



Agenda

Meeting: **Planning and Licensing Committee**
Date: **9 February 2021**
Time: **7.00 pm**
Place: **Remote Meeting**

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

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

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 3 - 4)**

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

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

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

To consider and approve, as a correct record, the minutes of the meeting held on 15 December 2020.

4. **Minutes of the Licensing Sub-Committee (Pages 11 - 14)**

To receive and note the minutes of the Licensing Sub-Committee of 15 December 2020.

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Email: committee@folkestone-hythe.gov.uk or download from our
website www.folkestone-hythe.gov.uk

5. **20/1660/FH - Shepway Lympne Hill Lympne Hythe Kent CT21 4NX
(Pages 15 - 34)**

Erection of a 4 bedroom (plus ground floor study/5th bedroom) two storey part chalet style house of 233m² with basement of 35m².

6. **Y19/1106/FH - New Inn, 37 High Street, New Romney, Kent TN28 8BW
(Pages 35 - 58)**

Erection of two semi-detached houses facing on to Church Road.

7. **Y19/0653/FH - Ordnance Garage, Military Road, Hythe, Kent CT21 5DD
(Pages 59 - 74)**

Installation of 2 No. jet washes together with associated works including screens and anti-ram bollards.

8. **Unauthorised change of use of Land from agricultural to use as a residential caravan site and the siting of residential caravans;
Unauthorised laying of hardsurfacing, alterations to access and erection of fencing at Land adjacent to The Cottage, Canterbury Road, Selsted (Pages 75 - 118)**

This report considers the appropriate action to be taken regarding the change of use of the land and operations that have taken place on the field adjacent to The Cottage in Selsted. A planning application was submitted for the residential use of the land for four gypsy families but the necessary information required to make the application valid was never submitted and as such planning permission has not been granted for the use of the land or any of the operations. The report recommends that an Enforcement Notice be served to require the cessation of the residential use; the removal of the caravans and all vehicles and items associated with the residential use of the land; the removal of the hardsurfacing and fencing; the reinstatement of grass and; the reinstatement of the hedgerow.

9. **Supplementary Information (Pages 119 - 120)**

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, 15 December 2020
Present	Councillors Danny Brook, John Collier, Gary Fuller, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Terence Mullard (In place of Ian Meyers), Georgina Treloar and David Wimble
Apologies for Absence	Councillor Ian Meyers
Officers Present:	Robert Allan (Principal Planning Officer), Kate Clark (Case Officer - Committee Services), Claire Dethier (Strategic Sites Lead Specialist), Ewan Green (Director of Place), Emma Hawthorne (Principal Planning Officer), Miss Isabelle Hills (Planning Trainee), Llywelyn Lloyd (Chief Planning Officer), Lisette Patching (CIL and Enforcement Team Leader), Helena Payne (Strategic Sites Team Leader) and Jemma West (Committee Service Specialist)
Others Present:	None

48. **Declarations of Interest**

There were no declarations of interest.

49. **Minutes**

The minutes of the meeting held on 17 November 2020 were submitted and approved. The Chairman's signature will be added to these minutes as approval.

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

The minutes of the meetings held on 10 November and 23 November 2020 were submitted and approved. The Chairman's signature will be added to both sets of minutes.

51. **FH/20/0690 - Sandbanks, Coast Road, Littlestone, TN28 8RY**

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.

The Chairman, Councillor Clive Goddard, gave the following statement to members of the committee:

Members will note that this item has been withdrawn from tonight's agenda at the request of the Chief Planning Officer. Members will have noted that the reports reference to flood risk and the need for more information – in anticipation of this matter being addressed. Unfortunately the information sought has not addressed the request sufficiently and as such the Chief Planning officer considers that further time is required to explore these issues.

I consider that that this is appropriate having considering the advice of the Chief Planning Officer. This item will be considered by the committee in the new year.

52. **20/1295/FH - 5 Castle Avenue, Hythe. CT21 5HD**

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).

Members were reminded that a further email had been received which had been circulated to the committee prior to this meeting. Many of the points raised are included in the report, however certain aspects of the email were pointed out to members again.

Mr Julian Saunders provided a recorded speech which was played to members consisting of a statement against this application.

Mrs Paula Triffitt, applicant, provided a video speech also played to members.

Proposed by Councillor Mrs Jenny Hollingsbee
Seconded by Councillor John Collier; and

RESOLVED:

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

(Voting: For 9; Against 1; Abstentions 0)

53. **20/0531/FH - 3 Tanners Hill, Hythe, Kent, CT21 5UE**

Demolition of existing dwelling and garage. Removal of conifer trees along north eastern site boundary. Proposed construction trees along north eastern site

boundary. Proposed construction of three storey block of six apartments with parking, amenity spaces, bin & cycle stores.

Mr Mark Powell, local resident, provided a recorded speech against the application.

The applicant's agent provided a written speech which was read out to members.

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

RESOLVED:

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

(Voting: For 7; Against 5; Abstentions 0)

54. **20/0983/FH - Tesco Car Park, Cheriton High Street, Folkestone, CT19 4QJ**

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.

Members were advised six additional letters of objection had been received, however no new points had been raised in these.

Councillor Rebecca Shoob, ward member, spoke against the application, she had been contacted by many residents with their objections. Points raised included heavier traffic in a residential area which also impacts on the climate emergency; increased litter; 24 hour fast food outlet which does not promote healthy eating and this proposal discourages the support of local existing businesses.

The applicant's agent statement was read out and conveyed that the applicant had worked closely with the Planning Officers to bring together an application for which approval is sought from members.

The agent's statement listed the advantages of this proposal and the nature of the applicant's business, which will be locally franchised. An international company which offers its staff extensive training, development and apprenticeships with good prospects for promotion. The company is keen to promote and invest in Folkestone. Other initiatives include sponsorship of local sports activities and the promotion of litter picks. The staff at the proposed restaurant would carry out three litter picks per day.

Members gave consideration to all aspects of the application making the following comments and views:

- Job creation of approximately 35 full time and 30 part time positions.
- Not just a drive-thru, a restaurant is planned with adequate parking.
- The applicant actively promotes healthy eating as a choice for customers.
- Folkestone is a vibrant town and some members felt the proposal was a good option especially due to the increased development in the area.
- 24 hour operation could affect nearby residential areas.
- Increase in traffic to the site from all directions, including the M20, which would have an effect on emissions. The biggest emitters of carbon come from personal car use.
- The junction from the M20 through to the Tesco car park has a tendency to congest which can mean delays in entering and leaving the car park at present, this could worsen with a 24 hour drive-thru.
- Similar smaller businesses could suffer and a large multi-national company discourages entrepreneurial spirit.

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

RESOLVED:

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

(Voting: For 5; Against 7; Abstentions 0)

This Vote was LOST.

Proposed by Councillor Gary Fuller
Seconded by Councillor Georgina Treloar; and

RESOLVED:

That planning permission be refused for the following reason as members considered it would be unsustainable development due to the majority of customers using private cars and have an unacceptable impact on neighbouring residential due to the increase in noise and disturbance from the additional vehicle movements and lighting and the 24 hour operation:

The proposed development would, due to the car dependent nature of the operation, constitute unsustainable development, which due to the level of additional vehicle movements generated, the hours of operation and the additional lighting, would be detrimental to the residential amenity of local residents.

Delegated authority was given to the Chief Planning Officer to include the relevant policies.

(Voting: For 7; Against 5; Abstentions 0)

55. **Y19/0546/FH - 9 Victoria Grove, Folkestone, Kent, CT20 1BX**

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

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

RESOLVED:

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

(Voting: For 9; Against 3; Abstentions 0)

56. **Y19/0016/FH - Land adjoining 86-88 Tontine Street, Folkestone, Kent**

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

Members were reminded by the presenting Officer that this application was considered in detail at the October 2020 Planning & Licensing Committee where it was resolved to grant planning permission subject to conditions and a S106 agreement. However, following this resolution it came to light that the Viability Report, which has been submitted with the application, had not been made publically available. Members were advised that the National Planning Policy Guidance requires all Viability Assessments to be publically available. This matter has now been rectified, with full reconsultation having now been carried out and, in the interests of transparency, is the sole reason for returning to Committee. The application remains unchanged from that previously considered in its entirety, including matters of viability.

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

RESOLVED:

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

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

57. Formal Enforcement Action and Complaints Update Report

The purpose of report DCL/20/41 was to provide the Committee with an update on formal action taken by the Council in respect of breaches of planning control where the committee had authorised officers to take formal enforcement action.

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

The report also included 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 had been received and closed since 1 April 2019.

Members thanked officers for the useful and informative report.

Proposed by Councillor John Collier
Seconded by Councillor Jim Martin

RESOLVED:

- 1. That report DCL/20/41 is received and noted.**
- 2. That Appendix 1 is received and noted.**

(Voting: For 12; Against 0; Abstentions 0)

Minutes

Licensing Sub-Committee

Held at:	Remote meeting
Date	Tuesday, 15 December 2020
Present	Councillors Gary Fuller, Jim Martin and Philip Martin
Apologies for Absence	None
Officers Present:	Kate Clark (Case Officer - Committee Services), Holly Godwin (Case Officer - Corporate Services), Tim Hixon (Legal Specialist) and Briony Williamson (Licensing Specialist)
Others Present:	Mr and Mrs Stone (The Star Inn), Gillian Smith (St Mary in the Marsh Parish Council) and Mark MacFarlane (Plant Based Chef)

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

Proposed by Councillor Gary Fuller
Seconded by Councillor Jim Martin

RESOLVED:

That Councillor Philip Martin is elected as Chairman for the meeting.

58. **Declarations of interest**

There were no declarations of interest.

59. **Declarations of lobbying**

There were no declarations of lobbying.

60. **An application for a Variation of a Premises Licence in respect of The Star Inn, St Mary in the Marsh, Kent, TN29 0BX**

Report DCL/20/34 outlined the application made by Mr David Stone to vary the current Premises Licence for this premises. The Licensing Sub-Committee determined the outcome for the application.

The Licensing Specialist introduced this report drawing members' attention to the variation requested and that four noise complaints had been received, but no further action had been taken.

Mrs Teresa Stone, Landlady of the Star Inn, spoke and advised members that the outside live music would be for seasonal events during four to five months in the Summer consisting of a duo or one man band. Although the application consists of a request for all weekend hours and non-standard timings for live music, ordinarily the live music is predominantly for Sundays between 3pm and 6pm.

Mrs Stone assured members that every effort is made to maintain a good relationship with the nearby Church and neighbours and would ensure a contact number is given to residents so that direct contact can be made if there are any issues to be resolved.

Mrs Gillian Smith, from St Mary in the Marsh Parish Council was invited to speak. She read out various representations from residents and the Parish Church Council, comments included:

- Loud music most weekends.
- Parking issues on small country roads worsened on Sundays when the church holds various events as well as the events at the pub.
- Inadequate toilet facilities
- Field adjacent to the Star Inn used without permission.
- A need for residents to enjoy quietness and tranquillity in a rural area.

It was confirmed by Mrs Stone that although the application details a weekend extension, live music outside would only be between the hours of 3pm and 6pm on Sundays. With regard to the unauthorised use of the adjacent field, Mrs Stone categorically stated this does not happen although it seems benches and tables have been seen on the field.

Members asked about car parking arrangements and Mrs Stone confirmed there is parking for approximately 10 to 12 cars at the front of the pub with a further 50 car capacity in the pub's garden area.

Members comments included:

- Noise concerns, although the Star Inn's current licence allows for music inside the venue, today's application concentrates on extending the licenced area to the pub's garden.
- Inadequate toilet facilities which could lead to public urination which is an offence.
- Dangerous parking on narrow roads
- Music consisting of either a duo or one man band, so the need for amplification could be questioned.

Members considered the four licensing objectives, concentrating on the prevention of public nuisance in their deliberations.

Proposed by Councillor Jim Martin
Seconded by Councillor Philip Martin; and

RESOLVED:

- 1. That Report DCL/20/34 is received and noted.**
- 2. That the Premises Licence is granted to include the outside beer garden with the condition that amplified music can only be played outside on Sundays from 3pm to 6pm.**

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

61. **An application for a new Premises Licence in respect of: Plant Based Chef, 1 Metropole Road East, Folkestone, Kent, CT20 2AN**

Report DCL/20/42 outlined the application made by Mr Mark MacFarlane for a new Premises Licence. The Licensing Sub-committee determined the outcome for this application.

The Licensing Specialist introduced this report and drew members' attention to the Planning Department's representation. Their main concern was the intention of the applicant to operate until 2am, however the applicant, Mr MacFarlane, confirmed he had given this consideration and felt that an amended time of 11pm would be more suitable.

Members thanked the applicant for attending today's meeting and asked Mr MacFarlane various questions:

- Food preparation – prepared on the premises in large batches, frozen and then reheated in smaller portions on demand.
- Small menu consisting of 6 to 8 dishes.
- Alcohol availability which can be ordered and delivered with food.

Mr MacFarlane plans to build up the business and is hopeful that as the business grows he could possibly move to a commercial premises. He is keen to bring awareness to healthy takeaway food and feels his background as a qualified nutritionist is ideal for this service.

Members had concerns around delivery vehicles disturbing other residents however Mr MacFarlane assured members that his property is separate from the main Metropole building and is situated near the main gate negating any disturbance.

In considering the application and the four licensing objectives members were minded to grant the application with an added condition that licensable activities cease at 11pm.

Proposed by Councillor Gary Fuller
Seconded by Councillor Jim Martin; and

RESOLVED:

- 1. That Report DCL/20/42 is received and noted.**
- 2. That the application is granted with a condition that licensable activities cease at 11pm daily.**

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

Agenda Item 5

DCL/20/44

Application No:	20/1660/FH
Location of Site:	Shepway Lympne Hill Lympne Hythe Kent CT21 4NX
Development:	Erection of a 4 bedroom (plus ground floor study/5th bedroom) two storey part chalet style house of 233m2 with basement of 35m2.
Applicant:	Mr Martin Bryer
Agent:	N/A
Officer Contact:	Robert Allan

SUMMARY

This application is a resubmission of an identical planning application that was refused (planning reference Y19/0080/FH) and seeks planning permission for the erection of a two-storey detached dwelling with basement within the grounds of the existing property known as 'Shepway'. The application site is located outside of the defined settlement boundary within the open countryside and is also within the designated North Downs Special Landscape Area and Kent Downs Area of Outstanding Natural Beauty. Given that the proposed dwelling would be set away from local amenities, without easy access to sustainable transport modes, the site is considered to be unsuitable and an unsustainable location for a new dwelling as future occupiers would be reliant on private motor vehicle use to carry out day to day activities. In addition, the erection of a two-storey dwelling in this location would result in the erosion of the undeveloped rural character of the area, detracting from the tranquil beauty of the wider North Downs Special Landscape Area and Kent Downs Area of Outstanding Natural Beauty. It is considered that there are no significant public benefits to the application that would outweigh these concerns and on balance it is considered that the scheme would be unacceptable with regard to local and national planning policy. The application is therefore recommended for refusal.

RECOMMENDATION:

That planning permission be refused for the reasons set out at the end of the report.
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1. INTRODUCTION

The application is reported to Planning & Licensing Committee at the request of Cllr Philip Martin who is a member of the Planning & Licensing Committee.

2. SITE AND SURROUNDINGS

2.1. The application site falls within the grounds of an existing property known as 'Shepway', a large Edwardian dwelling in spacious grounds surrounded by open fields, accessed via Lympne Hill to the west. The site is located outside of any defined

DCL/20/44

settlement boundary and is therefore considered to be in the countryside in planning policy terms. The nearest settlement is Lympne located approximately 0.8 miles to the north-west.

- 2.2. The site is located in a rural location within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the North Downs Special Landscape Areas. To the east of the site, beyond the application site is Lympne Escarpment SSSI. The site is also identified as an Area of Archaeological Potential.
- 2.3. The application site is located to the north of the driveway leading to the existing dwelling. The application site is set higher than the existing house due to the rising nature of the topography and is currently set to grass, with hedgerows, shrubs and mature trees. Shepway is a substantial detached house set in large grounds and is set back from the road, accessed by a gravel drive. It is surrounded on three sides by open countryside/paddock areas.
- 2.4. The submitted Design and Access Statement states that the original house and gardens were divided into two separate units in the 1970s (forming 'Shepway' and 'East Shepway'). For the case of this application, the address is given as Shepway.
- 2.5. The total site area would be 0.1 hectares. 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 detached two-storey dwelling house, with basement, to the north of the existing dwelling. The building would have a two-storey red/brown brickwork façade with a Kent peg clay tiled pitched roof with solar panels on the south west facing roof slope and would measure a maximum of 8.4m in height. The building would also have an attached double garage with attic space above, as can be seen in figure 1, below.



Figure 1

3.2 Internally, the property would comprise of three floors of living accommodation at basement, ground and first floor level containing a total of 5 bedrooms. The total internal floor space of the property would be approximately 268m², inclusive of the basement area, as can be seen in figure 2 below. A garden area surrounding the development site, with a patio and driveway leading to the garage, is also proposed.



Figure 2

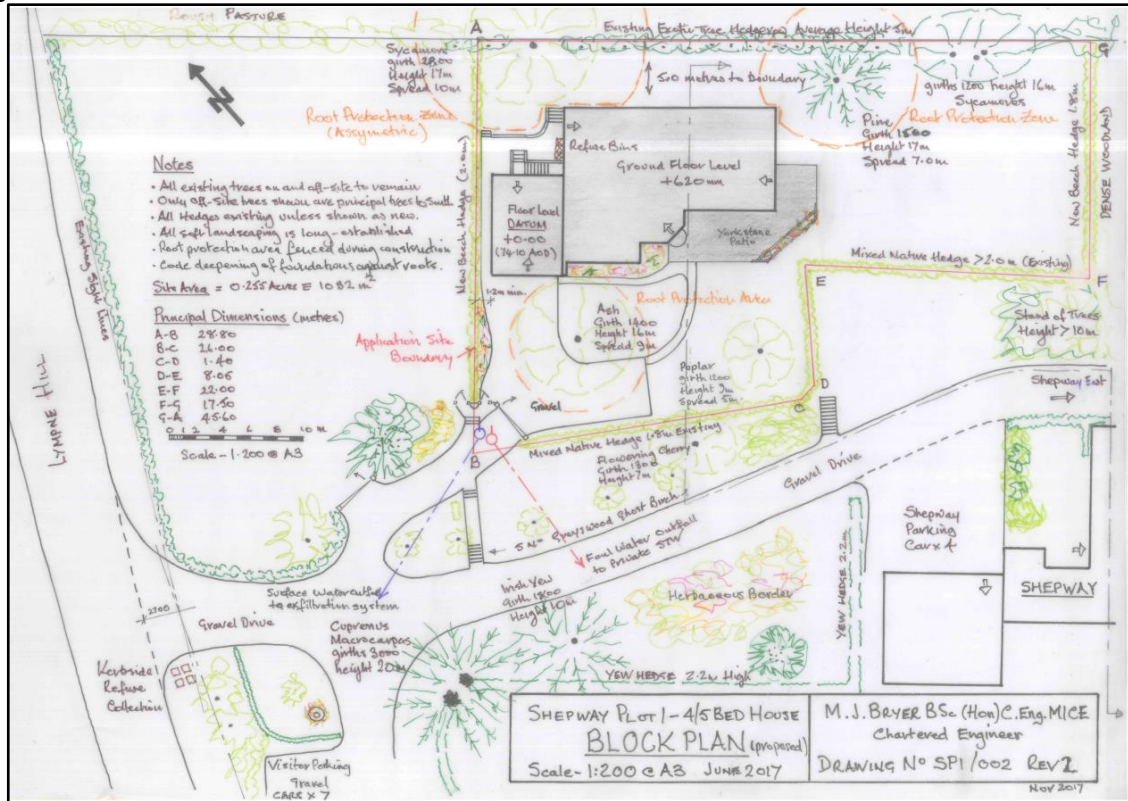


Figure 3

3.3 As well as the submitted drawings, the application is accompanied by several reports that also accompanied the previous two submissions:

Design and Access Statement

This document sets out the reasoning behind the proposal, explores the principle of development at this location, looks at archaeology, visual impact, slope stability, contaminated land, biodiversity, arboricultural impact, sets out the approach to access, scale, appearance, landscaping, layout and sustainability and considers how relevant National and Local Plan policies have been taken into account. It concludes that the proposal would provide an affordable dwelling for the applicant’s son and family and help keep 10 local jobs in Lympne, given the location of the applicant’s son’s business, whilst meeting the tests of sustainable development and protecting the AONB.

Archaeological Investigation

This document identifies that the property is within an area as having Archaeological Potential, but following a Phase 1 desk study and fieldwork, concludes that there is almost zero possibility of there being anything of archaeological interest on the application site.

Contaminated Land Report

This details the history of the site through a desk top study and identifies that there is low risk of any requirement for remediation, with no historic contaminative uses recorded. It concludes that remedial measures are not required and no further investigative work considered necessary, other than care being taken during excavation.

Preliminary Ecological Appraisal

This reports no habitats of conservation concern present within the site, with no evidence of or significant potential for protected species within or immediately adjacent

to the application site. No further ecology surveys are required, with the enhancement measures proposed considered appropriate.

Soil stability Report

This report identifies that the site is in a known area of instability, but the ground is considered stable due to the natural slope angles being less than the 9 degree natural angle of repose prevalent elsewhere. A two storey domestic dwelling constructed on a reinforced concrete raft or piled foundations would be feasible and will have no detrimental effect upon the stability of adjoining land. No special measures other than those within the report are considered necessary to ensure stability of soils during the construction phase.

4. RELEVANT PLANNING HISTORY

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

Y19/0080/FH	<p>Erection of a single new dwellinghouse including basement, garden and parking (resubmission of Y17/1155/SH). Refused.</p> <p>Reasons for refusal:</p> <p>The proposal fails to conserve, protect or enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, the Kent Downs as a Special Landscape Area and the countryside in which the site is located. The proposal would result in significant harm to the local character and distinctiveness of the AONB, SLA and this part of the countryside by introducing built development into the garden area of an existing dwelling, unrelated to any existing settlement, and would be very apparent from the street, harming the sporadic residential development in the locality and increasing urbanisation of the rural area and further intrusion into the Hythe Escarpment local character area. The proposal is contrary to saved policies SD1 and CO4 of the Shepway District Council Local Plan Review, policies DSD and CSD4 of the Shepway Core strategy and paragraph 170 of the National Planning Policy Framework.</p> <p>The application site, being a significant distance from an existing settlement boundary or local amenities, in the absence of access to sustainable transport modes, or safe routes for pedestrians represents an unsustainable location for a new dwelling. As a result the occupiers of the proposed dwelling would rely on car movements to access all amenities. No demonstration of an essential need for the dwelling within the countryside has been submitted and as such the proposal is contrary to saved policies SD1 and CO1 of the Shepway District Council Local Plan Review, policies DSD, SS1, SS3 and CSD3 of the Shepway Core strategy and the NPPF which seek to direct new residential development towards existing settlements and sustainable locations.</p>
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DCL/20/44

	The scheme was identical to that proposed under this application
Y17/1155/SH	Erection of a two storey house, part chalet style, (4 bedroom with study/5th bedroom) including basement, garden and parking. Withdrawn. Application was withdrawn after the report was drafted for refusal.
Y02/0353/SH	Installation of 3 no. dormer windows to the south elevation. Approved.
mdSH/77/226	Conversion of house into two and garage. Approved.
SH/76/991	Conversion of house into two living units. Approved.
CH/4/62/17/276	Alterations to form units living accommodation. Approved.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council: Object on the grounds highlighted in the report from Kent Downs

KCC Ecology: No further ecological information necessary at this time, subject to condition

Sufficient ecological information has been provided to determine the planning application. The majority of the site is regularly managed amenity grassland and there is limited potential for protected/notable species to be impacted by the proposed construction works. The existing management of the proposed development site must continue to ensure that no suitable habitats for protected/notable species establish prior to works commencing. Conditions are recommended to be attached to any permission granted.

Southern Water: Make the following comment

The applicant is advised to consult the Environment Agency directly regarding the use of a sewerage treatment plant which disposes of effluent to sub-soil irrigation.

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The applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities

Environment Agency: No comments made.

No comments to make on this planning application as it falls outside our remit as a statutory planning consultee.

Contamination Consultant: Raises no objection subject to condition.

Arboricultural Manager: Makes the following comment

A full pre-development tree survey and report prepared in accordance with BS5837:2012 will need to be submitted in support of this application. The accompanying drawing (SPI/002) is not adequate enough to demonstrate what constraints are posed by existing trees and does not provide any information as to how trees will be protected against the effects of the proposed development.

Kent Downs AONB Unit: Object for the following reasons

- Comments are as per the previous application Y19/0080/FH and Y17/1155/SH
- The existing property lies in open countryside unrelated to any existing settlement
- Would have urbanisation effect on this rural area
- Result in further intrusion onto the Hythe escarpment contrary to the objectives for the local character area
- It would neither conserve nor enhance the local character and distinctiveness of the AONB.

Local Residents Comments

5.2 Four neighbours directly consulted. No responses received.

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

SS3 - Place-Shaping and Sustainable Settlements Strategy

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

Places and Policies Local Plan (2020)

HB1 - Quality Places through Design

HB3 - Internal and External Space Standards

HB6 - Local Housing Needs in Rural Areas

HB10 - Development of Residential Gardens

T2 - Parking Standards

T5 - Cycle Parking

NE2 - Biodiversity

NE3 - Protecting the District's Landscapes and Countryside

NE7 - Contaminated Land

CC2 - Sustainable Design and Construction

CC3 - Sustainable Drainage Systems (SuDS)

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

SS3 - Place-Shaping and Sustainable Settlements Strategy

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

Supplementary Planning Guidance/Documents

KCC: Kent Design Guide

Kent Downs AONB Landscape Design Handbook – Key extracts as follows;

2.2 New Built Development- seeks to ensure development respects and complements rural settlement form, pattern, character and landscape setting, reinforcing local distinctiveness;

2.7 Woodlands, Hedges and Trees- seeks to encourage increase in new trees by planting new native trees appropriate to local character.

National Planning Policy Framework (NPPF) 2019

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

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 - Weight to be applied to emerging policies

Paragraph 79 - Avoid development of isolated homes in the countryside

Paragraphs 108-110 - Transport and access

Paragraphs 124, 127- Design

Paragraphs 170-173 - Conserving and enhancing the natural environment

Paragraph 175 – Habitats and biodiversity

Paragraph 178 – Ground conditions and pollution

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

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

I2 - Well-designed, high quality and attractive

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

N3 - Support rich and varied biodiversity

7. APPRAISAL

Background

- 7.1 As referred to in the submitted Design and Access Statement, the applicant has previously undertaken discussions with Officers and managers within the planning department over a significant period of time, as to the likely outcome of a planning application for a new dwelling on this site.

- 7.2 In 2017 following pre-application discussions highlighting policy objections to such a proposal, the applicant submitted a formal planning application for a dwelling under

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planning reference Y17/1155/SH. The applicant withdrew the application following it being drafted for refusal. The application drawings that were submitted for that application are the same as those submitted for the subsequent application reference Y19/0080/FH and also the current planning application.

7.3 Application Y19/0080/FH was determined and refused on two grounds:

1. The application site, being a significant distance from an existing settlement boundary or local amenities, in the absence of access to sustainable transport modes, or safe routes for pedestrians represents an unsustainable location for a new dwelling. As a result the occupiers of the proposed dwelling would rely on car movements to access all amenities. No demonstration of an essential need for the dwelling within the countryside has been submitted and as such the proposal is contrary to saved policies SD1 and CO1 of the Shepway District Council Local Plan Review, policies DSD, SS1, SS3 and CSD3 of the Shepway Core strategy and the NPPF which seek to direct new residential development towards existing settlements and sustainable locations.
2. The proposal fails to conserve, protect or enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, the Kent Downs as a Special Landscape Area and the countryside in which the site is located. The proposal would result in significant harm to the local character and distinctiveness of the AONB, SLA and this part of the countryside by introducing built development into the garden area of an existing dwelling, unrelated to any existing settlement, and would be very apparent from the street, consolidating the sporadic residential development in the locality and increasing urbanisation of the rural area and further intrusion into the Hythe Escarpment local character area. The proposal is contrary to saved policies SD1 and CO4 of the Shepway District Council Local Plan Review, policies DSD and CSD4 of the Shepway Core strategy and paragraph 170 of the National Planning Policy Framework.

7.4 The main issues for consideration are:

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Parking and transport
- e) Ecology and biodiversity
- f) Trees and landscaping
- g) Land stability
- h) Drainage

a) Principle of development and sustainability

7.5 The spatial strategy for the district is set out in the 2013 Core Strategy Local Plan. The Core Strategy establishes the overarching development requirements and strategic

policies for the district as well as strategic allocations and broad locations for development. The Places and Policies Local Plan allocates sites to meet the remaining Core Strategy requirement, taking into account development that has already taken place since the start of the plan period in 2006.

- 7.6 The Core Strategy establishes the quantities of key types of development that will be delivered in the district from 2006 to 2026 and beyond to 2031. These quantities have been derived from a combination of national policy and local evidence of need. Some of the figures have been updated in light of continued monitoring (for example, annual monitoring of housing completions) and also from new studies and evidence (such as updated evidence on retail and employment needs). The Places and Policies Local Plan identifies sites to meet the needs identified in the Core Strategy (or updated needs) with the allocations primarily relating to the provision of new housing, employment, retail and mixed-use development.
- 7.7 Core Strategy policy SS3 directs development toward existing sustainable settlements to protect the open countryside and the coastline, with the principle of development likely to be acceptable on previously developed land, within defined settlements, provided it is not of high environmental value. Development in the open countryside and on the coast (defined as anywhere outside of settlements within Table 4.3 Shepway Settlement Hierarchy) will only be allowed in exceptional circumstances, where a rural/ coastal location is essential (policy CSD3). Development in these locations will only be acceptable in principle if forming a site for:
- a. affordable housing (rural exceptions as per CSD1, or allocated sites)
 - b. agriculture, forestry or equine development
 - c. sustainable rural diversification, and tourism enterprises as set out below
 - d. local public/essential services and community facilities in line with policies SS3/4
 - e. replacement buildings (on a like for like basis)
 - f. conversions of buildings that contribute to the character of their location
 - g. sustainable rural transport improvements
 - h. essential flood defences or strategic coastal recreation.
- 7.8 Core Strategy policy CSD3 goes on to state that where sites are unavailable within settlements and the development is proportionate in scale/impact and accessible by a choice of means of transport, it may be acceptable on the edge of Strategic Towns and Service Centres, and failing that, Rural Centres and Primary Villages. Lympne (the nearest settlement) is classified as a Primary Village and has a role to contribute to strategic aims and local needs and as a settlement with the potential to grow and serve residents, visitors and neighbourhoods in the locality with rural business and community facilities. Focusing attention on existing centres underpins not only the protection of the District's open countryside, but also seeks the achievement of sustainable places.
- 7.9 The application site is located within a Special Landscape Area and the Kent Downs AONB. Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB, which have the highest status of protection in relation to these issues, with policy NE3 of the Places and Policies Local Plan echoing this position. Paragraphs 11 and 12 of the NPPF set out that there is a presumption in favour of sustainable development, approving development proposals that accord with an up-to-date development plan without delay. This presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making and where a

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planning application conflicts with an up-to-date development plan, permission should not usually be granted. Paragraph 48 of the NPPF sets out that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

- 7.10 The applicant has stated in their submission that no harm would be caused to the setting of the SLA or AONB as the dwelling would be located close to an existing dwelling, and would not be visible in the wider area. This position is not accepted. The construction of a dwelling would be readily visible from various positions in the wider landscape and the adjoining highway. The development would therefore fail to conserve or enhance the local landscape or scenic beauty of the wider AONB. Both the Parish Council and the Kent Downs AONB unit object to the principle of development in this location.
- 7.11 The site is considered to be part of the garden area of the main residence, (Shepway) a rural dwelling. Through case law it has been established that gardens of rural dwellings are 'previously developed land' by reason that gardens of rural dwellings have not been specifically referred to as being excluded, as gardens in urban areas are, in the NPPF definition of 'previously developed land'. However even if land does meet the definition of being 'previously developed' it does not necessarily mean that development is acceptable in principle on such a site.
- 7.12 The NPPF states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF 2019 presumes in favour of 'sustainable development', which has a number of facets, but states that, in relation to decision-taking, development proposals that accord with an up-to-date development plan should be approved without delay. The Local Plan is considered to be up-to-date and the policies therein apply.
- 7.13 In relation to Core Strategy policy CSD3, no evidence has been provided that supports an overriding need for a new house in this location in relation to the listed criteria, other than the applicant's personal circumstances. The claim of affordability is not reinforced by any mechanism to secure this status in perpetuity and in any case, the provision within the policy relates to affordable housing where it has been demonstrated that there is a requirement in terms of local need. In relation to self-build, as with all residential development, self-build development should be directed towards existing settlements and sustainable locations in the first instance. The desire for the applicant's family to reside near to their business and place of work is noted, but no specific locational requirement, other than that stated desire, has been submitted for consideration. In relation to the location being sustainable, as the intended occupants work and attend school in the local area, this position is not supported, as the occupancy of the dwelling by specific individuals cannot reasonably be secured by planning condition; subsequent occupants could work in alternative areas.
- 7.14 Overall, it has not been demonstrated that the need for a new dwelling cannot be practicably located within an existing settlement or that it requires a countryside location. The development is therefore unacceptable in principle. The benefit of the proposal in providing a net gain of one new dwelling that would contribute to the housing stock in the District would not outweigh the significant harm associated with this proposal. The application site is, in planning terms, considered to be in an unsustainable location where future occupants would be reliant upon private motor vehicle use to carry out day to day activities including accessing local amenities and

schools. Whilst some regard is had to the rural nature of the location, where such circumstances are relatively common, this is not considered sufficient justification to condone the introduction of a new residential dwelling in a countryside location set away from established settlements and amenities. The application scheme has not demonstrated that it would deliver any wider sustainability benefits or social benefits to outweigh the harm.

b) Design/layout/visual amenity

- 7.15 The proposal would result in a two-storey structure with associated driveway, patio and domestic paraphernalia within a nationally-protected landscape. In design terms, it is not considered to be chalet-style, as it appears from the supplied sections and floor plans that all upper floor rooms are within full-height areas, with only the more subservient element above the proposed garage utilising space in the roof for storage.
- 7.16 The applicant claims in their submission that the house would not be seen from outside of the site and that views from all directions would be “substantially the same with or without the development of a new dwelling”. However, the development would be readily visible from Lymgne Hill, from multiple vantage points such as land south of the site, and from the northern part of Lymgne Hill. Indeed the proposed house would sit closer to Lymgne Hill than the existing houses Shepway and Shepway East, and would be elevated above the ground level of Shepway by approximately 4m.
- 7.17 Policy NE3 of the Shepway Local Plan identifies that the natural beauty and locally distinctive features of the AONB and its setting are conserved and enhanced and that proposals should 'protect or enhance the natural beauty of the SLA'. The introduction of a new dwelling into the rural area and the SLA/AONB, where new development is specifically restricted to protect the visual amenity of the landscape, would harm the character and visual amenity of the area.
- 7.18 The primary objective of planning policy in respect of the Kent Downs AONB is to conserve and enhance the landscape and the natural Beauty of the Kent Downs AONB. The site lies within the wider 'Lymgne Local Character Area' as defined with the 'Landscape Character Assessment' of the Kent Downs AONB and within the 'Hythe Escarpment' local character area, wherein policy seeks to conserve the open views and ensuring any new development avoids further intrusion on the scarp, along with avoiding further suburbanisation of existing properties.
- 7.19 The proposed development would introduce a new dwelling that is unrelated to the existing settlement pattern and would further expand and continue existing sporadic residential development in the locality, increasing urbanisation of this rural area and introduce further intrusion onto the Hythe Escarpment, contrary to the management objectives for this local character area.
- 7.20 In light of the above it is considered that the proposal would cause significant harm to the AONB, SLA and the countryside and would neither conserve nor enhance the local character and distinctiveness of the AONB, contrary to aims and objectives of Policies HB1 and NE3 of the Places and Policies Local Plan, Policy SS3 of the Core Strategy and the NPPF.

c) Residential amenity

7.21 There would be a sufficient separation distance between the proposed dwelling and the neighbouring property Shepway to ensure that no significant adverse impact would occur in terms of overbearing or increased sense of enclosure. The orientation of the property in addition to the separation distance and boundary treatments would ensure that no perceived or actual overlooking would occur to neighbouring properties. The additional activity associated with one dwelling is also considered unlikely to result in any significant noise and disturbance as to impact detrimentally upon residential amenity.

7.22 The proposal exceeds the Council's space standards (internal and external) and as such Officers are satisfied that the development complies with policy HB3 of the Places and Policies Local Plan.

d) Parking and transport

7.23 The site would be accessed via Lypne Hill to the west, an existing residential access, with the proposed garage set well back from the highway. As such it is not considered the proposal would result in highway safety concerns. Kent Design Guide Review: Interim Guidance Note 3 Residential Parking states that a minimum of 2 car parking spaces should be allocated for a 4+ bedroom house in a rural location which would be met under this proposal. As such, the parking provision meets the Council's requirements as set out in policy T2 of the Places and Policies Local Plan.

7.24 As such, Officers are satisfied that the development would not result in harm to highway safety or convenience.

e) Ecology and biodiversity

7.25 The applicant has submitted a preliminary ecological appraisal in support of the application that concludes there is limited potential for protected/notable species to be impacted by the proposed development, due to the fact that the area within the curtilage of Shepway is managed grassland. The application site is adjacent to an area of calcareous grassland – a UK Biodiversity Action Plan habitat – and within 150m of Lypne Escarpment SSSI and an area of Ancient Woodland, but as the proposed development is not directly impacting these nearby sites, no further surveys or mitigation is required, however any construction compound must not be located within the adjacent area of calcareous grassland and measures must be implemented during construction to ensure that works will not negatively impact it and the nearby SSSI.

7.26 KCC Ecological Advice Service are satisfied that no further ecological information is necessary at this time and that there would be no negative impact upon wildlife or diversity on the site subject to a condition secure biodiversity enhancement measures on the site in accordance with policy CSD4 of the Core Strategy, as well as a condition covering lighting design in relation to bats and a construction management plan to demonstrate how impact upon the adjacent SSSI and priority habitats will be avoided during construction.

7.27 The suggested conditions are considered appropriate and will ensure that the development would not result in harm to the biodiversity of the site.

f) Trees and landscaping

7.28 The proposed siting of the new dwelling would be in close proximity to several mature trees. These trees are not covered by a Tree Protection Order albeit their presence forms part of the rural character of the area and contributes to the wider Special Landscape Area and AONB. The Council's Arboricultural Manager considers that the information submitted with the application in relation to these trees is insufficient, and no detail has been provided as to how the trees would be protected during construction work on the site. In the absence of this information, it is considered highly likely that the trees surrounding the site would be affected by the development. Given that the potential loss of such trees in this location would cause harm to the setting of the wider Special Landscape Area and AONB, if Members were minded to grant planning permission for the proposal, it would be advisable to require a tree survey to be provided ahead of any grant of planning permission. This would enable Officers to assess whether it is possible to construct the development in the proposed location without damaging or needing to remove the trees in question.

h) Land stability

7.29 Policy NE6 of the Places and Policies Local Plan requires that development in areas of land instability only if investigation and analysis is undertaken by a competent accredited authority which clearly demonstrates that the site can be safely developed. This analysis should also demonstrate that the proposed development will not have an adverse effect on the slip area in part or as a whole.

7.30 With respect to the matter of land stability the NPPF advises in paragraphs 170 and 178 that 'responsibility for securing a safe site rests with the developer and/or landowner' and that planning decisions should ensure that the site is suitable for its new use taking account of various matter including ground conditions and land stability.

7.31 The report refers to geological and geomorphological conditions in the area, historic investigations (archaeological) and historical known land slips. Using these sources it concludes that the application site is within an area influenced more by periglacial action than the retreating escarpment and ground conditions can be established by a trial trench prior to the foundation design being finalised. Groundwater seepage in the area will need to be intercepted using an appropriate foundation design (piled or raft foundations) the land stability of adjoining land will not be affected and no special measures (other than those already discussed in the report) are necessary to ensure stability of soils during the construction phase.

7.32 Given that the exploratory trenching to confirm the anticipated land conditions have not yet taken place and the design of the foundation has not been finalised, this matter can be dealt with via planning condition. With the use of such a condition no objection is raised in respect to land stability.

i) Drainage

7.33 The application submission includes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, in the event that the application was approved the onus would be on the applicant to ensure that arrangements exist for the long-term maintenance of SUDS facilities. Southern Water have stated that it is critical that the effectiveness of these systems is maintained in perpetuity. A detailed drainage plan for the dwelling could be secured by planning

condition. As such, it is considered that if this application were to be approved, this matter could be dealt with by condition.

7.34 Environmental Impact Assessment

7.35 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

7.36 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £115.71 per square metre for new residential floor space.

Human Rights

7.37 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

7.38 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

7.39 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

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- 8.1 The application site, away from established settlements and local amenities, is not a suitable or sustainable location for new residential development. Furthermore, the proposed development would have a harmful impact upon the setting and character of the surrounding countryside, SLA and AONB. For these reasons, overall it is considered that the harm which the development would cause outweighs the very limited personal benefits it would deliver, and the application is therefore recommended for refusal.

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 refused/for the following reason(s):

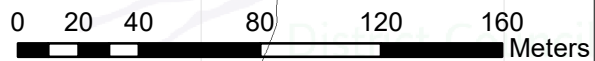
1. The application site, being a significant distance from an existing settlement boundary or local amenities, in the absence of access to sustainable transport modes, or safe routes for pedestrians represents an unsustainable location for a new dwelling. As a result the occupiers of the proposed dwelling would rely on car movements to access all amenities. No demonstration of an essential need for the dwelling within the countryside has been submitted and as such the proposal is contrary to policies DSD, SS1, SS3 and CSD3 of the Shepway Core strategy and the NPPF which seek to direct new residential development towards existing settlements and sustainable locations.
2. The proposal fails to conserve, protect or enhance the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty, the Kent Downs as a Special Landscape Area and the countryside in which the site is located. The proposal would result in significant harm to the local character and distinctiveness of the AONB, SLA and this part of the countryside by introducing built development into the garden area of an existing dwelling, unrelated to any existing settlement, and would be very apparent from the street, consolidating the sporadic residential development in the locality and increasing urbanisation of the rural area and further intrusion into the Hythe Escarpment local character area. The proposal is contrary to policies DSD and CSD4 of the Shepway Core strategy and paragraph 170 of the National Planning Policy Framework.

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20/1660/FH
Shepway
Lympne Hill
Lympne



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Agenda Item 6

DCL/20/45

Application No:	Y19/1106/FH
Location of Site:	New Inn, 37 High Street, New Romney, Kent TN28 8BW
Development:	Erection of two semi-detached houses facing on to Church Road.
Applicant:	Mr Diljit Brar
Agent:	Mr Marius Alexandru Pustai Architecture Design Limited
Officer Contact:	Emma Hawthorne

SUMMARY

This report considers whether planning permission for the erection of two semi-detached houses facing on to Church Road, New Romney should be granted. The report assesses the principle of development and the addition of two dwellings in this locality, which lies within the settlement boundary of New Romney. The site also lies within New Romney High Street Conservation Area, archaeological area and the setting of a Grade II Listed Building (No.37). The report recommends that planning permission be granted subject to conditions as it is considered that the proposal is acceptable in principle, and the design and layout of the dwellings would be appropriate in the context of the surrounding environment. The amenities of existing and future occupants are safeguarded, there would be no harmful impact on heritage assets, flood risk would not be a constraint, ecology and arboriculture matters can be dealt with by way of planning conditions and there are no highway safety concerns. Therefore, the economic and social benefits of providing two new dwellings in this location outweighs any limited harm and it is considered to be sustainable development in accordance with the development plan policies.

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 New Romney Town Council has objected to the proposal.

2. SITE AND SURROUNDINGS

- 2.1. The application site is located within the rear car park of the New Inn pub at 37 High Street, New Romney. The site is located within the centre of New Romney, the High

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Street Conservation Area and archaeological area. Number 37 is a Grade II Listed Building.

- 2.2. The site is currently used as a car park for the former pub building (now a Costa coffee house) and is a tarmacked area with a grassed section on the western boundary and to the south. A war memorial is located to the south east of the site, but lies outside the site boundaries. The war memorial is not listed. There are two storey residential properties to the south west.
- 2.3. Within the site are protected trees covered by Tree Preservation Order (TPO) No. 17 of 2016 which are Holly, Ash and Sycamore trees. The site is open as viewed from Church Road to the rear with two of the protected trees providing a dominant feature within the street scene. At the southern end of the site is a low wall set back by about 7m from Church Road and between this and the road is an open grass verge.
- 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 erection of two semi-detached houses facing onto Church Road. The proposal seeks the development of 2x 2-bed houses with designated parking and access to private gardens.
- 3.2 The proposed dwellings would be comprised of the following accommodation:

Room	Proposed Size
Kitchen	12.8 m ²
Living room	20.5m ²
Bedroom 1	16.7m ²
Bedroom 2/ study	8.9m ²
Bathroom	4.4m ²
Outdoor amenity space	House A = 178.8m ² House B = 120.5m ²

- 3.3 Amended drawings have been submitted under this application which has resulted in the repositioning of the proposed houses, revisions to the parking area and gardens.

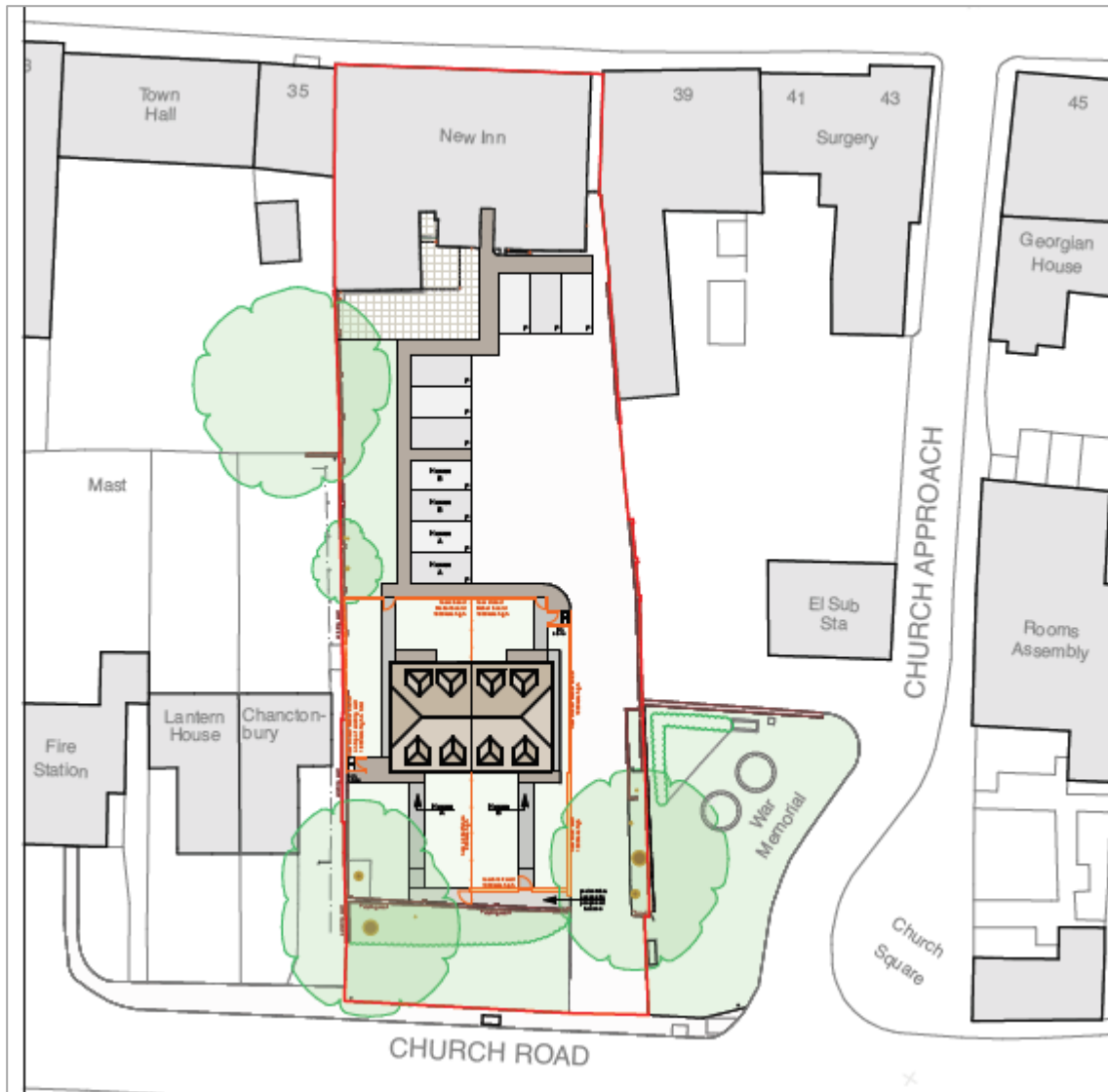


Figure 1: Proposed block plan



Figure 2: Proposed south east elevation

- 3.4 In addition to relevant plans and drawings, the following reports were submitted by the applicant in support of the proposal:

Archaeological Desk-based Assessment Report, No. 2017/177, dated October 2017

The Archaeological Desk-based Assessment Report has been prepared with the objective of viewing readily available existing evidence in order to assess the extent and nature of any heritage assets with archaeological interest with the Proposed Development Area, and thereby gauge the likelihood of heritage assets of archaeological interest being affected by development.

The submitted report concludes that on the basis of previous work within the proposed development area and nearby, archaeological remains of regional significance are likely to be extant within the proposed development area. A programme of archaeological watching brief on any demolition work, and evaluation of the area prior to development is recommended.

Arboricultural Impact Assessment. Revision 2, dated July 2018

This report was prepared to provide an assessment of the arboricultural implications of the proposed development. Trees considered to be within the influencing distance of the development have been assessed in accordance with BS5837:2012 "Trees in relation to design, demolition and construction – Recommendations."

The report concludes that there are no arboricultural constraints that can be considered reasonable to preclude the proposed construction.

Design and Access Statement

The Design and Access Statement been prepared to accompany a planning application for the erection of two semi-detached dwelling with associated parking and landscaping within the curtilage of an existing dwelling. This design and access statement is submitted in accordance with the requirement of the Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows (history relating to changes to the Listed Building and outbuildings/walls are not included):

84/0325/SH	Layout and landscaping of land as public amenity area and car park including rebuilding boundary wall.	Approved with conditions
Y00/0015/SH	25% reduction and shaping of a Sycamore Tree the subject of Tree Preservation Order No.1 of 1986	No objection
Y11/0848/SH	Pruning of a Sycamore tree situated within a conservation area to remove encroachment	No objection

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Y16/0913/SH	Erection of three terrace houses with associated parking and landscaping	Refused and dismissed on appeal
Y18/0528/FH	Erection of 3 terrace houses with associated landscaping and parking	Refused and dismissed on appeal
Appeal Ref: APP/L2250/W/17/3187655	Appeal against refused application Y16/0913/SH	Dismissed on 6th March 2018
Appeal Ref: APP/L2250/W/18/3207959	Appeal against refused application Y18/0528/FH	Dismissed on 8th March 2019.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

New Romney Town Council: Recommend refusal as amended proposal contravenes Policies SD1(b), BE3, BE5(a) and TR12.

Arboricultural Manager: No objection, subject to the following conditions;

- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all pruning operations.
- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the erection of all protective fencing.
- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all operations to remove existing hard surfacing.
- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the installation of the no-dig surfacing.
- A minimum of five working day's notice will need to be given to the LPA tree officer prior to the above works commencing so a mutually convenient date can be agreed for each operation.

Local Residents Comments

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

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

Objections

- Land is in a historic conservation area in the heart of New Romney
- Several surrounding historic buildings
- Very little parking for Costa Coffee customers and proposed flat conversion
- Overdevelopment
- Loss of grass verge
- Hazard from large extractor outlet at New Inns kitchen
- Proposed buildings in close proximity to large sycamore trees covered by TPO
- Would set precedent for future development

5.4 Ward Member

No comments received.

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the 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

SS2 – Housing and the Economy Growth Strategy

SS3 – Place-Shaping and Sustainable Settlements Strategy

CSD1 – Balanced Neighbourhoods for Shepway

CSD2 – District Residential Needs

CSD5 – Water efficiency

CSD8 – New Romney 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
RL4 – New Romney Town Centre
T2 - Parking Standards
T5 - Cycle Parking
HE1 – Heritage Assets
HE2 - Archaeology

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.

DSD – Delivering Sustainable Development
SS1 – District Spatial Strategy
SS2 – Housing and the Economy Growth Strategy
SS3 – Place-Shaping and Sustainable Settlements Strategy
CSD1 – Balanced Neighbourhoods for Shepway
CSD2 – District Residential Needs
CSD5 – Water Efficiency
CSD8 – New Romney Strategy

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.

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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.

Paragraphs 189 to 192 – proposals affecting heritage assets.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Natural Environment

National Design Guide October 2019

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

7. APPRAISAL

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

- a) Background
- b) Principle of development and sustainability
- c) Design/layout/visual amenity
- d) Setting of listed buildings
- e) Archaeology and Heritage
- f) Residential amenity
- g) Ecology and biodiversity
- h) Protected trees
- i) Contamination
- j) Drainage
- k) Archaeology
- l) Highway safety

a) Background

- 7.2 The application site has been the subject of previous planning refusals, and two subsequent dismissed appeals for similar development. The most recent application on this site, ref Y18/0528/FH, was for the erection of a terrace of three houses with associated landscaping and parking. This application was refused planning permission and dismissed on appeal on 8th March 2019.
- 7.3 The main areas of concern related to the potential for the development to result in significant pressure relating to the pruning or felling of trees that are subject to a Tree Preservation Order (TPO), and the effect of this upon the character and appearance of the area and the New Romney Conservation Area (CA). The appeal Inspector concluded that these trees were likely to be subject to increased pressure from occupiers of the proposed dwellings to significantly reduce their canopies or to totally remove the trees to eliminate shading and improve both light and outlook for enhanced enjoyment of their homes and gardens. Due to the proximity to the trees there would have been significant pressure for the trees to be extensively pruned or removed to improve the living conditions of future occupiers.
- 7.4 In preparation of this current submission, the applicants and their agents have reviewed the Inspectors report, worked with Officers and have amended the proposal with a view to overcoming the concerns raised. Since the above dismissed appeal, the proposal has been amended in the following ways:
- The proposed development has been reduced from a terraced property with 3x 1-bed houses, to a semi-detached property with 2x 2-bed houses.
 - The external footprint has been reduced by 25% and a further lateral distance increase to the existing trees (T1-T4).
 - The layout has been re-designed to include all habitable rooms to the rear of the properties, away from the existing trees to prevent light issues.
- 7.5 All other previously agreed design characteristics remain largely unchanged. This includes eaves and ridge heights, scale and massing, external appearance and proposed materials, provision of parking and amenity spaces, and residential curtilage.

b) Principle of development and sustainability

- 7.6 As considered under the previous planning applications, the principle of the residential development of this site has already been considered to be acceptable being located within a sustainable town centre location, subject to all material considerations being appropriately addressed.
- 7.7 Therefore, the principle issues to be considered in the determination of this application are whether the previous grounds of refusal have been addressed in terms of the impact upon the trees and the future affect upon the houses and occupiers from the trees.
- 7.8 As before, the impact upon the visual amenity of the conservation area and the setting of the nearby listed buildings, the impacts upon the amenities of neighbouring occupiers and highways issues are to be reconsidered.

c) Design/layout/visual amenity

- 7.9 The site is located within the Conservation Area (CA) where there is a requirement by the Local Planning Authority to pay special attention to the protection or enhancement of the character and appearance of the CA. The Conservation Area covers the historic core of New Romney. The area around Church Road has a different character to the bustle of the commercial High Street and has a 'village' feel, centred on the small square at Church Square at the foot of St Nicholas Church, which dominates the street scene. The small war memorial on the opposite side of the square further adds to the 'village' feel, with the trees on and adjacent to the application site providing a pleasant setting.
- 7.10 The proposal for a pair of semi-detached dwellings is considered acceptable as there is sufficient room within the site to accommodate the development without appearing over-intensive and cramped.
- 7.11 The development presents houses addressing Church Road with front landscaped gardens that would be in keeping with and accord with the traditional character of this part of the road. Therefore the proposed siting and layout is appropriate for the site. The proposal would contribute to the streetscene by infilling a gap currently present between existing built form. In order to address previous concerns, the proposed dwellings have been set back further into the site and have been reduced in width and thus footprint, to accommodate the protected trees, and therefore the siting differs from the previously refused applications. The layout continues to allow for rear gardens and external amenity space for residents together with car parking that would not be visually dominant from the streetscene. As such, the layout and siting of the proposed development is considered acceptable.
- 7.12 With regards to scale and massing, this proposal remains similar to that of the previous application, albeit the width of the proposed dwellings has been reduced. Therefore, as with the previous submission, this continues to be considered acceptable. The existing pattern of development within Church Road comprises predominantly two storey dwellings with pitched roofs. In this regard, whilst the scales are similar, the heights and roof lines do vary where there are no set level within the streetscene. As proposed, the development would have an overall height of 7.65 metres, and eaves height of 3.15 metres, which is not considered to be unduly high for a chalet bungalow and therefore an acceptable scale, corresponding with existing development in the road. The scale, footprints and curtilages of the development are also acceptable, proposing reasonable sized semi-detached properties. In terms of massing, the buildings are proportionally well balanced where their mass and bulk is broken up visually with good detailing such as the dormer windows and fenestration upon the elevations. Due to these features, it is not considered that they would appear unduly bulky or out of proportion.
- 7.13 The overall design of the houses is considered acceptable presenting a well-designed scheme with traditional form and high quality materials, in this sense the prevailing traditional form of housing with steep pitched roofs has been followed to reflect the established character and has taken cues from the distinctive features of the area. The external materials are considered to be of high quality which includes red stock brick elevations, ceramic roof tiles and timber windows and doors.

- 7.14 Officers welcome the reduction in the number of units proposed on the site, and given the above considers that this has created an appropriate scheme which has overcome previous concerns in relation to siting, layout and design. The Conservation Officer commented on the previously refused scheme, and raised no objection to the scale, siting, form, design and materials as these are considered to preserve the CA character and appearance as well as the setting of the listed buildings (discussed in greater detail below).
- 7.15 The proposed development is considered to be visually acceptable and as such would preserve the character and appearance of the site, streetscene and wider CA. The impact upon the CA from the protected trees within the site is considered to be acceptable as the proposed development can be constructed without long term harm to the trees, and this is considered in greater detail below.

d) Setting of listed building

- 7.16 For development which affects a listed building or its setting, Section 16(2) of the Act requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses. These duties are reflected in Local Plan policy HE1 of the PPLP which states that planning permission will be refused if the proposals are considered to be detrimental to the character of the building.
- 7.17 A sensitive design approach is considered to have been adopted to ensure the setting of the Grade II listed building within the curtilage of the site is preserved, as well as neighbouring listed buildings. The proposed dwellings would be positioned within the area of open land to the rear of 37 High Street, a Grade II listed building and, whilst falling within the curtilage and ownership of the Applicant, therefore is separated with a reasonable distance from the application site and has a distinct and separate character.
- 7.18 Paragraph 196 of the NPPF states that, *“where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”* and it is considered that the proposals would result in less than substantial harm to its setting. The public benefits arising from the proposed development would include supporting local business and services who may be involved in the construction process.
- 7.19 It is considered for this case that the less than substantial harm to the setting of the listed building and its fabric, would not significantly affect its significance and would be outweighed by the public benefits of the proposal, in accordance with paragraph 196 of the National Planning Policy Framework and policy HE1 of the Places and Policies Local Plan.

e) Archaeology and Heritage

- 7.20 The site is identified to be within an area of archaeological interest associated with the historic port and town of New Romney. The proposed development site lies within the medieval core of the settlement close to the Grade I listed St Nicholas’s Church which is of twelfth century date. Other medieval remains recorded in the area include parts of buildings revealed during archaeological investigations to the west and to the north-

east of the present site. Given the site location, it is probable that important archaeological remains are present.

7.21 In light of this, the application has been accompanied by an Archaeological Desk based survey. This concludes that there is a very high likelihood that the proposed development site will contain archaeological remains of medieval date. It goes on to suggest that potential impacts on the site's archaeological interest could be mitigated through a staged programme of archaeological evaluation to be followed by appropriate safeguarding or investigation and recording. KCC archaeology team were consulted on the previous application, and considered this to be acceptable and raised no objection subject to conditions that covers this work which is reasonable to impose in the event that planning permission is granted.

f) Trees

7.22 The proposal is for a two storey semi-detached development within the open rear part of the site, fronting Church Road. Within this part of the site are a group of TPO trees, which are subject to TPO 17 2017 and identified by the Order as T1 to T4. Section 197 of the Town and Country Planning Act 1990 (as amended) imposes a duty on the decision-maker to ensure that adequate provision is made for the preservation of trees.

7.23 As mentioned above, the area around Church Road has a different character to the bustle of the commercial High Street as it has a 'village' feel. The trees found on and adjacent to the application site contribute to this 'village' feel and create a pleasant setting. The Arboricultural Impact Assessment (AIA) identifies the trees to be mature Sycamores that are generally healthy. It notes them to be prominent and appropriate to the locality. The trees are of considerable size and have wide canopies and large trunks. Collectively the trees make a significant visual contribution to the location. They are clearly noticeable in public views and to residential occupiers in the area. They therefore make a significant visual contribution to the character and appearance of the CA.

7.24 Amendments have been made since the previously refused scheme, and also during the lifetime of this application to move the proposed dwellings further away from the protected trees, which are worthy of retention where they are considered to make a valuable contribution to the streetscene and Conservation Area. Compared with the previously refused applications, it is considered that the development has been amended sufficiently to address the tree issues. The quantum of development on the site has been reduced, bringing it in from the side boundary and the dwellings have been moved back into the site to improve separation distance between the dwellings and the protected trees. This has resulted in the two units being positioned centrally in relation to the canopies of the two trees adjacent to Church Road which ensure that there would be minimal loss of light caused by the tree canopies and maximises the distance of the building from the canopies. Further to this, internal layout changes have been made to reposition habitable rooms within each dwelling to ensure that all habitable rooms receive suitable light levels and preventing pressure upon the removal or severe pruning of the trees.

7.25 The proposal has been reviewed by the Arboricultural Officer and the submitted information is considered sufficient to demonstrate that the proposed development would not cause harm to, or loss of, the protected trees within the site subject to the following conditions.

- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all pruning operations.
 - An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the erection of all protective fencing.
 - An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all operations to remove existing hard surfacing.
 - An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the installation of the no-dig surfacing.
- A minimum of five working day's notice will need to be given to the LPA tree officer prior to the above works commencing so a mutually convenient date can be agreed for each operation.

- 7.26 Previously concerns were raised with regards to the proximity of the trees to the front windows of the dwellings and the front gardens as some were proposed to be habitable rooms (such as the first floor study as future occupiers would likely use this as a bedroom). The current proposal seeks to located a study to the first floor, front elevation of both units however the studies (which could be used as bedrooms) have been repositioned to the party wall and therefore would be located towards to the centre of the site where the tree canopies are much less of an issue and would allow for greater levels of natural light and outlook.
- 7.27 It is worth noting that previous Inspectors did not consider the issues of leaf drop, honey dew deposits and sooty moulds to be a significant issue and would not be substantial to cause an unacceptable nuisance.
- 7.28 As such, the proposal is considered to be acceptable as the proposal would retain important existing landscape features, including protected trees, and therefore is considered to preserve the setting and character of the Conservation Area. The proposal is considered to have addressed the previous ground of refusal.

g) Residential Amenity

- 7.29 Impact on residential amenities was not a ground for refusal before and it is not considered that this development now results in new harmful amenity issues for neighbouring residents.
- 7.30 The proposed residential use would be compatible with the surrounding residential area. The access would remain in the same location as currently is and whilst there may be greater use of the access, its lawful use is as a car park and as such any increase in use would not be significant or detrimental to local occupiers.
- 7.31 With regard to the adjacent properties, it is considered that owing to the separation distances, boundary treatment including existing and proposed, along with the proposed landscaping the dwelling houses can be sited within the site without being overbearing or causing loss of privacy to neighbouring occupiers. The proposed dwellings are positioned adjacent to, and project slightly beyond the built form to the south west. The proposed dwellings are therefore positioned within the current car park

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of the site but this is not considered to result in an adverse impact upon the residential amenities of occupiers adjacent.

- 7.32 The occupiers to the south west, at Chanctonbury, are closest to the proposed development and therefore would be affected most, however the impact is not considered to result in any significant harm. The proposed dwellings would not significantly extend past the rear elevation of this property and as such would avoid any significant overbearing or overshadowing impact from protrusion to the rear. The projection to the rear of the site, beyond the rear elevation of Chanctonbury is considered to be of a subservient/appropriate scale. Further to this, Chanctonbury has a conservatory on the rear of the property which is not considered as a habitable room and therefore is afforded less weight.
- 7.33 The proposed dwellings would not extend beyond the front elevation of Chanctonbury and would have no windows upon the side gable facing the development, with only two windows at ground and first floor level upon the facing side front projecting wing, but this is set in from the boundary where the windows would still receive sufficient amount of light and outlook from the south and south east orientations that would prevent a harmful overbearing impact. One window is proposed upon the west facing side elevation of the development, at ground floor level. This would serve a small w/c and therefore would be obscure glazed, which could be secured by way of a planning condition. As such, the proposed development would safeguard privacy.
- 7.34 The proposed dwellings would not be unduly tall and would have low eaves levels and therefore it is considered that the impact upon occupiers of Chanctonbury would not be harmful. It is considered that the occupiers of other neighbouring properties are positioned further away with good separation distances to avoid unacceptable loss of residential amenity.
- 7.35 The dwelling would provide a good standard of amenity for future occupants, in accordance with Development Plan Policies.
- 7.36 The proposal would provide the following accommodation for future occupiers within the dwelling. As illustrated in the table below, the proposed schedule of accommodation exceeds the requirements as set out in Local Plan policy HB3 and therefore provides future occupiers with a good level accommodation.

	Proposed Gross Internal Area (GIA)	Gross Area	Required Gross Internal Area (GIA)	Proposed Built-in storage	Required Built-in storage
House A	80.8m ²		70m ²	3.3m ²	2.0m ²
House B	80.8m ²		70m ²	3.3m ²	2.0m ²

- 7.37 With regards to outdoor amenity space, the dwellings are required to provide area of private garden for the exclusive use of an individual dwelling house of at least 10m in depth and the width of the dwelling. Both dwellings would provide a sufficient level of garden space, which would exceed the width of the proposed dwellings. The depth of the garden space to the rear of the dwellings would be 5.0 metres, however the garden space to the frontage of the dwelling would meet the required 10 metre depth. This area would be set back from Church Road by 8.3 metres and would be sufficiently

screened by the existing wall, proposed brick wall and vegetation/ planting. Therefore this area of garden space would receive reasonable levels of privacy.

h) Highways

- 7.38 This was not a ground for refusal previously, and is still considered to be generally acceptable given the number of units proposed has been reduced.
- 7.39 In terms of the sites location, it is a sustainable location where occupiers would benefit from the local services of New Romney including shops, schools, surgeries and public transport. The site also has good connectivity with a good road and footpath network surrounding the site.
- 7.40 For vehicular and pedestrian access, this is proposed off Church Road utilising the existing access which is considered logical and as such acceptable. For car parking, four private off street spaces have been proposed, comprising two spaces for each dwelling, which is acceptable and in accordance with parking standards set out in policy T2 of PPLP.
- 7.41 The residential curtilage for each of the proposed dwellings would also be sufficient to allow for cycle parking facilities. This could be secured via a planning condition in the event of an approval.
- 7.42 The existing, off-street car parking area for 37 High Street is considered to be large and therefore provides sufficient parking of the commercial business also. Given the small scale nature of the development, KCC Highways has not commented on the proposal in relation to parking and highway matters.
- 7.43 Overall, the proposal is considered to be acceptable and in accordance with Local Plan policies T2 and T5.

i) Contamination

- 7.44 The application site is brownfield, previously developed land and as such there is the potential for ground contamination to be present. No ground contamination report has been submitted to support the application, however it is considered that this could be controlled by way of a planning condition in the event of an approval, should Members be minded to permit. The condition would ensure a ground intrusive investigation would be carried out and mitigation measures to be used if required (depending on the results of the investigation). This would be reviewed by the Council's Contamination consultant.

j) Other Matters

- 7.45 To the frontage of the site is an area of open land, in the form of a grass verge. This area of land is in the ownership of the applicant but was gifted to the Council as an area of open space (under a legal agreement) which is therefore managed by the Council. There are no changes proposed to this area of the site, and as such no loss of open space in accordance with Local Plan policy C3.

Environmental Impact Assessment

7.46 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

7.47 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. New Homes Bonus payment are not considered to be a material consideration in the determination of this application.

7.48 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £57.86 per square metre for new residential floor space.

Human Rights

7.49 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

7.50 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

- 7.51 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 In light of the above, it is considered that the proposal has satisfactorily addressed and overcome the previous ground for refusal. The protected trees would not be harmed as a result of the proposal. The principle of the development is accepted and the setting of the listed building and Conservation Area are considered to be preserved. The proposal would not result in harm to neighbouring amenity and provides a high level of accommodation for future occupants. As such it is recommended that 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 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;

08.36/01 Rev C – Location Plan existing and proposed

08.36/02 Rev C – Block Plan existing and proposed

08.36/03 Rev A – Site Plan existing

08.36/04 Rev C – Site Plan proposed

08.36/05 Rev B – Ground floor plan proposed

08.36/06 Rev C – First floor plan proposed

08.36/07 Rev A – South east elevation

08.36/08 Rev A – South west elevation

08.36/09 Rev A – North west elevation

08.36/10 Rev A – North east elevation

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TPP_37HIGHST_2 Rev C – Tree Protection Plan Proposed Site – dated July 2020.

Archaeological Desk-based Assessment Report, No. 2017/177, dated October 2017.

Arboricultural Impact Assessment. Revision 3, dated July 2020.

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Local Plan.

3. Prior to the commencement of the development hereby approved, details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the details of materials as approved, 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, the setting of the Listed Building and the Conservation Area.

4. Prior to the commencement of the development hereby approved, details of the construction of the eaves, verges, brick arches, dormer windows (at a scale of 1:10 or 1:20), and details of joinery of doors and windows (at a scale of 1:1 or 1:2) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the details as approved under this condition, 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, the setting of the Listed Building and the Conservation Area.

5. 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 had 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 had 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 beyond.

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6. Prior to the commencement of any of the following works, a minimum of five working day's notice shall be given to the LPA tree officer in writing so a mutually convenient date can be agreed for each operation;
 - i. An arboricultural watching brief shall be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all pruning operations prior to the commencement of any works to the trees within the site.
 - ii. An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the erection of all protective fencing prior to the commencement of any works to the protective fencing within the site.
 - iii. An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all operations to remove existing hard surfacing prior to any works to be undertaken to the existing hard surfacing within the site.
 - iv. An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the installation of the no-dig surfacing prior to the commencement of any development within the site.
 - v. An arboricultural watching brief shall be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the storage areas of all construction materials and parking areas for all construction vehicles within the site, prior to the commencement of any development within the site.

Reason: To ensure the health and permanent retention of the protected trees within the site, and to ensure their contribution to the Conservation Area is preserved.

7. 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 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 water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

NOTE: any surface or fly-tipped waste materials should be removed to suitable permitted sites as part of any site clearance/preparation works.

8. Prior to first occupation of the residential units hereby approved, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. The approved details will be implemented prior to first occupation of the residential units and thereafter retained.

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Reason: To ensure enhancements for biodiversity are implemented in line with paragraph 175 of the National Planning Policy Framework.

9. No construction work above slab level shall take place until full details of both hard and soft landscape works have been submitted to the local planning authority including tree planting in mitigation of those to be lost, an implementation programme and a maintenance schedule. No building shall be occupied until an approved landscaping scheme has been carried out in accordance with the approved details unless an alternative timescale has been agreed with the local planning authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.

Reason: In order to protect and enhance the appearance of the area including the setting of the Conservation Area.

10. Prior to the first occupation of the development hereby approved, space shall have been laid out within each site for 2 bicycles to be parked.

Reason: To ensure that facilities are available for the parking of bicycles so as to encourage access to the site by means other than private motor car in accordance with policy T5 of the Local Plan.

11. The bin store as shown on the hereby approved plans shall be fully implemented prior to the first occupation of the development hereby permitted and shall thereafter be retained and maintained.

Reason: To ensure adequate means of refuse collection in the interests of the amenities of residents in accordance with the Development Plan.

The domestic parking spaces (labelled House A and House B) shown on the hereby approved plan no.s '08.36/02 Rev C – Block Plan existing and proposed', and '08.36/04 Rev C – Site Plan proposed' shall be kept available for domestic parking purposes in connection with the dwellings hereby permitted at all times, with no obstruction thereto.

Reason: To ensure the permanent retention of the space for parking purposes within the curtilage of the site in order to avoid obstruction of the highway and safeguard the amenities of adjacent properties in accordance with the Development Plan.

12. Construction shall not commence until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving the development will achieve 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 design stage water efficiency calculator.

The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local

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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 Shepway 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-waterefficiency-calculator-for-new-dwellings>.

Informatives:

1. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:
 - excavated materials that are recovered via a treatment operation can be re-used onsite providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
 - treated materials can be transferred between sites as part of a hub and cluster project
 - some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
 - The Environmental regulations page on GOV.UK
2. 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

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ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

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

3. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

5. 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.

6. Please view the Considerate Constructors Scheme at <http://www.ccscheme.org.uk/index.php/company-registration/how-to-be-veryconsiderate/company-code-of-considerate-practice>.

Appendix 1 – Site Location Plan



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Agenda Item 7

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Application No:	Y19/0653/FH
Location of Site:	Ordnance Garage, Military Road, Hythe, Kent CT21 5DD
Development:	Installation of 2 No. jet washes together with associated works including screens and anti-ram bollards.
Applicant:	Motor Fuel Group
Agent:	Mr Graham Adcock of Adcock Associates
Officer Contact:	Emma Hawthorne

SUMMARY

This report considers whether planning permission for the installation of 2 no. jet washes together with associated works including screens and anti-ram bollards should be granted. The report assesses the addition of 2 no. jet washes and associated works in this locality, and given the site is currently in use as a filling station and car washes, the proposal would therefore be in keeping with the use and character of the site. All remaining issues pertaining to residential amenity, drainage 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 Hythe Town Council object to the proposal.

2. SITE AND SURROUNDINGS

2.1. The application site is operated as a filling station, with an open forecourt between a row of cottages, 3-17 Military Road (grade II listed buildings) to the west, the modern development, Findlay Court to the east and the rear of properties in Bartholomew Street to the north. The site includes a single storey forecourt shop with linked canopy above the filling station pumps, and car wash to the north of the shop.

2.2. The application site is within the settlement boundary of Hythe and an area of archaeological potential. The site borders the Hythe High Street and Vicinity Conservation Area to the south and west, however the site does not fall within the Conservation Area. The Royal Military Canal, a scheduled ancient monument is located on the opposite/ southern side of Military Road.

2.3. The application site is partly within Classes B, C and D of the landslip area, with the highest risk (Class D) identifying that slope instability problems are probably present or have occurred on the past, and that land use should consider specifically the stability of the site.

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 installation of 2 No. jet washes together with associated works, which include glazed screens, anti-ram bollards, low-level LED lights and new concrete slabs with slit traps.

3.2 The proposal would compromise the installation of 3.0 metre high glazed side and corner screens and a new 1.8 metre solid rear screen, with 2 No. jet wash machines located centrally.

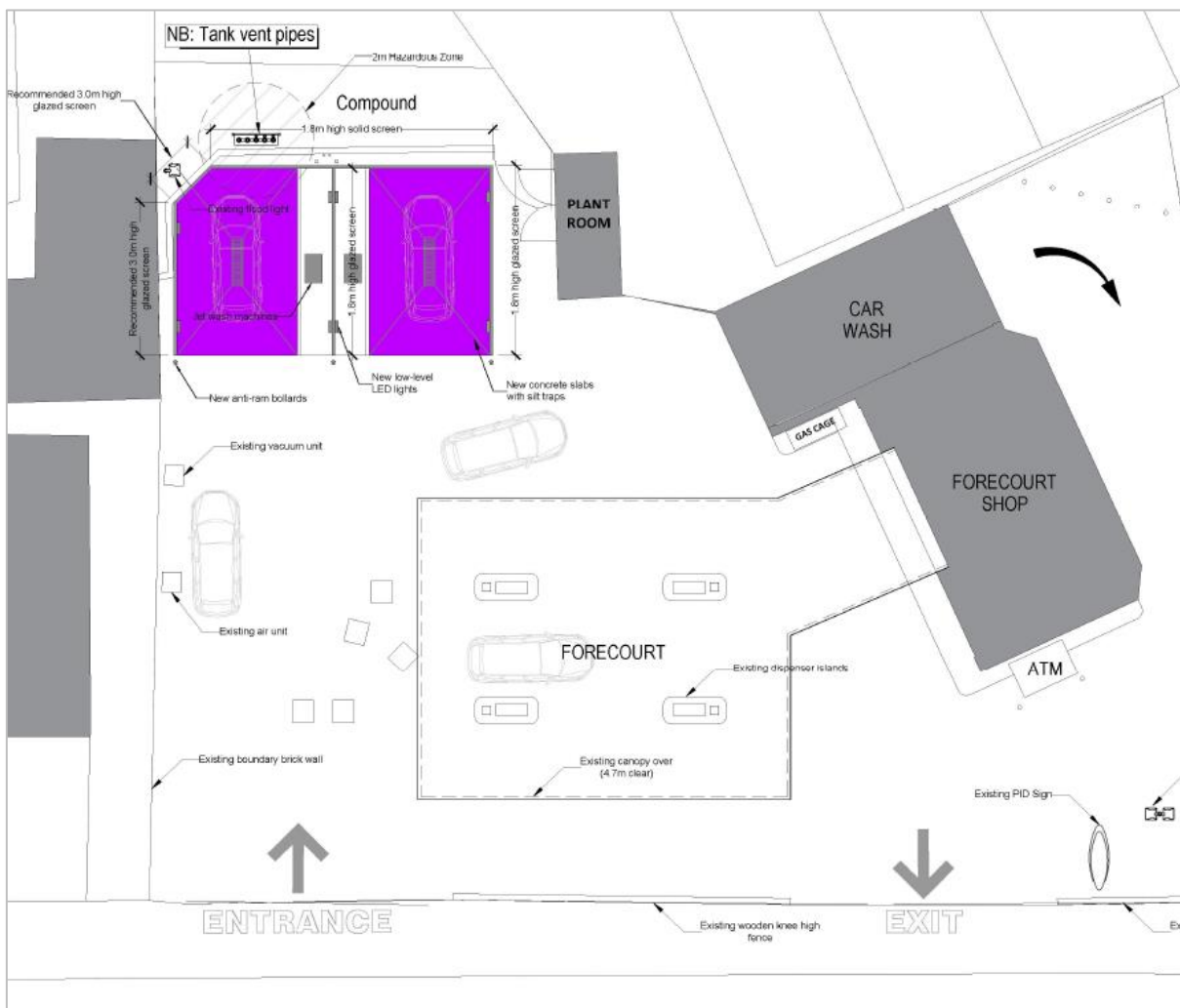


Figure 1: Proposed site layout

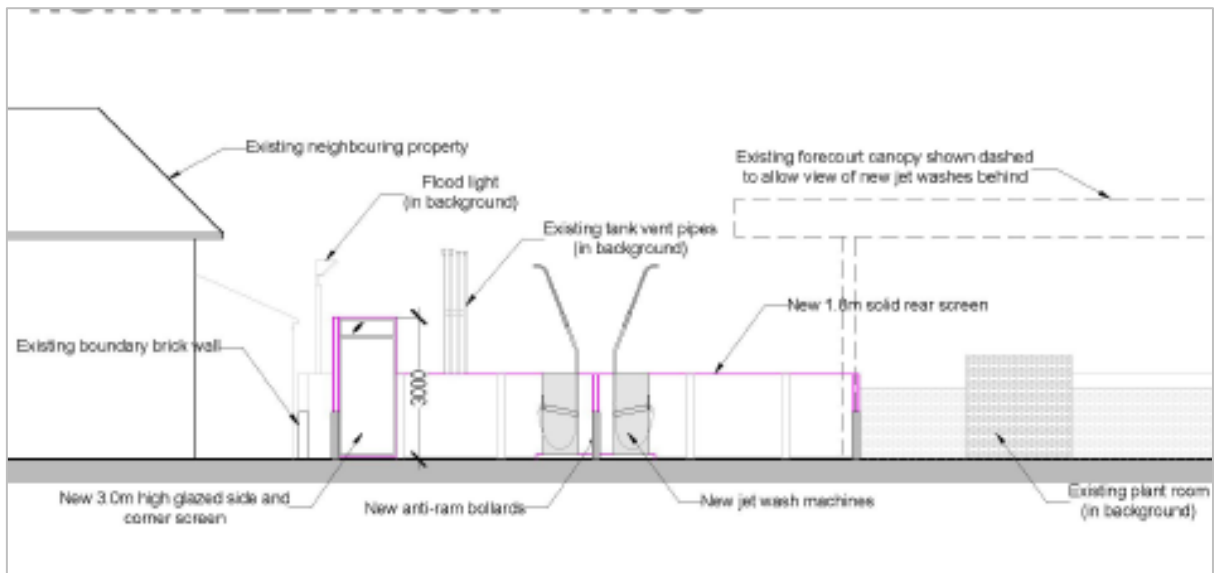


Figure 2: Proposed North elevation

- 3.3 Revised drawings have been submitted during the lifetime of the application to illustrate the proposed drainage within the site and to address concerns raised by Hythe Town Council (as set out below).
- 3.4 In addition to relevant plans and drawings, the following report was submitted by the applicant in support of the proposal:
- Noise Impact Assessment.
- 3.5 The Noise Impact Assessment was submitted to highlight any potential noise problems and the suitability of the application, and also proposed suitable mitigation measures where appropriate. The report recommends that a 2.0 metre high screen is installed to surround the jet wash bays to provide a noise barrier to the nearest residences. With the recommended design, the report concludes that the rating level of the new jet wash bays will be below the background sound level at the nearest proposed noise-sensitive premises during the proposed hours of use (08:00 to 18:00). It is also predicted that noise levels at the nearest residences are also within the recommended limits for outdoor noise stated in BS 8233: 2014 and the World Health Organisation Guidelines for Community Noise (1999).

4. RELEVANT PLANNING HISTORY

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

Y17/1617/SH	Erection of enlarged replacement forecourt shop following demolition of existing shop, relocation of ATM, insertion of bollards, floodlight and erection of bin store, together with associated parking.	Refused
Y16/0964/SH	Alterations to filling station forecourt canopy to provide increase in height.	Approved
Y08/0513/SH	Display of 2 internally illuminated single sided free standing advertisement panels.	Refused

Y02/0036/SH Continued display of internally illuminated fascia and monolith signs and non-illuminated poster, wall mounted and free standing directional signs. Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council - Object on the grounds of noise, disturbance to residents, increased traffic and concerns regarding the dispersal of waste water.

Environmental Health – No objection subject to a condition requiring a 2.0m screen to be erected to surround the jet wash bays to provide a noise barrier.

KCC Highways & Transportation – The proposal does not meet the criteria to warrant involvement of the Highway Authority.

Archaeological Officer – No archaeological measures are required in this instance.

KCC Lead Local Flood Authority – No comments to make.

Environment Agency – No objection, provided all drainage is directed to the existing foul drainage setup as detailed.

IDOM – No objection as the drainage from the new jet wash will go to existing foul sewer.

Local Residents Comments

5.2 Five neighbours were directly consulted. Three letters of objection, no letters of support received and no letters of comment have been received.

5.3 The objections made can be summarised as follows;

- Noise impacts of additional car wash units
- Concerns regarding where the water will come from
- Increase of water pressure through existing water pipes could damage property
- Installation of 1.8m screen would obstruct view from gardens.

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

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
E2 – Existing Employment Sites
RL1 – Retail Hierarchy
T1 – Street Hierarchy and Site Layout
T2 – Parking Standards
NE6 – Land Stability
CC3 – Sustainable Drainage Systems (SuDS)
NE5 – Light Pollution and External Illumination
HE1 – Heritage Assets
HE2 – Archaeology

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

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

Supplementary Planning Guidance/Documents

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.5 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 127 -130 – Achieving well designed places

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

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

7. APPRAISAL

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

- a) Principle of development
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Drainage
- e) Highway safety
- f) Other Matters

a) Principle of development

- 7.2 The proposal is considered to be acceptable in principle, as the site is currently in use as a garage, and includes an existing car wash facility. Therefore the proposed works to install an additional 2 no. jet washers towards the rear boundary of the site would be characteristic of this type of facility and in keeping with the current use of the site, subject to all other planning considerations.

b) Design and visual impact

- 7.3 The proposal seeks to install 2 No. jet washers towards the rear boundary of the site, beside an existing plant room. The proposal would comprise of 2 No. jet washes positioned adjacent to each other, centrally within the vehicle washing area. This would be surrounded by 1.8 - 3 metre high glazed screens, and new anti-ram bollards would be installed along with low-level LED lights.
- 7.4 The proposed jet washers and associated works, as described above, would be subservient to the existing built form on the site. It is noted that the proposal would be visible from the street scene of Military Road, however the site is currently in use as a filling station and given the siting of the proposal towards the rear boundary of the site, away from the street scene it is not considered that the works would appear incongruous or out of keeping. In addition, it is noted that the small scale nature of the proposed jet washes and screening, in comparison to the canopy and forecourt shop in closer proximity to Military Road, would not be prominent in views from the street scene and the neighbouring Conservation Area. It is considered that this arrangement would not result in an unacceptably detrimental visual impact on the appearance of the site when viewed from the public realm.
- 7.5 Due to the relative location of neighbouring listed buildings and given the presence and relative scale of the existing building, it is considered that the proposal would not bear any discernible impact on the setting or appreciation of the listed buildings.
- 7.6 In light of the above, the proposal is considered to be acceptable with regard to design and visual impact on the character and appearance of the site, the surrounding area, the neighbouring Conservation Area, and the setting of neighbouring listed buildings. The proposal is considered to accord with policies HB1 and HB2 of the Places and Policies Local Plan, and section 12 of the NPPF.

c) Residential amenity

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

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- 7.8 With regard to overshadowing, overbearing and dominance impacts, it is considered that the proposal would not impact neighbouring residential properties, 17-21 Findlay Court, nor 3-17 Military Road as the proposal would protrude towards the site's north western boundary which constitutes the rear boundary of the neighbouring properties 27-31 Bartholomew Street. As referenced above, the glazed screens would stand at a maximum height of 3.0 metres and therefore are considered to be low in overall height, Further to this, given they are proposed to be glazed screens they would not have harmful impacts to neighbouring amenity adjacent to the boundary with the proposal (27-31 Bartholomew Street).
- 7.9 Given the low and subservient scale of the proposal, relative to the existing main building, and the retained separation, the proposal is not considered to result in any additional overshadowing, loss of light or overlooking impacts to neighbouring properties.
- 7.10 In relation to increased noise and disturbance, the comments from neighbouring residents are noted. The site is currently in use as a filling station, with shop and drive through car wash. Therefore the additional impact from noise and disturbance from 2no. additional jet washers is unlikely to be significant during operational hours of the filling station. A 1.8 metre and 3.0 metre high screen are also proposed to be erected to surround the jet wash bays to provide a noise barrier, mitigating against any potential increase in noise above and beyond the existing operations on site. Environmental Health have been consulted on the proposal, and have no objection to the works subject to the glazed screens being of solid construction with no air gaps. This could be secured by way of a planning condition in the event of an approval and would be sufficient to mitigate any harmful noise impacts from the proposed development. No other noise mitigation measures have been requested by Environmental Health. It is acknowledged that the proposed jet washers would be in closer proximity to some residential properties than those currently installed within the site, however given the conclusion of the submitted Noise Impact Assessment and proposed mitigation measures (glazed screens) the proposal is considered to be, on balance, acceptable.
- 7.11 With regards to lighting, the proposal seeks to install 8no. low-level LED lights. These would be positioned internally on the proposed glazed screens surrounding the jet washers. Local Plan policy NE5 states that development included significant external lighting should not materially alter light levels outside the development site, and the proposal should not adversely affect the use or enjoyment of nearby buildings or open spaces. Given the existing use of the site as a garage, with external lighting, the proposed low-level LED lights are not considered to materially alter light levels outside of the development or negatively impact neighbouring residential uses. To ensure that the lights are only light when the jet washers are in use, it is considered reasonable and necessary to add a condition to any permission granted controlling their hours of use.

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7.12 As such, the proposal is not considered to result in any significant harm to neighbouring amenity. To ensure the jet washers are not in operation outside of the filling station opening hours, it is considered to be necessary and reasonable to add a planning condition to any forthcoming planning permission to control operating times to day time hours only, and therefore would be useable between 08.00 and 18.00 hours. These reflect the hours recommended within the Noise Impact Assessment and also limits the use to 'day time' hours, which is considered reasonable and assists in mitigating against any impact on neighbouring amenity. Further to this, noise and operating levels can be controlled by a condition requiring the noise mitigation measures to be installed and maintained on site prior to first operation of the jet washers, in order to ensure noise outputs are not detrimental to nearby properties.

7.13 In consideration of the above therefore, the proposal would accord with Local Plan Policy HB1 and paragraph 127 of the NPPF which require that consideration be given to residential amenity.

d) Drainage

7.14 Additional information was requested from the applicant to provide details of how the drainage would work to avoid any off site run off. The proposed concrete bays to the jet washes are proposed to be laid to fall to a central collection pit, which is a silt trap. Whilst there can be some immediate overspray in very windy conditions the majority of water spray is contained by the 3.0m high screens and drops onto the dished concrete bay. In consequence it is considered that there would be little or no excess discharge into the site as a result of the proposal. Nonetheless, the whole of the site has impervious concrete surface finish which drains surface water to gullies. The two access ways from Military Road, being the site entrance and exit pavement crossovers have full length slot drainage channels and gully that would avoid any off site run off. These existing and proposed measures of containment are illustrated on revised plans submitted in support of the proposal.

7.15 The Environment Agency and the Council's Contamination Consultants have no objection to the proposed works, as all drainage is directed into the existing fowl sewer setup and this is considered an acceptable approach.

7.16 The comments from Hythe Town Council and neighbours are noted, however given the above, the proposal is not considered to create additional site run off or drainage issues within the area.

e) Parking and highways

7.17 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.*"

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- 7.18 The proposal utilises the existing road network and arrangements within the site will remain unchanged. There may be a possibility of queuing at busy times, but this is unlikely to be a feature of the use of the proposed jet washes at all times and the forecourt can reasonably hold four to five cars in a line at any one time. There is also space within the site to keep traffic routes free within the site. It is highly unlikely that queuing will spread onto the public highway network and consequently it is considered that there would be no detrimental impact upon highway safety, or any significant impact to the amenity of other site users.
- 7.19 With regards to parking capacity within the site, the requirements and arrangements in relation to goods and services would remain unchanged.
- 7.20 Overall, the proposal is not considered to have an unacceptable impact on highway safety and as such is considered acceptable in this regard.

f) Other Matters

- 7.21 As referenced above, the application site is partly within Classes B, C and D of the landslip area, with the highest risk (Class D) identifying that slope instability problems are probably present or have occurred in the past, and that land use should consider specifically the stability of the site. Normally any planning permission would be subject to a planning condition to ensure that the excavation and construction of foundations does not result in any issues of landslip risk for the application site or the surrounding area. However, given the nature of the works proposed under this application, a land stability condition is not considered to be reasonable or necessary. The agent has submitted a typical construction drawing to show excavations would be very limited for this type of proposal. Therefore, the proposal is considered to be acceptable in this regard and a condition is not required.
- 7.22 It is noted that the site falls within an area of archaeological potential (AAP), however, the area of the site within the AAAO is located south of the proposed works. As such, it is considered that the proposal could proceed without any further controls to safeguard remains of archaeological potential and is acceptable in this regard.

Environmental Impact Assessment

- 7.23 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

- 7.24 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

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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.

7.25 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 would not create a net additional 'gross internal area' of 100 square metres or more.

Human Rights

7.26 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

7.27 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

7.28 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 In light of the above, it is considered that the proposal complies with the development plan policies and the NPPF, and therefore 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 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 shown on the submitted plans;
 - Block Plan – drg no. PA01
 - Existing Site Layout – drg no. PA02A
 - Existing Elevations – drg no. PA03
 - Proposed Site Layout – drg no. PA04A
 - Proposed Elevations – drg no. PA05
 - Standard Jet wash Installation – drg STO1
 - Noise Impact Assessment, report no. P19-616-R01 dated January 2020
 - Compact Jet Wash User Guide
 - Jet Wash Solutions NjoyPack, dated May 2019

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Development Plan.

3. 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.

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4. The recommendations set out within section 5 of the hereby approved Noise Impact Assessment, report no. P19-616-R01 (dated January 2020) shall be undertaken and installed prior to the first use of the jet washers. Notwithstanding the approved drawings, this shall include at least a 2.0 metre high surround to the jet wash bays to provide a noise barrier. The screens must be of solid construction with no air gaps. The screens are to be located in the area recommended with in Figure 1 – site plan of the said report. The screens shall be retain as such thereafter.

Reason: In the interests of protecting the amenities of the nearest residences.

5. The permitted use of the jets sprays and LED lighting shall only operate between the hours 08.00hrs and 18.00hrs Monday to Sunday.

Reason: Protect the amenities of the nearest residences.

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>.

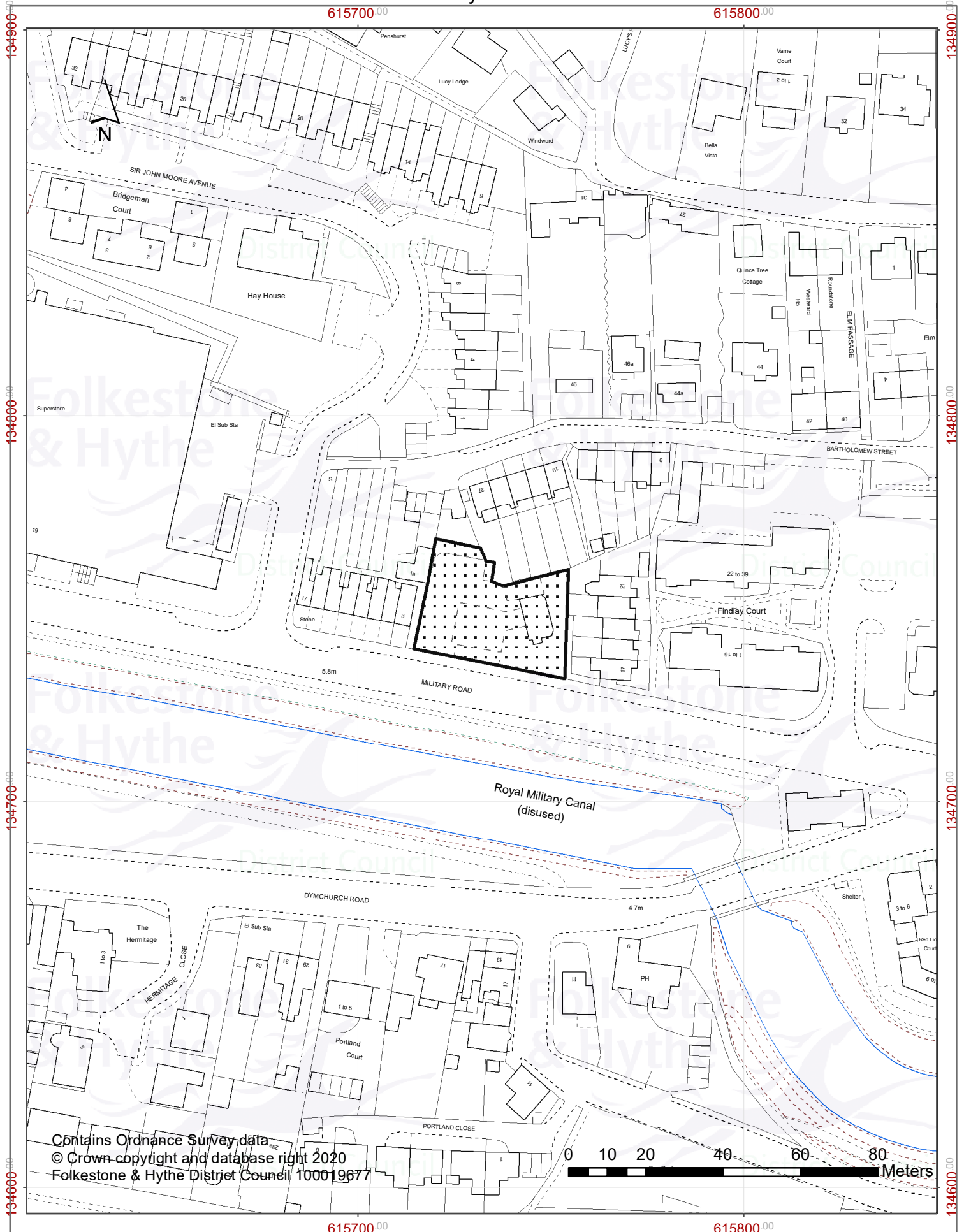
The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement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

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Y19/0653/FH
Ordnance Garage
Military Road
Hythe



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677



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This report will be made
public on 1 February
2021

Report Number **DCL/20/47**

To: Planning and Licensing Committee
Date: 9 February 2021
Status: Non key Decision
Responsible Officer: Llywelyn Lloyd, Chief Planning Officer

SUBJECT: UNAUTHORISED CHANGE OF USE OF LAND FROM AGRICULTURAL TO USE AS A RESIDENTIAL CARAVAN SITE AND THE SITING OF RESIDENTIAL CARAVANS; UNAUTHORISED LAYING OF HARDSURFACING, ALTERATIONS TO ACCESS AND ERECTION OF FENCING AT LAND ADJOINING THE COTTAGE CANTERBURY ROAD SELSTED.

SUMMARY:

This report considers the appropriate action to be taken regarding the change of use of the land and operations that have taken place on the field adjacent to The Cottage in Selsted. A planning application was submitted for the residential use of the land for four gypsy families but the necessary information required to make the application valid was never submitted and as such planning permission has not been granted for the use of the land or any of the operations. The report recommends that an Enforcement Notice be served to require the cessation of the residential use; the removal of the caravans and all vehicles and items associated with the residential use of the land; the removal of the hardsurfacing and fencing; the reinstatement of grass and; the reinstatement of the hedgerow.

REASONS FOR RECOMMENDATIONS:

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

1. The site is located outside of the defined settlement boundary and the use constitutes unacceptable and unsustainable residential development in the countryside which has resulted in the erosion of the established rural character of the area. No special justification has been given as to why a rural location is essential and as such the development is contrary to policy HB14 of the Places and Policies Local Plan, paragraph 79 of the National Planning Policy Framework and paragraph 25 of the Planning Policy for Traveller Sites which requires local planning authorities to strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.
2. The site is located in the countryside, within the nationally designated Kent Downs Area of Outstanding Natural Beauty and locally designated Special

Landscape Area. The residential use of the land, the laying of the hardcore, the erection of the fencing and the alterations to the access have formalised the appearance of this previously undeveloped site and changed its character resulting in a detrimental impact on the character and setting of the rural area. As such the development is contrary to policies SS3 of the Core Strategy and Core Strategy Review and NE3 of the Places and Policies Local Plan which seek to conserve and enhance the natural beauty and locally distinctive features of the AONB and its setting, in addition to policy HB14 of the Places and Policies Local Plan which seeks for new gypsy and traveller sites to not result in an adverse effect on the landscape, environmental or other essential qualities of countryside, including the Kent Downs Area of Outstanding Natural Beauty; and paragraph 172 of the National Planning Policy Framework that requires that great weight be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which are given the highest status of protection in relation to these issues.

3. The development has led to the increased use of an access with substandard visibility splays, resulting in unacceptable harm to highway safety and, as such, the proposal is contrary to policy HB14 of the Places and Policies Local Plan and national planning policy which seek to ensure that adequate vehicular access and sight lines are provided and that the access is not detrimental to the safety of vehicles, cyclists or pedestrians.
4. It has not been demonstrated by means of an ecological desktop study and an appropriate assessment, as required under Conservation of Habitats and Species Regulations (2017 as amended), that the residential use will not adversely affect the Stodmarsh Special Protection Area or protected species on site.
5. It has not been demonstrated by means of a desktop contamination report that the site and the hard core material that has been brought on to the site does not contain contaminant material that would be harmful to human health. As such the use of the site is contrary to policy NE7 of the Places and Policies Local Plan.

RECOMMENDATIONS:

1. **To receive and note report DCL/20/47.**
2. **That an Enforcement Notice(s) be served requiring the cessation of the residential use; the removal of the caravans/mobile homes, hardcore and fencing; the reinstatement of the previous access and; the reinstatement of the grass and hedgerow**
3. **That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notice(s).**
4. **That the period of compliance with the Notices be twelve (12) months.**
5. **That the Assistant Director - Governance, Law & Regulatory Services be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.**

1. LOCATION AND DESCRIPTION OF SITE

- 1.1 The site is located on the western side of A260 Canterbury Road, Selsted, just south of the Selsted Bends and where the boundary with Dover District Council crosses the A60. Selsted Cricket Ground is on the opposite side of the A260 immediately to the north of the site and Newlands Farm is on the opposite side of the A260 to the south. The site is located to the south of the main cluster of dwellings that constitute Selsted. A public footpath separates it from a row of seven dwellings to the north. To the south are a further three dwellings but these are much more widely separated from each other. The location of the site is shown below roughly outlined in red below at Figure 1. The whole area outlined in red is within the same ownership but the development that has taken place so far is on the front half of the site, extending to a line roughly level with the rear boundaries of the gardens of the properties to the north.



Figure 1 – Site Plan

- 1.2 The site is located within the North Downs Area of Natural Beauty and Special Landscape Area. Selsted does not have a defined settlement boundary under the Places and Policies Local Plan and the countryside protection policies in the National Planning Policy Framework (NPPF), Core Strategy (CS), Core Strategy Review (CSR) and the Places and Policies Local Plan (PPLP) are applicable, as well as those relating to Areas of Outstanding Natural Beauty.

- 1.3 Prior to the unauthorised development taking place the site comprised a grassed agricultural field surrounding on all four sides by trees and hedgerows, with a single field gate access on to the road. It is a greenfield site and is classified as Grade 3 under the Agricultural Land Classification. Public Right of Way HE116 runs along a track adjacent to and to the north of the northern boundary of the site. Immediately bordering the site to the west is part of a larger area of ancient woodland that is also a Local Wildlife Site. The site is also within a groundwater protection zone and the Stour Operational Catchment. The latter means that all applications for net new overnight accommodation that will impact on waste water infrastructure will be subject to an appropriate assessment and that planning permission should only be granted where the development would not have an adverse impact on the Stodmarsh Special Protection Area.



Figure 2 - Aerial photograph of the site in 2008

2. THE BREACH OF PLANNING CONTROL

- 2.1 In June 2020 the Council received complaints about the access to the site being increased in size and hardcore being brought onto the site and spread across it. When a Council planning officer visited the site on 27.06.20 there was one man with a digger present. There were piles of hardcore and soil on site. The surface of the ground had been scraped flat to expose the soil and hardcore was being spread across the front part of the site when the officer arrived. Two metre high close board fencing had been erected at the entrance with four lower field gates across the entrance and set back from the road.

- 2.2 From speaking to the person on site it appeared that he was the site owner. The officer was advised that the activities constituted tidying the site which had been used as a rubbish dump and had been untidy. The officer proceeded to highlight that the laying of the hardcore was a material operation that required planning permission. This was contested by the site owner who advised that the hardcore was already in situ and it was merely being spread across the site to tidy it up. In the officer's view the piles of hardcore and soil looked new and clean with no weed growth on them and therefore that they had recently been brought onto the site. Residents had also reported hardcore being brought on to the site. The officer advised that work should cease immediately and that no further work should be carried out on the site until advice had been sought from the Council and any necessary planning permission had been granted.
- 2.3 During the site visit the officer was informed by the site owner that that the intention was to build 4 houses on the site and that a planning application had been submitted. It was further confirmed to the officer that works would cease on the Monday. The officer advised that works needed to stop immediately, that the work being carried out required planning permission and that any further work would be at owner's own risk as the Council may serve an enforcement notice requiring the hardcore to be removed and the site reinstated.
- 2.4 At that time the site contained a touring caravan in the south eastern corner that did not have the appearance of being lived in or being capable of being lived in (see Figure 4).
- 2.5 On exiting the site following the visit, the officer noted that it was difficult to see approaching traffic, particularly from the south as the new fencing obstructed visibility.
- 2.6 The laying of the hardcore continued notwithstanding advice to cease. On the following day (28.06.20) it was noted by the officer that a newer looking touring caravan had been placed in the north eastern corner of the site (see Figure 6 below). Following this a static caravan was placed on the site and this was occupied for residential purposes (Figure 7 below).
- 2.7 Below at Figures 3 and 4 are photographs taken at the time of that site visit on 27th June 2020.



Figure 3



Figure 4

- 2.8 A Temporary Stop Notice was served on 30th June 2020 requiring the use of the land for residential purposes and all works associated with the construction of the hardstanding to cease with immediate effect. The Temporary Stop Notice ceased to have effect on 28th July 2020.
- 2.9 On 10th July, following application to the County Court, the Council was granted an injunction preventing the defendants from carrying out any further development on the land without planning permission and forbidding the stationing of any more caravans/mobile homes on the land, erecting any structure/building, importing or depositing any material (including hardcore) or excavating/digging up the land or undertaking any engineering works. That injunction remained in force until 30th July 2020 when a further court hearing took place. At that hearing a second injunction was granted to the Council prohibiting the same development as the first and that injunction has effect until 1st August 2022. The defendants were also ordered to pay the Council's costs of £4,834.80.
- 2.10 A Planning Contravention Notice has also been served to establish ownership of the land as it was in the process of being sold at the time the unauthorised works were carried out.
- 2.11 On 3rd August 2020 a planning application was submitted for the change of use of the land to use as a residential caravan site for four gypsy families, each with two caravans including no more than one static caravan/mobile home, together with laying of hardstanding, erection of four amenity buildings, improvement of access and erection of fencing. The application was invalid as it was missing a number of documents required to enable the application to be properly assessed. However, consultations were carried out on the application in order to identify any other issues relevant to the acceptability or otherwise of the development as it was anticipated that a decision may need to be taken in the future about whether or not to take enforcement action. The required documents were requested from the applicant's agent, together with further information needed to assess the application against the applicable national and local planning policies relating to traveller sites. The information was requested to be provided by 9th October 2020. A Principal Planning Officer and Planning Enforcement Officer also carried out a further site visit that was attended by the site owner/applicant and his agent. None of the requested information was received by the date given and a further email was sent to the agent given a further period of time until 1st December 2020. A response was received from the agent that the applicant had been ill for several weeks following an accident and requesting further time to submit the information. Given that originally the information had been requested to be provided by 9th October, this request was refused. As the information was still not received the application was returned as invalid on 4th December 2020.
- 2.12 Photographs of the site taken on the site visit 8th October 2020 are included below at Figures 5 - 11. At that time there was one static caravan, two touring caravans and various vehicles on the site.



Figure 5 - Front of site, south of entrance



Figure 6 - Front of site, north of entrance



Figure 7 - Centre of site, close to southern boundary



Figure 8 - Rear section of site



Figure 9 – Southern (side) boundary



Figure 10 – Northern (side) boundary



Figure 11 - Entrance to site from A260

2.13 Under section 171B (3) of the Town and Country Planning Act 1990 (as amended), immunity is given from formal enforcement action, such as against an Enforcement Notice, for changes of use of land and operational development subject to certain time limits. In this case the relevant period for the change of use of the land is 10 years and for the operational development it is 4 years. As the change of use and operational development took place in June 2020, neither are immune from enforcement action.

2.14 The lawful use of the site is agriculture and there are no permitted development rights for the change of use to residential caravan site, therefore the change of use requires planning permission. There are no permitted development rights for the hard surfacing that has been laid, therefore this requires planning permission. The material widening of the access onto a classified road does not constitute permitted development. The fencing that has been erected either side of the access creates an obstruction to the view of persons using the highway and is also over 1 metre in height adjacent to a highway. The gates that have been installed are also over 1 metre high and are part and parcel of the alterations to the access neither the gates or the fencing are permitted development. Therefore, all of the development referred to above constitute a breach of planning control for which no planning permission has been granted.

3 RELEVANT PLANNING POLICY

3.1 Government guidance on enforcement is set out in the National Planning Policy Guidance on Enforcement and post-permission matters. It advises

that 'Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations' and that 'In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework (NPPF), particular paragraph 58. Paragraph 58 of the NPPF states:

Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

- 3.2 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

The Folkestone and 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 and has been subject to an Examination in Public in January 2021. 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:

Places and Policies Local Plan 2020

- HB1 – Quality Places through Design
- HB2 – Cohesive Design
- HB14 – Accommodation for Gypsies and Travellers
- NE2 – Biodiversity
- NE3 – Protecting the District's Landscapes and Countryside
- NE7 – Contaminated Land
- CC3 – Sustainable Drainage Systems
- T2 – Parking Standards
- T4– Cycle Parking
- RM15 - Land adjacent to 'The Retreat', Lydd Road, Old Romney

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

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

1. *The development safeguards the health of occupiers and provides a satisfactory level of amenity for them, by reference to factors including but not limited to: the space available for each family; noise; odour; land contamination; other pollution or nuisance; flood risk; and the disposal of refuse and foul water;*

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

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

Policy RM15 of the PPLP allocates land at Old Romney for Gypsy and Traveller accommodation with capacity for 4 pitches comprising amenity blocks, parking for static and touring caravans, visitor parking and storage.

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
 CSD2 - District Residential Needs
 CSD3 – Rural and Tourism Development
 CSD4 - Green Infrastructure

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
 CSD2 - District Residential Needs
 CSD3 – Rural and Tourism Development
 CSD4 - Green Infrastructure

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

Government Advice

National Planning Policy Framework (NPPF) 2019

Paragraphs 8 & 11 - Presumption in favour of sustainable development.

Para 8 - Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

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

Paragraphs 78 & 79 – Rural Housing

Para 78 -To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

Para 79 - Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) *there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) *the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) *the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) *the development would involve the subdivision of an existing residential dwelling; or*

- e) *the design is of exceptional quality, in that it:*
- *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

Paragraphs 108 &109 – ensuring safe and suitable access and highway safety.

Paragraph 109 - 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.

Paragraphs 170 - 177 - protecting valued landscapes, biodiversity and protected habitats and giving highest status of protection of AONBS

Paragraph 170

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

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

Paragraph 172

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

Planning Policy for Traveller Sites 2015 (PPTS)

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

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

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

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

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

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

- a) promote peaceful and integrated co-existence between the site and the local community*

- b) *promote, in collaboration with commissioners of health services, access to appropriate health services*
- c) *ensure that children can attend school on a regular basis*
- d) *provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment*
- e) *provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development*
- f) *avoid placing undue pressure on local infrastructure and services*
- g) *do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans*
- h) *reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.” (Para. 13 PPTS)*

6.2 For sites in rural areas and the countryside the PPTS advice is that;

“When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.” (Para. 14 PPTS)

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

“Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF (Para. 23 PPTS)

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

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

“Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not

dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.” (Para. 25 PPTS).

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

4 APPRAISAL

- 4.1 The relevant issues that need to be considered in respect of whether it is expedient to take enforcement action are sustainability, the need for the site in this location; impact on the AONB, impact on neighbouring amenity, highway safety, impact on protected habitats and biodiversity, contamination.

Need for the site

- 4.2 In considering the existing provision and need for sites, the NPPF (Paragraph 60) requires LPA's to determine the minimum number of homes needed, which should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. Paragraph 61 continues to state that within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes).
- 4.3 The PPTS (Paragraph 4) requires LPA's to make their own assessment of need and develop fair and effective strategies to meet need through the identification of land for sites. The Core Strategy (2013) Policy CSD2 states that residential development should meet the specific requirements of vulnerable or excluded groups. The accommodation needs of specific groups will be addressed based on evidence of local need including Gypsies and Travellers.
- 4.4 The Folkestone & Hythe District Council Gypsy, Traveller and Travelling Showpersons Accommodation Assessment 2018 (GTAA, 2018) identified at the time of the assessment three traveller families living within the district on private site in Lydd and Brenzett. These sites are all privately owned. The GTAA concluded that there was a need for an additional five permanent residential pitches, two travelling showperson plots; and three to five transit pitches for the period to 2037. Of this requirement, three permanent pitches were identified as being required in the first 5-years of the plan. Policy RM15 allocated a site towards meeting the requirement for the permanent residential pitches. The Places and Policies Local Plan has been through

Examination in Public and has recently been adopted by the Council for Development Plan purposes.

- 4.5 In 2018 planning permission was granted under application Y18/0303/SH for the intensification of one of the existing sites at Brenzett from one to two pitches – reducing the overall permanent pitch requirements to four. Following that planning permission Y19/0958/FH was granted in early 2020 for 5 pitches on Land adjacent to The Retreat' Lydd Road Old Romney. The Old Romney permission has been implemented and it is believed the Brenzett one has as well. Consequently, the permanent pitch requirement identified by the GTAA is considered to have been met in full and exceeded by one.
- 4.6 Nevertheless, the PPLP does state at Paragraph 9.96 that “should a need arise over and above that identified in the GTAA 2018, or proposals come forward in advance of any future allocation, a criteria-based policy will be used to provide flexibility in the location. Development proposals will be supported by the local planning authority subject to Policy HB14 and other relevant policies”.
- 4.7 A Design and Access (D&A) Statement submitted in support of the invalid planning application states that *“the annual traveller count’ has just been completed and that there is a clear unmet need in the district”*. However, no quantifiable evidence to support this claim has been provided and as such the GTAA (2018) has to be considered the most up-to-date evidence of traveller pitch needs for the Folkestone and Hythe District.
- 4.8 Despite a request no information has been provided on where the family currently occupying the site were living before and no evidence was provided with the invalid application to demonstrate that they were a local family in need of accommodation. Therefore, it is considered that there is insufficient justification of need for further pitches to accommodate families within the district such that enforcement action should not be taken in this instance.

Sustainability

- 4.9 The Council’s Settlement Hierarchy seeks to maintain the character and integrity of the countryside, and protect small rural places and the extent of settlements is defined through boundaries separating settlements from open countryside. Focusing development at these existing settlements underpins not only the protection of the district’s open countryside, but also seeks the achievement of sustainable places.
- 4.10 The application site is outside any settlement boundary and is located on the edge of Selsted, which is not a rural centre or a primary or secondary village. There are no shops or community facilities in Selsted with the nearest shop being a newsagents in Densole. The closest supermarket is further away in Hawkinge. Although there is a primary school in Selsted close to the site, the nearest secondary schools are in Canterbury and Folkestone. The only easily accessible public transport is the bus route along the A260 between Folkestone and Canterbury. Therefore, occupants of the application site are predominantly reliant on their own private transport to access shops and local amenities in Densole and Hawkinge. Therefore, it is considered that

this site is in an unsustainable location for residential accommodation and as such is not supported by local or national planning policy in this respect as there would likely be other sites in more sustainable locations which could support permanent G&T residential pitches.

- 4.11 Planning policies seek to resist isolated development in the countryside and while this is not isolated physically as it is close to the main built up part of Selsted, it is isolated in relation to necessary facilities. It is acknowledged that some gypsies and travellers may require a rural location for their pitches as land values within the built up area make such locations unattainable. However, no justification has been provided as to why the occupants cannot locate a more suitable site on the edge of a rural service centre or primary or secondary village or why they require to live in this particular location. The information submitted with the invalid planning application was that the site would be for four families with nine children in total, two of which would be teenagers and the remainder under 10 years of age and that a couple of the children go to school in Canterbury. As far as Officers are aware the current occupants of the site are one couple who have two children under 5 years of age. None of the information submitted provides sufficient justification as to why they need to live in this location and despite a request for further information none was provided. On the basis of the information available it is considered that the residential use fails part 2 of HB14 which requires sites to be within "a sustainable location, well related to a settlement with a range of services and facilities and is, or can be made, safely accessible on foot, by cycle or public transport".

Impact on AONB

- 4.12 The site comprises an undeveloped green field between dwellings on the edge of the hamlet of Selsted where the slightly denser development of the core transitions to more sporadic less dense buildings before becoming open countryside. It is an important visual gap between dwellings that contributes to the setting of Selsted within the countryside and AONB. The unauthorised development that has taken place has completely changed the rural character and appearance of the site from a grassed agricultural field with an established hedgerow boundary on the road frontage to an urbanised appearance with a considerable area of hard surfacing, a much wider access opening up the frontage and visually prominent 2 metre high close boarded fencing more suited to urban areas. This formalisation of the site has changed its character and visual appearance to the detriment of the rural character of the area and resulted in it becoming visually prominent and incongruous with the surrounding landscape character. The continued residential use, with its associated residential paraphernalia would extend the domestication of the landscape outside of the existing built area, which would adversely impact on the visual amenity of the landscape. As such, the development is considered to be detrimental to the character and appearance of the landscape, failing to preserve and enhance this part of the Area of Outstanding Natural Beauty and contrary to national and local planning policies which give priority to protecting the AONB over other material planning considerations.

Impact on residential amenity

- 4.13 In terms of scale the development that has taken place on the site is unlikely to have a significant detrimental impact on neighbouring residents in terms of physical impact or noise and disturbance, over and above what would reasonably be expected from a single residential use. However as the residential use of the site has taken place without planning permission it is unrestricted and the invalid application that was submitted was for four plots for four families. Therefore if an Enforcement Notice is not issued there is potential for the number of occupants on the site to increase after the injunction expires.

Highway Safety

- 4.14 The use of the site for one residential caravan results in an increased use of the access than the previous agricultural use and the intended use of the site for four residential caravans would result in a significant increase in the use of the access. The access is directly onto the A260 which is the main route between Canterbury and Folkestone. Even with the unacceptable removal of a large length of hedgerow and the setting back of the access gates into the site, the visibility for vehicles when leaving the site is very poor, especially to the south. The comments received from Kent Highways and Transportation relating to the invalid application stated that the visibility splays of 2.4m x 43m are only suitable for a 30mph speed limit. This part of the A260 has a national speed limit of 60mph, which requires visibility splays of 2.4 x 203m. Although this may be achievable over land within the applicant's ownership it would necessitate the removal of even more of the existing hedgerow, which is not considered acceptable. Although the applicant has installed a mirror at the site entrance in an attempt to improve visibility this is not considered an acceptable solution by the Highway Authority. As such the increased use of the access resulting from the use of the site is considered to result in unacceptable harm to highway safety.

Protected Species & Biodiversity

- 4.15 No ecological desktop study was submitted with the application to identify any protected species or habitat on the site. Despite a request for one as part of the required documentation to validate the application none was received. Without this the impact of the development on protected species cannot be appropriately assessed. Given the mature trees and nature hedgerow bordering the site it is likely there are protected species present that could be harmed by the development taking place.
- 4.16 In addition, the site falls within the Stour Operational Catchment. This means that all applications for net new overnight accommodation that will impact on waste water infrastructure will be subject to an appropriate assessment and that planning permission should only be granted where the development would not have an adverse impact on the Stodmarsh Special Protection Area. Stodmarsh lies to the east of Canterbury and is a Special Protection Area (SPA) Ramsar site, Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI) and parts are a National Nature Reserve (NNR). During 2017/18, a review of the internationally designated sites at Stodmarsh identified that some of the lakes had raised nitrogen and phosphate levels, leading to eutrophication of the lakes which occurs when an excessive amount of nutrients within a water body are present, which

makes it difficult for aquatic insects, invertebrates or fish to survive, in turn removing a food source from the food cycle. Natural England issued advice last July to all authorities in Kent, and it covers all areas within the Stour Valley river catchment, and which discharge to amongst others, Sellindge Wastewater Treatment Works. The consequence of this advice is to avoid the potential for any further deterioration in the water quality of the Stodmarsh European designated site pending further investigations as to the cause of the eutrophication. The advice applies to all types of development where a net additional population would be served by a wastewater system. Although the application form for the invalid planning application stated that waste water would be disposed of to a septic tank, this would need emptying and the waste water disposed of somewhere. Therefore this requirement applies to this development.

- 4.17 Under the Conservation of Habitats and Species Regulations (2017 as amended), there are significant responsibilities conferred on the Council as “competent authority”. Mainly, it requires the Council only to approve plans or projects (such as new development) if there is no likelihood of a significant effect on any European designated nature conservation site. A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water quality, increase in recreation, light pollution or construction activity. In order to assess whether this development would lead to a “likely significant effect” an Appropriate Assessment would need to be carried out which the Council would consult Natural England on. As this is unauthorised development and the invalid application did not contain sufficient information for an appropriate assessment to be carried out, it is not possible for the Council to be satisfied that there would not be an impact on the SPA and as such the development is contrary to policies NE2 and CC3 of the PPLP.

Contamination

- 4.18 Given the previous agricultural use of the land there is potential for ground contamination resulting from that use. A requirement for a valid planning application is the submission of a desktop contamination report to identify previous uses and the likelihood of ground contamination that could be harmful to human health. Despite a request, no such report was submitted. The unauthorised use of the site is residential and as such there is potential for harm to users of the site from cultivation of the ground, children being exposed to soil while playing etc. Although a large area of the site is covered in hardcore, this could contain contaminated material. As it is not possible to confirm that there is no risk to occupants from contamination on the site the development is contrary to policy NE7 of the PPLP.

5 CONCLUSION

- 5.1 The site is in a remote rural location outside of any settlement with poor access to services and facilities. As such, occupants will be highly reliant on the private motor car to meet their day to day needs. The formalisation of the site, laying of hard core, removal of a section of hedgerow and installation of close boarded fencing is detrimental to the rural character of the area and the special landscape character of the AONB and Special Landscape area. The

increased use of a vehicular access with substandard sight lines onto an A class road creates a hazard to highway safety which is likely to increase if the existing use intensifies. It is not possible to demonstrate that there is no contamination on the site which would cause a hazard to occupants or that the development is not having an adverse impact on protected species or an internationally designated wildlife site. If left to continue the use of the site has potential to intensify which would be likely to have an adverse impact on the amenity of neighbouring residents. As such this is unsustainable development in the countryside, contrary to the requirements of national and local planning policies relating to gypsies and travelers and countryside protection policies. Therefore it is recommended that an Enforcement Notice be served to require the unauthorised use to cease, the removal the caravans/mobile homes, hard core fencing and gates and the reinstatement of grass and hedgerow.

6 HUMAN RIGHTS

- 6.1 In reaching a decision on a planning matter the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. As far as Officers are aware there are two children under 5 years of age. No information was provided with the invalid planning application on whether they attend school yet or where, despite this information being requested. However, given their ages, even if they are at school, it is unlikely it would be of significant detriment to their best interests if they have to change schools as a result of their parents having to leave this site. In addition a compliance period of 12 months for the Enforcement Notice is recommended which would provide ample time for alternative residential and school accommodation to be found.
- 6.2 Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

7 PUBLIC SECTOR EQUALITY DUTY

- 7.1 In assessing this planning matter 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.
- 7.2 In considering this application regard has been had to the Public Sector Equality Duty (PSED), as set out in Section 149 of the Equality Act 2010 in

the absence of appropriate mitigation, there is considered to be a risk of negative impacts in relation to the following groups, Gypsy and Travellers. Nonetheless, the application has been considered in relation to overall provision for Gypsy and Travellers within the district and therefore I am satisfied that the PSED will not be undermined as consideration has been given to this minority group.

It is considered that the proposed enforcement action would not conflict with objectives of the Duty.

8 RISK MANAGEMENT ISSUES

A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
Development becomes immune from Enforcement Action and level of use of site increases	High	High	Serve Enforcement Notice

9. LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES

9.1 Legal Officer Comments (TH)

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

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

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

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

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

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

9.2 Finance Officer Comments (LK)

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

9.3 Equalities & Diversity Officer Comments (GE)

Considerations to Human Rights and the Public Sector Equality Duty in relation to this issue are set out in main body of the report within sections 6 and 7.

CONTACT OFFICER AND BACKGROUND DOCUMENTS

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

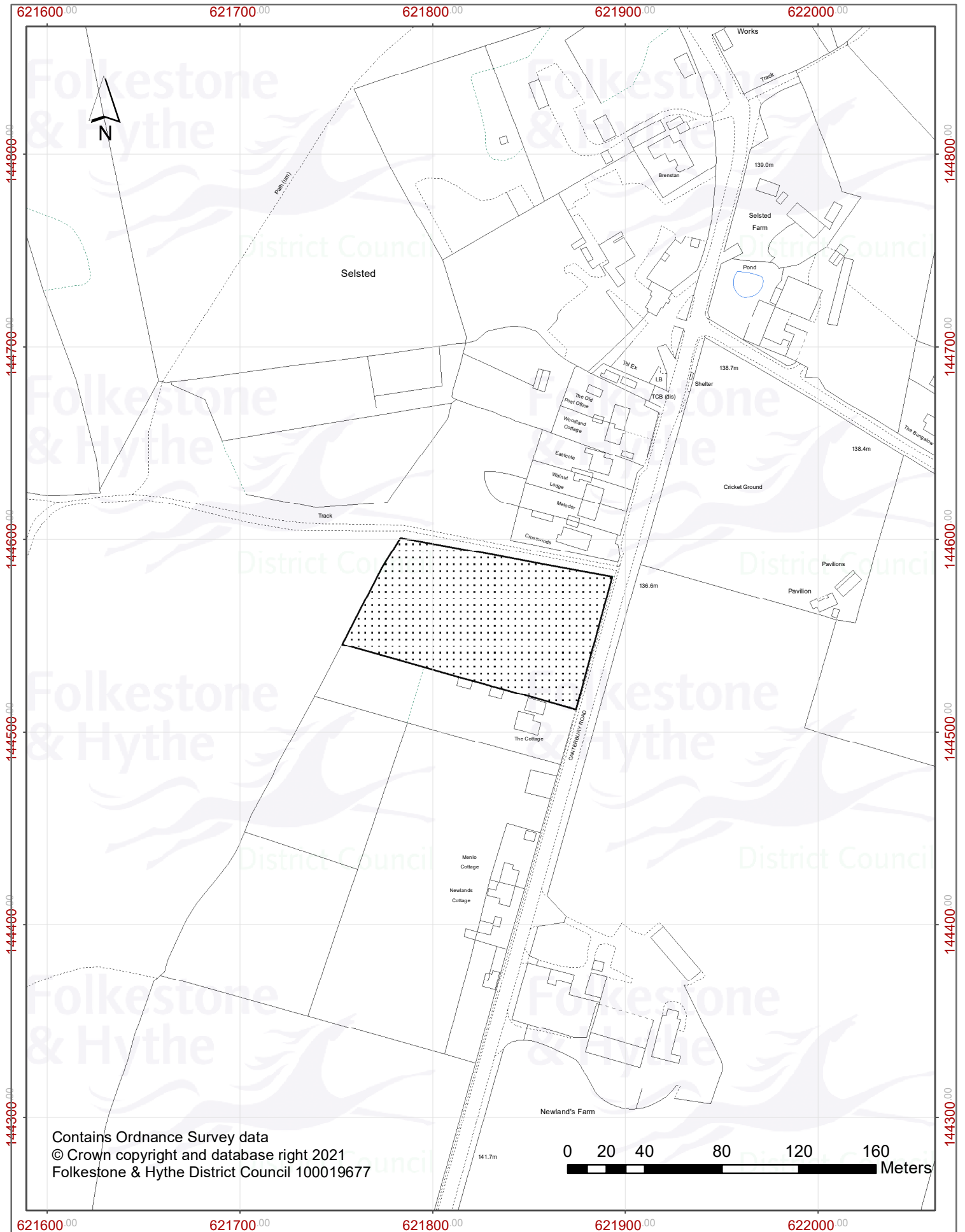
Lisette Patching
CIL & Enforcement Team Leader
Development Management
lisette.patching@folkestone-hythe.gov.uk
01303 853448

The following background documents have been used in the preparation of this report:

None.

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Agenda Item
Land adjoining The Cottage
Canterbury Road
Selsted



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677

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APPENDIX 1

**INFRASTRUCTURE FUNDING STATEMENT
NOVEMBER 2020**

1. Introduction

- 1.1 In accordance with the latest revisions made via the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019¹, from December 2020 local authorities must publish an Infrastructure Funding Statement (IFS), and information should be drawn from this. Accordingly, the IFS is to provide a summary of all financial and non-financial developer contributions relating to Section 106 Legal Agreements (S106) and the Community Infrastructure Levy (CIL) within Folkestone & Hythe District for a given financial year.
- 1.2 The IFS should also identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.
- 1.3 Other noteworthy changes to be introduced by the revision to the regulation is summarised as follows:
 - Removal of the restriction on pooling more than 5 planning obligations towards a single piece of infrastructure.
 - Deletion of the Regulation 123 List
 - Allowing authorities to choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in their infrastructure funding statements which infrastructure they expect to fund through the levy and through planning obligations.

2. Preparing an Infrastructure Funding Statement

- 2.1 The guidance² advises that when preparing infrastructure funding statements, authorities should consider known and expected infrastructure costs taking into account other possible sources of funding to meet those costs. This process will help the charging authority to identify the infrastructure funding gap and a levy funding target. The Planning Policy Guidance (PPG) recognises some of the challenges surrounding the identification of infrastructure funding, noting that:

“It is recognised that there will be uncertainty in pinpointing other infrastructure funding sources, particularly beyond the short term. Charging authorities should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy.

Any significant funding gap should be considered sufficient evidence of the desirability of CIL funding, where other funding sources are not confirmed. The Community Infrastructure Levy examination should not re-open infrastructure planning issues that have already been considered in putting in place a sound relevant plan.

¹ <http://www.legislation.gov.uk/ukdsi/2019/9780111187449>

² Paragraph: 017 Reference ID: 25 017 20190901 Revision date: 01 09 2019

Authorities may have existing ‘regulation 123 lists’ dating from before the Community Infrastructure Levy regulations were amended in September 2019. These lists remain useful as important evidence to inform plan making and the preparation of charging schedules. By no later than 31 December 2020, authorities will replace these lists with infrastructure funding statements.”

2.2 Funding for the delivery of infrastructure will be sought by the Council from multiple sources over a number of years. Developer contributions can be provided in several ways:

- Through planning conditions – to make development acceptable that would otherwise be unacceptable.
- Through planning obligations in the form of Section 106 agreements – where it is not possible to address unacceptable impacts through a planning condition.
- Through the Community Infrastructure (CIL) – a fixed charge levied on new development to fund infrastructure.

2.3 It is generally expected that Developer Contributions: CIL and Planning Obligation (Section 106) will only provide a contribution to funding the infrastructure costs. Alongside this funding there are mainstream sources of funding available to support delivery including sources of funding for education, transport, health and utilities infrastructure. Funding can also be used from the town and parish council CIL pots.

2.4 The PPG on Infrastructure Funding Statements³ provides guidance on the contents of statements, as follows:

“Infrastructure funding statements must set out:

- *A report relating to the previous financial year on the Community Infrastructure Levy;*
- *A report relating to the previous financial year on section 106 planning obligations;*
- *A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).*

The infrastructure funding statement must set out the amount of levy or planning obligation expenditure where funds have been allocated. Allocated means a decision has been made by the local authority to commit funds to a particular item of infrastructure or project.”

³ Paragraph: 176 Reference ID: 25 176 20190901 Revision date: 01 09 2019

3. A report relating to the previous financial year on the Community Infrastructure Levy

3.1 The reporting on the previous financial year is for the period 1 April 2019 to 31 March 2020 (note this is different to the tax year which runs from 6 April to 5 April).

3.2 It is noteworthy that the District Council has been reporting on S106 contributions and CIL receipts collected for a previous financial year to the Planning and Licensing Committee as an agenda item, so as to ensure the recommendations of the audit report are met and that information relating to the collection and allocation of S106 legal agreements is publicly available.

3.3 Previous reporting can be found under items of the Planning and Licensing Committee as follows:

- DCL/17/31 dated 23rd January 2018, with the following included as appendices:
 - Appendix 1: Contributions Required By Section 106 Agreements 2015/17
 - Appendix 2: Community Infrastructure Levy (CIL) Annual Monitoring Report 2016/17.

- DCL/18/33 dated 26th February 2019, with the following included as appendices:
 - Appendix 1 – Table of S106 Financial Contributions

3.4 Table 3.1 provides details of CIL receipts (payments) collected during the reporting period 1 April 2019 to 31 March 2020. Table 3.2 provides information on the total CIL receipts by Town and Parish Council area since August 2016 and corresponding transfer of CIL receipts (as of 31st March 2020).

Table 3.1. CIL receipts (payments) collected during the reporting period 1 April 2019 to 31 March 2020

Site name	Planning ref	Total CIL liability	Total CIL received	Outstanding liability	CIL neighbourhood proportion	Town/Parish Council
33 Newlands St Marys Bay Romney Marsh Kent TN29 0EY	Y17/0150/SH	£9,050	£9,050	£0	£2,262.50	St Mary in the Marsh

Land Adjoining 143 Queens Road Littlestone Kent	Y18/0524/FH	£6,892.20	£6,892.20	£0	£1,033.83	New Romney Town Council
Land Opposite Dorland New Romney Kent	Y18/0327/SH	£35,390.90	£35,390.90	£0	£5,308.64	New Romney Town Council
Great Field Farm Mising Lane Stelling Minnis Canterbury Kent	Y17/1512/SH	£12,581	£12,581	£0	£1,887.15	Elmsted Parish Council
Land Adjoining Steynes Madeira Road Littlestone Kent	Y17/0127/SH	£19,800	£0	£19,800	£2,970 (once received)	New Romney Town Council
Land adjoining Telephone Exchange, Barnhurst Lane, Hawkinge	Y16/0628/SH	£23,750	£23,750	£0	£3,562.50	Hawkinge Town Council
Land Adjoining 17 Hillcrest Road, Hythe, Kent	Y18/0215/SH	£59,590.65	£59,590.65	£0	£8,938.60	Hythe Town Council
Stonegate Farmers, Stone Street 96 St Leonards Road, Hythe	Y15/1292/SH	£118,458.58	£118,458.58	£0	£17,768.79	Elmsted Parish Council
96 St Leonards Road, Hythe	Y17/0866/SH	£28,444	£28,444	£0	£4,266.60	Hythe Town Council
Land rear 162 High Street, Hythe	Y17/0971/SH	£54,600	£54,600	£0	£8,190	Hythe Town Council
74 High street New Romney	Y17/0312/SH	£39,600	£39,600	£0	£5,940	New Romney Town Council

	Total	£408,157	£388,357	£19,800	£59,159	n/a
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3.5 In line with the Regulations, 15% of CIL receipts (capped at £100 per Council tax dwelling per annum in the parish area) will be transferred to Town and Parish Councils twice a year, where development has occurred in their area, rising to 25% of CIL receipts (without any cap) for Town and Parish Councils that have made Neighbourhood Plans. St Mary in the Marsh Parish is the only area within the district that has an adopted, or 'made', Neighbourhood Plan. At the time of writing, there are no additional Neighbourhood Plans being prepared by Town or Parish Councils). The cap that applies of £100 per Council tax dwelling per annum has only had implications on the payment to be made to Elmstead Parish Council in the 2019/20 financial year. Because of the small population of the parished area (141 properties in total) the annual CIL payment for 2019/20 could not exceed £14,100. The 15% allocation for 2019/20 would amount to a transfer of £19,655.94 if there were no cap in place. Because of the cap the residual amount of £5,555.94 is transferred into the strategic pot.

Table 3.2. Total CIL receipts by Town and Parish Council area since August 2016 and corresponding transfer of CIL receipts (as of 31st March 2020)

Parish/Town Council	Amount owed from CIL receipts currently held on account	Amount transferred as of 31 st March 2020	Date of transfer	Number of Council Tax properties as of 31 st March 2020	Notes
Acrise Parish				75	
Brenzett Parish				179	
Brookland Parish				206	
Burmarsh Parish				133	
Dymchurch Parish	£701.77	£0		1737	
Elham Parish				688	
Elmsted Parish	£14,100	£0		141	Payments relate to Y15/1292/SH and Y17/1512/SH. Both payments were made to F&HDC in 2019/20. There are 141 Council Tax properties in Elmste0d parish, and so the neighbourhood allocation in the 2019/20 financial year is limited to £14,100, equivalent to £100 per existing Council Tax dwelling.
Folkestone Town	£6,321.30	£6,321.30	Single payment made on 14 th July 2020	22332	The single payment made on 14 th July included the sum of £2313.75, which relates to a CIL payment made to F&HDC after 31 March 2020. The reporting on this row relates to payments up to 31 March 2020

Parish/Town Council	Amount owed from CIL receipts currently held on account	Amount transferred as of 31 st March 2020	Date of transfer	Number of Council Tax properties as of 31 st March 2020	Notes
					A further payment of £13,376.25 was made in September 2020, and will be reported in the 2021 IFS As such Folkestone Town Council have received total monies of £22,011.30 as of September 2020
Hawkinge Town	£5,018.10	£0		3323	
Hythe Town	£57,674.50	£48,735.90	Single payment made on 25 th February 2020	7693	
Ivychurch Parish				102	
Lydd Town				3103	
Lyminge Parish				1273	
Lympne Parish				652	
Monks Horton Parish				50	
New Romney Town	£12,282.47	£12,282.47	Single payment made on 17 th July 2020	3407	
Newchurch Parish				138	
Newington Parish				164	
Old Romney Parish				97	
Paddlesworth Parish				15	
Postling Parish				94	
Saltwood Parish				392	
Sandgate Parish				2441	
Sellindge Parish				757	
Snargate Parish				60	
St Mary in the Marsh Parish	£2,933.75	£0		1462	
Stanford Parish				166	
Stelling Minnis Parish				253	
Stowting Parish				103	
Swingfield Parish				532	
Total	£99,03189	£67,339.67			

CIL Spending Protocol

- 3.6 The Council is responsible for making the final decision on the allocation of funding raised through CIL. The District Council formally adopted a Community Infrastructure Levy Governance Framework at Cabinet on 24th June 2020, and Cabinet report C/20/12 and its associated appendices refer. The purpose of

having a governance framework in place is to ensure the deployment of CIL income follows clear and appropriate processes.

- 3.7 The District Council acknowledges the crucial role played by the County Council in the delivery of key strategic infrastructure. Indeed, charging authorities must consult and should collaborate with the County Council in setting the levy and should work closely with them in setting priorities for how the levy will be spent in 2-tier areas. Collaborative working between County Councils and charging authorities is especially important in relation to the preparation of infrastructure funding statements (see Schedule 2 introduced by the 2019 Regulations) bearing in mind the potential impact on the use of highway agreements by the County Council and the timely delivery of schools.
- 3.8 Under the proposed governance arrangements the District Council is pledging to assign 35% of CIL receipts from the strategic pot to Kent County Council in order to enable KCC to spend this proportion of the receipts in accordance with agreed priorities for infrastructure delivery within Folkestone & Hythe district.
- 3.9 A requirement of the proposed governance arrangements is that the County Council's priority infrastructure schemes shall be recorded within the District's Infrastructure Funding Statement (IFS); the associated spend of CIL receipts by the County Council must be in accordance with the prioritisation of CIL funds. This ensures full transparency for the deployment/investment of CIL receipts.
- 3.10 CIL collected will be used to provide infrastructure to support growth within the District. Of this:
- 5% will be used to provide a dedicated resource for the annual monitoring and management required by the CIL regulations
 - Either 15% or 25% of receipts accruing from development within their Parish will be allocated to the relevant Parish or Town Council. On the basis that St Mary-in-the-Marsh is the only area with an adopted Neighbourhood Plan - and recognising that the quantum of development expected to come forward in this parish area is very limited - the neighbourhood apportionment is principally 15%
 - Remaining CIL monies will be allocated by the Council and/or County Council for investment in infrastructure for the District, in accordance with this Spending Protocol. A proportion of the strategic pot, 35% (i.e. applying a ratio of 35:80 from the 80% under the strategic pot) will be passed across to Kent County Council in accordance with the approved Governance arrangements.
- 3.11 A breakdown of the CIL receipts by the corresponding pots is presented in Table 3.3.

Table 3.3. Breakdown of CIL receipts by percentage split as of 31 March 2020

Total CIL receipts received	5% administration	Neighbourhood allocation	Strategic pot	
£689,428.80	£34,471.44	£99,031.89	£555,925.47	
			F&HDC (45/80)	KCC (35/80)
			£312,708.07	£243,213.45

Notes

Under the agreed governance arrangements KCC shall receive a proportionate share (35%) of the strategic pot

Scheme prioritisation through reference to the Infrastructure Funding Statement

3.12 As part of the CIL spending protocol agreed by Cabinet in June 2020, decisions to be taken by the District Council on spend of CIL receipts from the strategic pot would be taken in accordance with the IFS priorities and through the involvement/discussions between the Planning Policy team which leads on preparation of the IFS and one of the following Directors, depending on the directorate area where a particular project falls:

- Director of Place
- Director of Housing and Operations
- Director of Corporate Services

3.13 The District Council has set out a comprehensive list of infrastructure schemes to be delivered across the District within a corresponding Infrastructure Schedule. Inclusion within the schedule does not guarantee that support via CIL shall be forthcoming. Indeed, a number of referenced schemes will be fully funded via S106.

3.14 In terms of reporting, it is proposed that a Cabinet statement is prepared every 6 months to provide an update on CIL receipts received and expenditure.

Profiling future CIL receipts

3.15 A further £2.5m of CIL receipts are expected from development which has been granted planning permission, but the consent has not yet been implemented to trigger the CIL payment. Up to a further £7m is expected from sites that are allocated within the Places and Policies Local Plan (PPLP), which was adopted on 16 September 2020. A number of sites within the PPLP have already been granted planning consent and are coming forward to implementation.

3.16 These figures are broad estimates based on an average floor area for new dwellings, and affordable housing in accordance with the prevailing policy

requirement. CIL receipts will be affected by a number of other factors, which are more difficult to forecast, such as pace of development, CIL relief for self-build dwellings and windfall development.

4. A report relating to the previous financial year on the S106 planning obligations

4.1 The basis for collecting S106 developer contributions is policy SS5 of the adopted Core Strategy Local Plan, as well as other policies within the Local Plan relating to requirements for open and play space provision. The aim of S106 contributions is to mitigate the impact of development on local services such as local schools and social care facilities etc. and to ensure that, where provision is not made on site off site mitigation is provided. S106 contributions for these services can only be sought.

4.2 Importantly in the context of infrastructure funding and delivery, the removal of regulation 123 takes away not only pooling restrictions, but also the restriction on seeking S106 contributions to infrastructure on the infrastructure list.

4.3 Table 4.1 below shows the total amount of S106 money held by the Council on 31 March 2020. Table 4.2 details monies held at 31 March 2020 due to be transferred to the local CCG in future. Table 4.3 provides a further breakdown of monies held at 31 March 2020 due to be transferred to Kent County Council.

4.4 When S106 money is available, i.e. is held on account by the District Council following receipt of payment from a developer, and that money is required for a project, the party seeking a transfer payment (e.g. KCC in the case of a school expansion) is required to contact the Development Control Manager and clearly set out details of the project, its S106 justification, responsibilities for governance on spend and associated programming for delivery for S106 monies to be released. This is to ensure monies are spent in accordance with the specific legal agreements in a controlled project management environment.

Table 4.1 – Total S106 monies held by the F&HDC at 31 March 2020

Planning reference number	Balance 30/03/2020	Total KCC	Other 3rd Parties	FHDC Affordable Housing	FHDC Open Space	FHDC Other	Total
Y03/0903/SH	£68,641	0	0	0	£20,000	£48,641	£68,641
Y07/1566/SH	£81,307	0	£81,307	0	0	0	£81,307
Y09/0627/SH	£16,845	0	0	0	0	£16,845	£16,845
Y10/0898/SH	£969,682	0	0	£969,682**	0	0	£969,682

Y11/0284/SH	£8,093	0	£8,093	0	0	0	£8,093
Y11/0812/SH	£2,800	0	0	0	£2,800	0	£2,800
Y11/1156/SH	£7,076	0	0	0	£7,076	0	£7,076
Y13/0172/SH	£117,745	0	0	0	£8,327	£109,418	£117,745
Y13/0595/SH (Y12/055/SH)	£5,000	0	0	0	£5,000	0	£5,000
Y13/1206/SH	£102,658	£12,658	0	£90,000	0	0	£102,658
Y14/0300/SH	£2,000	£2,000 *	0	0	0	0	£2,000
Y10/0698/SH & Y15/0806/SH	£61,421	0	0	0	£21,022	£40,399	£61,421
Y15/0467/SH	£77,716	0	0	£77,716	0	0	£77,716
Y15/0581/SH	£135,903	0	0	£135,903	0	0	£135,903
Y15/0164/SH	£557,313	£136,794 *	£70,471	0	£168,607	£181,439	£557,313
Y15/0751/SH	£55,951	0	0	0	0	£55,951	£55,951
Y17/1377/SH	£147,500	0	0	0	0	£147,500	£147,500
Total	£2,417,650						
		£151,452	£159,871	£1,273,619	£232,832	£600,193	£2,417,650

*Denotes that payments have been transferred to the receiving body post the reporting period, i.e. after 31 March 2020. This will be reflected in the 2021 IFS

** Small drawdown on Affordable Housing sum from £1,416,000 post the reporting period, i.e. since March 2020

4.5 Of the £2,870,196 held on account by F&HDC as of 31st March 2020, some £2,558,871 is to be spent on services that are delivered by the District Council.

4.6 Concerning the sum held on account that is to be transferred to third parties (amounting to £159,871 as of 31st March 2020), with the exception of the sum of £8,093 secured against planning permission Y11/0284/SH, the balance relates to healthcare contributions. Monies held on account by F&HDC to fund improved healthcare services are presented in Table 4.2. These contributions have been identified to support the delivery of a healthcare hub on land adjacent to the Marsh Academy, Station Road, New Romney. At the time of writing, this proposal has not proceeded to a formal planning application, although it's understood there's a justified business case to proceed to application stage in due course.

Table 4.2 – Monies held at 31 March 2020 due to be transferred to the CCG in future

Planning reference number	NHS contribution	Proposed project
Y07/1566/SH	£81,307	New surgery in New Romney
Y15/0164/SH	£70,471	New surgery in New Romney
Total	£151,778	

- 4.7 In respect of the £8,093 secured against planning permission Y11/0284/SH, this money is being drawn-down annually to fund a programme of ecological survey work to monitor the Emerald Moth habitat proximate to the scheme of residential development at Fisherman's beach. The final amount of £2,583 is to be paid to Natural England in 2021/22, after which the full drawdown will have taken place.
- 4.8 Of the £151,452 held on account as of 31st March 2020 to be transferred to KCC, two payments relating to applications Y14/0300/SH (£2,000) and Y15/0164/SH (£136,794) have been transferred to KCC post the reporting period ending 31st March 2020. Corresponding information is presented in Table 4.3.

Table 4.3 – Monies held at 31 March 2020 due to be transferred to KCC

Planning reference number	KCC Social Care	KCC Libraries	KCC Education	KCC Community Learning	KCC Youth	KCC Other?	Total KCC
Y13/1206/SH	£376.74	£1,704.55	£10,198.26	£378.81	0.00	0.00	£12,658.36
Y15/0164/SH			£136,794 *				£136,794*
Y14/0300/SH						£2,000 * Travel Plan monitoring fee	£2,000*

*Denotes that payments have been transferred to the receiving body post the reporting period, i.e. after 31 March 2020. This will be reflected in the 2021 IFS

- 5. A report on the infrastructure projects or types of infrastructure that the authority intends to fund wholly or partly by the levy (excluding the neighbourhood portion).**
- 5.1 This IFS identifies the infrastructure projects or types of infrastructure which Folkestone & Hythe District intends will be, or may be, wholly or partly funded by the Community Infrastructure Levy; whilst indicating other sources of funding that can be pooled to fund the same infrastructure projects shown (Appendix 1 refers).

- 5.2 Inclusion of any individual project within the schedule does not guarantee that support via CIL shall be forthcoming. Indeed, a number of referenced schemes will be fully-funded via S106.
- 5.3 The content of the Infrastructure Schedule presented in Appendix 2 has been drawn from the Infrastructure Delivery Plans (IDPs) prepared as part of the evidence base for the Places and Policies Local Plan and the Core Strategy Review respectively. Both IDP documents were produced following extensive discussion and collaboration with stakeholders, strategic infrastructure providers and the County Council throughout the period 2017 to 2019. As such, information drawn from the IDPs for inclusion within the Infrastructure Schedule remains both current and relevant.
- 5.4 However, it is important to note that the IFS and its supporting documentation are dynamic and will be subject to annual review and updating, as required. Member views on the content of the IFS and Infrastructure Schedule are welcomed, to include recommendations for the setting of priority projects. The 2020 IFS document does not set any priorities on project spend.

6. Conclusion

- 6.1 This document is the council's first Infrastructure Funding Statement, and meets the requirements of the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 for local authorities to publish information on the infrastructure funding they receive through Section 106 and CIL.
- 6.2 It should be noted that, at the time of writing this statement, the Government is consulting on proposals for radical reform of the planning system, as set out in the Planning White Paper 'Planning for the Future' (MHCLG, August 2020).
- 6.3 The Planning White Paper includes proposals for the reform of the current system of developer contributions. If implemented as proposed, these reforms would see the scrapping of Section 106 agreements and the Community Infrastructure Levy and their replacement by a new consolidated Infrastructure Levy. This would be charged as a fixed proportion of the development value of a site, determined through a nationally-set rate.
- 6.4 These changes may therefore need to be reflected in future updates of this document.

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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 9 FEBRUARY 2021**

Declarations of Lobbying

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

Application No:	Type of Lobbying

SIGNED:

Councillor Name (in CAPS)

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

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PLANNING AND LICENSING COMMITTEE

9th FEBRUARY 2021

REPORT OF THE CHIEF PLANNING OFFICER ON APPLICATIONS

**1. 20/1660/FH
(Pages 15-34)**

SHEPWAY LYMPNE HILL LYMPNE HYTHE KENT

Erection of a 4 bedroom (plus ground floor study/5th bedroom) two storey part chalet style house of 233m² with basement of 35m².

Martin Bryer, applicant, to speak on application

THE SCHEDULE WILL RESUME IN THE FOLLOWING ORDER:

**2. Y19/1106/FH
(Pages 35-58)**

NEW INN, 37 HIGH STREET, NEW ROMNEY, KENT

Erection of two semi-detached houses facing on to Church Road.

**3. Y19/0653/FH
(Pages 59-74)**

ORDNANCE GARAGE, MILITARY ROAD, HYTHE, KENT

Installation of 2 No. jet washes together with associated works including screens and anti-ram bollards.

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