



# Agenda

Meeting: **Planning and Licensing Committee**  
Date: **25 August 2020**  
Time: **7.00 pm**  
Place: **Zoom Virtual Meeting**

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

The committee will consider the matters, listed below, at the date and time shown above. The meeting will be open to the press and public and streamed live at [bit.ly/YouTubeMeetings](https://bit.ly/YouTubeMeetings)

*If members have any particular questions on the report it would help the management of the meeting if they could send them on or before next Tuesday to [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk). Members can raise matters in the meeting of course but knowledge of the areas of any concern prior to its commencement will aid the running of the meeting.*

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 5 - 6)**

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

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

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

To consider and approve, as a correct record, the minutes of the meeting held on 28 July 2020.

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

Contact Sue Lewis – Tel: 01303 853265  
Email: [committee@folkestone-hythe.gov.uk](mailto:committee@folkestone-hythe.gov.uk) or download from our website  
[www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)

4. **Minutes of the Licensing Sub-Committee (Pages 11 - 12)**

To consider and approve as a correct record the minutes of the meeting held on 27 July 2020.

5. **Y19/0318/FH - Burgoyne Barracks North and Napier Barracks, West Road, Folkestone (Pages 13 - 50)**

Report DC/20/11 Reserved matters application for the erection of 355 dwellings with associated landscaping, infrastructure, earthworks, at phases 2C and 4, Burgoyne Barracks North and Napier Barracks, pursuant to outline planning application Y14/0300/FH.

6. **Y19/0248/FH - Land Adj 1 Railway Cottages Duck Street Elham Canterbury Kent CT4 6TP (Pages 51 - 70)**

Report DC/20/12 Outline application for the erection of 3 x detached dwellings including detailed consideration of access (a short re-alignment of Duck Street) and layout, all other matters reserved.

7. **20/0073/FH - Hillcroft, School Road, Saltwood, Hythe, Kent, CT21 4PP (Pages 71 - 84)**

Report DC/20/13 Section 73 application for the variation of conditions 1 (approved drawings) and 7 (obscure glass) of planning permission Y19/0272/SH (Erection of a detached two storey dwelling) to enable an increase in ridge height, additional fenestration, revisions to the ground floor layout and external materials.

8. **Y19/1152/FH & Y19/1142/FH - French House, Aldington Road, Lympne, Hythe Kent CT21 4PA (Pages 85 - 132)**

Report DC/20/14:

**Y19/1152/FH** - Change of use of the French House from Class C3 residential dwelling to a 10 bed boutique hotel Class C1; partial demolition, reconstruction and conversion of outbuildings; erection of 5 new build bedroom pods; erection of new social canopy; erection of check-in building; extension to existing restaurant; creation of new link pathways and a new access road; new refuse store; and creation of a new car park for 50 car spaces.

**Y19/1142/FH** - Listed Building Consent for restoration and conversion of Grade II\* listed French House. Refurbishment and redevelopment of ancillary buildings. Demolition of outbuildings to north of garage to enable a new single storey enclosure plant room.

9. **Supplementary Information (Pages 133 - 136)**



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## **Declarations of Interest**

### **Disclosable Pecuniary Interest (DPI)**

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

### **Other Significant Interest (OSI)**

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

### **Voluntary Announcement of Other Interests (VAOI)**

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

#### **Note to the Code:**

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

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# Minutes

## Planning and Licensing Committee

Held at:	Zoom Virtual Meeting
Date	Tuesday, 28 July 2020
Present	Councillors John Collier, Gary Fuller, Clive Goddard (Chairman), Anthony Hills (In place of Danny Brook), Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Ian Meyers, Georgina Treloar and David Wimble
Apologies for Absence	Councillor Danny Brook and Councillor Mrs Jennifer Hollingsbee
Officers Present:	David Campbell (Development Management Team Leader), Rob Davis (Senior Planning Officer), Claire Dethier (Strategic Development Manager), Ewan Green (Director of Place), Sue Lewis (Committee Services Officer) and Jemma West (Committee Service Specialist)
Others Present:	Councillor David Monk, Leader

### 12. **Declarations of Interest**

Councillor Jackie Meade declared a voluntary announcement for all 3 applications as she is a member of the Planning Committee at Folkestone Town Council. She remained in the meeting for discussion and voting on all items.

### 13. **Minutes**

The minutes of the meeting held on 30 June 2020 were submitted, approved and signed virtually by the Chairman.

### 14. **Minutes of the Licensing Sub-Committee**

The minutes of the meeting held on 23 June 2020 were submitted, approved and signed virtually by the Chairman.

### 15. **20/0137/FH - Inge Cottage, 52 Coolinge Lane, Folkestone, CT20 3QF**

Barn hip extension increasing height of existing roof to provide living accommodation at first floor level along with the replacement of existing rear extension.

Councillor Peter Gane, Ward Member provided written representation in support of the application as he did not feel it had an impact on the street scene and the surrounding properties of two storeys were visible. He felt the replacement would enhance the area.

Giles Fitch, applicants agent provided a video speech in support of the application informing that his clients had brought the property with the intention to update the appearance and modernise the bungalow to suit their family needs, they would be introducing sustainable practises more appropriate to a modern building.

He outlined Coolinge Lane characteristics, together with photographic study of the different properties in the area. The national planning policy should refuse the application if it deemed it of poor design which in this case it is not. In conclusion he felt the proposed alterations would fulfil the aim of good planning practice with a high quality design and would enhance the street scene, therefore asking for approval on behalf of his clients.

Proposed by Councillor John Collier  
Seconded by Councillor Philip Martin and

**Resolved:**

- 1. That planning permission be approved as the increased height and bulk will not result in harm to the character of the street scene and as such is in accordance with Saved Policy BE8**
- 2. That delegated authority be given to the Chief Planning Officer in respect of conditions to be set.**

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

**16. Flat 4, 10 Trinity Crescent, Folkestone, Kent, CT20 2ET**

Variation of condition 2 of application 83/1121/SH to allow permanent occupation of a ground floor flat for the manager following the amalgamation of two existing ground floor studio flats (resubmission of Y18/1418/FH).

Daniel Sangiuseppe, local resident, provided written representation in support of the application explaining that trends for holiday lets had changed recently and that having the manager on site would be more cost effective. Since the pandemic the situation has had huge detrimental impact on the hospitality industry with demand low and staff redundancies and as such supports this application.

Councillor Horton, Ward Town Councillor, provided written representation on the application stating that the loss of two studio rooms would not harm the local tourist trade and there is a proposed large hotel development in Park Farm that



will increase the amount of holiday let accommodation. It is difficult to compete with the larger organisations which provide onsite facilities such as gym's spa's parking etc.

He informed that the applicant living on site would reduce his outgoings and running costs as he would be replacing the staff who currently do this work. This, therefore is the best solution moving forward and supports the application.

Roger Joyce, applicant's agent provided written representation on the application explaining the history of the building and surrounding area. He explained that the current owner had refurbished the original accommodation and complied with the policies TM2 and emerging E4. The business is failing, particularly in the current circumstances so this is a last attempt to manage the business himself, reducing overheads by living on site and performing all the support functions needed to service visitors.

The applicant has noted all the advice of officers and has no buyers for the business despite efforts to sell over the past year. I therefore ask that the council help the applicant and approve this application.

Councillors agreed with the reason for refusal, however, considered that in the current climate its not appropriate to take a hard line and this was a different way of dealing with the policy concerns.

Proposed by Councillor John Collier  
Seconded by Councillor David Wimble and

**Resolved:**

**That planning permission be approved as follows:**

- 1. To grant temporary consent for 3 years to allow the manager to occupy the ground floor flat following the amalgamation of two existing ground floor studio flats.**
- 2. To properly advertise the remaining holiday lets and provide evidence to the Chief Planning Officer to that effect.**
- 3. A condition requiring the remaining holiday lets in the building to be used for holiday accommodation.**

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

**17. Former Folkestone Youth Centre, Shepway Close, Folkestone, Shepway Close Folkestone Kent**

Erection of 17 Two Storey Dwellings and 2 Three Storey Apartment Blocks Comprising 30 Apartments with Associated Access, Parking, Private Amenity Space and Public Open Space.

Mrs Pam Dray provided written representation on the application.

Proposed by Councillor John Collier  
Seconded by Councillor Philip Martin and

**Resolved: That delegation be given to the Chief Planning Officer to grant planning permission subject to considering the reconsultation responses received raising no substantial new issues, subject to the conditions set out at the end of the report, the applicant entering into a S106 legal agreement securing 15 affordable housing units and the provision of £106,910.09 towards community infrastructure and to finalise the wording of the conditions and the legal agreement including adding any other conditions that he considers necessary.**

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

# Minutes

## Licensing Sub-Committee

Held at:	Virtual Zoom Meeting
Date	Monday, 27 July 2020
Present	Councillors John Collier, Gary Fuller and Philip Martin
Apologies for Absence	None
Officers Present:	Kate Clark (Case Officer - Committee Services), Tim Hixon (Legal Specialist), Sue Lewis (Committee Services Officer), Jack Pearce (Legal Trainee) and Briony Williamson (Licensing Specialist)
Others present or apologies:	Apologies received from Andrew Tutton, Immigration Officer.

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

Councillor Philip Martin was elected Chairman for the meeting.

36. **Declarations of interest**

There were no declarations of interest.

37. **An application for a Review of a Premises Licence in respect of: Spicy Touch, 15 Station Road, Lyminge, Kent, CT18 8HS**

The report outlined the application made by the Home Office – Immigration Enforcement, for a review of the premises licence at a restaurant in Lyminge following enforcement action taken by them. The Licensing Sub-Committee were asked to determine the outcome of the application.

Mrs Briony Williamson, Licensing Specialist, presented the report and also advised that the Immigration Officer had sent his apologies as he was unable to attend today's meeting.

Based on the details of the report and the licensing objective – the prevention of crime and disorder – being undermined, the committee considered the options available to them.

Proposed by Councillor John Collier  
Seconded by Councillor Philip Martin and

**RESOLVED:**

**That in order to promote the crime prevention licensing objective and prevent illegal working the Premises Licence is revoked.**

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

<b>Application No:</b>	Y19/0318/FH
<b>Location of Site:</b>	Burgoyne Barracks North and Napier Barracks, West Road, Folkestone
<b>Development:</b>	Reserved matters application for the erection of 355 dwellings with associated landscaping, infrastructure, earthworks, at phases 2C and 4, Burgoyne Barracks North and Napier Barracks, pursuant to outline planning application Y14/0300/FH
<b>Applicant:</b>	Taylor Wimpey
<b>Agent:</b>	Lucy Wilford – Barton Willmore
<b>Officer Contact:</b>	Robert.davis@folkestone-hythe.gov.uk

## SUMMARY

The report considers a reserved matters application for the erection of 355 dwellings with associated infrastructure and landscaping at the Shorncliffe Garrison allocation site. The report considers how the development is consistent with the requirements of the outline permission including its adherence to the Design Specification Document. The report considers that the design and layout of the development is of a high standard and would provide a good quality living environment for future occupants. The provision of affordable housing would be in line with the requirements of the S106 that accompanied the outline approval. As such it is considered that the proposal accords with the existing and emerging policies of the Development Plan and is consistent with the requirements of the National Planning Policy Framework.

## RECOMMENDATION:

**That permission for the reserved matters 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 strategic importance of the development.

## 2. SITE AND SURROUNDINGS

- 2.1. Shorncliffe Garrison occupies a significant area of 76ha to the western edge of Cheriton and to the north of Sandgate. The land has been allocated within policy SS7 of the Core Strategy as a strategic site for residential development of up to 1200 dwellings by 2031 to make an important contribution to housing needs in the district. The main site is on an area of high ground to the north of the coast sloping down to the Seabrook Valley to the west. It is bounded by Church Road to the north, Royal

Military Avenue to the east and Hospital Hill to the south. The site has several existing roads passing through it including North Road, West Road and Pond Hill Road.

- 2.2. The site has been under the ownership of the Ministry of Defence and has become surplus to requirements and is being sold to fund re-provisioning works on the retained part of the garrison and the MoD base at Lydd. The land is to be released to Taylor Wimpey over a number of phases which began in March 2015.
- 2.3. The Napier Barracks occupy a central position within the sit. The north and west boundaries of Napier Barracks are bounded by North Road and West Road. To the east of the barracks is the Tower Theatre (former Garrison Church – Grade II listed) which lies outside the main site boundary. The layout of the barracks is characterised by 2 rows of eight single storey barracks on a symmetrical north-south grid with other military buildings to the east.
- 2.4. The Burgoyne Barracks is immediately to the south of Napier Barracks. The western boundary of the barracks is demarcated by West Road. The area includes the Garrison Sargent's Mess and an area of wooded space to the west. To the east of the barracks is former running track that has been used for explosive devices training and is not publicly accessible.
- 2.5. The application site is measured at 9.114ha. The general topography is flat, with a subtle slope to the south and in an easterly direction.
- 2.6. A site location plan is attached to this report as **Appendix 1**.

### **3. PROPOSAL**

- 3.1 The proposal is a reserved matters application for the approval of details relating to access, layout, scale and appearance of the outline planning permission Y14/0300/SH. Condition 12 of the decision notice Y14/0300/SH states:

The submission of reserved matter applications pursuant to the development hereby approved shall demonstrate compliance with the documents and plans listed below through an accompanying Design Statement:

- Environmental Statement Volumes 1 & 2, dated April 2014;
- Environmental Statement Addendum, dated November 2014;
- Development Specification Document (replacing Design and Access Statement Volume 3) March 2015;
- Land Use Parameter Plan – Dwg. 5391-01-P-002 Rev I
- Maximum Building Heights Parameter Plan – Dwg. 5391-01-P-003 Rev I
- Principal Access and Movement – Dwg. 5391-01-P-004 Rev H; and
- Landscape Strategy – Dwg. CSa/2172/117 Rev D.

- 3.2 The application site forms part of the Shorncliffe Garrison development and is referenced in the Development Specification Document (DSD) as Phase 2C and 4.
- 3.3 The DSD was approved as part of the hybrid planning permission (part outline, part full planning, reference Y14/0300/SH) for 1,200 dwellings green space and community facilities and sets out the parameters for future phases of development for the wider site, which is separated into four character areas (A-D):
  - Character area A: St Martins Plain
  - Character area B: The Northern Area
  - Character area C: The Southern Area

- Character area D: Somerset Barracks

The site is located within the southern part of the allocation within Character Area C.

- 3.4 The overall development is being conducted in phases, as land is released by the MoD with the initial phase implemented to the north east of the site. This application consists of Phases 2C and 4 and Taylor Wimpey wish to develop these phases together given the sharing of the infrastructure across the two sites and for practical reasons.
- 3.5 The proposal is for a total of 355 dwellings comprising a mix of houses and flats. There would be 41 for bedroom houses, 147 three bedroom houses, 98 two bedroom houses, 63 two bedroom flats and 6 one bedroom flats. Two areas of open space would be provided which reflect existing open areas on site. These are Burgoyne Square and the Southern Feature Square. The density of the development would equate to 40 dwellings per hectare.
- 3.6 A total of 51 affordable housing units would be provided to include 6 three bedroom houses, 21 two bedroom houses, 21 two bedroom apartments and 3 one bedroom apartments. These would be located across the site in small clusters. The quantum of units is in line with the requirements of the S106 agreement for affordable housing provision within the wider development.
- 3.7 There would be 14 different styles of housing comprising detached, semi-detached and terraced dwellings. The housing would comprise two storey, 2.5 storey and 3 storey housing. A total of 8 apartment blocks of 3 storey height would also be provided where they would assimilate into surrounding lower development and/or provide gateway features for the remainder of the development.
- 3.8 The following house types are proposed:

<b>Type</b>	<b>Style</b>	<b>Storeys</b>	<b>Bedrooms</b>	<b>Quantity</b>
DR	Townhouse	3	4	7
RA	Townhouse	2.5	4	7
NC40	Townhouse	3	4	9
NT41	Detached	2	4	4
PC30	Townhouse	3	3	23
PA42	Detached	2	4	14
NB31	Townhouse	2.5	3	44
PT36	Detached	2	3	14
PA33	Semi	2	3	18
PA34	Semi/EOT	2	3	42
PT22	Coach house	2	2	15
PT25	Terrace/Semi	2	2	63
AA31	EOT	2	3	6
AA23	Semi	2	2	20

- 3.9 Of the townhouses referred to above some of the types would exist as both detached, semi-detached and terraced dwellings.
- 3.10 The external building materials, subject to condition, would include for some of the character areas buff brick, darker feature brick, vertical panelling options, projecting feature surrounds to windows, and examples of projecting brick features. Dwellings on

the more northern part of the site would have red tonal brick to respect other traditional buildings in the vicinity, darker feature brick, grey roof tiles, projecting window surrounds and brick eaves detailing. The apartments would make use of the same surrounding brick of houses in the vicinity and would including projecting bays to the main windows and projecting gables to define the front entrances.

- 3.11 The layout is based around a series of blocks such that each dwelling would have a street frontage. This based on the traditional grid layout of the MoD buildings and respects the character of the barracks site.
- 3.12 A single vehicle access would be provided off North Road to serve the main Spine Road which passes through the development providing access to lower hierarchy streets. There would be two further access points off West Road including the western end of the Spine Road and a Green Link which passes through the site that links development and green space to the west and potentially would allow access to development permitted at Somerset Barracks to the east.
- 3.13 There would be a total of 746 vehicle parking spaces with allocated and non-allocated spaces, not including garages, comprising both on and off-street parking. This exceeds the minimum 544 spaces required by KCC's Interim Guidance Note (IGN3): residential parking for suburban areas.
- 3.14 The layout has been altered and improved since the application was originally submitted following discussions with officers. Below is the original layout as submitted:





## New Site Layout



3.15 The revised layout is considered to better respect the military heritage of the site by enforcing a strong grid layout, as specified within the DSD. The development is, nevertheless a housing development, which is required to produce an amenable development providing a good living environment and quality of life for future residents. It is considered that this revised layout provides this whilst responding to the military heritage of the site.

3.16 The following reports were submitted by the applicant in support of the proposals:

### Design Statement

3.17 This document sets out the context for development, constraints and opportunities, as well as the proposals design evolution, development character, landscaping, access and movement, and to sustainability. The document sets out how the proposal conforms to the principal aims of the DSD and justifies any variation to the proposed principles.

### 3.18 Arboricultural Impact Assessment

This report prepared by Keen Associates (March 2019) provides an assessment of the impact on trees. It provides a schedules of all the trees on the application site. It

identifies that significant trees will be retained and that the majority of trees to be removed are of low quality. There are 3 Sycamore and 1 Yew Tree considered to be of moderate value that would be removed and comments have been made relating to these. It considers that tree retention outweighs the losses and ensures a good distribution of retained tree cover on site. Details of tree protection during construction works has also been provided. New and replacement tree planting is to be provided as part of the proposals and that the new trees would provide a diverse portfolio of tree cover to ensure sustainability of green infrastructure in the future.

#### Ecological Impact Assessment

- 3.19 This report prepared by CSA Environmental (February 2019) updates the Ecological Impact Assessment originally surveyed during 2013-2016. The habitats within Phase 2C and Phase 4 were found not to have changed significantly. Key areas of mature and semi-mature scattered trees, which form the most valuable habitat resource on site will be retained along the boundary of the site, maintaining habitat connectivity for bats and other wildlife. New opportunities will be provided in the form of bat and bird boxes on trees and bat tubes within buildings to meet the quotas set out per phase in the Environmental Statement. Opportunities for ecological enhancement have been adopted within the scheme with new tree planting, with a significant number of native trees, resulting in an overall increase in the number of trees across the site, and a wildlife box scheme. The assessment considers that the development is not considered to result in any residual significant adverse effects to important ecological features and is considered to accord with all relevant nature conservation legislation, as well as to local planning policy.

#### Bat Mitigation Strategy

- 3.20 This report prepared by CSA Environmental (March 2019) provides details of proposed mitigation where evidence of roosting bats has been confirmed. It has been prepared following updated bat survey work undertaken in relation to condition 16, and is consistent with the Environmental Statement originally submitted as part of the outline application. Between May and August 2018 surveys were taken of the buildings and the trees to assess the potential to support roosting bats. Roosting bats were confirmed in five buildings and some trees, due to be removed, offered low potential and in one case moderate potential to support roosting bats. The report sets out mitigation measures to avoid direct impact on bats during demolition works through the use of precautionary measures where required. Measures to replace bat roosting opportunities are also provided to ensure opportunities for roosting bats are retained. Key habitat (mature trees) is retained and landscaping designed to ensure foraging and dispersal routes across the site. A sensitive lighting scheme will be developed which will minimise light spill ensuring significant dark areas of the site will remain. Subject to flowing the measures outlined the report considers that there will be no significant impact to the favourable conservation status of local bat populations resulting from the development proposal.

#### Reptile Monitoring Report

- 3.21 This has been prepared by CSA Environmental (May 2019) and provides details of the translocation exercise carried out between April and September 2017.

#### 4. RELEVANT PLANNING HISTORY

4.1 The main relevant planning approvals for the main site are as follows:

Y14/0330/SH

4.2 Hybrid application for the redevelopment of land at Shorncliffe Garrison. Application for outline permission (with all matters reserved) for demolition of existing buildings (with the exception of the listed buildings, officers' mess within Risborough Barracks and water tower) and erection of up to 906 dwellings including affordable housing, community services and facilities (use Classes A1/A3/B1 a/D1 and D2 uses up to 1,998 sqm), new Primary school and nursery (up to 3,500 sqm), combined new pavilion/cadet hut facility (up to 710 sqm) at The Stadium, retained cricket pitches including mini football pitches, equipped play, associated public open space and toilets, together with, associated accesses/roads, parking, associated services, infrastructure, landscaping, attenuation features and earthworks. Full application comprising demolition of existing buildings and erection of 294 dwellings including affordable housing, open space, improvements to 'The Stadium' sports facilities and new car park, equipped play improvements/works to The Backdoor Training Area, associated accesses/roads, parking, associated services, infrastructure, landscaping, attenuation features and earthworks. Approved

Y16/1266/SH

4.3 Reserved matters application for the construction of 127 dwellings, including affordable housing, a doctor's surgery and commercial floorspace, along with associated landscaping, infrastructure and earthworks at Phase 2b, Somerset Barracks, being details pursuant to outline application Y14/0300/SH (details relating to landscaping, layout, scale, access and appearance). Approved.

Y19/0854/FH

4.4 Reserved matters application for the construction of 44 dwellings, together with associated landscaping, together with associated landscaping, infrastructure and earthworks. Phase 2A officers Mess. Approved.

The above planning approvals contain a mix of housing which includes designs and similar external materials proposed for the application site ensuring elements of design continuity across the overall site whilst providing distinctive character areas.

20/0408/FH

4.5 Reserved matters application relating to access, appearance, layout, scale and landscaping pursuant to outline permission Y14/0300/SH for Hybrid application for the redevelopment of land at Shorncliffe Garrison; and details pursuant to conditions 17, 18, 24, 26, 29/30, 32/33, 35 (in relation to the Officers Mess building only). Pending.

This application is for the conversion of the Officers Mess application into 24 apartments.

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### **Consultees**

The site is wholly within the administrative boundaries of Sandgate Parish Council.

#### **Sandgate Parish Council:**

No objection

#### **Folkestone Town Council (Neighbouring Town Council):**

Object – We reiterate our previous objections on the lack of Horn Street Bridge improvements. The Committee feels that the developments provision of affordable housing must not be reduced from 15% and should be angled toward more social housing for which this is a good site. It feels that the experience of Shorncliffe Heights residents suggest that drainage provision was inadequate in previous plans and wants the drainage double checked here. It feels that the reported problems of Shorncliffe Heights with road widths in the smaller roads should be considered. The turning and movement of vans, fire services, lorries etc. must be adequate and highways officers monitor carefully. The Committee supports the provision of electric charging points and urges consideration of more to be provided. It also suggest that solar panels be installed in advance. The tree avenues should be maintained rather than trees being grouped all the time.

#### **Hythe Town Council (Neighbouring Town Council):**

No objection

#### **KCC Highways and Transportation:**

Having reviewed the revised details can confirm that the road geometry, visibility splays and vehicle swept path drawings are all satisfactory. With regard to the parking layout, this is greatly improved over the earlier layout. Allocated parking and unallocated visitor parking numbers are adequate. Where the location of allocated parking is not quite in line with good practice guidance, visitor parking spaces have in most cases been located nearby to reduce the likelihood of problem parking occurring. The indicated cycle parking is also appropriate. The intended highways adoption plan is also acceptable. Taking into account the above issues can confirm that no objection on behalf of the local highway authority is raised.

#### **KCC Economic Development:**

The County contributions are all covered under the original outline consent, thus we will not be commenting further.

#### **KCC Ecology**

We have reviewed the Ecological Impact Assessment and Bat Mitigation Strategy and are satisfied that sufficient information has been provided to satisfy the requirements of condition 16.

**KCC Flood and Water Management:**

A new planning layout has been submitted which adjusts the highways and house arrangement but which would not be expected to significantly impact the provision of attenuation required for appropriate control of development surface water. Responses dated 11 June 2019 and 21 August 2019 for the earlier layout submission remain unchanged and valid for the amended details.

Previous responses summary: At the detailed design stage we would expect to detailed exceedance plan provided indicating the extent of flooding with reference to actual proposed levels. Conditions recommended.

**Natural England:**

The advice provided in our previous response dated 5<sup>th</sup> June 2019 applies equally to this amendment although we made no objection to the previous proposal and the amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.

Previous response summary: No objection. Generic advice given.

**Environment Agency:**

We have no comments to make on the new information and reiterate our previous comments on the outline application. The drainage strategy shows that both surface water and foul water for phases 2C and 4 will discharge to mains sewer. No discharge to ground is proposed, therefore we have no concerns from a groundwater protection point of view.

**Southern Water:**

Comments in response dated on 11 June 2019 remain unchanged.

Previous response summary: Our initial investigations indicate that Southern Water can provide foul sewage disposal to serve the proposed development.

**Contamination Consultant:**

There are no new land contamination documents to review. We have previously reviewed an earlier site investigation report covering these development phases as part of the outline application. We recommended in June 2014 that more detailed intrusive investigations were appropriate and these should be secured by the imposition of the Council's standard land contamination planning condition

**Historic England:**

Do not wish to offer any comments

**FHDC Housing:**

Of the 53 affordable housing units we would expect mix of 60% affordable rent/40% shared ownership delivered onsite with the location, mix and housing provider to be agreed with the council

**Arboricultural Manager:**

No formal comments as there are no amendments to the Arboricultural aspects of the site

**Sport England:**

The proposal does not fall within either our statutory or non-statutory remit and therefore has not provided a detailed response.

**Shorncliffe Trust:**

Object most strongly as appears to be a relaxation to form a more contemporary housing development instead of respecting the strong military history of the site.

**Stagecoach:**

North Road and West Road are currently served by bus route 10 and there are currently no bus stops in the vicinity. To ensure the best possible accessibility to public transport we would wish to see the provision of two pairs of bus stops (one pair in North Road and one pair in West Road) as a condition of any planning consent

**NHS South Coast CCG**

The CCG secured provision of a shell and core health facility as part of the outline application.

**Local Residents Comments**

5.2 The application was advertised by site and press notices. 35 neighbours directly consulted. One letter of objection has been received.

5.3 I have read the letter received. The key issues are summarised below:

**Objection**

- The racquets court and its ancillary building should be treated as a listed building. Before demolition is considered alternative uses should be explored for the whole group of buildings

5.5 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  
BE1: Standards expected for new developments  
BE16: Requirement for comprehensive landscaping schemes  
LR8: Provision of new and protection of existing rights of way  
LR9: Public Open Space  
LR10: Provision of children's play space in developments  
TR2: Provision for buses in major developments  
TR5: Provision of facilities for cycling  
TR6: Pedestrians  
TR11: Accesses onto highway network  
TR12: Vehicle parking standards  
CO1: Protection of protected species and their habitat  
U10a: Requirements for Development on Contaminated Lane

Shepway Local Plan Core Strategy (2013)

DSD: Delivering Sustainable Development  
SS1: District Spatial Strategy  
SS2: Housing and the Economic Growth Strategy  
SS3: Place Shaping and Sustainable Settlements Strategy  
CSD1: Balanced Neighbourhoods for Shepway  
CSD2: District Residential Needs  
CSD5: Water Efficiency  
SS7: Spatial Strategy for Shorncliffe Garrison

Places and Policies Local Plan Submission Draft (2019)

The Submission draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. An examination-in-public was held in 2019, with hearing sessions taking place from 15-17 May 2019. The Inspector recommended a limited number of Main Modifications to the Plan which were consulted on from 13 January to 24 February 2020. The Inspectors

report has found the plan 'sound' subject to making a few modifications and as such substantial weight can now be given to the policies. The Plan will now go through the Council's internal processes to be formally adopted. Full weight should be given to the policies in the plan once it is adopted.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018), as proposed to be modified by the published Main Modifications (2020), may be afforded significant weight. The following draft policies apply:

HB1: Quality Places through Design  
HB3: Internal and External Space Standards  
E8: Provision of Fibre  
C1: Creating a Sense of Place  
C3: Provision of Open Space  
CC3: Sustainable Drainage Systems (SuDS)  
T1: Street hierarchy and site layout  
T2: Parking Standards  
T5: Cycle parking  
NE2: Biodiversity  
NE7: Contaminated Land  
CC2: Sustainable Design and Construction

#### Core Strategy Review Submission draft (2019)

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Following changes to national policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection. The following draft policies apply:

SS1: District Spatial Strategy  
SS2: Housing and the Economy Growth Strategy  
SS3 – Place Shaping and Sustainable Settlements Strategy  
SS11 – Spatial Strategy for Shorncliffe Garrison  
CSD1 – Balanced Neighbourhoods  
CSD2 – District Residential Needs  
CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation



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

### **Supplementary Planning Guidance/Documents**

Affordable Housing SPD

### **Government Advice**

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:-

Para. 8 sets out the three main strands of sustainable development: economic, social, and environmental. Para. 11 then sets out that to achieve these aims development proposals that accord with an up-to-date development plan should be approved “without delay.” Para. 12 clearly sets out that the starting point for decision-making is the development plan.

Para. 20 requires Councils to have strategic policies that make sufficient provision for housing, infrastructure, and community facilities in appropriate locations, while ensuring conservation of natural and historic environments. Para. 22 then sets out that such strategic policies should look ahead over a minimum of 15 years (hence the lengthy span of the adopted and emerging Local Plans). Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Section 5 of the NPPF requires Councils to deliver a sufficient supply of homes, of varying types and tenures, to meet an identifiable need. Para. 67 requires Councils to have an identifiable supply of specific and deliverable housing sites to meet demand for at least 5yrs hence, and para. 72 advises Councils to identify and allocate sites to meet this need.

Para. 109 states that *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Para.117 encourages best, most productive use of land to meet the need for homes, while safeguarding the environment and ensuring safe and healthy living conditions. Para. 122 encourages development at appropriate densities, taking into account the character of the site and the need for different types of housing.

Section 12 aims to achieve well-designed developments and places.

Para. 170 requires planning decisions to protect and enhance the natural environment; minimise impact upon and provide net gain for biodiversity; and mitigate and remediate despoiled land and pollution. Para. 175 deals with biodiversity in particular, and sets out that developments which give rise to significant harm in this regard should be refused.

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/layout/visual amenity
- c) Residential amenity
- d) Parking and access
- e) Ecology and biodiversity
- f) Flood risk and drainage
- g) Affordable housing
- h) Other matters

### **a) Principle of development**

7.2 As the application is a reserved matters application, the principle of the development is not for consideration, as it has already been established and granted planning permission at the outline stage.

7.3 The DSD sets out the development framework for the entire Shorncliffe Garrison site, and is informed by the parameter plans approved under the outline consent. The parameters provide a series of design rules with regard to development extent, use and height.

7.4 The DSD requires the Spine Road to form the background of the development with formal blocks to provide the new edges. Although the road would be the principle route for vehicles, it has been designed to slow traffic speeds through highway design and connect the northern gateway via a number of key spaces. The Spine Road has been designed to provide a formal avenue with consistent public realm treatment and create

a consistent building line with regular rhythm and spacing of building. The development has been planned to support a mix of housing including terraces, semi-detached and detached housing. Streets and housing are proposed to be laid out on the consistent north south dominant grid. The proposed development utilises the Spine Road as a focus for the development providing a formal avenue with a consistent building line and spacing of dwellings together with consistent public realm treatment. A wide mix of housing types are provided across the development contained within formal blocks within a grid layout. As such, the approach taken is considered to accord with the approach as set out within the requirements of the DSD

#### **b) Design/layout visual amenity**

- 7.5 Policy BE1 of the adopted Local Plan requires that a high standard of layout, design and choice of materials will be expected for all new development. Materials should be sympathetic to those predominating locally in type, colour and texture. Development should accord with existing materials in the locality where the site and surrounding development are physically and visually interrelated in respect of building form, mass, height and elevational details.
- 7.6 Policy HB1 of the emerging PPLP requires, amongst other criteria, for development to make a positive contribution to its location and surroundings whilst also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density materiality and mix of uses so as to ensure all proposals create places of character.
- 7.7 The layout of the site has been informed by the grid like appearance of the existing built form and as required by the DSD. It is based around a central Spine Road that runs from north to south through the centre of the development before turning west to link up with West Road within the south western corner of the site. A secondary access, the Green Link, would be provided linking the Spine Road onto West Road and north of the main open space.
- 7.8 The layout of the site responds to the existing block forms of the Napier area with predominantly north to south building lines contrasting with the east west axis of the Burgoyne area and follows the patterns envisaged in the masterplan contained within the Environmental Statement.
- 7.9 Building heights for the development are in general accordance with the approved parameters providing variation in scale across the development as intended. There are some instances, particularly Spine Road, where heights have been increased to ensure legibility. 3 storey development has been accommodated along the north eastern boundary of the site. These 3 storey developments are considered to provide definition to the northern corner of the site, the primary status of the Spine Road and to emphasis street corners. There are no objections to these elements.
- 7.10 There would be a total of 14 different housing designs providing 2, 3 and 4 bedrooms with building heights of 2, 2.5 and 3 storeys. The apartment blocks would contain flats with either 1 or 2 bedrooms and a total of 7 different floor plans. It is considered that this provides a suitable mix of development to satisfy local housing demand and there are therefore no objections on these grounds.

- 7.11 The dwellings have been laid out to provide back to back separation distances of 20m to ensure adequate rear privacy is achieved. Where side elevations are presented to the backs of housing there would be no first floor habitable rooms within the side elevations in order to avoid potential overlooking and ensure privacy is maintained. Furthermore the outline planning permission has a condition removing permitted development rights for Classes A, B, C, D and E of the GDPO thus requiring applications for extensions, roof alterations and the erection of outbuildings to be controlled by the local planning authority through submission of a planning application.
- 7.12 The layout has been divided into a series of character areas with a legible hierarchy of streets emanating from the principle Spine Road down to private drives and parking courts.
- 7.13 The proposed styles of dwellings and their palette of external materials are designed to provide continuity across the development whilst providing specific identifiable areas of character. This is to be achieved by simple design and material changes within the dwellings and a combination of hard and soft landscaping throughout the road hierarchy.
- 7.14 The principle Spine Road character area features a 6m wide roadway flanked by footpaths and a cycle route down one side. On either side street trees would be planted within grass verges to provide a defining avenue. Dwelling frontages would also be planted with ornamental shrubs using a predominantly silver and green palette of plants. Parking would be mostly off street with some provision for on street vehicle parking.
- 7.15 Along the Spine Road building heights would be 2.5 or 3 storeys and those with 3 storeys would be used to define vistas and junctions. Whilst this is a change to the building height parameters set out in the DSD it is considered this provides a positive impact to respond to its principle purpose as the main street with other development leading off it at a smaller scale. Materials, although subject to condition, are proposed to consist of a mix of buff brick, darker feature brick areas, decorative eaves, projecting feature brick surround to the windows and front facing dormers within the 2.5 storey dwellings.



- 7.16 The dwellings along the Spine Road would feature a mix of both gabled and front facing roofs ensuring some contrast whilst emphasising the more formal arrangement of

dwellings along the road. The rhythmic roof line will provide a consistency of height along the streetscene with frontages parallel to the street. It is a requirement of paragraph 6.29 of the DSD that such consistency is achieved with strong, simple buildings with special consideration at street corners, emphasised by the 3 storey gabled frontages of the dwelling, and variation as the blocks step along the new street, and such requirements are achieved providing a street frontage of quality design.

7.17 Within the central section of the Spine Road at the junction with the Green Road would be the Central Feature Node which would use a contrast of hard and soft landscaping to define this area as a keypoint within the overall layout and designed as a raised table to assist in traffic calming and with a shared space. Trees would be planted in grilles to reinforce this differentiation.



7.18 The Green Edge character area would have dwellings overlooking the main outdoor space of Burgoyne Square. Materials would include buff brick, darker feature brick, vertical panelling options, projecting feature surrounds to windows, and examples of projecting brick features that are found on the Nursery building on the other side of West Road. The dwellings would be 2.5 and 3 storey in nature with both detached and semi-detached houses with gabled frontages to provide a strong frontage along the Green Link. A streetscene image has been produced of the proposed properties overlooking the square indicating how they have been designed to maximise the sense of proximity, integration and overlooking of the public open space. This is a requirement of paragraph 6.66 of the DSD to ensure that the public realm provides a safe, attractive and usable facility of benefit for residents.



7.19 The Burgoyne Area within the south eastern section of the development would provide a lower order of streets compared to the connecting Spine Road. This would be responded to with reduced building heights and simpler features. Whilst the architectural components remain consistent with the remainder of the development, use of hard and soft landscaping would be utilised to respond to the street hierarchy. Housing would consist of a mix of two storey detached, semi-detached and small terraces. External materials would include buff brick, darker feature brick, grey roof tiles, projecting feature brick areas and projecting surround features to the windows.



7.20 The Tower Theatre character area located within the north-eastern corner of the site has been designed to respond to the listed building and the mixed use development of Somerset Barracks. Use would be made of red tonal brick, darker feature brick, projecting brick detail, projecting surrounds to the windows and reconstituted stone. 3 storey apartment blocks would be provided adjacent to the eastern boundary reflecting the height of the adjacent theatre building. The apartments would make use of projecting bays to the main windows and projecting gables to define the front entrances. End of groups of four terraced dwellings would make use of gabled frontages to define the edge of terraces.



- 7.21 A northern feature node would be created at the termination of the green link next to the apartment blocks with use of hard and soft landscaping to define it as a transitional link with the parking courts of the apartments. This would also provide for future linkage to any development occurring to the east of the site.
- 7.22 The Napier Core character area located within the northern part of the site behind the dwellings fronting either side of the Spine Road. Dwellings here would feature the red tonal brick, darker feature brick, grey roof tiles, projecting window surrounds and brick eaves detailing. Detached housing fronting West Road would have gabled frontages to reflect the rigidity and design arrangements of the former barrack buildings.



- 7.23 Fronting the North Road would be semi-detached dwellings of two storey height with apartment blocks at either end of the frontage and on the corners of Spine Road to help frame the development and provide a degree of legibility. The provision of the character areas, as detailed above, would provide a degree of visual differentiation across the development and assist in the promotion of neighbourhood identity. It is considered that the designs of these particular areas are of a high quality and acceptable in terms of the requirements of the DSD and to local plan design policy requirements.
- 7.24 The landscaping for the development incorporates two areas of communal open space. The provision and location of these spaces are a requirement of the DSD. The larger two areas would be located on the western fringe of the development and known as Burgoyne Square. It would feature areas of grassland, curved pathways and additional tree planting contained within cleft chestnut timber knee rail with timber posts at entry points. It would have an informal nature to provide a degree of contrast and relief to the formality of the housing layout. Within the southern section would be a play area, targeted at younger children, incorporating a variety of play area equipment including a snake play sculpture and grasshopper play sculpture framed within earth mounds. Wildlife boxes would be installed on retained trees to encourage biodiversity in accordance with paragraph 175 of the NPPF. It is considered that the more natural

features of this open space would add significant character to the development and be designed to encourage its active use for recreational purposes.

7.25 At the south west corner of the Spine Road would be the Southern Feature Square containing a paved square centred around a circular ornamental bed and with timber seating provided. This would have a more formal appearance than the Burgoyne Square. To the south of this would be a lawned area with a linking footpath connecting the main paved area with the southwest corner of the amenity area. New tree planting and hedging would be provided around the edges of this area. Dwellings on the western side of the would be in close proximity with direct access from their front entrances providing significant overlooking of the square and ensuring the usability of and vibrancy of this space.

7.26 The two areas of public open space satisfy the requirements of the DSD in relation to their design, layout and provision of retained and new planting. It is considered that the establishment of these two areas of open space would make a positive contribution to the development providing attractive features for the benefit of all residents.





Public open space



7.27 The application submission includes six landscaping plans to indicate the soft landscaping across the site and ensures that soft landscaping would make an important contribution to the visual appearance of the development and soften the built form. The proposed landscaping details, mix of planting varieties, and the positive

contribution that the soft landscaping proposals make to enhancing the streetscene are considered acceptable and in accordance with requirements of the DSD

- 7.28 The scheme uses mature trees as a basis for a landscape framework for the development. This is a requirement of the general landscaping principles of the DSD to ensure an attractive setting for the proposed dwellings. Along the West Road frontage the retained trees would be supplemented by new native tree planting (species such as *Quercus robur* and *Prunus avium*) that will help to preserve the existing tree character. New *Tilia cordata* 'Green spire' trees from semi-mature stock are proposed within the verges of the Spine road to help define it as major route through the development. Other tree planting would be used along the secondary streets to enhance the street scene, using such ornamental species as *Corylus columa* and *Pyrus calleryana*. Smaller ornamental species would be used in more incidental locations across the development with contrasts between the various species to help define character areas. The apartment blocks would be defined by hedging.
- 7.29 The DSD set out indicative numbers of housing with 156 envisaged for phase 4 and 255 for phase 2C, a total of 411 dwellings. The proposal would result in the provision of a total of 365 dwellings and thus less than envisaged resulting in a density of 40 dwellings per hectare. This is considered to be a reasonable number for the site and would allow for a degree of spaciousness thus avoiding any perceived overdevelopment of the site.
- 7.30 It is considered that the design and layout of the development would provide a degree of acknowledgement to the military layout of the site that is balanced to the use of more contemporary design and materials that would provide interest to the site. The establishment of the specific character areas would provide a degree of interest to the different areas of the development whilst maintaining a consistent design focus throughout the development through the use of the housing types and palette of materials. Furthermore it is considered that the design and layout is consistent with the objectives of the DSD.
- 7.31 It is considered that the access to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access is considered to be acceptable.
- 7.32 It is considered that the quantum of development, mix of housing types, and how these have been incorporated into the proposed layout are considered to be acceptable.
- 7.33 It is considered that the design and appearance of the dwellings are acceptable with regard to the requirements of the outline permission, respecting the character of the wider barracks site, whilst establishing an identity for these phases of the development.
- 7.34 The scheme provides for the provision of two well designed open spaces and a comprehensive scheme of landscaping for the overall site and that, as such, the landscaping to be provided would be acceptable.
- 7.35 Overall it is considered that the development has been designed to a high standard and is consistent with the policy requirements of the Core Strategy, SS7 and its replacement SS11, and that it makes a positive contribution to its location in accordance with policies BE1 of the Local Plan and HB1 of the PPLP

### c) Residential amenity

- 7.36 Residential Amenity SD1 of the Local Plan Review and paragraph 127 of the NPPF require that consideration should be given to the residential amenities of both neighbouring properties and to future occupiers of a development. Emerging policy HB1 of the Places and Policies Local Plan (PPLP) states that development should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook. There are no existing neighbouring properties that would be adversely affected by the proposed development.
- 7.37 Policy HB3 of the PPLP requires adherence to the nationally described technical housing space standard for internal living space and the provision of private garden space for the exclusive use of an individual dwelling of at least 10m in depth and the width of the dwelling.
- 7.38 The majority of dwellings types comply with the national space standards under policy HB3 for the building heights and number of bed spaces (bsp) available for each property type. Nevertheless there would be shortfalls as shown on the following table:

Type	Quantity	Bedrooms	M <sup>2</sup> Req.	M <sup>2</sup> Actual	M <sup>2</sup> Shortfall
PT22	15	2 (3bsp)	70	67	3
PA25	63	2 (3bsp)	70	64	6
AA23	20	2 (4bsp)	79	75	4
Flat 493	3	1 (2bsp)	50	46	4
Flat 505	3	1 (2bsp)	50	47	3

- 7.39 It is considered that the above shortfalls are minor and not significant enough to justify and defend a refusal in terms of the spatial standards and it is noted that shortfalls of up to 6m<sup>2</sup> have been permitted on other phases of the Shorncliffe development.
- 7.40 The majority of the 286 houses would be provided with a garden of 10m in depth as required by policy HB3 and where shortfalls exist the houses would still have achieved depths greater than 9m. Nevertheless 15 of the dwellings would have garden depths of between 6 and 8m. These dwellings are smaller properties located either at the edges of the development and are either marginally confined by the site boundary or are end of terrace dwellings and provided with enclosed side gardens with boundary fencing to safeguard private amenity. These dwellings would also have ready access to the two areas of public open space a short distance from their doorsteps. As such, on balance, it is considered that the provision of private garden space for all dwellings would be acceptable.
- 7.41 The layout, orientation and design of the dwellings would ensure adequate space would ensure adequate space exists about the dwellings such that there are no concerns raised about overshadowing. The window arrangements and back to back separation distance would ensure that the potential for overlooking or interlooking would be insignificant ensuring privacy for residents. It is considered that the design and layout of the dwellings is such that each future occupier would be provided with

appropriate levels of residential amenity in accordance with policies HB1 and HB3 and that of the requirements of paragraph 127 of the NPPF.

**d) Parking and access**

7.42 Following consultation with KCC Highways the access and parking arrangements has been subject to review and improved. The Spine Road, the main road running through the site, has been increased to 6m in width and additional traffic calming measures have been introduced in the form of raised tables where straight road lengths exceed the guidance in the Kent Design Guide. A highways adoption plan also accompanies the submission. The other minor roads throughout the development they have been designed to cope with refuse vehicles and with turning heads provided at dead ends.

7.43 The parking strategy plan identifies the parking arrangements across the site

Type of parking space	Numbers
Allocated space	544
Allocated car ports	27
Visitor and unallocated spaces	175
Total	746
Garages	133 (not included in above total)

On average this delivers approximately 2.1 spaces per dwelling increasing to 2.4, when including the garages

7.44 KCC's Interim Guidance Note (IGN3): Residential parking for suburban residential locations requires 1 space per dwelling for one and two bedroom houses/flats, 1.5 spaces for three bedroom properties and 2 spaces for four bedroom properties together with additional parking at the rate of 0.2 spaces per unit. For the 167 one and two bedroom properties this equates to 167 spaces, for the 147 three bedroom properties this equates to 221 spaces and for the 41 four bedroom properties this equates to 82 spaces to give a total residents requirement of 471 spaces, whereas not including garages and car ports there are 544 allocated spaces across the development. Visitor parking at the rate of 0.2 spaces per unit equates to 73 spaces and 175 visitor/unallocated parking spaces are to be provided. The total minimum parking requirement is 544 spaces and, not including the use of garages, 746 spaces would be provided equating to a surplus of 202 vehicle parking spaces thus the residential parking requirements are amply satisfied. Given that there is no maximum parking requirement for suburban locations and that many 2 or 3 bedroom households may have access to 2 (or more cars) it is considered that the level of parking provision is proportionate to the mix of housing to be provided on site.

7.45 Cycle parking is to be provided to all units through the provision of garages and/or garden sheds with communal cycle parking available for the apartments.

7.46 All dwellings with on plot parking would be provided with an external waterproof plug facilitating vehicle charging.

7.47 The provision and location of bus stops within the development has been agreed within the S106 agreement accompanying the outline planning permission.

7.48 Refuse storage is to be located within residents back gardens or communal refuse areas with bins located within acceptable carry distance to roadside collection points.

Gate entrances would be provided to back gardens, or where this is not possible, access will be available through the garages

- 7.49 KCC Highways have confirmed that the road geometry, visibility splays and vehicle swept path analysis are all satisfactory and that the parking layout has been greatly improved over previous submissions and that allocated and non-allocated parking are all adequate. The indicated cycle parking provision is also adequate. Drawing 'CB\_80\_026\_900\_904 Adoptable Areas Plan' showing the extent of adoptable areas is also considered acceptable. Detailed highway design along with street lighting and landscaping elements within the public highway will all be subject to formal assessment as part of the Section 38 Agreement for adoptable roads as and when the submission comes forward. Taking account of the above issues KCC Highways have raised no objection to the proposed development. It is considered that the proposed access arrangements are therefore acceptable and there are no objection to their approval as part of the reserved matters application.
- 7.50 The overall level of parking provision is consistent with the requirements of emerging policy T2 and T5 of the PPLP, saved local plan policies and KCC's Interim Guidance Note (IGN3): Residential parking. The DSD requires that parking provision on site is in accordance with the suburban area parking standards and that garage parking is not counted towards the overall level of provision. As such the parking provision would meet the requirements of the DSD and be policy compliant.

#### **e) Ecology and biodiversity**

- 7.51 Condition 16 of the outline planning permission requires that each application for the approval of reserved matters for any phase or sub-phase of the development shall be accompanied by a detailed and up to date survey information of the protected species identified in the approved Environmental Statement as relevant to that phase or sub phase, together with a mitigation strategy where relevant. The detailed design of each phase or sub-phase of the development shall reflect the findings of the survey work and mitigation strategy. The mitigation measures shall be carried out as approved by the Local Planning Authority to an agreed timetable.
- 7.52 The Ecological Impact Assessment prepared by CSA Environmental (February 2019) updates the Ecological Impact Assessment originally surveyed during 2013-2016. The habitats within Phase 2C and Phase 4 were found not to have changed significantly. Key areas of mature and semi-mature scattered trees, which form the most valuable habitat resource on site will be retained along the boundary of the site, maintaining habitat connectivity for bats and other wildlife. New opportunities will be provided in the form of bat and bird boxes on trees and bat tubes within buildings to meet the quotas set out per phase in the Environmental Statement. Opportunities for ecological enhancement have been adopted within the scheme with new tree planting, with a significant number of native trees, resulting in an overall increase in the number of trees across the site, and a wildlife box scheme. This would ensure that net biodiversity improvements are provided in line with the requirements of paragraph 175 of the NPPF. The assessment considers that the development is not considered to result in any residual significant adverse effects to important ecological features and considered to accord with all relevant nature conservation legislation, as well as local planning policy. It is considered that the assessment is comprehensive, meets the requirements of the outline planning permission, and provides an acceptable review of the site's ecology.

- 7.53 The Bat Mitigation Strategy prepared by CSA Environmental (March 2019) provides details of proposed mitigation where evidence of roosting bats has been confirmed. It has been prepared following updated bat survey work undertaken in relation to condition 16, and is consistent with the Environmental Statement originally submitted as part of the outline application. It is considered that the mitigation strategy is acceptable and that the methodology would ensure the protection of the species.
- 7.54 The translocation of reptiles has already occurred and therefore there are no objections on these grounds.
- 7.55 KCC Ecology have been consulted on the submitted reports and are satisfied that the requirements of condition 16 of the outline application have been adequately addressed by the submission of the Ecological Impact Assessment and Bat Mitigation Strategy.
- 7.56 Policy NE2 of the PPLP requires that all new development will be required to conserve and enhance the natural environment and it is considered that the ecological elements of the scheme would satisfy the policy requirements and that the provision of wildlife boxes and a comprehensive landscaping scheme would provide ecological enhancements to the site
- 7.57 Natural England is satisfied with the contents of the submitted reports and have no objection to the proposed development.
- 7.58 An Arboricultural Impact Assessment by Keen Consultants (March 2019) has been submitted which identifies that although some trees would be lost those considered to be of significance will be retained. The Council's Arboricultural Manager has no objections to the loss of the trees identified in the report and to the tree protection measures for retained trees that are proposed. There are therefore no objections on these grounds.
- 7.59 The proposal also includes comprehensive landscaping proposals that include details of planting for new native species that would contribute to a net increase in tree cover across the site. The two open spaces would be provided with enhanced tree cover and the existing tree cover along the West Road frontage would be enhanced. A comprehensive scheme for the provision of native and ornamental trees along each street frontage has also been provided. The net result would be a development characterised by extensive tree planting ensuring an attractive development offering future visual amenity for residents.

#### **i) Flood risk and drainage**

- 7.60 The site is shown in the Environment Agency mapping to lie in Flood Zone 1 (low risk). Flood Zone 1 is the area described as having a less than 0.1% annual probability of fluvial or tidal flooding. All land uses are appropriate in this flood zone. The site is not at risk from off-site surface water.
- 7.61 Existing MoD drainage show that there are existing conventional drainage systems at the site although their exact location and condition are unknown. Consequently it is proposed to provide new surface water and foul water drainage to be offered to Southern Water for adoption. The drainage systems for the Burgoyne site will

discharge into West Road where new surface and foul water sewers would be installed running to the north and then east. The Napier drainage systems would discharge northwards from the development into the proposed sewers on North Road. The sewers will then connect into the existing Southern Water network. This is consistent with the drainage requirements of the Environment Statement.

- 7.62 Conditions 32 to 35 of the outline consent requires detail of surface water drainage schemes, the maintenance of the same and detail of sewage disposal to be submitted, prior to the commencement of development on any phase or sub-phase.
- 7.63 An indicative drainage scheme has been submitted which provides for a network of foul and surface water sewers across the development. Use would also be made of a network of cellular storm water tanks to provide storage during periods of heavier rainfall in order to control runoff. The submitted drainage information indicates that surface water discharge rates would not exceed 17.7 litres per second for Napier Barracks and 25.6 litres per second for Burgoyne Barracks as required by KCC. Details of the final drainage strategy can be secured by condition.
- 7.64 KCC, as the Lead Local Flood Authority, Southern Water and the Environment Agency have no objections to the development. There are therefore no objection to the proposal on these grounds.

#### **j) Affordable Housing**

- 7.65 The outline planning permission was approved with a commitment to provide 18% affordable housing across the development as a whole based on a maximum total of 216 units. Appendix 6 of the S106 agreement sets out the indicative phasing and mix of affordable housing with 11% expected at Phase 2C and 14% at Phase 4 which combined need to deliver circa 13% affordable housing. A total of 51 (14%) are proposed which aligns with the indicative breakdown.
- 7.66 The affordable housing provision would include 8 three bedroom houses, 21 two bedroom houses, 21 two bedroom apartments and 3 one bedroom apartments.
- 7.67 The dwellings would be provided in accordance with the terms of the S106 with 40% of the proposed units as shared ownership and 60% social rent. The submitted plans indicate that these dwellings would be reasonably spread across the development to avoid any clustering.

#### **k) Other matters**

- 7.68 Aside from conditions requiring details at the reserved matters stage the outline planning permission contained conditions relating to street lighting, a works strategy, updated ecological surveys at each phase, specification of external materials, details of management of open space, provision of vehicle and cycle parking prior to occupation of each dwelling, details of highway surfacing, provision of vehicle turning areas, a construction management plan, programme of archaeological work, historic building record prior to demolition, assessment of contamination and remediation if required, details of a surface and foul water drainage strategy, tree protection measures, details of soft landscaping works, details of any earthworks, water efficiency, noise mitigation measures for properties specified in the Environmental

Statement, highway improvement works, Class A, B, C, D and E permitted development restrictions. These conditions do not need to be reapplied here.

### **Environmental Impact Assessment**

7.69 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**

7.70 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**

7.71 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**

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

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

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

### **Working with the applicant**



7.73 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 the proposal is in general accordance with the DSD and would reflect the military heritage of the Garrison whilst providing a contemporary design touch. There has been a minor increase in building heights, over the parameters of the DSD, with a greater number of 2.5 and 3 storey dwellings but this is considered positive in design terms.

8.2 The general layout of the development is in accordance with the indicative masterplan of the approved Environmental Statement.

8.3 In terms of the internal and external space standards of emerging policy HB3 of the PPLP there is a shortfall of internal space and garden sizes in some instances but these are not considered to adversely affect future resident's amenity or those of neighbouring residents.

8.4 The proposal is considered to be of high quality delivering a total of 365 dwelling, including 51 affordable housing units, making a positive contribution to the districts housing supply.

8.5 A comprehensive scheme of landscaping would be provided across the site to provide a sense of place and ensure that the development provides a high quality living environment for future residents.

8.6 The development adheres to the requirements of policy SS7 of the Core Strategy 2013, as replicated in policy SS11 of the Core Strategy Review 2019, and the requirements of the DSD and Environmental Statement of the outline planning permission.

8.7 As a whole it is considered that the proposed development is in accordance with local and national planning policy.

## **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 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.**

### Conditions:

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers

CB\_80\_026\_900\_N\_CO\_SS\_02, CB\_80\_026\_900\_004 Affordable Housing,  
CSA/2170/213 Rev B, CSA/2172/209 Rev C, CSA/2172/215 Rev B, CSA/2172/216  
Rev B, CSA/2172/217 Rev B, CSA/2172/214 Rev B, CSA/2172/212 Rev B,  
18\_137\_NAP-202 Rev B, 18-137-BU-300 Rev A, CB\_80\_026\_900\_007,  
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CB\_80\_026\_900\_BN\_CO\_SS\_02, CB\_80\_026\_900\_BN\_GE\_SS\_01,  
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Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of saved policy SD1 of the Shepway District Local Plan Review.

2. No development (except for demolition) and site clearance shall begin in any phase until a detailed surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water drainage generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. Surface water discharge rates shall not exceed 17.7 litres per second for Napier Barracks and 25.6 litres per second for Burgoyne Barracks phases, within the development catchment wide allowable discharge rate of 64 litres per second.

The drainage scheme shall also demonstrate (with reference to published guidance)

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters
- Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

3. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied or brought into use until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the local planning authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage system incorporated.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 155 of the National Planning Policy Framework.

Informatives:

1. This decision is also conditional upon the terms of the Planning Agreement which has been entered into by the developer and the Local Planning Authority under Section 106 of the Town and Country Planning Act 1990. The Agreement runs with the land and not with any particular person having an interest therein.

## Appendix 1 – Site Location Plan

<b>Infrastructure</b>	<b>Amount or Provision</b>	<b>Phasing</b>
Reconfigured playing fields, at the Stadium & Le Quesne	Provision, approx £300k cost	1b
on site areas of open space and 'natural play', together with LEAP and NEAP to transfer to SDC	Provision, investment in play and other areas of open space of approx £1.8m	All phases
Committed sum payment for funding of open and play space maintenance and management of the Stadium and Le Quesne, including areas of play space for 10 years	Approx £700k	Phases 1 and 3
Provision of land and funding for 2FE Primary school	Freehold Transfer of land –at nil cost to KCC Servicing of plot Payment of £3,143,222	TBC, however full provision to be made in agreement with KCC to ensure school opens in September 2018
Changing and cadet/community use pavilion	Provision cost £800-£950k transfer to SDC subject to appropriate adoption fee being agreed	Required by March 2018 in accordance with MOD requirements
Stadium/pavilion car park	Provision £TBC	Phase 1, to be transferred alongside Stadium pitches
Other KCC community infrastructure contributions	£24,808.21 Community learning £87,543.84 Community facilities £5,388.96 assistive technologies £167,008.25	TBC – linked to occupation of specified number of units.
S278 works to identified junctions	Provision, £TBC	Phased in accordance with KCC Highways requirements and details set out in the application
Bus infrastructure	On site provision of bus stops and works and funding for routes £280k pump priming £150k Route 77 improvements £450k pump priming	TBC
GP Premises	Provision on site of 300m2	Phase 2a or 4, prior to occupation of 600 units
Seabrook Valley BTA & Redoubt/Conservation Management Plan	On site provision to value of approx £650k transfer details to be agreed. 10 year management and	Phase 1

	maintenance payment of approx £450k	
Restoration and reuse of listed buildings	Provision Restoration costs £TBC	In accordance with appropriate phases of development
Affordable Housing	On site provision	In accordance with phasing schedule (s106). Phase 1 to deliver 30%, with a minimum of 18% provided by the development (final figure TBC)
Off site highway works	As per KCC Highway requests, including s278 works and funding of off site improvements to junctions, pedestrian and cycle routes	As required by KCC Highways
Travel Plan	£10,000 monitoring and compliance contribution Household subsidies for bus and cycling Coordination (£274k) with Cheriton Primary School	Prior to occupation

19.13 It is considered that the s106 requirements above meet with paragraph 122 of the 2010 Community Infrastructure Levy Regulations, also set out within paragraph 204 of the NPPF which states that all developer contributions must meet the following tests and be:

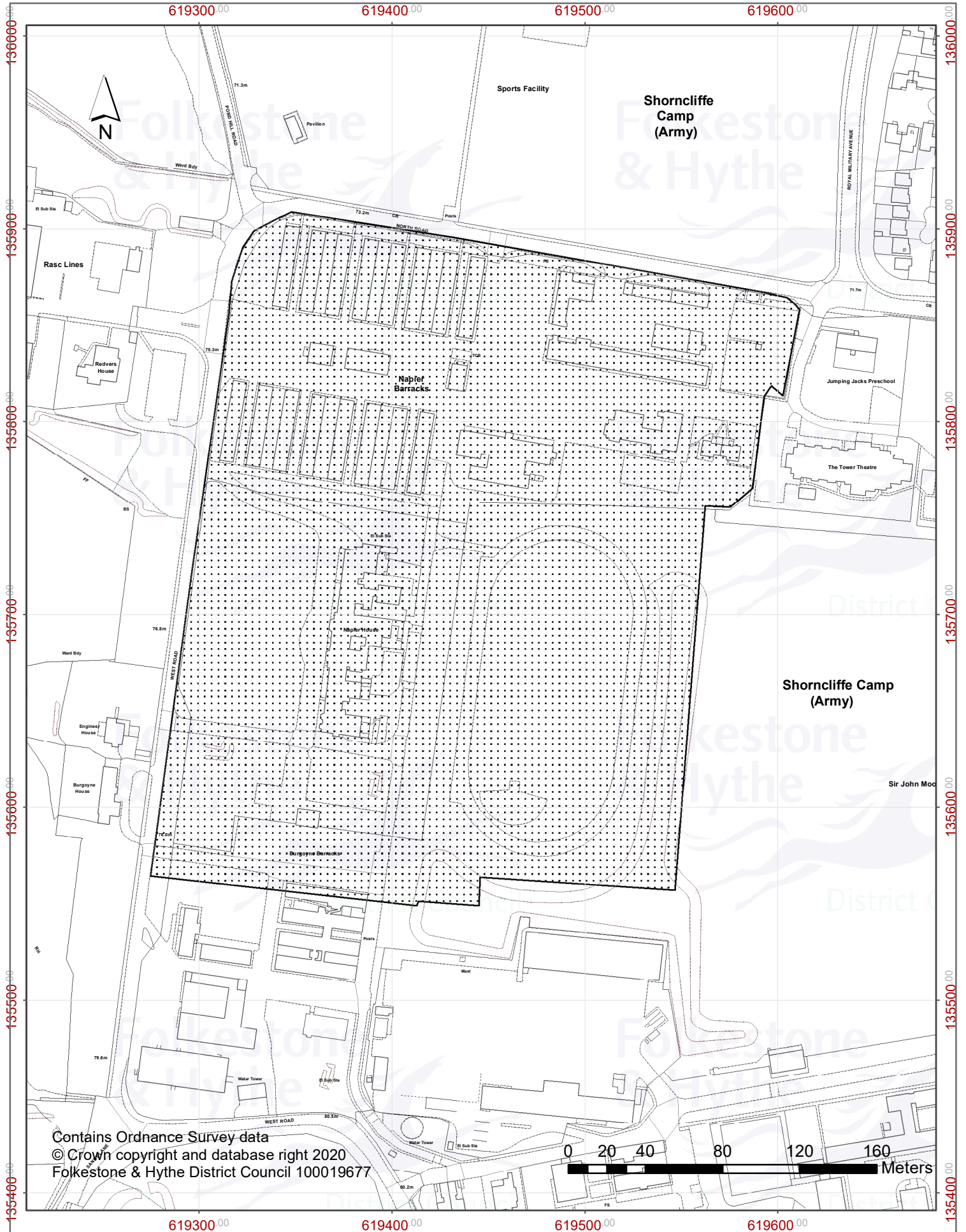
- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

19.14 A request has been made by KCC for superfast broadband provision to be achieved via condition. The applicant has questioned whether such provision meets the tests for conditions. As such an informative may be more appropriate.

19.15 In addition to the developer contributions set out above (to be finalised) the application includes significant investment in archaeological monitoring and recording, whilst the delivery of a large previously developed site also generates significant severance and de-contamination/demolition costs.



Y19/0318/FH  
Burgoyne Barracks North and Napier Barracks  
West Road  
Folkestone



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# Agenda Item 6

## DC/20/12

**Application No:** Y19/0248/FH

**Location of Site:** Land Adj 1 Railway Cottages Duck Street Elham Canterbury  
Kent CT4 6TP

**Development:** Outline application for the erection of 3 x detached dwellings including detailed consideration of access (a short re-alignment of Duck Street) and layout, all other matters reserved.

**Applicant:** Mrs Vincent

**Agent:** Mrs Welch  
Hobbs Parker  
Romney House  
Monument Way  
Orbital Park  
Ashford

**Officer Contact:** Rob Davis

### SUMMARY

This report considers whether outline planning permission should be granted for the erection of three dwellings. The report recommends that planning permission be granted as it is considered that the site is in a sustainable location immediately adjacent to the settlement boundary of Elham and that the development would result in minimal harm to the character of the wider countryside due to the position of the site, which is bordered by residential development on three sides. Landscaping to be considered under a future reserved matters application could be accommodated within the site to mitigate against any visual harm to the landscape and the character and setting of the AONB and Special Landscape Area setting. In addition, a scheme can be suitable designed to ensure appropriate measures are included in respect of neighbouring amenity, highway safety and ecological interests.

### RECOMMENDATION:

**That planning permission be granted subject to the conditions set out below and the applicant 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

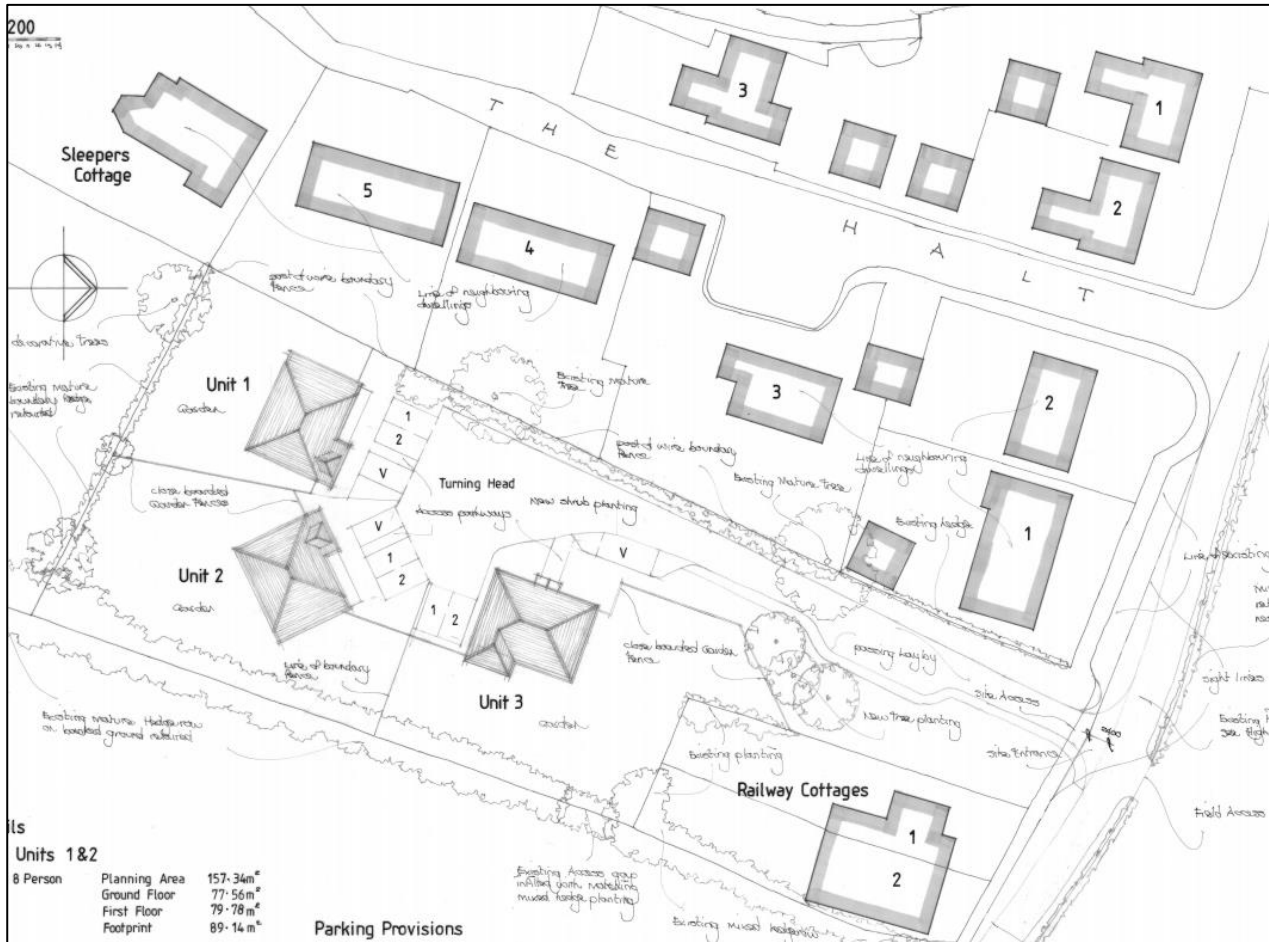
1.1. The application is being reported to the Chief Planning Officer through the delegated plus procedure in exercising emergency delegation powers. The application had previously been due to be considered by the Planning and Licensing Committee due to an objection to the scheme received from Elham Parish Council.

## 2. SITE AND SURROUNDINGS

- 2.1 The application relates to a site located on the southern side of Duck Street, to the eastern edge of the village of Elham. The site lies outside of the defined settlement boundary of Elham which runs down the western boundary of the site. The site lies within the Kent Downs Area of Outstanding Natural Beauty (AONB) and is within the locally designated a Special Landscape Area (SLA). Part of the western side of the site lies within an area of identified archaeological potential. The site is not within a flood risk area with flood Zones 2 and 3 to the west of the site along The Halt.
- 2.2 The site has an existing access way from Duck Street and is a rectangular plot of undeveloped grassed agricultural land. The site slopes downwards from east to west. There are hedgerows in situ to the southern and western boundaries of the site. Immediately to the east of the site is Nos. 1 and 2 Railway Cottages, a pair of semi-detached cottages, front on to Duck Street. Immediately to the west lie dwellings which front on the 'The Halt', whose rear elevations face towards the western side boundary of the site.
- 2.3 A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

- 3.1 The application seeks outline planning permission for the residential redevelopment of the site comprising three detached dwellings. Detailed consent is sought for layout and access, all other matters (scale, appearance, landscaping) are reserved matters for future consideration. The proposed site layout comprises a vehicular access to the north of the site which runs west of 1 & 2 Railway Cottages, with a passing bay provided, to the proposed three detached dwellings which would be set around a turning head (Figure.1).



(Figure.1)

3.2 Whilst permission is not sought for appearance and scale, indicative drawings show four-bedroom dwellings with hipped roofs, brick faced with plain tiled roofs and areas of tile hanging, and white UPVC windows. Indicative floorplans show a living room, study, kitchen / dining area, W.C. and utility room at ground floor, and four bedrooms (two en-suite) and a bathroom at first floor level.

3.3 During the course of the application, an indicative plan has been submitted showing a proposed badger-proof fencing line to the southern and eastern boundaries of the site, and a reptile habitat buffer to the eastern boundary of the site.

#### 4. RELEVANT PLANNING HISTORY

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

There is no relevant planning history in connection with the application site itself, however there are former applications connected to neighbours of the site, which may be of relevance. There include:

- Y19/0578/FH** - Erection of a single storey rear extension, first floor side extension and garage conversion together with alterations to existing fenestration and removal of

chimney stack. Approved 16.08.2019 (1 Railway Cottages)

- Y19/1351/FH** - Section 73 Application for variation of condition 2 (submitted plans) for application Y19/0578/FH. Approved 31.01.2020 (1 Railway Cottages)

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Elham Parish Council:** Objection. The proposed siting of the three dwellings is directly opposite the existing neighbours' properties, on higher ground, and would there impose upon the privacy of the existing properties.

The proposed attenuation tank would in no way alleviate the numerous springs which cover the plot. The Parish Council would like to see further investigations / calculations by Building Control.

A proposed scheme of three high-value properties is against the ethos of the Parish Council to promote affordable high-density family homes.

The building plot is outside the curtilage of the district settlement boundaries. FHDC refusal of previous applications for development of this site were based on this fact, this has not changed. Therefore, the application should be refused to be consistent with these previous decisions.

**KCC Highways and Transportation:** No objection. The proposed minor realignment of Duck Street to provide visibility splays from the proposed access is acceptable, at the expense of the Applicant via Section 278 Agreement.

The development of three houses does not raise concerns regarding highway capacity or safety in this location. The proposed visibility splays are sufficient. The proposed driveway includes a passing bay. Each property has sufficient vehicle, visitor and cycle parking.

Conditions are recommended to secure:

- Provision of parking facilities for site personnel and visitors for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities for the duration of construction.

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- Use of a bound surface for the first 5 metres of the access from the highway.
- Provision and retention of the proposed vehicle parking spaces.
- Provision and retention of the proposed cycle parking facilities.
- Provision and maintenance of visibility splays.

**KCC Archaeology:** No objection subject to a condition securing a watching brief. The site of application lies adjacent to the site of the former Elham Station and Elham Valley Line. Archaeological deposits relating to this post-Medieval activity may be exposed during the groundworks involved in the proposed development.

**Arboricultural Manager:** No objection to the proposed development. A tree protection plan is required in accordance with BS5837:2012 to demonstrate that trees in adjoining sites would be protected during construction works, and that hedgerows alongside the proposed access would be protected.

**KCC Ecology:** No objection. The reptile survey confirmed that common lizards are present within the proposed development site and it is recommended that the reptiles are translocated to retained habitat along the eastern boundary. KCC previously raised concerns that that part of the proposed receptor site would be located within the residential gardens and therefore there were concerns that it would not be managed appropriately. Revised site plans have been submitted to demonstrate that the mitigation area will be located outside of the residential garden and the applicants have confirmed that this area will be managed by the management company. Provided the strip is wide enough for the management company to access it, the previous concerns raised by KCC have been addressed. The area must be actively managed to ensure that future residents don't expand their garden into the receptor site and if planning permission is granted, conditions requiring reptile mitigation and a site wide management plan should be attached.

### Local Residents Comments

5.2 9 neighbours directly consulted. 7 letters of objection received.

5.3 All of the letters received have been read and the key issues are summarised below:

#### Objections

- Houses are too large and would be too expensive. Elham needs more affordable houses.
- Increased overlooking of neighbouring properties.
- Harm the outlook from neighbouring properties.
- Construction and associated vehicular movements to the dwellings would cause noise disturbance.
- Additional traffic and pollution.
- Increased surface water run-off on to neighbouring properties.

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- Nothing has changed since previous application for dwellings on the site were refused.
- Increased traffic.
- Unclear whether the sewerage and surface water drainage infrastructure can cope with additional development.
- Outside of the settlement boundary and could set a precedent for further expansion of the village.
- Ecological concerns including a badger sett in the field.
- Harm views of the countryside/Elham Valley.
- Would not preserve or enhance the natural beauty of the Kent AONB.
- Houses not required in Elham as a substantial housing development has been approved nearby.
- Harm trees alongside the site.
- Dwellings on the Duck Lane frontage would be more appropriate.
- Neighbouring dwellings alongside the site would lose their countryside view.

### 5.4 **Ward Member**

Councillor Stuart Peall had called the application to committee if officers were minded to approve the application. The application is now being reported to the Chief Planning Officer through the delegation plus procedure in exercising emergency delegation powers.

5.5 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



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- BE1 - Standards expected for new development in terms of layout, design, materials
- BE16 - Requirement for comprehensive landscaping schemes
- HO1 - Housing land supply
- CO1 - Countryside to be protected for its own sake
- CO4 - Special Landscape Areas and their protection
- CO11- Protection of protected species and their habitat
- TR11 - Accesses onto highway network
- TR12 - Vehicle parking standards
- U1 - Criteria to be considered for development proposals relating to sewage and wastewater disposal for four dwellings or less, or equivalent

### Shepway Local Plan Core Strategy (2013)

- DSD – Delivering Sustainable Development
- SS1 - District Spatial Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

### Places and Policies Local Plan Submission Draft (2019)

- HB1 – Quality Places through Design
- HB3 - Internal and External Space Standards
- NE2 - Biodiversity
- NE3 - Protecting the District's Landscapes and Countryside
- NE7 - Contaminated Land
- T2 - Parking Standards
- T5 - Cycle Parking
- HE2 - Archaeology
- CC2 - Sustainable Design and Construction
- CC3 - Sustainable Drainage Systems (SuDS)

### Core Strategy Review Submission draft (2019)

- SS1 - District Spatial Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

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

### **Supplementary Planning Guidance/Documents**

### **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

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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:-

Paragraphs 12, 106, 108-110, 117, 124, 127, 148, 155, 157-164, 170, 172, 175

## National Planning Policy Guidance (NPPG)

Design: Paragraphs 001, 002, 004, 012, 041

Planning and flood risk: Paragraphs 001, 002, 003, 018, 019, 029, 030, 031, 032, 033, 034, 050, 051, 079, 080, 081, 082, 083, 084, 085, 053, 054, 059, 060

Rural housing: Paragraph 001

Natural environment: Paragraphs 004, 007, 016, 017, 018, 020

## 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 and Sustainability
- b) Landscape Impact
- c) Amenities of Neighbouring Occupiers:
- d) Housing Mix/Standard of Accommodation:
- e) Parking and highways:
- f) Ecology and Biodiversity
- g) Flood Risk and Drainage:
- h) Contamination
- i) Trees
- j) Archaeology

## a) Principle of Development and Sustainability

- 7.2 The application site lies outside of the settlement boundaries of Elham and as such represents development in the countryside. However, the site is adjacent to the settlement boundary and is therefore not considered to be in an isolated location.
- 7.3 The key policy considerations in terms of the principle of the development are Core Strategy policy SS1 and saved policy CO1 of the Local Plan that advise development in the open countryside and on the coast (defined as anywhere outside of settlements within table 4.4 (settlement hierarchy) will only be allowed exceptionally, where a rural location is essential. The site is not considered to be 'open' countryside as it is adjacent to existing development and the defined settlement boundary.
- 7.4 Core Strategy policy SS1 states "Development within Shepway is directed towards existing sustainable settlements to protect the open countryside...". However, due to the site being adjacent to the defined settlement boundary, the site is not considered to be remote/isolated in NPPF terms due to its proximity to the village. The site is also considered to represent infill development adjacent to existing housing such that it would not be regarded as a site encroaching further into the open countryside. Paragraph 78 of the NPPF also facilitates housing development that is located where it will enhance or maintain the vitality of rural communities and that would be the case with the proposed development.
- 7.5 Therefore, although technically outside the defined settlement boundary and consequently within the countryside, it is not considered that the proposal would have an unacceptably detrimental impact upon the countryside due to the limited amount of dwellings being proposed, that the site is adjacent to existing housing and therefore is within a sustainable location and that the site could be adequately screened from wider viewpoints. Each of these elements will be assessed further below under policy CO1 which sets out criteria for development within the countryside. Policy CO1 states:

*The District Planning Authority will protect the countryside for its own sake. Subject to other Plan policies, development in the countryside will be permitted where proposals:*

- a) maintain or enhance features of landscape, wildlife, historic, geological and agricultural importance, and the particular quality and character of the countryside;*
- b) demonstrate that they cannot be practicably located within an existing settlement and essentially require a countryside location;*
- c) are of a high standard of design and, sympathetic in scale and appearance to their setting;*
- d) are acceptable in highway and infrastructure terms and;*
- e) preserve or enhance the amenity, character and functioning of rural towns and villages.*

*Development proposals that would significantly conflict with one or more of criteria a - e above will only be permitted where it can be shown that:*

- i) there is an overriding social or economic need;*
- ii) negative impacts are minimised as far as possible and;*

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*iii) adequate measures will be taken to compensate for any the adverse environmental effect. Compensatory measures should, as a minimum, ensure that no net environmental loss occurs.*

7.6 Taking each of the criteria in turn:

*a) maintain or enhance features of landscape, wildlife, historic, geological and agricultural importance, and the particular quality and character of the countryside;*

7.7 The site is beyond Elham settlement boundaries and at present has the character of open undeveloped agricultural land. To the south of the site there is one dwelling in situ; 'The Old Station Master's Cottage', and to the north-eastern corner of the site Nos. 1 and 2 Railway Cottages are in situ. These dwellings are considered to represent historic anomalies beyond the settlement boundary, rather than setting a precedent for further residential development beyond the boundaries of the village. Notwithstanding this, the dwellings 1 and 2 Railway Cottages are in place and the assessment is whether the introduction of the three proposed dwellings between The Halt and the Railway Cottages would cause harm to the landscape and quality and character of the countryside.

7.8 The proposed development would result in the loss of the undeveloped countryside character of the site, and the loss of the site for agricultural use and as such would result in harm to the character of the rural location. However, a detailed and comprehensive Landscape Visual Impact Appraisal has been submitted and demonstrates that any visual harm would be limited due to the topology of the area, the proximity of the site to existing development and vegetation. The site would not be particularly prominent from wider viewpoints, including nearby public footpaths due to the distance and built form surrounding the development. However, to limit any harm that would arise, landscape mitigation would reduce the visibility of the site and soften the development in this setting. Landscaping details can be addressed under the subsequent reserved matters application, however mixed native hedgerows and broad canopy nature trees are suggested. It is therefore considered that the proposed development would not result in unacceptable harm the surrounding area of the AONB and the Special Landscape Area.

7.9 The assessment then turns to the agricultural importance of the site as set out within part a) of this policy, in addition to paragraph 170 of the NPPF which requires decisions to "contribute to and enhance the natural and local environment by 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". The land is classified as 'Good to Moderate' agricultural land, with there being two higher classifications above this ('very good' and 'excellent') and therefore, although loss of any agricultural land is regrettable, this agricultural land is not considered to be the best and most versatile agricultural land available and this point alone would not be a sufficient to warrant refusal of the application.

*b) demonstrate that they cannot be practicably located within an existing settlement and essentially require a countryside location;*

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7.10 Although Elham has a defined settlement boundary, within which new development is directed, the application site is adjacent to the defined settlement boundary and would infill a gap in the current street pattern, naturally consolidating the built form. Whilst additional units within the countryside would not normally be supported, in this case, any visual harm (as discussed above) would be limited and the site is considered to be in a sustainable location.

*c) are of a high standard of design and, sympathetic in scale and appearance to their setting;*

7.11 As detailed planning permission is sought for layout and access only, the detailed design of the scheme is not to be assessed under the current application. However, indicative house floorplans and elevations have been submitted. These designs show two-storey dwellings of traditional design and form with hipped roofs and traditional materials.

7.12 The site is located adjacent to the existing settlement boundary and by only proposing 3 dwellings on this site, the dwellings would be within large spacious gardens and therefore there would not be overdevelopment of the site.

*d) are acceptable in highway and infrastructure terms and;*

7.13 As detailed below, the scheme is considered acceptable in highway and infrastructure terms.

*e) preserve or enhance the amenity, character and functioning of rural towns and villages.*

7.14 The proposed development is in outline form with only the layout and access to be determined at this stage. Subject to the detailed design and landscaping to be determined within subsequent reserved matters submissions, it is considered that the size of the site combined with the density of housing proposed would enable a high standard of housing development with appropriate design for the rural, sensitive location could be achieved. As such, the development could be designed to ensure that it would make a positive contribution to Elham preserving the amenity and character of the village and the future occupiers could make use of the facilities and services available within the village helping to make a positive contribution to its vitality and functioning.

7.15 Overall it is considered that the proposed development would not conflict with the criteria of policy CO1 and the exceptional circumstances (i) – (iii) do not apply in this case.

### **b) Landscape Impact:**

7.16 As discussed above, there is a dwelling in situ to the south of the site and two dwellings to the north-east corner of the site. As such, the site does not have an open character as it is bordered by housing and residential land on three sides. Although development of the site would change its character and result in some harm, it is considered that with landscaping and the setback position of the dwellings from the front of Duck Street which would allow for landscaping between, would ensure that the development would

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not have a significantly negative impact upon the character and appearance of the countryside or on views within the AONB and Special Landscape Area.

### **c) Amenities of Neighbouring Occupiers:**

- 7.17 Whilst an outline proposal, the proposed layout of dwellings allows for some consideration of potential impacts upon neighbouring amenity. The application site is on higher ground than the dwellings to the west on The Halt, and slopes down towards the rear boundaries of these properties. The proposed dwellings labelled as 'Unit 2' and 'Unit 3' are set 15 metres approx. away from what would be the shared boundary, and therefore whilst dwellings in these locations would impact upon the outlook from the dwellings to the west, there would be sufficient spacing to envisage that dwelling designs could be proposed which would not have an overbearing impact upon these properties and would not result in harmful overshadowing. In addition, appropriate boundary screening and planting could be secured.
- 7.18 The third proposed dwelling, 'Unit 1' would be set the closest to The Halt development, adjacent to dwelling No.5 however, the 90 degree angle of the proposed dwelling would ensure that the proposed dwelling would not result in direct overlooking into the rear garden of No.5 and the separation of approximately 15m between the two dwellings would ensure there would be not be a significant loss of light to this neighbouring dwelling.
- 7.19 It is considered that suitable boundary screening and planting could be secured by condition, and the levels of activity and noise would be in keeping with the residential nature of the development to the west of the site, and that overall this level of noise would not cause significant harm to neighbouring amenity.

### **d) Housing Mix/Standard of Accommodation:**

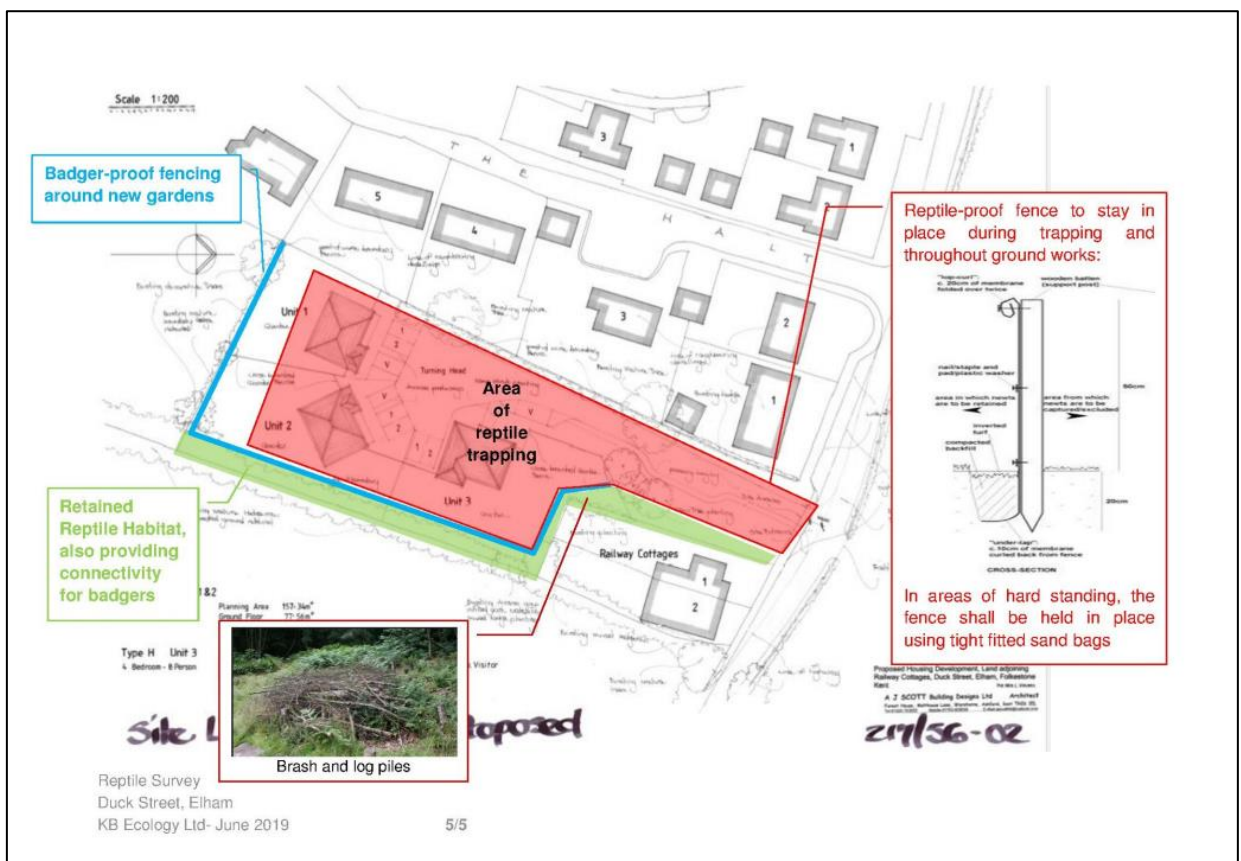
- 7.20 The detailed floorplans and elevations of the proposed dwellings are indicative only and these detailed matters would be considered under a future reserved matters application. The indicative scheme shows three four-bedroom dwellings which would provide a high standard of accommodation and would be in excess of the minimum space standards set out by Government (Nationally Described Space Standards). It is regrettable that dwellings of this scale would not be affordable to many, this factor alone is not however a reason to refuse permission and it is possible that any concerns regarding the size / mix of units proposed could be addressed at Reserved Matters stage when detailed designs would be able to be fully considered.

### **e) Parking and Highways:**

- 7.21 KCC Highways & Transportation consider the proposed access, and minor reconfiguration of Duck Street to be acceptable in highway safety terms, and also consider that the development would have an acceptable impact upon the capacity of the surrounding highway network and would not result in an increased highway safety risk. The proposed parking provision of two parking spaces and one visitor space per dwelling is considered to be appropriate. Full details of cycle parking could be secured by condition along with all other highways requirements.

f) Ecology and Biodiversity:

- 7.22 It is a requirement of national and local policy that development does not endanger protected species, and the NPPF requires that development delivers a net gain in biodiversity terms.
- 7.23 During the course of the application, the proposed site plan has been amended to exclude the south hedge (where the badger sett is located) from the residential curtilage, to ensure that suitable habitat will be retained for reptiles and badgers (as recommended in the submitted reptile report). The strip of land would be outside of private garden space and managed by an appointed management company, to ensure its long term retention and development.
- 7.24 The submitted Reptile Survey and Mitigation Strategy (June 2019) concludes that the fencing would mean that suitable reptile habitat will be retained and the population of lizards could be retained on site. Prior to any ground works starting, a translocation exercise should take place, entailing the erection of reptile-proof fencing around all areas of the site where ground works would take place (Figure.2). This could be the subject of a planning condition.
- 7.25 In addition, the revised plan also shows that the fence will be badger-proof (along the south and west boundaries) to protect private garden spaces, as per recommendations in the badger report. The letter dated 26th February 2020 from the Ecologist states that the fence is such that badgers will be able to get around the proposed development and their ability to forage in the village will not be impaired.



(Figure.2)

7.26 KCC Ecology raise no objection to the proposal subject to conditions to secure reptile mitigation and a site wide management plan. Therefore, it is considered that the proposed development would safeguard protected species and the proposal would comply with Saved policy CO11 of the Local Plan which seeks to ensure that development would not endanger protected species or cause the loss of, or damage to, habitats and landscape features of importance for nature conservation.

### **g) Flood Risk and Drainage:**

7.27 The application site is classified as Flood Zone 1, it does however slope downwards to the properties to the west on The Halt, and areas of The Halt are classified as Flood Zone 2 and 3. Representations received raise concerns that the proposed development would result in additional surface water run-off, and that springs within the site could be diverted towards neighbouring properties.

7.28 A Flood Risk Assessment and drainage proposal have been submitted which concludes that the site can be adequately drained and the proposals would not increase the flood risk to the neighbouring properties. Measures outlined within this could be the subject of planning conditions.

### **h) Contamination:**

7.29 As an agricultural site there is potential for previous contamination of the site. An Environmental Report has been submitted which concludes that the site represents a very low to low environmental risk, however, a phase II intrusive investigation of the site is required. It is considered that further more detailed land contamination studies could be addressed by a planning condition.

### **i) Trees:**

7.30 Whilst there are no trees within the site itself, the Arboricultural Manager has advised that a tree protection plan is required in accordance with BS5837:2012 to demonstrate that trees in adjoining sites would be protected during construction works, and that hedgerows alongside the proposed access would be protected. This could be secured by planning condition.

### **j) Archaeology**

KCC Archaeology raise no objection subject to a condition requiring a watching brief to be carried out as the site lies on the former Elham Station and Elham Valley Line. KCC Archaeology state that archaeological deposits relating to this Post-Medieval activity may be exposed during the groundworks involved in the development of the site. This could be secured by condition.

### **Environmental Impact Assessment:**

7.31 In accordance with the EIA Regulations 2017, this development, due to the location within the AONB, requires screening for significant environmental impacts.



## **Local Finance Considerations:**

- 7.32 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.
- 7.33 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 £138.94 per square metre for new residential floor space.

## **Human Rights**

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

## **Public Sector Equality Duty**

- 7.35 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

## **Working with the applicant:**

- 7.36 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 three dwellings would make a small-scale contribution to the housing needs of the district in a sustainable location immediately adjacent to the settlement boundary. Whilst the proposal would introduce built development into an undeveloped rural location, resulting in a level of harm to the character of the area, it is considered that this harm could be mitigated through landscaping due to the limited harm identified. In addition, subject to the reserved matters application that will consider the detailed design of the individual dwellings, it is clear that a development of this scale can be successfully designed that would be acceptable in terms of impacts upon neighbouring amenity, highway and ecology.

## 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 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. Approval of the details of the scale and appearance of the building(s) thereto and the landscaping of the site, hereinafter called "the reserved matters", shall be obtained from the Local Planning Authority in writing before any development is commenced.  
Reason: Such details are necessary for the full consideration of the proposal and have not, so far, been submitted.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission.  
Reason: As required by Section 92 of the Town and Country Planning Act 1990.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.  
Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended).
4. Prior to works commencing on site (including vegetation clearance) the reptile mitigation detailed within the Reptile Survey and Mitigation Strategy (KB Ecology; June 2019) must be implemented in full.  
Reason: In order to protect species in the interests of nature conservation'
5. Within 3 months of work commencing on site a site wide Ecological Management Plan must be submitted to the Local Planning Authority for written approval to include the following details.
  - Map showing the area to be managed

- Overview of the proposed management
- Timetable to implement the management
- Details of who will be carrying out the management
- Details of monitoring and management plan reviews

The plans must be implemented as approved

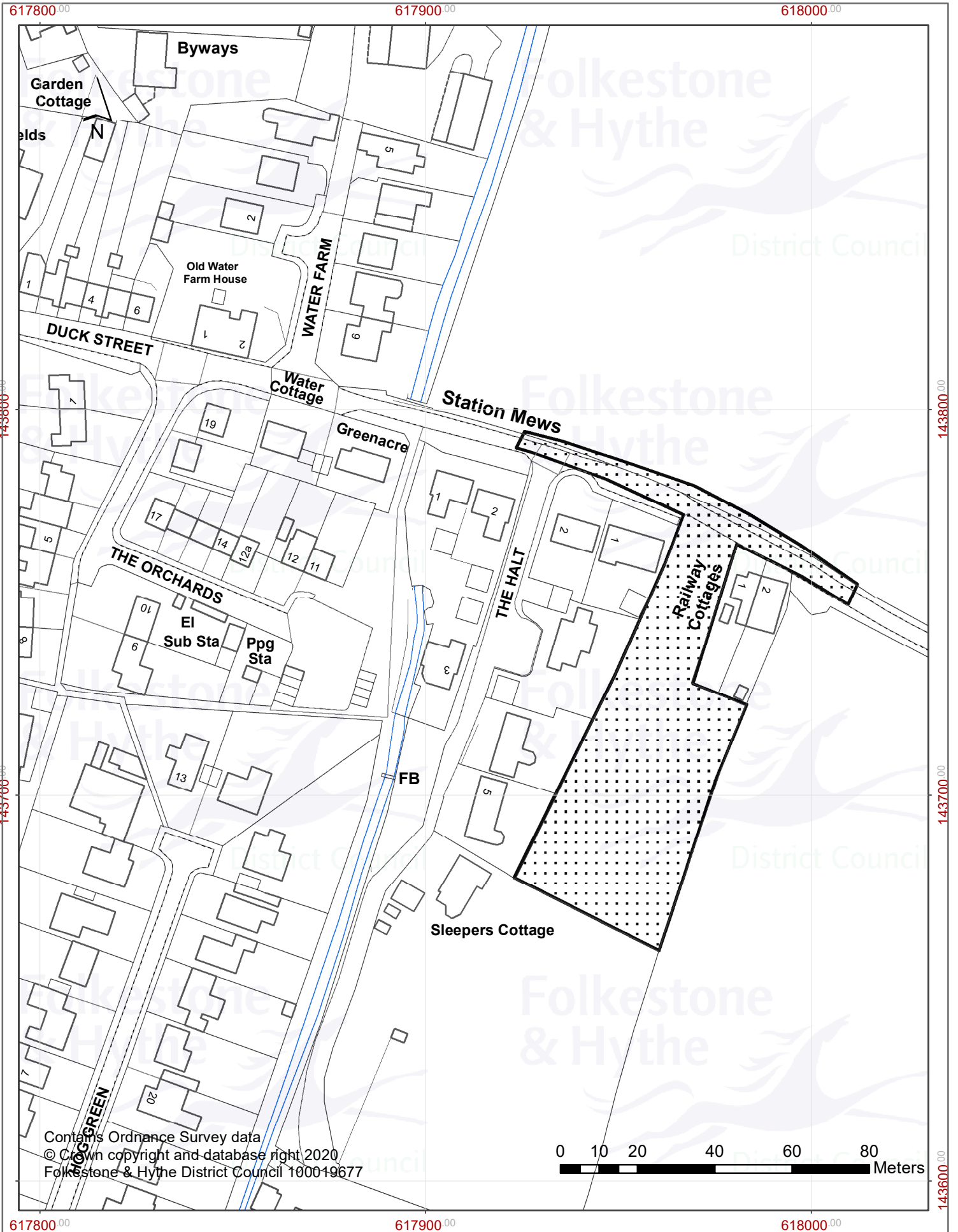
Reason: In order to enhance biodiversity in accordance with paragraph 170 of the National Planning Policy Framework.

6. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.  
Reason: To ensure that features of archaeological interest are properly examined and recorded.
7. No development shall commence until a tree protection plan is submitted to the Local Planning Authority in accordance with BS5837:2012 that demonstrates how the trees in private ownership on land adjoining the application site to the west (The Halt) will be protected against the effects of the development and the proposed access road that passes in close proximity to them along with measures to safeguard the hedgerows that surround the site.  
Reason: In order to protect the longevity of existing trees and hedgerow in the interest of visual amenity.
8. The vehicle parking and vehicle turning facilities shown on the approved plans shall be kept provided and available for parking purposes in connection with the approved development prior to the first occupation of any dwelling and at all times thereafter.  
Reason: To ensure the permanent retention of the facilities for parking purposes within the curtilage of the site in order to avoid obstruction of the highway, safeguard the amenities of adjacent properties and encourage alternative modes of sustainable transport in accordance with saved policies TR5, TR12 and SD1 of the Shepway District Local Plan Review.
9. A bound surface for the first 5 metres of access from the highway shall be provided prior to the first occupation of any dwelling.  
Reason: In order to avoid the displacement of loose materials onto the highway in the interest of highway safety.
10. The visibility splays shown on the submitted plans shall be provided with no obstructions over 1.05m above carriageway level within the splays prior to the first occupation of any dwelling.  
Reason: In order to provide a safe means of access for vehicles entering and egressing the site in the interests of highway safety.
11. No side windows shall be provided within the side elevation to Unit 1 (facing N.5 The Hall) unless obscure glazed and non-opening below 1.7m above finished floor level.

## **DC/20/12**

Reason: In order to provide a satisfactory level of privacy for existing occupiers in the interest of residential amenity.

Y19/0248/FH  
Land adjoining 1 Railway Cottages  
Duck Street  
Elham



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# Agenda Item 7

**DC/20/13**

**Application No:** 20/0073/FH

**Location of Site:** Hillcroft, School Road, Saltwood, Hythe, Kent, CT21 4PP

**Development:** Section 73 application for the variation of conditions 1 (approved drawings) and 7 (obscure glass) of planning permission Y19/0272/SH (Erection of a detached two storey dwelling) to enable an increase in ridge height, additional fenestration, revisions to the ground floor layout and external materials.

**Applicant:** Mr Aldo Sassone-Corsi

**Agent:** N/A

**Date Valid:** 21.01.2020

**Expiry Date:** 04.03.2020

**EOT Date:**

**Date of Committee:** 25<sup>th</sup> August 2020

**Officer Contact:** Katy Claw

## **SUMMARY / PROPOSAL**

This application seeks to vary condition 1 (approved plans) and remove condition 7 (obscure glass) of planning permission Y19/0272/FH.

With regards to condition 1, this variation is sought to allow an amendment to the approved rear elevation drawing to include solar panels that have already been installed upon the rear elevation roof slope. Planning permission for solar panels on a domestic property usually falls under permitted development but in this case the dwelling was not complete before the solar panels were installed and so the works could not benefit from householder permitted development rights.

The variation of the approved plans would also include permitting an internal layout change to the previously approved first floor plan which relocates the position of a dividing wall and the bathroom and a bedroom swapping positions within the first floor and two windows (one to the front and one to the rear) being clear glass as opposed to obscure glazed.

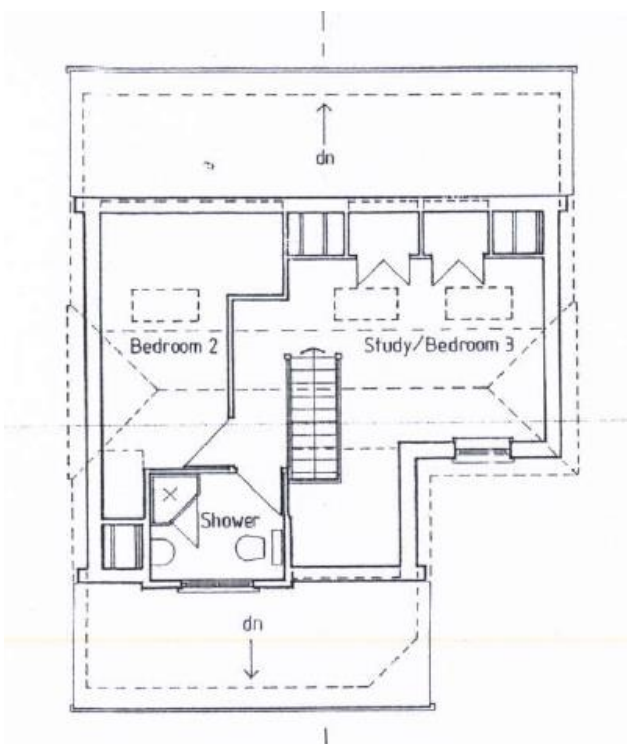
With regards to condition 7, a removal of this condition is sought to allow the front first floor dormer window to be clear glass as opposed to obscure glass, and the middle rear rooflight window to be clear glass as opposed to obscure glass. This is due to the front first floor room now functioning as a bedroom as opposed to a bathroom and the rear rooflight is situated high enough within the roofspace that it is not possible to obtain views in or out of this rooflight.

The LPA considers that the rear solar panels offer no concerns with regards to neighbouring amenity or visual appearance and that the rear rooflight window is sited at a height whereby it is not possible to obtain views in or out with the installation of clear glass, however the LPA is of the opinion that the amenities of the neighbour at Hillgay and the future occupants of the proposed dwelling would not be safeguarded by the introduction of clear glass to the front first floor window.

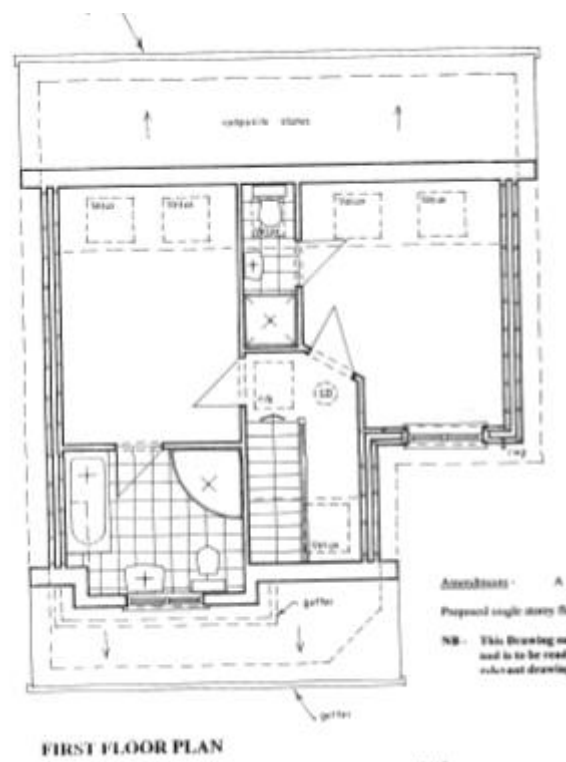
<b>RECOMMENDATION: That planning permission be refused for the reason set out at the end of the report.</b>
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## 1.0 INTRODUCTION

- 1.1 At its meeting on 29<sup>th</sup> July 2016 the Planning and Licensing Committee resolved to grant planning permission under reference Y15/0514/SH for the erection of a detached dwelling within the garden of Hillgay. Construction of the dwelling commenced on site but the works were not being carried in accordance with the approved plans.
- 1.2 At a further meeting on 23<sup>rd</sup> July 2019 the Planning and Licensing Committee resolved to grant planning permission under Y19/0272/FH for variation of conditions 2 (approved plans) and 9 (obscure glass) to planning permission Y15/0514/SH. This approval allowed for an increase in ridge height, a change to the finished fenestration, additional fenestration and a change to the obscure glazing locations as a result of internal layout changes.
- 1.3 Under the Y15 application the bathroom was to be located at the ground floor rear elevation and the shower room was to be located at the first floor front elevation. Under the Y19 application it was proposed to relocate the ground floor bathroom to form a first floor shower room and as a result the obscure window at ground floor was no longer required. At first floor a bathroom would still be served by the front dormer window and as a result a new permission was granted which ensured that the relocated shower room and bathroom were both still to be fitted with obscure glazed windows in the interests of future occupiers' and neighbouring amenity being protected.
- 1.4 Finishing materials for Y15/0514/SH were approved under a conditions monitoring application Y18/1469/FH as white render and mixed brindle clay plain tiles with white uPVC fenestration. Changes have been made to the original materials and they are now approved to be a roof tile in natural Spanish slate with grey uPVC fenestration. The Y19 application also proposed white render to the walls, timber horizontal cladding to the front dormer window and white uPVC fascia boarding and rainwater goods. Hard landscaping to the front elevation has been approved Tegula block paving of mixed sizes in 'Autumn Gold'.



Floor plan approved under Y15/0514/SH



FIRST FLOOR PLAN  
Floor plan approved under Y19/0272/FH



**2.0 SITE DESIGNATIONS**

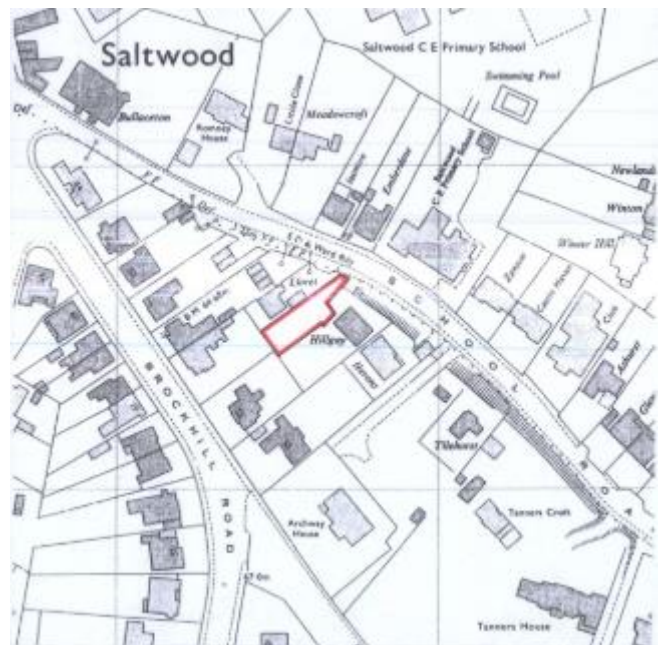
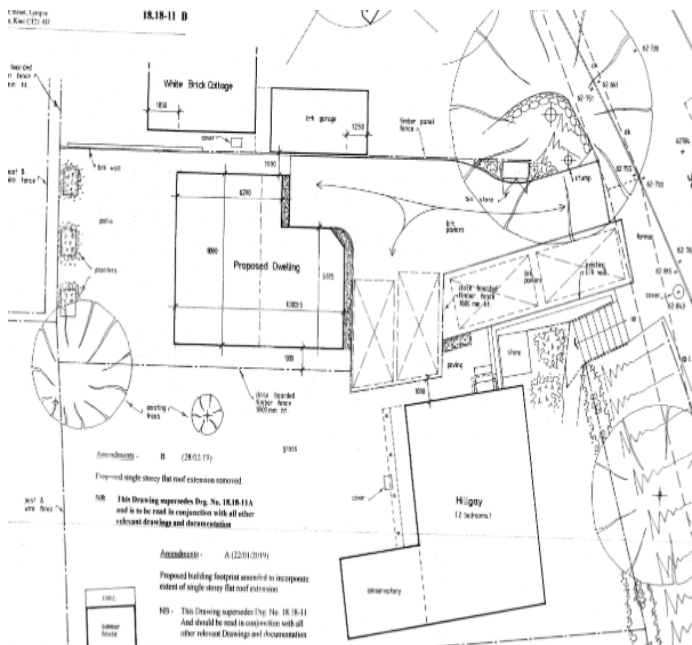
2.1 The following apply to the site:

- Within the settlement boundary

**3.0 LOCATION AND DESCRIPTION OF SITE**

3.1 The site lies on the south western side of School Road (which is a classified road) some 100m south east of the junction with Brockhill Road and opposite the pedestrian access to Saltwood Primary School. School Road appears to have no parking restrictions generally, but there are yellow keep clear markings in front of pedestrian walkway to the school and a sign which prohibits parking within the marked area Mondays to Fridays within the hours of 8am to 5pm.

3.2 The area is predominantly residential in character but with no uniform design or scale of property. Plot sizes also vary along the road, as does the location of the properties with their plots. There are large detached houses within large plots such as Beckley Cottage and 49 School Road, which is a corner plot. There are also other much smaller plots along School Road where the width of the plot is essentially taken up by the dwelling. These include White Brick Cottage, its neighbour Tythe Cottage and several plots on the opposite side of School Road.



3.3 The main part of the application site is roughly rectangular (approximately 16m by 7m) and measures some 135sqm.

3.4 The property subject of this application is near completion. Photos below taken March 2020.



#### 4.0 RELEVANT PLANNING HISTORY

- 4.1 Y03/1489/SH - Outline application for the erection of a detached dwelling.  
Withdrawn 10<sup>th</sup> May 2004.
- Y04/0600/SH - Outline application for the erection of a detached dwelling.  
Refused 1<sup>st</sup> July 2004. Reason for refusal “*The proposed development would result in the intensification of a substandard access with restricted visibility to the south onto a classified road and as such is contrary to policy TR3 of the Shepway District Local Plan and TR11 of the Shepway District Local Plan Review (Revised Deposit Draft), which only permit the intensification of use of an existing use where the access would not be detrimental to highway safety*”.
- Y04/1605/SH - Erection of a detached dwelling. Withdrawn from the statutory register 2<sup>nd</sup> April 2013.  
This application was a resubmission of Y04/0600/SH and sought to overcome the reason for refusal on that application by including visibility splays to the east and west of School Road. The application was considered at Planning Committee on the 31<sup>st</sup> July 2007 Members resolved to grant planning permission subject to a S106 agreement to secure the required sightlines (as part of the splay would be on an adjoining neighbours’ land) in perpetuity. The agreement was never signed and in 2013 the Council wrote to the applicant advising that given the length of time that elapsed since the submission of the original application, the application would be withdrawn from the statutory register.
- Y15/0514/SH - Erection of a detached two storey dwelling.  
Approved with conditions at the Planning and Licensing committee held on 26<sup>th</sup> July 2016. The decision was formally issued on 29<sup>th</sup> July 2016.
- Y18/0051/NMA - Non material amendment for planning application Y15/0514/SH to incorporate a single storey flat roof extension to the rear elevation, revision of the floor layouts and fenestration, and the installation of additional roof lights.

## DC/20/13

Refused on 15<sup>th</sup> October 2018 on the grounds that the proposed changes were 'material considerations' that required the submission of a planning application.

- Y18/1488/FH - Section 73 application for variation of conditions 2 and 9 of planning permission Y15/0514/SH (Erection of a detached two storey dwelling) to enable additional fenestration, revisions to the ground floor layout and the inclusion of a single storey extension to the rear.  
Withdrawn on the advice of the planning officer who indicated that the application would be refused on the grounds that the proposed rear extension would compromise the usability of the rear garden.
- Y19/0292/FH - Section 73 application for variations of conditions 2 and 9 of planning permission Y15/0514/SH (Erection of a detached two storey dwelling) to enable an increase in height, additional fenestration, revisions to the ground floor layout and finished materials.  
Approved with conditions at the Planning and Licensing committee held on 23<sup>rd</sup> July 2019. The decision was formally issued on 30<sup>th</sup> July 2019.

### 5.0 CONSULTATION RESPONSES

5.1 Consultation responses are available on the planning file on the Council's website.

<https://www.folkestone-hythe.gov.uk/view-planning-applications/search>

Responses are set out below.

5.2 Hythe Town Council

Objected on the grounds that conditions should be enforced. Members would like it be noted that they were in support of the objections that have been raised by members of the public.

### 6.0 PUBLICITY

6.1 Neighbours notified by letter. Expiry date 04.03.2020

### 7.0 REPRESENTATIONS

7.1 Representation responses are available in full on the planning file on the Council's website.

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

Responses are summarised below:

7.2 1 letter/email received objecting on the following grounds:

- Y19/0272/FH was approved with stringent conditions attached, despite the Council's best efforts to in attaching conditions, the developer has continued to breach and flout those conditions and this has now resulted in, but is not limited to, overlooking/loss of privacy.

## DC/20/13

- Considered that condition 1 (approved plans), condition 7 (obscure glazing) and condition 10 (removal of PD rights) are in breach.
- Consider that a breach of human rights has taken place and that if the Council do not enforce the conditions stipulated under Y19/0272/FH then they will be in breach of the Public Sector Equality Duty as set out in the Equality Act 2010.
- To grant planning permission would make a mockery of the whole planning and enforcement process.

### 8.0 RELEVANT POLICY GUIDANCE

- 8.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.
- 8.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, HO1, BE1, BE8
- 8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1
- 8.4 The Submission draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018) may be afforded weight where there has not been significant objection.

The following policies of the Places and Policies Local Plan Submission Draft apply: HB1, HB8, HB10

- 8.5 The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which confirms that weight may be given to policies in emerging plans following publication (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.

The following policies of the Core Strategy Review Submission Draft 2019 apply: DSD, SS1

- 8.6 The following paragraphs of the National Planning Policy Framework 2019 apply: 11, 12, 38, 39, 47, 48, 54, 58,

### 9.0 APPRAISAL

#### Background

- 9.1 Planning permission has been granted for a single detached dwelling on this site under Y15/0514/SH, therefore the principle of a residential dwelling on the site has been established.

- 9.2 The internal layout of a property is a material consideration and the LPA has a duty to ensure that any development does not give rise to unacceptable living conditions for the future occupiers or be detrimental to neighbouring amenity. As such, the LPA considered that the condition 7 of Y19/0272/FH (relating to obscure glazing) was necessary in order to make the development acceptable.
- 9.3 Section 70(1)(a) of The Town and Country Planning Act 1990 enables the local planning authority in granting planning permission to impose “such conditions as they think fit”. Government guidance on this says that ‘when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls’.
- 9.4 The conditions as set out under Y19/0272/FH were considered to meet the 6 tests of Section 70(1)(a) of the TCPA 1990 and are also compliant with paragraph 54 of the NPPF 2019.

### **Procedural Matters**

- 9.5 The application has been made under Section 73 of the Town and Country Planning Act 1990, which can be used to vary or remove conditions associated with a planning permission. Where an application under Section 73 is granted, the effect is granting of a new planning permission, sitting alongside the original permission, which remains intact and unaltered. The government introduced the minor material amendment procedure under S73 of the Planning Act in order to enable such changes to be made, where the original planning permission includes a condition requiring the development to be built in accordance with the approved plans.
- 9.6 There is no statutory definition of a ‘minor material amendment’ but it is generally taken to mean any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. This has been established in planning case law.
- 9.7 In this case the proposal is still seeking planning permission for a single dwelling, the overall scale, form and design of which is similar to that previously approved. As such it falls within the accepted definition of a S73 application. The only matters for consideration are whether the changes being proposed are acceptable. No other matters, including the principle of the development on the site, can be considered.
- 9.8 It is not unlawful to carry out works not in accordance with a planning permission.

### **Relevant Material Planning Considerations**

- 9.9 Given the above, the relevant issues for consideration with regard to this application are design, visual impact, neighbouring amenity and amenity of future occupants.

### **Design and visual impact**

- 9.10 The only notable external alteration proposed by this application is the inclusion of 4 solar PV panels located upon the rear facing roofslope, sited above the rooflight windows as the opacity levels of the glass windows would not appear as material in terms of visual impact.

## DC/20/13

- 9.11 The solar panels are not considered to have any significant impact upon visual amenity. The panels are sited to the rear elevation, away from public view and solar panels are generally not uncommon features on residential properties. As such this element of the proposal is considered to be acceptable.
- 9.12 Comments from an interested party noted that the installation of the solar panels without permission constituted a breach of condition 10 of Y19/0272/FH. Condition 10 did preclude Schedule 2, Part 1, Class C which refers to 'other alterations to the roof, including the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.
- 9.13 Whilst Schedule 2, Part 1, Class C does state that PV panels cannot be installed, further on within the GPDO 2015 (as amended) Schedule 2, Part 14, Class A sets out that 'the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on a dwelling house' is permitted development subject to conditions.
- 9.14 In the Y19 case, the removal of Permitted Development (PD) rights for Schedule 2, Part 1, Class C was to prevent further windows being installed that may have given rise to overlooking without prior consent from the LPA, not specifically with the intent to prevent the installation of PV panels. If the LPA had intended to remove PD rights for solar panels they would have also removed PD rights under Part 14. In this current case the solar PV panels could not be considered PD as they were installed before the dwelling was complete and therefore they could not benefit from householder PD rights under Part 14.

### Neighbouring amenity

- 9.15 With regards to the first floor front dormer window, this window was shown to serve a bathroom during the Y15 and Y19 applications and it was originally conditioned to be non-opening up to a minimum of 1.8m above the internal finished floor level under the Y15 application. It is however accepted that there does need to be suitable fire safety escape measures at first floor and therefore amendments were made under the Y19 application that allowed the window to open. The openable window was specifically hung on the left hand side (as you face the property) so that when the window was open, together with the obscure glazed finish and the placement of bathroom furniture in the window reveal, there would be a combination of elements that would work to reduce the perception of overlooking to the neighbour of Hillgay but still allow egress in line with Building Regulations requirements.
- 9.16 After the Y19 approval, and during the construction of the dwelling, the layout of the bedroom and bathroom have been swapped and the bathroom has now been moved to the back of the property with the front dormer window being inserted with clear glass in order to provide outlook for the inhabitants of the now front facing bedroom. The result of this alteration is that there are now overlooking opportunities from a habitable room (a bedroom) into the most private part of the rear garden to the neighbouring property, Hillgay, the neighbour to the immediate southeast of the application site.
- 9.17 Further, with no bathroom furniture to be proposed in front of the window and with the loss of the obscure glazing it is considered that it is now possible to view parts of the rear conservatory and rear garden area of Hillgay, as well as give rise to perceived overlooking of the side facing bedroom window located at first floor of Hillgay (refer to photograph below).
- 9.18 Whilst it is accepted that in order to see the external private areas any occupants would need to stand in the window reveal, it is considered that there are no mitigation measures that the LPA could put in place in the form of a condition that could successfully restrict the use of the window space or minimise the overlooking that can be obtained from the first floor window.

## DC/20/13

9.19 Should the current first floor layout with a bedroom in the front facing window have been presented to during the Y15 or Y19 application, neither application would likely have been considered acceptable. This is clear from the fact that the Council has consistently placed conditions upon the approvals specifically to minimise instances of overlooking by securing obscure glazing in the windows and specifically designed openers on the impacted windows that would assist to minimise opportunity for overlooking of neighbouring property.



9.20 It is accepted that views in or out of the rear facing bathroom rooflight window would not easily be obtainable due to the height of the cills of the rooflights in comparison to the internal finished floor level, which is set above the minimum 1.7m usually imposed by planning condition. Having visited the property and seen the rooflights Officers are satisfied that there would be no significant increase of overlooking by the use of clear glass and no objections to the rear facing rooflight serving the bathroom being installed with clear glass, in line with the other rear facing rooflights, all from which is it also not possible to obtain any clear views in or out.



### Amenity of Occupants

- 9.21 It is important that new builds aim to achieve a good standard of design and living accommodation, therefore any habitable space in a new dwelling is expected to provide an outlook in order to provide quality housing for future occupiers, not doing so amounts to poor design and is generally not accepted for new builds.
- 9.22 It is noted that the original Y15 application permitted a bedroom without an outlook (labelled as 'bedroom 2 on the floor plans shown at 1.4 above) and this type of layout is now not something that Officers would likely consider to be appropriate. It is for this reason that Officers did not consider it appropriate to object to the rear bedroom proposed under the Y19 application which again was served only by rooflights, as the Y15 application was extant as work had started and could be built-out in accordance with the approved plans.
- 9.23 In terms of layout and design, there is an argument that the first floor layout as proposed under this current application is an improvement on the layout under the Y15 and Y19 applications in terms of living accommodation for the future residents, however this layout change has failed to take account of safeguarding neighbouring amenity and it is for this reason that the scheme as presented is not acceptable.
- 9.24 The proposal still shows 3 usable bedroom spaces as per the original scheme, although it is noted that one of the rooms on the original scheme was labelled as a study/bedroom. Since the Y15 approval policy HB3 of the Places and Policies Local Plan (PPLP) has become a material consideration (see section 8.0) and sets out internal and external space standards. The proposed floor space of the dwelling overall would comply with the policy. Externally the policy sets out that the rear garden should be at least 10m in depth. The proposed rear garden for the dwelling is 7m and so fails to meet the external space standards set out the policy in this regard. Normally this would not be considered to be acceptable even that planning permission has already been



## DC/20/13

granted for a dwelling with a garden of this depth (as the PPLP was not in place at that time), and that planning permission is still extant and could in theory still be implemented by reverted to the approved plans, it is considered that, in this specific case, it would be unreasonable to now refuse planning permission for that reason alone, as the application is considered acceptable in all other respects.

### Highway safety

9.25 The access and parking provision for the dwelling has already been considered and approved under Y15/0514/SH and Y19/0272/FH. The access, site layout and parking provision has not been altered as part of this proposal and remains as previously approved.

### Environmental Impact Assessment

9.26 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

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

9.28 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 £111.15 per square metre for new residential floor space.

### Other Issues

9.29 This application is reported to Committee due to the contentious nature of the site, with the past applications all having local Councillor interest and all having been decided by committee members. This current application also has Councillor interest and a call-in request from Cllr Treloar should the application be recommended for approval. The scheme has also received objection from Hythe Town Council. As the Planning and Licensing Committee have been involved with the decision making process on the previous applications it was considered appropriate that this current application also be deferred to committee members for determination.

### Human Rights

9.30 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**

9.31 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.

**10.0 BACKGROUND DOCUMENTS**

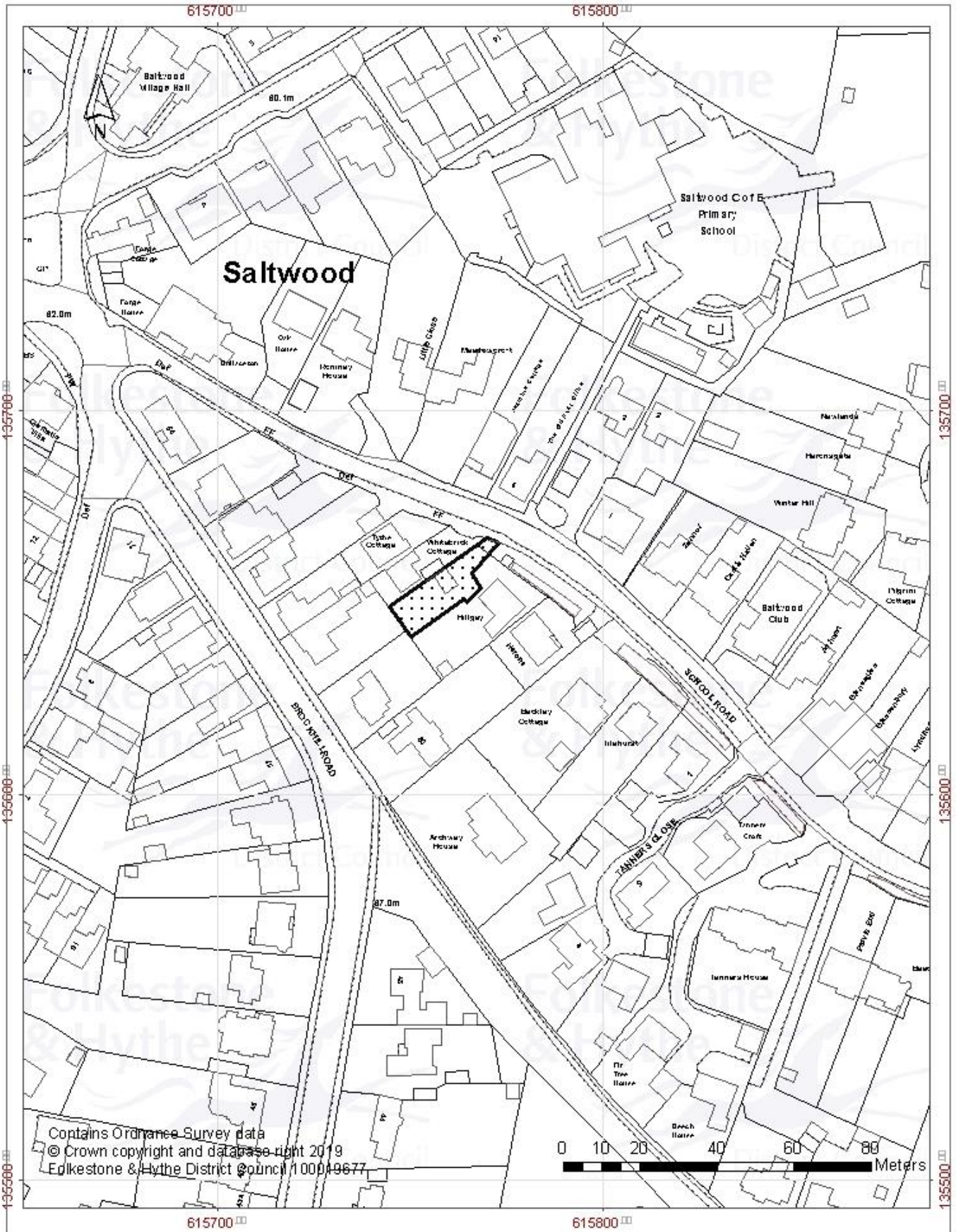
10.1 The consultation responses set out at Section 5.0 and any representations at Section 7.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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

**The proposed first floor front facing bedroom window, by virtue of the installation of plain glass, would give rise to unacceptable levels of overlooking to the nearby neighbouring property and its private garden area known as ‘Hillgay’ resulting in harm to neighbouring amenity, contrary to saved local plan policy SD1 and BE8 of the SDLPR and emerging policy HB8 of the Places and Policies Local Plan.**

Y19/0272/FH  
Hillcroft  
School Road  
Saltwood



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# Agenda Item 8

## DC/20/14

**Application No:** Y19/1152/FH & Y19/1142/FH

**Location of Site:** French House, Aldington Road, Lympe, Hythe Kent CT21 4PA

**Development:** **Y19/1152/FH** - Change of use of the French House from Class C3 residential dwelling to a 10 bed boutique hotel Class C1; partial demolition, reconstruction and conversion of outbuildings; erection of 5 new build bedroom pods; erection of new social canopy; erection of check-in building; extension to existing restaurant; creation of new link pathways and a new access road; new refuse store; and creation of a new car park for 50 car spaces.

**Y19/1142/FH** - Listed Building Consent for restoration and conversion of Grade II\* listed French House. Refurbishment and redevelopment of ancillary buildings. Demolition of outbuildings to north of garage to enable a new single storey enclosure plant room.

**Applicant:** Howletts and Port Lympe Estates Ltd.

**Agent:** Mrs. Pippa Nesbit

**Officer Contact:** Robert Allan

### SUMMARY

This report considers whether planning permission should be granted for the change of use of a grade II\* listed building to a hotel, with the erection of 5 new sleeping pods, social canopy, check-in building, extension to an existing restaurant, creation of a new access road and a car park for 50 spaces, as well as whether listed building consent for the works that affect the listed and curtilage-listed structures, should be granted. The report assesses the impact upon the significance of the heritage assets and finds that although harm is caused, it is less than substantial and considered to be outweighed by the public benefits of the proposal. The impacts upon the designated landscape of the Kent downs AONB are also considered to be acceptable, alongside those upon the ecological constraints at the site, subject to appropriate mitigation being secured via condition. All remaining issues pertaining to residential amenity, drainage and highway safety are considered acceptable also.

### RECOMMENDATION:

**That planning permission and listed building consent 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 due to the views of Lympne Parish Council and being called to committee by Cllr Wing.

## 2. SITE AND SURROUNDINGS

2.1. The application site includes the 'French House', a Grade II\* listed Wealden Hall House with surrounding gardens and associated outbuildings (referred to as Site A), Livingstone Lodge campsite and restaurant and animal enclosures (referred to as site C) and the large area of land to the south of Aldington Road (referred to as Site B) comprising grazing for animals associated with the Wildlife Park's African Experience Trail. The site layout is shown below, in Figure 1:



Figure 1

2.2. Port Lympne Reserve is part of the Aspinall Foundation which includes Howletts Wild Animal Park and a number of conservation projects aimed at the protection of endangered species and re-introduction of captive animals into the wild. Port Lympne Safari Park, Wild Animal Reserve and Hotel is set in approximately 600 acres and includes the Grade II\* historic mansion and Grade II formal gardens designed by Sir Herbert Baker for Sir Philip Sassoon. Whilst already under the ownership of the Aspinall Foundation, this application would bring the French House into use as part of the wider site, which has a range of short stay accommodation in the form of hotels (Port Lympne, Tree House), lodges (Lion, Tiger, Wolf, Rhino, Giraffe Cottage, Hog Deer Creek), retreats (Forest Hideaway) and glamping sites (Bear Lodge, Giraffe Lodge, Pinewood) which are differentiated by the type of guest experience each offers.

2.3. The site is within the Kent Downs Area of Outstanding Natural Beauty (AONB), the North Downs Special Landscape Area (SLA) and within an Area of Archaeological Potential (AAP). The Lympne Escarpment Site of Special Scientific Interest (SSSI) designation runs around sites A and C and to the southern boundary only of site B.

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The existing vehicular and pedestrian access to the site is from the north east via an existing unmade private access road from Aldington Road. Environment Agency Flood Map data indicates that the site is within Flood Zone 1.

- 2.4. To the north and west of site B there are a range of 1-2 storey residential dwellings. To the east of the site is the public house, The County Members, and further residential dwellings.
- 2.5. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

Y19/1152/FH – Planning Application

- 3.1 Full planning permission is sought for the following works which have been broken down into the three areas as mentioned above (A, B & C);

### Area A

- Change of use of The French House from a residential dwelling (Use Class C3) to a 10-bedroom hotel (Use Class C1);
- Change of use of outbuildings to ancillary storage/support use building and demolition of existing shed and north ancillary building and erection of new ancillary building for use as a plant room;
- Erection of 5 new build accommodation Pods (Use Class C1);
- A new social canopy;
- New pathway linking the French House and accommodation pods to the social canopy and wider area;
- Creation of new pathways suitable for guests and giraffes linking adjacent areas with Port Lympne wildlife park
- Existing access road within grounds of The French House to be widened and a fire engine turning point provided;
- Natural amphitheatre edge reshaped

### Area B

- New access road from existing entrance gate along Aldington Road and associated check-in building/ security kiosk
- Erection of refuse store;
- Erection of secure gates adjacent to check in building and
- Creation of a new car park of 50 car spaces

### Area C

- Removal of one Livingstone Lodge/ tent to enable the extension of existing 'Lapa' restaurant to provide a new decking area and additional bar and restaurant floor space
- Repositioning of fences

3.2 In addition to relevant plans and drawings, the applicant has submitted the following documents in support of the application.

- Design and access statement (and addendum);
- Planning statement and Business Case;
- Transport statement;
- Draft travel plan;
- Arboriculture method statement;
- Arboriculture survey;
- Preliminary ecological appraisal;
- Phase 2 ecological survey report;
- Flood risk assessment;
- Heritage statement (and addendum);
- Archaeological desk based assessment;
- Structural report;
- Landscape strategy plan;
- Noise assessment (and addendum);
- Mechanical, electrical and public health services engineering report (and addendum).

Y19/1142/FH (Listed Building Consent)

3.3 Listed building consent is sought for internal works relating to the restoration and conversion of the Grade II\* listed French House for use as a hotel, together with the refurbishment and redevelopment of ancillary buildings and the demolition of outbuildings to the north of the garage to enable a new single storey plant room enclosure to be constructed. External alterations relate only to the repair and/ or replacement of windows where they are not considered to be repairable.

3.4 The internal works include;

- Repair failing timbers and lath and plaster panels across the entirety of the building's external elevations and replace all cementitious plasterwork with traditional lath and plaster alternatives.
- Repair and strengthen roof structure, including the removal of the roof, repair/replacement of structural timbers and replacement of the roofing materials
- Replacement or repair/ restore windows
- Removal of 20<sup>th</sup> Century fixtures and fittings, skirting and floor coverings.
- Removal of 20<sup>th</sup> Century suspended ceiling and timber wall above the Inglenook fireplace within Main Hall.
- Removal of partition walls in several rooms to allow introduction of en-suite bedrooms at ground floor, as well as a communal disabled toilet.
- Removal of partition walls, floor coverings and doors at first floor to introduce five en-suite bedrooms.
- Construction of new staircase.
- Refurbishment of timber clad garage building.



3.5 In addition to relevant plans and drawings, the applicant has submitted the following documents in support of the application.

- Design and access statement;
- Heritage statement;
- Structural report;
- Mechanical, electrical and public health services engineering report;
- Slope stability report;
- Condition report;

## 4. RELEVANT PLANNING HISTORY

4.1 There is a long and varied planning history for the wider site, covering a range of different structure and uses, but there is no relevant planning history associated with the current application site.

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

*Y19/1152/FH – Planning Application*

**Lympne Parish Council: Raise** objection for the following reasons;

- Check in building will change the character of the public footpath
- Query legality of the proposed access road
- Loss of privacy to residents from access road/ impact on amenity through noise, disturbance and pollution
- Concern regarding highway safety issues
- Impact upon wildlife from proposed car park
- Car park will change to visual amenity adjacent to Saxon Shore Way
- Water runoff concerns from car park

**Kent Downs AONB Unit:** Object.

- Introduction of accommodation and a further track on the sensitive escarpment slope
- Extensive new access road and associated works on Aldington Road;
- Introduction of development into an undeveloped part of the site;
- Car park design;
- Design and colour of the social canopy and check-in building;
- Impacts upon tranquillity

**KCC Highways and Transportation:** No objection.

- Removal of the events building and reduction in car parking facilities has reduced the scale of the development and lowered the number of associated traffic movements;
- Visibility splays are appropriate for the measured driven speeds – recommend signage to reduce likelihood of harsh braking;
- Access track with passing spaces is appropriate;
- Various conditions suggested.

**KCC Ecology:** No objection.

- Sufficient information has been provided;
- Mitigation measures for bats, reptiles, dormice and badgers required to be secured via condition;
- Details of biodiversity enhancements to be secured via condition.

**Natural England:** No objection

- Without appropriate mitigation, the application would damage or destroy the interest features for which Lympe Escarpment SSSI has been notified;
- In order to mitigate the adverse effects and make the development acceptable, the following mitigation measures are required;
  - o The proposed drainage design and SuDS management plan should be implemented as indicated in the Flood Risk Assessment, Surface Water and Drainage strategy and Foul water strategy ensuring all surface water on site is appropriately managed to mitigate potential impacts to the SSSI;
  - o As infiltration rates have been found to be suitable, the drainage strategy should be secured;
  - o Drainage strategy must ensure surface water is subject to an adequate level of treatment to mitigate impacts to the SSSI, and address impacts associated with both the construction and operational phases of the development.

**KCC Flood and Water Management:** No objection.

- Infiltration testing should be undertaken at the detailed design stage and a pre-commencement condition imposed to secure a suitable strategy and verify installation.

**Environment Agency:** No objection.

- It remains unclear how the treated sewage effluent will be disposed of. Drainage may be restricted over an aquifer where groundwater is at shallow depths. Foul drainage should be discharged to mains sewers where possible. A public foul sewer is close to the development and we would encourage this option and for you to seek consent from the sewerage provider.

**KCC Archaeology:** No objection.

- A condition is recommended for a programme of archaeological work.

**KCC public Rights of Way:** Objection.

- Public Right of Way HE318 is directly affected by the construction of the events building and no provision has been made to safeguard pedestrians crossing the new access road.

**Environmental Health:** No objection

- Accept findings of the amended noise report and require conditions to secure implementation of the mitigation suggested within the report and also relating to contaminated land

**Arboriculture Manager:** No objection

- Recommendations regarding tree removal, retention and protection will need to be conditioned and implemented prior to work commencing.

## **Local Residents Comments**

5.2 Four letters of objection received.

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

### **Objections**

- Negative visual impact upon a protected landscape – AONB;
- Disruption to peace and tranquillity;
- Loss of privacy from access road despite mitigation;
- Access road is not lawful;
- Why can't existing access to site be utilised;
- Increased traffic levels;
- Noise and disturbance will increase – existing noise levels already cause disturbance;
- Noise and disturbance from the coming and going of vehicles;
- Increased light pollution;
- Detrimental impact upon ecology at and around the site;
- Site is in a prominent position in the open countryside;
- Development should be below the escarpment;
- There are enough wedding venues;
- Over development of site.

## Support

- Some development is supported for the restoration and preservation of the French House.

*Y19/1142/FH (Listed Building Consent)*

## Consultees

**Lympne Parish Council:** No objection

**Historic England:** No objection

- French House is a good example of a medieval Wealden hall house, with the medieval core of greatest significance but the early 20<sup>th</sup> century work adding to the aesthetic qualities and significance;
- The position on the escarpment contributes greatly to the setting;
- The reordering of the 20<sup>th</sup> century part of the house would cause some harm to the building's significance but can be mitigated by replicating joinery details and re-using / replicating fixtures via condition;
- Other changes are positive such as the removal of the suspended ceiling and other later finishes in front of the fire place;
- Not concerned with the introduction of ensembles as this would have a minor impact upon significance;
- Introduction of 5 overnight pods to the west of the house, a giraffe viewing platform and a restaurant extension would cause some harm to the building's significance at the lower end of substantial, as the isolated nature of the building would be compromised, although the existing restaurant and pods have compromised this to some degree already;
- Impact of the pods to the west and south west is minimised by siting them away from the main lawns and in more discreet parts of the garden. The giraffe viewing platform would be visible in long views from the south, but could, if designed well, read as a garden pavilion and thus as a more natural addition to the landscape.
- It is more difficult to minimise the impact of the restaurant extension, though the use of a muted roof colours may go some way to reducing the visual impact in long views;
- The road widening has the potential to cause a low level of harm chiefly by eroding the low key entrance to French House which enhances the experience of its rural qualities;
- The NPPF requires that harm is avoided or minimised and that remaining harm is justified (Paras 190 and 194). Some of the harm is capable of being minimised by careful selection of materials and by requiring the submission of design details for the giraffe viewing platform both of which could be handled as a condition. The Council may decide that the harm arising from new development can be minimised with additional landscaping, the detail of which could be handled by condition and that the proposed road widening is necessary to implement this use.

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- The Council must weigh the harm against the public benefits of this proposal in the manner described in paragraph 196 which states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.” In this case we think it may be possible to argue that a hotel use is the optimum viable use given that French House was recently marketed and thus available to all interested parties. Bringing the building back in to use and providing a level of public access are heritage benefits which we suggest your Council can take account of in the weighing exercise. Enhancements to the significance of French House, including most importantly the removal of 20th century wall and ceiling finishes in the medieval hall to reveal its historic dimensions, are also heritage benefits.

## **Campaign to protect Rural England: Object**

- Support principle of French House conversion, welcoming conservation and continued use of heritage assets;
- Concern regarding associated development, which will have a major impact upon the setting of the house;
- Concerned about the introduction of the ‘pods’ as their style is at odds with the character of the building;
- The ‘African style’ structures are considered incongruous;
- The social canopy will obscure views of the French House from the south.

## **Local Residents Comments**

5.4 Three letters of objection received.

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

- Listed building consent application contains many other details that are not in the description;
- The application cannot be considered in isolation from the planning application;
- The pods and social canopy are unsightly and not in keeping with the 15<sup>th</sup> Century building;
- Setting would be drastically impacted;
- Property has operated as B&B previously without outbuildings or access road;
- Proposal is unsympathetic to the building and adjacent Saxon Shore Way.

5.6 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 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  
CO1 - Countryside  
CO4 – Special Landscape Areas  
CO5 – Protection of Local Landscape Areas  
CO11 – Nature Conservation  
BE1 – Layout, design, materials of new development  
BE5 – Listed buildings  
BE8 – Alterations to dwellings  
BE16 – Landscape and amenity  
HO7 – Loss of residential accommodation  
TR6 – Provision for pedestrians in new developments  
TR11 – Access onto highway network  
TR12 – Vehicle parking standards  
U2 - Drainage  
U4 – Protection of ground and surface water resources  
U15 – Light pollution

#### Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development  
SS1 – District Spatial Strategy  
SS3 – Place-Shaping and Sustainable Settlements Strategy  
CSD3 – Rural and tourism development  
CSD4 – Green infrastructure  
CSD5 – Water and coastal environmental management  
CSD7 – Hythe strategy

#### Places and Policies Local Plan Submission Draft (2019)

The Submission draft of the PPLP (February 2018) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between February and March 2018. The Plan was submitted to the Secretary of State for independent examination in September 2018. An examination-in-public was held in 2019, with hearing sessions taking place from 15-17 May 2019. The Inspector recommended a limited number of Main Modifications to the Plan which were consulted on from 13 January to 24 February 2020. The Inspectors

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report has found the plan 'sound' subject to making a few modifications and as such substantial weight can now be given to the policies. The Plan will now go through the Council's internal processes to be formally adopted. Full weight should be given to the policies in the plan once it is adopted.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, and given the relative age of the saved policies within the Shepway Local Plan Review (2006), the policies within the Submission Draft Places and Policies Local Plan (2018), as proposed to be modified by the published Main Modifications (2020), may be afforded significant weight. The following draft policies apply:

- HB1 - Quality Places through Design
- HB2 - Cohesive Design
- T1 – Access to new developments
- T2 - Parking Standards
- E3 – Tourism
- E7 – Reuse of rural buildings
- NE1 – Enhancing and managing access to the natural environment
- NE2 – Biodiversity
- NE3 – Protecting the District's Landscape and Countryside
- NE5 – Light pollution/ external illumination
- NE6 – Land instability
- HE1 – Heritage Assets
- HE2 – Archaeology
- CC3 – Sustainable drainage systems

## Core Strategy Review Submission Draft (2019)

The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Following changes to national policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection. The following draft policies apply:

- SS1 – District Spatial Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- CSD3 – Rural and tourism development
- CSD4 - Green Infrastructure
- CSD5 – Water and coastal environmental management
- CSD7 – Hythe Strategy

## 6.5 Kent Downs AONB Management Plan

SD1 – Conserve and enhance the natural beauty of the Kent Downs AONB

SD2 – Design, scale, setting and materials will preserve local character, qualities and distinctiveness of the Kent Downs AONB

SD3 – New development or changes to land use will be opposed when contrary to need to conserve and enhance the natural beauty of the Kent Downs AONB

SD7 – Retain and improve tranquillity, including dark skies at night.

SD8 – Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.

VC6 – The development of sustainable visitor and tourism facilities will be pursued where they enhance people's enjoyment and understanding of the AONB without detracting from the special characteristics and qualities.

VC7 – Tourism and leisure businesses in the AONB will be encouraged to adopt the principles of sustainable tourism and to demonstrate their commitment to sustainability through achieving nationally recognised green accreditation and/or becoming part of the Our Land project.

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

### **Government Advice**

#### National Planning Policy Framework (NPPF) 2019

6.7 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.

Paragraph 8 – three main strands of sustainable development: economic, social, and environmental

Paragraph 11 – development proposals that accord with an up-to-date development plan should be approved “without delay”

Paragraph 47 – applications for planning permission be determined in accordance with the development plan

Paragraph 48 – giving weight to emerging plans

Paragraphs 83 to 84 – Supporting a prosperous rural economy

Paragraphs 170 to 177 – conserving and enhancing the natural environment and habitats and biodiversity

Paragraphs 178 to 180 – ground conditions and pollution

Paragraphs 189 to 192 – proposals affecting heritage assets

#### National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment



## 7. APPRAISAL

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

- a) Principle of development/ business case and benefits of the proposal
- b) Visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Drainage
- f) Archaeology
- g) Heritage
- h) Highway safety
- i) Public Rights Of Way
- j) Human Rights

a) **Principle of development**

7.2 The application site is outside of the defined settlement boundary of Lypne and is therefore development within the open countryside, in accordance with the definition within Core Strategy Policy SS1. This is an area where development will only be allowed exceptionally, where a rural location is necessary, as set out in Core Strategy policy CSD3.

7.3 The Core Strategy (2013) and Core Strategy Review Submission Draft (2019) Policy CSD3 sets out that proposals for new development associated with tourism enterprises in locations outside of the settlement hierarchy may only be allowed if it is proportionate in scale/impact, accessible by a choice of means of transport and is also consistent with green infrastructure and water environment principles of policy CSD4, the impact upon which are discussed in later sections.

7.4 Within the Places and Policies Local Plan, at the preamble to policy E3, Port Lypne is identified as a key attraction, with tourism an important aspect of the district's economy, having been valued at an estimated £235,213,000 in 2013 and believed to employ over 4,500 people (12 per cent of the workforce). The Business Case at Appendix 1 within the Planning Statement sets out that Port Lypne Hotel & Reserve provides employment for 203 full time and 270 part time staff in the area and had 154,000 day and 47,000 overnight visits in 2018. The Council is keen to promote further investment in new facilities and attractions that broadens the overall offer, ensures visitors stay longer and helps diversify the economy. Proposals for new tourist development should comply with the locational policies in the National Planning Policy Framework and Core Strategy, but where proposals are located outside of settlements, in the open countryside, they should utilise existing buildings, especially if it would bring a heritage asset into viable use.

- 7.5 NPPF Paragraphs 83 and 84 consider rural economies and how policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and provision of well-designed new buildings, through sustainable rural tourism, and through leisure developments which respect the character of the countryside. Decision-makers are urged to recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 7.6 In this respect, the Port Lympne site is an existing rural tourism attraction that relies upon the open countryside for its operation – the activities of a wildlife and safari park could not reasonably be expected to be carried out within the confines of a settlement and consequently it is considered that this location is appropriate. There is likely to be an economic multiplier effect with the provision of additional accommodation allowing more visitors for a greater amount of time, which will use local facilities in the surrounding area. The loss of a residential dwelling is noted, contrary to saved policy HO7, but the existing property is vacant and in need of significant repair, with the high costs associated with such work unlikely to be borne by a residential use alone, with the commercial usage securing the change of use and refurbishment of a Grade II\* listed building, a heritage asset, which will avoid the need for a new, purpose-built hotel facility, although other development is also proposed alongside this aspect of the scheme, the impact of which is discussed in later sections.
- 7.7 The Kent Downs AONB Management Plan is also a material consideration in determining this application, with policies SD1, SD2, SD3, SD7, SD8 and VC6 relevant to this application. They seek to preserve the open rural landscape of the Kent Downs Character Areas specifically and to conserve or enhance the local character and distinctive qualities of the AONB more generally. Policy SD8 does allow for mitigation of harm in some circumstances stating “Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.” In addition policies VC6 & 7 do allow for sustainable tourism in the Kent Downs AONB stating “The development of sustainable visitor and tourism facilities will be pursued where they enhance people’s enjoyment and understanding of the AONB without detracting from the special characteristics and qualities” and “Tourism and leisure businesses in the AONB will be encouraged to adopt the principles of sustainable tourism and to demonstrate their commitment to sustainability through achieving nationally recognised green accreditation and/or becoming part of the Our Land project.”
- 7.8 As such and in accordance with NPPF paragraphs 83 and 84 and Core Strategy Policy CSD3, it is considered that the broad principle of development in the countryside at this established rural business and tourism destination is acceptable, where a countryside location is considered essential in association with this proposal, but subject to all other material planning considerations being considered acceptable also.

## **b) Visual amenity**

### *Major development*

- 7.9 This site is within the countryside and within the designated Kent Downs Area of Outstanding Natural Beauty (AONB) and North Downs Special Landscape Area (SLA), as protected by emerging policy NE3, which seeks to ensure that the natural beauty and locally distinctive features of the AONB and SLA and its setting are conserved and enhanced. The Council's policies set out that we will not permit development proposals that are inconsistent with this objective unless development is appropriate to the economic, social and environmental well-being of the area.
- 7.10 The NPPF, at paragraph 172, sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues, with planning permission refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.
- 7.11 When considering development within the AONB decision makers must consider whether it amounts to major development in the AONB. Whilst the application proposal is a major planning application, footnote 55 relating to paragraph 172 of the NPPF explains that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. There are no set or rigid criteria for defining major development in the context of the AONB, and the definition should not be restricted as such. The ordinary sense of the word 'major' is important and decision makers should take a common sense view as to whether the proposed development could be considered major development, accounting for local context, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.
- 7.12 The key characteristics of the broader Hythe Escarpment are identified within the Kent Downs Landscape Design Handbook as:
- Botanically rich rough grassland scarp-face.
  - Sparse vegetation.
  - Remnant hedgerows across the slopes.
  - Unimproved agricultural grasslands.
- 7.13 Taking into account that the site itself features the existing development of the French House and outbuildings, the campsite and restaurant, and other buildings, with the development proposed amongst and in close proximity to these structures, within a site already used for tourism, it is considered that the proposal would not amount to major development within the AONB.

### *Assessment*

- 7.14 In landscapes such as the AONB, there is a particular sensitivity around new buildings and structures in the countryside. Existing buildings that contribute to the character and appearance of the local area by virtue of their historic traditional or vernacular form and that are in sound structural condition should be retained and re-used. Re-use/conversion of buildings can also be more resource efficient and sustainable than new build development.
- 7.15 To this end, the proposal to utilise and restore the existing French House building as a hotel will ensure the heritage asset is maintained with a viable use, allowing it to

continue to contribute to the character and appearance of the area, with no greater built form. The cluster of outbuildings to the north west are much later additions to the setting of the listed building and of limited importance, with the proposal to demolish the shed and outbuilding of this cluster, replacing them with a single storey structure connected to the retained garage, is considered visually acceptable, as it will have a negligible visual impact upon the landscape.

7.16 Beginning with Area A, within the garden area of the French House, it is proposed to locate five sleeping pods – three single and two double – as additional sleeping accommodation along the southwestern escarpment. The pods are a low lying single-storey structures with a soft rounded form and would be finished in thatch on the roof, to ensure a muted appearance. Whilst the pods would introduce new development into a part of the site that currently is not developed and would alter the character of this part of the AONB landscape, it is considered that the sensitively designed pods would sit comfortably within the landscape, thus minimising harm to the AONB and SLA.

7.17 To the south of the French House, further down the slope on the site of a former tennis court, thus mitigating any need for additional ground works, a social canopy is proposed. This is an open-plan, single-storey timber-frame structure that would provide an external gathering space for guests. Retractable wind screens to the side would allow use in more adverse weather conditions. Figures 2 and 3 below are visualisations of the French House site – site A – as prepared by the applicant and included within the supporting information.



Figure D.1: Visualisation of proposals from Lower Wall Road. Issued by Clare Foster Design.

Figure 2



Figure D.2: Visualisation of proposals looking east towards the French House. Issued by Clare Foster Design.

Figure 3

- 7.18 Immediately adjacent to the French House, it is proposed to enlarge the existing hard standing area to the northern side of the property in order to accommodate emergency vehicles (fire engines). This would also require the retaining wall to be relocated, but reconstructed in a similar style and materials to the existing.
- 7.19 Cumulatively, there would be some visual intrusion into views from the south from additional built form, when looking up toward the French House site, although it is considered that this would not be significantly detrimental given the choice of materials, which can be secured via condition, the low level of the development and its position on the escarpment slope, where it would not intrude into the skyline. A landscape strategy has been proposed for Area A, with a mix of wildflowers and shrubs, with final detail to be secured via condition. It is also noted that this view is not pristine, with the existing development visible. The provision of landscaping and muted materials to tie-in with the existing development, would mitigate the visual impact and the scale of the works, in the context of the wider landscape, as shown in the visualisations, is considered relatively minimal. Overall, whilst there would be some harm to the landscape, it is considered that for Area A, the visual impact would not be significantly detrimental to the visual character of the AONB or SLA, with mitigation capable of being secured via suitably worded condition to minimise the impact of the development.
- 7.20 Turning to Area B, which is to the south of the Aldington Road, a check-in building is proposed, as well as a 50-space car park and a new access road that would run from Aldington Road to the lower end of the existing access track. The check-in building would be finished in timber-cladding with an awning above and would contain a seating area and reception for arriving guests, who would be picked up by buggy to be taken to the hotel area. The access road would utilise an existing access point, with passing places proposed at 80m intervals in order to minimise the width of new road structure required, with planted soil bunds at points along its length. Existing vegetation along

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the escarpment ridge would be maintained, with additional tree planting around the check-in building and creation of wildflower meadows. The carpark would be surfaced with an interlocking permeable cellular paving grid, filled with gravel, to continue to allow rainwater penetration.

- 7.21 The structure of the check-in building would be set back from the escarpment ridge, adjacent to existing vegetation running alongside the current access track and also well away from the Aldington Road to the north, with significant areas of tree-planting and residential properties in-between. It would also benefit from some additional tree planting around it. The car park and connecting roadway are both ground-level features that will have little discernible impact upon views with both, again, set back from the escarpment ridge, and this part of the site largely enclosed by mature vegetation that precludes views from either Aldington Road or from the escarpment side. The access from the Aldington Road does not have final detail surrounding the gates and piers that are proposed, however, the detail of these can be secured via condition should Members resolve to grant planning permission.
- 7.22 Whilst there would be additional built development within the site as described above, it is considered that due to the nature of this development, (which is considered to be low-level in relation to the road and car park, with the check-in building considered a small building) the existing landscaping, the proposed position away from the escarpment ridge and the additional planting, landscaping and entrance design that can be secured via condition, and with appropriate mitigation would not result in harm to the character of the AONB.
- 7.23 Moving to Area C, this currently serves as a camp-site with 10 tent frames located upon timber decked plinths set on the escarpment slope, a timber clad structure to the north of these, a restaurant building further to the west, and further up the slope to the north, a grouping of former farm buildings. It is proposed to extend the restaurant building to the east with a single-storey structure of similar design to the check-in building and social canopy, having a timber clad structure with a flexible membrane above. The balcony would be extended across the front to extend that in front of the existing restaurant area. One of the tent structures and plinths would be required to be removed to accommodate the restaurant extension.
- 7.24 This aspect of the scheme extends the existing built form of the restaurant into an area that is already subject to development associated with the safari park use, but resulting in a larger and more permanent structure than the tent frame and plinth it would replace. It would result in a greater visual impact from built development on the escarpment slope, but in continuing the general form of the restaurant design and utilising the timber and flexible membrane structure proposed for other new structures, the safari aesthetic, accepted across much of the rest of the park, would be continued. In remaining within the confines of the existing developed area, it is considered that the visual impact would be noticeable, but would not spread into previously undeveloped areas, resulting in slight harm to the visual character of this part of the escarpment.
- 7.25 Kent Downs AONB Unit consider that the proposal would fail to retain and improve the tranquillity of the AONB, including the experience of dark skies at night. For all areas, the need to preserve the character of the AONB, an intrinsically dark area, is noted and a comprehensive lighting scheme and strategy would be expected to be secured via condition, in order to control the timings and levels of lighting that would be

associated with the new development, in order to maintain an intrinsically dark status, in accordance with emerging policy NE5 and adopted policy U15.

7.26 The comments of the Kent Downs AONB Unit are noted and have been considered in the assessment above, but overall it is considered that although the proposal would result in some harm to the character of the AONB and SLA through the increased built development, this could be largely mitigated by the extensive existing screening, the proposed materials, location adjacent to existing development within the site and additional sympathetic landscaping to complement the existing screening. As such, the visual impact of the scheme is considered to be acceptable, in accordance with emerging policy NE3, adopted policy CO4 and the National Planning Policy Framework.

### **c) Residential amenity**

7.27 Residential dwellings are primarily located to the north and west of site B, where there are a range of 1-2 storey residential dwellings, whilst to the east of the site is the public house, The County Members, and further residential dwellings. The concerns of local residents have been noted and in relation to noise and disturbance, it is considered that given the removal of the events building from the proposal and the reduction in the size of the car park has largely addressed these concerns. Area B would be used to provide access / egress to the hotel from Aldington Road and most activity within this area would be the use of the access road with guests vacating mid-morning after their stay, or arriving in mid-afternoon, in order to check in or out, so the majority of possible noise would not be at sensitive times. There would also not be high volumes of traffic at a given time, as may be associated with visitors leaving or accessing events. In addition, the access road would be located a significant distance from any neighbouring dwelling, with the nearest dwelling, Little Close, being approximately 65 metres away, extending to approximately 160 metres for Mill House. Planted bunds are proposed to mitigate any potential noise impact and it is considered reasonable to secure these via condition.

7.28 For the hotel use and the additional sleeping pods and restaurant extension, the more intense use relative to the existing situation is noted, but this noise is most likely to be contained within the buildings. For activity within the social canopy area, this is also a significant distance away from the nearest dwelling, some 250 metres, with French House in the way, as well as the topography of the Lympe Escarpment and existing mature vegetation, all of which would restrict noise travel. Overall, it is considered that there would be no significant detrimental impact to residential amenity arising from noise and disturbance.

7.29 Turning to privacy, the sleeping pods, hotel, restaurant extension and social canopy all look out over undeveloped land, so there will be no loss of privacy. In respect of the proposed access road, this would be located away from the dwellings surrounding the site, being approximately 50 metres away at the closest point and it is considered that little significant loss of privacy would likely to occur given the distances involved and the nature of the viewing from moving vehicles.

7.30 As such, the application is not considered to be in conflict with emerging policy HB1 of the PPLP and adopted policies SD1 and BE1 of the Shepway District Local Plan Review, which seek for development to have a high standard of layout and not have an adverse impact on the amenity of neighbours or the surrounding area.

## d) Ecology and biodiversity

- 7.31 The submitted ecological appraisal and phase 2 surveys concluded that the French House supports bat roosts for four bat species, including a minor hibernation roost and satellite roost, with three reptile species recorded within the application site and a number of badger setts, active badger field signs and dormice also recorded throughout. Since the application was submitted, it has been amended, omitting the events building and reducing the car park area in size. Consequently, KCC Ecological Advice Service have amended their comments in relation to badgers and dormice, identifying that these amended plans would likely negate and potential impacts to the badger outlier sett and would no longer impact the suitable dormice habitat on-site.
- 7.32 The Conservation of Habitats and Species Regulations 2017 include prohibitions against the deliberate capturing, killing or disturbance of European Protected Species (EPS) and against the damage or destruction of a breeding site or resting place of such an animal. The Habitats Directive provides for the derogation from these prohibitions for specified reasons and providing certain conditions are met. Those derogations are transposed into the Regulations by way of a licensing regime that allows what would otherwise be an unlawful act to be carried out lawfully.
- 7.33 A European Protected Species Mitigation licence (EPSM) pertaining to bats will be required for works to proceed, sought once planning permission has been granted and prior to any works commencing on site. This will detail an in-depth methodology of works and any seasonal constraints associated with the proposed development, along with the location and specification of species-specific mitigation, compensation and enhancement measures.
- 7.34 In granting such a licence, three "derogation tests" must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species or its breeding or resting place. For development activities this licence is normally obtained after planning permission has been obtained. The three tests are that:
- i. Regulation 55(2)(e) states: a licence can be granted for the purposes of *"preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment"*
  - ii. Regulation 55(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied *"that there is no satisfactory alternative"*.
  - iii. Regulation 55(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied *"that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."*

Notwithstanding the licensing regime, recent case law has set out that the Local Planning Authority has a legal duty to address these three tests when deciding whether to grant planning permission for a development which could harm European Protected Species or their habitats and it is for the planning committee to determine the planning application in light of the three tests.



## 7.35 *The activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety*

In considering this aspect, Members should take into account whether the development is required to meet or provide a contribution to meeting a specific need, which can cover:

- the requirement to maintain the nation's health, safety, education, environment (sustainable development, green energy, green transport);
- complying with planning policies and guidance at a national, regional and local level;
- requirements for economic or social development.

7.36 The proposal has several purposes and economic development is a key driver for the proposal, through allowing the existing business to expand, which would benefit the local economy through bringing additional overnight visitors to the area, with the likely employment of local companies and tradesmen to undertake the construction and renovation works. The applicant has included a business case as part of the proposal, setting out its assessment of the likely economic benefits. Further, the change of use and works to the listed building would bring it back into what may be its optimum viable use, thus securing it for future generations. Finally, the proposed scheme for the conversion incorporates sympathetic measures to retain the bat interest within and around the structure that without repurposing and refurbishment, may have fallen further into disrepair, with potential loss of the bat roost altogether.

## 7.37 *No satisfactory alternative*

It is recognised that there may always be alternatives to any proposal that will cause less harm to the species, including the 'do nothing' approach. For this case, the 'do nothing' approach could result in degradation of the existing bat roost, with the consequent loss of habitat entirely. The building is in a poor state of repair and works are considered to have been likely to be required at some point in order to maintain the heritage asset, irrespective of its current use class. In seeking to utilise an existing structure, as set out previously, there is no need to pursue the construction of a new structure to support the business and the listed building is retained and maintained, with the mitigation and compensation associated with the proposal and as set out in the accompanying information, considered to be likely to protect the European Protected Species and maintain its habitat. Consequently, it is considered that there would be no satisfactory alternative that would cause less harm to the species.

## 7.38 *Favourable conservation status*

KCC Ecological Advice Service have reviewed the submitted information and consider that if the recommended mitigation measures are strictly adhered to, the favourable conservation status of bats can be maintained. Due to the significance of the roost and the complexity of mitigation works associated with the development, the report also recommends post-works monitoring is enacted, which can be enforced under the Natural England licence that would be sought. If planning permission is granted, the mitigation measures, can be secured by condition.

7.39 It is the officer view that the three tests have been passed.

*Badgers*

- 7.40 For badgers, setts have been identified on and around the application site, but in areas where they could be adequately mitigated against from impacts regarding development works. One sett in Area B had the potential to be adversely affected, but it was established that this is a disused outlier sett and, as such, direct mitigation measures/the associated EPSM licence would not have been required to undertake the proposed development.
- 7.41 Following the amendment to the proposed development, reducing the size of the car park and removing the events building, potential impacts to the outlier sett have been negated, with only a precautionary pre-works survey required prior to works commencing to ensure that no new setts have established and to ensure that an abandoned sett has not become re-occupied, which can reasonably be secured via condition.

### *Reptiles*

- 7.42 The reptile survey concluded that slow worms, grass snakes and common lizard were present on-site. As most habitats will be retained as part of the proposed development, translocation is considered a disproportionate response. However, as all species of reptile are protected, there will be a need to implement precautionary mitigation measures during construction. Further, a wildflower meadow will be created and managed along the north-western and southern site boundaries and proposed shrub beds planted throughout the southern aspect of Area A, for the benefit of reptiles. At least five log piles will also be created for reptiles within the wildflower area and an additional three log piles created on the northern bank of Area A, increasing the on-site hibernation opportunities for reptiles. Annual monitoring for a period of two years post development will be required. All of the mitigation can reasonably be secured via condition.

### *Dormice*

- 7.43 In relation to dormice, following the reduction in the size of the car park and omission of the events building, there would be no impact upon the dormice habitat on-site and no mitigation measures are required to be secured via condition.

### *Lympne Escarpment SSSI*

- 7.44 The Lympne Escarpment SSSI that borders much of the application site is hydrologically sensitive, with the plants and animals that occur in and around this Flush and Spring Fen feature dependent upon the water chemistry and flow rate. A mitigation strategy must ensure that the quantity and quality of groundwater must be maintained, though the quantity is not likely to be naturally constant throughout the seasons or between wet and dry years. Any drainage scheme should protect ground and surface water resources and not intercept the source of groundwater to springs or flushes, or reduce the area of surface they irrigate.
- 7.45 The proposed strategy indicates permeable paving for all footpaths, parking areas, access roads and other paths. The pods, social canopy and restaurant extension would drain to a filter drain and/or soakaway, and existing (modified) buildings would drain to the existing surface water drainage network. Now that suitable infiltration rates have been demonstrated for the site, the proposed drainage strategy does appear to provide an adequate level of protection to mitigate impacts to the adjacent SSSI. Any

drainage strategy must ensure surface water is subject to an adequate level of treatment to mitigate impacts associated with both the construction and operational phases of the development, which can be secured by condition.

## *Breeding birds*

- 7.46 For breeding birds, an informative reminding the applicant of the Wildlife and Countryside Act 1981 with ecological enhancements, as required by paragraph 175 of the NPPF, secured via condition.

## *Environmental enhancement*

- 7.47 In accordance with the NPPF at paragraphs 170 d) and 175 d), a net gain in biodiversity is sought and the Ecological Enhancement Plan as stated within the Phase 2 Ecological Report (PJC Consultancy 6th Feb 2020) has recommended appropriate enhancements, with a final plan capable of being secured via condition that accounts for potential impacts upon the SSSI and protected species and that is developed in conjunction with any subsequent mitigation proposals.
- 7.48 Overall, it is considered that the proposal would not result in significant harm to the ecological and biodiversity interests on the site with appropriate mitigation. As such, this aspect is considered to be in accordance with emerging policies NE2, RM14 or HB14.

## **e) Drainage**

- 7.49 As described previously, the Lympne Escarpment SSSI that borders much of the application site is hydrologically sensitive, requiring a mitigation strategy to ensure that the quantity and quality of groundwater is maintained. KCC as Lead Local Flood Authority have reviewed the submitted Flood risk Assessment and drainage strategy and agree with the findings of this and the approach suggested for the proposed development, following additional work on infiltration rates. It is considered that the details required could be sought, via conditions, should planning permission be granted, for both surface water and foul drainage, which would be tied in with the detail required to mitigate the potential impact upon the adjacent SSSI.
- 7.50 The Environment Agency have identified that it has not been finalised how sewage effluent will be handled at the site, however do not object, identifying that a discharge of treated water to ground may require an Environmental Permit, or that if discharge to sewer is preferred, there is one 250 meters to the north of the site. The applicant has identified that the distance may make this option unviable and the utilisation of a treatment plant is most likely, with this being the preferred option at locations across the park already. Effluent is treated before discharge and thus would be safe upon discharge. As stated above, it is considered that the final detail of the foul and surface water system could reasonably be required via condition, with details submitted to the relevant consultees prior to acceptance, in order to ensure compatibility with the constraints at the site. It is therefore considered that there are no detrimental impacts in respect of drainage in accordance with emerging policy CC3 of the Places and Policies Local Plan.

## **f) Archaeology**

- 7.51 The application site lies in an area of archaeological potential associated with the position south of the ancient route-way that runs along the Lympne escarpment, forming part of the Roman road network from Maidstone to Dover and west of the route way from Lympne to Canterbury. The Archaeological Desk Based Assessment (DBA) concludes that there is generally low to medium potential for the presence of archaeological remains, although KCC Archaeology suggest there may be some potential in Area B, to the south of Aldington Road.
- 7.52 Consequently, given KCC's view of the limited nature of the impacts but accounting for the potential uncertainty, it is suggested that a programme of archaeological work is followed, that would be secured via condition. With this in place, it is considered that there would be no detrimental impact upon possible archaeological remains in accordance with emerging policy HE2 of the Places and Policies Local Plan.

## **g) Heritage**

- 7.53 The listed building application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 16(2) of the Act requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses. These duties are reflected in saved local plan policy BE5 of the SDLPR which states that Listed Building Consent will be refused if the proposals are considered to be detrimental to the character of the building. Therefore the main issue in the consideration of this Listed Building Consent is the effect of the works on the architectural or historic interest of the Listed Building. It should be noted that both the Council's Conservation Consultant and Historic England have offered comments and these have been considered in the assessment of the application.
- 7.54 French House is a 15<sup>th</sup> Century Grade II\* listed Wealden Hall House with surrounding gardens and associated outbuildings. The original structure is set end-on to the entrance courtyard. It was restored in the late 1920's by Charlton Bradshaw for Sir Philip Sassoon with a large L-shaped extension added out to the north and the west, tripling the size of the building, and a carriage entrance providing vehicle access to the service courtyard on the west side. The landscaped gardens appear to have been laid out as part of the 1920's restoration and extension scheme.
- 7.55 As part of this restoration, non-original brickwork was removed and replaced with timber framing, windows 'restored' and replaced with crittall windows, historic framing repaired and infill panels replaced in cement render. Consequently, the building is a combination of 15<sup>th</sup> Century Wealden Hall and additions, repairs and restored features from the 1920's.
- 7.56 The NPPF sets out that planning should be achieving sustainable development, defined as having economic, social and environmental dimensions (para 8), with the role of planning to include protecting and enhancing the historic environment. Paragraph 8 identifies that economic, social and environmental gains should be sought jointly and simultaneously, with heritage assets conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 7.57 The LPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal, including its setting, and where a proposal cannot be designed to avoid all harm, then the harm should be minimised as part of the design

process. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable any harm or loss should require clear and convincing justification.

7.58 Paragraph 196 sets out that where a development proposal will lead to less than substantial harm to the significance, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The NPPF defines 'significance' in the context of heritage assets as 'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.'

7.59 As such, the NPPF acknowledges that harm to the listed building designated heritage assets may be acceptable if outweighed by public benefits. It is important to clarify that preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged, so some change may be accommodated.

### *Alterations to the fabric of the building*

7.60 Beginning with the works that directly affect the fabric of the building, the house will be converted to hotel guest accommodation, with the 15<sup>th</sup> Century Hall used for common areas, a two-bedroom suite inserted at the south west end of the building and a single guest bedroom inserted at the north east end. There are few changes to this part of the structure other than the insertion of an ensuite bathroom in the north east room. The 1920s addition is shown to be extensively remodelled to provide sets of guest bedrooms at ground first floor, with a new staircase serving rooms at the north end of the house, beyond the garage entrance way.

7.61 For the 15<sup>th</sup> Century portion of the building, the removal of the suspended ceiling and timber wall above the inglenook fireplace in the main hall would restore this element to its original character and is to be welcomed. The insertion of an ensuite bathroom in the north eastern bedroom at first floor is considered to be acceptable, subject to securing detail of design via condition, so that the panelling matches the Tudor framework. In order to comply with building regulations, some thermal and fire protection will be required and it is considered that submission of details for such interventions via condition should be required.

7.62 For the 1920's extension, there will be significant remodelling and removal of partitioning, but this portion of the building is modern fabric, less than 90 years old and of lesser significance than the fabric of the original house. Conditions are proposed to require submission in connection with re-use of historic doors in non-fire door locations and design of replacement fire doors, frames, architraves and skirtings, including all joinery details.

7.63 For windows, a range of options are proposed, with repair for some and replacement for others, with secondary glazing options also likely to be pursued. Again, joinery details and re-use of original ironmongery should be sought via condition, if planning permission and listed building consent are to be granted.

7.64 The reordering of the 20<sup>th</sup> century extension internal layout would cause some harm to the building's significance but it is considered that this can be mitigated by replicating joinery details and re-using / replicating fixtures, which can be secured via condition. Other changes are considered positive, such as the removal of the suspended ceiling

and other later finishes in front of the fire place in the hall to improve legibility and restore the significance of this space. The introduction of ensembles is considered to have a minor impact upon significance.

## *Alterations to setting*

- 7.65 The setting of the French House will be altered through the proposed sleeping pods, social canopy, outbuilding reconstruction and paths. It is considered that similar to the considerations relating to landscape and visual amenity, the low-level nature of some of these structures (sleeping pods and pathway) combined with the materials proposed and the landscaping, would result in some mitigation of the impact upon the views of the building and its setting when looking up the escarpment. However, this would not mitigate the impact upon the setting entirely and the additional development would result in some harm to the setting of the listed building. However, this harm is considered to be less than substantial.
- 7.66 The widening of the access running down to the existing hard standing to the north of the property would be by approximately 1 metre, together with the enlargement of the forecourt, which together are required for emergency vehicle access and turning. There is concern about the potential erosion of the rural and domestic character that these alterations could cause when considered together. It is proposed to mitigate some of the impact of the new retaining wall through the use of detailing and materials to make it appear as per the original, but the widening of the road cannot be mitigated in a similar fashion. It is suggested that further details of the nature of the widening can be sought in order to explore whether less visually obtrusive surface treatments could be used, such as a grass reinforcing system that would allow occasional overrun of larger vehicles, without requiring a more obvious hard surface to be created.
- 7.67 The presence of an existing metalled road surface to the house is noted and does, to some small extent, offset the potential additional impact, but there will inevitably be some additional harm to the setting of the listed building through the widened access road, although this is considered to be less than substantial.
- 7.68 For the proposed replacement outbuildings, these would occupy a similar footprint and position to those that will be lost and have been designed to tie in with the existing appearance, which is sympathetic to the listed building. Materials to be utilised in the external surfaces can reasonably be secured via condition.
- 7.69 It is considered that there will be some degree of harm to the significance of the building through the internal reordering and works, as well as to the setting of the listed building primarily as a consequence of the additional built form and visual intrusion from the sleeping pods and social canopy, as well as from the widened access road but that even when considered cumulatively, this would be less than substantial harm.
- 7.70 Paragraph 196 of the NPPF states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use” and it is considered that the proposals would result in less than substantial harm to the listed building itself and to its setting. The public benefits are considered to be:

- Economic development through increasing the tourism offer of the existing rural business and charity and use of funds created to enable the refurbishment of the listed building;
- Supporting local business and services who may be involved in the construction process;
- Refurbishment of the listed building to bring it into a viable use as well as facilitating increased public access;
- Enhancements to the significance of the French House through the removal of 20<sup>th</sup> Century wall and ceiling finishes to reveal the historic dimensions of the medieval hall.

7.71 It is considered for this case that the less than substantial harm to the setting of the listed building and its fabric, would not significantly affect its significance and would be outweighed by the public benefits of the proposal, in accordance with paragraph 196 of the National Planning Policy Framework and emerging policy HE1 of the Places and Polices Local Plan.

## **h) Highway Safety**

7.72 The proposed development includes the creation of a new access road from Aldington Road and the creation of a 50 space car park for the use of guests. This is proposed due to the constrained nature of the existing access route including its egress into Aldington Road and limited lane width. Additionally, this will ensure residents neighbouring the existing access lane will be protected from noise and disturbance associated with comings and goings at the site, as well as allowing for two directional travel and facilitating access for emergency vehicles which currently could not be accommodated.

7.73 The road would utilise an existing access point, the date of its insertion has been questioned by the Parish Council and a neighbouring resident. However, irrespective of however new or not this access point is, the visibility splays shown are considered to be acceptable and can be secured via condition. Passing places are also proposed at 80m intervals along the access way in order to minimise the impact of new road structure and the access would be set five car-lengths into the site to allow for the possibility of queueing vehicles. As such, the access is considered to be acceptable in highway safety and convenience terms and neighbouring amenity issues in this regard have been considered earlier in this report.

7.74 The proposed car park would provide an adequate level of parking for the proposed additional uses and level of activity, as well as a turning point for service access in close proximity to the proposed refuse store which is to be located to the south east of the car park. The car park would contain five spaces with Electric Vehicle (EV) charging points and a further five spaces with passive provision should they be required at a later date. Overall, the parking provision and provision for electric vehicle charging points is considered acceptable and in accordance with emerging policy T2 of the PPLP.

## **i) Public Rights Of Way**

7.75 Public Right Of Way HE318 crosses the site in a south east to north west alignment, running along the bottom of Area B. KCC Public Rights Of Way and Access Service objected to the proposal on the basis that it would be affected by the construction of the events building and that no provision had been made to safeguard pedestrians

crossing the new access road. As mentioned previously, the events building has been removed from the proposal

- 7.76 It has been established subsequently that the PROW would be maintained during the construction period and with specific reference to the construction of the access road. If the path needs to be temporarily altered during construction, this would be addressed through application for a temporary traffic regulation order, which would cover the closure of the path at the affected point with an alternative route safely provided. KCC PROW have suggested several informatives, should consent be granted and removed their objection.

## **Environmental Impact Assessment**

- 7.77 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, Part 10b, being an urban development project. The site is within the Kent Downs Area of Outstanding Natural Beauty and adjacent to the Lympe Escarpment Site of Special Scientific Interest, so the threshold is not relevant as the application site is within a sensitive area. Consequently, 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**

- 7.78 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.
- 7.79 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge

## **Human Rights**

- 7.80 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**



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

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

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

### **Working with the applicant**

7.82 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. PLANNING APPLICATION CONCLUSION (Y19/1152/FH)**

8.1 The proposal would result in the restoration and refurbishment of a grade II\* listed building and enable its restoration through bringing it into a viable use, whilst allowing an existing rural enterprise and charity to expand. Whilst this would result in some level of harm to the significance of the heritage asset and the visual character of the designated AONB through the introduction of structures in the immediate setting, this is considered to be less than substantial and the impacts are considered to be acceptable when mitigation measures are implemented. The resulting harm is considered to be outweighed by the public benefits of the proposal from increased economic activity, supporting the appropriate expansion of rural enterprises and bringing a heritage asset into a viable use. All other material considerations at the site are considered to be acceptable in terms of impacts upon neighbouring amenity, drainage, highway safety, ecology and archaeology.

## **LISTED BUILDING CONSENT CONCLUSION (Y19/1142/FH)**

8.1 The proposed works, as a consequence of the proposed change of use, would result in the restoration and refurbishment of a grade II\* listed building. Whilst this would result in some level of harm to the significance of the heritage asset through the reordering of the 20<sup>th</sup> Century extension, this is considered to be less than substantial and the impacts are considered to be acceptable given the enhancements associated with the removal of 20<sup>th</sup> Century ceiling and wall finishes to better reveal the dimensions and significance of the medieval hall, alongside the public benefits of the proposal from increased public access to the heritage asset.

## **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).

## 1. RECOMMENDATIONS

**That planning permission and listed building consent 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.**

### Conditions:

Y19/1152/FH (Planning Permission)

1. The development must be begun within three years of the date of this permission.

Reason:

As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans and reports:

Plans:

Site layout plan – proposed 010 P17; block plan – proposed 011 P17; Site layout A – proposed 012 P11; Site layout B – proposed 013 P9; Site layout C – proposed 014 P10; Ground floor – demolition French House 115 P6; First floor – demolition French House 116 P6; Ground floor – demolition – ancillary buildings 117 P1; First Floor- Demolition- Ancillary Buildings 118 P1; Proposed Ground Floor- French House 9790 P (0) 001; Proposed First Floor- French House 9790 P (0) 002; Proposed Ground Floor- Ancillary Buildings 127 P2; Proposed Roof Plan- Ancillary Buildings 128 P2; Restaurant Extension Plan Proposed 130 P12; Social Canopy Plan Proposed 135 P6; Check in Building 150 P2; Pod Type 1 and 2 Plans Proposed 160 P2; Existing sections 200 P1; Social Canopy Section AA Proposed 210 P4; Elevations 1 and 2 French House- Proposed 310 P1; Elevations 3 and 4 French House- Proposed 311 P1; Elevations 5 and 6 French House- Proposed 312 P1; Elevations 7 and 8 French House- Proposed 313 P1; Elevations 9 French House- Proposed 314 P1; Social Canopy Elevations Proposed 315 P3; Ancillary Buildings Elevations Proposed 330 P5; Restaurant Extension Elevations Proposed 335 P6; Check-in Building Elevations Proposed 350 P2; Pod Type 1 Elevations Proposed 360 P2; Pod Type 2 Elevations Proposed 361 P2.

Reports:

Design and Access Statement February 2020; Planning Statement and Statement of Community Involvement dated March 2020; Preliminary Ecology report (19 August 2019) / Phase 2 Ecological Surveys (6 February 2020)/ Addendum (27 February 2020); Arboricultural Impact Assessment dated 11th March 2020; Arboricultural Method Statement dated 11th March 2020; Heritage Statement (September 2019) /

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Addendum (28 February 2020); Landscape and Visual Impact Assessment Within original Heritage Statement (September 2019); Transport Statement July 2019 Revision 2- February 2020; Travel Plan July 2019 Revision 1- February 2020; Archaeological Desk Top Survey JAC 25609/SB dated March 2020; Noise Assessment (19/0268/R1) dated 29 July 2019 / Addendum (19/0268/M2) dated 5 March 2020; Flood Risk Assessment, Surface Water Drainage Strategy and Foul Water Strategy dated 28 February 2020; Landscape Strategy Plan Area A (PJC-0845.001 Rev H; Landscape Strategy Plan Area B (PJC-0845.002 Rev E; Landscape Strategy Plan Area B Access Road (PJC-0845.003 Rev E); MEP report Planning Submission Report Rev 4 (18 September 2019) / Addendum Rev 2 (9 March 2020); Slope Stability Letter dated 19 July 2019; Structural Condition and Timber Report dated June 2019; Report on Structural Condition 3119/RTP1 REV A dated June 2019.

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. No work shall take place until details and/or samples of the materials to be used in the construction of the development hereby permitted, inclusive of finishes and colours, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and colours not changed without prior written approval of the Local Planning Authority.

Reason:

To ensure the satisfactory appearance of the completed development and in the interests of visual amenity.

4. Within three months of the date of this permission, a landscaping scheme for the site, including an implementation programme and maintenance schedule, shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall be carried out in accordance with the approved details and implementation programme unless an alternative timescale has first been agreed in writing with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

Reason:

In order to protect and enhance the appearance of the area.

5. Prior to commencement of development, full details of the means of foul water disposal from the development shall be submitted to the Local Planning Authority for approval in writing, together with a timetable for their implementation, with such details as approved, implemented and/or maintained in a functional condition thereafter in accordance with the approved timetable.

Reason:

To ensure proper drainage and avoid pollution and flooding of the area given the hydrological sensitivity of the Lypne Escarpment SSSI.

6. No development shall begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate (with reference to published guidance):
  - i. that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
  - ii. appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason:

To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding and to safeguard adjacent ecological constraints, given the hydrological sensitivity of the Lypne Escarpment SSSI. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

7. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason:

To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

8. Prior to commencement of development, details of how the development will enhance biodiversity shall be submitted to the Local Planning Authority for approval in writing, together with a timetable for their implementation. This shall include recommendations as set out in the Phase 2 Ecological Report (PJC Consultancy 6th Feb 2020). The approved details shall be implemented in full in accordance with the approved timetable.

Reason:

In the interests of securing enhancements for biodiversity.

9. From the commencement of works (including site clearance), all precautionary mitigation measures for badgers will be carried out in accordance with the details within the Phase 2 Ecological Survey Report (PJC February 2020).

Reason:

In the interests of protection of biodiversity.

10. From commencement of works on site (including site clearance), all mitigation measures and / or works for bats will be carried out in accordance with the recommendations made in sections 4.1.29 to 4.1.37 of the Phase 2 Ecological Survey Report (PJC February 2020), unless varied by a European Protected Species licence subsequently issued by Natural England.

Reason:

In the interests of protection of biodiversity.

11. From commencement of works on site (including site clearance), all mitigation works will be carried out in accordance with the recommendations made in sections 4.2.8 to 4.2.15 of the Phase 2 Ecological Survey Report (PJC February 2020). Post development monitoring of reptiles will be carried out, for a minimum of two years, in accordance with section 4.2.17 of the Phase 2 Ecological Survey Report (PJC February 2020).

Reason:

In the interests of protection of biodiversity.

12. Prior to commencement of development, a detailed lighting scheme for the whole development, inclusive of internal and external lighting, shall be submitted to the local planning authority for approval, with such details as approved, implemented in full at the time of development and thereafter retained and maintained to the approved specification. The details submitted shall demonstrate that the area will maintain an Intrinsic Rural Darkness and Buffer Environmental Zone E1a as described by the Institute of Lighting Professionals (ILP). No additional lighting shall be installed on the land, the subject of this application, without the prior submission to and approval in writing of details by the Local Planning Authority.

Reason:

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In order to reduce light pollution and maintain the undeveloped character of the countryside.

13. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that features of archaeological interest are properly examined and recorded.

14. Prior to commencement of development, details of:

- i. construction vehicle loading / unloading and turning facilities;
- ii. parking facilities for site personnel and visitors;
- iii. wheel washing facilities.

Shall be submitted to the Local Planning Authority for approval, in writing, with such details as approved, implemented in full and retained for the duration of the construction phase of the development.

Reason:

In the interests of highway safety and public amenity.

15. The visibility splays shown on the approved plans shall be provided either side of the access before the first use of the site for the approved use and maintained so there is no obstruction in excess of 1.05 metres in height above the carriageway level within the splay area.

Reason:

To secure adequate visibility for vehicles entering or leaving the site in the interests of highway.

16. The first 5 metres of the access from the back edge of the highway shall be surfaced with a bound material.

Reason:

In the interests of highway safety.

17. The parking shown on the approved plans shall be provided, in full and inclusive of the electric vehicle charging points, before the first use of The French House as a hotel and shall thereafter be kept available for parking purposes in connection with the development at all times.

Reason:

It is necessary to make provision for adequate off street parking to prevent obstruction of the highway and to safeguard the amenities of adjoining areas.

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18. Prior to the first use of the site for the development hereby approved, details of the gates, piers and other associated development to be erected at the entrance from Aldington Road shall be submitted to the Local Planning Authority for approval, with such details as approved, implemented in full and thereafter retained.

Reason:

In the interest of visual amenity and highway safety.

19. Details of the bunds to be provided along the access road, inclusive of levels and planting, as well as incorporating recommendations made within the Cole Jarman Noise Assessment report reference 19/0268/R1, shall be submitted to the Local Planning Authority for approval in writing, with such details as approved implemented in full prior to the first use of the proposed access road in association with the development hereby permitted, and retained and maintained thereafter.

Reason:

In the interests of amenity and in order to protect and enhance the appearance of the area.

20. Prior to undertaking any landscaping works, an analysis of the immediate surrounding landscape and garden areas of the property shall be submitted to, and approved in writing by the Local Planning Authority.

Reason:

To record the setting of the heritage assets.

21. In relation to the sleeping pods and social canopy hereby approved as part of this development, prior to commencement of development, details of the levels, earthworks required and any hardstanding/bases required, with sections through the site as appropriate, shall be submitted to the Local Planning Authority for approval in writing, with such details as approved implemented in accordance with the approved plans.

Reason:

In the interests of visual amenity in order to protect the appearance of the Kent Downs AONB, North Downs SLA and also the setting and significance of the Grade II\* listed building.

22. Details of the proposed landscaping of the garden areas around the house including alterations and new fencing, paving and other surfacing including any alterations to the stretch of the narrow access road that leads South from Aldington Road where it is linked to the proposed new access road from Aldington Road to serve the car park shall be submitted to and approved in writing by the Local Authority.

Reason:

To preserve the setting of the heritage asset.

23. Details of the proposed refuse store shall be submitted to and approved in writing by the Local Authority, prior to commencement of development of its construction, with such details as approved, implemented in accordance with the approved plans.

Reason:

In the interests of visual amenity.

24. Details of the fencing to be installed around the car parking area hereby permitted shall be submitted to the local planning authority for approval in writing, prior to the first use of the facility. The details submitted shall incorporate the recommendations made within the Cole Jarman Noise Assessment report reference 19/0268/R1. Such details as are approved shall be retained and maintained in accordance with the approved details at all times.

Reason:

In the interests of visual and residential amenity.

25. Prior to the commencement of the development hereby permitted, including any site clearance works, tree protection measures in accordance with BS5837:2012 Trees in Relation to Construction - Recommendations, shall be erected for each tree or group of trees to be retained on this site, or other such measures as may be agreed with the Local Planning Authority in writing shall be provided. The protection measures shall be retained in position at all times until the completion of the development, and the land so enclosed shall be kept clear of all contractors' materials and machinery. The existing soil levels around the base of the trees shall not be altered.

Reason:

To ensure that the trees are not damaged during the period of construction.

## Informatives:

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
2. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council – Highways and Transportation (web: [www.kent.gov.uk/roads\\_and\\_transport.aspx](http://www.kent.gov.uk/roads_and_transport.aspx) or telephone: 3000 418181) in order to obtain the necessary Application Pack.

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where



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required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

3. In relation to Public Right Of Way HE318:
  - i. No furniture may be erected on or across Public Rights Of Way without the express consent of the Highway Authority.
  - ii. There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
  - iii. No hedging or shrubs should be planted within 1.5 metres of the edge of the public footpath.

## Conditions:

Y19/1142/FH (Listed Building Consent)

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

Reason:

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

2. The works hereby approved shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:

Plans:

Site layout plan – proposed 010 P17; block plan – proposed 011 P17; Site layout A – proposed 012 P11; Ground floor – demolition French House 115 P6; First floor – demolition French House 116 P6; Ground floor – demolition – ancillary buildings 117 P1; First Floor- Demolition- Ancillary Buildings 118 P1; Proposed Ground Floor- French House 9790 P (0) 001; Proposed First Floor- French House 9790 P (0) 002; Proposed Ground Floor- Ancillary Buildings 127 P2; Proposed Roof Plan- Ancillary Buildings 128 P2; Elevations 1 and 2 French House- Proposed 310 P1; Elevations 3 and 4 French House- Proposed 311 P1; Elevations 5 and 6 French House-

# DC/20/14

Proposed 312 P1; Elevations 7 and 8 French House- Proposed 313 P1; Elevations 9 French House- Proposed 314 P1; Social Canopy Elevations Proposed 315 P3; Ancillary Buildings Elevations Proposed 330 P5.

Reports:

Design and Access Statement February 2020; Planning Statement and Statement of Community Involvement dated March 2020; Heritage Statement (September 2019) / Addendum (28 February 2020); Report on Structural Condition 3119/RTP1 REV A dated June 2019.

Reason:

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

3. Prior to the commencement of works to repair the roof a detailed schedule of repairs, including details of any new clay tiles to make up a shortfall, shall be submitted to, and approved in writing by the Local Planning Authority.

Reason:

To preserve and enhance the heritage asset.

4. Prior to undertaking any works to the building, a full 'photographic' survey of the buildings is requested for deposit at the National Monuments Record.

Reason:

To record the heritage assets in its current state.

5. Prior to commencement of works, detailed drawings showing typical internal joinery features, the proposed staircase, internal fire doors, other doors, frames and architraves at scale 1:20 and at 1:1 shall be submitted to and approved in writing by the Local Authority. Works shall thereafter be carried out in accordance with the approved plans.

Reason:

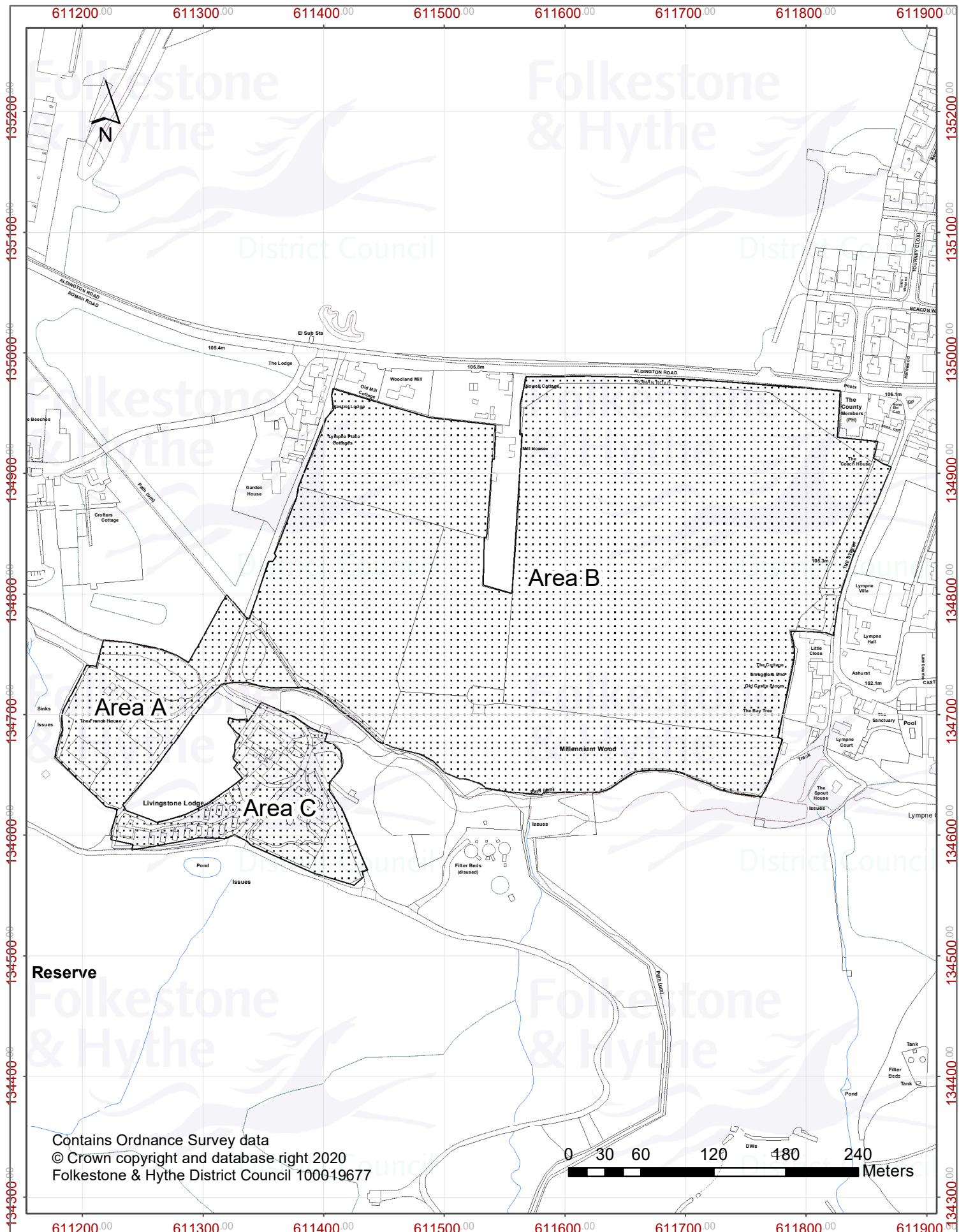
To preserve the special architectural or historic interest of the heritage asset.

6. Prior to commencement of works, detailed drawings of the design and construction of the proposed ensuite cubicle to be formed within the first-floor bedroom 2 at a scale 1:20 shall be submitted to, and approved in writing by the Local Authority. Works shall thereafter be carried out in accordance with the approved plans.

Reason:

To preserve and enhance the heritage asset.

Y19/1142/FH and Y19/1152/FH  
French House  
Aldington Road  
Lympe



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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 – 25 AUGUST 2020**

**Declarations of Lobbying**

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

<b>Application No:</b>	<b>Type of Lobbying</b>
	.....
	.....
	.....
	.....
	.....
	.....
	.....
	.....
	.....

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

25<sup>th</sup> AUGUST 2020

### SUPPLEMENTARY INFORMATION TO SCHEDULE OF APPLICATIONS

1. Y19/0318/FH **BURGOYNE BARRACKS NORTH AND  
(Page 11) NAPIER BARRACKS, WEST ROAD, FOLKESTONE**

Erection of 355 dwellings with associated landscaping, infrastructure, earthworks, at phases 2C and 4, Burgoyne Barracks North and Napier Barracks, pursuant to outline planning application Y14/0300/FH

**Vivienne Kenny, local resident on behalf of Shorncliffe Trust, to speak against application**  
**Lucy Wilford, agent, to speak on application**

2. Y19/0248/FH **LAND ADJ 1 RAILWAY COTTAGES DUCK STREET ELHAM  
(Page 49) CANTERBURY KENT CT4 6TP**

Outline application for the erection of 3 x detached dwellings including detailed consideration of access (a short re-alignment of Duck Street) and layout, all other matters reserved.

**Julie Smith, local resident, to speak against application**  
**Cllr Stanyon, Elham Parish Council**  
**Cllr Stuart Peall, ward member, to speak against application**  
**Elizabeth Welch, applicants agent, to speak on application**

3. 20/0073/FH **HILLCROFT, SCHOOL ROAD, SALTWOOD,  
(Page 69) HYTHE, KENT, CT21 4PP**

Section 73 application for the variation of conditions 1 (approved drawings) and 7 (obscure glass) of planning permission Y19/0272/SH (Erection of a detached two storey dwelling) to enable an increase in ridge height, additional fenestration, revisions to the ground floor layout and external materials.

**Julie Nisbet, local resident, to speak against application**  
**Mr Aldo Sassone-Corsi, applicant, to speak on application**

4. Y19/1152/FH & Y19/1142/FH **FRENCH HOUSE, ALDINGTON ROAD,  
(Page 83) LYMPNE, HYTHE KENT CT21 4PA**

**Y19/1152/FH - Change of use of the French House from Class C3 residential dwelling to a 10 bed boutique hotel Class C1; partial demolition,**

reconstruction and conversion of outbuildings; erection of 5 new build bedroom pods; erection of new social canopy; erection of check-in building; extension to existing restaurant; creation of new link pathways and a new access road; new refuse store; and creation of a new car park for 50 car spaces.

**Y19/1142/FH** - Listed Building Consent for restoration and conversion of Grade II\* listed French House. Refurbishment and redevelopment of ancillary buildings. Demolition of outbuildings to north of garage to enable a new single storey enclosure plant room.

**Mr Brad Smith, local resident, to speak against application**

**Cllr John Wing, ward member, to speak against application**

**Mr Jeff Lawrence, on behalf of Lympe Parish Council, to speak against application**

**Mr Tony Kelly, applicant, to speak on application**

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1. Y19/0318/FH **BURGOYNE BARRACKS NORTH AND  
(Page 11) NAPIER BARRACKS, WEST ROAD, FOLKESTONE**

1. In paragraph 3.18 substitute (March 2019) to June (2020)

2. Additional Consultation Response

Folkestone Town Council – The Committee continues to be concerned about foul water drainage to the development. It also views with concern reports of trees being removed and would expect the district council to look into it. It feels that electrical charging points should now be taken into account and provided to some degree.

3. Additional Planning History

Y18/1624/FH

Reserved matters application relating to access, appearance, landscaping, layout and scale being details pursuant to application Y14/0300/SH (Hybrid application for the redevelopment of land at Shorncliffe Garrison) for the erection of 8 dwellings along with associated landscaping, infrastructure and earthworks at Phase 2D (The Nursery). Approved.

Y17/0055/NMC

Non Material Amendment to hybrid planning permission Y14/0300/SH; condition 11 (Time Limits) to enable development within each phase or sub-phase to commence within 5 years of the land being released for development by the MoD; condition 35 (Foul and Surface Water Disposal) to enable details to be submitted and approved prior to construction above damp proof course level; and condition 44 (Cheriton Interchange Junction) to enable improvement



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