Council and has concluded that the development is not EIA development and as such an Environmental Statement was not required. Please see formal screening opinion on the planning file for further detail).

Local Finance Considerations

- 7.26 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

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

Public Sector Equality Duty

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

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

- 7.29 In considering this application regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010 in the absence of appropriate mitigation, there is considered to be a risk of negative impacts in relation to the following groups, Gypsy and Travellers. Nonetheless, the application has been considered in relation to overall

provision for Gypsy and Travellers within the district and therefore I am satisfied that the PSED will not be undermined as consideration has been given to this minority group.

Working with the applicant

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

8 CONCLUSION

- 8.1 It is considered that the application should be refused due to the inappropriate location for a new gypsy and traveller site given the unsustainable location and due to, the negative visual impact upon the Kent Downs AONB and locally designated SLA, and the lack of visibility splays being achievable and the risk to highway safety as a result. I therefore consider the scheme to be unacceptable and recommend that planning permission should be refused.
- 8.2 As development has already taken place on the site and given that the recommendation is to refuse planning permission, it is also recommended that an enforcement notice be served requiring the cessation of the residential use and the removal of the caravans, hardsurfacing fencing including posts and gravel boards, portaloo, vehicles and all other equipment and paraphernalia on the site. As this is a residential use it is recommended that the period of compliance with the notice be 12 months in order to enable the occupants sufficient time to find an alternative site and obtain the necessary planning permission..

9 BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

a) That planning permission be refused for the following reasons:

1. The application site is located outside of the defined settlement boundary, where the proposal would result in an unacceptable and unsustainable residential development in the countryside which would result in the erosion of the established rural character of the area. No special justification has been given as to why a rural location is essential and as such the proposal would be contrary to saved policies SD1 and CO1 Shepway District Local Plan Review and emerging policy HB14 of the Places and Policies Local Plan and paragraph 79 of the National Planning Policy Framework and paragraph 25 of the Planning Policy for Traveller Sites which requires local planning authorities to strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

2. The proposed development would change the character of the site and formalise the site which is located in the countryside and which is designated Kent Downs Area of Outstanding Natural Beauty and locally designated Special Landscape Area resulting in a detrimental impact to the character and setting of the rural area contrary to emerging policy NE3 of the Places and Policies Local Plan which seeks to conserve and enhance the natural beauty and locally distinctive features of the AONB and its setting and local plan policy CO4 which seeks to protect the natural beauty of Special Landscape Areas in addition to emerging policy HB14 of the Places and Policies Local Plan which seeks for new gypsy and traveller sites to not result in an adverse effect on the landscape, environmental or other essential qualities of countryside, including the Kent Downs Area of Outstanding Natural Beauty.
3. The development is unable to demonstrate the required visibility splays to ensure there would be no detriment to highway safety and as such the proposal would be contrary to saved Local Plan Review policy TR11, which seeks to ensure that proposals which involve the formation of a new access will only be permitted where the access is not detrimental to the safety of vehicles, cyclists or pedestrians.

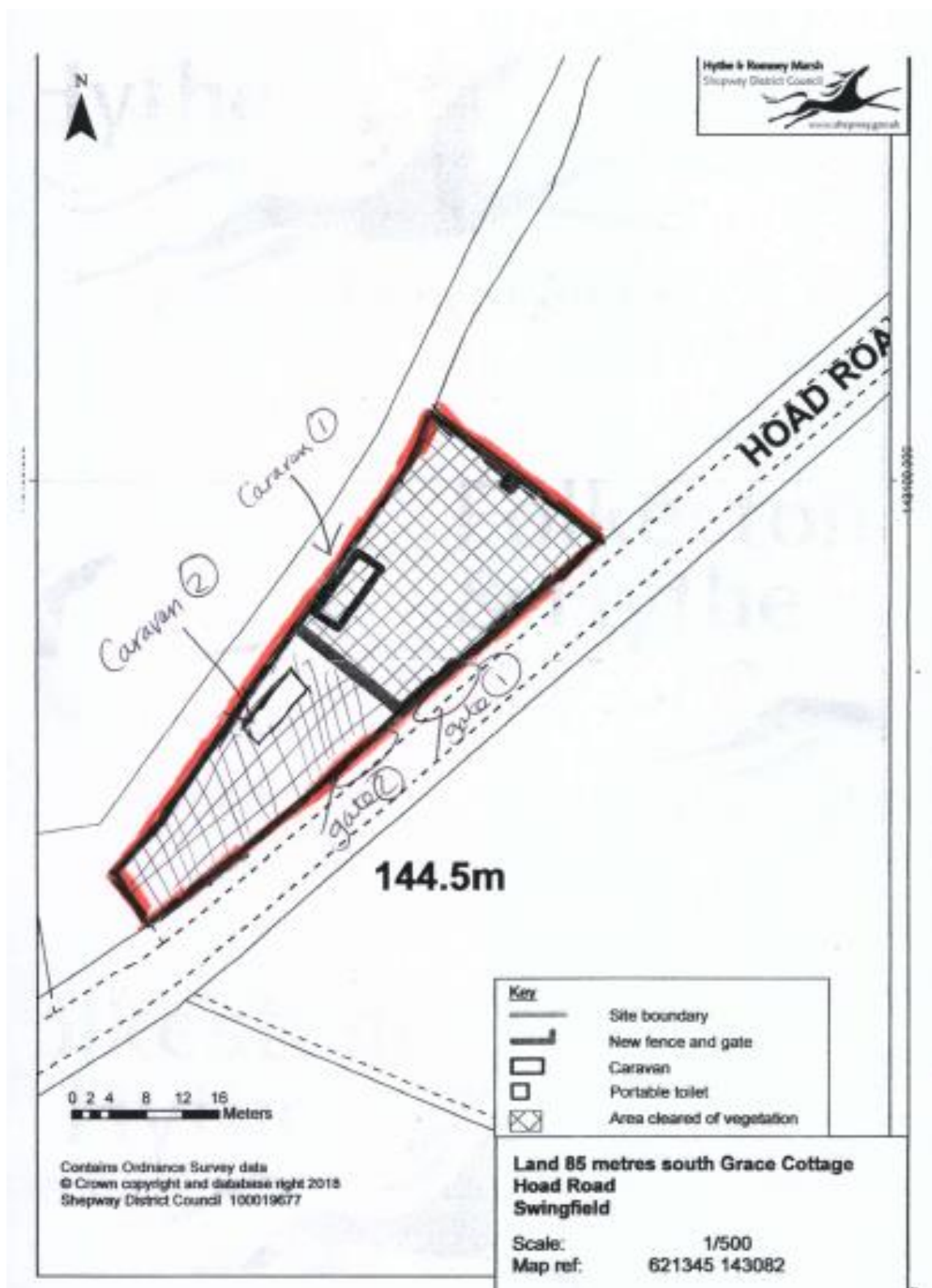
b)i) That delegated authority be given to the Chief Planning Officer to serve an Enforcement Notice requiring the cessation of the residential use and the removal of the caravans, hardsurfacing, fencing including posts and gravel boards, portaloo, vehicles and all other equipment and paraphernalia on the site.

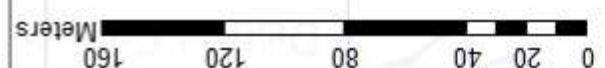
ii) That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notice.

iii) That the period of compliance with the Notice be (twelve) 12 months.

iv) That the Assistant Director - Governance, Law & Regulatory Services be authorised to take such steps as are necessary, including legal proceedings, to secure compliance with the Notice.

Annexe 1 – Site Location Plan





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Agenda Item 7

DCL/19/30

Application No: Y19/0979/FH

Location of Site: 5 Radnor Park Crescent Folkestone Kent CT19 5AS

Development: Change of use from 6-person HMO (House in Multiple Occupation) (Use Class C4) to 7-person HMO (Sui-Generis).

Applicant: Mr & Mrs D Best

Agent: Mr G Caldow
14 St Georges Business Centre, St Georges Square,
Portsmouth, Hampshire, PO1 3EZ

Officer Contact: David Campbell

SUMMARY

Planning permission is sought to change the use of the property from a six-bedroom House in Multiple Occupation (HMO) (Use Class C4) to a seven-bedroom HMO (Sui Generis use) by converting the existing storage room to a seventh bedroom. Given the existing use and occupancy of the building, on balance it is considered that an increased occupancy of one person would not have a significantly harmful impact on the surrounding neighbourhood, or the amenity of the occupiers of neighbouring properties. The proposal has demonstrated that adequate cycle parking and waste/recycling facilities can be accommodated on the site, and the scheme would not lead to a significantly increased car parking demand beyond the capacity of Radnor Park Crescent. Overall, the proposal is considered to represent sustainable development in accordance with development plan policies and the NPPF, and is recommended for approval subject to planning conditions.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. INTRODUCTION

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

2. SITE AND SURROUNDINGS

- 2.1. The site comprises a two-storey terraced property (with rooms in the roof) on the western side of Radnor Park Crescent within the settlement boundary of Folkestone. The property features three floors of living accommodation with a rear garden, and is currently in use as a six-bedroom HMO (Use Class C4).
- 2.2. The building has a brick façade with a large dormer/gable end feature on the front roofslope. The building is identical in appearance to the adjoining property, 7 Radnor Park Crescent. There is a side alleyway to the north of No. 7 providing pedestrian access to the rear garden of the application site.
- 2.3. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Planning permission is sought to change the use of the property from a six-bedroom HMO to a seven-bedroom HMO by converting the current 'storage room' to the rear of the second floor to a seventh bedroom. The resultant internal layout would comprise a kitchen and two bedrooms at ground floor level, three bedrooms at first floor level and a living room and two further bedrooms at second floor level. All bedrooms would contain en-suite bathrooms.
- 3.2 The floor area for each room would be as follows:
 - Kitchen: 17.3m²
 - Bedroom 1: 12.1m²
 - Bedroom 2: 13.8m²
 - Bedroom 3: 11.5m²
 - Bedroom 4: 15.3m²
 - Bedroom 5: 18.2m²
 - Bedroom 6: 12.7m²
 - Bedroom 7: 8.8m² (at full head height)
 - Living/TV room: 13.1m²
- 3.3 Waste and recycling facilities would be located in the front garden. A detached bike store would be located in the rear garden, accessed via an alleyway to the north of the site.



EXISTING SECOND FLOOR

(Figure 1) Existing Second Floor Plan



PROPOSED SECOND FLOOR

(Figure 2) Proposed Second Floor Plan

4. RELEVANT PLANNING HISTORY

- 4.1 There is no relevant planning history relating to the site. The site was converted from a single dwelling house to a six-bedroom HMO under permitted development rights.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Object on the grounds that assurances were made during the conversion to a 6 bed HMO that there would not be an increase to 7 persons. The rear rooms on the first and second floor are excessively small.

Local Residents Comments

No representations have been received.

- 5.1 Responses are available in full on the planning file on the Council's website: <https://searchplanapps.folkestone-hythe.gov.uk/online-applications/>

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013)

- 6.2 The new Places and Policies Local Plan Submission Draft (February 2018) has been the subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.
- 6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.
- 6.4 The relevant development plan policies are as follows:-

Folkestone and Hythe District Local Plan Review (2013)

SD1 - Sustainable Development

BE1 - Standards expected for new development in terms of layout, design, materials etc.

HO1 - Housing land supply

HO10 - Houses in Multiple Occupation

TR5 - Provision of facilities for cycling in new developments and contributions towards cycle routes

TR11 - Accesses onto highway network

TR12 - Vehicle parking standards

Folkestone and Hythe Local Plan Core Strategy (2013)

DSD - Delivering Sustainable Development

SS1 - District Spatial Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

Places and Policies Local Plan Submission Draft (2019)

HB1 - Quality Places through Design

HB3 - Internal and external space standards

HB13 - Houses in Multiple Occupation

T2 - Parking Standards

T5 - Cycle Parking

Core Strategy Review Submission draft (2019)

SS1 - District Spatial Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.5 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 to 12 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraphs 102 to 107 - Promoting sustainable transport.

Paragraphs 117 to 121 - Making effective use of land.

Paragraphs 124 to 132 - Achieving well-designed places.

National Planning Policy Guidance (NPPG)

Design: process and tools

National Design Guide October 2019

C1 – Understand and relate well to the site, its local and wider context

I2 – Well-designed, high quality and attractive

Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'.*

7. APPRAISAL

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

- a) Principle of the development
- b) Character and appearance
- c) Residential amenity
- d) Transport and highways

a) Principle of the development

- 7.2 Policy HO10 of the Local Plan Review states that planning permission will not be granted for Houses in Multiple Occupation, defined as more than one household occupying a single dwelling where all facilities are not self-contained unless the applicant demonstrates firm and substantial evidence of local need for that form of accommodation.
- 7.3 In contrast to this soon to be replaced policy, emerging policy HB13 of the Places and Policies Local Plan states that proposals for Houses in Multiple Occupation (HMOs) will only be permitted where the proposed development, taken by itself or in combination with existing HMOs in the vicinity of the site, would not result in an unacceptably harmful impact on:

1. Residential amenity, caused by increased noise and disturbance;
 2. The character or appearance of the street scene or neighbourhood;
 3. The character or appearance of the building, including from inappropriate or insufficient arrangements for storage, including for refuse and bicycles; and
 4. Highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on-street parking.
- 7.4 The amenity, character and highway implications of the proposal are assessed in the sections below.
- 7.5 Saved policy HO10 of the LPR and emerging policy HB13 of the PPLP differ in approach to HMO's. However policy HO10 is soon to be replaced by policy HB13. HB13 has no outstanding comments or objections and is consistent with the current NPPF. As such policy HB13 is considered to hold more weight than policy HO10 in this instance. Given that the property is already in use as a six bedroom HMO, it is not considered that the addition of one bedroom would lead to an objection in principle or a potential conflict with either of the policies mentioned above. As such the proposal is considered to comply with the requirements of policies HO10 and HB13 and the development is considered acceptable in principle.
- 7.6 Occupancy of the property can be restricted to 7 persons by planning condition to enable the Local Planning Authority to consider the impacts of any further increased occupancy of the building.

b) Character and appearance

- 7.7 There are no external changes proposed by the application and as such there are no objections on design grounds. The character and appearance of the street scene and building have not been altered to any noticeable degree (no external alterations are proposed) and there is no evidence that the site is untidy or cluttered by refuse, bicycles or other domestic paraphernalia. Any additional bin storage to the front is not going to have a greater impact on the visual amenity of the streetscene than the existing situation. As such it is not considered that the proposal would lead to a change in the character and appearance of the property.

c) Residential amenity

- 7.8 There are no external alterations proposed that would negatively impact the amenity of neighbouring properties. Whilst the original conversion of the property to an HMO has resulted in a somewhat increased use of the site by six independent adults, it is noted that this conversion was lawful and did not require planning permission. Within this context it is considered that the proposed increased occupancy of one additional person would not result in

significant disturbance to the living conditions of surrounding properties. Neighbouring properties have been consulted on the application and have raised no objection. The new bedroom created meets National Space Standards and policy HB3, therefore the amenity of the new resident will be safeguarded.

d) Transport and highways

- 7.9 Off-street car parking should be provided in accordance with the parking standards and should not cause unacceptable detrimental impact to the street-scene through the loss of trees or gardens. Whilst the proposal is not accompanied by an off-street parking provision or parking survey, it is noted that on-street parking is controlled by a residents' parking permit scheme. At the time of the site visit it was noted that adequate spaces appear to be available in the vicinity of the site and it is considered that the possible increase of one additional care is unlikely to result in any increased parking demand that would cause harm or disruption to the wider highways network. In addition, the site is located within a highly sustainable location close to the town centre and local public transport links.
- 7.10 It is considered that that there is adequate on-street parking capacity with this HMO in active operation and it is considered unlikely that an increase in the occupancy by one person would result in a significant car parking demand in the area that would warrant refusal of the application on parking grounds.
- 7.11 Secure cycle storage is proposed in the rear garden, accessed via the side alleyway. This provision of such facilities would promote a more sustainable mode of transport for residents at the property, in accordance with policy T5 of the PPLP.

Environmental Impact Assessment

- 7.12 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

- 7.13 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. The application is not liable for the CIL charge as it is no a use falling within Use Classes C3 or C4

Human Rights

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

Working with the applicant

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

Public Sector Equality Duty

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

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

Conclusion

- 7.18 Given the existing use and occupancy of the building, on balance it is considered that an increased occupancy of one person would not have a significantly harmful impact on the surrounding neighbourhood, or the amenity of the occupiers of neighbouring properties. The proposal has demonstrated that adequate cycle parking and waste/recycling facilities can be accommodated on the site, and the scheme would not lead to a significantly increased car parking demand beyond the capacity of Radnor Park Crescent. Overall, the proposal is considered to represent sustainable development in accordance with development plan policies and the NPPF, and is recommended for approval subject to planning conditions.

8.0 Background Documents

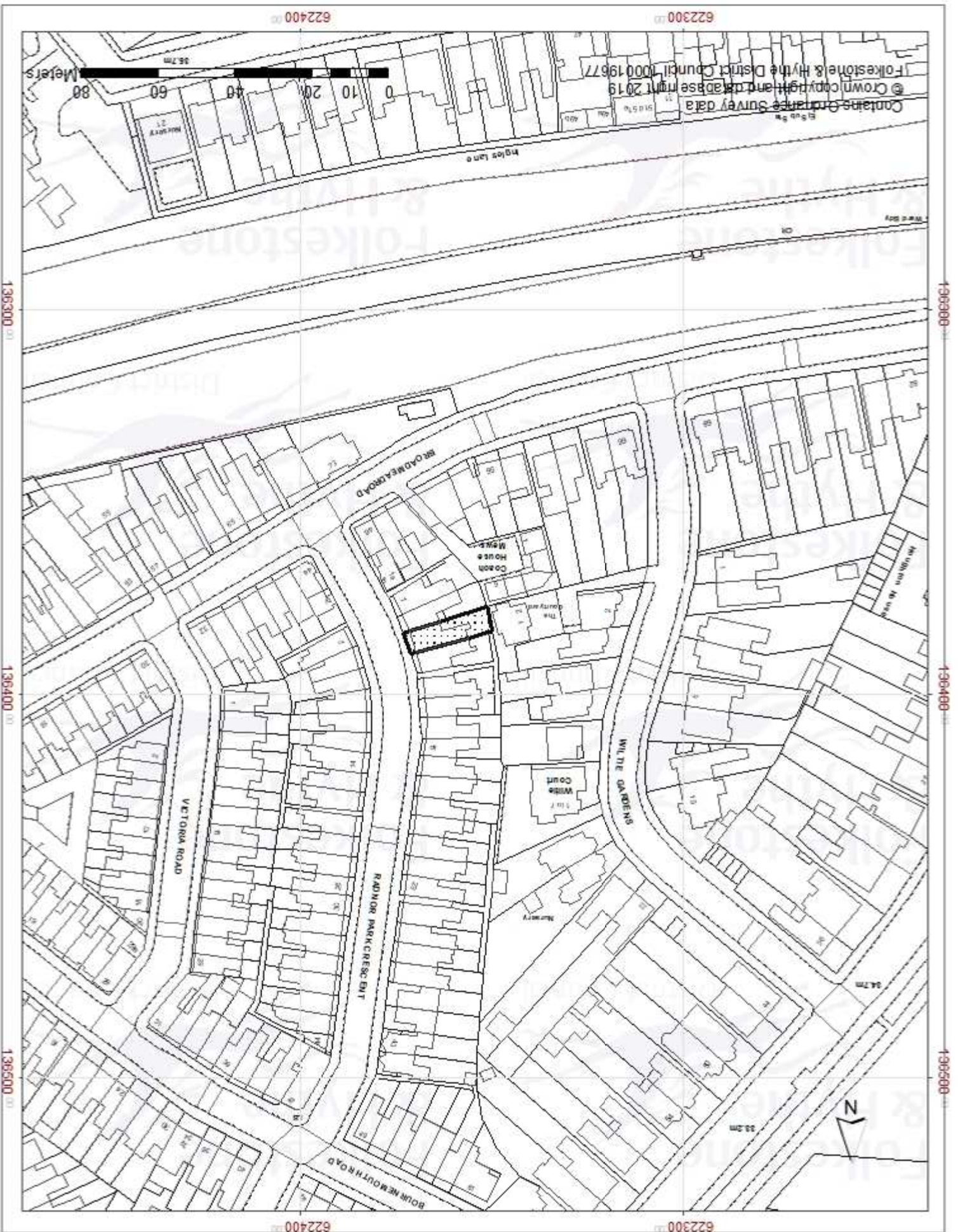
- 8.1 The consultation responses set out at Section 5.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

9.0 Recommendation

- 9.1 That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary:**

1. Standard implementation period
2. Development must be in accordance with the submitted plans
3. The HMO shall be occupied by no more than 7 persons at any one time
4. Cycle parking and facilities for the storage of waste and recycling for the new unit shall be installed in accordance with the submitted details in the Design and Access Statement and prior to the first occupation of the unit and shall thereafter be kept available for use by the resident.

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LIST OF DEVELOPMENT PLAN POLICIES

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

Core Strategy (2013) policies

Chapter 2 – Strategic Issues

DSD - Delivering Sustainable Development

Chapter 4 – The Spatial Strategy for Shepway

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

Chapter 5 – Core Strategy Delivery

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

Local Plan Review (2006) policies applicable

Chapter 2 – Sustainable Development

SD1 - Sustainable Development

Chapter 3 – Housing

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

Chapter 4 – Employment

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

Chapter 5 – Shopping

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

Chapter 6 – Tourism

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

Chapter 7 – Leisure and Recreation

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

Chapter 8 – Built Environment

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

Chapter 9 – Utilities

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

Chapter 10 – Social and Community Facilities

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

Chapter 11 – Transport

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

Chapter 12 – Countryside

CO1	-	Countryside to be protected for its own sake.
CO4	-	Special Landscape Areas and their protection.
CO5	-	Protection of Local Landscape Areas.
CO6	-	Protection of the Heritage Coast and the undeveloped coastline.
CO11	-	Protection of protected species and their habitat.
CO13	-	Protection of the freshwater environment.
CO14	-	Long term protection of physiography, flora and fauna of Dungeness.
CO16	-	Criteria for farm diversification.
CO18	-	Criteria for new agricultural buildings.
CO19	-	Criteria for the re-use and adaptation of rural buildings.
CO20	-	Criteria for replacement dwellings in the countryside.
CO21	-	Criteria for extensions and alterations to dwellings in the countryside.
CO22	-	Criteria for horse related activities.
CO23	-	Criteria for farm shops.
CO24	-	Strategic landscaping around key development sites.
CO25	-	Protection of village greens and common lands.

Chapter 13 - Folkestone Town Centre

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

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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 17 DECEMBER 2019**

Declarations of Lobbying

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

Application No:	Type of Lobbying

SIGNED:

Councillor Name (in CAPS)

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

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PLANNING AND LICENSING COMMITTEE

17th DECEMBER 2019

SUPPLEMENTARY INFORMATION TO SCHEDULE OF APPLICATIONS

- 1. Y12/0980/SH (Page 13) ROYAL VICTORIA HOSPITAL, RADNOR PARK AVENUE, FOLKESTONE**

Hybrid application comprising a full planning application for the change of use, conversion and part demolition of the main former Royal Victoria Hospital building to provide 18 residential units and associated parking, together with an outline application for the redevelopment of the remaining parts of the site, including demolition of outbuildings to provide up to 26 houses and associated car parking with all matters reserved for future consideration.

Mr C J MacKenny, local resident to speak against application
Cllr M Lawes, on behalf of Folkestone Town Council, to speak on application
Leo Griggs, applicant, to speak in support of application

- 2. Y18/1073/FH (Page 45) LAND 85 METRES SOUTH GRACE COTTAGE, HOAD ROAD, SWINGFIELD**

Change of use of land for the stationing of two caravans for gypsies

Paul Wood, local resident to speak against application
Cllr T Hutt, on behalf of Swingfield Parish Council, to speak on application
Cllr Stuart Peall, ward councillor, to speak on application

- 3. Y19/0979/FH (Page 65) 5 RADNOR PARK CRESCENT FOLKESTONE KENT**

Change of use from 6-person HMO (House in Multiple Occupation) (Use Class C4) to 7-person HMO (Sui-Generis).

Cllr Meade, on behalf of Folkestone Town Council, to speak on application
Mr G Caldow, applicant, to speak in support of application

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