



Agenda

Meeting: **Planning and Licensing Committee**
Date: **20 October 2020**
Time: **7.00 pm**
Place: **Remote 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.

If members have any particular questions on the reports it would help the management of the meeting, if they could send these on or before next Tuesday to committee@folkestone-hythe.gov.uk. Members can raise matters in the meeting of course, however 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 3 - 4)**

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

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

3. **Minutes (Pages 5 - 10)**

To consider and approve, as a correct record, the minutes of the meeting held on 22 September 2020.

4. **20/0569/FH Tree Tops, Cannongate Road, Hythe, Kent (Pages 11 - 28)**

Queries about the agenda? Need a different format?

Contact Committee Services – Tel: 01303 853267/3369
Email: committee@folkestone-hythe.gov.uk or download from our
website
www.folkestone-hythe.gov.uk

Report DC/20/21 – Approval of reserved matters (scale, appearance and associated landscaping) relating to outline planning permission Y15/1245/SH.

5. **Y19/0016/FH Land Adjoining 86 - 88 Tontine Street, Folkestone, Kent (Pages 29 - 56)**

Report DC/20/22 – Erection of part 3-storey and part 5-storey building comprising 45no.studio apartments with associated access, parking and communal garden.

6. **Y19/1275/FH Hope All Saints Garden Centre, Ashford Road, New Romney, Kent, TN28 8TH (Pages 57 - 88)**

Report DC/20/23 – Erection of 25 dwellings.

7. **20/0960/FH 59/61 Earls Avenue, Folkestone, CT20 2HA (Pages 89 - 100)**

Report DC/20/24 – Felling of a multi-stemmed Lime subject of Tree Preservation Order No 4 of 1994.

8. **Unauthorised change of use of land at Paddlesworth Court Farm, Paddlesworth (Pages 101 - 120)**

Report DC/20/25 considers the appropriate action to be taken regarding the unauthorised change of use of land from agricultural to use for the siting of residential caravans and mobile homes; the storage of caravans and mobile homes; the storage of vehicles, plant and other equipment; and the erection of two viewing platforms.

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:	Remote meeting
Date	Tuesday, 22 September 2020
Present	Councillors Danny Brook, John Collier, Gary Fuller, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Ian Meyers, Georgina Treloar and David Wimble
Apologies for Absence	None
Officers Present:	Kate Clark (Case Officer - Committee Services), Ewan Green (Director of Place), Sue Head (Principal Planning Officer), Llywelyn Lloyd (Chief Planning Officer), Ross McCardle (Principle Planning Officer), Lisette Patching (Development and Enforcement Manager) and Jemma West (Committee Service Specialist)
Others Present:	Chris Hawkins and Councillors Laura Davison* and Tim Prater*

*For part of the meeting.

27. **Declarations of Interest**

Cllr Jackie Meade made a voluntary announcement as she is a member of Folkestone Town Council planning committee and has prior knowledge of 20/530/FH (1 Radnor Park Road, Folkestone), 20/532/FH (Royal Victoria Hospital) and 20/579/FH (The Leas Club). Councillor Meade also announced she had worked with residents during the Royal Victoria Hospital planning process.

Councillor John Collier made a voluntary announcement with regard to 20/530/FH (1 Radnor Park Road, Folkestone) and 20/532/FH (Royal Victoria Hospital) as his son works with the applicant.

Councillor David Wimble made a voluntary announcement with regard to 20/530/FH (1 Radnor Park Road, Folkestone) and 20/532/FH (Royal Victoria Hospital) as he knows the applicant. The applicant also advertises in a magazine of which Councillor Wimble is a shareholder.

All three members remained in the meeting, taking part in discussions and voting on the applications mentioned above.

Cllr Clive Goddard declared a disclosable pecuniary interest as he is a sub contractor for the applicant with regard to planning applications 20/0530/FH (1 Radnor Park Road, Folkestone) and 20/0532/FH (Royal Victoria Hospital). Councillor Goddard removed himself from the meeting and did not take part in discussions or voting on these items.

28. **Minutes**

The minutes of the meeting held on 25 August 2020 were submitted and approved. The Chairman, Councillor Clive Goddard, agreed that his electronic signature could be added to these.

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

The minutes of the meeting held on 3 September 2020 were submitted and approved. The Chairman agreed that his electronic signature could be added to these.

Councillor Clive Goddard left the meeting. Councillor Philip Martin, Vice Chairman, took over proceedings.

30. **20/0530/FH - 1 Radnor Park Road, Folkestone, Kent, CT19 5BW**

Proposed 4 storey residential development to include 14 units and associated landscaping.

The planning officer presented this application and made the following comments:

- As the Places and Policies Local Plan was formally adopted by Council recently, the draft policies mentioned in this application are subject to this Plan.
- Several further letters had been received from residents showing additional concerns; right to light; poor design; impact on property values; additional air pollution; no benefit to the local community; property damage during construction; bin storage and scheme driven by profit.
- A separate letter had been received from a nearby resident regarding their Right to Light, however this is a private legal matter and the applicant has engaged with the objector regarding this matter.
- Planning permission from 2009 contains a daylight assessment which concluded the impact on neighbouring properties would not be significant. That application was approved and remain extant.
- The Land Stability condition is missing from the current report and will be added under the Chief Planning Officer's delegated authority.

Alice Cook, on behalf of Mr Thomas (neighbour) provided written representation against the application.

Councillor Mary Lawes, on behalf of Folkestone Town Council provided written representation on the application.

Mr Leo Griggs, applicant, provided a written representation on the application.

Proposed by Councillor Mrs Jenny Hollingsbee

Seconded by Councillor David Wimble and

Resolved:

That planning permission be approved subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary. This is also subject to receipt of amended drawings in respect of the disabled parking bay and access on to the highway, and completion of a s.106 agreement to secure the units as affordable and double yellow lines across the site frontage.

(Voting: For 8; Against 2; Abstentions 1)

31. **20/0532/FH - Royal Victoria Hospital, Radnor Park Avenue, Folkestone, CT19 5BN**

Residential Development at Royal Victoria Hospital site consisting of 19 no. 4 & 5 bed houses and 19no. 1 & 2 bed apartments including associated external works.

The planning officer presented this application. He mentioned that two further letters of objection had been received, points of which are already covered in the report, but also raising concerns regarding land stability, light pollution and impact on local wildlife.

There was an amendment in the report; point 7.5 (under Scale, design and layout) 'approximately 33 dwellings per hectare', this should read 'approximately 74 dwellings per hectare'.

Mr Will Anstee, local resident, provided a video speaking against the application.

Councillor Mary Lawes, on behalf of Folkestone Town Council, provided a written statement on the application.

Mr Leo Griggs, applicant, provided a written statement on the application.

Proposed by Councillor David Wimble

Seconded by Councillor Mrs Jenny Hollingsbee and

Resolved:

That planning permission be approved subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary; no fresh material planning issues being raised by Folkestone Town Council (in respect of

the amended drawings); and completion of a s.106 legal agreement to secure affordable housing.

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

Councillor Clive Goddard returned as Chairman for the remainder of the meeting.

32. 20/0579/FH - The Leas Club, Folkestone, CT20 2DP

Full planning application for the restoration of the Leas Pavilion, including external and internal alterations in connection with the use of the building for ancillary residential use class (Class C3), and flexible use for community accessibility, assembly and leisure (Class D2), together with the construction of a nine storey residential apartment block (5 full storeys, with setbacks to the upper four storeys) and associated cycle and refuse storage, landscaping, with two parking areas provided at half-basement level, accessed from Longford Terrace and Longford Way.

Mr Mark Hourahane, local resident, provided a video statement against the application.

Ms Liz Mulqueen, local resident, provided a video statement in support of the application.

Councillor Richard Wallace, on behalf of Folkestone Town Council, spoke on the application.

Councillor Laura Davison, ward member, spoke on the application.

Mr Guy Holloway, agent, provided a video statement on the application.

Proposed by Councillor David Wimble

Seconded by Councillor Mrs Jenny Hollingsbee and

Resolved:

That planning permission be granted subject to the conditions set out at the end of the report with an additional condition relating to the submission of details of the air source heat pumps, and the applicant entering into a S106 legal agreement securing the completion of the works to the Pavilion prior to the first occupation of 20% of the residential units and the use of the Pavilion for community use, 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.

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

33. 20/0563/FH - The Leas Club, Folkestone, CT20 2DP

Listed building consent for the restoration of the Leas Pavilion, including external and internal alterations in connection with the use of the building for ancillary residential use class (Class C3), and flexible use for

community accessibility, assembly and leisure (Class D2), together with the construction of a nine storey residential apartment block (5 full storeys, with setbacks to the upper four storeys) and associated cycle and refuse storage, landscaping, with two parking areas provided at half-basement level, accessed from Longford Terrace and Longford Way.

Proposed by Councillor David Wimble
Seconded by Councillor Mrs Jenny Hollingsbee and

Resolved:

That 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.

(Voting: For 8; Against 0; Abstentions 4)

34. **Y19/0925/FH - Land Adjoining Turner Court, Romney Avenue, Folkestone**

Erection of 8 two storey dwellings with associated parking, access and retaining walls (resubmission of Y18/1013/FH).

Ms Beverley Zalcock, local resident, provided a video statement against the application.

Councillor Tim Prater, ward member, spoke on the application.

Some members had concerns in connection with parking, garden sizes, contamination, ground and surface water.

Proposed by Councillor Gary Fuller
Seconded by Councillor Jackie Meade and

Resolved:

To refuse planning permission on the grounds that garden sizes are too small and against policy HB3 – Internal and External Space Standards; also use of materials are out of keeping with the SDS1 - Sandgate Design Statement.

(Voting: For 4; Against 6; Abstentions 2)
This Vote was lost.

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

RESOLVED:

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

(Voting: For 7; Against 4; Abstentions 1)

Agenda Item 4

DC/20/21

Application No: 20/0569/FH

Location of Site: Tree Tops, Cannongate Road, Hythe, Kent, CT21 5PT.

Development: Approval of reserved matters (scale, appearance, and associated landscaping) relating to outline planning permission Y15/1245/SH.

Applicant: Mrs M. Paterson

Agent: Gary Tidwell Associates, 126 Queens Road, Tankerton, Kent, CT5 2JL.

Officer Contact: Ross McCardle

SUMMARY

This application seeks approval of reserved matters (scale, appearance, and landscaping) in regards planning permission ref. Y15/1245/SH, which granted outline planning permission for the erection of a dwelling on the site. While the town council objects to the height of the building, the submitted amended drawings have reduced the height of the proposed dwelling, and its scale, appearance, and the associated landscaping are now considered to be acceptable. No significant overlooking, loss of privacy, or other amenity impacts for neighbours will arise. I therefore consider the proposed details to be acceptable, and recommend that reserved matters consent should be granted.

RECOMMENDATION:

That planning permission be approved subject to the conditions set out at the end of the report.

1. INTRODUCTION

1.1 The application is presented to Members due to an objection from Hythe Town Council to the height of the proposed building. Their comments are set out in detail at section 5, below.

2. SITE AND SURROUNDINGS

2.1 Tree Tops is a detached house situated within the built up area of Hythe. It occupies a large plot on the escarpment to the north of the town, and is positioned towards the southern end of the site with vehicle access from a private road to the rear. The property is of an arts and crafts style design but the wider area is characterised by detached dwellings of various scales and designs (as larger plots have been subdivided and infilled with modern development).

2.2 The application site comprises roughly the northern half of the rear garden. Land levels slope downwards to the south so much of the land is at a higher

level than the main dwelling. The site is occupied by a small detached garage/workshop building and informal garden planting. Land levels also slope dramatically upwards to the west and east (the site effectively occupies a hollow) and the neighbouring properties (Woodpeckers to the west, and 1 Cannongate Gardens to the east) are set at a much higher level.

- 2.3 Due to land levels there are few public views of the site other than from Princes Parade – which runs along the seafront – but this is at a significant distance.



View from Woodpeckers, to the west, facing east



View from access road to north



Facing north



Facing east along southern flank of existing building



Private access road, facing west across the frontage of Woodpeckers

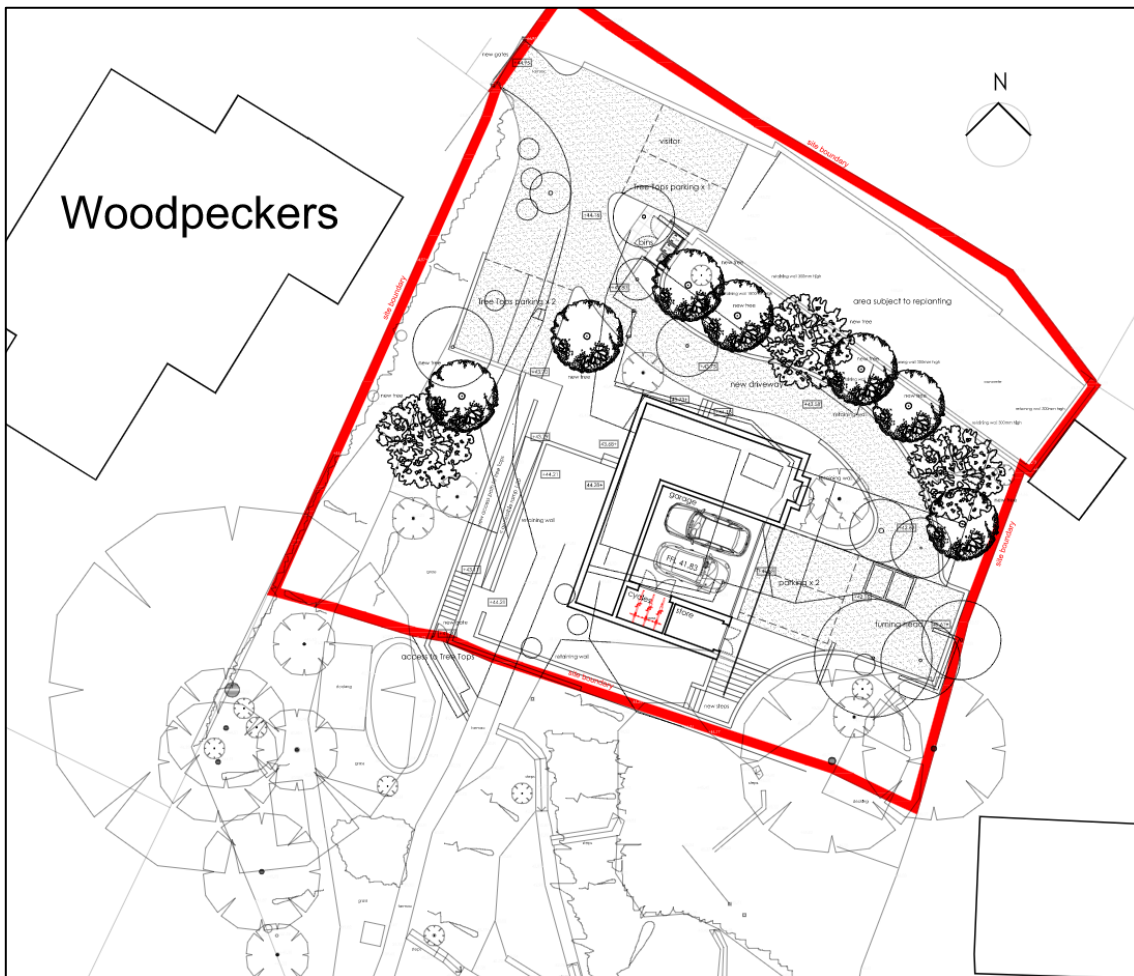


View of existing dwelling (Tree Tops) from Cannongate Road

3. PROPOSAL

- 3.1 This is a reserved matters application for approval of the scale, appearance, and landscaping details. Matters of access and layout have already been determined as part of the outline planning application.
- 3.2 The proposed house would be positioned where the detached garage/workshop currently sits, as approved at outline stage. Vehicle access would be from the existing private road to the rear, with a driveway leading to a parking/turning area to the east of the property, in front of a sunken garage area.

- 3.3 The house would effectively be three stories: the ground floor (comprising garage and storage space) would be set into the hillside and largely only visible from the east with a small section above ground level to the west. The first floor would comprise an open-plan living / kitchen / dining area, “snug,” WC, and utility room. The second floor would be partially set within the roof level due to lowered eaves, and will provide three bedrooms, en-suite, family bathroom, and a balcony area on the SW corner, accessed from the master bedroom. The balcony would have frosted glazing along the western side.
- 3.4 The property would measure a maximum of approximately 10.6m tall (when viewed from the east, with the garage area visible – 8m from the south, 8.3m from the north, and a maximum of 9.3m from the west) x 10m wide x 12m deep. External materials are proposed as artificial slate roofing tiles, composite horizontal cladding, red multi-stock brickwork, and galvanised powder-coated joinery (anthracite grey).
- 3.5 Two parking spaces are provided within the internal garage and further parking on the driveway/turning area.



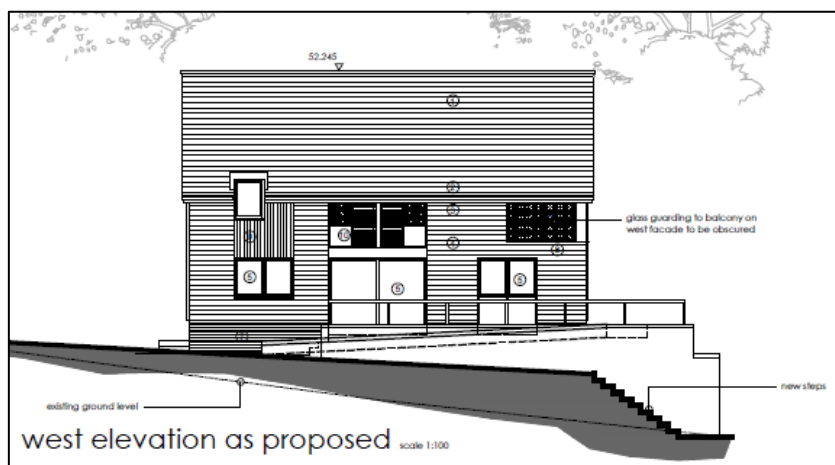
Proposed site layout



Proposed south elevation



Proposed east elevation



Proposed west elevation



Proposed north elevation

4. RELEVANT PLANNING HISTORY

- 4.1 Application ref. Y15/1245/SH granted outline planning permission (with matters of appearance, scale and landscaping reserved) for the erection of a detached dwelling on the site, subject to a number of conditions (including the standard contamination and “latchgate” or land stability conditions).

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

5.2 **Consultees**

Hythe Town Council object “*on the grounds that the junction may be dangerous due to the sight lines, the planning application regarding height has discrepancies and Members were concerned about the stability of the site and felt further information was required.*”

I replied to the Town Council, setting out that the application is for reserved matters approval of the specific issues of scale, appearance, and landscaping, and advising that matters relating to highway safety and land stability have already been considered and approved at outline planning permission stage (a condition regarding land stability is attached to the outline planning permission). I forwarded a copy of the amended drawings, and requested further comments.

The Town Council maintain their objection, commenting that “*members still felt the junction may be dangerous due to sight lines, overlooking of neighbouring property, the additional information regarding height was still not satisfactory and members still had concerns regarding the stability of the site.*”

KCC Highways have no comment save to note this falls below their protocol response threshold.

KCC Archaeology has no objection.

Southern Water has no objections.

5.3 **Local Residents Comments**

Two letters have been received from the neighbouring residents, raising the following concerns:

- The development may cause land stability or subsidence issues locally;
- No stability report has been submitted;
- Land stability concerns;
- Overlooking and loss of privacy, particularly from windows and balcony on the west elevation;
- The submitted plans do not illustrate the relationship between existing neighbouring dwellings and the proposed house;
- The height of the proposed building is excessive;
- The maximum height of the proposed building should not exceed that of the existing property;
- Loss of light to neighbouring dwellings;
- Impact on wildlife;
- Access to the site is via a private lane that is not owned by the applicant;
- Covenants on the Deeds require shared maintenance of the lane, but this is not being done;
- Increased traffic on the lane;
- The lane may need improvement;
- Poor visibility when exiting the lane onto the public highway; and
- Conditions should be imposed to ensure construction in a tidy and safe manner.

A further letter was submitted by the same neighbour in response to the amended drawings, raising the following additional concerns:

- No heights shown on the drawings so not clear how height has been reduced; and
- Remain concerned regarding overlooking from the balcony.

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

6. **RELEVANT PLANNING POLICY**

6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013), and the Places and Policies Local Plan (2020).

6.2 The Places and Policies Local Plan (2020) was formally adopted by the Council in September this year and its policies can therefore be afforded full weight.

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 Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development), SS1 (district spatial strategy), SS2 (housing and economy), SS3 (sustainable settlements), and CSD1 (balanced neighbourhoods).

Places and Policies Local Plan (2020)

HB1 (design), HB2 (cohesive design), HB3 (space standards), T2 (parking), NE2 (biodiversity), NE6 (land stability), and CC2 (sustainable design and construction).

Core Strategy Review Submission draft (2019)

SS1 (district spatial strategy), SS2 (housing and economy), SS3 (sustainable settlements), and CSD1 (balanced neighbourhoods).

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.

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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

- 6.7 The NPPF and NPPG generally support new residential development within the built up area boundary, subject to general amenity concerns.

7. APPRAISAL

Principle

- 7.1 The principle of the development, including the layout and access was established by grant of outline planning permission under ref. Y15/1245/SH and is not for consideration under this application. What falls to be considered here, therefore, is solely issues pertaining to the remaining reserved matters of scale, appearance, and landscaping.

Scale

- 7.2 I was initially concerned about the scale of the proposed dwelling, and in that regard I had sympathy with the comments from neighbouring residents.
- 7.3 The design has been amended, however, with the ridge and eaves dropped to present a much lower structure with a consequently lesser visual impact. I consider that the proposed dwelling would sit comfortably on the site and be relatively in-scale and proportion with the surrounding properties. I note concern from the neighbours with regard to scale, but do not consider the proposed structure to be excessive, as illustrated by the site section at para. 7.8 below which shows the ridge to be set below the main ridge of Woodpeckers. (In this regard I would also note it is also not usual to have measurements on planning drawings, instead working to scale.)
- 7.4 Public views of the dwelling would be limited due to land levels, with the main views being at a considerable distance from the seafront, where the house would be viewed on the escarpment within the context of the surrounding properties. I believe the house would not be prominent or intrusive in these views, and consider it would sit comfortably within the wider street scene.



Level change between site and Woodpeckers

Appearance

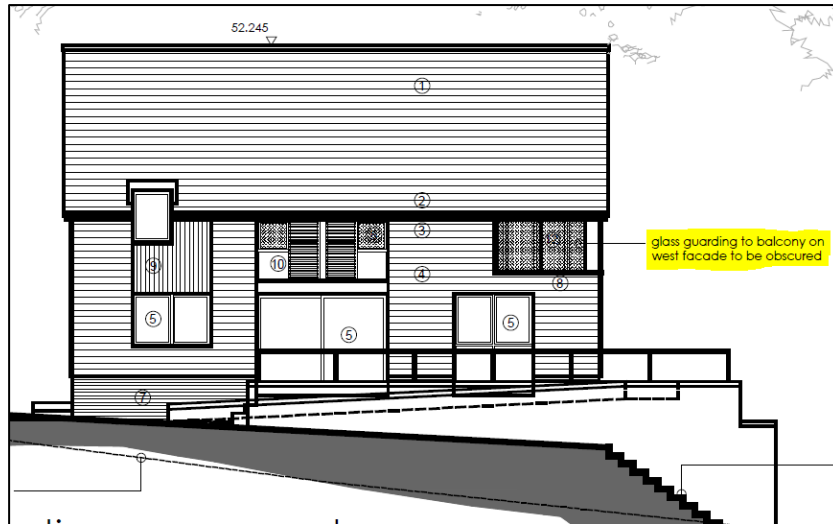
- 7.5 The design of the building is quite contemporary and in that regard I note the presence of other contemporary properties within the area. There is no unifying design characteristic to the neighbourhood, and in that regard the building would not be out of place or incongruous. Nevertheless, I consider it to be of an acceptable design standard that would contribute positively to the area.

Landscaping

- 7.6 The proposed landscaping and tree planting – subject to a condition requiring details of specific species – would contribute positively to the appearance of the site and to local biodiversity. I have no serious concerns in regards this element.

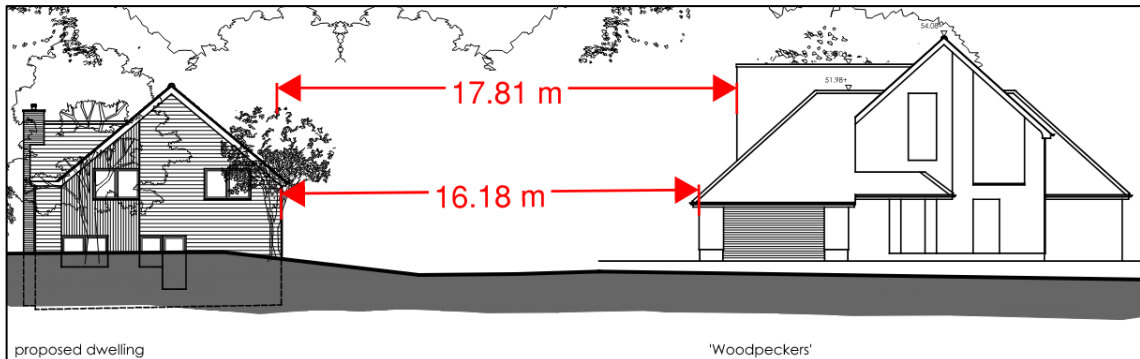
Amenity

- 7.7 I note and understand local concerns in regards the potential for overlooking and loss of privacy. These have largely been overcome through the amended drawings, which reduce the height of the building and introduce privacy screens to the side of the balcony, thereby minimising the potential for views to the side across neighbouring gardens.



Proposed western elevation, note obscure glazing to side of balcony

7.8 While on site I met the immediate neighbours at Woodpeckers, who were concerned about overlooking of a (floor-to-ceiling) side bathroom window. Nevertheless, the reduced scale of the proposed house and the intervening distance would minimise potential for views into this window such that I do not consider consent for the reserved matters could be refused for this reason. Members should also note that there is no set minimum requirement for flank-to-flank separation distances, and bathrooms do not constitute habitable rooms in terms of being afforded significant protection from overlooking.

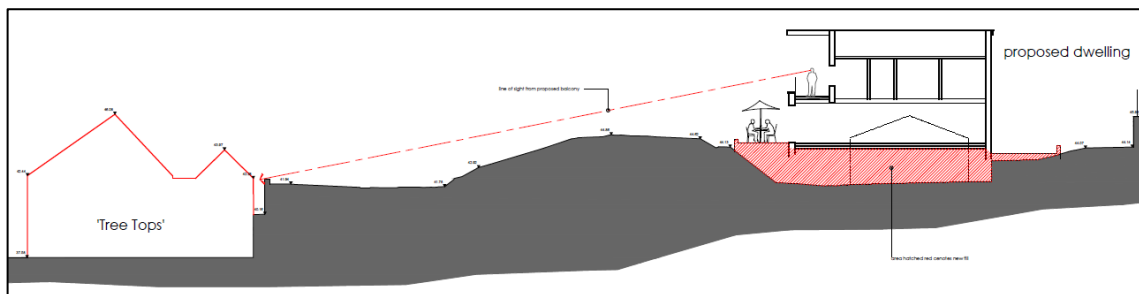


Separation between existing (right, Woodpeckers) and proposed (left)



Side bathroom window at Woodpeckers

7.9 There will, by reason of the position of the new house and land levels, be some views afforded across the grounds of the existing house (Tree Tops) and the residents thereof will lose some of the privacy they currently enjoy. However, the garden and patio to the south of Tree Tops will be screened entirely by the existing house and therefore provide a private amenity space not overlooked by this new house. I also have given some regard to the fact that the residents of Tree Tops have applied to build a house in their own garden, and therefore should be aware of the inherent risks of overlooking their property.



Section illustrating level change between Tree Tops and proposed dwelling

7.10 Nevertheless I am satisfied that the amenity of neighbouring residents will not be unacceptably impacted.

Other matters

7.11 While I note the Town Council's concerns in regards the height of the building I consider that they have been addressed by the amended drawings, as above. They also raise a number of other issues that relate to matters not subject to this reserved matters consent (highway safety, land stability) and which therefore can't be given any weight. The neighbours also raise concerns in regards land stability but, as above, this was addressed at outline stage and the Council's standard latchgate condition – requiring full structural assessment

and details prior to commencement of development – is attached to the outline permission; it does not fall to be considered here.

Environmental Impact Assessment

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

Local Finance Considerations

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

Human Rights

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

Public Sector Equality Duty

- 7.15 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

- 7.16 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 This application seeks reserved matters approval in regards of scale, appearance, and landscaping for a new dwelling on a site within the built up area boundary. The principle of development has already been agreed through grant of outline planning permission ref. Y15/1245/SH. The amended drawings are considered acceptable; the proposed dwelling would be an acceptable scale and design, and would not give rise to any serious amenity concerns for neighbouring residents.

- 8.2 I therefore recommend that planning permission should be approved.

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 approved subject to the following conditions:

1. No development shall take place other than in complete accordance with drawings 01.600.15 rev P1, 20 rev P1, 25 rev P1 and 30.

Reason: For the avoidance of doubt.

2. Prior to the first occupation of the dwelling hereby permitted details of the new trees to be planted as part of the landscaping scheme shown on drawing 01.600.10 rev P0 including species (which shall be native and of a type that will encourage wildlife and biodiversity) shall be submitted to the local planning authority and, upon approval, the approved landscaping scheme shall be carried out within the next available planting season. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the District Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

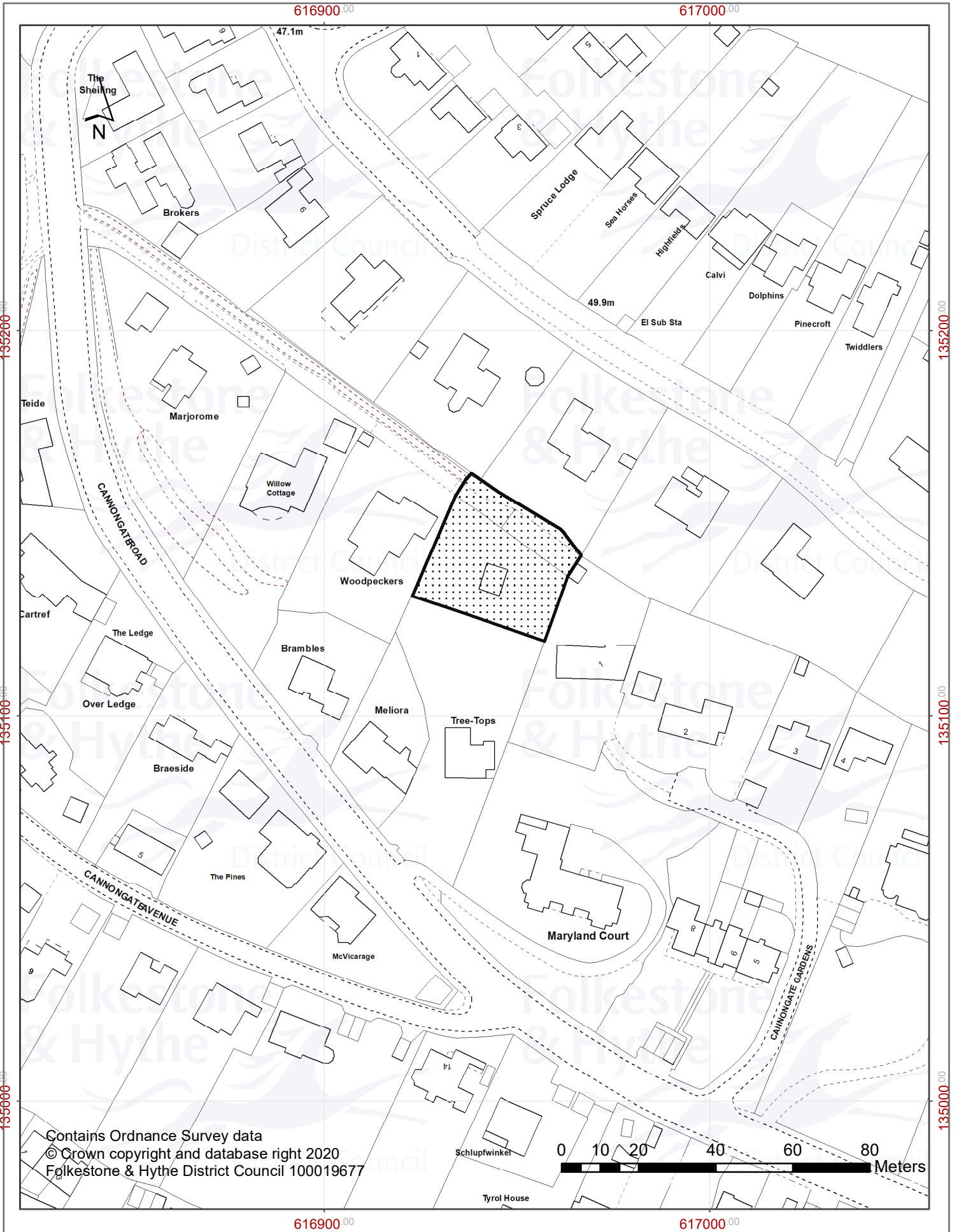
3. Before the dwelling hereby permitted is first occupied a privacy screen shall be erected on the western flank of the balcony (as shown on drawing 01.600.20 rev P2). This privacy screen shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and shall be retained as such in perpetuity.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

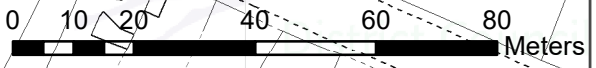
4. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the west facing first floor wall or roof slope of the dwelling hereby permitted.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

20/0569/FH
Tree Tops
Cannongate Road
Hythe



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677



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Application No: Y19/0016/FH

Location of Site: Land adjoining 86 to 88 Tontine Street, Folkestone

Development: Erection of part 3-storey and part 5-storey building comprising 45no. studio apartments with associated access, parking and communal garden.

Applicant: HRS Construction Service (KENT) Ltd

Agent: Lee Evans Planning
St Johns Lane
Canterbury

Officer Contact: Louise Daniels

SUMMARY

This report considers whether planning permission should be granted for the erection of a block of flats, part 5-storey and part 3-storey with a dual aspect onto Tontine Street and St Michael's Street, comprising 45 apartments with associated access, parking and communal garden together with off-site contributions towards affordable housing. The principle of development would be in accordance with the aims of the Core Strategy by regenerating an area of undeveloped brownfield land. The design, materials and scale are considered to be of innovative design with a modern appearance which would be in keeping with the eclectic mix found in the immediate area whilst acknowledging the traditional properties in the surrounding context and setting. Whilst there would be some impact upon neighbouring amenity, it is not considered to be sufficiently detrimental to warrant refusal on this ground. There is no objection on highway safety, ecology, flooding or contamination matters.

RECOMMENDATION:

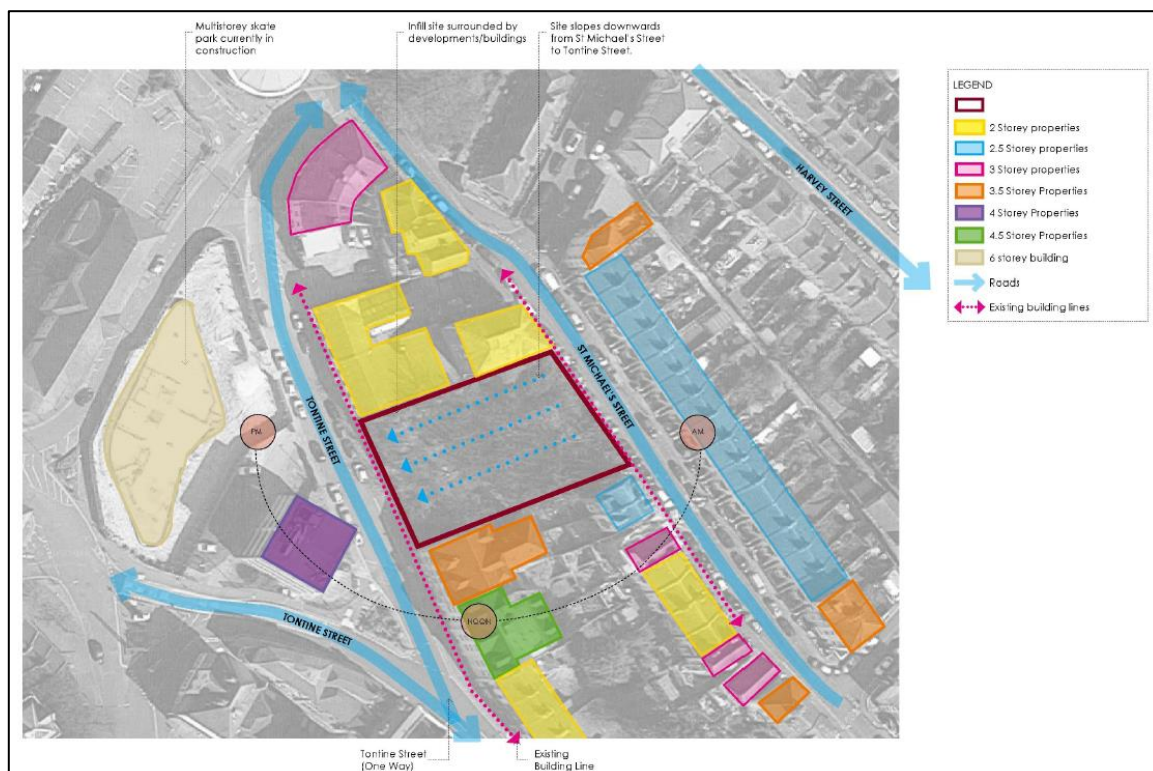
That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

1. INTRODUCTION

- 1.1. The application is reported to Committee due to the objection from Folkestone Town Council.

2. SITE AND SURROUNDINGS

- 2.1 The site is within the settlement boundary of Folkestone, within an area of archaeological potential and adjacent to a Conservation Area to the south. The site is currently undeveloped.
- 2.2 The application site is accessed from both Tontine Street and St Michael's Street. St Michael's Street is characterised by terraced dwellings with a mixture of two, three and four-storey buildings and some featuring different levels at the front and back due to land level changes. Tontine Street is characterised by a mixture of five, four and three-storey properties.
- 2.3 The site is surrounded by an eclectic mix of residential properties, events centres and commercial units along both Tontine Street and St Michael's Street. To the south of the application site (on Tontine Street), is a four-storey building with room in the roof and which accommodates flats (Tintagel House), and a two-storey building to the north of the site (86-88 Tontine Street) which is used as an auto-repair business. 'The Cube', a 4 storey adult education and events centre is located on Tontine Street to the west, directly opposite the application site and located adjacent to the skate park which is under construction. From St Michael's Street there is a two-storey building to the north of the site and a three/four-storey residential property to the south with room in the roof space and a lower ground floor. The plan below was submitted within the Design and Access Statement and highlights the different storey levels within the surrounding area (Fig.1)



(Figure 1)

- 2.4 There is no distinctive architectural style in the area as the properties range in both style and age which adds to the visual interest of the area and the varied grain of buildings.
- 2.5 A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Full planning permission is sought for the erection of a part 5-storey and part 3-storey building comprising 45 apartments with associated access, parking and communal garden. The development would have a dual aspect and would be up to 5-storeys fronting Tontine Street (Fig.2) and up to 3-storeys fronting St Michael’s Street (Fig.3). A landscaped courtyard is proposed to the first floor and a raised podium garden is proposed which would have seating and raised planters with trees.



(Figure 2 – Tontine Street Frontage)



(Figure 3 – St Michael Street Frontage)

3.2 The scheme has been amended during the process of the application and has been reduced from 50 to 45 flats and reduced from 6-storeys to 5-storeys fronting Tontine Street. The apartments would consist of 8 x studios, 31 x 1 beds and 6 x 2 beds

Fifth floor	= 5 apartments
Fourth floor	= 10 apartments
Third floor	= 12 apartments, additional refuse and 12 cycle spaces to be accessed off St Michaels Street
Second floor	= 9 apartments

First floor	= 9 apartments
Ground floor	= 25 parking spaces (including 2 disabled spaces), 38 cycle spaces, refuse and post room. Accessed from Tontine Street.

3.3 Subtle changes to the design and layout have also been made during the process of the application which include:

- Widening the pedestrian entrance on the ground floor.
- Changing the bathrooms to shower rooms for all studio apartments at 37m2 (Units 5, 27, 29, 32, 37, & 39).
- Removing the ground floor balcony space from flat 30 on St Michaels street increasing this unit size from 37m2 to 43m2.
- Increasing the landscape buffer on the first floor podium deck amenity space along the side boundary adjacent to Tintagel House.
- Light grey render on St Michaels Street Elevation has been specified as a bright neutral colour.
- Dry risers and services to be located within internal riser cupboards to go up through the roof.

3.4 The material palette to Tontine Street includes white painted timber cladding, light grey render, yellow powder coated aluminium, yellow, teal and light blue render and white painted perforated metal panels. The material palette to St Michaels Street is more limited with more detailing, and which includes white painted timber cladding, light grey render, yellow powder coated aluminium windows, light blue herringbone tiles and grey metal panels.

4. RELEVANT PLANNING HISTORY

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

Y04/0662/SH	Outline application for residential development incorporating a block of flats.	Approved with conditions
Y06/0941/SH	Erection of a block of 14 flats and 2 no. commercial units comprising of retail (Class A1), financial and professional services (Class A2) or business (Class B1) together with associated parking provisions and formation of vehicular access.	Approved with conditions
Y09/0942/SH	Extension to time limit of planning permission Y06/0941/SH for the erection of a block of fourteen flats and two commercial units comprising of retail (Class A1), financial and professional services (Class A2) or business (Class B1) together with associated parking and formation of vehicular access.	Approved with conditions

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Object on the following grounds:

- 1) No site notices originally displayed.
- 2) Wish for the site to be developed but this is too intensive and not in keeping with Victorian street scene. The height of the building is higher than the properties in St Michaels street.
- 3) Insufficient on-site parking. The management of traffic movement and traffic flows on a daily basis will require traffic orders. Any of these movements are going to have an effect on the daily flows in Tram Road, Tontine Street, Grace Hill, Town Centre and Dover Road. This will have a serious effect on parking in the area.
- 4) Overlooking to properties in St Michaels Street from proposed balconies.
- 5) Design and Access Statement incorrect as the GP service in lower Dover Road closed in 2017 and there are no GP services in the health centre. Existing GP services in Harbour Ward and East Folkestone consist of only one practice, on Canterbury Road.
- 6) There is no need for one-bedroom properties, not a university town. More need for 2/3 bed properties.
- 7) The scheme is low cost, poor quality, poor sized and will lead to overcrowding, poor living standards and poor health. People deserve better than this.
- 8) 70% of properties private 30% affordable. Does affordable mean social housing? The Committee feels it should.

KCC Archaeology: No objection subject to a condition to require a programme of archaeological work in accordance with a written specification and timetable.

KCC Ecology: No objection subject to ecological mitigation/enhancement requirements being conditioned in relation to bats, birds and reptiles.

Environment Agency: No objection as the application is assessed as having a low environmental risk.

Kent Highways: No objection subject to conditions to secure cycle and vehicle parking, pedestrian visibility splays and details of the underground parking to be submitted. The traffic generation and resulting impact from the proposed development would not represent a severe impact on the highway network. The pedestrian and vehicular visibility splays do not cause highway safety concerns.

Southern Water: Southern Water can provide foul sewage disposal to service the proposed development and a formal application for a connection to the public sewer should be made to Southern Water.

Contamination Consultants: The submitted Phase 1 Preliminary Risk Assessment fulfils Part 1 of the standard land contamination condition. The remaining parts of the standard condition should be applied.

KCC Flood and Water Management: No objection subject to pre-commencement conditions requiring further details of the proposed drainage system.

NHS Kent and Medway Group (CCG):

	Total Chargeable units	Total	Project
General Practice	45	£23,976	Towards refurbishment, reconfiguration and/or rebuild of a town centre property to enable the relocation of 2 Folkestone practices

KCC Development Contributions:

	Per Dwelling (x45)	Total	Project
Community Learning	£16.42	£738.90	Towards additional resources, equipment, and classes at Folkestone Adult Education Centre for the new learners from this development
Youth Service	£65.50	£2947.50	Towards additional resources for the Youth service locally in Folkestone
Library Bookstock	£55.45	£2495.25	Towards additional services, resources, and stock in Folkestone Library for the additional borrowers generated from this proposal
Social Care	£146.88	£6609.60	Towards specialist Care accommodation in Folkestone and Hythe District
	All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£221.92	£9986.40	Towards the new Folkestone and Hythe WTS, MRF and HWRC improvements
Broadband:	Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved		

	<p>details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.</p>
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Please note that these figures:

- are to be **index linked by the BCIS General Building Cost Index from April 2020 to the date of payment** (Apr-20 Index 360.3)
- are valid for 3 months from the date of this letter after which they may need to be recalculated due to changes in district council housing trajectories, on-going planning applications, changes in capacities and forecast rolls, projects and build costs.

Local Residents Comments

5.2 30 neighbours directly consulted. 33 letters of objection, 1 letter of support received.

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

Support

- Development is a welcome bold contemporary addition to the area

Objections

- Unacceptable height and size
- Lack of parking proposed will increase on street parking demand
- Resulting increase in traffic
- Extra rubbish collection required
- Loss of daylight and sunlight to neighbouring properties
- Structure damage to neighbouring houses
- Lack of affordable housing
- Balconies on residential street
- The design is out of keeping, should be more like Y06/0941/SH and Y09/0942/SH
- Impact upon St Michaels Street
- Concern whether the sewage drainage will cope
- Reduction of 5 flats is not a sufficient change
- Studios will not bring the right kind of business or residential feel

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

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

6. RELEVANT PLANNING POLICY

6.1 The adopted Development Plan for Folkestone & Hythe District comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020), along with The St Mary in the Marsh Neighbourhood Plan (2019).

6.2 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.

6.3 The relevant development plan policies are as follows:-

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development

SS1 - District Spatial Strategy

SS2 - Housing and the Economy Growth Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

SS5 - District Infrastructure Planning

CSD1 - Balanced Neighbourhoods for Shepway

CSD2 – District Residential Needs

CSD5 - Water Efficiency

CSD6 – Central Folkestone Strategy

Places and Policies Local Plan Submission (2020)

HB1 – Quality Places through Design

HB2 - Cohesive design

HB3 - Internal and External Space Standards

RL2 – Folkestone Major Town Centre

T2 - Parking Standards

T5 - Cycle Parking

NE2 - Biodiversity

HE1 - Heritage Assets

CC2 - Sustainable design and construction

E8 – Provision of fibre to the premises

C3 – Provision of open space

C4 – Childrens play space

CC3 - SUDS

Core Strategy Review Submission draft (2019)

SS1 – District Spatial Strategy

SS2 - Housing and the Economy Growth Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

SS5 - District Infrastructure Planning

CSD1 - Balanced Neighbourhoods for Shepway

CSD2 – District Residential Needs

CSD5 - Water Efficiency

CSD6 – Central Folkestone Strategy

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.

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

National Planning Policy Framework (NPPF) 2019

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

Paragraphs 8, 11, 12, 41, 62, 63, 124, 127, 175,

National Planning Policy Guidance (NPPG)

Paragraph: 007 Reference ID: 10-007-20190509

Paragraph: 020 Reference ID: 10-020-20180724

Paragraph: 007 Reference ID: 10-007-20190509

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) Standard of accommodation
- e) Viability and affordable housing
- f) Ecology and biodiversity

- g) Highway safety
- h) Drainage
- i) Contamination
- j) Archaeology
- k) Section 106 contributions
- l) Other matters

a) Principle of development

- 7.2 The general thrust of national and local planning policy is to secure the sustainable patterns of development through the efficient re-use of previously developed land, concentrating development at accessible locations. This proposal is considered to facilitate the achievements of these objectives.
- 7.3 The site is within the defined Seafront/Creative Regeneration Arc as set out within policy CSD6 of the Core Strategy. CSD6 states:
- The Seafront/Creative Quarter Regeneration Arc provides major opportunities for development to contribute to strategic needs and to upgrade the fabric of the town, drawing from its past and potential sense of place:*
- *Further development by the charitable sector and others through conversion and re-use of derelict land promoting cultural, educational uses, visitor attractions, and other small-scale active uses will be encouraged*
- 7.4 The core strategy further states that “*the regeneration of this arc should provide new services and accommodation complementary to the town centre and seize opportunities to articulate Folkestone’s history and contemporary vibrancy/creativity*”.
- 7.5 The application site has been undeveloped for a long time with hoarding surrounding the site. The proposal would constitute the redevelopment of previously developed and derelict land and therefore, the principle of developing the site is considered to accord with the aims of the Core Strategy, by re-using derelict land within the Seafront/Creative Quarter Regeneration Arc.

7.6 In addition, policy SS2 of the adopted Core Strategy sets the Council's Housing target figures as requiring 350 dwellings per annum. As the adopted Core Strategy is more than five years old, the Planning Practice Guidance (Paragraph: 005 Reference ID: 68-005-20190722 – 'Housing supply and delivery') states that where strategic policies are more than 5 years old, or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement. The re-calculation has resulted in the housing targets increasing to 738 dwellings per annum and how this is delivered up until 2036/37 is under review by the Planning Inspector as part of the Examination in Public of the Core Strategy Review. As such, the delivery of 45 flats would contribute towards the Council's housing target.

b) Design/layout/visual amenity

7.7 Policy HB1 of the PPLP requires development to make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density and materials.

7.8 The application proposes a modern and contemporary development for this site, with the proposal addressing both Tontine Street and St Michaels Street with different scales and forms. The Tontine Street elevation of five-storeys would extend beyond the ridge line of both neighbouring properties however, given the site's close proximity to other taller buildings, such as The Cube and the four-storey skate park, which will measure 23.7m in height when completed, it is considered that the proposed block of flats would not appear out of character with the existing built form within the area. This is particularly relevant when considering the maximum height of the Tontine Street elevation would be 16m, which is a lot lower than the skate park height opposite.

7.9 It is acknowledged that the proposed building fronting Tontine Street would increase in height by a storey higher than the ridge height of the neighbouring property, Tintagel House, however this top floor is proposed to be stepped inwards from the side and front elevations to reduce the overall mass of the proposal, this area would then form outside amenity areas for the top floor flats. The materials would also change from the light grey render on the elevations to yellow render for the top floor, again emphasising the change and helping to reduce the overall bulk and mass of the building.

7.10 The proposal is a modern contemporary design with a flat roof fronting Tontine Street and whilst contrasting with other development within the area in terms of design, it is considered that the proposed materials and subtle design features would reflect and respect the more traditional buildings within the street. The majority of the building would be finished with light grey render to relate to the other rendered properties within Tontine Street, whilst being articulated with feature yellow powder-coated aluminium window box frames, yellow and teal render and a pink metal garage door to create a vibrant interesting elevation to Tontine Street, to integrate well within the Creative Quarter. The teal render to the ground floor would add interest and detail to this public frontage with large windows to resemble shop windows to continue the active frontage character of Tontine Street. With the proposed scale of development, including choice of materials and design features in mind, it is considered in this instance that the development would not detract from the character and appearance of the wider street scene.

- 7.11 In terms of the elevation facing St Michaels Street, the height and window location mimic the existing rhythm of the terraced houses along the street scene. The height would not exceed the ridge height of No.28 St Michaels Street, which is a two-storey residential property with a lower ground floor, which is important given the lower scale of properties within the street scene. In terms of scale, it is not considered that the proposal would dominate the street pattern or the neighbouring properties and as such would integrate well within the street scene. As with the Tontine Street elevation, a light grey render is proposed to relate to the traditional rendered properties within the area, but with subtle splashes of colour to the elevation with both grey and yellow power coated windows and some light blue herringbone tiles to provide a focal point for the entrance.
- 7.12 The landscaped courtyard would provide a focal point for the flats, which look inwards into the site, providing an area of green space to break up and soften the development.
- 7.13 It is considered that the proposal represents an innovative design with a modern and contemporary appearance, which would complement the eclectic mix found in the immediate area whilst acknowledging the traditional properties on either side and whilst relating to the surrounding context and setting. The proposal is considered to be of a high standard of design which accords with existing development in the locality and as such policies HB1 and HB8 of the PPLP.

c) Residential amenity

- 7.14 All development should secure the amenities of its future occupants and protect those amenities enjoyed by nearby and adjoining properties. Policy HB1 and HB8 of the PPLP requires development proposals to safeguard and enhance the amenity of residents. Paragraph 127 of the NPPF sets out that decisions should seek to secure a high standard of amenity for existing and future users. Due to the dual aspect of this application site, neighbouring properties on both Tontine Street and St Michaels Street need to be considered separately.
- 7.15 Regarding the Tontine Street aspect, Tintagel House, is a purpose built block of flats, which is positioned adjacent to the application site to the south and is a four-storey property with room in the roof. There are no side facing windows to the main four-storey building which has a blank elevation to the north, which would be adjacent to the front block of the proposed development. The front block would extend to the same depth as this main block of Tintagel House. There is a rear protruding section to the rear of Tintagel House which is set in from the side boundary and which has a flat at each storey height. This section has side facing windows to the north and to the south of the building with the living room of each flat having a dual aspect by being a through-room with windows to the north and south. There are bedrooms on all the floors with a single window which face north towards the application site. It is considered that there would be some loss of light to the bedrooms from the proposed development however, these windows face north and so do not receive direct sunlight and so the development would not impact upon sunlight into these bedrooms, and there would be a separation of 2.9m between the side facing bedroom windows and the retaining wall for the landscaping which is not considered to be an unacceptable relationship sufficient enough to warrant refusal of the application on this ground.

- 7.16 To the north of the site are blank elevations to 86 and 88 Tontine Street, which is an auto repair garage, and therefore the proposed development would not impact upon these neighbouring buildings as there are no side facing windows which would be affected. Notwithstanding this, these neighbouring buildings are not in residential use.
- 7.17 Regarding the St Michael's Street aspect, No.28 is a three-storey property with a lower ground floor. No.28 is to the south of the application site and is divided into two flats. There are some side facing windows to the north elevation of this neighbouring building however it is not considered that the development would cause a detrimental impact upon these windows by way of overlooking/loss of privacy as there would be a separation of between 2m at the narrowest point, to 2.8m at the widest point from the side of this neighbouring building to the proposed rear block. In addition, as with Tintagel House, the side facing windows are north facing and so would not have direct sunlight in the existing situation. The proposed development is two-storeys adjacent to this building, stepping up to three-storeys away from this building. On balance, it is not considered that this proposed rear block would have an unacceptable relationship sufficient enough to warrant refusal of the application on this ground.
- 7.18 To the north of the application site is a two-storey building, the RCCG Inspiration House Church, which has most of the side facing windows blocked-up. As the building is not within residential use, it is not considered that the proposed development would have a detrimental impact upon this building in amenity terms.
- 7.19 Therefore, in terms of the impact upon neighbouring amenity, whilst it is acknowledged that the development would have an impact upon the residential units within Tintagel House and at No.28 St Michael's Street, due to the mitigation measures proposed as listed above, it is not considered to amount to significant harm to neighbouring amenity which would warrant refusal of the application. As such, the application is considered to be in accordance with policies HB1 and HB8 of the PPLP which seeks to protect neighbouring residential amenity and ensure avoidance of unacceptable overlooking and inter-looking.

d) Standard of accommodation

- 7.20 Policy HB3 of the PPLP states that proposals for new residential units should comply with the current nationally described space standards and each of the flats and studio flats would comply with these standards. Each habitable room would feature a window providing adequate levels of daylight and outlook. There would be good sized private balconies to each flat and a communal landscaped area. Therefore, the scheme is considered to represent a good standard of accommodation for future residents in accordance with emerging policy HB3 of the PPLP and the NPPF.
- 7.21 There has been some objection regarding the need for the studio/1 bedroom units, however it is considered that these units would be appropriate given the town centre location which is ideal for young professionals who work within the town centre and considering that these units would be more affordable for young professionals to purchase than the more expensive 2 bed units within the proposed development. Policy CSD2 of the Core Strategy Review requires a range of sizes of new dwellings to be provided and although this development only provides 1 and 2 bedroom flats, it

would accommodate for young professionals and deliver cheaper properties as set out above.

e) Viability and affordable housing

- 7.22 Although the application proposes 45 flats, no affordable housing is proposed on site and during the course of the planning application a viability assessment was carried out by Savills and was submitted to justify this shortfall. Policy CSD1 of the Core Strategy states that developments of 15 or more dwellings should provide 30% affordable housing on-site, this percentage has been reduced to 22% within policy CSD1 of the Core Strategy Review. Policy CSD1, in both documents, further states that *“provision should be made on-site (unless off-site provision through a financial contribution of broadly equivalent value can be robustly justified”*.
- 7.23 Paragraph 57 of the NPPF states *“The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force”*.
- 7.24 The submitted viability assessment has been independently assessed and the conclusion of the study notes that £321,000 would be left to contribute to affordable housing. Since then, the Agent has confirmed that in reality this would only equate to 3 x affordable units on site and that there has been no interest in attracting a Housing Association for this number of units in this location, with Orbit Homes stating that the scheme was *“way too small for us and I think too small for most to be viable”*.
- 7.25 Therefore, officers are of the view that an off-site contribution would be the best option given the circumstances of this site, which is a difficult site to develop due to the change in land levels, and that a robust exception has been provided in accordance with policy CSD1 of the Core Strategy and Core Strategy Review. The £321,000 for off-site provision would be secured through a legal agreement and would assist with realising affordable accommodation in Folkestone in conjunction with other affordable housing development.

f) Ecology and biodiversity

- 7.26 The site was cleared prior to the original ecological scoping survey being carried out, which KCC Ecology highlight is bad practice as the works may have resulted in breach of wildlife legislation.
- 7.27 Regarding bats, the submitted Ecological Assessment assessed the building ruins as having low potential for roosting bats. In addition, bat surveys were undertaken and no bats were observed emerging from the building. However, as the building ruins are open, a precautionary approach is required and this can be conditioned. In addition, an updated bat emergence survey is required to be carried out and submitted to the LPA prior to development commencing, this would be conditioned and any mitigation implemented prior to construction works commencing. A lighting design strategy for biodiversity is also required to be submitted
- 7.28 Regarding reptiles, KCC Ecology consider that the habitat on site has become more suitable for reptiles to be present, although the potential is low. However, to minimise any residual risk of harm or impact to reptiles, the precautionary measures detailed in

paragraph 6.4.2 in the Bat Survey Report will have to be undertaken in the event of reptiles being found on site. Policy NE2 of the PPLP requires development to avoid a net loss of biodiversity and ecological enhancements would be conditioned to be incorporated into the landscaping on site to ensure there would be no net loss.

7.29 There are no other ecological matters for consideration in relation to this proposal, which subject to the above-mentioned conditions is considered acceptable on ecological grounds.

g) Highway safety

7.30 The application is submitted with a Transport Statement and Kent Highways raises no objection to the application, stating that the traffic generation and resulting impact from the proposed development would not represent a severe impact on the highway network. Kent Highways also raises no objection to the proposed layout and pedestrian and vehicular visibility splays.

7.31 The proposed use of the site would undoubtedly alter the traffic movements associated with a residential use compared to the existing empty site. However, it is considered to be less than severe in this instance, and would not warrant refusal on transport grounds.

7.32 The provision of secure cycle storage facilities are acceptable and would be secured by condition to promote more sustainable methods of transport in accordance with policy T5 of the PPLP.

h) Drainage

7.33 The site is located adjacent to the Pent Stream which flows from the North Downs to the sea and is underground on Tontine Street. Due to the location of the stream, the site is adjacent to flood zones 2 and 3. A Flood Risk and Drainage Impact Assessment (by Herringtons Consulting dated December 2018) accompanied the application, which concludes that the site is not at significant risk from any source of flooding, but nevertheless sets out a number of recommendations, including that the ground floor of the development includes flood resistance and resilience measures to reduce the risk of groundwater seepage. The submitted Report also concludes that the development will not increase the risk of flooding elsewhere. The surface water drainage strategy that has been identified is concluded to achieve the objective of minimising peak discharge rates by incorporating a combination of SuDS. In response, KCC Flood and Water Management agrees with the principles for managing surface water, but has advised that as part of the detailed design stage detailed drainage drawings of the proposed drainage layout, including construction drawings, will need to be provided. As this is a full application, KCC has requested a series of pre-commencement conditions, to be attached to any forthcoming planning permission should Members be minded to permit. These details of the proposed drainage system are necessary before any work on site can take place. The drainage scheme shall demonstrate, amongst things, the following:

- 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.

- A verification report pertaining to the surface water drainage system must also be submitted that demonstrates the suitable modelled operation of the drainage system appropriately manages flood risk.

7.34 Subject to the above mentioned conditional requirements, which seek to ensure the satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, there are no objections to the proposed development on flooding grounds.

i) Contamination

7.35 Regarding contamination at the site, the submitted Phase 1 Preliminary Risk Assessment fulfils Part 1 of the standard land contamination condition but the remaining parts of the standard condition should be applied.

j) Archaeology

7.36 Regarding archaeology at the site, a condition would secure the implementation of a programme of archaeological work in accordance with the written specification and timetable submitted as part of this application.

k) Section 106 contributions

7.37 As paragraph 7.24 advises the application has been subject of an independently assessed Viability Study, which takes into account the affordable housing contribution for the site (which is discussed in detail above) and does not consider the viability of any further contributions in relation to the proposed development. However, following on from the assessment of the submitted Viability Study, the application has been subject of the following s.106 requests, which relate to GP provision and community services. In order to progress the application the Applicant and their Agents have agreed the heads of terms as set out below. However, Members should be mindful that these may reduce the profitability of the scheme.

7.38 The proposal would generate approximately 66.6 new GP patient registrations based on the dwelling mix provided. The application site falls within the current practice boundaries of several practices, all of which are currently operating at their maximum capacity in terms of clinical space. There is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises. The contribution of £23,976 is sought to contribute towards Folkestone GP provision via S.106 and the applicant has confirmed agreement to these payments.

7.39 Kent County Council assessed the implications of the proposal in terms of the delivery of its community services and considered it would have an additional impact on the delivery of its services, requiring mitigation through financial contributions. As such, contributions totalling £22,777.65 would also be secured via S.106 towards the improvement of community services.

I) Other matters

7.40 Two site notices was erected outside the site, one on Tontine Street and the other on St Michaels Street in accordance with the Development Management Procedure Order.

Environmental Impact Assessment

7.41 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

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

7.43 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme however, the CIL levy in the application area is charged at £0 per square metre for new residential floor space, which the application site falls within, and therefore no CIL Contributions are required.

Human Rights

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

Public Sector Equality Duty

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

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

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

Working with the applicant

7.47 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 proposed block of flats, as revised during the lifetime of the planning application, is considered to be in line with the aims of the Core Strategy by regenerating an area of brownfield land. The design, of the proposal is considered to be of an innovative design with a modern contemporary appearance, which would be in keeping with the eclectic mix found in the immediate area whilst acknowledging the traditional properties in the surrounding area. Although there would be some impact upon neighbouring amenity, it is not considered to be sufficiently detrimental to warrant refusal on this ground. There is no objection on highway safety, ecology, flooding or contamination matters and the further details required can be secured by suitable conditions. Therefore, together with the off-site contributions towards affordable housing provision, it is considered that the scheme is acceptable and is recommended for approval subject to conditions.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission be granted subject to the following conditions and the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing 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. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in complete accordance with the following drawings: PR210 03 Rev E; PR210 11 Rev E; PR210 15 Rev C; PR210 14 Rev D; PR210 20 Rev D; PR210 10 Rev D; PR210 21 Rev C; PR210 12 Rev C; PR210 22 Rev C; PR210 23 Rev C; PR210 24 Rev A; PR210 13 Rev D and Site Location Plan.

Reason: For the avoidance of doubt.

3. No development beyond laying of foundations shall take place until samples/details of materials to be used in the exterior of the building shall be submitted to and approved by the local planning authority. The works shall be carried out in accordance with the approved details unless otherwise approved in writing by the local planning authority.

Reason: To ensure that the external appearance of the building does not prejudice the visual amenity of the neighbourhood in accordance with policies HB1 and HB2 of the Places and Policies Local Plan 2019.

4. Within 3 months of planning permission being granted, details of how the development will enhance biodiversity will be included within the site landscape plan, submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with the provision of generous native planting where possible. The approved details will be implemented and thereafter retained.

Reason: To protect and enhance biodiversity in accordance with policy NE2 of the Places and Policies Local Plan 2019.

5. No development beyond laying of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority for the installation of a High Speed wholly Fibre broadband To The Premises (FTTP) connection to the dwellings hereby permitted. Following approval the infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process, and be available for use on the first occupation of the dwellings unless otherwise agreed in writing by the Local Planning Authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and alternative provisions that been made in the absence of FTTP).

Reason: To ensure that the new development is provided with high quality broadband services.

6. Prior to the first occupation of the development, a “lighting design strategy for biodiversity” for the site will be submitted to and approved in writing by the Local Planning Authority. The lighting strategy will:
 - a) Identify those areas/features on site that are particularly important for bats;
 - b) Show how and where external lighting will be installed in accordance with ‘Guidance Note 8 Bats and Artificial Lighting’ (Bat Conservation Trust and Institute of Lighting Professionals).

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy.

Reason: To safeguard protected species in accordance with the Wildlife and Countryside Act 1981 (as amended) and policy NE2 of the Places and Policies Local Plan 2019.

7. Development shall not 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 be based upon the Flood Risk and Drainage Impact Assessment by Herringtons Consulting (December 2018) and 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 accompanied and disposed of without increase to flood risk on or off-site.

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.

8. Prior to first occupation of the development, a verification report pertaining to the surface water drainage system (carried out by a suitably qualified professional) shall be submitted to and approved in writing by the Local Planning Authority, which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as provided by the Lead Local Flood Authority. The report shall contain information and evidence (including photographs of earth works; details of locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including sub-soil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that the 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 NPPF.

9. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

10. The car parking spaces, bin and cycle storage shown on the approved drawings shall be provided prior to first occupation of the development and thereafter kept available for such use at all times.

Reason: To ensure adequate parking provision and avoid harm to highway safety and amenity.

11. The pedestrian visibility splays as shown on the approved plans, with no obstructions over 0.6m above carriageway level within the splays, shall be provided prior to first occupation of the development, and shall thereafter be retained.

Reason: In the interests of highway safety.

12. Prior to first occupation of the development, the layout and construction details of the underground car parking area shall be submitted to and approved in writing by the Local Highway Authority via the Local Planning Authority

Reason: To ensure adequate parking provision and avoid harm to highway safety.

13. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the District Planning Authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

14. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the District Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

Pre-commencement

15. Prior to the commencement of development (and vegetation clearance), an updated Bat Emergence Survey shall be carried out and submitted to and approved in writing by the Local Planning Authority. Any recommended mitigation measures must be implemented as detailed within the reports (both the Bat Survey Report dated July 2019 and the subsequent amended Bat Emergence Survey required by this condition) prior to any works commencing.

The full reptile precautionary strategy, as detailed in paragraph 6.4.2 in the Bat Survey Report July 2019 (and any further recommendations within the amended Bat Emergence Survey required by this condition), along with measures to enhance the site for reptiles shall be implemented in full, and shall be thereafter retained.

Reason: To safeguard protected species in accordance with the Wildlife and Countryside Act 1981 (as amended) and policy NE2 of the Places and Policies Local Plan.

16.

(1) An investigation and risk assessment, based on Phase 1 Preliminary Risk Assessment (ref: 491119 V2 (PTE)) by CET infrastructure for HRS Rail Lt dated 16/04/2019, shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:
 - Human health;
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Ground waters and surface waters,
 - Ecological systems,
 - Archaeological sites and ancient monuments; and
- (iii) An appraisal of remedial options and identification of the preferred option(s).

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

(2) If investigation and risk assessment shows that remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise agreed in writing by the Local Planning

Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

- (3) Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
- (4) In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

17. 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 by the Local Planning Authority.

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

18. Prior to development, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Impact Assessment by Herrington's Consulting (December 2018) and 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 1—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):

- 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 of SUDS component are adequately considered, including any proposed arrangements for future adoption of 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.

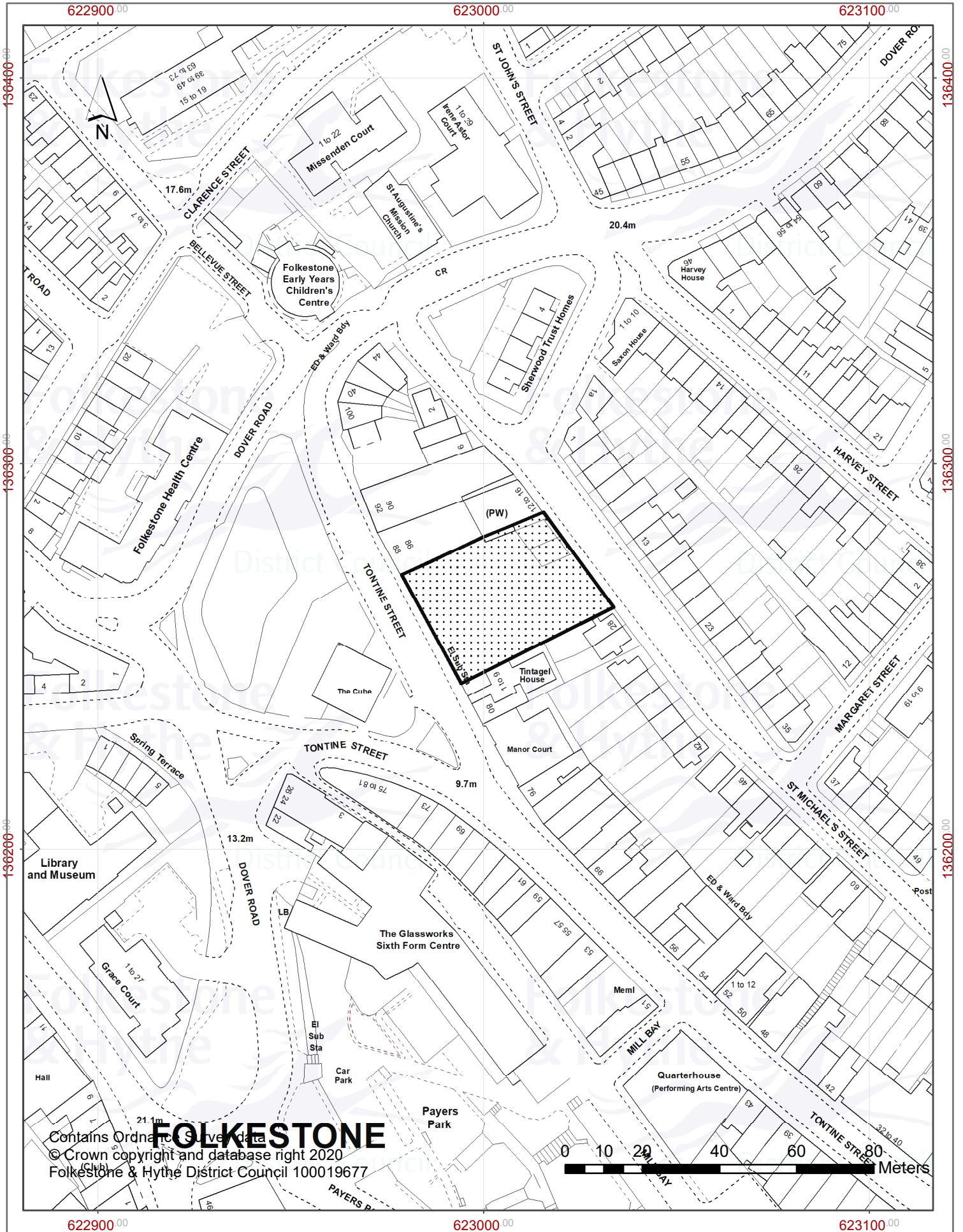
Informative:

1. This development is subject to the terms of the accompanying s.106 legal agreement.

Appendix 1 – Site Location Plan

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Y19/0016/FH
Land adjoining 86-88 Tontine Street
Folkestone



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677

FOLKESTONE

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Application No:	Y19/1275/FH
Location of Site:	Hope All Saints Garden Centre, Ashford Road, New Romney, Kent TN28 8TH
Development:	Erection of 25 dwellings
Applicant:	Pageant Ltd
Agent:	Jennifer Owen & Associates Ltd
Officer Contact:	Robert Allan

SUMMARY

This report considers whether planning permission should be granted for the erection of 25 dwellings, together with associated landscaping and parking. The proposals are considered to represent good design that contribute positively towards sustainable development and the Council's identified five-year supply of housing land. Objections from KCC highways, the Town Council, and local residents are not considered to amount to a justifiable reason for refusal. The impacts upon the designated local landscape area 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 contamination are considered acceptable also and the application is therefore recommended for approval subject to completion of a s.106 agreement to secure 30% on-site affordable housing and financial contributions toward play and open space and delivery of KCC services.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary; and completion of a s.106 agreement to secure affordable housing and financial contributions toward play and open space and delivery of KCC services.

1. INTRODUCTION

1.1. The application is reported to Committee due to the views of New Romney Town Council.

2. SITE AND SURROUNDINGS

2.1. The application site is located approximately 82 metres to the north west of the defined settlement boundary and approximately 384 metres from the High Street of New Romney, which is identified as a strategic town in the Core Strategy Local Plan. The site is bounded to the north-west by Cockreed Lane, to the south-west by Ashford

Road, and open field to the north east / south west boundaries, which are defined by hedgerows and some trees.

2.2. The application site forms part of the broad location for development in the Core Strategy in New Romney along with neighbouring land. The adjacent field, which wraps around the north east and south western boundaries has an outstanding planning application (Y14/1411/SH) on it, as well as a recently refused scheme (Y17/1390/SH) and two recently approved outline schemes; Y18/1404/FH for up to 117 dwellings and Y18/1419/FH for a link road (vehicular and pedestrian) between the eastern and western portions of the broad location. The site is identified in Figure 1 below:

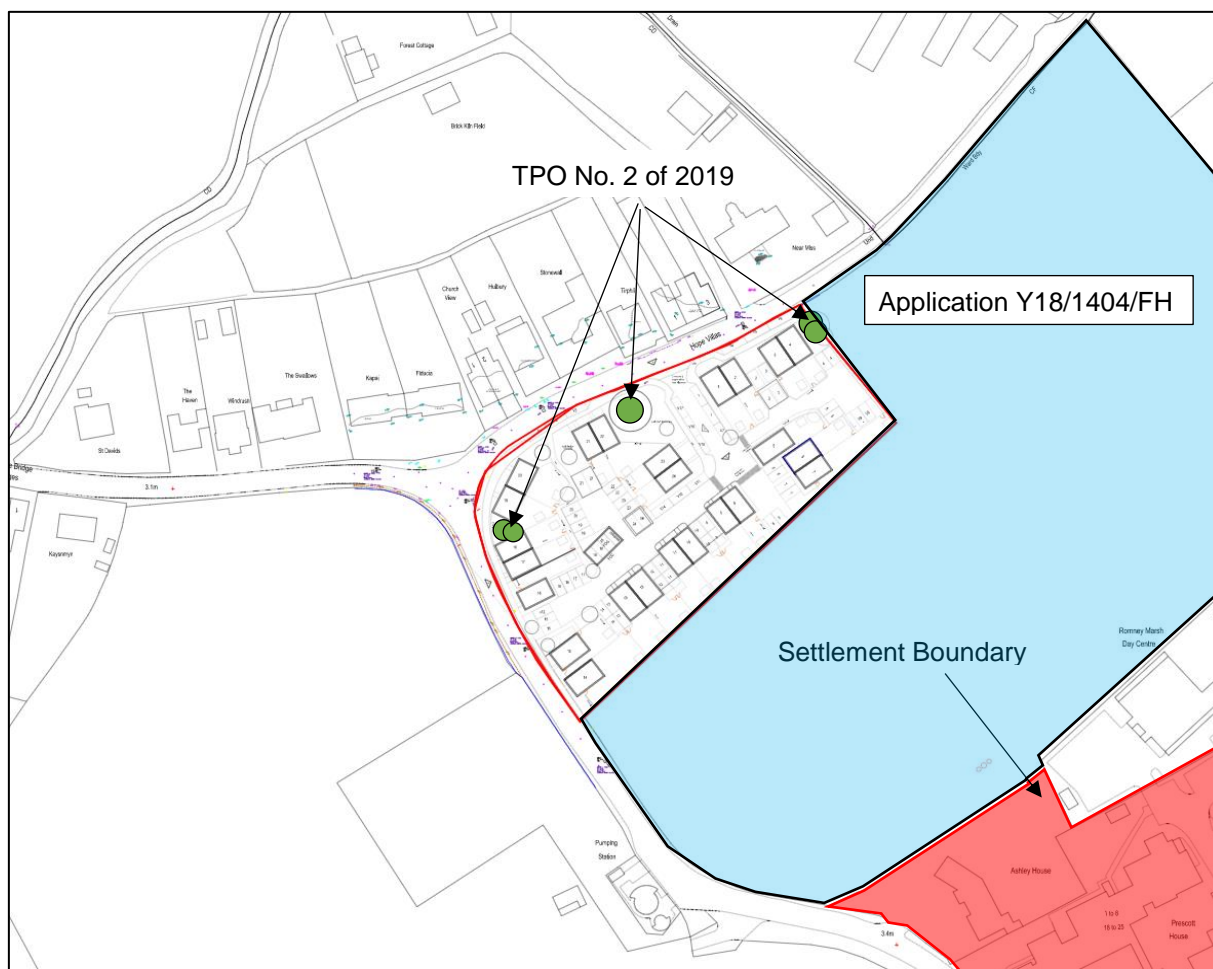


Figure 1: application site boundary

2.3. The application site measures 0.59ha in size and is generally flat. There are a variety of boundary treatments, including steel palisade gates, timber fencing and stock-proof style fencing, with a mix of shrubs and trees following the boundaries.

2.4. The application site is subject to a Tree Preservation Order (TPO No2 of 2019) which protects six trees, as shown on figure 1:

No.	Description
T1	Red Maple
T2	Silver Birch
T3	Purple Leaf Plum
T4	Cockspur Thorn
T5	Field Maple

- 2.5. Within the application site is an open area, with some hard-standing, storage containers and general paraphernalia associated with the former garden centre and landscaping business use of the site.
- 2.6. The dwellings on the north west side of Cockreed Lane are a mix of one and two storey detached, semi-detached and terraced properties, that have been constructed in a variety of architectural styles, with a variety of materials and at a variety of times.
- 2.7. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Full planning permission is sought for the erection of 25 dwellings, comprised of 18 x 3 bedroom houses, 6 x 2 bedroom houses and 1 x flat over garage, utilising an existing access from Cockreed Lane on the north western boundary of the site, together with the creation of associated parking and landscaping. Access would be provided via a new access from Cockreed Lane and is proposed to be laid out in accordance with Figure 2 below.



Figure 2: application site layout

3.2 A total of 65 car parking spaces are proposed, broken down as follows:

Car barn	11
Allocated	38
Visitor spaces	16
Total	65

3.3 Should the adjacent allocated site not come forward before the scheme under consideration here, the application has demonstrated that a pedestrian link to New Romney High Street can be provided along highway verge that runs along Ashford Road to the south west of the site.

3.4 During the course of considering the application Officers have sought a number of amendments to address concerns about character, layout, parking provision, hard/soft landscaping and dwelling design.

3.5 The resulting scheme, which draws on its 'rural' location, now introduces a series of lanes and includes the use of shared surfaces to ensure the scheme is pedestrian friendly, with the amount of soft landscaping increased and enhanced in order to soften the impact of the dwellings. In response to officer concerns the applicant has sought to ensure that all public spaces are now overlooked by frontages and that parking is integrated into the layout.

3.6 Materials proposed are a mix of a red facing brick, tile hanging, corduroy brick panels, clay roof tiles, aluminium windows and rainwater goods in grey, composite external doors, and timber soffits and fascia. A render of the scheme can be seen below in figure 3.



Figure 3: render

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

Planning Statement

The Planning Statement discusses the site context, the policy context and how the issues and constraints specific to the site have been addressed. This document also summarises the pre-application discussions that have taken place between the Council and the applicant and the supporting documentation supplied, concluding that the application should be approved.

Design and access statement

This explains the design principles and concepts that have been applied to the development, including the evolution of the scheme following discussion with the Council's Officers. It demonstrates how the proposed development's context has influenced the design, as well as setting out the approach to access, scale, appearance, landscaping, sustainability and considers how relevant National and Local Plan policies have been taken into account. It concludes that the scheme would provide 25 dwellings on a brownfield site, with a high level of design achieved after consultation with the LPA and consultees.

Landscape strategy

This is a drawing that sets out the proposals for the augmentation of the existing landscaping around the site, as well as opportunities for new planting and ecological enhancement.

Landscape and visual appraisal

The document assesses the topography of the area, vegetation, geology, public highways including PROWs and area of settlements, identifying the most prominent viewpoints accessible via public roads or footpaths. It concludes that the development will have a negative impact during construction, a moderate to low impact once built and a positive impact within 5 to 10 years once mitigation planting has matured. Views of the site will be greatly reduced when the development to the north east and south is constructed, owing to it being a two storey housing development which will block views of the site.

Drainage impact and flood risk assessment

This document (and subsequent addendums) set out the drainage strategy for the site, accounting for ground conditions and future climate change. It also identifies that Land Drainage Consent will be required from the Romney Marsh Area Internal Drainage Board (RMAIDB) for a new surface water outfall that will connect to a watercourse through the highway verge, requiring a Section 50 New Road and Street Works Act License.

It concludes that:

- The development will increase discharge to the public foul sewer but that a sewer capacity check issued to Southern Water services confirms adequate capacity.
- Surface water management will provide discharge at a controlled rate to the adjacent watercourse at the 'Greenfield' run-off rate and with the introduction of a suitably designed SUDS, post-development run-off volume is reduced by 30sqm from pre-development levels.
- The site is protected by coastal flood defences to a 1 in 200 year standard, including allowance for climate change and has a low risk of coastal flooding.
- As the site is allocated as part of the Broad Location, it is considered that the Sequential Test is passed.
- The Exception Test is passed with a range of mitigation measures proposed.
- The site can be adequately drained, is sustainable in terms of flood risk and will not increase flood risk to neighbouring properties.

Arboricultural impact assessment

This document (and subsequent addendums), together with a tree survey plan and a tree protection plan, demonstrated that 15 individual trees, 4 groups of trees and 2 hedges were surveyed, with the report written in accordance with British Standard BS 5837:2012 'Trees in relation to demolition, design and construction – Recommendations'. In order to facilitate the development, 7 individual trees, 3 groups and 1 hedge will require removal, with a further tree removed for reasons of sound arboriculture management. One group will require pruning works to allow for suitable clearance.

Transport statement

This document (and subsequent addendums) conclude that vehicle and cycle parking standards would be met across the development, with on-site geometry, sight lines and off-site improvements all meeting the required standards.

Pedestrian Link Report

This sets out that off-site highway improvements to provide a pedestrian link to New Romney High Street within the limits of the highway verge can be achieved, with Kent County Council Highways and Transportation confirming this.

Preliminary ecological appraisal

This document identifies that without suitable avoidance and mitigation measures, development proposals would have the potential to impact upon bats, badger, hedgehog, nesting birds, great crested newt and reptiles. A small population of reptiles was found within the application site, restricted to the brick wall along the northern boundary. The report also recommends enhancement measures in order to provide opportunities for biodiversity gain.

Heritage statement

This document identifies that the potential for direct effects upon archaeology and indirect effects upon offsite statutorily designated heritage assets has been assessed within the framework of planning policy and guidance. There is no evidence of archaeology with the proposed development area and a watching brief during the stripping of topsoil in areas where it remains in situ would be an appropriate mitigation strategy.

Phase 1 desk study

The study comprised a historical database search and site walkover survey, acknowledging that the site has been in agricultural use for over 150 years and agricultural/commercial use since the 1990s. The surrounding land has been predominantly agricultural with houses located along Cockreed Lane and other than contamination associated with a historic fire, the former activities are not considered likely to have caused significant contamination of the underlying soils. There were no signs of any significant contamination or any current potential contaminative activities being carried out on site. The bedrock geology underlying the site is the Hasting Formation, designated as a Secondary A Aquifer. The site is not situated within a Groundwater Source Protection Zone. Given the sites historical usage and the fire damaged buildings, it is recommended that an intrusive site investigation is undertaken across the site to determine the extent of any ground contamination present.

4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the application site, the adjacent field, the school playing field that abuts the north-east of that field, and the site beyond known as 'Land opposite Dorland' is as follows:

Y15/0164/SH Outline application for development of up to 110 dwellings with supporting infrastructure.

Approved with conditions.

Y17/0674/SH Reserved matters application for the construction of 109 dwellings, together with associated landscaping and infrastructure, being details pursuant to outline application Y15/0164/SH (details relating to landscaping, layout, scale, access and appearance).

	Approved with conditions.
Y14/1411/SH	Outline application for up to 117 dwellings, new proposed vehicular access arrangements, parking, flood attenuation, open space including the retention of 0.7 hectares of existing playing fields and associated works.
	Undetermined.
Y17/1390/SH	Outline planning application for the erection of up to 117 dwellings with public open space, landscaping and sustainable drainage system (SUDS) and vehicular access point from Ashford Road. All matters reserved except for means of access.
	Refused.
Y18/1404/FH	Outline planning application for the erection of up to 117 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Ashford Road. All matters reserved except for means of access.
	Approved with conditions.
Y18/1419/FH	Outline planning application for engineering operations to provide vehicular and pedestrian connectivity. All matters reserved except for means of access.
	Approved with conditions.
Y18/1428/FH	Erection of 27 dwellings.
	Refused.

The application site, the adjacent field, the school playing field that abuts the north-east of that field, and the site beyond known as 'Land opposite Dorland' which is currently being developed as a housing site for 109 dwellings (planning application Y15/0164/SH and Y17/0674/SH) all fall within the area designated as a broad location for development in the Core Strategy. The adjacent field has an outstanding planning application (Y14/1411/SH) on it, as well as a recently refused scheme (Y17/1390/SH) and two recently approved outline schemes; Y18/1404/FH for up to 117 dwellings and Y18/1419/FH for a link road (vehicular and pedestrian) between the eastern and western portions of the broad location. The two subsequent approvals were considered to address the concerns of the refused scheme which primarily involved increased traffic on the local road network.

- 4.2 On this site, application Y18/1428/FH for the erection of 27 dwellings was refused on grounds of layout, design, highway safety and amenity standards for future occupiers.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

New Romney Town Council: Object on the following grounds;

- contrary to policies SS3, SD1 and BE1; contrary to emerging policies HB1 and HB2

St Mary in the Marsh Parish Council: Make no comments.

KCC Highways and Transportation: Raises no objection.

Environment Agency: Raises no objection subject to conditions contained in the recommendation relating to finished floor levels and contamination.

KCC Flood and Water Management: Raises no objection subject to conditions contained in the recommendation relating to precise details of SUDS system and its maintenance

Southern Water: Raises no objection subject to conditions and informative

Romney Marshes Area Internal Drainage Board: make the following comments:

- Further evidence requested of ground conditions. Consent for an outfall would be subject to proof of third party approvals.

This can be secured by condition.

KCC Ecology: Raises no objection subject to a condition securing detailed mitigation strategy to be submitted as a condition of planning permission, alongside details of a bat-sensitive lighting scheme and securing of ecological enhancements.

Environmental Health: Raises no objection subject to the comments made by the contaminated land consultants being addressed

Council's Contaminated Land Consultant: Raises no objection subject to conditions contained in the recommendation.

Arboriculture Manager: Raises no objection subject to a tree protection condition.

KCC Archaeology: No objection

- Given the potential for medieval and post-medieval settlement evidence, recommend a condition (pre-commencement of development) requiring a programme of archaeological evaluation and investigation.

Housing Strategy Manager: Raises no objection and makes the following comments:

- a) 30% Affordable units to be provided on site which would equate to 8 units being delivered
- b) The split would be 60% affordable rent and 40% shared ownership
- c) Location of the units within the site to be agreed with the council

- d) Affordable units to be delivered by an affordable housing provider agreed by the council
- e) Completion and delivery of the affordable housing units prior to completion and occupation of 50% of the market sale units
- f) A local lettings plan to be implemented to give priority to applicants with a local connection to the parish of New Romney

This would be secured in a s106 agreement

KCC Economic Development: No objection

- The development will have an additional impact on the delivery of services which require mitigation through either direct provision of infrastructure or payment of financial contributions.

Request Summary

	Per Dwelling (x 25)	Total	Project
Community Learning	£16.42	£410.50	Towards additional resources and classes at Romney Resource Centre New Romney for the new learners from this development
Youth Service	£65.50	£1637.50	Towards additional resources for the Youth Service locally in New Romney
Library Bookstock	£55.45	£1386.25	Towards additional services and stock in New Romney library for the additional borrowers generated from this proposal
Social Care	£146.88	£3672.00	Towards specialist care accommodation in Folkestone and Hythe District
	All homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4(2)		
Waste	£221.92	£5548.00	Toward the new Folkestone and Hythe WTS
Broadband:	Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial		

	<p>broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF</p>
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Local Residents Comments

5.2 78 neighbours were directly consulted, three objections were received.

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

Objections

- Increased traffic;
- Noise and disturbance;
- Light pollution;
- Loss of privacy;
- Construction traffic;
- Increased pressure on infrastructure such as doctors' surgery;
- Access should be from Ashford Road;
- Access has not always been there;
- Displacement of parking from in front of proposed development;
- Increased likelihood of flooding of existing properties;
- Trees and hedges should be retained;
- Development should face away from existing properties;
- Site is in a prominent position in the open countryside;
- Over development of site.

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020) which has now been adopted.

6.2 The relevant development plan policies are as follows:-

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
CSD8	New Romney strategy

Places and Policies Local Plan (2020)

HB1	Quality Places through Design
HB2	Cohesive Design
HB3	Space Standards
T1	Access to new developments
T2	Parking Standards
NE1	Enhancing and managing access to the natural environment
NE2	Biodiversity
NE3	Protecting the District's Landscape and Countryside
HE1	Heritage assets
HE2	Archaeology
CC1	Reducing carbon emissions
CC2	Sustainable design and construction
CC3	Sustainable drainage systems
C3	Provision of open space
C4	Children's play space

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
CSD8	New Romney Strategy

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

Government AdviceNational Planning Policy Framework (NPPF) 2019

- 6.4 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

Paragraph 109 - 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

Paragraph 117 – best, most productive use of land for homes

Paragraph 122 – development at appropriate densities

Section 12 – aims to achieve well-designed development and places

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
- b) Design / Layout
- c) Residential amenity
- d) Ecology and biodiversity
- e) Flooding / Drainage
- f) Archaeology

- g) Highway safety
- h) Contamination
- i) Play / Open Space
- j) Affordable Housing
- k) Financial contributions / CIL

a) Principle of development

- 7.2 New Romney itself is identified as a Strategic Town in the Core Strategy where it is identified as being suitable for expansion from its current built limits. Table 4.2 linked to policy SS3 of the CS and the emerging plan states that the role/ status of Strategic Towns is to *“accommodate significant development – in so far as consistent with maintaining historic character – appropriate to the needs of their wider hinterlands in Shepway, and maintaining the viability of their local transport hubs, Town Centres and higher-order tourism, employment and public services.”*
- 7.3 The application site, whilst outside the identified settlement boundary is identified within the Core Strategy (policy CSD8) as being suitable for housing development as part of the broad location for development.

Development of the broad location should meet the following criteria:

- a. The development as a whole should provide around 300 dwellings (Class C3) and a range and size of residential accommodation, including 30% affordable housing, subject to viability.
- b. Pedestrian/cyclist linkages southwards to the town centre should be improved and prioritised from the central area of the development, in preference to linkages around the periphery of the site.
- c. Land proposed for residential development must have a sufficient level of internal connection through providing a new movement link through the site, appropriately designed to 20mph, and/or through a cycleway/footpath to provide a secure and attractive green corridor.
- d. Proposals should incorporate as necessary a minimum of 0.7ha of land for the upgrade of St Nicholas' Primary School playing facilities on a consolidated area.
- e. Archaeological constraints need to be examined and associated mitigation will be required to be provided at an early stage, in order to inform the masterplan, development strategy and quantum of development.
- f. Flooding and surface water attenuation for the overall site should be concentrated in the lowest areas of the site, recommendations of the Shepway SFRA must be followed, and measures should also provide visual and nature conservation enhancement for the benefit of the site and local community.
- g. Appropriate off-site mitigation measures must be identified, including to ameliorate highway impacts and manage drainage demands.

The compliance with the relevant parts of this and other relevant policies is discussed in subsequent sections. It should be noted that parts c. and d. are not relevant to this site.

- 7.4 The application site is approximately 380 metres to the north of the High Street, but has no direct footway links. Should the adjacent allocated site to the south east not come forward before the scheme under consideration here, the application has demonstrated that a pedestrian link to New Romney High Street can be provided along highway verge that runs along Ashford Road to the south west of the site.
- 7.5 Whilst the site is outside of the identified settlement boundary, it is adjacent to the New Romney settlement boundary and forms a natural extension to the town, especially when taken in the context of the other development coming forward in the wider 'broad location' area.
- 7.6 In light of the above I am satisfied that the principle of development on this site is acceptable, subject to all other material planning considerations being addressed.

b) Visual amenity / Design / Layout

- 7.5 The application site forms part of the wider broad location allocation and sits to the north-west of the town of New Romney, transitioning into open countryside beyond. It is within a designated Local Landscape Area where policy NE3 of the Places and Policies Local Plan states that proposals should protect or enhance the landscape character and functioning of Local Landscape Areas unless the need to secure economic and social well-being outweighs the need to protect the area's local landscape importance.
- 7.6 There are TPO trees on the north eastern boundary, the north western boundary and the western boundary (TPO No2 of 2019) that are proposed to be incorporated into the landscaping of the development, alongside augmented planting within the site and around the boundaries, the final detail of which can reasonably be secured via planning condition.
- 7.7 The domestic scale of the development, with the majority of properties being two storeys in height, with some two storeys with rooms in the roof served by dormer windows, would be commensurate with that of the prevailing context of surround land and recent approvals. Whilst with any development there would be a significant change in appearance, Officers are satisfied that in terms of scale, the development would be and relevant, given the Core Strategy allocation, and is not considered detrimental.
- 7.8 The design of the houses is contemporary, which relates to the modern character emerging in the adjacent broad location sites that are under construction. These employ a traditional pitched roof form, finished in a mix of brick, artificial weatherboard cladding and tiles. The proposed development also has a traditional pitched roof form, but utilises more brick and tile, with corduroy brick feature panels proposed for some units, corner windows and modern dormer styles to move the architectural vernacular into the 21st century, avoiding pastiche copies of traditional architecture and bringing innovative design to this part of the broad location, without appearing incongruous. Good quality materials are proposed, with timber fascia and soffits and aluminium windows and rainwater goods, which can be controlled via condition.
- 7.9 The layout provides limited communal amenity space, amounting only to the planted area adjacent to the bell mouth junction serving the development. However, the site is so close to the outdoor space offered by the recreation ground on Fairfield Lane and St Martin's Field beyond, that this is not considered to be an issue, as residents will have access to outdoor space, including a children's play park. Through amendments

to the scheme secured by Officers, the layout has been amended to make it less car-dominant and more pedestrian friendly, placing the parking between houses in a tandem arrangement, or having it in discreet parking courts, so that it is not readily visible, but at the same time, the natural surveillance of the streets and spaces within the proposed development has been increased through ensuring windows and doors face key areas. The proposed dwellings are appropriately sited to ensure a comfortable environment for new residents, with good separation distances between frontages.

Amenity of future occupiers

- 7.10 Policy HB3 in the Places and Policies Local Plan sets out space standards internally and externally. In respect of the internal space standards, internal floor spaces meet or exceed the minimum required by the Nationally Described Standard, rooms are square or rectangular and allow for suitable furniture placement, and good natural daylight is provided to each room.
- 7.11 In respect of external space standards, several of the properties fail the policy requirements to have a 10 metre long garden. However, the Council will consider variations to the external space standards if it can be demonstrated through the Design and Access Statement or site master planning that such an approach is needed to reflect the character of the area. In such instances communal or public open space should be provided or be made available within the immediate locality.
- 7.12 In this case, the properties fail the standard by approximately 500mm, but have been positioned within their plot so that they also benefit from front garden areas or landscaping, in order to improve the wider public realm. Further, the site is so close to the outdoor space offered by the recreation ground on Fairfield Lane and St Martin's Field beyond, that it is clear that residents will have access to outdoor space, including a children's play park within the immediate locality and an acceptable standard of living accommodation will be provided. It is therefore considered that the scheme will provide for and protect the amenities of future residents of the development and those on the neighbouring development.
- 7.13 Overall it is considered that although the proposal would result in change to the character of the Local Landscape Area and the rural lanes surrounding the site through the increased built development, this would have been a factor in the sustainability appraisal associated with the allocation of the site within the Core Strategy, so has previously been considered. In any case, the development would be of an appropriate and domestic scale and layout, which would accord with surrounding residential development and emerging character, with the retention of existing trees and landscape features, provision of additional landscaping and good design of the proposed dwellings, with the final materials capable of being secured via condition, helping to mitigate the visual impact. The proposal would also secure a good standard of amenity for future occupiers through the layout of the proposal and design of the units. It is therefore considered that the proposal would constitute high quality design, would not cause visual harm to the landscape of the area and would provide an acceptable standard of amenity for future occupiers and would be policy compliant in this regard.

c) Residential amenity

Existing occupiers

7.14 The site is located at the western end of the broad location, with roads on two sides and open field on the remaining two sides, although this land is allocated for development. It is considered that the properties on the opposite side of Cockreed Lane would not be impacted upon in respect of overlooking, overbearing presence or any overshadowing, as the separation distance would be too great, with the front windows of the properties already facing the street. Further, the additional noise and disturbance associated with 25 units is considered unlikely to create a significant issue over and above that emerging from the development to the east when considered cumulatively and is likely to be of a domestic nature and therefore largely compatible with the surrounding uses in respect of timings and volume.

d) Ecology and biodiversity

7.15 The site is not within any designated wildlife areas, and the information submitted with the application has been reviewed by KCC Ecological Advice Service and found to be sufficient to determine the application, with no additional surveys required to be carried out prior to determination in respect of the species identified. Subject to a detailed mitigation/enhancement strategy being prepared and submitted prior to commencement of development, together with a bat-sensitive lighting scheme, all of which can reasonably be secured via condition should permission be granted, the proposal is considered to have no likely significant ecological impacts and is therefore acceptable on these grounds.

e) Flooding / Drainage

7.16 The application site is situated within Flood Zone 2 and 3 of the Environment Agency flood risk maps, as is the whole broad location allocation (except for some very small areas). Most of the broad location site, including the application site, is identified as being at no risk of flooding according to the Council's Strategic Flood Risk Assessment in 2115, taking account of climate change. The application site benefits from coastal flood defences maintained by the Environment Agency in partnership with Folkestone and Hythe District Council and is currently protected to a 1 in 200 year standard, accounting from climate change, with a consequent low risk of coastal flooding.

7.17 As the site is part of the Core Strategy allocation, which has been sequentially tested for the Romney marsh character area in accordance with the NPPF and the Planning Practice Guidance (NPPG), the sequential test has been applied at the plan level for development of this site and in accordance with paragraph 162 of the NPPF does not need to be reapplied at the site specific level. It is, however, necessary to apply a sequential approach within the site itself when considering this application. As the whole of the site is located within Flood Zones 2&3 and the whole of the site is not considered to be at risk of flooding in 2115 on the SFRA, there is no part of the site sequentially preferable to focus the more vulnerable parts of the development. As such, this consideration is met. However, as the development is located within Flood Zones 2&3 as depicted on the Environment Agency flood maps and includes 'more vulnerable' development, it is necessary to apply the exceptions test.

7.18 The Exception test states that in order to grant planning permission or allocate a site:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment;

- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

7.19 It is considered that this site meets the requirements of the exception test for the following reasons:

- Firstly, the site has wider sustainability benefits – the site (along with other land) was identified as a broad location to provide sufficient housing in order to meet the Council’s requirements for housing land supply. Policy CSD8 provides for additional housing in this broad location in order to bring forward and support other wider sustainability benefits to the area and seeks to develop New Romney as a residential, business, service, retail and tourist centre for the Romney Marsh.
- Secondly, it is considered that the development could be made safe for its lifetime provided mitigation measures as submitted within the Flood Risk Assessment are provided. The Environment Agency raise no objection provided the necessary mitigation measures are included, such as a finished floor level of 2.9m above ODN or 3.2m above ODN for living and sleeping accommodation.

In addition, subject to a SUDS scheme being implemented, via a suitably worded condition, the proposal would not increase flood risk elsewhere. KCC as the lead local flood authority have not raised objection to the proposal subject to a suitable SUDS scheme being employed. As such, the development is considered to pass the exceptions test.

7.20 It is noted that, although not objecting, the Romney Marsh Area Internal Drainage Board have commented regarding the implementation of the surface water drainage strategy, given the nearest watercourse is some 40 metres away and not under the control of the landowner. However, whilst this is a concern, no objection has been raised, and the permitting regime run by the RMAIDB falls outside of the scope of the planning regime.

7.21 For foul water, Southern Water have raised no objection, identifying that they would be able to provide foul sewage disposal to serve the development.

f) Archaeology

7.22 The application site falls within an area of archaeological notification, which is considered to be a non-designated heritage asset in accordance with the definition within the NPPF. The application was supported by a desk based assessment assessing the likely degree of heritage potential on the site. Given the potential for medieval and post-medieval settlement evidence, KCC Archaeology recommend a condition requiring a programme of archaeological evaluation and investigation be attached to any grant of permission.

g) Highway Safety / Cycle Parking

7.23 The access road into the development would utilise an existing access point, which as assessed by KCC Highways and Transportation, is considered to be acceptable in respect of highway safety.

7.24 The proposed car parking provision meets the requirements of adopted policy T2 and the development would meet the Councils adopted cycle storage requirements within policy T5, with storage being provided within the garden storage sheds – this would be secured via condition. KCC Highways and Transportation have concerns regarding the location of some of the visitor spaces, but it is considered that the distances required to walk are not unreasonable and that the bays can be clearly marked for visitor use, to avoid confusion.

7.25 The application includes details of how off-site highway improvements to provide a pedestrian link to New Romney High Street within the limits of the highway verge can be achieved, with Kent County Council Highways and Transportation confirming this. This would provide pedestrian links to the town centre for the development, should the adjacent allocated site not come forward at the same time.

h) Contamination

7.26 The Council’s land contamination consultants consider the application addresses the requirements of stage 1 of the Council’s contamination condition, with further work required, but capable of being addressed via the remaining parts of the standard land contamination condition. This would meet with the aims of paragraph 178 of the National Planning Policy Framework, where planning decisions ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated.

i) Play Space / Open Space

7.27 In relation to policies C3 and C4, which deal with the provision of open space and play space, respectively, off-site contributions have been calculated at £31,402.80 for open space and £21,253.00 for play space, giving a total of £52,655.80 which includes a 10 year maintenance sum. This can be secured via legal agreement, if planning permission were to be granted.

j) Affordable Housing

7.28 The applicant has stated that the policy requirement of 30% affordable housing will be met, on-site, which is considered acceptable. The Housing Strategy Manager has clarified that this will mean 8 units, with 60% affordable rent and 40% shared ownership. The location of the units within the site will be agreed via the s.106, with the units delivered by an affordable housing provider agreed with the Council. The Council would also seek to have completion and delivery of the affordable units prior to completion and occupation of 50% of the market sale units, with a local lettings plan implemented, in order to give priority to applicants with a local connection to the parish of New Romney. The required level of affordable housing would therefore be provided and the application would be policy compliant in this respect.

k) Financial Contributions / CIL

7.29 The following contributions are sought:

Obligation	Trigger	Reg. 122 Reason
Community Learning	Upon commencement	The proposal would place additional burden upon local
Youth Service		

		services that would be directly related to the development, with the mitigation for this able to be fairly and reasonably related in scale and kind to the development and necessary to make the development acceptable in planning terms
Library Bookstock		
Social Care		
Play Space		
Open Space		
30% affordable housing	Completion and delivery of the affordable units prior to completion and occupation of 50% of the market sale units	

The requests for financial contributions in respect of support for local services in respect of the additional demand the development will place upon them are payable and total £11,016.77 at the current time, which can be secured via a legal agreement, which the applicant has agreed to enter into. These items are set out in paragraph 5.1 of this report. This document will also contain the requirement for play and open space monies totalling £52,655.80, the requirement to provide affordable housing and as there are areas of landscaping around the development, the requirement to set up a management company to maintain these areas.

7.30 Under the Council’s adopted charging schedule, the development within the allocated ‘broad location’ is exempt from paying the Community Infrastructure Levy (CIL).

Environmental Impact Assessment

7.31 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 does not exceed any of the thresholds. 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.

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. This application is not liable for the CIL charge

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 This report considers whether planning permission should be granted for the erection of 25 dwellings, together with associated landscaping and parking. The proposals are considered to represent good design and officers consider that the development will contribute positively towards sustainable development and the Council's identified five-year supply of housing land without giving rise to any serious amenity concerns. While objections from KCC highways, the Town Council, and local residents are noted these are not considered to amount to a justifiable reason for refusal. The impacts upon the designated local landscape area 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 contamination are considered acceptable also and the application is therefore recommended for approval subject to completion of a s.106 agreement to secure 30% on-site affordable housing and financial contributions toward play and open space and delivery of KCC services.

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. RECOMMENDATION

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; and completion of a s.106 agreement to secure affordable housing and financial contributions toward play and open space and delivery of KCC services.

Conditions:

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:

322/100 Rev. B, 322/101 Rev. G, 322/102 Rev. D, 322/103 Rev. C, 322/104 Rev. D, 322/105 Rev. C, 322/106 Rev. D, 322/107 Rev. D, 322/108 Rev. D, 322/109 Rev. D, 322/110 Rev. D, 322/111 Rev. C, 322/112 Rev. D, 322/113 Rev. B, 322/114 Rev. B, 322/115 Rev. A, 0143/18/B/20 Rev D

Reports:

Drainage Impact and Flood Risk Assessment Addendum letter EMC/2018/052 22 April 2020, MicroDrainage Surface Water Details & Simulation Results, MicroDrainage 40% Sensitivity Test Simulation Results, Drawing EMC-2018-052-04 rev06, Arboricultural Impact Assessment – Supplementary Report GE030_RP_002 21 April 2020, Arboricultural Impact Assessment GE030_RP_001-D, Tree Survey Plan GE030_DR_001, Tree Protection Plan GE030_DR_002- REV E, Transport Statement Addendum EMC/2018/052 22 April 2020, Highways Aspect Drawing EMC-2018-052-05 rev12, Stage One Outline Design Pedestrian Link Oct 2017, Drawing EMC-2017-142-05-00

Reason:

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

3. No construction above foundation level of any property or properties shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted, inclusive of (windows, doors, bricks, tiles, cladding, brick bond pattern, mortar joints, rainwater goods and their routing/position,

and depth of window reveals), 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.

Reason:

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

4. No construction work above the foundation level of any building on site shall take place until a hard and soft 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.

6. Prior to commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Drainage Strategy Plan (drawing no. EMC-2018-052-04 Rev 04) and 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.

7. Prior to the first occupation (or within an agreed implementation schedule) of any dwelling or dwellings hereby permitted, a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, shall be 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. The development shall be carried out in accordance with the submitted flood risk assessment (Tridax 2018) and the following mitigation measures detailed within:
 - Finished floor levels shall be set no lower than 2.9m aODN and 3.2m aODN for living/sleeping accommodation respectively.

These mitigation measures shall be fully implemented for all dwellings within the development, prior to first occupation and thereafter retained and maintained as such.

Reason:

To reduce the risk from flooding to the proposed development and future occupants.

9. The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason

In accordance with the requirements of policies CSD5 and SS3 of the Shepway Core Strategy Local Plan 2013 which identify Folkestone and Hythe District as a water scarcity area and require all new dwellings to incorporate water efficiency measures.

Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings' <https://www.gov.uk/government/publications/the-water-efficiency-calculator-for-new-dwellings>

10.1. Prior to commencement of the development a desk top study shall be undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

2. If a desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include

- A survey of the extent, scale and nature of contamination
- An assessment of the potential risks to
 - Human health
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Ground waters and surface waters,
 - Ecological systems,
 - Archaeological sites and ancient monuments and
 - An appraisal of remedial options and identification of the preferred option(s).

All work pursuant to this Condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

3. If investigation and risk assessment shows that remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise agreed in writing by the Local Planning

Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

4. Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

5. In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason:

To protect the environment and human health against contamination and pollution.

11. Prior to commencement of development, a detailed ecological mitigation strategy together with 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. The strategy must include the following:

- Updated preliminary ecological appraisal and recommended specific species surveys;
- Great Crested Newt surveys;
- Overview of the mitigation required;
- Methodology to implement mitigation;
- Timing of the proposed works;
- Map showing location of the receptor site(s);
- Details of receptor site management;
- Ecological enhancements.

The approved details shall be implemented in full in accordance with the approved timetable.

Reason:

In the interests of securing enhancements for biodiversity.

12. Prior to first occupation of any dwelling or dwellings, a bat sensitive lighting scheme for the whole development incorporating the recommendations within paragraphs 10.6 and 10.7 of the Ecological Appraisal (Native Ecology; Nov 2019), shall be submitted to the local planning authority for approval, with such details as approved, implemented in full prior to the first occupation of any dwelling or dwellings and

thereafter retained and maintained to the approved specification. 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:

In order to safeguard the ecological interest at the site.

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 parking shown on the approved plans shall be provided in full prior to the first occupation of any dwelling or dwellings hereby approved 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.

16. No construction work above the foundation level of any building on site shall take place until details have been submitted to and approved in writing by the Local Planning Authority of the boundary treatment to be erected, with such details as approved, implemented in accordance with the approved plans.

Reason:

In the interests of visual amenity.

17. No construction work above the foundation level of any building on site shall take place until details have been submitted to and approved in writing by the Local Planning Authority, for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point

destinations and all buildings within the approved development including residential, commercial and community. The infrastructure shall be installed in accordance with the approved details during the construction of the development, be capable of connection to commercial broadband providers and be maintained in accordance with approved details.

Reason:

To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF

18. Prior to the commencement of the development hereby permitted, 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, as indicated on the approved plans, 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.

19. Prior to first occupation of the dwellings hereby permitted details of secure cycle storage, at a ratio of one space per bedroom, per dwelling, for the approved dwellings, shall be submitted to and agreed in writing by the Local Planning Authority and, upon agreement, shall be provided in full for all properties and retained in perpetuity

Reason:

In the interest of amenity and encouraging use of alternative methods of transport.

20. Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.

Reason:

To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF

21. Details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, shall be submitted to the Local Planning Authority for approval, in writing,

prior to progression of development beyond foundation level, with such details as approved implemented in full and thereafter retained and maintained.

Reason:

To support the transition to a low carbon future through the use of on-site renewable and low-carbon energy technologies.

22. The occupation of the development authorised by this permission shall not begin until the works shown on the drawings hereby approved and described in the Tridax Ltd document, Proposed Pedestrian Link for Land at Cockreed Lane, New Romney Version 1.1 have been completed in accordance with those drawings and have been certified in writing as complete by or on behalf of the Local Planning Authority, or unless otherwise agreed in writing by or on behalf of the Local Planning Authority.

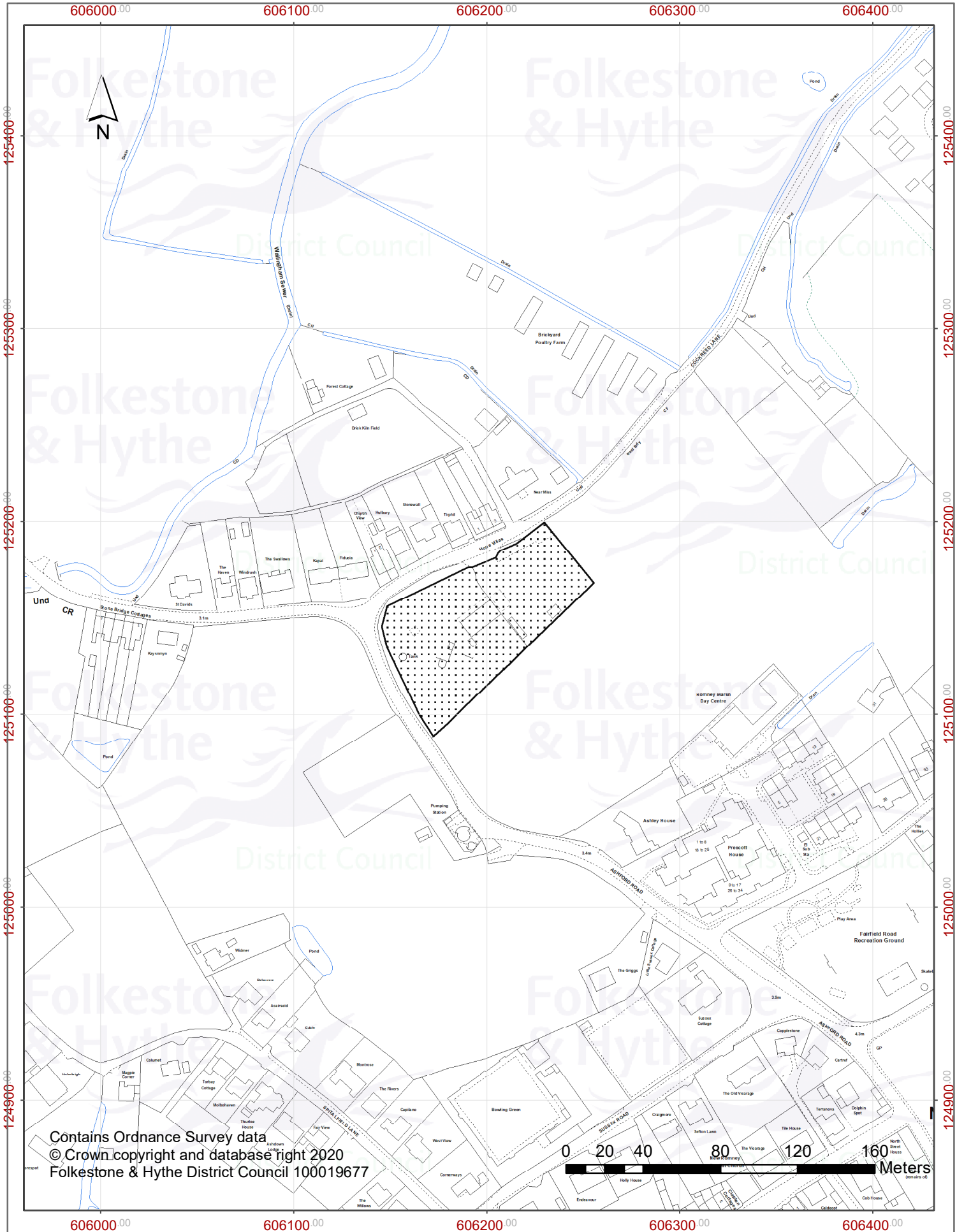
Reason:

In order to provide a pedestrian footway link to New Romney High Street

Appendix 1 – Site Location Plan

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Y19/1275/FH
Hope All Saints Garden Centre
Ashford Road
New Romney



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Application No: 20/0960/FH

Location of Site: 59/61 Earls Avenue, Folkestone

Proposal: Felling of a multi-stemmed Lime tree subject of Tree Preservation Order No. 4 of 1994

Applicant: Mrs Andrea Samson

Agent: Mr Keith Tait

Officer Contact: Jo Daniels

SUMMARY

This report considers whether consent should be granted for the felling of a multi-stemmed Lime tree situated at 59/61 Earls Avenue, Folkestone. The applicant explains that the tree is causing damage to the concrete flooring and structures of the adjoining garages.

This report recommends that consent is granted as the applicant has provided supporting evidence to confirm that the tree is the causal factor of the damage and that there are no viable alternative options to felling the tree.

RECOMMENDATION:

That 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 at the request of Cllr Laura Davison.

2. SITE AND SURROUNDINGS

2.1. The application site is 59-61 Earls Avenue, a semi-detached period property subdivided into flats and located on the west side of Earls Avenue and at the western end of Folkestone. At the rear of the building there is a hard standing area to the front of a block of 10 precast concrete garages. The large mature multi-stemmed Lime tree is located in the north western corner of the site, immediately adjacent to the northern boundary and the most northerly of the garages (Figure 1)

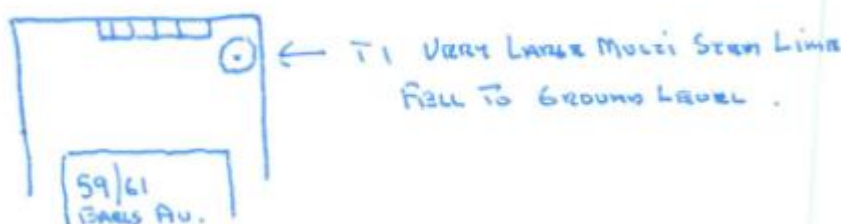


Figure 1

2.2. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Consent is sought for the felling of a multi-stemmed Lime tree (Figure 2) on the grounds that it is causing damage to the floor and structure of the adjacent garages, in particular the most northerly structure. Accompanying reports demonstrate that the tree cannot be successfully pruned to address the damage and that if retained, the damage to the garages, the hardstanding and the adjacent retaining wall and fence will worsen.



Figure 2

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

Engineering report from KSI Ltd Consulting Engineers
Arboricultural report from Keith Tait Tree Surgery

3.3 The main points of the reports are summarised below:

Engineering Report

- The outside hardstanding and north side wall of the northernmost garage have been badly distorted, and the floor slab cracked.
- There is also distortion of the adjacent retaining wall and fence and numerous roots are visible at surface level
- Due to nature of the 'Folkestone beds' subsoil at the site, if a layer of 'chert' is encountered, the roots cannot penetrate such and so extend out at shallow depths
- Without invasive investigation, it is not possible to be absolutely certain but the damage is considered to be as a result of the adjacent Lime tree

Arboricultural Report

- Cannot see an alternative to complete removal of the tree to prevent further damage re-occurring
- Because tree is so close to the structure, root pruning is not an option as it would involve severing major roots within 1.5 metres of main stem which would have a severe impact on the stability and long term health of the tree

4. RELEVANT HISTORY

4.1 None

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Felling of the tree may be necessary.

It is a fine tree which has been subject of criticism for decades but could demonstrate a serious problem.

Tree Officer will have to make a judgement but Committee would support retention if possible or replacement if complaints are justified.

Arboricultural Manager: Having read the reports on the tree and situation I can confirm that I have no objections to the removal of the Lime tree.

Full details of a replacement tree will need to be submitted and approved prior to the existing tree being felled.

Local Residents Comments

5.2 39 neighbours directly consulted. Two letters of objection, no letters of support received and no letters neither supporting nor objecting to the application.

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

Relevant objections

- Would not like to see tree felled without considering all options
- Beautiful tree is integral part of landscape in the conservation area
- I and many others oppose this proposal
- Please do not fell this tree
- Trees have recently been felled in this area
- We should endeavour to save as many trees as possible, they are our breathing lungs, they absorb carbon dioxide and other toxic fumes – may worsen by Covid-19
- Tree is a veritable home to wildlife
- Tree appears healthy with one or two roots causing minimal damage to garage floor
- Damage could be repaired and root culprits removed
- Question of whether this is a mere vanity project or something absolutely essential must be considered

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the new Places and Policies Local Plan 2020.

6.2 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.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan (2020)

NE3 – Protecting the District's Landscapes and Countryside

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development

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

National Planning Policy Framework (NPPF) 2019

Section 15: Conserving and enhancing the natural environment

National Planning Policy Guidance (NPPG)

Natural Environment

Town & Country Planning Act 1990 and Town Country Planning (Tree Preservation) (England) Regulations 2012.

7. APPRAISAL

7.1 When considering an application for the removal of a protected tree, the Local Planning Authority (LPA) is advised to:

- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
- consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
- consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
- ensure that appropriate expertise informs its decision.

LPA's should bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing consent or granting consent subject to conditions. However, if the LPA believes that some loss or damage is foreseeable, it should not grant consent automatically. It should take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works, before reaching its final decision.

In addition, when considering an application, the LPA should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it.

Applicants must provide reasons for the proposed work. They should demonstrate that the proposal is a proportionate solution to their concerns and meets the requirements of sound arboriculture. In addition, Applicants should support claims that trees are damaging structures and surfaces by providing technical evidence from a relevant engineer, building/drainage surveyor or other appropriate expert.

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

- The effects of the proposed loss of a tree, which is protected by a Tree Preservation Order (TPO), and its impact on the character and appearance of the conservation area.
- Whether the felling of the tree, which is protected by a TPO, is justified

Other considerations to be taken into account are:

- The perception of the tree by local residents
- The environmental benefits of the tree

- 7.2 It is always regrettable when mature trees are felled and it is acknowledged that a number have been felled in this location over the last few years to make way for development. Proposed works to trees that are protected by a Tree Preservation Order or by virtue of their location within a Conservation Area are assessed in accordance with the relevant policies and BS standards and recommendations to establish whether the proposed work is appropriate and necessary and whether it is in the interests of the long term health and visual amenity of the trees and the surrounding area. This process is followed regardless of the circumstances and where trees are to be felled, sufficient justification must be supplied before the proposals are considered.

Whilst the large multi-stemmed Lime appears healthy and shows good form, it is the damage to the adjoining garages, which are understood to be under separate ownership, which has prompted the request to remove the tree so that the damage can be repaired.

As mentioned above, the tree is located to the rear of 59-61 Earls Avenue, approximately 50 metres from the nearest highway, therefore, views to it from a public place are limited to those between buildings. As such, its public amenity value is considered to be rather low in comparison to the mature street trees that line Earls Avenue and the surrounding streets. Whilst it is acknowledged that the negative effects of the felling of the tree on those living in close proximity to it would be more profound, it is the effect of the felling on the public domain that the Council is required to consider in this case.

Having considered the impact that the felling of the Lime would have on the character and appearance of the Conservation and Special Character Areas, it is judged that the impact would be minimal as the tree possesses fairly low public amenity value and there are sufficient large trees and shrubs within the surrounding area to help mitigate the effects of the proposal. Policy NE3 of the PPLP, which considers development within the District's Landscapes and Countryside, including Areas of Special Character, states that proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features of the LCA. Planning permission for development will not be granted if it will harm the existing character of the area by reason of a loss of existing vegetation, especially in relation to important skylines. However the justification for felling the tree outweighs the need to preserve the special character of the area, as such its felling is judged to be acceptable.

- 7.3 The Applicant has submitted two separate reports from appropriate experts to support the proposals.

Whilst the engineering report has identified the Lime as the probable causal factor of the damage, without further investigations this cannot be confirmed. However, all indications are that the tree is the likely cause. One objector suggests that the damage could be repaired by cementing the cracks and pruning the offending roots, however, having read the Arboricultural report and spoken to the writer who has explored all options, because the tree is so close to the garages, it would not be possible to sever the roots as this would mean cutting into major roots within 1.2 metres of the base of the tree. This is likely not only to severely compromise its stability but also provide an access point for decay into the heart of the tree.

The tree owner is responsible for their tree stock and for any damage they cause. As mentioned above, the garages are under separate ownership and as such it is likely

that garage owners' insurance company has made a claim in respect of the damage, and the tree owner is liable for this.

Whilst it is regrettable to lose a tree of this health and stature, it is considered that the tree owner has demonstrated that there are no other options available and as such the felling of the Lime is considered acceptable.

7.4 With regard to the other points raised via objection to this proposal and, unless addressed above, these matters are set out below.

7.5 With regard to the detrimental effect of the proposal on the local residents, wildlife and the environment, it is acknowledged that trees play an important role in enhancing our quality of life and this is acknowledged in the Government's Sustainable Development Strategy. Not only do trees have a visual quality, but they also enhance the environment by improving air quality, and reducing the 'Greenhouse' effect by removing carbon dioxide from the air and releasing oxygen. Each year a mature tree produces enough oxygen for ten people. Trees are also an effective sound barrier, can limit noise pollution and recent research shows that they also help reduce the stress of modern life. In addition trees benefit the environment and the landscape, and are an integral part of the ecosystem providing benefits to wildlife and biodiversity.

It is acknowledged that the felling of the Lime will have some impact on the environment, and wherever possible the Council will endeavour to resist the felling of trees unnecessarily, however as set out above, there appears little alternative in this case. Nevertheless, there are other large trees within the surrounding area and it is likely that these will help to soften the negative effects of the proposal and accommodate the local wildlife. There is also a requirement for the applicant to replant a new tree of an appropriate size and this will be dealt with by condition.

8. Human Rights

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

9. Public Sector Equality Duty

9.1 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. Working with the applicant

10.1 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.

11. CONCLUSION

11.1 In conclusion, whilst it is disappointing to lose the Lime tree, it is more than likely that its roots are the cause of the damage to the garages and that alternative options such as pruning of the roots and canopy will result in the severing of major roots, meaning that the long term health and stability of the tree will suffer. In addition, given the close proximity of the tree to the garages, even if this option provides a short term solution, and in the event that the tree recovers, it is likely that the problem will reoccur as it continues to increase in size. It is important to note, however, that should consent be granted for the felling of the tree, it is imperative that the roots are ground out prior to the repair of the garages to ensure that the damage does not arise again in the future. An informative can be added to the decision notice to ensure that this is complied with.

11.2 In terms of securing the visual amenity of the street scene and the character and appearance of the conservation area, it is important to secure a replacement of an appropriate species to be suitably sited in relation to the garages and of such a size that its visual amenity will in time equal that of the Lime.

12. BACKGROUND DOCUMENTS

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

13 RECOMMENDATIONS

That 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:

1. The work hereby permitted shall be begun before the expiration of two years from the date of this consent.

Reason:

To enable the Council to consider the position again should the work not be carried out within the prescribed period.

2. A replacement tree, preferably of a native species, with a minimum girth of 14/16 centimetres shall be planted in the next planting season following the removal of

the Lime tree hereby approved. Details of planting, including size, species, time and location of planting together with a 5 year management plan to demonstrate how the tree will be cared for through to establishment) shall have been submitted to and approved by, in writing, the Local Planning Authority prior to the felling of the Lime, or in accordance with any variation for which the Local Planning Authority have given their written agreement. If within a period of five years from the date of planting, the tree (or any other tree planted in replacement for it) is removed, uprooted, destroyed, or dies or becomes (in the opinion of the Local Planning Authority) seriously damaged or defective, another tree of the same size and species shall be planted in the same place as soon as reasonably practicable.

Reason:

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

Informative:

1. Following the felling of the tree, it is recommended that the roots are ground out to allow the repair of the garage and to prevent further damage occurring.

20/0960/FH
59-61 Earls Avenue
Folkestone



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This Report will be made
public on 12 October
2020

Report Number

DC/20/25

To: Planning and Licensing Committee
Date: 20th October 2020
Status: Non key Decision
Responsible Officer: Llywelyn Lloyd, Chief Planning Officer

SUBJECT: Unauthorised change of use of land from agricultural to use for the siting of residential caravans and mobile homes; the storage of caravans and mobile homes; the storage of vehicles, plant and other equipment; and the erection of two viewing platforms.

SUMMARY:

This report considers the appropriate action to be taken regarding the unauthorised change of use of the land from agricultural to use for the siting of residential caravans and mobile homes, the storage of caravans and mobile homes, the storage of vehicles, plant and other equipment; and the erection of two viewing platforms. No planning permission has been granted for these developments. The development is detrimental to the visual amenity of the Area of Outstanding Natural Beauty and Special Landscape Area and the residential uses result in unsustainable development in an isolated location outside of a settlement boundary, where new residential development would not normally be permitted. This report recommends that Enforcement Notices be served requiring the removal all the mobile homes and caravans, the cessation of the residential use of the land, the removal of all equipment and paraphernalia, including garden furniture, associated with the residential use from the land, the removal of all stored vehicles, plant and other equipment, and removal of the viewing platforms from the land.

REASONS FOR RECOMMENDATIONS:

The Committee is asked to agree the recommendations set out below because:

1. The caravans, mobile homes, open storage and viewing platforms are visually intrusive development, which together with the unattractive appearance of the open storage and viewing platforms, detract from the scenic beauty and visual amenity of the countryside location and cause harm to the visual amenity and landscape character of the Kent Downs Area of Outstanding Natural Beauty and the Special Landscape Area. No special justification has been provided for these uses in this rural location and therefore it is considered that the development is contrary to policy CSD4 of

the Core Strategy (CS) and Core Strategy Review (CSR), policy NE3 of the Places and Policies Local Plan (PPLP) and paragraph 172 of the National Planning Policy Framework (NPPF).

2. The site lies in an isolated countryside location, outside any of any settlement boundary. As such the residential use of the land results in dwellings in an unsustainable location in the countryside without sufficient policy justification in terms of essential need for a rural worker or any overriding social or economic benefits to the rural area. As such this is unsustainable development contrary policies SS1, SS3 and CSD3 of the Core Strategy and emerging Core Strategy Review; as well as the aims and objectives of the (NPPF) in particular paragraphs 7, 8, 11 and 79.
3. The changes of use of the land have taken place within the last 10 years and the viewing platforms erected with the last four years. As such they are not immune from enforcement action and it is considered in the public interest and expedient to issue Enforcement Notices.

RECOMMENDATIONS:

1. To receive and note the report
2. That delegated authority be given to the Chief Planning Officer to serve Enforcement Notices requiring the use of the land for residential purposes to cease, the use of the land for the storage of vehicles, plant and other equipment to cease; the removal of all mobile homes, caravans, vehicles, plant, equipment and paraphernalia, including garden furniture and paraphernalia associated with the residential uses from the land; and the removal of the two viewing platforms from the land.
3. That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notices.
4. That the period of compliance with the Notices be (six) months.
5. That the Assistant Director - Governance, Law & Regulatory Services be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

1. LOCATION AND DESCRIPTION OF SITE

- 1.1 The land is located at Paddlesworth Court Farm, in Paddlesworth near Hawkinge. The site is in a rural area and the overall site of Paddlesworth Court Farm is made up of woodland and farmland and is approximately 11.5 acres

in area. It is located outside of any settlement boundary and is within the Kent Downs Area of Outstanding Natural Beauty and Special Landscape Area.

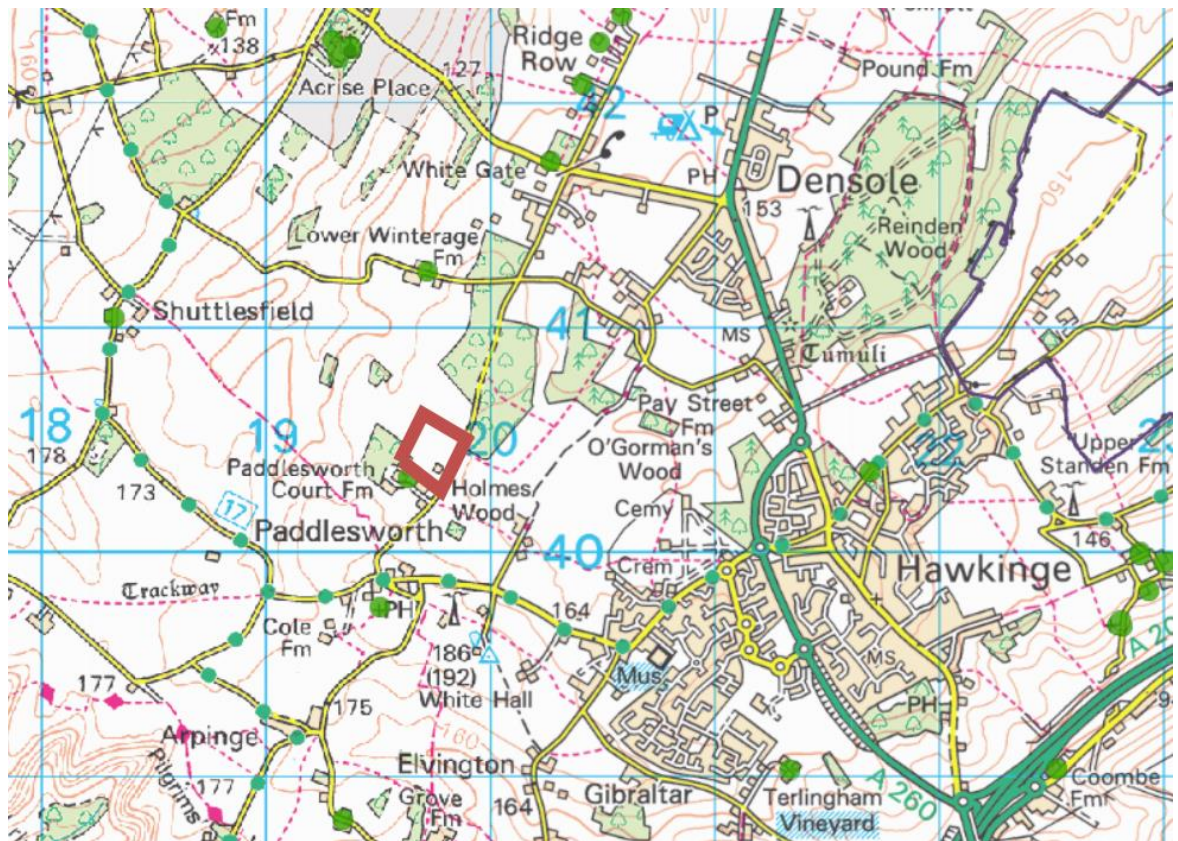


Fig 1. The site of the property is highlighted in red on the above plan.

- 1.2 The lawful use of the land that is the subject of this report is that of agriculture and the site includes a 'square' of buildings which were previously used as barns. An aerial photograph of the site from 2015 is included at Fig 2 below. It is accessed by a single track country lane.



Fig 2

2. RELEVANT PLANNING HISTORY

- 2.1 Y12/0257/SH Retrospective application for the use of agricultural land for the stationing of 2 static caravans for residential use. Refused 6 June 2012

3. THE BREACHES OF PLANNING CONTROL

- 3.1 The breaches of planning control which are the subject of this report concern the installation of two viewing platforms, the change of use of the land to use for the siting of residential caravans and mobile homes, the storage of vehicles, plant and other equipment and the storage of caravans and mobile homes.
- 3.2 A number of music events take place on the land, which have been the subject of complaints made to the Council regarding a noise nuisance. The music events are currently under investigation by the Council's Environmental Protection Team. However, due to the number of days in a year that we understand these events take place, this use is permitted development under Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development Order), which allows temporary uses of land for 28 days per calendar year and Class BA which allows a further 28 days between 1st July 2020 and 31st December 2020.
- 3.3 An area of the site, by the entrance in the southern corner of the site is also used as a campsite for touring caravans, tents and campers. However, this use is also considered permitted development under Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development Order).

Site Visit undertaken on the 14th March 2018

- 3.4 The complaint that prompted this investigation and this report was raised in March 2018, at which time a Planning Enforcement Officer visited the land and noted a number of breaches of planning control. An aerial photograph of the site taken in 2018 is at Fig 3 below and shows racing tracks, viewing platforms, caravans, mobile homes and vehicles.



Fig 3.

3.5 Below are a series of photographs taken by the Enforcement Officer on the 14th March 2018 showing these breaches of planning control.

The photograph below (Fig 4) shows the storage of equipment including a food trailer, for which planning permission has not been granted.



Fig 4.

Below at Fig 5 is a mobile home which the Enforcement Officer considered was likely being used for residential purposes. Planning permission has not been granted for the use of this land for residential mobile homes.



Fig 5.

A number of vehicles are being stored at the property (below Fig 6). Planning permission has not been granted for the use of the land for storage.



Fig 6.

Below at Fig. 7 is a caravan which the Enforcement Officer considered was being used for residential purposes.



Fig 7.

The caravan below (Fig 8) appears to be being stored at the site.



Fig 8.

The caravan in the foreground in the photograph below (Fig 9) remains on site whilst the caravan in the background has since been removed from the land.



Fig 9.

A viewing platform, installed for the remote control car racing was also noted (Fig 10 below).



Fig 10.

Despite correspondence with the owner of the land and requests for the breaches detailed above to be rectified and to cease, a visit to the site on the 21st September 2018 revealed that the breaches of planning control had not been resolved.

Site Visit undertaken on the 13th June 2019

- 3.6 A further visit to the site was undertaken by an Enforcement Officer on the 13th June 2019. During that visit the following photographs were taken and it was noted that the unauthorised development referred to above had not been removed.

That visit established that a second viewing platform had been installed on the site, one of which is photographed below at Fig 11.



Fig 11.

Plant was also noted on the land – Fig 12 below.



Fig 12.

Cars were continuing to be stored on the land, some of which are pictured at Fig 13 below.



Fig 13.

- 3.7 In August and November 2019 Planning Contravention Notices (PCN's) were served on the co-owner of the property, for the purpose of gathering information and in preparation for further formal enforcement action. The letter accompanying the PCN served in November 2019 advised the co-owner to ensure that, should he wish to retain the viewing platforms, he should make a planning application for them by 1st February 2020. However, no such application has been received by the Council.
- 3.8 The letter accompanying the PCN served in November 2019 also advised that the stored cars, caravans, plant and equipment were in breach of planning control and must be removed from the land by the 1st March 2020.
- 3.9 Despite the serving of the PCN's and the advice given on how to resolve these matters they were not and the Council continued to receive complaints.

Site Visit on the 22nd May 2020.

- 3.10 In light of the continued complaints a visit to property was undertaken by an Enforcement Officer on the 22nd May 2020. This revealed that that the owner had not taken the steps necessary to remove the unauthorised development or cease the unauthorised uses. At least one additional mobile home had been installed and appeared to being used for residential purposes. The viewing platforms were also still in place.

4. RELEVANT POLICY GUIDANCE

- 4.1 The following policy of the Places and Policies Local Plan 2020 applies:
Policy NE3 - Protecting the District's Landscapes and Countryside
- 4.2 The following policies of the Core Strategy apply:
Policy DSD - Delivering Sustainable Development
Policy SS1 - District Spatial Strategy
Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'
Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

- 4.3 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:

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

- 4.4 The following paragraphs of the National Planning Policy Framework 2019 apply in particular:

7 and 8 – Achieving sustainable development.

11 – The presumption in favour of sustainable development.

79 – Rural Housing.

172 – Areas of Outstanding Natural Beauty given highest status of protection.

5. APPRAISAL

Relevant Material Planning Considerations.

- 5.1 When deciding whether or not it is expedient to serve an enforcement notice it is necessary to consider whether planning permission would be granted for the unauthorised development were an application to be submitted. The relevant main material planning considerations in this case are the principle of the development having regard to planning policy, visual impact and landscape conservation.

Residential Use

- 5.2 Both local and national planning policies seek to direct new residential development to existing settlements, both on the grounds of sustainability and in order to safeguard the character and appearance of the countryside. Any new development must be appropriate in scale and appearance to its surroundings, having particular regard to the District's Local Plans' environmental policies and; preserve, and as far as possible enhance, the character and amenity and functioning of settlements and the countryside.

- 5.3 Paragraph 79 of the NPPF seeks to avoid isolated homes in the countryside unless there is an essential need for a rural worker; the development would represent the optimal viable use of a heritage asset; the development would re-use redundant or disused buildings and enhance its immediate setting; the development would involve the subdivision of an existing residential dwelling; or the design is of exceptional quality. None of these criteria apply to the residential caravans and mobile homes.
- 5.4 The site is located outside of any settlement boundary and in an isolated countryside location with poor public transport links. The closest shops and doctors' surgery are in Hawkinge centre, approximately 2 miles away via narrow country lanes. Therefore occupants of the residential caravans will be dependent on the car to access shops and other services. As there is no obvious agricultural or forestry need for the residential uses in this location the current use of the land for the siting of residential caravans and mobile homes results in an unjustified residential use in the countryside. Due to the isolated location of the site in relation to the fairly limited facilities in Hawkinge and the lack of easy accessibility to those and other facilities, the residential use of the site constitutes unsustainable development in the countryside and as such is contrary to national and Core Strategy policies DSD, SS1, SS3 and CSD3 and paragraphs 7, 8, 11 and 79 of the NPPF which seek to ensure development is sustainable.

Visual Impact and Landscape Conservation

- 5.5 Both the NPPF and Core Strategy and Core Strategy Review policies give priority to the conservation and enhancement of the natural beauty of the AONB over other planning considerations. The proliferation of caravans, mobile homes, vehicles and the other open storage taking place cumulatively detracts from the landscape quality of the site within the overall setting of the natural landscape. This is made worse by the amount of storage, the mixture of items being stored and the sporadic way it is spread around different parts of the site. The two viewing platforms, although of wooden construction are not attractive structures and have been placed in the middle of fields where there is no natural screening to reduce their prominence. Although there are limited views of the items within the site from the public highway this in itself is not sufficient to make the development acceptable given the location of the site within the sensitive AONB landscape and the alien nature of the storage etc taking place within an otherwise unspoilt natural landscape. Therefore it is contrary to the aims of local plan policy CSD4 and paragraph 172 of the NPPF which seek to protect such valuable landscapes and it is unlikely that planning permission would be granted for the viewing platforms and uses.

6. CONCLUSION

- 6.1 Neither the unauthorised storage and residential uses taking place on the site nor the viewing platforms have become immune from enforcement action due to the passage of time and all of them are development requiring planning permission. The residential use of the caravans and mobile homes are considered to result in isolated residential development in an unsustainable location without any policy justification. The residential caravans and mobile homes, the vehicles and items being stored on the site

and the viewing platforms are considered to significantly detract from the natural beauty of the protected landscape of the AONB. For these reasons the unauthorised developments are contrary to national and local planning policy

- 6.2 It is therefore recommended that an enforcement notice be served to require the uses to cease and the items to be removed.

7. HUMAN RIGHTS

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

8. PUBLIC SECTOR EQUALITY DUTY

- 8.1 In assessing this planning enforcement matter regard has been had to the Public Sector 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 proposed enforcement action would not conflict with objectives of the Duty.

9. RISK MANAGEMENT ISSUES

A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
The unauthorised developments at the site becomes immune from enforcement action	High	High	Serve enforcement notices

10. LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES

Legal Officer Comments (TH)

- 10.1 There are no legal implications arising directly out of this report which are not already stated therein. For the information of the Committee, section 171B of the Town and Country Planning Act 1990 (as amended) states that;

Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

The Council is working within those statutory time limits and therefore can take appropriate enforcement action.

Where there is a breach of planning control, failure to take enforcement action within the statutory time limits will result in the unauthorised use becoming immune from enforcement action

10.2 **Finance Officer Comments (LK)**

The financial implications regarding the issuing of the Enforcement Notice are contained within the Council's budget. However if further enforcement action is required then there may be additional legal costs which may require additional resource.

10.3 **Equalities & Diversity Officer Comments (GE)**

There are no equalities implications directly arising from this report

CONTACT OFFICER AND BACKGROUND DOCUMENTS

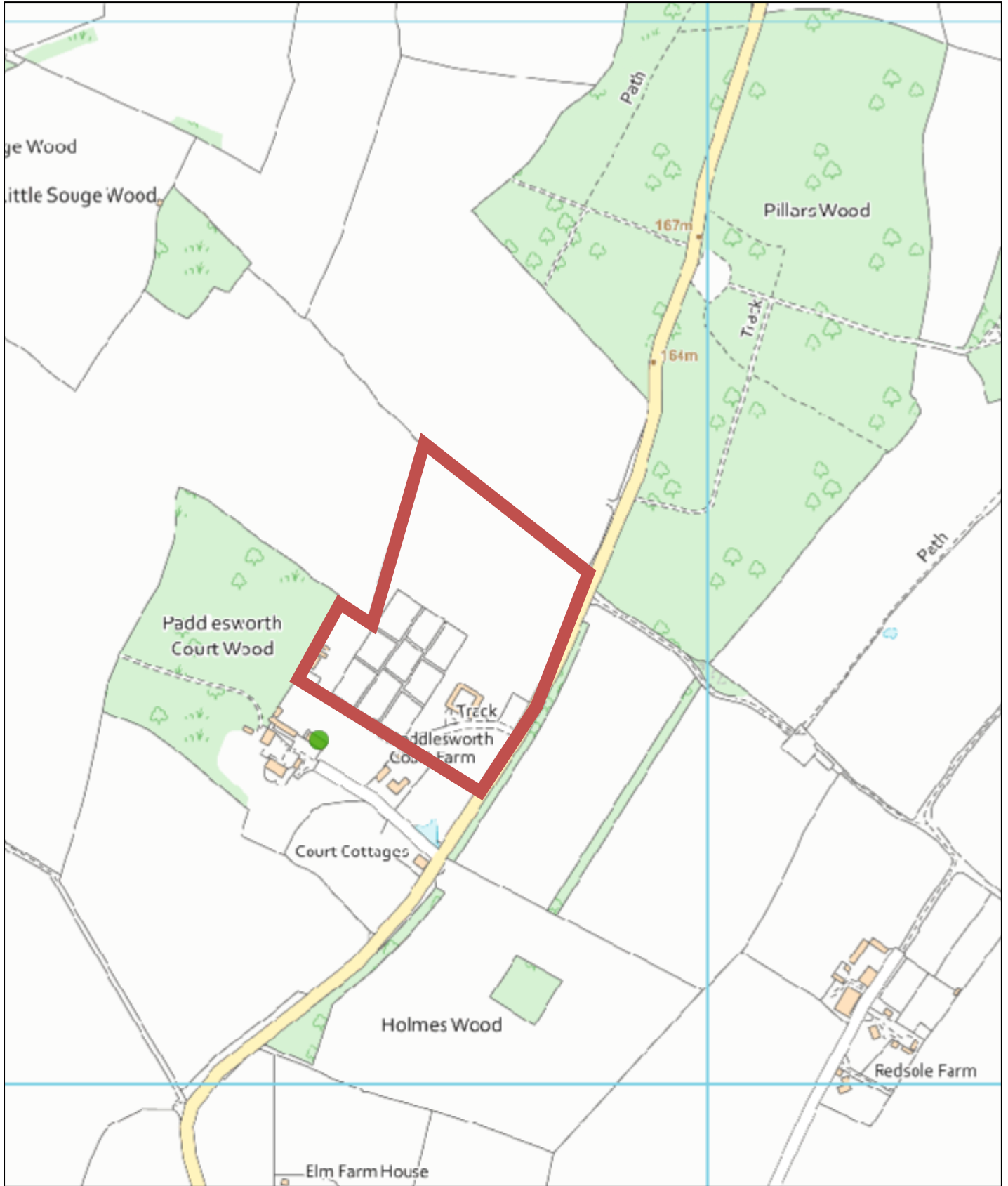
Councillors with any questions arising from this report should contact the following officer prior to the meeting.

Clive Satchell, Planning Enforcement Officer
Telephone: 01303 853414
Email: Clive.Satchell@folkestone-hythe.gov.uk

The following background documents have been used in the preparation of this report:
None.

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Land adjacent to Paddlesworth Court Farm

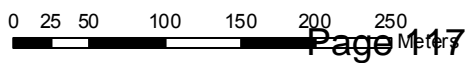


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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 20 OCTOBER 2020**

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:

Application No:	Type of Lobbying

SIGNED:

Councillor Name (in CAPS)

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

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