



# Agenda

Meeting: **Planning and Licensing Committee**  
Date: **15 December 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 will be streamed live at [bit.ly/YouTubeMeetings](https://bit.ly/YouTubeMeetings).

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

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

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

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

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

To consider and approve, as a correct record, the minutes of the meeting held on 17 November 2020.

4. **Minutes of the Licensing Sub-Committee (Pages 11 - 18)**

To approve the minutes of the meetings of the Licensing Sub Committee held on 10 November 2020 and 23 November 2020.

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

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

5. **20/1295/FH - 5 Castle Avenue, Hythe. CT21 5HD (Pages 19 - 32)**

Section 73 application for removal/variation of Condition 2 (submitted plans) of Y19/0766/FH (Erection of a two storey side extension, single storey front and side extension and single storey rear extension along with the rendering of the first floor elevations).

6. **Y19/0546/FH - 9 Victoria Grove, Folkestone, Kent, CT20 1BX (Pages 33 - 52)**

Retrospective application for change of use to a seven bed HMO (House in Multiple Occupation).

7. **20/0531/FH - 3 Tanners Hill, Hythe, Kent, CT21 5UE (Pages 53 - 84)**

Demolition of existing dwelling and garage. Removal of conifer trees along north eastern site boundary. Proposed construction of three storey block of six apartments with parking, amenity spaces, bin & cycle stores.

8. **FH/20/0690 - Sandbanks, Coast Road, Littlestone, TN28 8RY (Pages 85 - 118)**

Conversion of the existing care home to 13no.1 and 2-bed residential flats; erection of a new building to contain 6no.2-bed flats; and associated landscaping works.

9. **Y19/0016/FH - Land adjoining 86-88 Tontine Street, Folkestone, Kent (Pages 119 - 154)**

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

10. **20/0983/FH - Tesco Car Park, Cheriton High Street, Folkestone, CT19 4QJ (Pages 155 - 184)**

Erection of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD), goal post height restrictor and play frame. Relocation of the existing recycling area, click and collect and trolley bays.

11. **Formal Enforcement Action and Complaints Update Report (Pages 185 - 192)**

The purpose of report DCL/20/41 is to provide the Committee with an

update on formal action taken by the Council in respect of breaches of planning control where the committee has authorised officers to take formal enforcement action.

The Chief Planning Officer has delegated authority to serve many of the formal notices that are issued but the majority of Enforcement Notices require the authorisation of the Planning and Licensing Committee. Councillors have requested an update on the enforcement notices that they have authorised the Chief Planning Officer to serve.

This report also includes an update on the other formal notices that the Council can serve in exercising its planning enforcement powers and on the number of enforcement complaints that have been received and closed since 1 April 2019.

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## **Declarations of Interest**

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

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

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

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

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

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

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

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

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# Minutes

## Planning and Licensing Committee

Held at:	Remote Meeting
Date	Tuesday, 17 November 2020
Present	Councillors John Collier, 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	Councillor Gary Fuller
Officers Present:	Robert Allan (Principal Planning Officer), Kate Clark (Case Officer - Committee Services), Claire Dethier (Development Management Lead Specialist), Llywelyn Lloyd (Chief Planning Officer), Ross McCardle (Principal Planning Officer), Jemma West (Committee Service Specialist) and Briony Williamson (Licensing Specialist)
Others Present:	None

### 42. **Declarations of Interest**

Councillor Jim Martin made a voluntary announcement as he believes he knows the applicant's agent with regard to Planning Application 20/0657/FH (Blocks A, B and C Hurricane Way and Terlingham Forum, Hawkinge). Councillor Jim Martin remained in the meeting, taking part in discussions and voting on this item.

### 43. **Minutes**

The minutes of the meeting held on 20 October 2020 were submitted and approved. The Chairman's signature will be added to these minutes as approval.

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

The minutes of the meeting held on 27 October 2020 were submitted and approved. The Chairman's signature will be added to these minutes as approval.

45. **20/0657/FH - Blocks A, B, and C Hurricane Way and Terlingham Forum, Hawkinge.**

Change of use of use and conversion of office blocks A, B and C to 23 residential units and associated works, together with public realm improvements at Terlingham Forum.

Councillor Palliser, on behalf of Hawkinge Town Council, provided a written statement which was read out to members.

Mr Ian Hardman, applicant's agent, also provided a written statement which was read out to members.

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 any others that the Chief Planning Officer deems to be necessary.**

(Voting: For 6; Against 1; Abstentions 3)

46. **Y19/1149/FH - 3 Sandgate High Street, Folkestone, CT20 3BD**

Change of use and conversion from a mixed use as retail showroom and residential, to a single residential unit.

Proposed by Councillor John Collier  
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 and any others that the Chief Planning Officer deems to be necessary.**

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

The Chairman exercised his casting vote in favour of the officer's recommendation. (Constitution Part 5 (19.2)).

47. **Revised Hackney Carriage and Private Hire (Taxi) Licensing Policy**

Report DCL/20/30 set out the next steps for publishing the Council's Hackney Carriage and Private Hire (Taxi) Licensing Policy. The policy was last reviewed in 2012 and whilst not time limited it was a good opportunity to refresh the policy. The new policy was sent for public consultation and approval sought with the Planning & Licensing Committee. The purpose of the report was to highlight feedback received during the consultation and give the Committee the chance to make any final amendments before it is published.

The Licensing Specialist presented the report and policy to members and drew their attention to the four consultation responses outlined in the report.

Members discussed the removal of the minimum age limit for drivers as per the Department for Transport recommendations and felt that all drivers should be assessed on their merits, not age.

Members felt this was a very clear policy and didn't feel any amendments were required.

Proposed by Councillor David Wimble

Seconded by Councillor Philip Martin

**RESOLVED:**

- 1. That the report and policy are received and noted.**
- 2. That the Revised Hackney Carriage and Private Hire (Taxi) Licensing Policy is adopted without further amendments.**

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

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# Minutes

## Licensing Sub-Committee

Held at:	Remote meeting
Date	Tuesday, 10 November 2020
Present	Councillors Jim Martin, Ian Meyers and David Wimble
Apologies for Absence	None
Officers Present:	Kate Clark (Case Officer - Committee Services), Tim Hixon (Legal Specialist), Jack Pearce (Legal Trainee), Jemma West (Committee Service Specialist) and Briony Williamson (Licensing Specialist)
Others Present:	The applicant for Report DCL/20/27 and the applicant for Report DCL/20/29.

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

Proposed by Councillor David Wimble  
Seconded by Councillor Ian Meyers; and

**RESOLVED:**

**That Councillor Jim Martin is elected as Chairman for this meeting.**

47. **Declarations of interest**

There were no declarations of interest.

48. **Declarations of lobbying**

There were no declarations of lobbying.

49. **Exclusion of the Public**

Proposed by Councillor Ian Meyers  
Seconded by Councillor David Wimble; and

**RESOLVED:**

**That the public are excluded for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 1 of Part 1 of Schedule 12A to the Local Government Act**

**1972 –**

**‘Information relating to any individual.’**

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

**Part Two – Exempt Information**

**50. New Private Hire Driver**

Report DCL/20/27 considered whether a licence should be granted to a new Private Hire Driver.

The applicant was present and advised members of full time employment as a forklift driver along with regular school runs. The applicant left the meeting prior to members’ consideration and decision.

Members discussed the historic convictions and although there was mention of this applicant not meeting policy guidelines, members felt that the applicant seems to have learnt from past offences and matured. In this respect the general conclusion was that the applicant is a fit and proper person.

Proposed by Councillor David Wimble  
Seconded by Councillor Jim Martin; and

**RESOLVED:**

- 1. That Report DCL/20/27 is received and noted.**
- 2 That the Private Hire driver’s licence is granted.**

(Voting: For 2; Against 1; Abstentions 0)

**51. Review of a Taxi Driver Licence**

Report DCL/20/29 considered whether action should be taken against a Private Hire driver’s licence.

The applicant joined the meeting, the Licensing Specialist then presented the report and showed video footage.

Members asked the applicant various questions on the reported allegations and aggressive behaviour towards members of the public and a district council staff member, as well as the speculation of drug use. The applicant then left the meeting after responses had been heard.

It was explained to members that if the applicant’s licence was revoked then his statutory right of appeal could be invoked. The Legal Specialist explained the appeal procedure and advised on the powers available to the court on hearing any appeal.



In determining the driver's fitness and propriety to hold a licence the following factors were considered:

- Aggressive and intimidating attitude demonstrated during telephone call with FHDC Customer Services Officer on 22 September 2020 and during interaction with controller of Folkestone Taxis on 17 October 2020.
- Concern regarding more than one allegation of drug use.
- Non-compliance with operator requirements to wear a face covering and to install a meter in the driver's vehicle.
- Two taxi firms said that they wouldn't give the driver further work due to his attitude.

Members agreed that in taking into account the above factors the applicant could not be deemed a fit and proper person to be a licensed driver.

Proposed by Councillor Ian Meyers  
Seconded by Councillor David Wimble; and

**RESOLVED:**

- 1. That Report DCL/20/29 is received and noted.**
- 2. That the driver's licence is revoked.**

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

**52. New Private Hire Driver**

Report DCL/20/28 reviewed whether a licence should be granted to a new Private Hire driver.

The applicant sent apologies for non-attendance. The applicant added a further statement advising in full time employment, a homeowner and sees this new Private Hire licence as a potential work stream in the light of possible pandemic restrictions.

Members agreed, that although the convictions listed are serious, they are historic and spent. In this respect members felt the applicant to be considered a fit and proper person.

Proposed by Councillor David Wimble  
Seconded by Councillor Ian Meyers; and

**RESOLVED:**

- 1. That report DCL/20/28 is received and noted.**
- 2. The Private Hire driver's licence is granted.**

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

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## Licensing Sub-Committee

Held at:	Zoom - remote meeting
Date	Monday, 23 November 2020
Present	Councillors John Collier, Mrs Jennifer Hollingsbee and Philip Martin
Apologies for Absence	None
Officers Present:	Chris Christofis (Environmental Protection Specialist), Kate Clark (Case Officer - Committee Services), Holly Godwin (Case Officer - Corporate Services), Tim Hixon (Legal Specialist), Wai Tse (Environmental Protection Officer) and Briony Williamson (Licensing Specialist)
Others Present:	Councillor David Monk, Mr Onder Erdogan (Applicant) and Mr Philip Carter (the Leas Residents' Association)

### 53. Election of Chairman for the meeting

Proposed by Councillor John Collier  
Seconded by Councillor Philip Martin; and

**RESOLVED:**

**That Councillor Mrs Jenny Hollingsbee is appointed as Chairman for this meeting.**

### 54. Declarations of interest

There were no declarations of interest.

### 55. Declarations of lobbying

Mr Philip Carter from the Leas Residents' Association advised he had emailed all members of the Planning and Licensing Committee with regard to this application.

56. **An application for a Variation of a Premises Licence in respect of:  
Rosemont Restaurant & Cocktail Bar, 1 Majestic Parade, Sandgate Road,  
Folkestone, Kent, CT20 2BZ**

Report DCL/20/33 outlined the application made by Mr O Erdogan to vary the current Premises Licence for this premises. The Licensing Sub-Committee determined the outcome of the application.

The Licensing Specialist introduced this report and added that the Planning Team had made a representation, however unfortunately the related officer was unable to attend.

The Chairman asked the applicant to speak on the application. The applicant, Mr Erdogan addressed members saying that the premises had been poorly maintained in the past and gave assurance that it would now be managed and maintained efficiently. He pointed out that this will be a family run business and would be run as a restaurant only, as opposed to a bar or nightclub.

The Environmental Protection Specialist was invited to speak next. Concerns noted around dispersal noise, anti-social behaviour, premises management and door security.

Mr Philip Carter, from the Leas Residents' Association spoke. First, thanking the Licensing Team on the improved procedures on circulating information to related parties. Mr Carter had concerns on general noise, disturbance late at night and anti-social behaviour. He was also concerned that the request for late night opening was more conducive to a bar or nightclub, not a restaurant.

Councillor David Monk, ward member, was strongly against an increase in opening hours and felt the restaurant would be a good business without the need to go beyond the hours already in place.

The Chairman asked Mr Erdogan for further comments. He reiterated that the premises is a restaurant, not a bar or nightclub; main doors would be shut at 10pm to reduce any noise; staff would be trained to ensure patrons leave quietly, however he felt that specific door security would not give a good impression to customers.

Members thanked the applicant for his attendance today. They were pleased to hear that the applicant was investing in the town with a new venture.

The Committee, having heard from the applicant and upon consideration of the representations from the Planning and Environmental Health Departments at Folkestone and Hythe District Council and from local residents, decided that varying the premises licence to permit the sale or supply of alcohol up until 01:00 on Fridays and Saturdays would not promote the licensing objectives of the prevention of crime and disorder or the prevention of public nuisance.

The Committee were satisfied that extended late night alcohol consumption at the premises (being situated in a residential area) would give rise to the real

possibility of increased noise nuisance, anti-social behaviour and crime and disorder.

Proposed by Councillor John Collier  
Seconded by Councillor Philip Martin; and

**RESOLVED:**

- 1. That Report DCL/20/33 is noted and received.**
- 2. That the Variation Application is rejected.**

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

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**Application No:** 20/1295/FH

**Location of Site:** 5 Castle Avenue, Hythe. CT21 5HD

**Development:** Section 73 application for removal/variation of Condition 2 (submitted plans) of Y19/0766/FH (Erection of a two storey side extension, single storey front and side extension and single storey rear extension along with the rendering of the first floor elevations)

**Applicant:** Mr. John Triffitt

**Officer Contact:** Isabelle Hills

### SUMMARY

This report considers whether a retrospective Section 73 application should be granted for the increase in height of the single storey rear extension approved under planning application Y19/0766/FH. The increase in height is approximately 0.375 metres. The submitted plans under this application also show the whole of the first floor east elevation finished in white render. The original plans only showed half of this elevation finished in render.

Section 73 of the Town and Country Planning Act 1990 (as amended) allows an applicant to seek to vary their planning permission by means of amending or removing a planning condition. It is the Local Planning Authority's responsibility to determine if the proposal is minor and if the proposal is acceptable. There is no set definition of minor and this is a matter of fact and degree and each application must be assessed on its own merits. In this case the application seeks to vary condition 2 (submitted plans) of application Y19/0766/FH. Condition 2 specifies the approved plans under which the development may proceed. The applicant has submitted the application as they are of the view that the proposal is materially different from the approved plans but that the amendment is minor and is seeking a determination on that basis.

From assessing the application it is considered that this change in height is a minor material amendment to the original application which can be considered as a Section 73 application and does not result in a significantly adverse impact upon the amenity of neighbouring residents nor detrimentally alter the character of the host property. The application is recommended for approval subject to the conditions set out at the end of the report.

### RECOMMENDATION:

<b>That planning permission be granted subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.</b>
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### 1. INTRODUCTION

1.1. The application is reported to Committee due to being called in by Councillor Whybrow.

## 2. SITE AND SURROUNDINGS

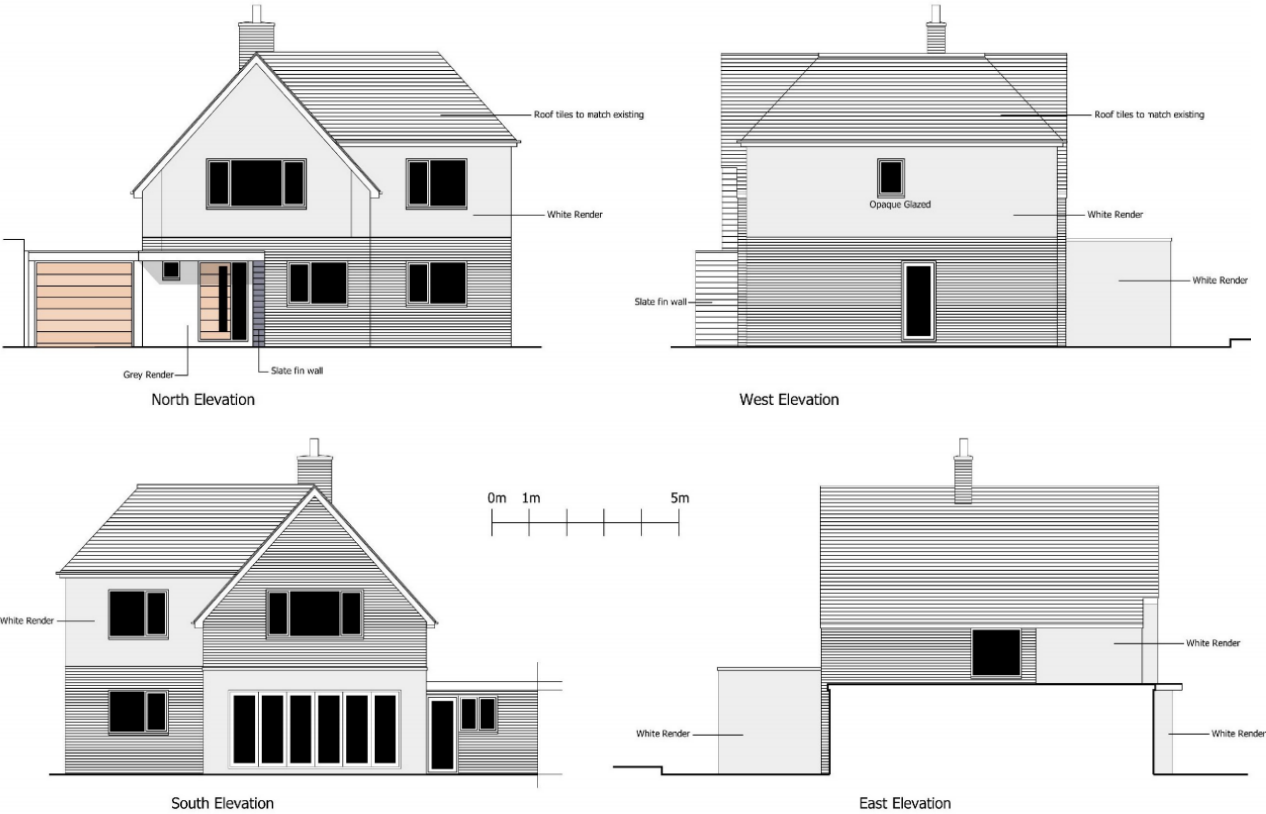
- 2.1. The application site is located within the defined settlement of Saltwood in Hythe within an Area of Archaeological Potential. The property is located on Castle Avenue which is characterised predominantly by two-storey pitched roof dwellings with spacious front gardens and side garages.
- 2.2. The building itself as existing is a two-storey detached property. The building has a brick façade with a white weatherboard feature at first floor level, clay-tiled pitched roof and a single-storey flat roof garage to the side (east) elevation.
- 2.3. The application site and the neighbouring property to the east, 3 Castle Avenue, have adjoining side garages and similar frontages, albeit no. 3 has been extended over time.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

## 3. PROPOSAL

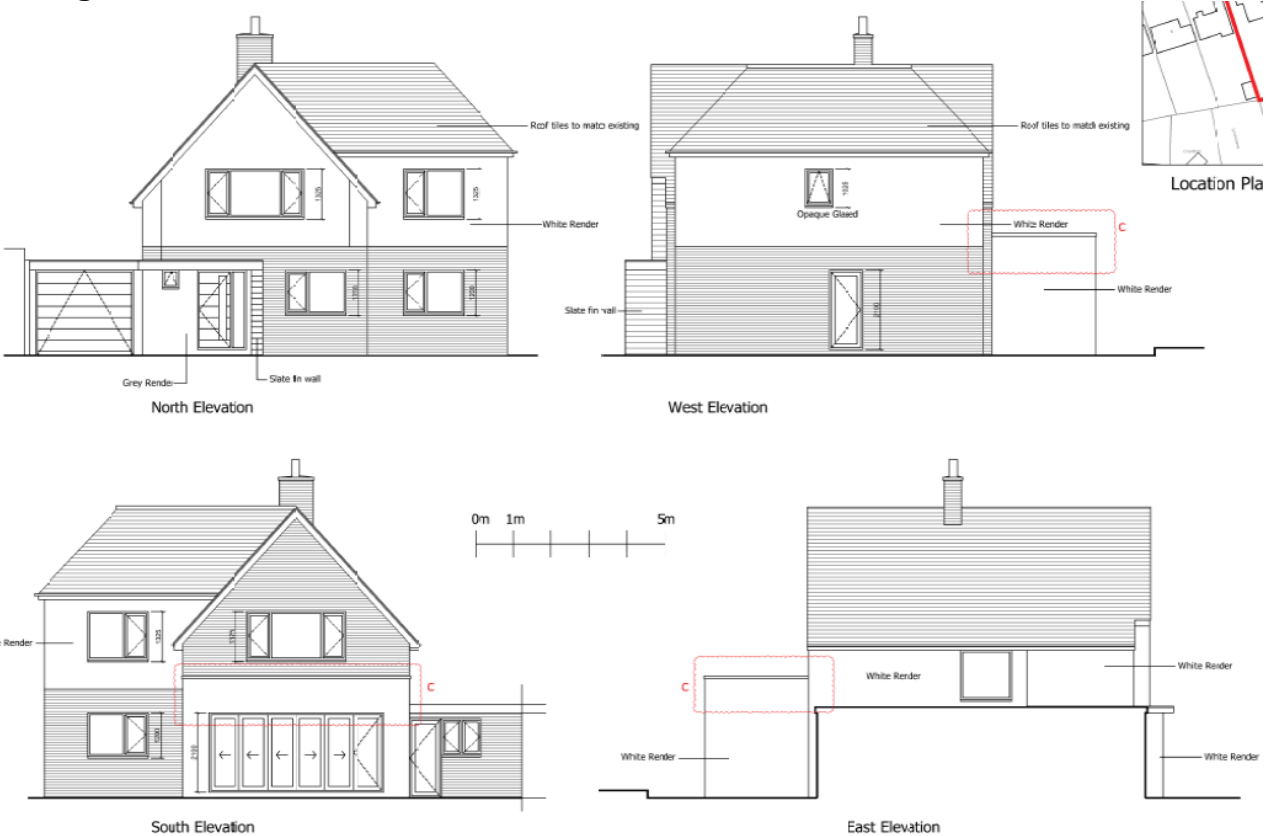
- 3.1 This is a Section 73 application for the variation of condition 2 (submitted plans) of application Y19/0766/FH which was granted householder planning permission for the erection of a two storey side extension, single storey front and side extension and single storey rear extension along with the rendering of the first floor elevations. The roof of the single storey rear extension has been constructed approximately 0.375 metres higher than what was shown on the approved plans. This application has been submitted to regularise this discrepancy. No other alterations to the approved plans are proposed.



3.2 The originally approved elevations are shown in **Figure 1** and the elevations submitted under this application are shown in **Figure 2**.



**Figure 1**



**Figure 2**

#### 4. RELEVANT PLANNING HISTORY

- 4.1 Y19/0766/FH Erection of a two storey side extension, single storey front and side extension and single storey rear extension along with the rendering of the first floor elevations. Approved with conditions.

#### 5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

##### Consultees

**Hythe Town Council:** Object on the following grounds:

On the grounds that this matter should not be subject to a Section 73 application but should be submitted as a new planning application.

##### Local Residents Comments

- 5.2 8 neighbours were directly consulted, two representations were received.
- 5.3 Responses are summarised below and are available in full on the planning file on the Council's website:

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

5.4

- Rear extension has not been built in accordance with the approved plans.
- Original plans showed a building that would have been much better balanced when compared to neighbouring houses even if the render was out of keeping with those properties.
- The extension is unpleasant to look at and detracts from the character of the immediate neighbourhood
- Neighbour letters were not received.
- Dispute that an application under section 73 of the TCPA is the appropriate way of dealing with the breach of planning permission. Case Law examples have been provided.
- Not an insignificant breach
- The application would be a delegated decision. Hythe Town Council have objected and therefore this is against Part 8 of the Shepway District Council Constitution.
- The absence of objections from the occupants of other properties will reflect their inability to see or be affected by the extension.
- Appropriate weight should be given to the number of objections received in relation to the number of consultation letters sent.
- The submitted plans do not show the extent of the present breach of permission.
- The structure as built has effectively created a balcony, although, at the moment there is no doorway access onto it.

- Unsure how a second planning application can be made to override a planning condition that has been approved.
- Increase in height has increased mass and extension is now out of proportion with the rest of the extended house.
- Recommend refusal and the structure should be built in accordance with the originally approved plans
- Section 73 makes no mention of the bathroom windows facing the side of our house subject to condition 4 – appears to be in breach of this.

## **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

### Places and Policies Local Plan (2020)

HB1 Quality Places through Design  
HB8 Alterations and Extensions to Buildings  
T2 Parking Standards

### 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.

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

### **Government Advice**

#### National 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 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 124	the development process should achieve high quality buildings

6.5 National Planning Policy Guidance (NPPG)

Design: process and tools

## **7. APPRAISAL**

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

- a) Principle of development
- b) Visual amenity
- c) Residential amenity
- d) Parking and Highways
- e) Other issues

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

7.2 During the assessment of the original application, the PPLP was at an advanced stage and considerable weight was given to it during the assessment of the application. The wording of PPLP policies HB1 and HB8 remain as it did during the assessment of the original application and therefore I am satisfied that the principle of development continues to be acceptable and in accordance with the development plan, subject to all other material planning considerations being addressed.

7.3 Applicants who carry out works without planning permission do so at their own risk and applying retrospectively for planning permission does not guarantee that permission will be granted. Retrospective applications are assessed on the same grounds as proposed development.

7.4 Comments from Hythe Town Council and neighbouring residents raising concerns with regard to the Section 73 process are noted. To confirm, Section 73 of the Town and Country Planning Act 1990 (as amended) allows an applicant to seek to vary their planning permission by means of amending or removing a planning condition. It is the

Local Planning Authority's responsibility to determine if the proposal is minor and if the proposal is acceptable. There is no set definition of minor and this is a matter of fact and degree and each application must be assessed on its own merits.

- 7.5 In this case the applicant is seeking to vary condition 2 (submitted plans) of application Y19/0766/FH. Condition 2 specifies the approved plans under which the development may proceed. The applicant has submitted the application as they are of the view that the proposal is materially different from the approved plans but that the amendment is minor and is seeking a determination on that basis.
- 7.6 From assessing the application I am satisfied that the change in height as a matter of principle can be considered to be a minor material amendment to the original application and as such can be considered under the process of a Section 73 application.

**b) Visual amenity**

- 7.7 The approved two storey side extension, single storey front and side extension and the rendering of the first floor elevations shown on the submitted plans do not differ from the plans approved under the original application. Despite the change in the development plan since the previous application, the now adopted PPLP policies were considered in determining the previous application. In light of this I am satisfied that these elements of the proposal remain to be acceptable in accordance with the development plan and therefore the assessment relates only to change in height of the approved single storey rear extension which deviates from the original plans.
- 7.8 PPLP policy HB8 states that extensions should seek to reflect the scale, proportions, materials, roof line and detailing of the original building and not have a detrimental impact on the streetscene. The extension as built is approximately 0.375 meters higher than what was shown on the originally approved plans. The extension remains to be set down a considerable way from the main roof and as a result I am satisfied that the extension appears as a subservient addition to the host property in terms of its scale, mass and proportions.
- 7.9 The extension is located to the rear of the dwelling and as a result is obscured from the Castle Avenue streetscene by the existing dwelling. I am satisfied that the increased height of the extension has not resulted in the extension gaining significant visual presence within the streetscene and as such has not significantly detracted from the character of the immediate neighborhood.
- 7.10 Amended plans were received on the 17<sup>th</sup> November to show the whole of the first floor east elevation finished in white render. The original plans showed only half of this elevation being finished in render and the slight increase in coverage of render is not considered adversely impacts upon the overall character of the dwelling nor negatively impacts upon the streetscene.
- 7.11 Overall, I am content that the increased height of the single storey rear extension and additional rendering has not resulted in significantly greater visual impact than the extension already approved and therefore the extension is considered acceptable in terms of its design and visual impact.

**c) Residential amenity**

- 7.12 The depth of the extension shown on the submitted plans is 2.8 metres which is the same depth as shown on the originally approved plans. The extension submitted under this application also does not encroach any closer to the shared boundary than was shown on the originally approved plans. In light of this I am satisfied that this remains to have an acceptable impact on the amenity of neighbouring occupants as was concluded within the determination of the original application. Therefore this application must consider the impact of the increase in height of the extension on the amenity of neighbouring occupants.
- 7.13 The extension has been built some 0.375 metres higher than shown on the originally approved plans. The extension extends rearwards to approximately the same point as the rear projection at number 7. This rear projection does not benefit from any side windows and as a result I am satisfied that the proposal would not result in significant overshadowing. In addition to this, the extension has been constructed within the same footprint as the extension previously approved and I am satisfied that an increase in height by some 0.375 metres has not resulted in an undue sense of enclosure or overbearing impact to the occupants of number 7 when viewed from within the property and the rear garden.
- 7.14 I have visited the rear garden of number 3 Castle Avenue to view the extension. The extension is visible from the garden and it is accepted that the additional height has somewhat increased the visibility of the extension. However there is an existing high boundary fence separating both properties and the extension remains to be set some 5.66 metres away from the side elevation of the extension at number 3 which is the closest elevation. As a result I am satisfied that the increase in height of the extension has not resulted in a significantly undue sense of enclosure to the detriment of neighbouring amenity. The side window of number 3's extension faces the extension at number 5. However this appears to be a secondary window serving the room and as a result I am satisfied that the increase in height of the extension has not resulted in significantly detrimental overshadowing to the extension at number 3.
- 7.15 A neighbour comment raised concerns that the extension has effectively created a balcony. Although this is not shown on the plans and there is no access shown onto the roof, it can be secured by condition that the flat roof shall not be used as a balcony.

**d) Parking and Highways**

- 7.16 The proposed development would take the existing property from a 3 bed to a 4 bed dwelling. Policy T2 of the PPLP identifies that a 4 bedroom dwelling should have 2 off-street parking spaces. To consolidate the conclusion reached within the original application, the proposal would continue to retain two off-street parking spaces to the front of the property. As a result I am satisfied that the proposal would provide sufficient parking in accordance with policy T2 of the PPLP.

**e) Other Issues**

- 7.17 Neighbour consultation letters were sent when the application was validated which expired on the 14<sup>th</sup> October 2020. However neighbour comments were received stating that the letters had not been received. Although the letters showed as being sent on

the file, a second round of consultation letters were sent out to ensure neighbours had 21 days to comment on the application. The revised expiry date was the 4<sup>th</sup> November 2020.

- 7.18 Neighbour comments raised with regard to the number of consultation responses received are noted. However each application must be assessed in accordance with the development plan irrespective of the number of responses received as a result of the neighbourhood consultation process. The consultation responses received have been noted and considered in the formulation of this report.
- 7.19 Condition 4 of the original permission requires, prior to the first occupation of the dwelling, for the upper floor windows on the western side elevation of the building to be fitted with obscure-glazed glass and fixed shut below 1.7m from immediate floor level. This has been discussed with the applicants and a new window is planned to be installed on this elevation to comply with the condition. The building is not currently occupied and thus far this condition has not been breached. It is proposed for this condition to be included within this application to ensure compliance prior to the first occupation of the dwelling.

### **Environmental Impact Assessment**

- 7.20 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**

- 7.21 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.
- 7.22 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**

- 7.23 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**

7.24 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**

7.25 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 From assessing the submitted plans against the originally approved plans I am satisfied that the increase in height of the extension is a minor material amendment to the original application which is able to be assessed under a Section 73 application to vary condition 2 of application Y19/0766/FH. The increased height of the extension is not considered to result in a significant increase of mass to the extension and this remains to appear as a subservient addition to the host property in terms of its scale and proportions. Subsequently the proposal is not considered to result in a significantly adverse visual impact on the host dwelling or surrounding streetscene. Such increase in height is not considered would result in any significantly additional impact upon the amenity of neighbouring residents than was considered under the original application. Therefore it is recommended that the application be approved subject to the conditions set out at the end of the report.

**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. RECOMMENDATION**

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

Conditions:



1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans 190627-P-001 Rev C and 190627-P-002 Rev C received 07.09.2020.

Reason:

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

2. The development hereby approved shall be carried out in complete accordance with the details of materials as specified in the application, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

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

3. Prior to the first occupation of the extension hereby approved, the upper floor windows on the western side elevation of the building shall be fitted with obscure-glazed glass and shall be fixed shut below 1.7m from immediate floor level and shall be permanently retained as such thereafter.

Reason:

To protect the amenity of neighbouring properties in accordance with Policy HB8 of the Places and Policies Local Plan.

4. The roof of the single storey flat roof extension hereby permitted shall not be utilised as a balcony or any form of platform at any time.

Reason:

To protect the amenity of neighbouring occupants from potential overlooking in accordance with Policy HB8 of the Places and Policies Local Plan.

## **Appendix 1 – Site Location Plan**

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<b>Application No:</b>	Y19/0546/FH
<b>Location of Site:</b>	9 Victoria Grove, Folkestone, Kent CT20 1BX
<b>Development:</b>	Retrospective application for change of use to a 7 bed HMO (House in Multiple Occupation).
<b>Applicant:</b>	Mr Chris Ockendon
<b>Agent:</b>	N/A
<b>Officer Contact:</b>	Emma Hawthorne

### SUMMARY

This report considers whether planning permission for the change of use to a 7-bed HMO should be granted. The report assesses the principle of development and the addition of HMO accommodation in this locality. All remaining issues pertaining to residential amenity, standard of accommodation and highway safety are considered acceptable.

### RECOMMENDATION:

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

### 1. INTRODUCTION

1.1. The application is reported to Committee because Folkestone Town Council objects to the proposal.

### 2. SITE AND SURROUNDINGS

2.1. The application site comprises a mid-terrace dwelling, which has been converted from a lawful 6-bed HMO to a 7-bed HMO (the subject of this retrospective application). This property is a three-storey dwelling with basement, and comprises of a moderate sized rear garden, and small sunken terrace area to the roadside frontage.

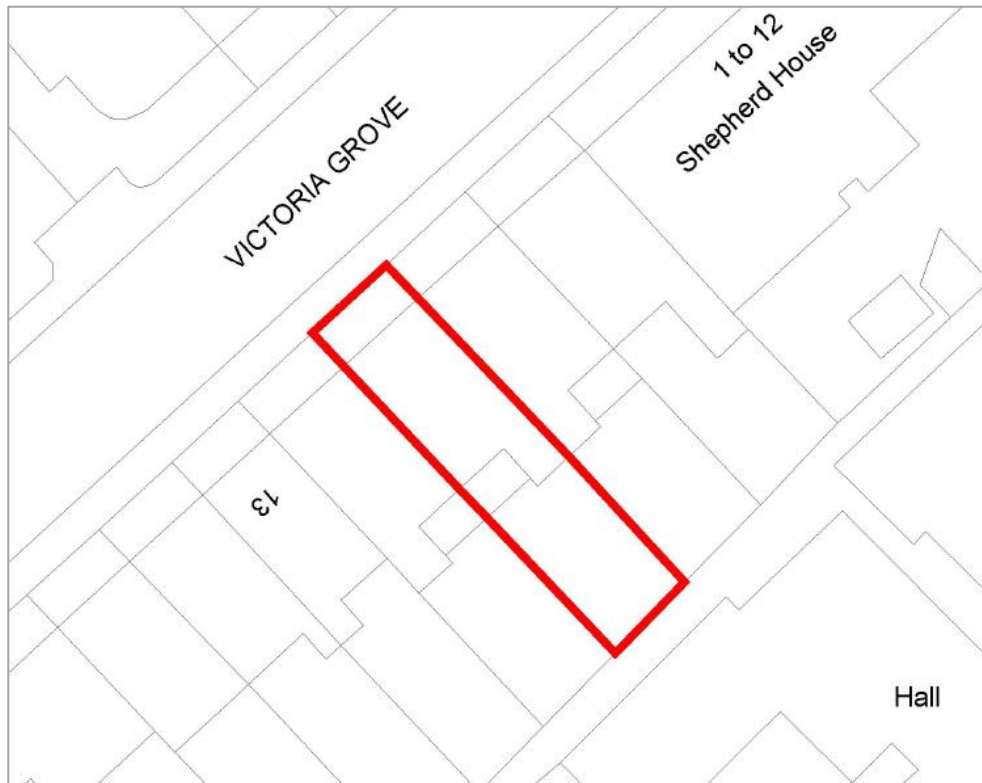
2.2. A site location plan is attached to this report as **Appendix 1**.

### 3. PROPOSAL

3.1 Retrospective planning permission is sought for the change of use of the property from a 6 bed HMO to a 7 bed HMO (House in Multiple Occupation). The change of use has already occurred and therefore this application is retrospective in nature, seeking to regularise the development.

3.2 Houses in Multiple Occupation (or HMOs) are defined as more than one household occupying a single dwelling where all facilities are not self-contained. The Use Classes

Order 2015 allows for a change of use from C3 (dwelling) to C4 (House in Multiple Occupation) for three to six people without the need for planning permission. The property was in lawful use as a 6-bed HMO, before the change of use to a 7-bed HMO. For proposals involving more than six people planning permission is required.



*Figure 1: Site Location Plan*

- 3.3 The dwelling is comprised of 7 bedrooms, 5 of which contain ensuite bathrooms. Two bathrooms, one utility room and a large kitchen are also contained within the property. No external alterations have occurred to the property.



Figure 2: Pre-existing Floor Plans



Figure 3: Existing Floor Plans

#### 4. RELEVANT PLANNING HISTORY

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

Y17/1017/SH	Change of use of residential dwelling into 4 self-contained flats together with other alterations	Refused
Y04/1432/SH	Conversion of 7 Victoria Grove to 4 No.1 bedroom self-contained flats together with erection of a rear extension to 9 Victoria Grove	Approved

## 5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

### Consultees

**Folkestone Town Council:** Object – a Fire Officer report and more information on standards should be received. The Committee would like more Officer information on what HMO standards the District Council requires.

**KCC Highways and Transportation:** Proposal does not meet the criteria to warrant involvement from the Highway Authority.

**Environmental Protection Officer:** No objection

**Housing Department:** Support for the following reasons;

- There is a need for this type of accommodation in the district due to the number of single people who cannot afford to rent a one bedroom flat or a house, and therefore opt for sharing, which is more cost effective.
- There has only been a slight increase in the number of licensed HMOs since 2018 due to the change in legislation which widened the criteria for an HMO to be licensable.
- In 2018 the Council had 7 new applications for HMO uses and in 2019 had 6 new applications. However, when considered against the 5 properties in 2018 that no longer operate as HMOs (and thus their licences were not renewed), and 4 properties in 2019 the overall increase in HMO accommodation has been insignificant.
- The property has been completely refurbished.
- The property complies with building and fire safety regulations.
- Prior to the refurbishment the property was in a poor state of repair.
- No reports of anti-social behaviour has been received by Private Sector Housing.

### Local Residents Comments

5.2 18 neighbours were directly consulted. No letters of objection, no letters of support received and no letters neither supporting nor objecting to the application have been received.



**Ward Member**

- 5.4 No response.
- 5.5 Consultee 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 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  
SS3 – Place-Shaping and Sustainable Settlements Strategy

Places and Policies Local Plan (2020) (PPLP)

The PPLP was adopted by the Council on 16.09.20 after a formal Inspection and review process. It is therefore a material consideration and carries full weight.

HB1 – Quality Places through Design  
HB3 – Internal and External Space Standards  
HB13 – Houses in Multiple Occupation (HMOs)  
T2 - Parking Standards  
T5 - Cycle Parking

Core Strategy Review Submission draft (February 2019)

The requirements of the following policies in the emerging Core Strategy are similar to what is set out within the adopted Core Strategy.

SS1 – District Spatial Strategy  
SS2 - Housing and the Economy Growth Strategy  
SS3 – Place-Shaping and Sustainable Settlements Strategy  
CSD2 - District Residential Needs

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

**Government Advice**

National Planning Policy Framework (NPPF) 2019

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

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

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 – Giving weight to emerging plans

Paragraph 108 – Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or if residual cumulative impacts on the road networked would be severe.

Paragraph 117 – Making effective use of land

Paragraph 127 -130 – Achieving well designed places

National Planning Policy Guidance (NPPG)

Design: process and tools

National Design Guide October 2019

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

**7. APPRAISAL**

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

- a) Background
- b) Principle of development / change of use
- c) Design/layout/visual amenity
- d) Residential amenity

e) Highway safety

### a) Background

- 7.2 Works to convert the property from a single family dwelling to an HMO have been completed, and as such the property comprises of 7-bedrooms with shared kitchen and living facilities. The property has been converted to a high standard, and has lawfully been operating as a 6-bed HMO under permitted development rights since the conversion. Following the completion of the change of use to a HMO, the property was issued building control approval and an HMO licence for 6 bedrooms.
- 7.3 The applicants now wish to utilise the seventh bedroom in the property, and as such have submitted this application for consideration. Therefore the proposal seeks permission for the use of 1 additional bedroom within the HMO.

### b) Principle of development / change of use

- 7.4 The application seeks planning permission for the change of use from a 6-bed House in Multiple Occupation (HMO) (use class C4) to a 7-bed HMO (use class Sui Generis). Therefore the proposal seeks planning permission to use an existing room within the building as an additional bedroom. The use of a further one bedroom results in a change of use requiring planning permission.
- 7.5 Policy HB13 of the Places and Policies Local Plan states that, *“proposals for Houses in Multiple Occupation (HMOs) will only be permitted where the proposed development, taken by itself or in combination with existing HMOs in the vicinity of the site, would not result in an unacceptably harmful impact on:*
- 1. Residential amenity, caused by increased noise and disturbance;*
  - 2. The character or appearance of the street scene or neighbourhood;*
  - 3. The character or appearance of the building, including from inappropriate or insufficient arrangements for storage, including for refuse and bicycles; and*
  - 4. Highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on-street parking.”*
- 7.6 The preamble to the policy states that, *“This licencing regime is operated using the Council's powers under the Housing Act and is separate from the planning controls outlined above. Developers of HMO accommodation will therefore be required to present a detailed management plan for the proposed scheme.”*
- 7.7 The lawful use of the existing property is as a 6-bed HMO which, by virtue of its size and layout, is suitable for HMO occupation given a licence has been granted for such a use by the Council. Therefore the change of use would not increase the number of HMOs in the locality. Local Plan Policy HB13 is supportive of HMO accommodation subject to the above listed criteria, recognising the need for accommodation of this type.

- 7.8 The Councils Housing Team has confirmed that there is a need for this type of accommodation in the district due to the number of single people who cannot afford to rent a one bedroom flat or a house, and therefore opt for sharing, which is more cost effective. There has only been a slight increase in the number of licensed HMOs since 2018 due to the change in legislation which widened the criteria for an HMO to be licensable.
- 7.9 In 2018 the Council had 7 new applications for HMO uses and in 2019 had 6 new applications. However, when considered against the 5 properties in 2018 that no longer operate as HMOs (and thus their licences were not renewed), and 4 properties in 2019 the overall increase in HMO accommodation has been insignificant.
- 7.10 It is noted that the property is currently in use and occupied as an HMO, and has been since May 2019. This demonstrates, to some degree, a need for this type of accommodation in this location. The property at 9 Victoria Grove has been completely refurbished and as such complies with current building and fire safety regulations. All the HMO rooms and the kitchens have FD30S fire doors and sets. There is a new fire alarm system at the property which is required to be tested weekly.
- 7.11 It is acknowledged that a detailed management plan for the proposed scheme has not been submitted, however this could be dealt with by way of a planning condition in the event of an approval. A management plan for the use of the property as a 7-bed HMO would be required to be submitted and approved by the LPA prior to occupation of the seventh bedroom.
- 7.12 Subject to the assessment of the below planning considerations, the change of use is considered to be acceptable in principle. It is also considered to be reasonable and necessary to impose a condition restricting the number of occupants of the property in accordance with Local Plan Policy HB13.

**c) Design and visual impact**

- 7.13 The change of use of the property to a 7-bed HMO did not include any external alterations. The proposal is therefore not considered to have an impact on the character and appearance of the host property or streetscene.
- 7.14 For this reason, the development, is not considered to cause harm to the local area and therefore is considered to be appropriate development in terms of design, layout and visual amenity. The proposal is considered to accord with policies HB1 and HB2 of the Places and Policies Local Plan, and section 12 of the NPPF.

**d) Residential amenity**

- 7.15 Local Plan Policy HB1 states development should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook.

*Amenities of neighbouring occupants*

- 7.16 No external alterations were undertaken to the pre-existing building to accommodate the change of use to HMO, and as such there is no result of any additional overshadowing or overlooking impacts to neighbouring properties.
- 7.17 In relation to increased noise and disturbance, the pre-existing property was lawfully be used as a 6-bed HMO, and therefore the additional impact from noise and disturbance from an additional 1-bedroom / one occupant is not considered likely to be significant. As such, the proposal is not considered to result in any significant harm to neighbouring amenity. It is further noted that no objections or comments have been received from neighbouring properties in relation to this application.

*Amenities of occupants*

- 7.18 The following table sets the required room sizes, against the existing room sizes within the HMO;

<b>Room</b>	<b>Required size (sq m)</b>	<b>Existing size (sq m)</b>	<b>Permitted Occupancy</b>
Kitchen		11.5	n/a
Utility		3.6	n/a
Bedroom 1	11.5	13	double
Bedroom 2	11.5	13	double
Bedroom 3	11.5	13	double
Bedroom 4	7.5	10.6	single
Bedroom 5	11.5	15	double
Bedroom 6	7.5	10.6	single
Bedroom 7	11.5	15	double

- 7.19 As noted above, the proposal provides communal kitchen/ dining and utility facilities at basement level. The dwelling is comprised of 7 bedrooms, 5 of which contain ensuite bathrooms. Two further bathrooms are contained within the property, on the first and second floor.
- 7.20 The proposed bedrooms are considered to be of a sufficient size, and meet or exceed space standards, as illustrated in the table above. All habitable rooms would include windows providing an outlook. It is considered that the property has been converted to a high standard and therefore provides a very good standard of accommodation for occupants. As such, the proposal promotes an acceptable level of amenity for current and future occupants of the property. This is illustrated in the photographs below;



*Photograph 1: Kitchen*



*Photograph 2: Kitchen*





*Photograph 3: Bedroom*



*Photograph 4: Bedroom*

- 7.21 The HMO also benefits from a reasonable level of private outdoor amenity space to the rear of the property. This would allow occupants the use of the communal garden, while providing space for washing lines etc. The application site is also found within a Town Centre location and therefore occupants would be in close proximity, and walking distance of parks and outdoor public amenity spaces.
- 7.22 Therefore the change of use accords with Local Plan Policy HB1 and paragraph 127 of the NPPF which require that consideration be given to residential amenity.

**d) Parking and highways**

- 7.23 Local Plan Policy HB13 requires applications for HMOs to provide sufficient off street parking and bicycle parking in order to be acceptable. The change of use allows the permitted number of occupants of the HMO to increase by one. Although it is appreciated that there is no off street parking provided at present or proposed, only the impact from an additional occupant can reasonably be considered. As mentioned, the application site lies within a Town Centre location and therefore is considered to be within a highly sustainable location. Therefore, when considering parking standards the LPA normally deal in maximum standards as it is a highly sustainable location.
- 7.24 Para 109 of the NPPF states, *"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."* In this case, the impact from two additional occupants is not considered to be severe, therefore although the proposal would be contrary to policy HB13, the harm caused is not considered to be significant enough to warrant refusal.
- 7.25 As noted above, it is considered to be reasonable and necessary to limit the occupancy of the HMO via a planning condition in the event of an approval. This is also considered justified on highway terms to ensure highway safety is maintained.
- 7.26 Local Plan Policy T5 requires one cycle space per bedroom. The submitted drawings do not illustrate space for seven cycle parking spaces, however it is considered that there is sufficient space within the site to accommodate this. Seven cycle parking spaces are considered to be sufficient and in line with policy, and provided a planning condition is imposed requiring the cycle parking to be provided to the LPA within 1 month of the date of approval, the proposal is considered to be acceptable in this regard.
- 7.27 In addition to this, the submitted drawings do not illustrate space for storage of refuse and recycling bins on non-collection days, however it is considered that there is sufficient space within the site to accommodate this as the property is currently in lawful use as a 6-bed HMO. Bin storage was discussed with the owner of the property when granting the current HMO licence (for a 6-bed HMO) and it was agreed that the basement area would be used for bin storage with the bin bags being brought up to pavement level on bin collection day. The Council has not received any complaints



regarding rubbish or bin storage at this property. To ensure appropriate storage of refuse and recycling bins, a condition would be attached to any permission granted seeking additional details for approval by the LPA.

#### **e) Response to consultation**

- 7.28 The comments from the Town Council are noted in relation to fire safety and HMO standards. The application property has been completely refurbished (May 2019) and as such complies with current building and fire safety regulations. All the HMO rooms and the kitchens have FD30S fire doors and sets. There is new fire alarm system at the property which is required to be tested weekly. The property also holds an HMO licence.
- 7.29 In addition, any properties found to be hazardous are dealt with through the Housing Act 2004 and working with the licence holder to improve them.

#### **Environmental Impact Assessment**

- 7.30 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**

- 7.31 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.
- 7.32 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 as it is a change of use and would not create any additional floor space.

#### **Human Rights**

- 7.33 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**

7.34 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**

7.35 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 retrospective proposal has resulted in the change of use of the property from a 6-bed HMO to a 7-bed HMO. The principle of the change of use is accepted and as no external alterations are proposed as a result of the proposal there are no visual impact concerns raised. The proposal does not result in any significant harm to neighbouring amenity and provides a high level of accommodation for current/ future occupants. Details regarding cycle parking could be secured by condition. As such it is recommended that retrospective planning permission be granted.

## **9. BACKGROUND DOCUMENTS**

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

## **10. RECOMMENDATIONS**

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

Conditions:

1. The development hereby permitted shall be maintained in accordance with the follow approved plans;

Drawing no. 19/476 01 Rev P1 – Site and Location Plans

Drawing no. 19/476 03 Rev P1 – Existing and Proposed Elevations

Drawing no. 19/476 04 Rev P1 – Proposed Plans.

Reason: For the avoidance of doubt, and in the interests of proper planning.

2. Details of secure cycle storage to be provided within the site shall be submitted to the Local Planning Authority, for written approval, within 1 month of the date of planning permission hereby granted. The cycle storage shall then be carried out in full accordance with the approved details within 1 month of the date of written approval of this condition.

Reason: To encourage sustainable methods of transport.

3. Details of refuse and recycling storage to be provided within the site shall be submitted to the Local Planning Authority, for written approval, within 1 month of the date of planning permission hereby granted. The refuse and recycling storage shall then be carried out in full accordance with the approved details within 1 month of the date of written approval of this condition.

Reason: To ensure suitable refuse and recycling facilities are provided on the site, and the additional clutter isn't added to the streetscene.

4. The number of occupants residing at any given time within the sui-generis HMO hereby permitted shall be limited to eight. .

Reason: To ensure the Local Planning Authority has appropriate control over the development to protect the amenity of neighbouring occupants and ensure the development is not harmful to highway safety.

Informatives:

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council

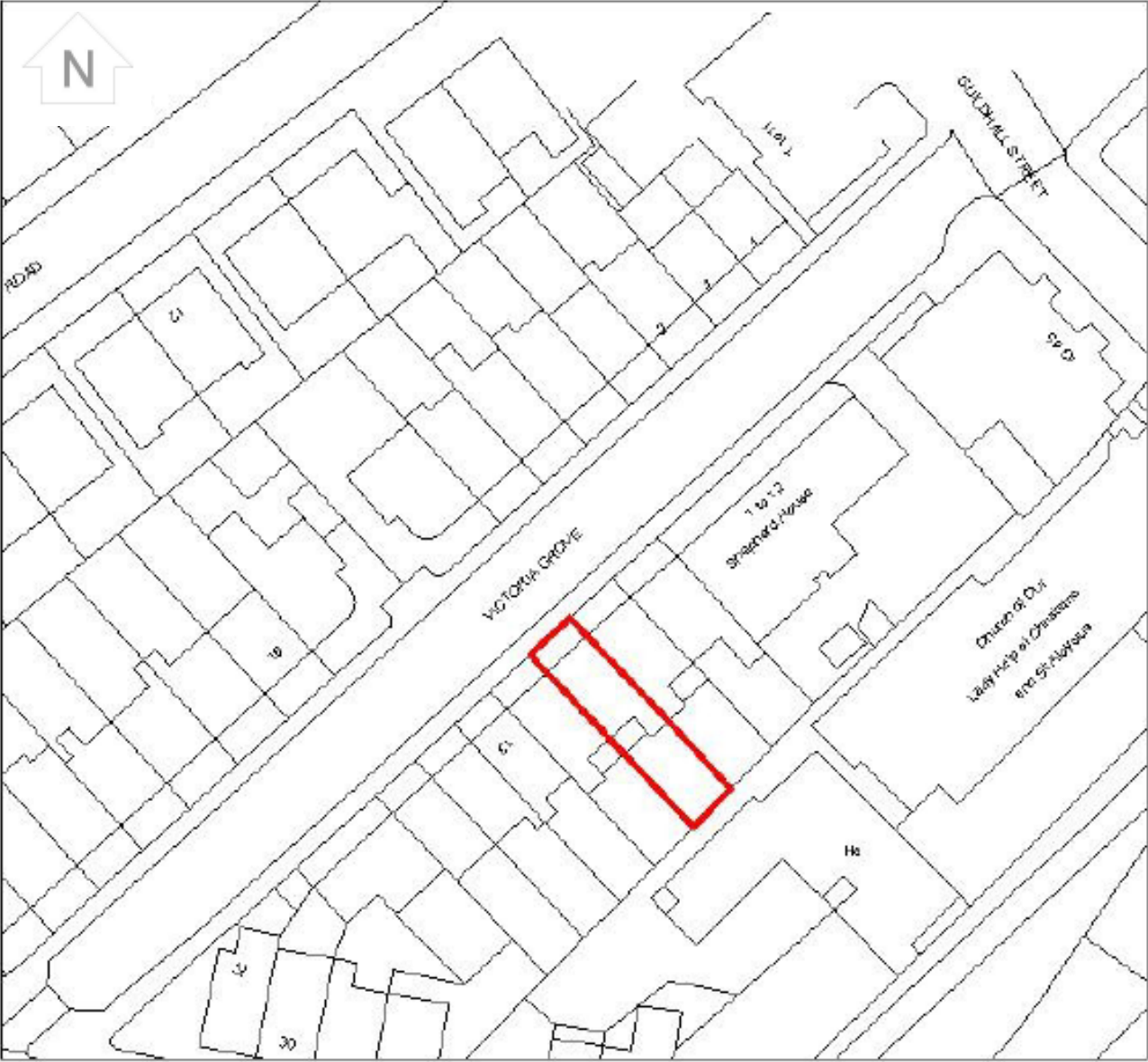
(KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

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

2. Your attention is drawn to the requirements of the Building Regulations 2000 and the possibility of the need to obtain consent under such regulations.

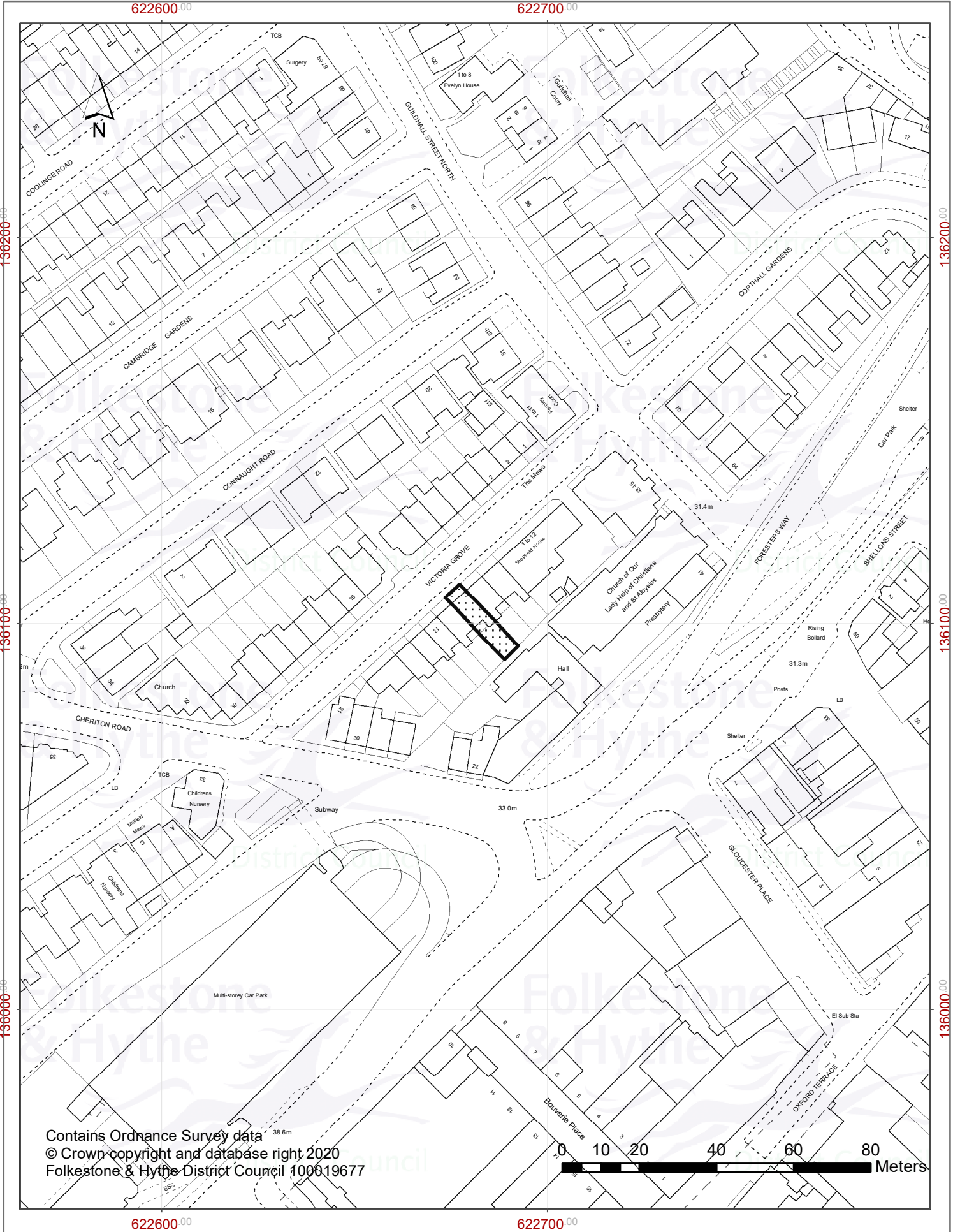
Prior to implementing this permission, you should seek advice from Building Control as to whether or not to make an application. Advice and application forms are available from the Civic Centre, Folkestone (telephone numbers 01303 853538). Alternatively another building control body may be able to assist.

## **Appendix 1 – Site Location Plan**



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Y19/0546/FH  
9 Victoria Grove  
Folkestone



Contains Ordnance Survey data  
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<b>Application No:</b>	20/0531/FH
<b>Location of Site:</b>	3 Tanners Hill, Hythe, Kent CT21 5UE
<b>Development:</b>	Demolition of existing dwelling and garage. Removal of conifer trees along north eastern site boundary. Proposed construction of three storey block of six apartments with parking, amenity spaces, bin & cycle stores.
<b>Applicant:</b>	Tolman Homes
<b>Agent:</b>	Clague Architects
<b>Officer Contact:</b>	Robert Allan

### SUMMARY

This report considers whether planning permission should be granted for the demolition of the existing dwelling and garage and replacement with a three storey block of six apartments. Whilst the objections of Hythe Town Council have been noted, it is considered that the proposal would be in a highly sustainable location, representing good design that will contribute positively toward the character of the street scene and conservation area, with a modest contribution toward the Council's identified five-year supply of housing land being made. Whilst objections from local residents are noted these are not considered to amount to a justifiable reason for refusal and the application is recommended for approval subject to final, positive comments being received from KCC Highways and Transportation and subject to the conditions set out at the end of the report.

### RECOMMENDATION:

<b>That planning permission be granted subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.</b>
---

### 1. INTRODUCTION

- 1.1. The application is reported to Committee due to the objection raised by Hythe Town Council, which is contrary to Officer Recommendation.

### 2. SITE AND SURROUNDINGS

- 2.1. The application site is a tapering piece of land on a steeply sloping site within the defined settlement boundary of Hythe, approximately 50 metres from the eastern end of the High Street, with vehicular access from North Road to the north and pedestrian access from Tanners Hill to the east. It contains a two storey detached house from the Victorian/Edwardian era, finished in render and tile with attractive barge board detailing. To the eastern boundary is a ragstone wall, with shrubs and hedging up to the line of the rear of the property, which then is replaced by a substantial bank of

conifer trees. The North Road access is relatively open and is shared with two properties to the west, 5 and 7 North Road.

- 2.2. To the south of the application site, accessed from Dental Street, is 1-8 Springfield, a four storey block of flats; 1-8 Lindens, a three storey block of flats; and 1 Tanners Hill, a three storey Edwardian/Victorian building utilised as a care home. The site is within the Hythe Conservation Area, an area of archaeological potential and an area where slope instability problems are probably present or have occurred in the past and must be considered as part of any proposal.
- 2.3. The existing site layout is shown in Figure 1, the street scene is shown in Figure 2 with the remaining elevations of the property shown in figure 3, as shown below:



Figure 1



Figure 2



Figure 3

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

### 3. PROPOSAL

3.1 Full planning permission is sought for the demolition of the existing dwelling and garage on the site and construction of a three storey block of six two-bedroom apartments together with seven parking spaces (one space per flat and one visitor space), bin & cycle stores. The flats would have gross internal areas as below:

Ground floor:

Unit 1 – 116.2sqm

Unit 2 – 104.3sqm

First floor:

Unit 3 – 110sqm

Unit 4 – 98sqm

Second floor:

Unit 5 – 101.5sqm

Unit 6 – 83.8sqm

3.2 The main entrance into the proposed building is located on the first floor, which is accessed via the car park on the northern elevation. The secondary entrance into the building is located on the ground floor, which can be accessed via the pedestrian entrance along Tanner's Hill. This entrance will primarily be used by those who are using the cycle store.

3.3 The design of each apartment has been mirrored on all three floors, with the only change to each apartment being small changes to the gross internal area reflecting the amenity spaces available. The two ground floor apartments have access to their own garden space, whereas the first and second floors have access to their own private balconies. The size and depth of the balconies vary on the first and second floor, with the second floor apartments having the larger sized balconies. The proposed floor plans are shown below.

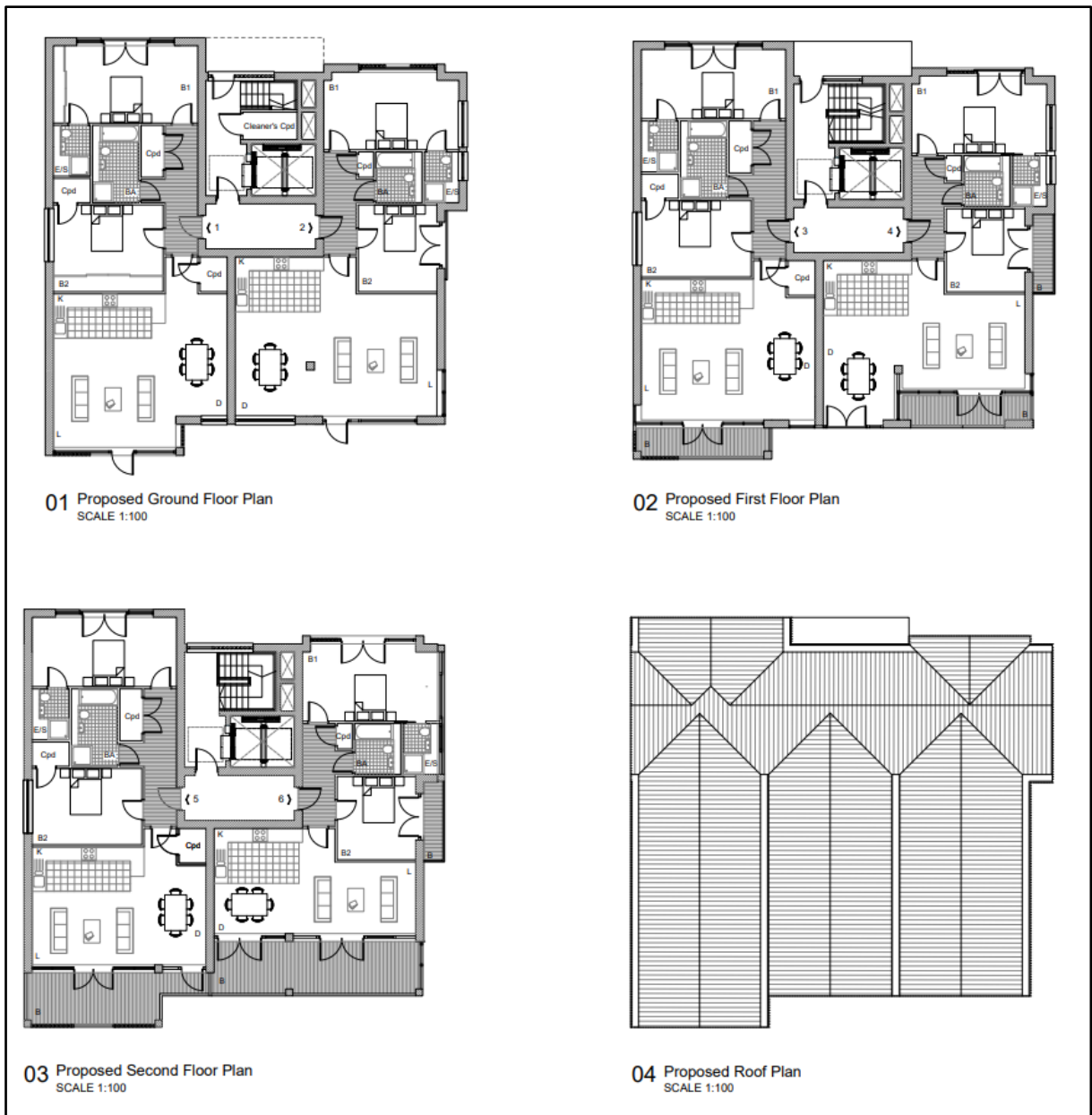


Figure 4: proposed floor plans and roof plan

### 3.4 The materials proposed are:

- Red brick walls
- Standing Seam Natural Zinc Roof
- Timber Fins/ Cladding in Dark Western Red Cedar
- Dark Grey Aluminium Door and Window Frames
- Dark Rainwater Pipes

3.5 The image below, figure 4, shows the proposed street scene through the slope of Tanners Hill, with figure 5 showing a section through the site as proposed, illustrating how the proposed structure would be set within the hill slope.



Figure 5: proposed street scene from Tanners Hill

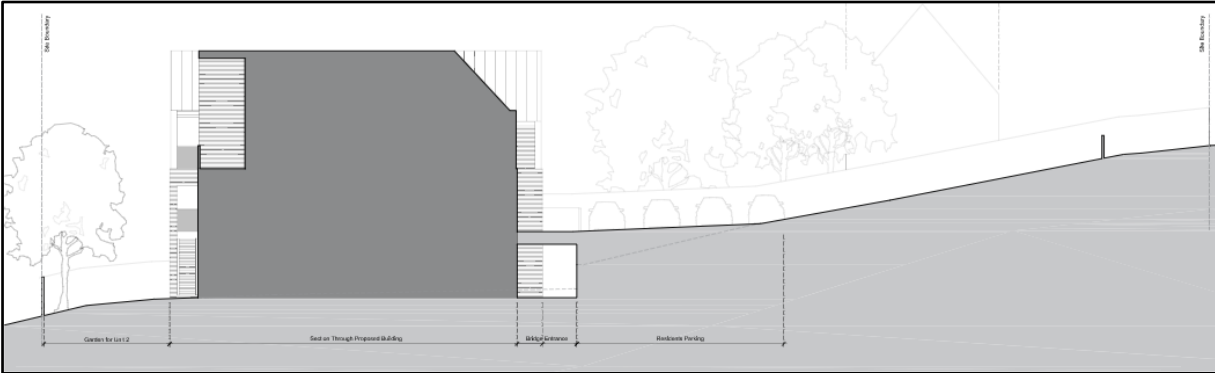


Figure 6: street scene section from Tanners Hill

3.6 The remaining images below show the proposed structure when viewed from the North Road entrance at sections A-A and B-B, as illustrated in figure 7.



Figure 7: Proposed site location plan and section locations



Figure 7: section A-A



Figure 8: section B-B

- 3.7 The vehicular access on the northern site boundary will be retained and widened to allow for emergency vehicles to enter the site safely and will give direct access to the residents' parking area. The proposed bin store is also located in the residents' car park. It is located half way along the access road to ensure that it meets the maximum distances required for residents (30m) and refuse trucks (25m), as suggested in Part H of the Building Regulations.
- 3.8 With regard to landscaping, it is proposed to remove the line of conifer trees on the north eastern boundary, with replacement tree planting, as well as introduce a



significant tree screen along the southern boundary, as shown on the image below, figure 9.



Figure 9: landscape proposals

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

### **Design & Access Statement**

The Design and Access Statement explores the design rationale of the development, as well as the evolution of the scheme from pre-application to the point of determination. The Design and Access Statement looks at the context of the building, identifies local amenities, looks at the transport issue at the site, the ecological findings, the local aesthetic / character, the landscaping proposed and provides a summary of the proposed scheme with information on the floor plans and site layout. It concludes that the proposal would retain much of the existing landscaping where possible, utilise existing levels, use appropriate and sympathetic materials for the site and the conservation area, provide good levels of natural light to all units, be well located in terms of accessibility by foot, cycle or public transport, with sufficient parking per resident and would comply with DDA and Building Regulations.

### **Preliminary Ecological Appraisal**

The initial appraisal from 2016 assessed the site's potential to support protected and notable species, assessing the suitability of the habitats present on the site to support these species as well as connectivity to the site from other areas of potentially suitable habitat nearby. Additional surveys were recommended in relation to bats. This report

has subsequently been updated in order to determine whether any significant change has taken place within the site and surroundings. The update concludes that the findings of the initial report are still valid and that proposed development is highly unlikely to impact upon designated sites, ancient woodland, UK BAP Habitats or botanically rare habitats. The house has moderate potential to support roosting bats, with additional surveys required, but ample mitigation can be provided within the proposed replacement structure. Opportunities to include a range of biodiversity enhancements are identified within the site.

### **Arboriculture Impact Assessment & Method Statement**

This report encompasses a Tree Survey Schedule (TSS), an Arboricultural Impact Assessment (AIA), an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP) and presents the results of this information. The report finds that the trees within the survey area vary considerably in terms of quality and contribution to the amenity value within the local area, with a total of seven trees, one group of trees one hedge and part of another hedge proposed to be removed as part of the proposed scheme. The proposal represents an opportunity to plant new trees as part of a landscape scheme, which will increase the age range and species diversity, with the new trees also able to be planted in more prominent positions on the eastern boundary of the site, increasing benefit to the local area. Through the specified tree protection measures, it will be possible to minimise the impact of the proposed development upon the retained trees.

### **Transport Statement**

The report identifies that the existing access to North Road would be used, with the required visibility splays achieved and that the slight intensification of use not considered a safety concern, with one additional trip in the morning peak hour, up to one in the evening peak hour and a total of ten over a twelve-hour day. A review of road safety showed two incidents in the last three years within the proximity of the site and it is not considered that the development would worsen this record. The on-site parking layout would be workable and there would be sufficient cycle parking space provided to meet standards. In terms of refuse, the site would continue to be served from the roadside, with a refuse store located to the east of the access, which would allow for the relevant carry distances for residents and refuse collectors. All dwellings will be within the 45 metre hose run out required by a fire tender.

## **4. RELEVANT PLANNING HISTORY**

4.1 The most relevant recorded planning history is as follows:

Y16/1218/SH	Erection of a three storey block of eight apartments and associated parking	Withdrawn
Y18/0537/FH	Reduce the height of a row of conifers situated within a conservation area by half their current height	No objection



**CONSULTATION RESPONSES**

- 5.1 The consultation responses are summarised below, with full responses available on the planning file.

**Consultees**

**Hythe Council:** Object on the following grounds;

- Over intensive;
- Road junction dangerous;
- Architecture of the east elevation is poor;
- Loss of mature trees;
- Adverse effect upon sewerage system.

**KCC Highways & Transportation:** No objection

- Additional information has been submitted to support the visibility splays proposed;
- Tracking has been demonstrated for a fire tender, but advice should be sought from Kent Fire & Rescue Services;
- Parking allocation of seven spaces is acceptable;
- Parking space dimensions are required;
- One Ultra Low Emission Vehicle (ULEV) charging point per dwelling is required;
- Further detail on the cycle parking is required.

**Kent Fire & Rescue Service:** No objection

- Off-site access requirements are met.

**F&HDC Waste Management:** No objection

**KCC Ecological Advice Service:** Objection

- The 2016 survey, as updated by the 2020 review, concluded that bat emergence surveys are normally required prior to determination, but in this instance, can be secured via condition.

**KCC Archaeology:** No objection

- Proposed development may affect remains of archaeological interest, which could be addressed via condition for a programme of archaeological work.

**Arboriculture Manager:** No objection

- Removal of conifer hedge will open up the site and a replacement screen is important that is more formal in appearance;
- Full landscaping plan required to provide mitigation for all trees to be removed;

- All tree protection measures will need to be installed and checked prior to demolition;
- All ground protection elements will need to be undertaken under a watching brief.

**Contaminated Land Consultant:** no objection

- Secure a Preliminary Risk assessment (desk study) via the application of the standard land contamination condition.

**Southern Water:** No objection;

- Diversion of the sewer would require an application under S185 of the Water Industry Act 1991;
- The arrangements and responsibilities for the use of SuDS are set out;
- The requirements for the protection of existing public sewers are set out;
- The provision of foul drainage for the development would be subject to a formal connection application outside of the planning process.

**Local Residents Comments**

5.2 24 neighbours were directly consulted, five representations were received, with their comments summarised below:

Two comments were in support

- Support for the application on condition the row of conifers are removed;
- The conifers block light and drop needles, blocking drains and making pavements slippery.

Three of the comments raised objections

- Development is too large and footprint is in excess of the existing;
- Loss of light to western boundary;
- Detrimental to nature and character of hillside;
- Increased noise and air pollution from car park next to western boundary;
- Loss of privacy to western boundary;
- Loss of trees and hedge will be detrimental to screening between gardens and will impact a green corridor;
- Substantial increase in vehicle movements impacting upon highway safety;
- Building will overpower nearby buildings;
- Increased hard landscaping and water runoff;
- Number of parking spaces will lead to overspill onto street.

5.3 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
SS2	Housing and the Economy Growth Strategy
SS3	Place-Shaping and Sustainable Settlements Strategy
SS4	Priority Centres of Activity Strategy
CSD1	Balanced Neighbourhoods
CSD2	District Residential Needs

### Places and Policies Local Plan (2020)

HB1	Quality Places through Design
HB3	Space Standards
HB10	Development of Residential Gardens
T2	Parking Standards
T5	Cycle Parking
NE2	Biodiversity
NE6	Land Stability
HE1	Heritage assets
HE2	Archaeology

### Core Strategy Review Submission Draft (2019)

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

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

SS1	District Spatial Strategy
SS2	Housing and the Economy Growth Strategy
SS3	Place-Shaping and Sustainable Settlements Strategy
SS4	Priority Centres of Activity Strategy
CSD1	Balanced Neighbourhoods
CSD2	District Residential Needs

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

### **Government Advice**

#### National 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 59	Support the Government’s objective of significantly boosting the supply of homes
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	Decisions should promote an effective use of land in meeting the need for homes, while safeguarding and improving the environment and ensuring safe and healthy living conditions
Paragraph 127	Achieving well-designed spaces
Paragraph 175	Protect and enhance biodiversity
Paragraphs 170 & 178	Decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability
Paragraphs 189 to 192	Proposals affecting heritage assets

#### 6.5 National Planning Policy Guidance (NPPG)

Design: Process and Tools  
 Historic Environment  
 Land Stability  
 Natural Environment

## **7. APPRAISAL**

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

- a) Principle of development

- b) Visual amenity
- c) Heritage
- d) Residential amenity
- e) Highways
- f) Land instability
- g) Biodiversity
- h) Archaeology
- i) Trees

**a) Principle of development**

- 7.2 The application site lies within an inherently sustainable urban location within the defined built up area, where residential development is generally acceptable as a matter of principle, subject to detailed considerations as set out below.
- 7.3 The NPPF is clear (para. 59) that local planning authorities should support the Government's objective to significantly boost the supply of homes and that housing applications should be considered in the context of the presumption in favour of sustainable development (para. 11). Likewise, Core Strategy policy SS1 of the Core Strategy seeks to direct development to existing settlements to avoid the need to release fresh sites outside of the defined built up area boundaries.
- 7.4 Furthermore, 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.
- 7.5 Although only for six units, the important contribution that small sites can make to meet the housing requirement for an area is noted in paragraph 68 of the NPPF as they are often built-out relatively quickly. As such, the delivery of six flats would contribute towards the Council's housing target.
- 7.6 Consequently, the principle of development on this site is acceptable, subject to all other material planning considerations being addressed.

**b) Visual amenity / character**

- 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. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that local authorities give “*special attention....to the desirability of preserving or enhancing the character or appearance of that area*”. The Kent Design Guide adds that in order to achieve a well-integrated design, the character of an area must be understood and respected. A design that interprets this in a modern way can work if it is designed to a high standard, without detracting from the historic context, with details taken from local buildings retaining the scale of the original.

- 7.8 The surrounding area (a Conservation Area) has a range of architectural styles, with two flat-roofed apartment developments to the south, one utilising render and local stone, the other a yellow brick, whilst higher up Tanners Hill, pitched and hipped roofs predominate, with a mix of render, brick and tile hanging found as external finishes on traditionally styled houses of various architectural epochs, ranging from Georgian, through to Victorian and Edwardian and onto inter-war properties.
- 7.9 The proposed contemporary design sets the new building apart from many of the older detached properties in the area, but is not without precedent, as evidenced by Springfield to the south in Dental Street. In incorporating the use of gables and a relatively steep pitched roof form, it is considered that the proposed structure is complimentary to the surrounding character, picking up on obvious architectural design cues, with the frontage gables considered likely to serve as a reference point that ties the building into the context of the street scene.
- 7.10 The use of brick throughout is considered acceptable within the street scene, with the accents of timber bringing interest to the elevations, without appearing incongruous. The standing seam zinc roof is considered appropriate with regard to the consistency of design when following contemporary vernacular, whilst remaining compatible with surrounding development, as the dark colour would be reminiscent of slate, which although not overly prevalent, can be found on Sunny Bank, at 3 Station Road immediately adjacent to Tanners Hill and also on 4 Tanners Hill, both notable, good-quality buildings in the wider street scene.
- 7.11 The replacement property would be on approximately the same site as the one it would replace, although it would extend further to the south and western boundaries as can be seen in figure 9 above. The property would be larger overall, in all dimensions as shown in figure 10 below, but would maintain the position away from the boundary with Tanners Hill, with the roof pitching away from this boundary, other than the gable feature, and is considered unlikely to appear detrimentally dominant in the street scene, or wider area.

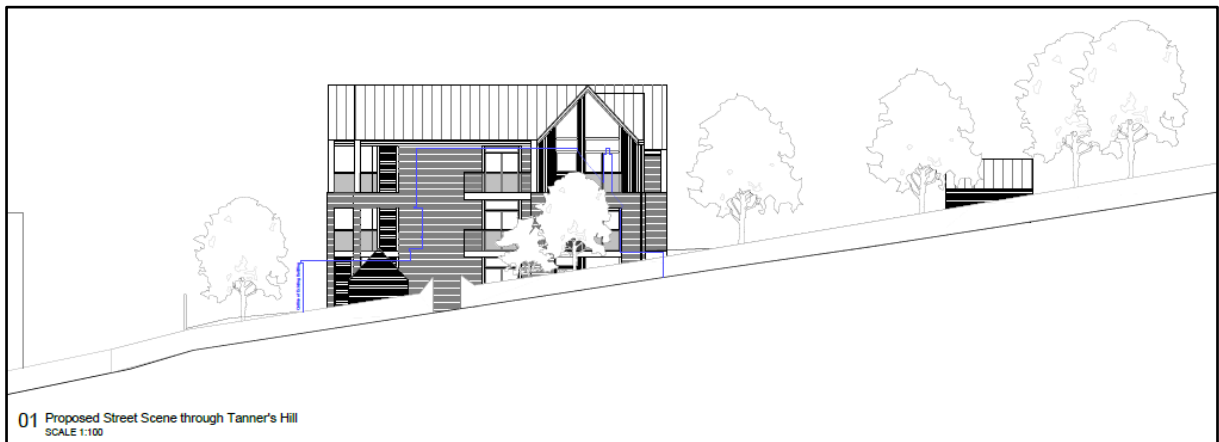


Figure 10: comparative sections

- 7.12 The proposal also includes for the removal of a total of seven trees, one group of trees, one hedge and part of another, predominantly along the eastern boundary, but with replacement trees to be planted as part of a site-wide landscape scheme, to be secured via condition should permission be granted, in order to increase the age range and species diversity across the site, which will contribute toward the biodiversity enhancements and also secure a more aesthetically pleasing tree screen, which will contribute to the character of the conservation area and street scene, where the strong sylvan character of the road edges is maintained.
- 7.13 Overall, it is considered that the proposed building is of good quality and would be sympathetic to the character of the local architectural vernacular and the street scene in respect of scale, massing, proportion and materiality, with a form reminiscent of the building it replaces, albeit on a greater scale, and the works to trees would be capable of being mitigated by subsequent replacement tree planting, with no resultant harm to the conservation area considered likely.

### c) Residential amenity

#### *Existing occupiers*

- 7.14 There is no adopted guidance for rear-to-rear distances but it is noted that the existing dwelling and 5 North Road have a relatively close relationship, with 5 North Road at a much higher level than the application property with windows in the rear and side elevations that look into the garden area and which are visible from the garden area of, 3 Tanners Hill. Planting and soft landscaping exists along the common boundary and provides some screening, with a Silver Birch within the neighbouring garden being very prominent in this respect and identified within the submitted Arboricultural Impact Assessment as being a category B tree, in good physiological condition and retained, with tree protection measures and no-dig construction measures employed around the roots. However, views of the garden areas and side and rear windows are already clearly possible, as shown in figure 11.
- 7.15 The proposed structure would have an additional storey relative to the building it would replace, with windows in the rear elevation serving bedrooms, as can be seen on the submitted floor plans. There would be an additional number of dwellings at the site, increasing from one to six, resulting in a more intensive use of the site.



- 7.16 However, although there would be additional glazing in the northern elevation of the proposed building, the glazing serving the rear bedrooms on the north western corner of the property would be covered in both horizontal and vertical timber slats (see figures 12 and 13) with the exception of one opening, which is in excess of 16.5 metres away from the rear elevation of 5 North Road and at an angle of approximately 53 degrees to the rear window and 45 degrees to the side, with a distance of 16.7 metres between windows, as can be seen below in figure 14. The glazing either side of the opening would also be opaque.
- 7.17 It is also noted that the proposed structure would sit, as with the existing building, at a lower level than the property fronting North Road, so any views would be upward as can be seen in the section below, figure 15, which shows the proposed structure and the properties in North Road, with figure 16 an illustrative render of the proposed building submitted by the applicant, showing the proposed relative levels of the two buildings.



Figure 11: view from application site toward 5 North Road



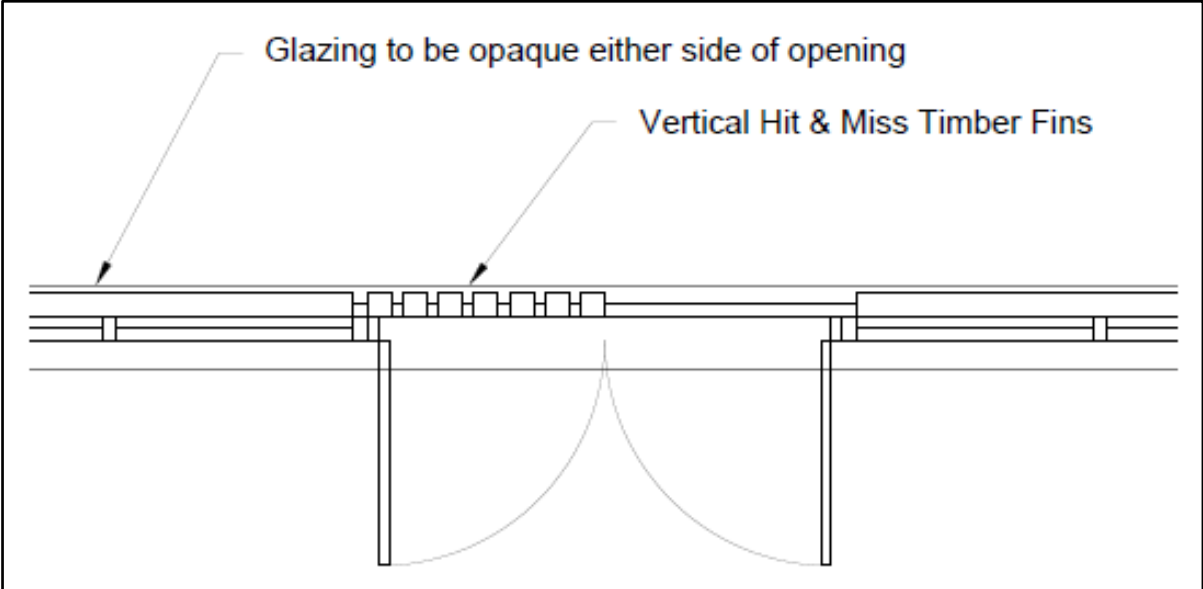


Figure 12: timber fin detail section



Figure 13: timber fins/slat detail



Figure 14: distance and angles

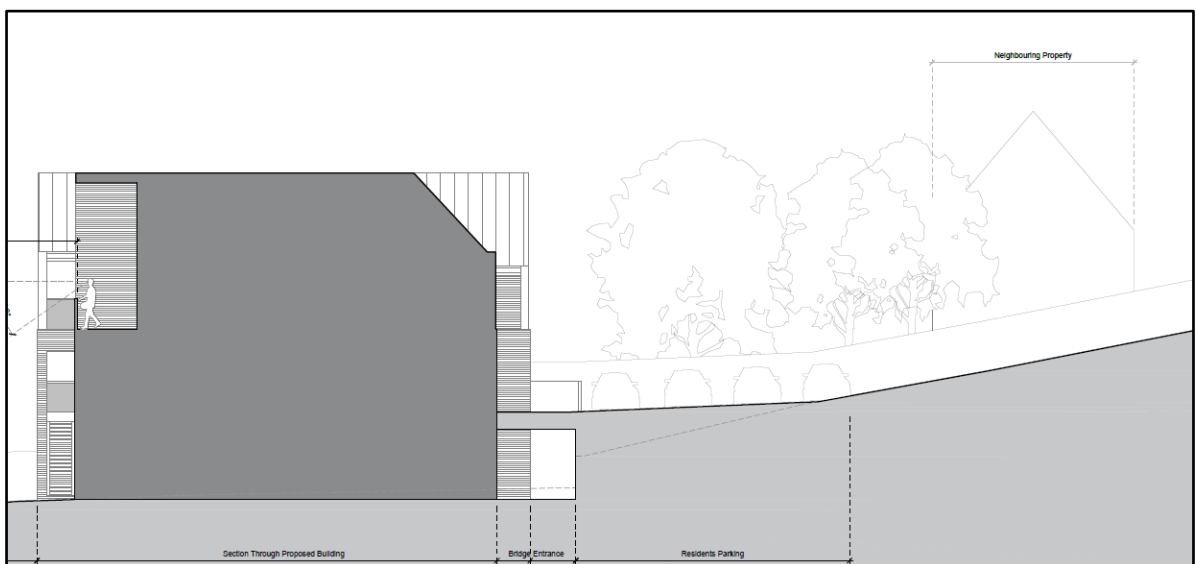


Figure 15: proposed site section

7.18 Whilst there would be greater intensity of use at the site, it is considered that the timber fin detail designed to obscure vision from and into the windows, in combination with the distances involved, the angle of viewing to the side and from a lower level giving restricted views, and the existing relationship between the sites, would mean that although there would be an increased incidence of overlooking as a consequence of the greater number of units at the site, there would be no additional loss of privacy above that already experienced.



Figure 16: submitted illustration demonstrating finished levels

- 7.19 Therefore, whilst the local concern in this regard is noted, it is not considered that sufficient harm would be caused to warrant refusal of the application on these grounds, for the reasons set out above.
- 7.20 For the properties to the south, there are already clear views of the rear areas of the buildings from the existing property and grounds. It is noted that for the care home at 1 Tanners Hill, a blank gable faces the application site and the rear elevations of the apartments at 1-8 Lindens are well in excess of 25 metres from the proposed rear elevation, which is accepted as being highly unlikely to result in any loss of privacy for the existing occupants.
- 7.21 For the properties to the east of the site at 2 and 4 Tanners Hill, the flank elevation of the proposed property is no closer to the edge of the site and any views would be over predominantly hardstanding and parking/access areas fronting Tanners Hill, with significant tree screens noted in existence, within the control of these properties, along the road boundary. It is considered that there would be no loss of privacy for these properties.
- 7.22 In relation to overbearing presence and overshadowing, it is considered that the topography of the site and the position of the proposed structure relative to the amenity areas of surrounding dwellings would mean that there would be no likely impact in this respect.
- 7.23 In relation to noise and disturbance, it is considered that the presence of four of the proposed parking spaces adjacent to the common boundary with 5 North Road could result in increased noise and disturbance from vehicle movements, although this area is where the cars for the site can currently be parked. The light nature of the boundary treatment at this point is noted, as can be seen in figure 11 and the agent has confirmed the intention to provide new boundary treatment along this boundary in order to mitigate for the increased intensity of use. Full details of the boundary treatment can be secured via condition, should permission be granted.

7.24 Overall, it is considered that there would be no significant detrimental impact upon the residential amenities of neighbouring occupiers as to warrant withholding planning permission.

*Proposed Occupiers*

7.25 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 exceed the minimum required by the Nationally Described Standard, with good natural daylight provided to each room.

7.26 In respect of the external amenity areas, a private usable balcony area has been provided for each unit with a depth of at least 1.5 metres and consequently, it is considered that all units would provide an acceptable level of amenity for future occupants.

**d) Highway Safety / Cycle Parking**

7.27 The access to the site is very close to the Tanners Hill / North Road junction and concern was raised that due to limited visibility of the access, drivers entering North Road from Tanners Hill would have insufficient reaction time to prevent a collision should a vehicle be exiting the site.

7.28 However, the applicant has demonstrated a revised layout for the entrance, whereby the existing wall fronting North Road has been removed and set back to provide improved visibility for vehicles approaching from Tanners Hill and turning left into North Road, together with the removal of some trees on the north eastern boundary. This achieves the required 14 metre visibility splay along the driven line, which together with additional speed survey data, demonstrates that the access is considered to be safe.

7.29 Tracking has been demonstrated for a fire tender which is acceptable, although it will not be able to access the full length of the drive. Kent Fire and Rescue Services have reviewed the scheme and noted that this relationship is acceptable and off-site access requirements have been met.

7.30 In relation to the parking provision, the seven car spaces proposed (one per flat, plus one visitor) meets adopted standards, but the initial plans did not demonstrate any dimensions for the parking spaces and reversing space and KCC Highways & Transportation had not been unable to assess these fully. Further, one Ultra Low Emission Vehicle (ULEV) charging point was required per dwelling but had not been demonstrated on the plans, with an area indicated for bicycle storage, but no details on dimensions and the type of storage system to be used included.

7.31 However, this detail has subsequently been submitted although final comments are awaited from KCC Highways & Transportation, which will be reported to Members on the Supplementary Sheets. From initial appraisal by the case Officer, the site seems able to accommodate the dimensions required and at this point, the car and cycle parking provision meets the requirements of adopted policies T2 and T5, with the access to the development considered to be safe.

**e) Land Instability**

- 7.32 The planning system has a role to play in ensuring a site is suitable for its proposed use by taking account of ground conditions and any risks arising from land instability (NPPF paragraphs 170 & 178). The site is within an area where slope instability problems are probably present or have occurred in the past and therefore this must be considered as part of any proposal.
- 7.33 In order to account for this, additional procedures or information, such as a land stability or slope stability risk assessment report, are required to ensure that adequate and environmentally acceptable mitigation measures can be put in place. A statement to this effect, from a suitably qualified engineer, has been sought from the applicant. Members will be updated at the Meeting on any progress.
- 7.34 Should this preliminary assessment be considered acceptable, it is proposed that the standard condition relating to landslip should be applied, if permission is granted.

#### **f) Biodiversity**

- 7.35 An initial ecological appraisal of the site from 2016 assessed the site's potential to support protected and notable species, assessing the suitability of the habitats present on the site to support these species as well as connectivity to the site from other areas of potentially suitable habitat nearby, with additional surveys recommended in relation to bats.
- 7.36 This report has subsequently been updated in order to determine whether any significant change has taken place within the site and surroundings at the time the current application was submitted, concluding that the findings of the initial report are still valid and that proposed development is highly unlikely to impact upon designated sites, ancient woodland, UK BAP Habitats or botanically rare habitats.
- 7.37 The house has moderate potential to support roosting bats, but KCC Ecological Advice Service has reviewed the ecology report and noted that it states that the roof void of the main building was 'heavily cob-webbed with no signs of bat use (droppings)', no suitable roost features were identified in the garage and the trees were judged as having no bat roost potential.
- 7.38 Consequently, based on the conclusion of the Preliminary Ecological Appraisal, it is considered that in this instance, a bat survey/mitigation plan can be conditioned, along with details of opportunities to include a range of biodiversity enhancements within the site.

#### **g) Archaeology**

- 7.39 Regarding archaeology at the site, it is in an area that is of broad archaeological interest close to the supposed route of the Roman road between Folkestone and Lympne, whilst to the west the discovery of a number of burials close to the road suggests the presence of an Anglo-Saxon cemetery, and to the north a number of chance finds of metalwork of medieval and post-medieval date have been made, including seals, buckles and other objects. A suitably worded condition would secure the implementation of a programme of archaeological work in accordance with a written specification and timetable.

#### **h) Trees**

- 7.40 There are no Tree Preservation Orders covering trees within or immediately adjacent to the site, but all trees are protected by virtue of the conservation area that the site is within. The large, middle-aged conifers along the eastern boundary with Tanners Hill are identified as a significant screen, but also as a nuisance for properties on the eastern side of Tanners Hill, as they block a significant amount of light. These are proposed to be removed and replaced with alternative species as part of a landscape scheme to be sought by condition. The medium-sized middle-aged trees along the eastern boundary are identified as in good condition and important for the character of the area. These are to be retained along and the Arboricultural Impact Assessment suggests tree protection measures and 'no-dig' solutions for ground works around the root areas of these trees. Finally, the smaller sized young trees toward the centre of the site are identified as contributing little to the local amenity and it is proposed to remove these. The vegetation along the southern boundary, which is predominantly hedge and small trees, is to be augmented with a more substantial tree screen. The broad landscaping plan can be seen in figure 9, above.
- 7.41 Overall, a total of seven trees, one group of trees, one hedge and part of another are proposed to be removed, with replacement trees to be planted as part of a site-wide landscape scheme, to be secured via condition should permission be granted, in order to increase the age range and species diversity across the site, which will contribute toward the biodiversity enhancements to be secured as part of the development, as discussed in section f) previously. Through the specified tree protection measures, it will also be possible to minimise the impact of the proposed development upon the retained trees. The tree protection plan can be seen in figure 16.
- 7.42 Overall, it is considered that the

### **Environmental Impact Assessment**

- 7.43 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**

- 7.44 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.
- 7.45 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 liable for the CIL charge, which is £115.71 per square metre in this location.

### **Human Rights**

7.46 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**

7.47 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**

7.48 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.



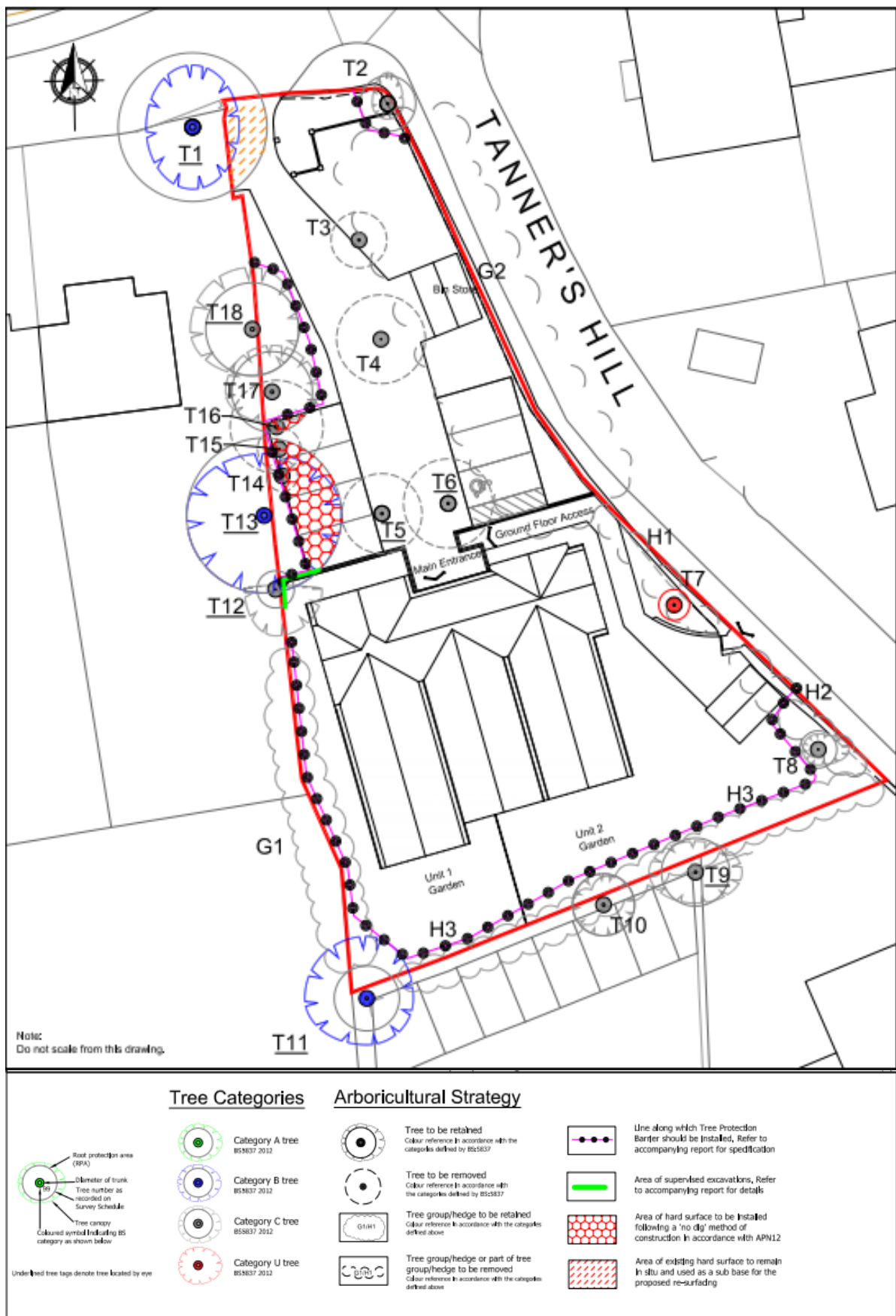


Figure 16: Tree protection plan



**8. CONCLUSION**

- 8.1 This this report considers whether planning permission should be granted for the demolition of the existing dwelling and garage and replacement with a three storey block of six apartments. Whilst the objections of Hythe Town Council have been noted, it is considered that the proposal would be in a highly sustainable location, representing good design that will contribute positively toward the character of the street scene and conservation area, with a modest contribution toward the Council's identified five-year supply of housing land being made. Whilst objections from local residents are noted these are not considered to amount to a justifiable reason for refusal and the application is recommended for approval subject to final, positive comments being received from KCC Highways and Transportation and subject to the conditions set out below.

**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:**

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 (to be confirmed)

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. 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>

6. 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.

7. The 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.

8. 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.

9. The parking and turning areas 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.

10. Prior to first occupation of the dwellings hereby permitted the secure cycle storage for the approved dwellings shown on the approved plans, 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.

11. 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.

12. (a) Prior to commencement of the development the applicant shall obtain, from a suitably qualified engineer, a written slope stability report advising on the effect the development will have on the stability of the site and all adjoining land and properties. The report is to include, but need not be limited to, the types of proposed foundations, the effect that any excavations into sloping ground will have, types of retaining structures necessary, surface and foul drainage, the effect of any increase/decrease of site loadings, the possible effect to the stability of any adjoining properties, and any other factors needed to ensure the stability of the site and all adjoining land, properties and associated services.

The report should also include a method statement which indicates measures to be adopted during the construction phase to ensure that development does not cause instability to adjoining retaining walls, land and buildings. No development shall take

place until this report has been submitted to and approved in writing by the Local Planning Authority.

(b) No works other than those approved shall be carried out unless details of these have first been submitted to and approved by the Local Planning Authority.

(c) All works recommended in the approved slope stability report and method statement (and any alternative works approved) shall be carried out as set out in the approved documents and upon completion confirmation from a suitably qualified engineer that the approved works have been carried out in full shall be submitted to the Local Planning Authority prior to the building being occupied.

Reason:

The site lies within, or within the influence of an area identified as being subject to soil instability as detailed on the Ordnance Survey Geological Survey and it is necessary to ensure that appropriate works are carried out in order to ensure the stability of the site and the development and the adjoining land and buildings

13. Prior to the commencement of works (including site clearance), a bat mitigation plan will be submitted to, and approved by, the local planning authority. The bat mitigation strategy will be informed by the recommended number of bat emergence surveys, between the period of May and September. The agreed mitigation measures will be strictly adhered to thereafter unless varied by a European Protected Species licence subsequently issued by Natural England.

Reason:

In order to safeguard any protected species that may be present at the site.

14. Within six months of works commencing, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the local planning authority. This will include provision of bat boxes and native species planting. The approved details will be implemented and thereafter retained.

Reason:

In the interests of safeguarding and enhancing biodiversity.

15. Details of the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority and the approved boundary treatment shall be completed before the first occupation of any unit or units, or in accordance with a timetable agreed in writing with the Local Planning Authority.

Reason:

In the interests of visual amenity and the amenity of residents.

16. In accordance with the detail within the Greenspace ecological Solutions Arboricultural Impact assessment and Method Statement April 2020, before the development, including any site clearance works, is begun, tree protection measures

in accordance with BS5837 : 2012 Trees in Relation to Construction – Recommendations, shall be erected for each tree or group of trees to be retained on this site, or such measures as may be agreed with the Local Planning Authority shall be provided and 7 (seven) working days’ notice given to the Council’s Arboriculture Manager in order that they may inspect these measures for compliance. The protection measures, as approved on site, 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 boles of the trees shall not be altered.

Reason:

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

17. All ground protection (no-dig) elements identified within the Greenspace ecological Solutions Arboricultural Impact assessment and Method Statement April 2020, shall be carried out, with the works carried out under a watching brief from the applicants’ arboricultural consultant and the local authority’s senior arboricultural specialist. The applicant shall notify the Council of their intention to commence 7 (seven) working days before commencing the works.

Reason:

In order to prevent future pressure to remove the trees in the interests of visual amenity.

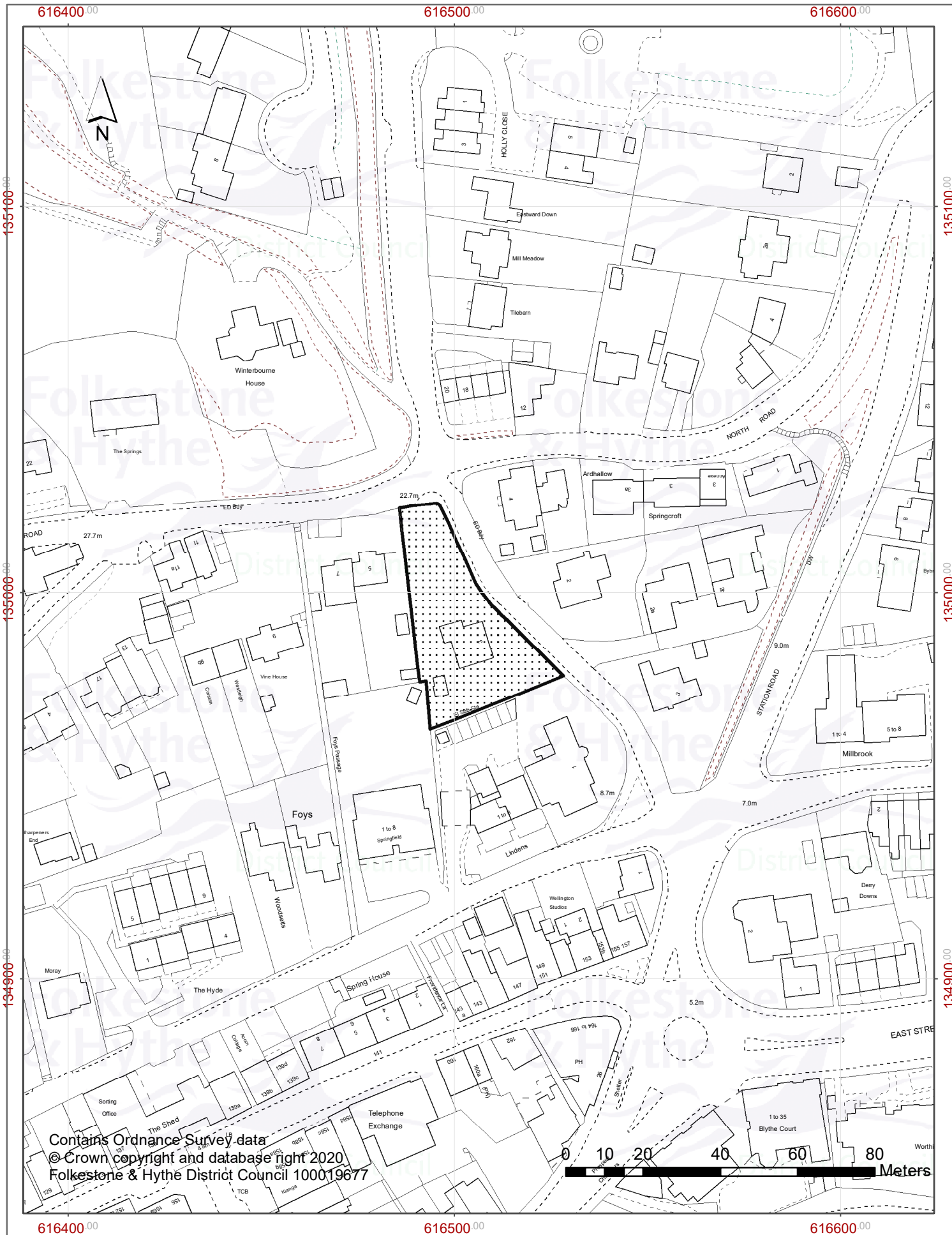
### **Informative**

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.

### **Appendix 1 – Site Location Plan**

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20/0531/FH  
3 Tanners Hill  
Hythe



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Application No: 20/0690/FH

Location of Site: Sandbanks, Coast Road, Littlestone, New Romney, TN28 8RA.

Development: Conversion of the existing care home to 13no. 1 and 2-bed residential flats; erection of a new building to contain 6no. 2-bed flats; and associated landscaping works.

Applicant: Mr Leo Griggs

Agent: Guy Hollaway, The Tramway Stables, Rampart Road, Hythe, CT21 5BG.

Officer Contact: Ross McCardle

### SUMMARY

This application seeks planning permission for change of use and erection of an extension to convert the existing Sandbanks care home to 19 one- and two-bed residential flats with associated parking.

The care home no longer meets the minimum standard required by the Care Quality Commission; its sister care home (Madeira Lodge, nearby) is currently being extended and upgraded to absorb the residents from Sandbanks (and to provide additional bedroom capacity) within a modern, fit-for-purpose structure.

The proposed extension is of a traditional design that would sit comfortably within the context of the area without causing any significant harm to neighbouring amenity and would preserve the character of the neighbouring conservation area.

While there has been a significant level of local objection the proposal is considered to meet local and national policy requirements, and to not give rise to any justifiable reasons for refusal. The application is therefore recommended for approval

### RECOMMENDATION:

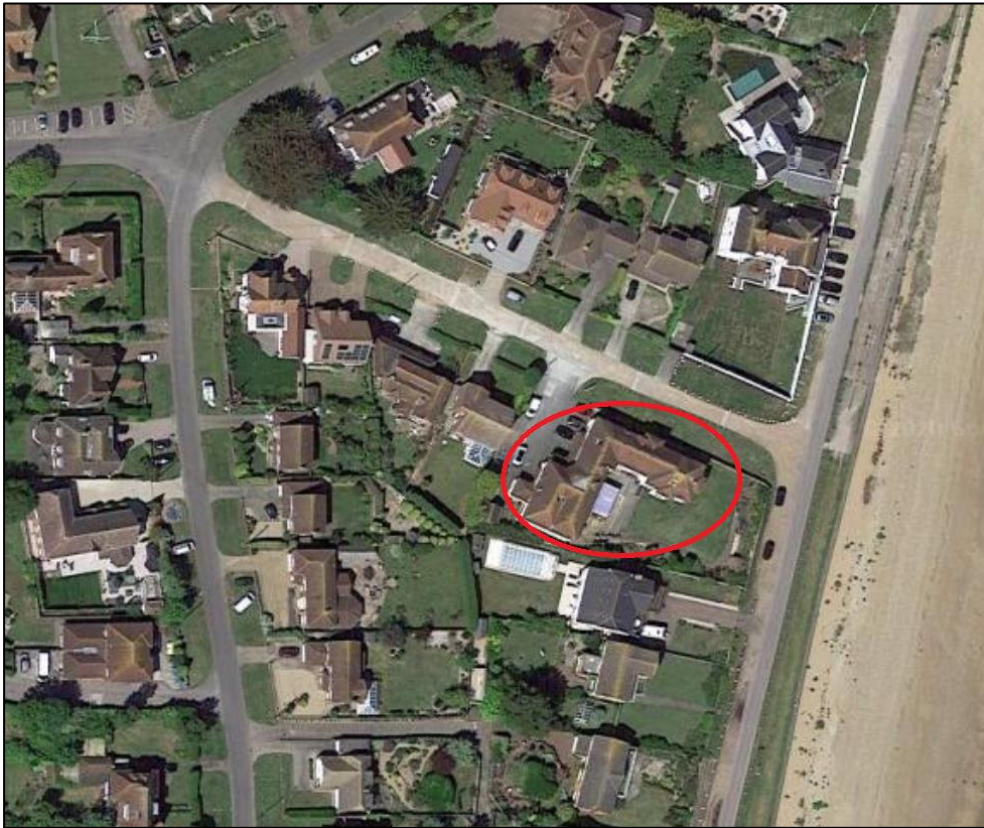
**That planning permission be approved subject to further comments from the Environment Agency, Natural England, and KCC Archaeology; the conditions set out at the end of the report; any additional conditions recommended by statutory consultees or considered necessary by the Chief Planning Officer; and the completion of a s.106 legal agreement to secure contributions towards open space and play equipment, secondary schools, adult learning, libraries, and the provision of affordable housing.**

## 1. INTRODUCTION

1.1 This application was called in to planning committee by ward Councillor Rolfe.

## 2. SITE AND SURROUNDINGS

- 2.1 Sandbanks is a detached, two-storey care home situated on the corner of Coast Road and St Andrew's Road within the defined built up area of Littlestone.



Location of Sandbanks

- 2.2 It is of a largely unremarkable contemporary design with an L-shaped footprint, rendered walls, and concrete roof tiles. The building is set back from Coast Road and, due to sloping and levels, roughly a metre down from road level. The flank of the building lies close to St Andrew's Road and roughly at the same level as the highway. The site is enclosed by a low brick wall set to the rear of a grassed verge, with a garden area to the front (Coast Road) and a parking area to the rear (adjacent to Juanda) accessed from St Andrew's Road.
- 2.3 The wider area is mixed in character, with a mix of older and contemporary buildings of varying scales and designs. The neighbouring dwellings to the south are detached houses of relatively standard contemporary design, featuring brick and render and each with a first-floor balcony to the front. Foreshore, on the opposite corner of the junction, is a large detached Victorian-style house currently in use as a boarding house / B&B. The houses on St Andrew's Road are generally detached and of a simple '80s/'90s design with red brick and tile hanging.
- 2.4 There are a number of larger, multi-storey flat developments further to south on Marine Parade, but these are somewhat detached from the street scene on Coast Road.



Four-storey developments to the south, facing towards Sandbanks

- 2.5 The site is within flood zone 3, and identified as being at moderate risk up to 2115 under the Council's adopted Strategic Flood Risk Assessment. The site borders but is not within the Littlestone conservation area, which runs northwards from St Andrew's Road. The seafront opposite is designated SSSI / SPA / Ramsar, and both Coast Road and St Andrew's Road are private roads not adopted by KCC Highways.



Sandbanks (behind black car) within Coast Road street scene



Junction of Coast Road and St Andrew's Road





View from St Andrew's Road



Flank view from balcony of The Coast House (to south)

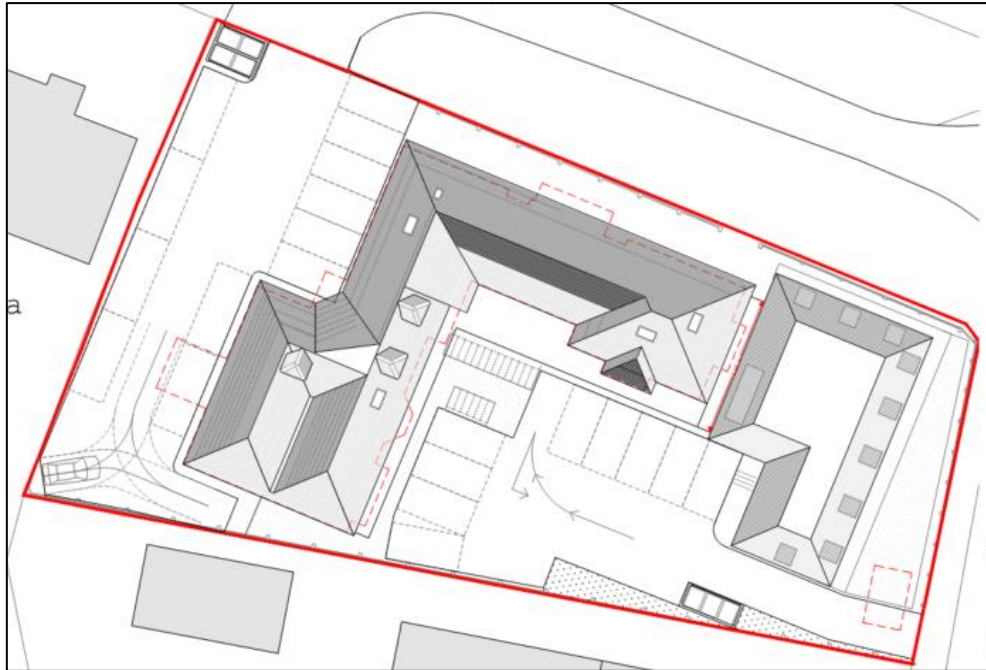
### 3. PROPOSAL

3.1 This application seeks planning permission for:

- Change of use of the existing care home to 13no. one- and two-bed residential flats;

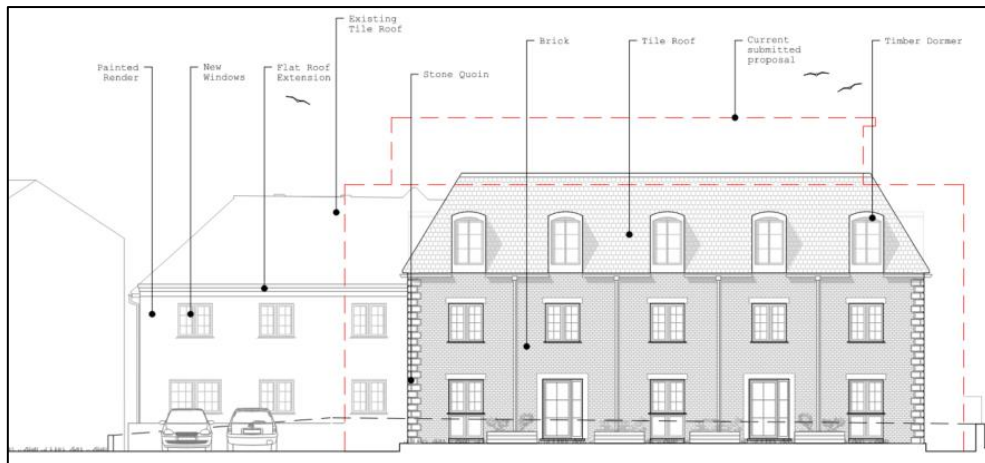
- Erection of an extension to the front of the existing building to provide six no. two-bed flats; and
- Associated parking and landscaping works.

3.2 The existing care home does not meet current Care Quality Commission standards and is proposed to be converted to 13 residential flats. An extension is proposed to the front of the building (projecting towards Coast Road) to provide a further six flats, for a total of 19 across the development. (One unit has been removed since the original submission).



Proposed site layout

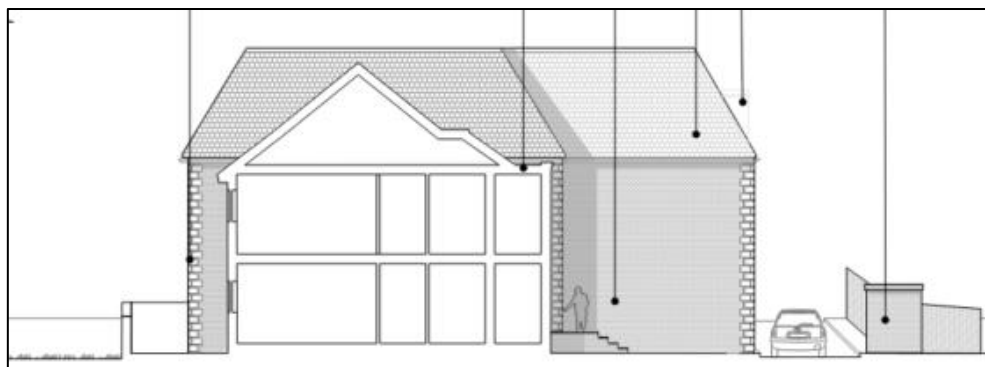
3.3 Further to receipt of amended drawings the proposed extension measures a maximum of approximately 11.2m deep x 18m wide x 9.7m tall to the ridge (6.2m to eaves). The proposed structure is of a traditional Georgian-type design, featuring brick walls with contrasting stone quoins, a tiled roof, timber dormer windows to the front and side elevations, and generous windows set at regular intervals and below prominent arches. Each of the ground floor units in this part of the building would have doors opening on to the frontage area. The extension features a steeply-pitched roof with a central area of flat roof (required to keep the height low and the pitch steep).



Proposed extension frontage elevation (original scheme shown dotted)



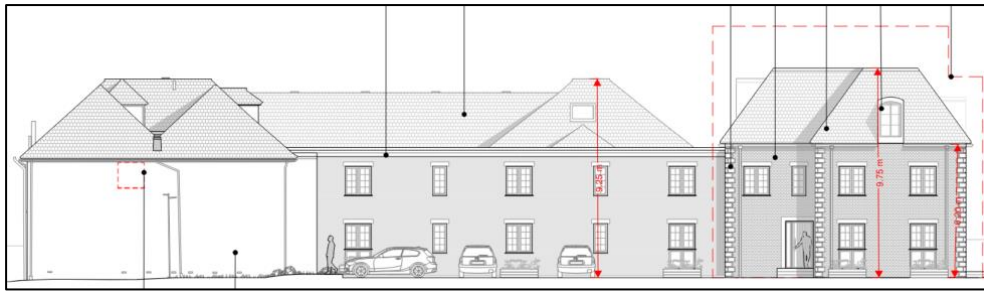
Side elevation onto St Andrew's Road



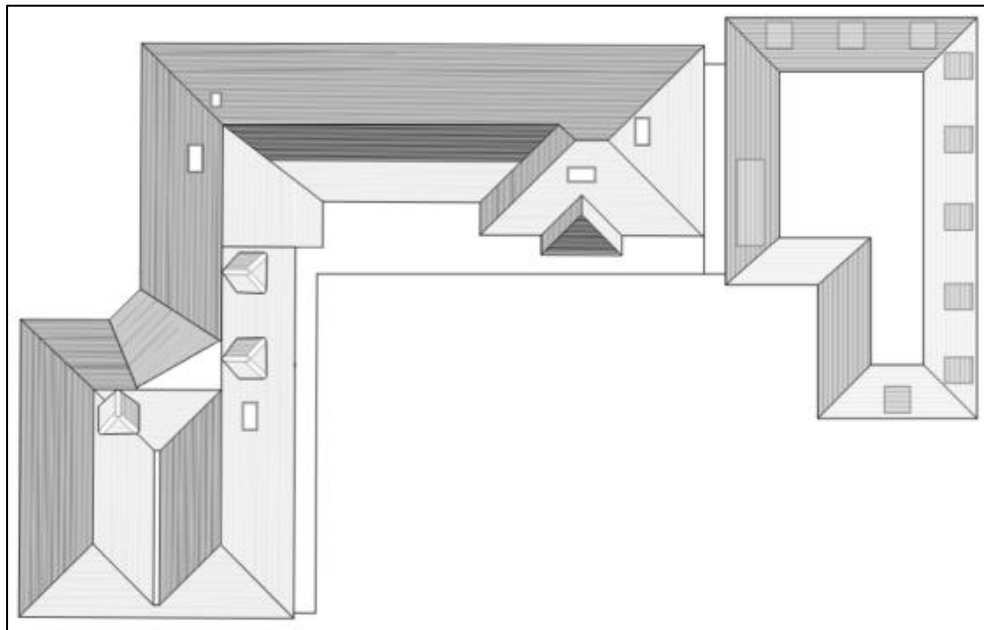
Section through existing building, facing towards seafront

- 3.4 A small flat-roofed section measuring approximately 1m deep x 9.7m wide links the extension to the existing building, and provides a break between the Georgian style extension and the plain, contemporary existing building. This flat-roofed element wraps around the southern and eastern elevations of the existing building to provide a new landing / hallway access for the proposed flats.





Proposed side elevation showing flat-roofed linking/hallway extension



Proposed roof plan

- 3.5 On the western side a small two-storey projection would be removed to produce a flat elevation.
- 3.6 Internally the building would be converted to provide a total of 19no. one and two-bed flats, including 5 affordable units. Twelve units would be two-bed and 7 one-bed. Each unit will feature open-plan kitchen/lounge/diner, separate bedrooms, and a bath or shower room. All of the units exceed the minimum internal floorspace required by the national standard (39sqm for one-bed, 61sqm for two-bed), and feature square or rectangular proportioned rooms.
- 3.7 Externally a new vehicle access would be provided from Coast Road leading to a parking area set within the courtyard area to the south of the building. Cycle parking and communal bin stores would also be provided in this area. The existing parking area to the west of the building would provide further parking spaces and bin storage area. A total of 21 parking spaces would be provided within the site.
- 3.8 In the interests of transparency, the applicant is in discussions with the Council's social housing team in regards to the possibility of purchasing the units for the Council for use as affordable housing stock. This has no bearing on the material planning considerations as set out below.

#### 4. RELEVANT PLANNING HISTORY

- 4.1 Planning permission for conversion of the existing dwelling to a nursing home was granted in 1988 under ref. 88/0765/SH.
- 4.2 Application Y18/0084/SH granted planning permission for the erection of a two-storey extension to the front of the existing building (facing on to Coast Road) and internal renovation to provide an additional 16 rooms. This planning permission has not been pursued by the site owner, but does give weight to the principle of erecting an extension to the front of the building.



Extension approved under Y18/0084/SH

- 4.3 Y17/1562/SH granted consent for erection of single-storey and two-storey extensions at Madeira Lodge Nursing Home (on Madeira Road) to modernise facilities and provide an additional 14 bedrooms, together with additional parking provision.
- 4.4 Y19/0362/FH granted planning permission for demolition of Romney Cottage care home (also on Madeira Road) and erection of three dwellings. The loss of the care home was not considered to impact the district's care provision, and the CQC raised no objection.

#### 5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.
- 5.2 **Consultees**

New Romney Town Council objected to the original drawings, raising the following (summarised) concerns:



- The scheme is contrary to (then adopted) Local Plan policies BE1, BE8(a), TR11, TR12 and (then emerging) PPLP policies HB3, HB8, HB11, and T2;
- Loss of care home spaces in New Romney (the TC suggest there has been a net loss of 33 spaces since 2017);
- No viability report to support loss of the care home;
- Loss of employment;
- Proposed materials not sympathetic to the area;
- Loss of privacy for / overlooking of neighbouring residents, especially from proposed balconies;
- Impact on highway safety and amenity;
- Building doesn't respect the established building line, and is not subordinate to the original property; and
- Insufficient parking provision.

The KCC Care Quality Commission has no objection to the closure of the existing care home, confirming it no longer conforms to the required standards:

*“The Accommodation Strategy reviewed existing provision which identified that the average care home in Kent has 40 beds, with homes made up of 60 beds being more sustainable and operationally effective. Moving forward, new care homes would need to meet the minimum design standards of 12 square metre bedrooms all with en-suite.*

*Therefore, I can confirm that Sandbanks, as a care home, would not be required in its current configuration in the future.”*

KCC Highways comment that “as both Coast Road and St Andrew’s Road are private roads, it would appear that this development does not meet the criteria for involvement from the Highway Authority.” They do suggest a standard informative, as set out below.

The Environment Agency objects to the application, principally on the basis that the development introduces self-contained residential units at ground floor with no means of access to a higher level (i.e. escape to first floor level) should wave-overtopping occur. I have asked the applicant for further information to address this and will update Members at the meeting.

KCC Lead Local Flood Authority initially requested additional information, and have subsequently responded to set out that they are concerned in regards surface water run-off from the new development combining with existing surface run-off to exceed the current discharge rate. The officers suggest that this can't be adequately controlled through the Building Regulations, and therefore request a condition be attached requiring submission of a detailed surface water drainage strategy; this is set out below.

Southern Water confirm they can provide foul sewage disposal for the development, but note that a formal application for connection to the network is required (as standard). They also request that a standard condition in regards surface water drainage (as set out below) is attached to any permission, and remind the applicant of general requirements in regards works close to sewer/water pipes.

The NHS Clinical Commissioning Group has confirmed that it is not seeking any contributions from this development.

The Office for Nuclear Regulation confirms the site falls outside of their consultation zone, and they therefore have no comments.

The Council's environmental health team has no objections.

The Council's contamination consultant considers the site to have low potential for contamination, and does not consider it necessary to impose any conditions in this respect.

The Council's arboricultural officer has no objections.

### 5.3 **Local Residents Comments**

79 letters have been submitted by local residents (a number of which are additional comments further to original letters, or different people at the same address, however).

For transparency and ease of consideration I have set their summarised comments out as received in response to the original (now-superseded) drawings and the current (amended) scheme which was re-consulted on relatively recently.

#### Original (now superseded) proposals

Objections:

- Highway safety and amenity concerns from additional traffic;
- St Andrew's Road is an unmade road, and should be tarmacked to improve access and prevent further deterioration;
- Noise and disturbance from use of parking area;
- Inadequate parking;
- Lack of amenity space for future occupants;
- Over-development of the site;
- Would project beyond the established building line;
- Too tall, local buildings mostly two-storey;
- Overbearing and oppressive for neighbouring properties;
- Overlooking and loss of privacy from balconies and new windows;
- Loss of light to neighbouring properties;

- Increased noise and disturbance from residential use compared to care home;
- Design contrary to local character;
- Harmful to the adjacent conservation area;
- Do not like the design;
- Insufficient doctors, school places, and services locally;
- Not near to local shops or services, residents will be reliant on cars;
- No need for new housing in the area;
- The development will not benefit local people;
- No guarantee the dwellings will be affordable social housing;
- Care home should be retained;
- No viability report justifying loss of the care home;
- No marketing exercise has been carried out to justify the loss of the care home;
- Shortage of care homes in the county;
- Loss of jobs;
- Will be over-priced;
- The marsh should not be developed to help retain its peaceful character;
- Will deter tourists;
- Loss of value for existing properties;
- Will change demographic from retirement area to more families;
- Will set a precedent for more development;
- Potential ownership disputes over use of driveways;
- Local drainage won't be able to cope;
- Flood risk to ground floor units;
- Will reduce water pressure for existing properties;
- Insufficient local notification and no site notice [NB: a site notice was posted on the street pole directly opposite the site, and letters sent to neighbours in accordance with the national requirements];
- Insufficient information about the proposed use;
- Not enough time to properly comment;
- "It is a done deal already and the neighbours are just wasting their time" and "the application has already gone through"; and
- The application should be determined by the planning committee.

**Support:**

- More housing is needed in the area;
- Will help to regenerate the area;
- New Romney will not prosper without investment/development;
- More residents will help to bring new services into the area (through additional tax/es.106 funding/etc.);
- Local residents should not resist change;
- The existing care home is not suitable and "good to see residents being moved to an upgraded and modernised care home";
- Will enable upgrade of Madeira Lodge care home;
- Re-use of the site for housing is sensible; and
- Like the design.

Amended proposals

Object:

- Inadequate parking;
- Wear, tear, and damage to the unmade roads;
- Not sustainable or environmentally friendly;
- Flood risk;
- Impact on local water supply and drainage;
- “Would disrupt wind flow along the coast”;
- Projects beyond building line;
- Overdevelopment of the site;
- Overbearing and out of scale with neighbouring properties;
- Overlooking and loss of privacy for existing residents;
- Design out of keeping with area;
- Old buildings should be retained;
- Increased traffic;
- Noise and disturbance from parking area;
- Increased light pollution;
- Impact on local schools, GPs, and infrastructure;
- Insufficient employment locally for new residents “making much of the property unoccupied and open to crime”;
- Loss of care home, and a need for care homes nationally;
- Application doesn’t demonstrate compliance with PPLP policy HB11;
- Application should be refused due to weight of local opposition;
- “Worse than the previous application”;
- “Opportunistic attempt” to expand upon 2018 permission for extension;
- The site notice wasn’t displayed prominently enough;
- Neighbouring residents have not been adequately consulted; and
- The application should be determined by planning committee.

Support:

- New design fits in well within the character of the area.

A number of the objections to the amended scheme simply state that the writer wishes to reiterate their original comments. .

5.4 **Ward Member**

5.5 The application was originally called to committee by Councillor Rolfe, prior to submission of the amended scheme/drawings, noting that there had been several objections from local residents and the Town Council.

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

**6. RELEVANT PLANNING POLICY**

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

- 6.2 The Places and Policies Local Plan has been through a formal review and was formally adopted by the Council in September 2020. The policies therein can be given 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), SS3 (Sustainable Settlement Strategy), SS5 (District Infrastructure Planning), CSD1 (Balanced Neighbourhoods), CSD2 (District Residential Needs), CSD5 (Water Efficiency).

Places and Policies Local Plan (2020)

Policies HB1 (quality places through design), HB2 (cohesive design), HB3 (space standards), HB8, HB11 (loss of residential care homes), C1 (creating a sense of place), C3 (provision of open space), C4 (children's play space), T1 (street hierarchy and site layout), T2 (parking standards), T3 (residential garages), T5 (cycle parking), NE2 (biodiversity), CC2 (sustainable design and construction), and HE1 (heritage assets) are relevant.

Policy HB11 sets out:

*Planning permission will be granted for the conversion of a residential care home or institution (C2) to residential (C3), hotel or bed and breakfast (C1) or non-residential institution (D1) use, or the demolition of the building or buildings and new build development for these uses, if the following are satisfied:*

1. *The applicant has provided a viability report demonstrating that:*
  - i. *A residential care or institutional use in the current building is not economically sustainable;*
  - ii. *Extension or adaption is not viable; and*
  - iii. *The property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offers have been made;*
2. *Design and layout take account of the design and sustainable construction policies within this plan, as far as is reasonably practical;*
3. *It can be demonstrated that levels of traffic movements can be successfully accommodated on the local road network and that*

- parking can be provided in accordance with the requirements of Policy T2;*
4. *Development does not result in increased noise or disturbance which impacts on neighbouring residential amenity; and*
  5. *In the case of redevelopment for residential (C3) use, the development provides affordable housing in accordance with Core Strategy Policy CSD1: Balanced Neighbourhoods.*

*The Council will resist the demolition of a residential care home or institution that is a heritage asset or where the building is within a Conservation Area.*

Core Strategy Review Submission draft (2019)

SS1 (district spatial strategy), SS2 (housing and economy growth), SS3 (place-shaping and sustainable settlements), SS5 (district infrastructure planning), CSD1 (balanced neighbourhoods), and CSD8 (New Romney strategy).

*CSD8 sets out that “New Romney should develop as the residential, business, service, retail and tourist centre for the Romney Marsh... The future development of the town should support the retention of existing businesses and the attraction of new employment opportunities through the provision of an adequate supply of employment land to meet future need and through the provision of a sufficient level of new residential development to maintain an adequate labour supply.”*

- 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). The following paragraphs of the NPPF are relevant to this application:

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

Para. 20 requires Councils to have strategic policies that make sufficient provision for housing, infrastructure, and community facilities in appropriate locations, while ensuring conservation of natural and historic environments. Para. 22 then sets out that such strategic policies should look ahead over a

minimum of 15 years (hence the lengthy span of the adopted and emerging Local Plans).

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

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

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

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

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

Section 14 seeks to ensure development meets the challenges of flooding and climate change.

Para. 150 requires developments to avoid increased vulnerability and to ensure risks can be managed through suitable adaption measures. Para. 155 directs “inappropriate” development away from areas of flood risk, but advises that where development is necessary in such areas it needs to be made safe for its lifetime without increasing risk elsewhere. Paras/. 157 to 159 require the sequential and exceptions tests to be applied to development within flood risk areas, and para. 161 stipulates that both parts of the exceptions test must be met for development to be permitted. Para. 163 requires submission of site-specific flood risk assessments, and incorporation of mitigation measures within new development.

6.7 The National Design Guide and Nationally Described Space Standards are also relevant.

## **7. APPRAISAL**

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

a) Principle of development.

- b) Loss of the existing care home.
- c) Flood risk
- d) Scale, design, and visual amenity.
- e) Residential amenity.
- f) Highways and parking.
- g) Contributions
- h) Other matters

**a) Principle of development**

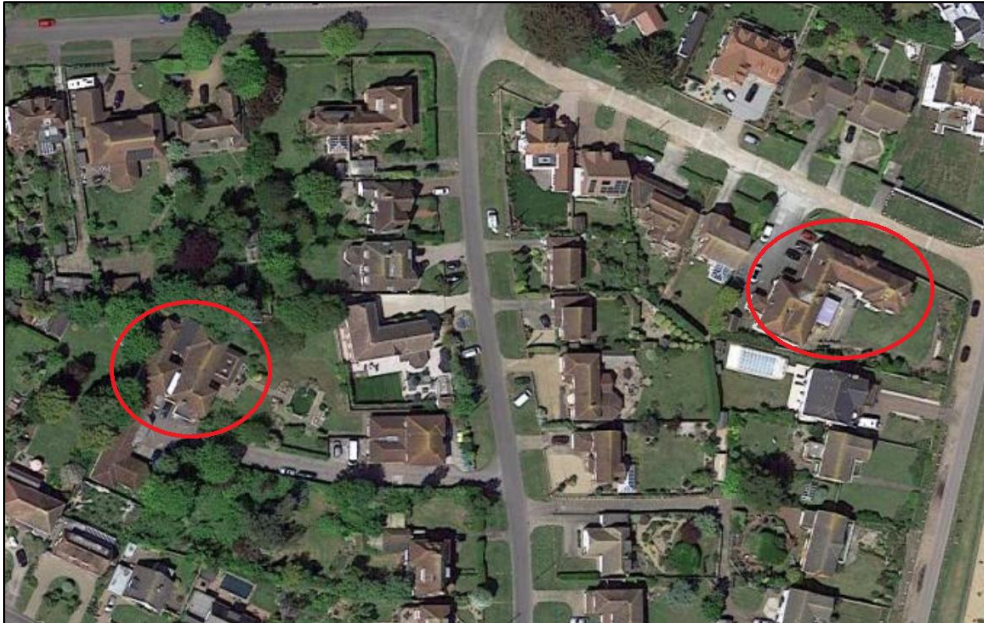
- 7.2 The application site lies within the defined built up area boundary where the principle of residential development is generally acceptable under adopted local and national policies.
- 7.3 Core Strategy policy CSD8 particularly identifies New Romney – including Littlestone (as set out at emerging Core Strategy para. 4.68) – as a principal location for development, with para. 5.124 of the emerging Core Strategy setting out that “*as the primary strategic centre for Romney Marsh, New Romney town should develop a critical mass of businesses and services, underpinned by expanded tourism facilities and new homes.*” Furthermore: Core Strategy policies SS1 and SS3 also direct residential development to the identified built up areas of the district (in accordance with the settlement hierarchy at para. 4.68).
- 7.4 The site lies within a relatively sustainable location approximately 2.2km from the shops and services on New Romney High Street, 1.6km from the Marsh Academy, and 900m from the Spar at the junction of Grand Parade and Clark Road. Bus stops on Grand Parade (Queens Road stop, 479m to the south) and Littlestone Road (Madeira Road stop, 630m south-west) provide regular services towards Ashford and Dover. While residents would have a degree of reliance on private vehicle there are opportunities for more sustainable transport options.
- 7.5 Development here would also provide a modest contribution towards the Council’s five-year housing supply and the supply of affordable housing overall.
- 7.6 With regard to the above, the principle of residential development here is considered to be acceptable.

**b) Loss of the existing care home**

- 7.7 There is local concern about loss of care home facilities as a result of this development, but no facilities will actually be lost as a result of this proposal.



- 7.8 The operator of Sandbanks (Belmont Healthcare) also owns and operates Madeira Lodge care home on Madeira Road, to the rear of Sandbanks. Madeira Lodge is being extended and upgraded to bring it in-line with current CQC required standards, and to provide capacity to absorb the existing residents from Sandbanks. Planning permission for these works was granted in 2017 (ref. Y17/1562/SH) and I believe those works are now nearing completion (the development having been forward-funded in anticipation of the closure of Sandbanks).



Location of Madeira Lodge (left) and Sandbanks (right)

- 7.9 Also of considerable weight is the letter from the KCC Care Quality Commission in which they confirm that Sandbanks is no longer suitable to meet modern standards and have no objections to its closure.
- 7.10 The concerns of local residents in respect of highlighted PPLP policy HB11 are noted. This policy requires the loss of any care home to be justified through a sustained marketing exercise. However I consider this proposal to be an exception to the policy scenario in that, while Sandbanks is indeed closing, the care facilities are not being lost (which is the principal issue HB11 aims to resist); rather the sister care home (Madeira Lodge) is being extended, renovated, and improved to absorb the residents of Sandbanks and provide additional capacity for further residents.
- 7.11 Therefore, whilst the aims of HB11 should be fully supported, it is not considered that the lack of a marketing exercise here should be used as justification for refusal when the wider picture shows that the status quo (in terms of care provision) is being maintained, if not improved upon. In this regard, the loss of the care home is not considered to warrant a reason for refusing planning permission that could be justified or sustained at appeal.

**c) Flood risk**

- 7.12 The application site lies within Flood Zone 3, and is identified as being at medium risk (primarily from wave overtopping of the sea wall) up to 2115 under the Council's Strategic Flood Risk Assessment (SFRA).
- 7.13 The submitted Flood Risk Assessment (prepared by Herrington Consulting) concludes by stating that *"the analysis has demonstrated that the risk of flooding to the development is low from all sources with the exception of flooding as a result of waves overtopping the defence infrastructure adjacent to the site."* It then suggests a number of flood resilience measures to be incorporated into the build, including setting floor levels no lower than existing; using reinforced glass and/or protective shutters on the front elevation to resist any wave force; signing up to the EA's flood warning system; and considering site drainage (it is noted that KCC LLFA has no objection to the proposed drainage arrangements, as set out in the consultations above).
- 7.14 The Environment Agency has objected to the scheme on the (summarised) grounds that self-contained ground-floor units are at risk (in the event of overtopping) and do not have means of escape to higher ground.
- 7.15 The site is identified by the SFRA (also prepared by Herrington Consulting) as being at medium risk up to 2115; it is not considered to be at high risk and allocation of the area under policy CSD8 (as above) indicates that it meets the initial requirements of the sequential test. The NPPF acknowledges that it is not possible to locate all development outside of areas of flood risk and, in situations where the Council has a planning-based argument for a development to proceed, it is necessary for the Exceptions Test to be applied. The Exceptions Test has two parts:
- a) *It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risks; and*
  - b) *A site-specific FRA must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.*
- 7.16 In the case of the current proposal I consider that part a) – the wider sustainability benefits – is addressed through the inclusion of the site within the defined built up area boundary; the settlement hierarchy (core strategy policy SS3) identifying the wider area for residential development; and policy CSD8 identifying the wider area as a priority centre for residential development to meet the aims of supporting New Romney as a primary local centre. Residential development here would contribute to the broader aim of sustainable development within the district and reduce any pressure on the Council to consider development proposals on greenfield sites elsewhere. It must also be recognised that large parts of the local area fall within identified flood zones, but have nevertheless been included within the broad allocation under policy CSD8 as being suitable for development, and it should further be

recognised that this is previously developed, “brownfield” land which is recognised under the NPPF as being a preferred location for new development in general.

7.17 Part b) therefore remains. In this regard the applicant has submitted a site-specific FRA which concludes that the site is suitable for the proposed development without serious risk (either on- or off-site), as at 7.13 above. The site-specific FRA is prepared by the same consultants that produced the SFRA, and they are therefore aware of local circumstances. I understand the Environment Agency’s objection but consider that the scheme could be amended (for example by raising internal floor levels) to reduce the moderate risk associated with an overtopping event to an acceptable level.

7.18 In this regard I have asked the applicant for additional information to present to the EA, and I await their response. I therefore recommend that Members afford officers delegated powers to approve the application subject to the Environment Agency removing their objection, and any conditions they may require.

**d) Scale, design, and visual amenity**

7.19 The existing building is not considered to be of any architectural merit. From the site history it appears that the original dwelling was extended and converted to a care home in the late ‘80s, and the design of the existing building is plain and wholly reminiscent of the era. While it doesn’t necessarily detract from the character of the area it does not make a significantly positive contribution to the street scene or to the fringes of the adjacent conservation area. There is scope for the site to be improved.

7.20 I note local concern in regards to the proposed design. The original design showed a contemporary building similar to the agent’s (Hollaway) work elsewhere in the district. It was an attractive building but it contrasted so heavily against the existing building and the neighbouring houses that it would have appeared incongruous to the extent that it would be harmful. The amended design now put forward takes a more traditional design approach, with a Georgian-inspired design that is more at-ease within the streetscene. Use of traditional design features such as a steeply-pitched roof, facing brick, and a regular window pattern will be attractive on the building and within the context of the area.

7.21 The existing building stands approximately 9.2m tall to the ridge while the proposed building stands approximately 9.7m tall; a difference of approximately 500mm. This small addition in height from existing could not reasonably be considered too tall in relation to existing buildings or a reason for refusal properly justified on this basis. In terms of scale it would sit comfortably on the existing site and, due to a slight drop in land levels on the site (compared to the road or neighbouring properties) and use of the roof space as the second floor it would not be significantly taller than surrounding buildings in general.

7.22 I consider that the traditional design of the building would sit comfortably against the boundary of the conservation area, and would not preserve its character or

appearance. In that regard I also note that the proposed traditional design takes cues from other properties in the conservation area, such as Sandcroft (to the north), and The Old Green (Madeira Road).



Sandcroft, to the north of the application site



The Old Green, Madeira Road

- 7.23 A number of objections refer to the extension projecting beyond the building line on Coast Road. There is a clear building line set by the four houses immediately south of Sandbanks (circled in the diagram below), but these are an anomaly within the wider building line along Coast Road (see diagram below) and generally set back from the predominantly frontage development along the road (although I accept a number of older properties to the north are set back, within large plots). In this regard I do not consider that the extension would be contrary to the pattern of development within the area or harmful to visual amenity in that context.





Building line (drawing oriented with east to the top)

- 7.24 Few physical changes are proposed to the outward-facing elevations of the existing building, and there would consequently be little additional visual impact.
- 7.25 I therefore consider the proposed development to acceptable in terms of scale and design, subject to conditions as set out below to secure materials details prior to construction.
- 7.26 With regard to the above I am of the opinion that the site is clearly capable of accommodating the proposed development without it appearing cramped or visually harmful, and in that regard I do not consider there to be an argument or justification that it amounts to overdevelopment.

**e) Residential amenity**

- 7.27 The proposed flats would provide a good standard of amenity for future occupants. The internal floorspace of all flats exceeds the minimum required by the national standard, and all flats would be square or rectangular proportioned and thus properly usable. All habitable rooms are served by full-size windows and would receive a good level of natural daylight. Whilst the loft flat above the existing building would have a long, thin living room area, the space is a minimum of 2.8m wide which is more than sufficient to accommodate a couch / other furniture and retain circulation space.
- 7.28 Outdoor amenity space within the site is limited for the number of flats proposed, but the site lies directly opposite the beach and I am therefore satisfied that residents will have good access to outdoor space. The seafront playground area (with children's play equipment and adult exercise machines) is roughly 700m to the south, and can be accessed on foot.
- 7.29 I have no serious concerns in regards the impact of the proposed development upon the amenity of existing, neighbouring residents. The proposed extension will be set well away from common boundaries and, due to its position, would be very unlikely to give rise to any overshadowing, loss of light, or loss of outlook.
- 7.30 Windows on the southern elevation of the extension would provide views across the frontage of neighbouring dwellings, The Coast House in particular. While I

can understand why objections have been received in this regard it must be acknowledged that these frontage balconies are already entirely overlooked by any passers-by along on Coast Road; they are not private and secluded spaces. In that regard I do not consider that overlooking of these frontage areas could justifiably be used as a reason for refusal.

- 7.31 The southern windows in the central section of the building face onto the blank southern elevation of The Coast House, and there are no windows in the southern elevation of the rearmost part of the existing structure (there were in the original submission, but the amended drawings have removed these) and I therefore consider that the amenity of the those neighbouring residents will be protected. There is a proposed dormer window above the existing part of the building which would face south, but this is positioned within a roof valley and situated so far back from the building edge that views downwards into neighbouring gardens are not likely to be possible in my opinion.
- 7.32 There are several windows on the western flank of the building which would face over the rear of Juanda, the immediate neighbouring dwelling to the west. This flank elevation will be a minimum of 9.3m from the common boundary, and there is considerable potential for overlooking of the rear garden of Juanda. However it must be noted that there would have been a degree of overlooking from the existing bedroom within the care home which must be taken into consideration. Proposed first floor windows in this location will serve two bedrooms, a shower room, and a lounge area. A condition to secure obscure glazing to the lower half of these windows (in perpetuity) would minimise potential for direct overlooking of that neighbour's rear garden, and the existing rear conservatory at Juanda will provide some screening to the private amenity area to the rear of the house. Existing coniferous boundary planting will also help to obscure views between the two properties (see photo below).



Conifers along common boundary with Juanda

- 7.33 Overall, therefore, while there is potential for overlooking of Juanda I am of the opinion that this can be adequately mitigated such that the amenity of the neighbouring residents would not be seriously harmed.

- 7.34 I have no serious concerns in regards potential amenity impacts for dwellings not immediately adjoining the site due to the intervening distances, which greatly minimise the potential for any significant negative impacts.
- 7.35 I have asked the agent to reconsider the position of the proposed bin store on the southern boundary, to move it away from the balcony area of The Coast House. I await an amended drawing and will update Members at the meeting, but don't expect this to be a substantial issue.
- 7.36 There is some potential for noise and disturbance to neighbouring dwellings from the proposed parking areas. The one to the west, however, is a direct replacement for the existing care home car park and unlikely to generate levels of movement significantly worse than the existing situation. The new parking area to the south side of the building would not project significantly beyond the blank flank elevation of The Coast House, and potential for noise and disturbance to those residents will therefore be limited. I would anticipate vehicle movements from a development such as this to primarily be at peak morning and evening rush hours, with fewer vehicles accessing the site during the remainder of the day.

**f) Highways and parking**

- 7.37 The development provides 21 on-site parking spaces (to serve 19 flats). This is in accordance with adopted Kent Vehicle Parking Standards IG3; Residential Parking, which requires a *maximum* of 1 unallocated space per one- or two-bed flat in all locations (town centre through to rural). The proposed parking layout also provides sufficient turning space in each of the two parking areas. Additional parking is also available on-street.
- 7.38 I note that Coast Road and St Andrew's Road are private streets. Rights of access and maintenance issues would therefore be a private legal matter between the owners (I don't have ownership details, but one would expect all properties on a private road to have a degree of shared ownership/responsibility for the highway) and I can't give any weight to objections on such matters.
- 7.39 Electric vehicle charging points are secured by the condition below.
- 7.40 I do not consider there to be any justification for refusal on highways or parking grounds.

**g) Contributions**

- 7.41 The development sits within Romney Marsh CIL zone B, and is liable for CIL at £57.86 per sqm. This is chargeable on the non-affordable units (x14) only, however.
- 7.42 The development is also liable for costs towards local secondary education, libraries, adult education, youth services, social care, and waste, totalling £1602.92 per applicable dwelling. The affordable units (x5) are excluded from this, and one-bed flats of less than 56sqm gross internal area (x5) are not liable

for secondary education contributions (as they are not likely to house children). The total for the development therefore amounts to £16,765.88.

7.43 Contributions will also be sought towards the enhancement of local open space (£23,680.20) and children's play equipment (£10,426.00). These funds are to be split between three local play areas to secure maintenance and additional facilities:

- Greatstone Car Park;
- Station Road Play Area; and
- Fairfield Recreation Ground

7.44 These contributions will be secured by a legal agreement under section 106 of the Planning Act. The draft is currently being agreed between the Council's and the developer's solicitors, and there are no disputes as to its requirements. The s.106 will also secure the affordable units in perpetuity.

7.45 These measures will contribute to local services and amenities, and provide tangible local benefits. In this regard I do not agree with local objections suggesting the development would overburden existing facilities, and I have note the letter of support which suggests the community needs to expand to reach the tipping point of being eligible for / attracting more investment into the local community.

**h) Other matters**

7.46 The site lies close to (~16m) the Dungeness, Romney Marsh and Rye Bay SSSI and Ramsar site (i.e. the beach), which is designated for its biodiversity and ecology. While closely related I do not consider that the proposed development would give rise to any significant impacts upon the designated area over and above those associated with the existing recreational use of the beach by the surrounding residential dwellings and visitors to the area. Subject to the general conditions set out within the report I do not consider that the development will significantly affect these protected areas, and I have set out an appropriate assessment under the Habitat Regulations in the appendices, below.

7.47 The conditions below secure sustainability measures within the development to ensure the carbon impact is minimal.

7.48 The development is not likely to give rise to significant levels of light pollution over and above existing use of the site or the wider residential area of Littlestone, in my opinion.

7.49 I await comments from the KCC Archaeologist but do not expect any significant issues, and anticipate a standard condition will be requested.

7.50 I note the weight of local objection but consider that the substantive concerns have been addressed through the above assessment. It must also be noted that a number of issues raised (such as impact on property prices or



maintenance of the unmade roads) are not material planning considerations that can be given weight here.

### **Environmental Impact Assessment**

- 7.51 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**

- 7.52 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. The application is subject to CIL at the rate of £57.86 per sqm.

### **Human Rights**

- 7.53 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**

- 7.54 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**

- 7.55 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 proposes change of use and extension of the Sandbanks Care Home to provide 19 One- and two-bed flats. Loss of the care home is considered acceptable because the nearby sister facility (Madeira Lodge) is being extended and renovated to accommodate residents from Sandbanks. The proposed development is considered to be of an appropriate scale and design, and no serious amenity impacts are envisaged.
- 8.2 Therefore, while local objections are appreciated and understood, the proposed development is considered to be acceptable and is therefore recommended for approval subject to further comments from the Environment Agency, Natural England, and KCC Archaeology; the conditions set out at the end of the report; any additional conditions recommended by statutory consultees or considered necessary by the Head of Planning; and the completion of a s.106 legal agreement to secure contributions towards open space and play equipment, secondary schools, adult learning, libraries, and the provision of affordable housing.
- 8.3 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. 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 accordance with drawings 20.023 – 200 030 rev. 4, 031 rev. 3, 032 rev. 3, 033 rev. 3, 040 rev. 5, 041 rev. 4, 042 rev. 1, 043 rev. 1, and the details set out within the submitted Herringtons Flood Risk Assessment.

Reason: For the avoidance of doubt.

Pre-commencement / foundation level

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the District Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interests of the amenities of the area and highway safety and convenience.

4. No development shall take place 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 Assessment Rev 1 by Herrington Consulting Ltd dated October 2020 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):

- 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.

5. No development beyond the construction of foundations shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the District Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

6. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the District Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

7. No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings hereby permitted shall use no more than 100 litres of water per person per day have been submitted to and approved in writing by the District Planning Authority. The details shall be implemented as agreed.

Reason: In the interest of sustainable development and minimising water consumption.

8. 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.

9. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the District Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

10. No development beyond the construction of foundations shall take place until 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, have been submitted to and approved in writing by the Local Planning Authority. Upon approval the measures shall be implemented as a greed and thereafter retained and maintained in perpetuity.

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

During development

11. 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.

12. If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the District Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the District Planning Authority, details of how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

In perpetuity

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.

15. The car and cycle parking spaces shown on the approved drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

16. The lower half of the west facing first-floor windows of the development hereby permitted shall be obscure glazed (to not less than Pilkington Glass Privacy Level 3) prior to first occupation of the dwellings hereby permitted and shall subsequently be maintained as such in perpetuity.

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

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

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

18. Prior to the first occupation of any dwelling hereby permitted suitable Electric Vehicle Charging ductwork capable of receiving the underlying infrastructure for future Electric Vehicle Charging points serving car parking bays from that apartment block plant room shall have been installed to serve a minimum 10 parking spaces in locations within the car parking areas serving the development, details of which shall have been submitted to and agreed in writing by the Local Planning Authority prior to installation. The ductwork channelling shall thereafter be made available to the individual or company responsible for the long terms governance and maintenance of the car parking area, enabling the installation of Electric Vehicle Charging Infrastructure as and when demand from residents of the apartment blocks arises.

Following installation the charging points shall thereafter be retained available in a working order by the respective owners / individual or company responsible for long term governance.

Reason: In the interest of sustainable development and reducing carbon emissions.

## **INFORMATIVES**

1. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

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

<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

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

## **Appendices**

### Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

The application site is situated a minimum of 16m from the Dungeness, Romney Marsh and Rye Bay SSSI and Ramsar site, which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

Dungeness, Romney Marsh and Rye Bay is a nationally important site by reason of a diverse range of biological and geological features, specifically the coastal geomorphology of Dungeness and Rye Harbour and the following important habitats: saltmarsh, sand dunes, vegetated shingle, saline lagoons, standing waters, lowland ditch systems, and basin fens. These habitats and others within the site support a number of nationally and internationally important species of plants, moss, water voles, breeding birds, waterfowl, great crested newts, and invertebrates.

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for

regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development.

In considering the European sites' interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the European sites. However, the development does not impinge upon the designated sites and, subject to the conditions set out within the report, it is considered that the proposal is unlikely to have significant effects upon the integrity of these sites or the species which they contain.

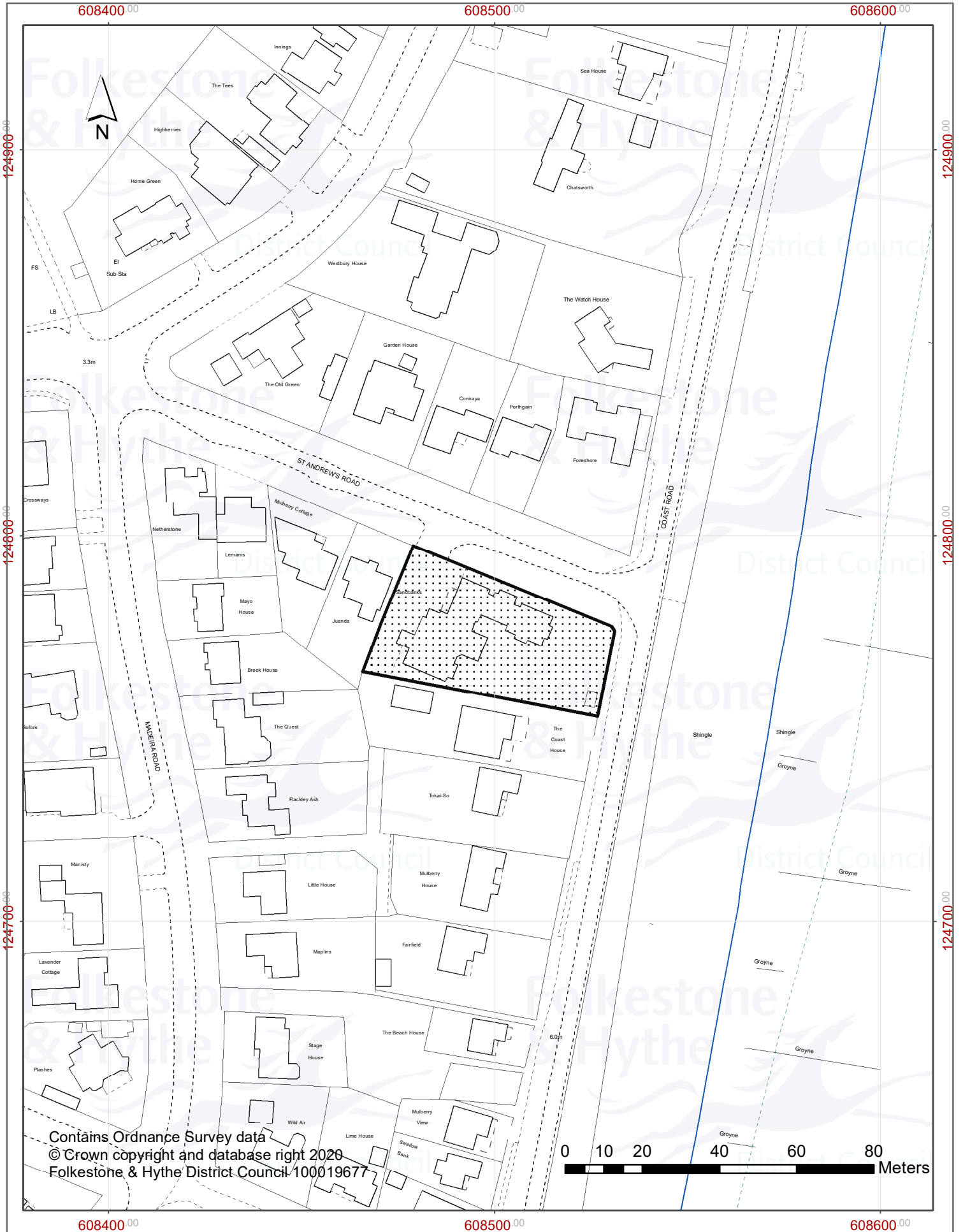
The April 2018 judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "*it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.*" The development therefore cannot be screened out of the need to provide an Appropriate Assessment.

However, the proposed development, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report and it is not considered that off-site mitigation is required in this instance.

I therefore consider that there will be no adverse effect on the integrity of the SPA.



20/0690/FH  
Sandbanks  
Coast Road  
Littlestone



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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:** Helena Payne

## **BACKGROUND AND SUMMARY**

This application was considered by Members of the Planning & Licensing Committee in October 2020, where Members resolved to grant planning permission subject to conditions and a Section 106 Agreement. However, due to an administrative error the Viability Report had not been made available for public inspection prior to the Committee meeting and subsequent resolution.

To rectify this and ensure that any eventual decision is issued correctly and in accordance with the advice as set out within the National Planning Policy Framework (NPPF), we have since made the document public and undertaken a full re consultation on the application, including the writing to all consultees, site and press notices.

The application is now referred back to the Planning Committee for reconsideration.

The original report is appended to this Supplementary Addition and 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. This report considers the additional consultation responses and asks members to consider the application in light of the additional responses.
- 1.2. This report focuses on the additional consultations only. The original report is attached as **Appendix 1**.
- 1.3. Below the responses to the re-consultation are set out and additional consideration of them following the re-consultation process.

## **2. PUBLICITY**

### **Consultation Response following Re-consultation**

- 2.1. The following representations have been received:

**Environment Agency** – Comments remain as of 10 June 2020

**IDOM Contamination Consultant** – The Viability Report is not relevant to land contamination/public protection. No additional comments to make, Comments of 24 January 2019 remain valid.

**KCC Flood & Water Management** – No further comments to make on this proposal and refer to previous response on 12 June 2019.

**KCC Ecology** – No change from previous comments

**KCC Archaeology** – No change from previous comments.

- 2.2. The application is reported to Committee due to the objection from Folkestone Town Council, although they have not commented following the re-consultation process.

### **Local Residents Comments following Re-consultation**

- 2.3. Original neighbour representations can be found summarised within the original Committee Report at Appendix 1.
- 2.4. 30 neighbouring residents were directly consulted. 3 letters of objection have been received following re-consultation (one of these 3 letters of objection contained more than one signature).

- 2.5. Reasons for objection, which differ from those raised originally, are summarised below (the original objections remain valid to the consideration of this application, but are not repeated here).
- 2.6. All letters received have been read and the key issues are summarised below:

Objections

- 2.7. Committee resolved to permit this scheme, a week before this viability Assessment was posted, so it begs the question whether the committee decision should be ignored and the scheme revisited in the light of Councillors' concerns about density.
- a) reduction of 6 units , with the consequent addition of 5 or so decent one-bed flats would be more acceptable, would not reduce the overall footprint, the CIL calculation, the pressure on parking, waste disposal, 'buy to let' landlord presence.
  - b) A new version of the NPPF was published on 19 February 2019. It states at Para 57 of the NPPF: All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
  - c) The Viability Assessment submitted by the applicant is dated the 18th April 2019, so six weeks after the NPPF came into force. As such either an executive summary, or the full blown Viability Assessment should have legally been placed into the public domain as per the NPPF.
  - d) The Council neglected to abide to the NPPF statement at Para 57, as such Cllrs who were making a decision on the 20th Oct did so blind. It was a background document they had a legal right to view.
  - e) Local authorities are required to make available background papers to committee reports. The Local Government Act 1972, s100D(5) states: “background papers for a report are those documents relating to the subject matter of the report which—
    - 1. disclose any facts or matters on which, in the opinion of the proper officer, the report or an important part of the report is based, and
    - 2. have, in his opinion, been relied on to a material extent in preparing the report, but do not include any published works.”
    - 3. The Viability Assessment was not exempt. As Cllrs did not have all the documents to be able to make a rational decision based on ALL the facts, any planning permission granted, would be null and void.
    - 4. Furthermore, as of December 2017, the Supreme Court in Dover District Council v CPRE Kent [2017] UKSC 79 and Timothy Steer v Shepway District Council, David Westgarth and Lucy Westgarth considered, and to some extent re-cast, the common law duty on local planning authorities to give reasons for granting permission. The very fact Cllrs on the Committee could not give reasons about the Viability

Assessment means the common law duty was not fulfilled.

5. As such this raises a “substantial doubt” as to whether Cllrs had properly understood the key issues or reached “a rational conclusion” given that not all material was presented to them. This is a case where the defect in reasons given to grant permission goes to the heart of the justification for the permission, and undermines its validity. The only appropriate remedy is to quash the permission and bring it back to committee for a second attempt.

- f) A better scheme with less studio flats should be considered. The fact that no affordable housing is proposed on site is questionable.

2.8. Responses are available in full on the planning file on the Council’s website:

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

### **3. RELEVANT PLANNING POLICY**

3.1. 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).

3.2. 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.

3.3. 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 – Children’s 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

3.4. 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.

- 3.5. 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.
- 3.6. The following are also material considerations to the determination of this application.

National Planning Policy Framework (NPPF) 2019

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

Paragraph 34 – Developer Contributions

Paragraph 57 – Viability Assessment

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

#### **4. APPRAISAL**

- 4.1. A full appraisal of the scheme is set out within the previous planning committee report, and can be found at **Appendix 1**.



- 4.2. It came to light following Members' resolution to permit (subject to conditions and a S.106 Agreement) that the submitted Viability Report, which had formed part of the original submission, had not been made publically available for viewing.
- 4.3. As set out within the National Planning Policy Guidance (NPPG), all planning viability assessments must be publicised alongside other information supporting the application. Whilst an error was made in respect of the publicity of the Viability Report, all matters relating to the Viability of the Scheme were fully considered and addressed by Officers, including the viability report being independently assessed by viability experts as set out within the Officer's Original Committee Report (Paragraph 7.22 – 7.25 and 7.37 respectively). No new information has been submitted in respect of the Viability of the scheme.
- 4.4. It is noted that concern has been raised via representation to this re-consultation regarding the Council's duty to ensure transparency and that as a result of the Viability Report having not been made public up until now, inappropriate consideration of the development had been given. To reaffirm the above, Councillors were provided with all relevant detail in respect of the Viability in order to reach an informed decision, and that despite it not being publically available, it was fully considered by Members in October 2020.
- 4.5. However, upon finding this technical error had taken place and in the interests of transparency, and to ensure proper procedure is followed, Officers have ensured that the Viability Report has been made publically available, carried out a full re-consultation including all original statutory consultees, and neighbours to allow appropriate consideration of the viability information.
- 4.6. In addition to the representations received in respect of the proposed development as set out in the original report, further comments have been made in respect of the viability report, and it has been suggested that the development could be reduced in terms of numbers of dwellings to make way for larger properties. There remains a concern that the smaller one bed units are not appropriate in this location. It has been raised that the scheme might be more viable if the Developer had introduced different unit types. Indeed, the Viability Report (phrased to support 'no affordable provision') may support a smaller number of larger apartments and allow the Applicant to redesign the 11 smaller units. To improve the quality of new homes in the district, proposals will be assessed against Policy HB3 of the PPLP, which considered internal and external space standards. For Flats, it is expected that usable balconies or terraces are provided for all units in new build developments.
- 4.7. As set out within PPLP Policy HB3, planning permission will be granted for new build residential development where the proposed scheme meets the nationally described technical housing space standards; provides an area of private open space; provides each dwelling with discreetly designed and accessible storage space and bicycle storage.
- 4.8. The standards as set out under HB3 advises that the minimum size for a 1 bed 1 person unit would be a minimum of 37sqm. Members will note, as set out in the original Case Officer's report, that whilst the size of the units are only just within the internal space standard requirement they are in accordance with policy requirements. The table below provides a clear indication of the size of each of the units:

Unit Number	Unit Type	GIFA (m2)
-------------	-----------	-----------

6	2 bed	60
21	1 bed	50
3	1 bed	52
4	1 bed	62
2	Studio	41
2	Studio	40
7	Studio	37
<b>Total - 45</b>		<b>2523</b>

- 4.9. 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.
- 4.10. There has been some objection regarding the need for the studio/1 bedroom units, however, as detailed in the original Report, 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.
- 4.11. The total mix of unit types is as follows:

Unit Types	No
Studio	11
1 bed	28
2 bed	6
Total	45

- 4.12. Members' attention is drawn to paragraphs 7.20 – 7.21 with regard to the standard of accommodation, which is concluded to be acceptable in accordance with policy. A reduction of a further 6 units (the proposed scheme has already been reduced from 50 to 45 units) , with the consequent addition of 5 or so one-bed flats may be more acceptable, but would not reduce the overall footprint of the development or affect the associated CIL calculation. The reduction on the pressure on parking, waste disposal, 'buy to let' landlord presence etc would also be negligible (the larger the home, the more parking is required). Matters relating to the viability of the scheme in connection with Affordable Housing (the Viability Report was submitted to justify the shortfall of on-site affordable housing) are detailed within the paragraphs 7.22 - 7.25.
- 4.13. Officer's remain of the view that an offsite contribution would be the best option given the circumstances of the site and that off-site provision would continue to be secured via a S.106 Agreement. The Viability Report has not be designed to justify total numbers of units on the site, and whether less accommodation could be achieved

within the site. It has been designed to identify the level of affordable housing that the scheme can sustain. It is therefore not possible to conclude whether fewer units would affect GDV or sales figures.

## **5. Conclusion**

- 5.1. The conclusion remains unchanged from the previous Committee Report appended to this Supplementary Address. No further additional information has been submitted, and having considered the above-referenced consultation responses, I am of the opinion that my original conclusion remains unchanged.

## **6. RECOMMENDATIONS**

- 6.1. **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.**
- 6.2. **Draft conditions are available at the end of the Original Committee Report at Appendix 1**

**Appendix 1 – October 2020 Committee Report**

<b>Application No:</b>	Y19/0016/FH
<b>Location of Site:</b>	Land adjoining 86 to 88 Tontine Street, Folkestone
<b>Development:</b>	Erection of part 3-storey and part 5-storey building comprising 45no. studio apartments with associated access, parking and communal garden.
<b>Applicant:</b>	HRS Construction Service (KENT) Ltd
<b>Agent:</b>	Lee Evans Planning St Johns Lane Canterbury
<b>Officer Contact:</b>	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:**

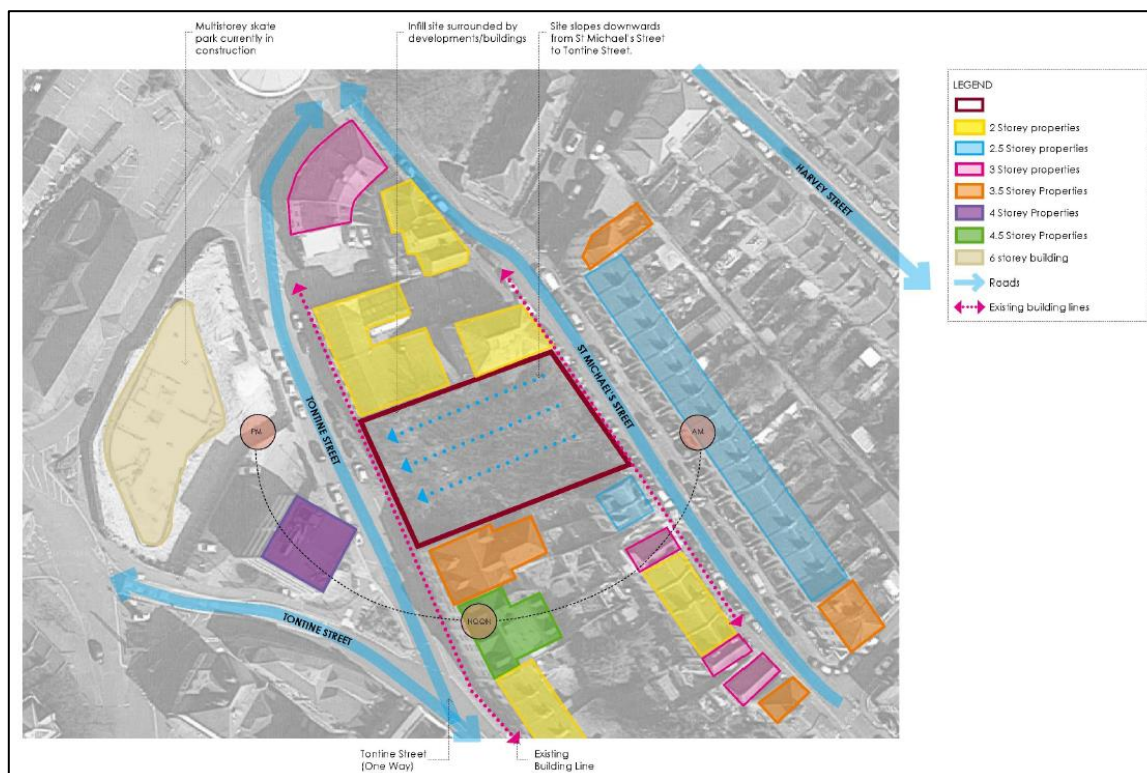
**That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing and that delegated authority 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.**

## 7. INTRODUCTION

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

## 8. 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 Michaels 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**.

**9. 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 37m<sup>2</sup> (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 37m<sup>2</sup> to 43m<sup>2</sup>.
- 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.

## 10. RELEVANT PLANNING HISTORY

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

<b>Y04/0662/SH</b>	Outline application for residential development incorporating a block of flats.	Approved with conditions
<b>Y06/0941/SH</b>	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 Approved  
 Y06/0941/SH for the erection of a block of fourteen with  
 flats and two commercial units comprising of retail conditions  
 (Class A1), financial and professional services (Class  
 A2) or business (Class B1) together with associated  
 parking and formation of vehicular access.

## 11. 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):**

	<b>Total Chargeable units</b>	<b>Total</b>	<b>Project</b>
<b>General Practice</b>	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:**

	<b>Per Dwelling (x45)</b>	<b>Total</b>	<b>Project</b>
<b>Community Learning</b>	£16.42	£738.90	Towards additional resources, equipment, and classes at Folkestone Adult Education Centre for the new learners from this development
<b>Youth Service</b>	£65.50	£2947.50	Towards additional resources for the Youth service locally in Folkestone
<b>Library Bookstock</b>	£55.45	£2495.25	Towards additional services, resources, and stock in Folkestone Library for the additional borrowers generated from this proposal
<b>Social Care</b>	£146.88	£6609.60	Towards specialist Care accommodation in Folkestone and Hythe District
	All Homes built as <b>Wheelchair Accessible &amp; Adaptable Dwellings</b> in accordance with Building Regs Part M 4 (2)		
<b>Waste</b>	<b>£221.92</b>	<b>£9986.40</b>	Towards the new Folkestone and Hythe WTS, MRF and HWRC improvements

<b>Broadband:</b>	<p><b>Condition:</b> 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.</p> <p><b>Reason:</b> 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/>

## 12. RELEVANT PLANNING POLICY

- 3.1 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).
- 3.2 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.
- 3.3 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.

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

National Planning Policy Framework (NPPF) 2019

3.5 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

## **13. 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-look.

#### **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.

## **14. 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.

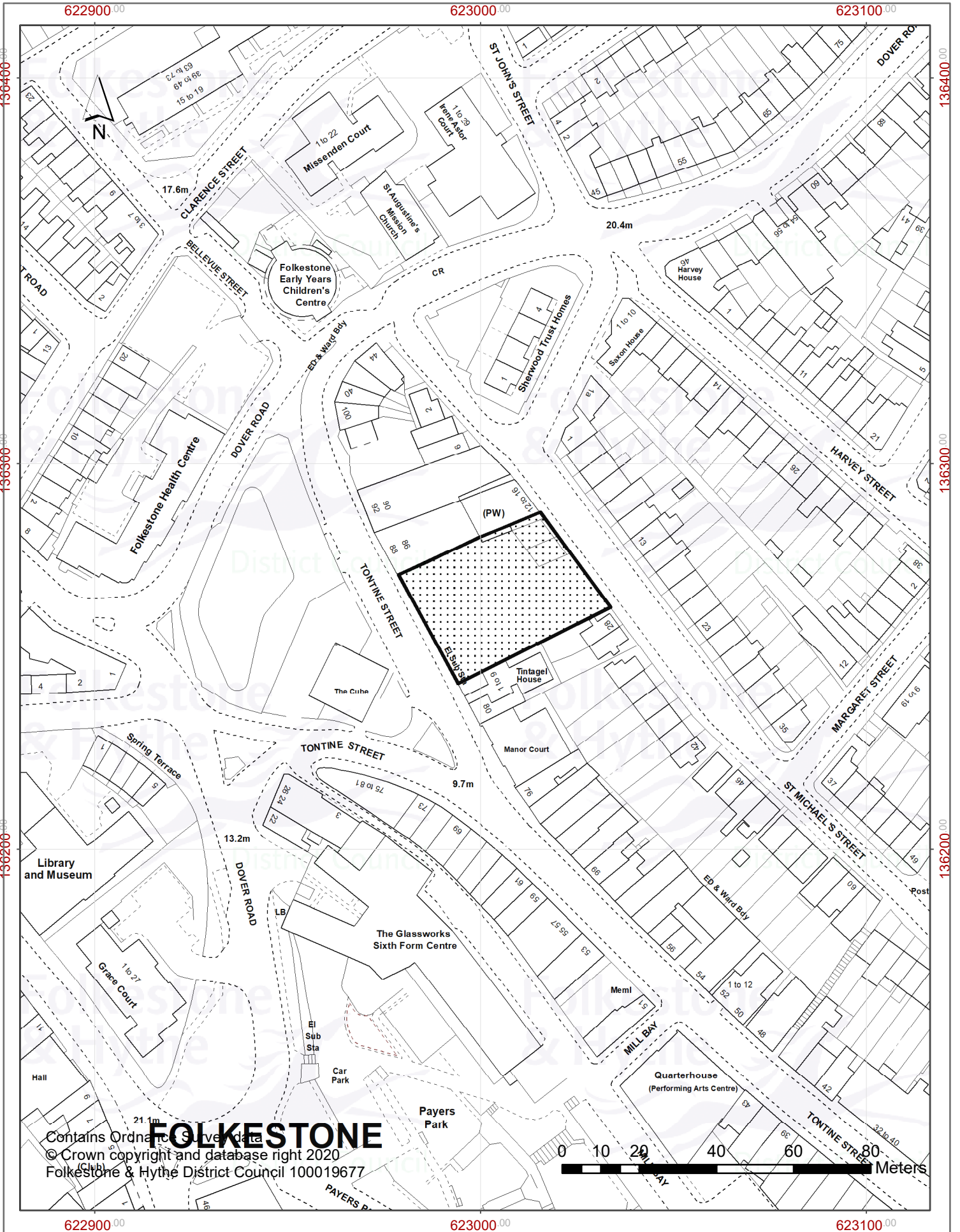
Informative:

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

**Appendix 2 - 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**



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# Agenda Item 10

## DCL/20/40

<b>Application No:</b>	20/983/FH
<b>Location of Site:</b>	Tesco Car Park, Cheriton High Street, Folkestone, CT14QJ
<b>Development:</b>	Erection of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD), goal post height restrictor and play frame. Relocation of the existing recycling area, click and collect and trolley bays.
<b>Applicant:</b>	McDonald's Restaurants Ltd
<b>Agent:</b>	Planware Ltd The Granary, 37 Walnut Tree Lane Sudbury
<b>Officer Contact:</b>	Isabelle Hills <a href="mailto:Isabelle.hills@folkestone-hythe.gov.uk">Isabelle.hills@folkestone-hythe.gov.uk</a>

### SUMMARY

This report considers whether planning permission should be granted for the erection of a freestanding restaurant with drive-thru facility to the south-east corner of the existing Tesco car park, along with car parking, landscaping, installation of Customer Order Displays (COD), goal post height restrictor and play frame, and the relocation of the existing recycling area, click and collect and trolley bays.

The site is located outside of the Cheriton District Centre as identified within the Places and Policies Local Plan, however the submitted Sequential Test demonstrates that there are no alternative suitable sites for a drive thru restaurant either within the Cheriton District Centre, or on the edge. Therefore the proposed site is considered to be the most suitable site in line with the sequential test, thus complying with Policy RL8, the National Planning Policy Framework and Planning Practice Guidance.

The submitted information demonstrates that the proposal would not impact negatively on the surrounding highway network and sufficient parking would be provided for the development and retained for the existing Tesco supermarket.

The design, materials and scale are considered to be appropriate for this location within an existing commercial car park. Ongoing discussions have been had with the Agent to increase the amount of landscaping proposed within the site which is now

considered to be acceptable and would enhance the appearance of the existing car park and the development from within the streetscene.

**RECOMMENDATION:**

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

**1. INTRODUCTION**

- 1.1. The application is reported to Committee 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. The site is the existing car park serving Tesco Supermarket in Cheriton.
- 2.2 The application site is bound by Cheriton High Street to the South and the Cheriton Interchange to the east which leads onto Junction 12 of the M20 to the north of the site. Cheriton Interchange slopes upwards to the north and as such from here, the application site is set down. Members should note that highway works are currently being carried out on the existing Cheriton Interchange Junction which has been funded by the Shorncliffe Development (application reference Y14/0300/SH).
- 2.3 There is an existing bus stop located in front of the south facing elevation of the existing Tesco Building which fronts Cheriton High Street. This is served by 6 buses per hour Monday – Saturday and 4 buses per hour on a Sunday. There are regular services to Folkestone, Cheriton and Hawkinge and also irregular services to Seabrook, Hythe and Lydd. Appendix 6.3 of the Traffic & Highways Engineering Ltd Report provides a map of the local bus network. There is an existing pedestrian entrance to the site to the south east of the existing Tesco building. The closest National Cycle Route is number 17 which is located 2km northwest of the site. Route 17 is a 42 mile route and the Agent has set out all cycle routes in the vicinity of the site within Appendix 6.1 of the Traffic & Highways Engineering Ltd Report.
- 2.4 The site lies outside of the Cheriton District Centre which is some 0.7 km away (measured from the edge of the application site to the closest shop within the District Centre which is Co-Op on Cheriton High Street).
- 2.5 To the east of the site is a small cluster of buildings including The Range and a hairdressers.



- 2.6 The existing Tesco Supermarket building is a large single storey, red brick built building set to the west of the application site. To the south of the site, set behind a sloped grass verge with mature hedging providing some screening is Samian Crescent, a residential road characterised by terraced dwellings. The existing car park has a total of 358 customer spaces including 21 accessibility spaces and 14 parent and child spaces.
- 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 a freestanding, two storey McDonald's restaurant and Drive Thru (Use Classes A3 & A5) with a Gross Internal Area (GIA) of 493 sqm to the south east of the existing Tesco Supermarket car park. The building would have a Gross External Area (GEA)(including the corral and freezer chiller) of 526sqm. Members should note that in line with recent changes to the Use Class Order, this use is now considered a Sui Generis use. However this came into effect for applications submitted after the 1<sup>st</sup> September 2020. This application was received on the 13<sup>th</sup> July 2020 and therefore this application must still be considered as an A3 / A5 use.
- 3.2 The proposal would be located on 91 existing car parking spaces used in association with Tesco which includes three Click and Collect bays and the existing recycling area. The proposed layout includes a total of 35no car parking spaces to serve McDonalds, including 2 accessible bays and 1no Grill Bays.
- 3.3 The development is anticipated to create 35 full time jobs and 30 part-time jobs.
- 3.4 The application includes two order points (Customer Order Displays (CODs), a goal post height restrictor and includes the introduction of a fast forward lane, which would allow for a customer to pull forward to a third booth if there is a slight delay with an order, rather than driving through to the Grill Bays. This is proposed to allow the traffic flow to be retained through the drive-thru lane.
- 3.5 Access to the drive thru lane and the restaurant would be via the existing car park. Upon entering the car park, cars would be directed east, then north then south-east into the proposed new car park. The drive thru lane extends around the south east of the building (see figure 1). A new pedestrian access would be provided from Cheriton High Street.
- 3.6 The proposal seeks to re-locate the existing recycling centre from the east of the site to the south just beyond the existing entrance into the car park (see figure 1). The existing Tesco Click & Collect facility would be relocated to the north of the existing Tesco building (see figure 1).



**Figure 1.**

- 3.7 Internally, the ground floor would provide a dining area, cashier points, toilets including one accessible toilet cubicle, kitchen facilities and booths for the drive thru. On the first floor, additional kitchen facilities are proposed along with a crew room, office and storage facilities. To the east side of the building a corral is proposed.
- 3.8 The roof would accommodate a chiller / freezer / ABS Condensers, a kitchen extract, S1 & S2 kitchen supplies, WC extract, and S2 FOH supply which are all proposed to be boxed in to conceal the extracts from public view.
- 3.9 The building would have a height of 8.75 metres (including the machinery cover on the roof). It would have an approximate length of 25.7 metres and approximate width of 12.4 metres (see figure 2).



**Figure 2.**

3.10 5 existing trees and an area of existing planting to the east of the site are proposed to be removed. The existing vegetation located on the motorway embankment is proposed to be retained. Officers have engaged with the Agent to secure enhanced landscaping to the scheme. New areas of planting are proposed to be incorporated into the scheme including 14 new trees, specimen shrub planting, formal hedge planting and ornamental shrub planting (see Figure 3).



Figure 3.

3.11 The submitted Supporting Statement raises the following points:

Operation of the building:

- McDonald's freestanding restaurants ideally operate 24 hours per day and 7 days per week.
- Servicing of the restaurant is undertaken by a dedicated supplier and will take place approximately 3 times per week, lasting between 15 – 45 minutes depending on the delivery required.
- The supplier uses a computerised planning tool (Paragon) which enables the requirements for individual delivery destinations to be set and ensures that they are complied with on every occasion the delivery is planned. The restaurant will be allocated a 2 hour delivery slot, and the delivery will be planned within this.
- The supplier will carry out a prior assessment of the site to ensure that any measures required within the parking area are employed in good time for the delivery arrival to ensure the vehicle can easily access the site.
- CCTV is proposed to be installed.

### Noise & air pollution

- An air extraction system would be used which incorporates built-in Hi-Catch filters, which remove 8% of airborne grease at source
- 'Considerate neighbour signs' and an Environmental Manual and audit systems would be used to manage noise. An acoustic report and odour control document accompany the application.
- Separate Noise Impact Assessments & Odour Control Specification reports have been submitted.

### Environment & Sustainability

- The buildings design has been directly influenced by the solar path. The height of the glazing and depth of the design elements allow natural sunlight to be used to maximum advantage, which assists with the internal lighting of the restaurant and heat retention when cooler outside. When outside temperatures are warmer, the roof is designed to provide external shading which reduces internal solar gain.
- The principle entrance is designed to act as a 'wind lobby' to reduce heat exchange allowing the restaurant to remain warm in winter months and cool in summer months thus where as far as possible reducing the need for internal temperature controls.
- The external shell is designed to prevent air leakage and achieve the U-value required by current building regulation standards.
- Low energy LED lighting systems are used in nearly all units & metering system used which measures the amount of electricity used in every half hour of the day.
- All new drive thru McDonald's restaurants are supplied with electricity from 100% renewable sources, generated off site. The supply is from a variety of sources, provided by Npower and is guaranteed until 2035.
- Proposed materials selected to provide maximum durability and robustness and replacement, maintenance and repair is perceived to be minimal during the buildings lifecycle.
- McDonald's UK has a long-term goal to send zero waste to landfill by reducing operational waste, recycling as much as possible, and diverting the remainder to a more sustainable solution.
- It is company policy to conduct a minimum of three daily litter patrols, whereby employees pick up not only McDonald's packaging, but also any other litter that may have been discarded in a 100m vicinity of a restaurant.

The submitted Transport Assessment produced by ADL Traffic and Highways Engineering Ltd and supplementary note raise the following key points –

- Tesco have identified the site as having surplus parking for their operational needs (currently 358 customer spaces in the car park including 21 accessibility spaces and 14 parent and child spaces).
- A summary of personal injury traffic data from KCC for a 60 month period demonstrates of 14 personal injury accidents, 3 accidents have

occurred in the vicinity of the site entrance caused by driver error and no pedestrians were involved.

- Access would be via the internal Tesco access road with the McDonald's car parking and drive-thru lane accessed off a one-way circulatory lane, clockwise round the building.
- Delivery vehicle access would be via the Tesco access road and would unload in the McDonald's car park in the space immediately adjacent to the restaurant with the rear of the vehicle adjacent to the corral.
- Development would provide 33 spaces comprising 2 accessible parking spaces.
- 8 cycle spaces are proposed.
- Difference in parking provision as a result of the development would be a loss of 58 spaces. There would be a total of 300 spaces to serve the proposed McDonald's and existing Tesco store.
- Parking Demand Assessment which assumes peak period for McDonald's and Tesco are the same concludes during the Friday peak period proposed demand would be 245 spaces (82%) with 55 spaces available. During Saturday peak periods the proposed demand would be 278 spaces (93%) with 2 spaces available.
- Based on Customer Interview Average Survey Results (set out in full within the report) this demonstrates that on a Friday 24% of trips to McDonald's could be expected to be additional trips to the restaurant and 76% would be existing on the road network. On a Saturday 24% of trips would be additional trips and 76% would be existing on the road network.
- Average drive-thru queues would be an average of 7 cars on a Friday and 6 on a Saturday. The proposed drive thru lane has capacity to accommodate 12 vehicles and a further 6-7 vehicles can be confined within the McDonald's demise without overspill to the Tesco Link Road.
- Practical reserve capacity (PRC) with McDonald's would result in the junction (Junction 12 including the Cheriton High Street junction) continuing to perform with minimal queuing and delay with approach lanes operating within the theoretical capacity of 85% degree of saturation in the 2026 future year. Queues would continue to be between 2 and 5 vehicles.

#### 4. RELEVANT PLANNING HISTORY

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

<b>20/0983/FH</b>	Advertisement consent for signage including 5 x freestanding signs, 1 x banner unit, 1 x play land sign and 21 x dot signs	Approved with conditions
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<b>20/0969/FH</b>	Advertisement consent for the relocation of existing Tesco totem	Approved with conditions
<b>20/0965/FH</b>	Advertisement consent for the installation of 2 x freestanding totem signs	Approved with conditions
<b>20/0964/FH</b>	Advertisement consent for the installation of 6 x fascia signs, 1 x 15" digital booth screen and 3 x booth lettering.	Pending consideration

## **5. CONSULTATION RESPONSES**

5.1 The consultation responses are summarised below.

### **Consultees**

**Folkestone Town Council:** Object on the following grounds:

- 1) Overdevelopment
- 2) Possible lack of parking
- 3) The existence of a McDonalds less than two miles away at Park Farm

**Arboricultural Manager:** No objections or comments to make regarding the proposed landscaping plan.

**Kent Highways:** The applicant has provided additional supporting information in relation to the impact that the proposed development traffic would have on the nearby revised layout for the Cheriton Interchange junction. This has now demonstrated that the proposals would not impact negatively on the surrounding highway network. With the future 2026 + committed development + proposal traffic scenario still maintaining 36.5% practical reserve capacity.

As such, I can confirm that provided the following requirements are secured by condition, then I would raise no objection on behalf of the local highway authority:-

- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05 metres above carriageway level within the splays, prior to the use of the site commencing.
- Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
- Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing.

**Environmental Health:** No objection to the granting of the application subject to the following condition:

- No fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the local planning authority. The rating level of the sound emitted from the site shall not exceed 50dBA between 0700 and 2300 hours and 35 dBA at all other times. The sound levels shall be determined by measurement or calculation at the nearest residential premises. The measurements and assessment shall be made according to BS 4142:2014 as stated within the Noise Assessment report dated 16<sup>th</sup> December 2019 – Project 199336.

**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.

**KCC Archaeology:** The site lies between two areas of prehistoric burials; Iron Age and Roman cremation burials c.80m to the west and possible Late Neolithic burials c. 80m to the south-east of the site. As the site has archaeological interest the application should have been submitted with an archaeological desk-based assessment and the results of field evaluation as required by paragraph 189 of the NPPF.

If it is minded that the application is determined at this stage then I recommend the following condition is attached to any forthcoming consent:

*No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of*

- archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and*



- ii. *Following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.*

*Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.*

### **Local Residents Comments**

5.2 1 neighbour directly consulted and three site notices were put up on and around the site to provide wider publicity for the proposed development. 49 comments have been received.

5.3 The comments received has been read and the key issues are summarised below:

41 objections:

- Concerns about increased traffic onto surrounding highway network, particularly during peak times
- Concerns about litter and impact on local wildlife and environment
- Concerns about noise and pollution / light pollution
- Concerns with highway safety and parking on surrounding roads
- Concerns with adding an unhealthy food option to area why the building cannot be located further to the north of the site
- An existing McDonalds is located in close proximity at Park Farm
- Spaces inside Tesco car park already occupied at busy times – how will the capacity be replaced?
- Queried whether there are better locations that would serve the community well.
- Primary Schools in close proximity
- Concerns with health and wellbeing
- Lack of consideration given to neighbouring residents
- Contradictory to Folkestone's creative status
- Already 2 McDonalds in the area
- Should support independent business instead
- Residential area not retail area

8 representations in support:

- Proposal would be good for the area

- Traffic would not be a problem as there is already a Tesco which people use
- There is no McDonalds within a reasonable walking distance. Google Maps states McDonalds Park Farm is a 84 (1hr 24 minute) walking round trip from the Tesco Car Park.
- Freedom and choice of food provision should be an accepted notion.
- Opportunity to integrate a queuing system to help with traffic flow
- Major local employers have had job cuts this year – this proposal would create 65+ jobs
- This proposal could reduce traffic at Park Farm
- Appearance would be an improvement on the current site
- Existing portion of the car park is always empty
- Current roadworks in this location are meant to alleviate any traffic issues

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 Places and Policies Local Plan and the Shepway Core Strategy Local Plan (2013)

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

HB1 (Quality Places through Design), RL1 (Retail Hierarchy), RL10 (Shop Fronts, Blinds and Security Shutters), T2 (Non-residential and Commercial Parking), CC2 (Sustainable Design and Construction), NE5 (Light Pollution and External Lighting), HW1 (Promoting Healthier Food Environments), HE2 (Archaeology).

Also of particular note is policy RL8 (Development Outside Town, District and Local Centres):

Planning permission for town centre uses outside the Major Town Centre, Town Centre, District Centres and Local Centres will be permitted provided that:

1. The sequential approach set out in the National Planning Policy Framework and Planning Practice Guidance has been followed;

2. A full assessment is provided of the impact that the proposal would have on the retail health of all centres that are likely to be affected, relating to the scale and the type of development proposed in accordance with the requirements of the National Planning Policy Framework and Planning Practice Guidance. In addition, the assessment should demonstrate:
  - The extent to which the market profile of the development proposed will compete with existing facilities in town centres;
  - The potential for relocation of businesses currently trading in town centre to out-of-centre locations;
  - The impact on linked trip spending between different town centre uses or businesses;
  - The cumulative effect of more than one development coming forward at the same time; and
  - The impact through trade diversion on the role and function of a centre or centres;
3. It can be demonstrated that the site is in an accessible location and well connected to the centre enabling easy access on foot, by bicycle and public transport;
4. The proposed development does not have a significant detrimental impact on the highway network in terms of congestion, road safety and pollution;
5. Acceptable vehicular access and, if required, service space, can be provided without harm to the living conditions of local residents; and
6. The design, including parking and landscaping, complies with Policy HB1 and reflects the character of the local street scene and wider built context.

#### Impact Thresholds

For the purposes of this policy, the following impact thresholds will be applied:

- Outside the Major Town Centre, Town Centre and District Centres - 500sqm gross; and
- Outside Local Centres - 200sqm gross.

The threshold will be based on the nearest centre to the proposal.

To avoid cumulative developments that exceed these thresholds, an impact assessment will be required if the threshold is breached in one year by more than one planning application.

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

**DSD** - Delivering Sustainable Development

**SS1** - District Spatial Strategy

**SS2** – Housing and the Economic Growth Strategy

**SS3** - Place Shaping and Sustainable Settlements Strategy

**SS4** – Priority Centres of Activity Strategy

#### Core Strategy Review Submission draft (2020)

**SS1** – District Spatial Strategy

**SS2** – Housing and the Economic Growth Strategy

**SS3** - Place Shaping and Sustainable Settlements Strategy

**SS4** – Priority Centres of Activity Strategy

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, 85, 86, 87, 90, 91, 102, 109, 127, 150

Paragraph 86 says Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 90 states where an application fails to satisfy the sequential test it should be refused.

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

Paragraph 150 states that new development should be planned for in ways that can help reduce greenhouse gas emissions, such as through its location, orientation and design.

National Planning Policy Guidance (NPPG)

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

## **7. APPRAISAL**

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

- a) Principle of development
- b) Sustainable development
- c) Design/layout/visual amenity
- d) Residential amenity and wellbeing
- e) Lighting
- f) Highway safety
- g) Archaeology

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

7.2 The overarching aim of national and local planning policy is to secure sustainable patterns of development through the efficient re-use of previously developed land. The existing site accommodates the Tesco supermarket and petrol filling station and the proposal would be located within the existing car park. This proposal is therefore considered to facilitate this objective.

7.3 A sequential test has been submitted in line with the NPPF and Planning Practice Guidance as the proposal seeks to introduce a Town Centre use outside of the Cheriton District Centre. Paragraphs 85-87 of the NPPF requires sequential tests to consider sites that are suitable, available and viable.

7.4 The Cheriton District Centre has a linear form along Cheriton High Street and Cheriton Road. These are mostly terraced properties with ground floor business premises with residential accommodation above. Many of the shops are accessed directly from the public footpath and few of these premises benefit from car parking provision. Several exceptions to this pattern were identified in the sequential test, including Shell Petrol Filling Station and Kwik Fit however these sites are not currently available. The wider Cheriton area is bounded by the railway to the south and the wider locality consists mainly of residential development.

7.5 The sequential test states the proposal requires approximately 0.3ha of available space to viably support a restaurant, drive-thru lane and associated parking. From the information provided within the submitted sequential test I am satisfied that there are no other sites that are suitable, available and viable for use as a restaurant and drive-thru within the Cheriton District Centre or on the

edge of the centre. Therefore the provision of a restaurant and drive-thru facility outside of the District Centre meets the sequential test in this instance.

- 7.6 The application site forms part of the site of an existing commercial use within the urban boundary and as such the redevelopment of this brownfield site for A3/A5 use is acceptable in principle. The site already benefits from good public transportation links, with frequent bus services running from the site into the Cheriton District Centre and further afield. There are also existing public footpaths surrounding the site and the Cheriton District Centre is an approximate 10 minute walk away. On this basis the site is considered to be located in an accessible location and is well connected to the Cheriton District Centre. Therefore I am content that the proposal satisfies points 1, 2 & 3 of PPLP policy RL8.

### **b) Sustainable Development**

- 7.7 The NPPF, Shepway Core Strategy and the PPLP policies all support the principle of sustainable development, which the NPPF defines as having environmental, economic and social aspects/roles.
- 7.8 Whilst it is expected that the majority of the customers to the site will travel by car, particularly as a result of the 'drive-thru' element, the Transport Statement sets out that a large proportion of customer traffic would be combined purpose car trips. It is therefore not anticipated that the proposed development would result in a significant increase of car journeys within the area.
- 7.9 Within the submitted Supporting Statement are details in respect of environment and sustainability which seek to incorporate measures such as renewable energy', managing waste and the use of recycled material in construction, include a sustainable urban drainage system, measure to reduce carbon dioxide emissions, a waste management strategy, a recycling strategy' and measures for reducing litter. I accept that the measures detailed address the requirements of the NPPF in terms of this element of sustainable development and are acceptable.

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

- 7.10 Development Plan policy places considerable emphasis on the importance of achieving good design to ensure all new developments are appropriate to the shape, size and location of the site.
- 7.11 Policy HB1 requires a high standard of layout, design and choice of materials, which will be expected for all new development. Materials should be sympathetic to those predominating locally in type, colour and texture. Development should accord with existing development in the locality, where the site and surrounding development are physically and visually interrelated in respect of building form,

mass, height, and elevational details. Proposals should also incorporate high quality hard and soft landscaping and boundary treatments.

- 7.12 The application site consumes the eastern portion of the existing Tesco car park and the building itself would be located to the south, with the front entrance located to the north facing elevation. The building has been positioned here to allow for vehicles to enter the drive-thru in a clockwise rotation around the building before exiting at a give way junction which would filter vehicles back into the existing Tesco car park.
- 7.13 The existing Tesco building and petrol filling station are stand-alone buildings along this portion of Cheriton High Street. To the north is the Cheriton Interchange Junction and the M20 and Samian Crescent to the south is partially screened from the site with existing vegetation. There is considered to be sufficient space on the existing site to accommodate the proposed development without appearing to clutter the site nor result in an overdevelopment of the site. The footprint, mass and scale of the proposed building is considered appropriate given its location within an existing commercial car park, particularly given the large footprint of the existing Tesco building in comparison to the proposed building. Therefore although the Town Council's concerns with overdevelopment are noted I am satisfied there is sufficient space on site to ensure the development does not result in the overdevelopment of the site.
- 7.14 Amendments were sought to the south elevation of the building which faces onto Cheriton High Street to include first floor windows. The new plans incorporate these and are considered create more visual interest to this elevation. The proposed development would introduce more contemporary materials to this location however these would be in muted tones of light and dark grey cladding panels with some wood cladding. The proposed materials palette is considered to assist in ensuring the proposed development would not have an overly dominant visual impact upon the site nor the wider streetscene. In light of the above I am satisfied that the design of the proposal meets the aims of the NPPF and PPLP policies HB1 and RL8.
- 7.15 Turning to landscaping, the proposal would result in the loss of 5 trees and an area of existing planting to the east of the site. The motorway embankment planting is proposed to remain along with 9 trees to the east and south of the embankment and site entrance. It is acknowledged that the proposed development would intensify the use of the site and therefore to ameliorate some of this impact, ongoing discussions have been had with the Agent to secure enhanced landscaping on the site.
- 7.16 The updated landscaping plans show additional landscaping on the site, including the introduction of 14 trees new trees, specimen shrub planting, formal hedge planting, ornamental shrub planting and three planters. Officers are satisfied that the revised landscaping for the site is of a high quality, which would enhance the appearance of the site when viewed from inside and outside of the site and would improve the visual amenity of the area. In addition to this, I consider that the enhancements to the proposed landscaping scheme would

assist in ameliorating some of the visual impact of the development and associated signage on this site. It is therefore considered that the proposal accords with the overall aims and objectives of the NPPF. Details such as materials and long term maintenance of the landscaping and tree pit specification could be secured by condition.

- 7.17 The existing recycling centre to the east is proposed to be relocated to the south of the site and the existing Tesco 'Click and Collect' area is proposed to be relocated in front of the north facing elevation of the Tesco building. Elevations and material details have not been submitted with this application however these can be secured by planning condition to ensure these elements have an acceptable visual impact.

#### **d) Residential amenity and wellbeing**

- 7.18 The closest residential properties at Samian Crescent are some 50 metres to the south of the proposed development. The application seeks permission for a 24 hour use and the application is accompanied with a Noise Assessment Report. The report recommends details of fixed plant and machinery serving the development and any mitigation measures necessary to be secured by planning condition to ensure noise emitted from fixed plant equipment does not adversely impact upon the amenity of residents. This is proposed to be secured by planning condition.
- 7.19 Noise specifically related to the use of the drive-thru could result from the arrival of a vehicle, the ordering of food, followed by payment and collection and the movement along the access road to depart the site. These activities do not involve customers leaving their vehicles which could incur noise from doors slamming, and therefore noise would predominantly result from the acceleration of the vehicle away from the order/collection windows. I am satisfied that the layout of the site would be such that vehicles cannot travel at speed around the drive-thru and therefore no significant noise disturbance would result. In addition, the noise assessment demonstrates that noise levels predicted to arise from 'drive-thru' activity fall within the WHO guideline values for daytime and night time noise and therefore I consider 24 hour operation of the drive-thru facility would not result in significant noise disturbance to neighbouring residents.
- 7.20 The Noise Assessment demonstrates that predicted customer car parking activity noise levels would comply with the WHO daytime and night guideline values and therefore I am satisfied that 24 hour trading in this instance would not result in significant noise or disturbance to surrounding residential properties.
- 7.21 In terms of outlook from residential properties adjacent at Samian Crescent, due to the distances involved the development would not appear dominant within the outlook from these properties. First floor glazing to the south elevation would serve the kitchen and Crew Room. This would face towards Samian



Crescent where there is some existing screening between the site and the residential properties. Therefore I am satisfied the proposal would not result in a significant loss of privacy to existing dwellings in the area.

- 7.22 In terms of the management of cooking smells the application is accompanied with an Odour Control Assessment and Specification and I am satisfied that this demonstrates that residential amenities will not suffer from cooking smells from the proposed development.
- 7.23 Neighbour comments have raised concerns with the potential for increased litter. Whilst it cannot be secured via planning condition, the Supporting Statement sets out that it is company policy to conduct a minimum of three daily litter patrols. The proposed site plan also shows proposed litter bins located around the site. These measures are considered sufficient to alleviate concerns surrounding the potential for littering. Overall I conclude that the proposal would not result in a significant adverse impact upon the amenity of neighbouring occupants.
- 7.24 Consultation responses raising concerns to health and wellbeing and the proximity of Schools is noted. PPLP policy HW1 relates to promoting healthier food environments however this does not specify the proximity of such developments to local schools. The existing site hosts a supermarket, and although comments relating to unhealthy food options being introduced are noted, within the existing locality there are a variety of food options available. Section 3.12 of the the accompanying Supporting Statement demonstrates the company's commitment to educating customers with regard to nutrition and therefore I accept that the proposal meets the aims of policy HW1.

#### **e) Employment**

- 7.25 Although the site lies outside of the Cheriton District Centre, as set out above the principle of development on this site is considered acceptable based upon the evidence submitted within the Sequential Test. Policy SS2 of the Shepway Core Strategy prioritises urban regeneration and [in part] 'the provision of new jobs will be facilitated through...the protection of sufficient employment land across the district'. The existing site benefits from a commercial / retail use being the existing Tesco car park and the proposed development would create 35 full time jobs and 30 part-time jobs. This is considered to fulfil the requirements of policy SS2 and would be a welcomed additional employment to this part of the district.

#### **f) Lighting**

- 7.26 A lighting scheme and Lighting Application Specialist team (LIAS) design note have been submitted in support of the application.

PPLP policy NE5 requires external lighting levels to:

- not materially alter light levels outside the development site;
- not adversely affect the use or enjoyment of nearby buildings or open spaces; and
- accord with the best practice guidance provided by the Institution of Lighting Professionals (ILP) (2011) in suburban areas.

Providing the lighting scheme follows the guidance notes for the reduction of obtrusive light by the Institution of Lighting Professionals (ILP) (2011) I consider that the proposal would not adversely impact upon the amenity of nearby residential properties nor the wider streetscene. This can be secured by condition and would therefore meet the requirements of PPLP policy NE5.

### **g) Highway safety**

- 7.27 The application is submitted with a Transport Assessment and Supplementary Note and have accounted for the highways works currently being carried out on the existing Cheriton Interchange Junction. Kent Highways and Transportation raises no objection to the proposal on highway safety grounds subject to the conditions attached in the recommendation at the end of the report.
- 7.28 I accept that the Traffic Accident Summary provided within the Transport Statement demonstrates there are no particular patterns or trends in relation to the existing Tesco site entrance junction and therefore no mitigation would be required in this instance to improve the safety of this junction as a result of the proposed development.
- 7.29 Comments relating to traffic issues at the existing McDonald's facility in Park Farm are noted. However each application must be assessed on its own merits. I acknowledge the information submitted within this application demonstrates that the proposal would have an acceptable impact upon the surrounding highway network in this location. Decisions must be based upon evidence and not assumption and the submitted transport reports demonstrate that the development in this location would not adversely impact the highway network.
- 7.30 Consultation comments raising concerns with parking demand on the site are noted. The existing Tesco car park has a total of 358 customer spaces. The proposed development would be situated on 91 existing car parking spaces and would provide 35 car parking spaces resulting in a net loss of 56 car parking spaces on site. The overall customer parking provision would be 302 spaces as a result of the development. The applicant has demonstrated that when parking is modelled on peak times (set out within the accompanying Transport Assessment), there would be a surplus of parking spaces. Due to the drive-thru element of the proposal it is also not anticipated that every vehicle visiting the site would require a parking space. I am therefore satisfied that the proposal would not result in an increased demand for parking off-site on the surrounding

roads nor result in an unacceptable loss of parking spaces to serve the existing Tesco supermarket and the proposed development simultaneously.

- 7.31 KCC Highways have requested the provision of visibility splays and vehicle parking spaces which can be secured by condition.
- 7.32 Turning to cycle parking PPLP policy T5 does not specify the number of cycle spaces for non-residential development and states that the provision should be provided in agreement with the Council. However SPG4 stipulates that the minimum cycle parking standards for A3 development is 2 spaces and the minimum requirement for A5 development is also 2 spaces. The proposal seeks to provide 8 cycle parking spaces in the form of 4 Sheffield stands for staff and customer use. KCC Highways have raised no objection to the level of cycle parking and on balance I am satisfied that the level of cycle parking is appropriate in this instance.

#### **h) Drainage**

- 7.33 The application form states that the building would be connected to the mains sewer and a full drainage scheme could be secured by planning condition. Sustainable Drainage is also proposed and is set out within the submitted Drainage Statement report (NB8869) produced by Glanville. The report concludes that the most suitable option for the site is for rainfall to be collected from roofs and pavements by a combination of gutters, drainage channels and gullies. Once collected, rainfall will be directed through drains to a cellular storage tank, to a flow restrictor and then a sand filter trench and treatment chamber. I am satisfied that this approach to sustainable drainage would be acceptable and can be secured by planning condition.

#### **i) Contamination**

- 7.34 Regarding contamination at the site, the Environmental Health Team have confirmed that the development appears to be low risk with regard to land contamination matters. However a condition can be attached requiring works to cease and a full investigation to be undertaken if any contamination is found on site.

#### **j) Archaeology**

- 7.35 The County Archaeologist advises for a condition to be attached to any grant of planning permission to secure the implementation of archaeological field evaluation works and any necessary safeguarding measures prior to the commencement of development on site. Therefore subject to the inclusion of such condition, no objection is raised to the proposal under PPLP policy HE2.

**k) Other Matters**

- 7.36 Comments relating to the number of McDonalds restaurants already in the district and the need to support local and independent businesses are noted. However planning applications must be assessed on the basis of their own merits and therefore it would be unreasonable to refuse an application on the basis that it would result in additional economic competition for other businesses. There are therefore no objections on these grounds.

**Environmental Impact Assessment**

- 7.37 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**

- 7.38 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.
- 7.39 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL charge in this location is £111.15 for retail development over 280sqm. This development proposes a Gross Internal Area of 493sqm meaning the development is CIL liable.

**Human Rights**

- 7.40 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**

7.41 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**

7.42 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 development is considered to be in line with the aims of the Places and Policies Local Plan policy RL8 and the submitted Sequential Test demonstrates that the application site is the most suitable and available site for the proposed development, despite falling outside of the Cheriton District Centre. The scale and footprint of the proposal is not considered would result in an overdevelopment of the existing car park site and the design of the proposal is considered would not adversely impact upon the existing character or appearance of the wider area, further ameliorated with the proposed landscaping enhancements on the site.

8.2 No significant concerns are had with the impact of the proposal on the amenity of neighbouring residents and the proposal would result in the creation of new jobs within the area. The submitted information demonstrates that the proposal would not impact negatively on the surrounding highway network and sufficient parking would be provided for the development and retained for the existing Tesco supermarket.

8.3 Therefore, together subject to the conditions set out at the end of the report, it is considered that the scheme is acceptable and is recommended for approval.

## **9. BACKGROUND DOCUMENTS**

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

## **10. RECOMMENDATIONS**

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

### Conditions

1. The development 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 and materials shown on the submitted plans, Standard Patio Area Supporting Specifications, 7584-SA-8869-P006 B (Ground Floor, First Floor & Roof Plans), E11-003-V01-S (Outdoor Climb 2017 Revision - Play of the Future), Goal Post Height Restrictor and COD/Canopy Digital Drive Thru Lane, 7584-SA-8869-P014 E (Tesco Site Plan), DWG 00 (LiAS Design Notes & Luminaire Schedule), DWG 01 (Proposed Lighting Layout) and 7584-SA-8869-AL03 B (Site Layout Plan As Existing) received 13.07.2020, 7584-SA-8869-P005 D (Proposed Elevations & Section) received 10.11.2020, 7584-SA-8869-P006 D (Ground Floor, First Floor & Roof Plans), 16987-VL-McD\_L02 Rev A (Raised Planters – Planting For Pollinators) and 16987-VL-McD\_L01 Rev D (Landscape Plan) received 19.11.2020, and 7584-SA-8869-P004 N (Site Layout Plan As Proposed) and 7584-SA-8869-P002 N (Block Plan) received 23.11.2020.

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of saved policy SD1 of the Shepway District Local Plan Review.

3. Tree pits for the proposed trees and any future replacement trees on the site shall accord with the details set out within BS8545:2014 – Trees: from nursery to independence in the landscape – Annex F.

Reason:

To ensure the new landscaped areas are properly maintained in the interest of the amenity of the area.

4. A landscape management plan, including details of the type of maintenance proposed for all planting including the planters, replacement planting and trees and proposals for long term tree management shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the development and the landscaping shall be maintained in accordance with the approved plan for the lifetime of the development unless previously agreed otherwise in writing by the Local Planning Authority.

Reason: To ensure the new landscaped areas are properly maintained in the interest of the amenity of the area.

5. Prior to the first use of the building hereby permitted the parking spaces shown on the approved plans shall be made available and thereafter retained and maintained.

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.

6. Prior to the first use of the building hereby permitted the cycle parking shown on the approved plans shall be made available and thereafter retained and maintained.

Reason:

To ensure the provision and retention of adequate off street parking facilities for bicycles in the interests of highway safety and to encourage the use of sustainable modes of transport.

7. The visibility splays as shown on the approved plans, with no obstructions over 1.05 metres above carriageway level within the splays, shall be provided prior to the first use of the development, and shall thereafter be maintained and retained.

Reason:

In the interests of highway safety.

8. Details of the facilities for storage and collection of refuse and recyclables shall be submitted to and approved by the Local Planning Authority and the approved facilities provided before the development is first occupied. Thereafter the approved facilities shall be kept available for use by the development.

Reason:

To ensure adequate means of refuse collection in the interests of the amenities of neighbouring residents.

9. Details of the relocated Click and Collect Facility serving the Tesco Supermarket shall be submitted to and approved in writing by the Local Planning Authority prior to being constructed. The development shall be carried out in accordance with the approved details unless previously agreed otherwise in writing by the Local Planning Authority and be permanently retained thereafter.

Reason:

In the interests of visual amenity.

10. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:

- i. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
- ii. Following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

11. No fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the Local Planning Authority. The rating level of the sound emitted from the site shall not exceed 50dBA between 0700 and 2300 hours and 35 dBA at all other times. The sound levels shall be determined by measurement or calculation at the nearest residential premises. The measurements and assessment shall be made according to BS 4142:2014 as stated within the Noise Assessment report dated 16th December 2019 – Project 199336.

Reason:

To protect the amenity of neighbouring occupants.



12. The lighting scheme hereby approved shall be carried out in accordance with the guidelines provided by the Institution of Lighting Professionals 2011 and shall be maintained as such unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of reducing light pollution and protecting neighbouring amenity.

13. If, during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reasons:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of pollution from previously unidentified contamination sources at the development site.

14. The development hereby permitted shall be carried out in complete accordance with the information and details provided in the Drainage Statement report (NB8869) produced by Glanville and Drainage Maintenance Plan (NB8170) produced by Glanville received 13.07.2020

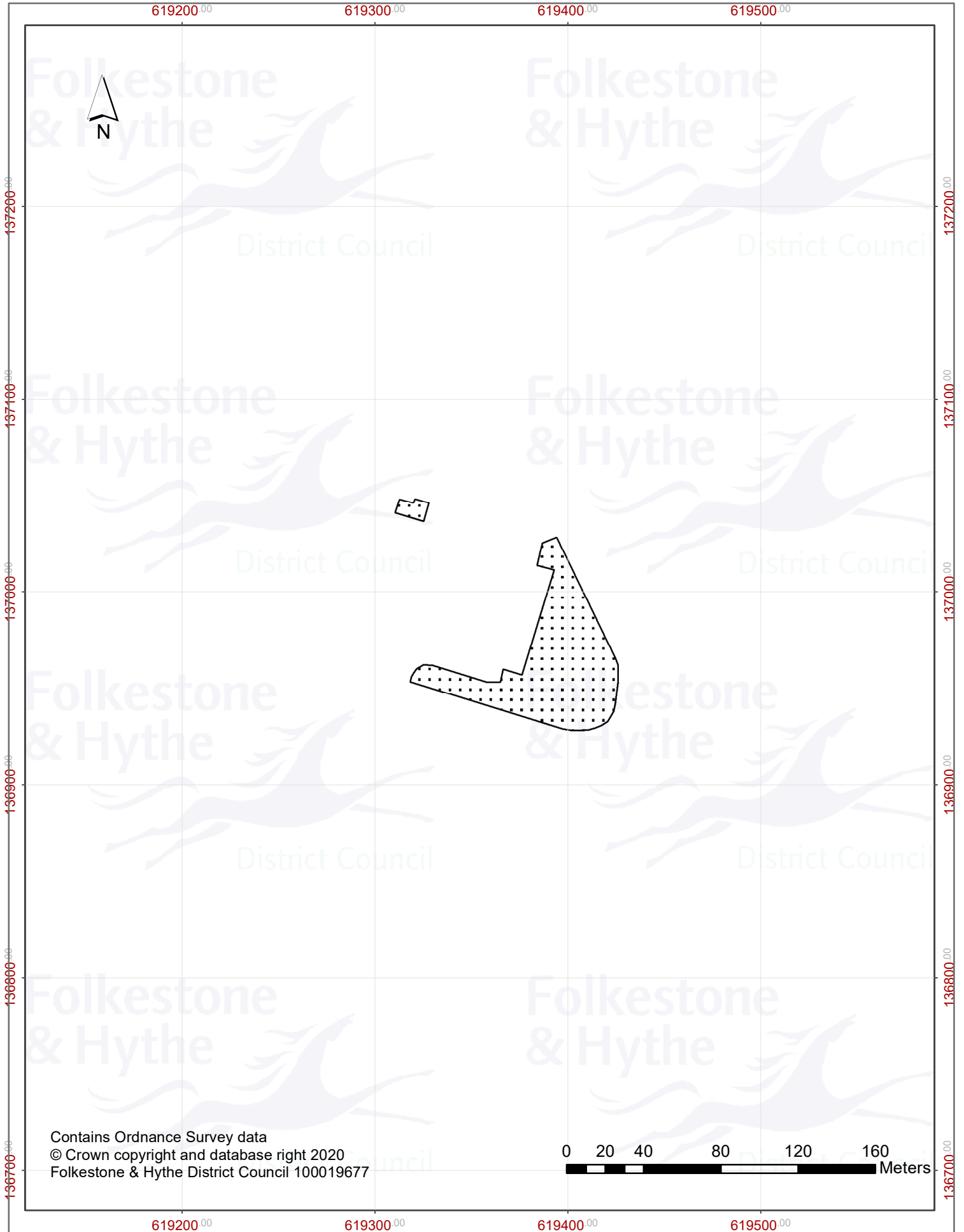
Reason:

To ensure that the principles of sustainable drainage are incorporated into the development and to ensure ongoing efficiency of the drainage provisions.

## **Appendix 1 – Site Location Plan**

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Tesco Car Park  
Cheriton High Street  
Folkestone



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This Report will be made public on 7 December 2020

Report Number: **DCL/20/41**

**To: Planning and Licensing Committee**  
**Date: 15 December 2020**  
**Status: Non key Decision**  
**Responsible Officer: Llywelyn Lloyd, Chief Planning Officer**

**SUBJECT: FORMAL ENFORCEMENT ACTION AND COMPLAINTS UPDATE REPORT**

**SUMMARY:**

The purpose of this report is to provide the Committee with an update on formal action taken by the Council in respect of breaches of planning control where the committee has authorised officers to take formal enforcement action.

The Chief Planning Officer has delegated authority to serve many of the formal notices that are issued but the majority of Enforcement Notices require the authorisation of the Planning and Licensing Committee. Councillors have requested an update on the enforcement notices that they have authorised the Chief Planning Officer to serve.

This report also includes an update on the other formal notices that the Council can serve in exercising its planning enforcement powers and on the number of enforcement complaints that have been received and closed since 1<sup>st</sup> April 2019.

**REASONS FOR RECOMMENDATIONS:**

The Committee is asked to note the recommendations set out below because this report is for information only.

**RECOMMENDATIONS:**

- 1. To receive and note report DCL/20/41.**
- 2. To receive and note Appendix 1.**

## **1. ENFORCEMENT NOTICES**

- 1.1 Attached at Appendix 1 is a table of the Enforcement Notices served over the last 6 years which are in progress or have been complied with. Members will note from looking at the current position that serving the Enforcement Notice can be the start of a very long process. The person responsible for the breach can submit a planning application; appeal against the Notice to the Planning Inspectorate; or simply refuse to comply with the Notice. An appeal to the Planning Inspectorate effectively puts the Notice on hold and the compliance period then starts afresh if the appeal is dismissed and the Notice upheld. In terms of failure to comply with the Notice, if there aren't good reasons for the person not complying with the notice by the compliance date the Council's next course of action is to commence prosecution proceedings. However, even if the prosecution is successful this does not remedy the breach of planning control with the only option then open to the Council being Direct Action, as is the case with the various breaches at land at Whitehall Farm Romney Road Lydd.

## **2. OTHER FORMAL NOTICES**

- 2.1 The table at Appendix 1 only shows Enforcement Notices, however there are a number of formal notices available to the Council for resolving breaches of planning control, including the following:

Temporary Stop Notices – these take immediate effect and can be used to stop specified works or uses from taking place for up to 28 days. They can only be used where the harm or potential harm is so significant that it justifies immediate cessation. They are useful in securing time for officers to further investigate what is taking place and possibly serve an enforcement notice and stop notice or seek to achieve a resolution without needing to resort to further formal action. Since 1<sup>st</sup> April 2019 the Council has served one Temporary Stop Notice.

Breach of Condition Notices – these can be used when a breach of condition has taken place and can be used as an alternative to an enforcement notice depending on the circumstances. Since 1<sup>st</sup> April 2019 the Council has served nine Breach of Condition Notices.

S215 Notices – (also referred to as untidy site notices) can be used to require physical improvements to land or buildings when the appearance of it is adversely affecting the amenity of the area. Since 1<sup>st</sup> April 2020 the Council has served two S215 Notices.

Planning Contravention Notices (PCNs) – these are the most often used of all the notices and are used to obtain information required to investigate an alleged breach of planning control and to ensure the correct service of other notices such as enforcement notices. Since 1<sup>st</sup> April 2019 twenty five PCNs have been served.

Injunctions – these have to be obtained from the court and it is necessary for the Council to demonstrate why it considers it necessary or expedient to seek an injunction rather than using any of the other planning enforcement powers

that it is has. The Council has recently sought injunctions on two traveller sites in the district, one in Selsted and one in Old Romney.

### **3. ENFORCEMENT COMPLAINTS**

- 3.1 In terms of numbers of complaints that the Planning Enforcement Team deal with, since 1<sup>st</sup> April this year they have received 238 new complaints and closed 199. During the period 1<sup>st</sup> April 2019 – 31.03.20, 310 new complaints were received and 225 were closed. At the time of writing the Team has 204 live cases. This compares to more than 450 at the start of 2019.
- 3.2 The Enforcement Team now has two permanent full time Enforcement Officers, Clive Satchell (Senior Enforcement Officer) and Jeff Redpath (Enforcement Officer) who joined the team in September this year. Until Jeff joined, the Development Management Team there had only been one Enforcement Officer FTE post since 2013. From 14<sup>th</sup> December there will also be a dedicated Enforcement and CIL Team Leader (Lisette Patching). Having a second Enforcement Officer in post has resulted in a significant increase in the number of older cases that have been able to be closed and also freed up capacity for the Senior Enforcement Officer to progress the older/more complex unresolved breaches that need progressing to formal action or prosecution.

### **4. RISK MANAGEMENT ISSUES**

A summary of the perceived risks follows:

<b>Perceived risk</b>	<b>Seriousness</b>	<b>Likelihood</b>	<b>Preventative action</b>
NA	NA	NA	NA

### **5. LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES**

#### **5.1 Legal Officer Comments (TH)**

There are no legal implications arising directly from this report. Legal Services will continue to work closely with the Enforcement Team where suspected breaches of planning control are identified and enforcement action is considered necessary and proportionate.

#### **5.2 Finance Officer Comments**

None received to date.

#### **5.3 Equalities & Diversity Officer Comments (GE)**

There are no equality 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.

Lisette Patching – Principal Planning Officer  
Telephone: 01303 853448  
Email: [lisette.patching@folkestone-hythe.gov.uk](mailto:lisette.patching@folkestone-hythe.gov.uk)

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





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**FOLKESTONE & HYTHE DISTRICT COUNCIL**

**PLANNING AND LICENSING COMMITTEE – 15 DECEMBER 2020**

**Declarations of Lobbying**

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

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

SIGNED: .....

**Councillor Name (in CAPS)** .....

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

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