



Agenda

Meeting: **Planning and Licensing Committee**
Date: **23 March 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 5 - 6)**

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

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

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

To consider and approve, as a correct record, the minutes of the meeting held on 9 February 2021.

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

Queries about the agenda? Need a different format?

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

To receive and note the minutes of the meeting held on 3 February 2021.

5. **20/0690/FH - Sandbanks, Coast Road, Littlestone, New Romney, TN28 8RA (Pages 13 - 50)**

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.

6. **20/1212/FH - Land rear of 2 Willop Close, Dymchurch, TN29 0HU (Pages 51 - 78)**

Erection of 2 three-bedroom dwellings and associated parking.

7. **Y19/0071/FH - Smiths Medical UK, Boundary Road, Hythe (Pages 79 - 128)**

Outline planning application for the redevelopment of the former Smiths Medical site for up to 97 dwellings (Class C3), up to 153m² of offices (Class B1) and up to a 66 bed care home (Class C2) with all matters reserved for future consideration except access.

8. **Planning contributions secured through Section 106 Agreements and Community Infrastructure Levy (Pages 129 - 162)**

Some planning decisions are subject to legal agreements requiring developers to make financial contributions to the Council and Kent County Council (KCC) to provide for on and off site infrastructure to mitigate the impact of the development, under Section 106 of the Town and Country Planning Act 1990 (as amended).

Some developments for which planning permission is granted are also subject to the Community Infrastructure Levy (CIL). Although separate to the S106 process, the purpose of CIL payments is also to ensure developers make an appropriate financial contribution to mitigate the impact of the development on local infrastructure.

The adequacy and effectiveness of the procedures and controls relating to S106 agreements was first reviewed by the East Kent Audit Partnership in 2014 with a follow up review in 2018/19. The original report recommended that the position regarding planning obligations that involve financial contributions should be reported to members on an annual basis. Following the introduction of CIL in 2016 the report now also includes CIL contributions.

9. **Unauthorised change of use of Land from Touring Caravan and Camping Site to use as a Residential Caravan Site and the siting of Residential Caravans and Campervans at Elham Valley Holiday Park (ALSO KNOWN AS GOLDPARK LEISURE CARAVAN AND CAMPING SITE). (Pages 163 - 178)**

This report considers the appropriate action to be taken regarding the use of the camping and touring caravan site at Elham Valley Holiday Park (also known as Goldpark Leisure Caravan and Camping Site) for the siting of residential caravans and campervans. Planning permission has been refused, and an appeal dismissed, for a residential static caravan on the site and a recent application for a Certificate of Lawful Development for the siting of static caravans for permanent residential accommodation has also been refused. The report recommends that an Enforcement Notice be served to require the cessation of the residential use and the removal of the caravans, vehicles and items associated with the residential use of the land.

10. **Unauthorised change of use of land from Agricultural to use as a Residential Caravan Site and the Siting of Residential Caravans; and unauthorised laying of hardsurfacing at Land Adjoining Martinfield Cottage, Lydd Road, Old Romney (Pages 179 - 208)**

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 Martinfield Cottage Old Romney. A planning application was submitted for the residential use of the land for four gypsy families but the necessary information required to validate the application was not supplied. As such planning permission has not been granted for the use of the land or any of the operations. Serving of an Enforcement Notice is recommended.

11. **Supplementary Information (Pages 209 - 212)**

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Declarations of Interest

Disclosable Pecuniary Interest (DPI)

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

Other Significant Interest (OSI)

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

Voluntary Announcement of Other Interests (VAOI)

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

Note to the Code:

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

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Minutes

Planning and Licensing Committee

Held at:	Remote Meeting
Date	Tuesday, 9 February 2021
Present	Councillors Danny Brook, John Collier, Gary Fuller, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Ian Meyers, Georgina Treloar and David Wimble
Apologies for Absence	None
Officers Present:	Robert Allan (Principal Planning Officer), Kate Clark* (Case Officer - Committee Services), Claire Dethier (Strategic Sites Lead Specialist), Emma Hawthorne (Principal Planning Officer), Llywelyn Lloyd (Chief Planning Officer), Lisette Patching (CIL and Enforcement Team Leader), Helena Payne (Strategic Sites Team Leader) and Jemma West (Committee Service Specialist) and Geoff Mills (Committee Services)
Others Present:	None

(* present for part of the meeting).

58. **Declarations of Interest**

There were no declarations of interest.

59. **Minutes**

The minutes of the meeting held on 15 December 2020 were submitted and approved. The Chairman's signature would be added to these minutes as approval

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

The minutes of the meeting held on 15 December 2020 were submitted and approved. The Chairman's signature would be added to these minutes as approval

61. **20/1660/FH - Shepway Lympne Hill Lympne Hythe Kent CT21 4NX**

Erection of a 4 bedroom (plus ground floor study/5th bedroom) two storey

part chalet style house of 233m2 with basement of 35m2.

Mr Martin Bryer, the applicant, provided a video speech in which he set out why he believed his application should be approved.

Mr Rob Bryer provided a video speech in support of the application.

Members were reminded by the presenting Officer of the planning history of this site and the relevant planning policies, particularly those relating to the AONB.

Following detailed discussion;

Proposed by Councillor Philip Martin

Seconded by Councillor Mrs Jenny Hollingsbee; and

RESOLVED:

That the application be approved on the grounds that it meets sustainable criteria, does not break with policies, and would not detract the outlook from the Area of Outstanding Natural Beauty or the local street scene.

(Voting: 4 For; 7 Against; 1 Abstention.)

THIS VOTE WAS LOST

Proposed by Councillor Georgina Treloar

Seconded by Councillor Jackie Meade; and

RESOLVED:

That the application be refused on the grounds set out at the end of the report by the Chief Planning Officer.

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

62. Y19/1106/FH - New Inn, 37 High Street, New Romney, Kent TN28 8BW

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

Proposed by Councillor David Wimble

Seconded by Councillor John Collier; and

RESOLVED:

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

(Voting: 10 For; 1 Against; 1 Abstention)

63. **Y19/0653/FH - Ordnance Garage, Military Road, Hythe, Kent CT21 5DD**

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

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

RESOLVED:

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

(Vote: 6 For, 6 Against; 0 Abstentions)

As the vote was tied the Chairman exercised his casting vote in favour of the recommendation to grant planning permission.

64. **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**

The report considered 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 recommended 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.

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

RESOLVED

(i) 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

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

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

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

(Vote: 12 for, 0 Against, 0 Abstentions)

Minutes

Licensing Sub-Committee

Held at:	Zoom Meeting
Date	Wednesday, 3 February 2021
Present	Councillors John Collier, Gary Fuller and Philip Martin
Apologies for Absence	
Officers Present:	Kate Clark (Case Officer - Committee Services), Tim Hixon (Legal Specialist), Sue Lewis (Committee Services Officer), Jack Pearce (Legal Trainee) and Briony Williamson (Licensing Specialist)
Others Present:	The applicant was in attendance for discussion on this item.

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

Proposed by Councillor John Collier
Seconded by Councillor Gary Fuller and

Resolved: To appoint Councillor Philip Martin Chairman for the meeting.

63. **Declarations of interest**

There were no declarations of interest.

64. **Exclusion of the Public**

Proposed by Councillor John Collier
Seconded by Councillor Gary Fuller and

Resolved:

To exclude the public for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 2 of Part 1 of Schedule 12A to the Local Government Act 1972 –

‘Information which is likely to reveal the identity of an individual.’

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

65. **Review of whether a licence should be granted to a new Private Hire driver**

The report considers whether a Private Hire Driver licence should be granted.

Proposed by Councillor John Collier
Seconded by Councillor Philip Martin and

Resolved:

To grant a Private Hire Driver Licence subject to officers obtaining written confirmation from Medway Council that the applicant had no significant issues during the applicants licence period with them (other than the singular incident with a traffic warden as acknowledged by the applicant) that gave rise to his licence being considered for revocation.

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

Agenda Item 5

DCL/20/48

Application No: 20/0690/FH

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

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

Applicant: Mr Leo Griggs

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

Officer Contact: Ross McCardle

SUMMARY

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

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

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

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

RECOMMENDATION:

That planning permission be approved subject to the conditions set out at the end of the report; any additional conditions recommended by statutory consultees or considered necessary by the Chief Planning Officer; and the completion of a s.106 legal agreement to secure contributions towards open space and play equipment, and the provision of affordable housing.

1. INTRODUCTION

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

2. SITE AND SURROUNDINGS

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

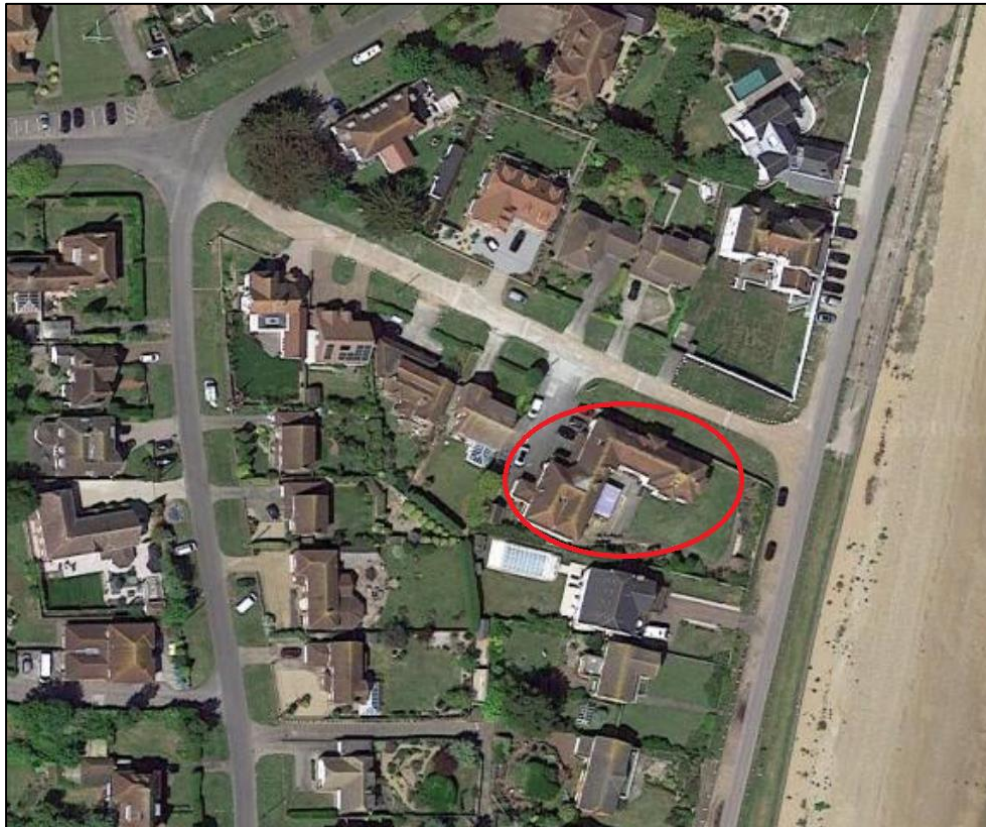


Fig.1 Location of Sandbanks

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



Fig.2 Four-storey developments to the south, facing towards Sandbanks

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



Fig.3 Sandbanks (behind black car) within Coast Road street scene



Fig.4 Junction of Coast Road and St Andrew's Road



Fig.5 View from St Andrew's Road



Fig.6 Flank view from balcony of The Coast House (to south)

3. PROPOSAL

3.1 This application seeks planning permission for:

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

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

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

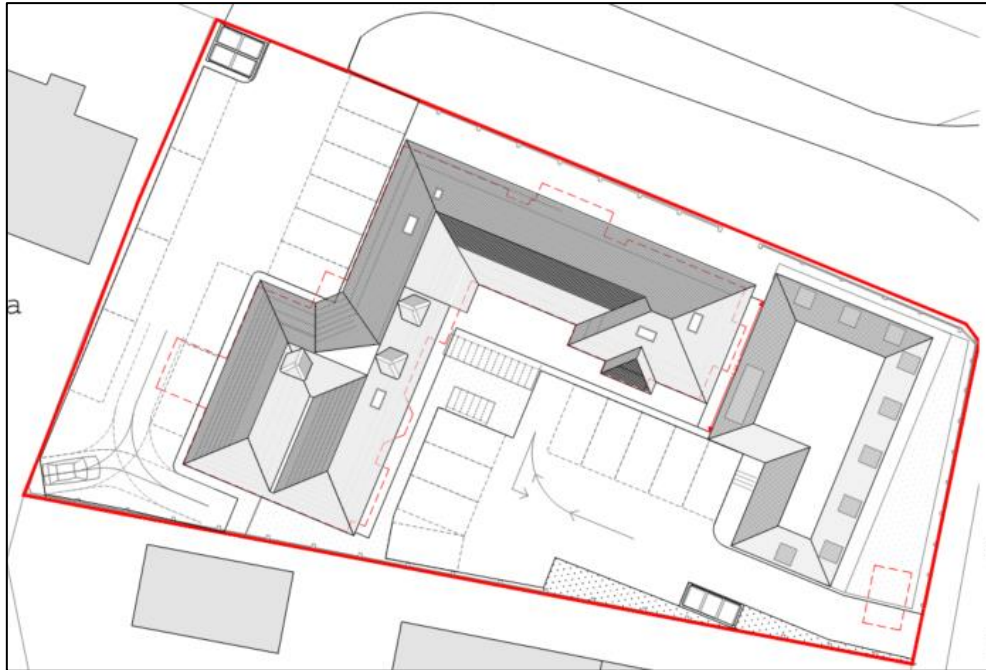


Fig.7 Proposed site layout

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

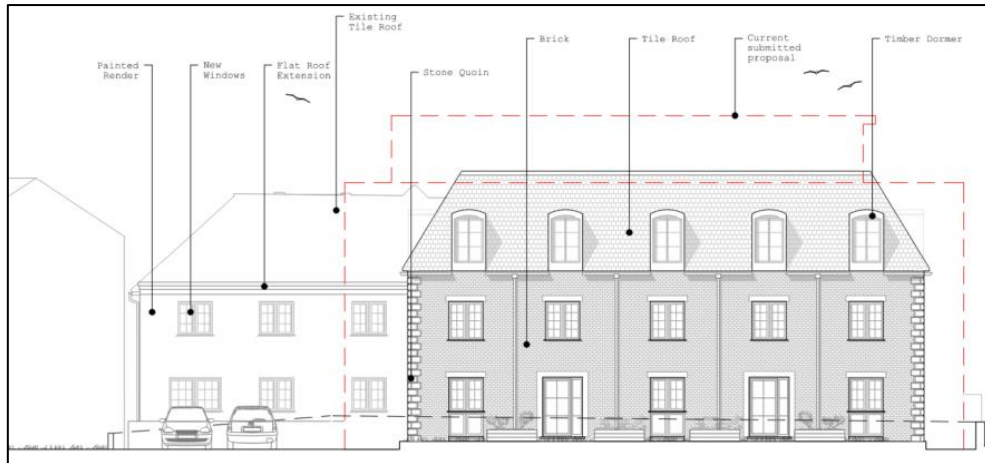


Fig.8 Proposed extension frontage elevation (original scheme shown dotted)



Fig.9 Side elevation onto St Andrew's Road

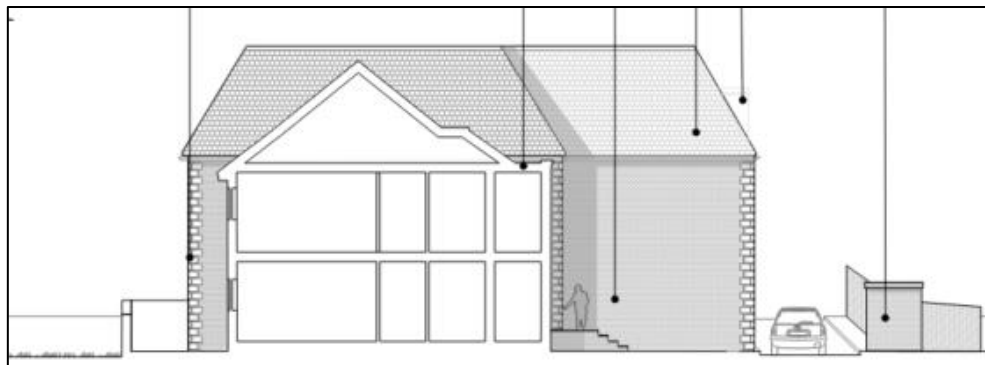


Fig.10 Section through existing building, facing towards seafront

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

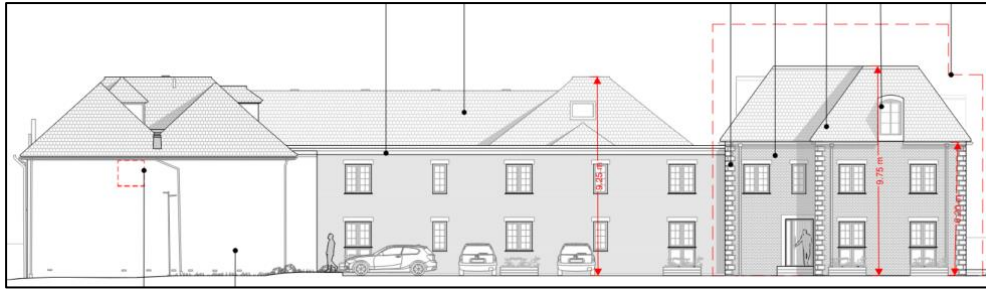


Fig.11 Proposed side elevation showing flat-roofed linking/hallway extension

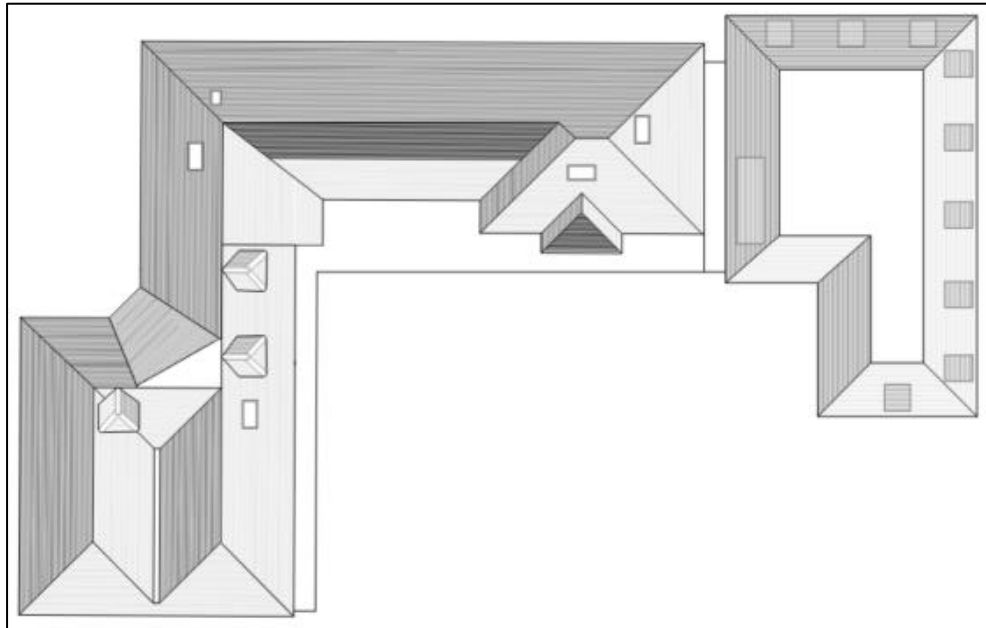


Fig.12 Proposed roof plan

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

units for the Council for use as affordable housing stock. This has no bearing on the material planning considerations as set out below.

4. RELEVANT PLANNING HISTORY

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



Fig.13 Extension approved under Y18/0084/SH

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

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

5.2 Consultees

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

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

The Town Council was re-consulted further to receipt of the amended drawings, maintaining their objection on the basis that the development is contrary to policies (then adopted) Local Plan policies BE1, BE8(a), TR11, TR12 and (then emerging) PPLP policies HB3, HB8, HB11, and T2 (part 2).

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

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

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

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

KCC Archaeology has no comments/ raise no objection.

The Environment Agency has no objection, subsequent to discussions with planning officers and the applicant’s flood risk consultants.

KCC Lead Local Flood Authority initially requested additional information, and have subsequently responded to set out that they are concerned in regards surface water run-off from the new development combining with existing surface run-off to exceed the current discharge rate. The officers suggest that

this can't be adequately controlled through the Building Regulations, and therefore request a condition be attached requiring submission of a detailed surface water drainage strategy; this is set out below.

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

KCC Education have requested contributions of £1602.92 per applicable dwelling towards provision / enhancement of local education and social care services, to be secured through an s.106 legal agreement. On further discussion, they have accepted that as the scheme is CIL liable for which they collect receipts, these amounts are what would have been requested if seeking S106 contributions.

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

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

The Council's environmental health team has no objections.

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

The Council's arboricultural officer has no objections.

Natural England has no objection.

5.3 **Local Residents Comments**

90 letters have been submitted by local residents, including 5 letters of support, 1 of general comments, and 84 objections. A number of letters are additional comments further to original letters, or different people at the same address, however.

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

Original (now superseded) proposals

Objections:

- Highway safety and amenity concerns from additional traffic;
- St Andrew's Road is an unmade road, and should be tarmacked to improve access and prevent further deterioration;
- Noise and disturbance from use of parking area;
- Inadequate parking;
- Lack of amenity space for future occupants;
- Over-development of the site;
- Would project beyond the established building line;
- Too tall, local buildings mostly two-storey;
- Overbearing and oppressive for neighbouring properties;
- Overlooking and loss of privacy from balconies and new windows;
- Loss of light to neighbouring properties;
- Increased noise and disturbance from residential use compared to care home;
- Design contrary to local character;
- Harmful to the adjacent conservation area;
- Do not like the design;
- Insufficient doctors, school places, and services locally;
- Not near to local shops or services, residents will be reliant on cars;
- No need for new housing in the area;
- The development will not benefit local people;
- No guarantee the dwellings will be affordable social housing;
- Care home should be retained;
- No viability report justifying loss of the care home;
- No marketing exercise has been carried out to justify the loss of the care home;
- Shortage of care homes in the county;
- Loss of jobs;
- Will be over-priced;
- The marsh should not be developed to help retain its peaceful character;
- Will deter tourists;
- Loss of value for existing properties;
- Will change demographic from retirement area to more families;
- Will set a precedent for more development;
- Potential ownership disputes over use of driveways;
- Local drainage won't be able to cope;
- Flood risk to ground floor units;
- Will reduce water pressure for existing properties;
- Insufficient local notification and no site notice [NB: a site notice was posted on the street pole directly opposite the site, and letters sent to neighbours in accordance with the national requirements];
- Insufficient information about the proposed use;
- Not enough time to properly comment;
- "It is a done deal already and the neighbours are just wasting their time" and "the application has already gone through";
- Too much weight given to the letters of support; and
- The application should be determined by the planning committee.

Support:

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

Amended proposals

Object:

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

Support:

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

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

5.4 **Ward Member**

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

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

6. RELEVANT PLANNING POLICY

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

6.2 The Places and Policies Local Plan has been through a formal review and was formally adopted by the Council in September 2020. The policies therein can be given full weight.

6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

6.4 The relevant development plan policies are as follows:

Shepway Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development)

SS1 (District Spatial Strategy)

SS3 (Sustainable Settlement Strategy)

SS5 (District Infrastructure Planning)

CSD1 (Balanced Neighbourhoods)

CSD2 (District Residential Needs)

CSD5 (Water Efficiency)

Places and Policies Local Plan (2020)

HB1 (quality places through design)

HB2 (cohesive design)

HB3 (space standards)

HB8 (extensions and alterations)

HB11 (loss of residential care homes)

C1 (creating a sense of place)

C3 (provision of open space)

C4 (children's play space)

T1 (street hierarchy and site layout)

T2 (parking standards)

T3 (residential garages)

T5 (cycle parking)
NE2 (biodiversity)
CC2 (sustainable design and construction)
HE1 (heritage assets) are relevant.

Policy HB11 sets out:

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

1. *The applicant has provided a viability report demonstrating that:*
 - i. *A residential care or institutional use in the current building is not economically sustainable;*
 - ii. *Extension or adaption is not viable; and*
 - iii. *The property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offers have been made;*
2. *Design and layout take account of the design and sustainable construction policies within this plan, as far as is reasonably practical;*
3. *It can be demonstrated that levels of traffic movements can be successfully accommodated on the local road network and that parking can be provided in accordance with the requirements of Policy T2;*
4. *Development does not result in increased noise or disturbance which impacts on neighbouring residential amenity; and*
5. *In the case of redevelopment for residential (C3) use, the development provides affordable housing in accordance with Core Strategy Policy CSD1: Balanced Neighbourhoods.*

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

Core Strategy Review Submission draft (2019)

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

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

provision of a sufficient level of new residential development to maintain an adequate labour supply.”

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

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The following paragraphs of the NPPF are relevant to this application:

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

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

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

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

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

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

Para. 170 requires planning decisions to protect and enhance the natural environment; to protect valued landscapes; minimise impact upon and provide net gain for biodiversity; and mitigate and remediate despoiled land and

pollution. Para. 175 deals with biodiversity in particular, and sets out that developments which give rise to significant harm in this regard should be refused.

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

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

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

7. APPRAISAL

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

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

- 7.2 The application site lies within the defined built up area boundary where the principle of residential development is generally acceptable under adopted local and national policies.

- 7.3 Core Strategy policy CSD8 particularly identifies New Romney – including Littlestone (as set out at emerging Core Strategy para. 4.68) – as a principal location for development, with para. 5.124 of the emerging Core Strategy

setting out that “as the primary strategic centre for Romney Marsh, New Romney town should develop a critical mass of businesses and services, underpinned by expanded tourism facilities and new homes.” Furthermore: Core Strategy policies SS1 and SS3 also direct residential development to the identified built up areas of the district (in accordance with the settlement hierarchy at para. 4.68).

- 7.4 The site lies within a relatively sustainable location approximately 2.2km from the shops and services on New Romney High Street, 1.6km from the Marsh Academy, and 900m from the Spar at the junction of Grand Parade and Clark Road. Bus stops on Grand Parade (Queens Road stop, 479m to the south) and Littlestone Road (Madeira Road stop, 630m south-west) provide regular services towards Ashford and Dover. While residents would have a degree of reliance on private vehicle there are opportunities for more sustainable transport options.
- 7.5 Development here would also provide a modest contribution towards the Council’s five-year housing supply and the supply of affordable housing overall.
- 7.6 With regard to the above, the principle of residential development here is considered to be acceptable.

b) Loss of the existing care home

- 7.7 There is understandable local concern about loss of care home facilities as a result of this development, but no facilities will actually be lost as a result of this proposal.
- 7.8 The operator of Sandbanks (Belmont Healthcare) also owns and operates Madeira Lodge care home on Madeira Road, to the rear of Sandbanks (see fig.14 below). Madeira Lodge is being extended and upgraded to bring it in-line with current CQC required standards, and to provide capacity to absorb the existing residents from Sandbanks. Planning permission for these works was granted in 2017 (ref. Y17/1562/SH) and those works are now nearing completion (the development having been forward-funded in anticipation of the closure of Sandbanks).

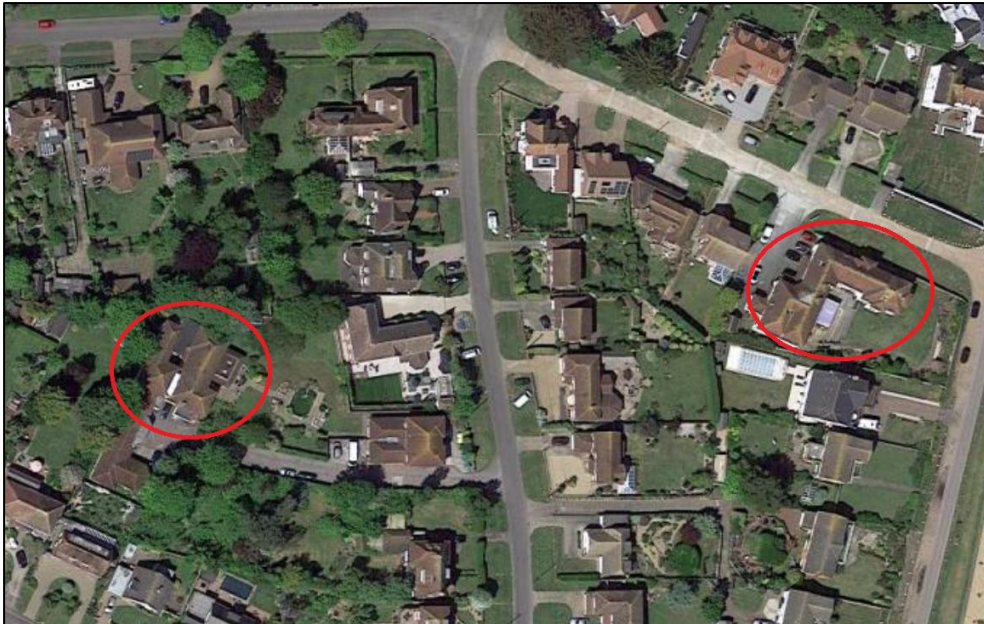


Fig. 14 Location of Madeira Lodge (left) and Sandbanks (right)

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

c) Flood risk

- 7.12 The application site lies within Flood Zone 3, and is identified as being at medium risk (primarily from wave overtopping of the sea wall) up to 2115 under the Council's Strategic Flood Risk Assessment (SFRA).
- 7.13 The submitted Flood Risk Assessment (prepared by Herrington Consulting) concludes by stating that *"the analysis has demonstrated that the risk of flooding to the development is low from all sources with the exception of flooding as a result of waves overtopping the defence infrastructure adjacent to*

the site.” It then suggests a number of flood resilience measures to be incorporated into the build, including setting floor levels no lower than existing; using reinforced glass and/or protective shutters on the front elevation to resist any wave force; signing up to the EA’s flood warning system; and considering site drainage (it is noted that KCC LLFA has no objection to the proposed drainage arrangements, as set out in the consultations above).

- 7.14 The FRA has been amended during the course of the application. Version 3 (received 11.01.21) has interrogated the flood data to a much deeper level than the original submission, and concludes that the finished floor level (FFL) of the building (5.15m AODN) will be marginally (30mm) *above* the maximum modelled flood level event (5.12m AODN). The applicant’s flood risk consultant is therefore confident that development of the site as proposed would not give rise to any serious risk to future occupants. The agent for the scheme has further confirmed that the FFL will be raised by an *additional* 150mm internally (with no impact upon the proposed external elevations), and an amended drawing has been received to show this. The future residents would also be able to access higher ground within the site in the scenario of a flood event, if necessary.
- 7.15 The Environment Agency initially objected, and recommended that the internal FFL should be raised by 600mm (i.e. 450mm more than proposed) above maximum flood level to make the development as safe as possible and to comply with their general requirements for new development. The EA had, however, set out that it would be *“the LPA’s decision as to whether other material planning considerations and the limitations of the conversion outweigh this risk”* but would not remove their objection.
- 7.16 As a result there was considerable discussion between the EA and the applicant’s flood consultants (Herrington’s) on this matter because all flood modelling indicated that the development would be above the predicted flood event (albeit marginally) even during the extreme modelled flood event. However, the finished floor levels were not as high as the Environment Agency would normally expect to allow a buffer for any inadequacies within the data. The EA have subsequently removed their objection, noting that the development (partly) involves conversion of an existing building and that an extension to the care home had previously been approved in the same location as the current proposed extension. They also recognise that planning officers consider the scheme to pass the sequential and exceptions tests (as below), but have stressed that their comments are site-specific (with regard to the history of the property) and should not be used to establish a precedent for development in other areas at risk of flooding.
- 7.17 In considering the acceptability of development within the identified flood zone it is necessary to consider the predicted modelled flood level as set by the Council’s strategic flood risk assessment (SFRA), the Sequential test, and the Exceptions Test.
- 7.18 The site is identified by the Council’s SFRA (also prepared by Herrington Consulting) as being at medium risk up to 2115. Sites at extreme risk are

normally excluded as a matter of course, but sites at medium risk can still be brought forward for development. As set out above, the updated FRA submitted in support of the application (January 2021 version) concludes that the proposed development would be above the level of any flooding. Para. 5.1 of the FRA states (emphasis as per original document):

“The results of the modelling for this scenario show that the maximum flood level varies across the site, from 5.12m AODN where the building and proposed extension are to be located, falling to 4.39m AODN at the western end of the building. The sloping surface indicates that floodwater will not pool at the site, but instead will flow across the site in a westerly direction, following the natural topography. Comparing the maximum flood level of 5.12m AODN to the floor level of the existing building and proposed extension (5.15m AODN) it can be seen that the floor level is elevated above the maximum flood level. As a consequence, the building will remain dry during the design flood event.”

- 7.19 The agent has also confirmed that the internal upstand is to be raised by 150mm (without affecting the external form of the building); which further raises the development above modelled flood levels and is considered to be acceptable.
- 7.20 Turning to the sequential test: the site lies within an area in which policy CSD8 outlines a strategy which seeks to support (amongst other development) residential development in the interest of controlled, sustainable growth of New Romney as a primary local centre. Core Strategy policy SS3 explains that Littlestone is a Strategic Town for the District, and it has a role to accommodate significant development. Paragraph 4.72 of the Core Strategy also explains that (emphasis added) *“residential development within Flood Zones 2&3 **will be necessary** to support the sustainable growth of the district....If no suitable site outside of Flood Zone 2 or 3 is available, then consideration should be given to minimising hazards to life and property utilising Shepways SFRA. This identifies and grades large parts of the central and western Romney Marsh area where flood hazards exist, but the threat posed in a flooding event is less than extreme.”* Planning Policies are assessed against the SFRA during their evolution and in that regard the issue of development here has already been considered at a strategic, forward-planning level as required by the NPPF (paras. 155 to 158 in particular).
- 7.21 The sequential test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, and other potential sites need to be considered before progressing to develop those of lesser preference / greater risk (in flood risk terms). When considering other potential development sites the geographic range is limited to those within the same character area, which in this instance would be the Romney Marsh Character Area. Where other sites at no/lesser risk are not available within the character area local planning authorities can consider sites within identified flood risk areas, which cover substantial parts of the district due to land levels. There are no comparable sites in the Romney Marsh character area that could

accommodate development of this scale. Current, live, unimplemented permissions amount to:

- i. Y19/0724/FH, which granted permission for ten flats at 8 Littlestone Road, Littlestone; and
- ii. Y19/0254/FH, which granted permission for 21 two-storey houses on land adj. Fairlight Terrace, Lydd Road, New Romney.

Neither of these are similarly comparable to the 19 flats proposed (the first being of different scale/ fewer units and the latter a different type of dwelling that prevents direct like-for-like comparison) under the current application to allow officers to direct the developer to those sites instead.

7.22 As such, it is considered that the sequential test has been met as there are no reasonably similar alternative sites available within the Romney Marsh character area.

7.23 The NPPF acknowledges that it is not possible to locate all development outside of areas of flood risk and, in situations where the Council has a planning-based argument for a development to proceed (i.e the sequential test), it is necessary for the Exceptions Test to be applied. The Exceptions Test has two parts:

- a) *It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risks; and*
- b) *A site-specific FRA must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.*

7.24 In the case of the current proposal I consider that part a) – the wider sustainability benefits – is addressed through the inclusion of the site within the defined built up area boundary; the settlement hierarchy (core strategy policy SS3) identifying the wider area for residential development; (as above) identifying the wider area as a priority centre for residential development to meet the aims of supporting New Romney/ Littlestone as a primary local centre. Residential development here would contribute to the broader aim of sustainable development within the district and reduce any pressure on the Council to consider development proposals on greenfield sites elsewhere. It should further be recognised that this is previously developed, “brownfield” land which is recognised under the NPPF as being a preferred location for new development in general.

7.25 Part b) therefore remains. In this regard the applicant has submitted a site-specific FRA which concludes that (as above) the site is suitable for the proposed development without serious risk (either on- or off-site), and that the development would be set above the maximum predicted flood level. The site-specific FRA is prepared by the same consultants that produced the SFRA, and they are therefore critically aware of local circumstances and technical considerations.

7.26 In most circumstances officers would, ideally, prefer to see finished floor levels set higher than proposed to provide a more substantial buffer against flood risk (and in accordance with the EA's 600mm upstand recommendation), but in this instance it is recognised that the works involve conversion of an existing building and that planning permission has previously been granted for an extension in this exact location, which both give considerable weight to consideration of this application. As such, whilst a more significant buffer would have been ideal, as the finished floor levels exceed the maximum flood event levels, it is considered to meet the requirement of being safe from flooding. I therefore consider the scheme to be acceptable in this regard, but recognise the EA's position in that their lack of objection on this particular scheme does not form a basis on which to support other developments in areas of flood risk.

d) Scale, design, and visual amenity

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

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

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

7.30 I consider that the traditional design of the building would sit comfortably against the boundary of the conservation area, and would preserve its character and appearance. In that regard I also note that the proposed traditional design takes cues from other properties in the conservation area, such as Sandcroft (to the north), and The Old Green (Madeira Road).



Fig. 15 Sandcroft, to the north of the application site



Fig. 16 The Old Green, Madeira Road

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



Fig. 17 Building line (drawing oriented with east to the top)

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

e) Residential amenity

- 7.35 The proposed flats would provide a good standard of amenity for future occupants. The internal floorspace of all flats exceeds the minimum required by the national standard, and all flats would be square or rectangular proportioned and thus properly usable. All habitable rooms are served by full-size windows and would receive a good level of natural daylight. Whilst the loft flat above the existing building would have a long, thin living room area, the space is a minimum of 2.8m wide which is more than sufficient to accommodate a couch / other furniture and retain circulation space.
- 7.36 Outdoor amenity space within the site is limited for the number of flats proposed, but the site lies directly opposite the beach and I am therefore satisfied that residents will have good access to outdoor space. The seafront playground area (with children's play equipment and adult exercise machines) is roughly 700m to the south, and can be accessed on foot.
- 7.37 I have no serious concerns in regards the impact of the proposed development upon the amenity of existing, neighbouring residents. The proposed extension will be set well away from common boundaries and, due to its position, would be very unlikely to give rise to any overshadowing, loss of light, or loss of outlook.
- 7.38 Windows on the southern elevation of the extension would provide views across the frontage of neighbouring dwellings, The Coast House in particular. While I can understand why objections have been received in this regard it must be acknowledged that these frontage balconies are already entirely overlooked by any passers-by along on Coast Road; they are not private and secluded spaces. In that regard I do not consider that overlooking of these frontage areas could justifiably be used as a reason for refusal.
- 7.39 The southern windows in the central section of the building face onto the blank southern elevation of The Coast House, and there are no windows in the southern elevation of the rearmost part of the existing structure (there were in the original submission, but the amended drawings have removed these) and I therefore consider that the amenity of the those neighbouring residents will be protected. There is a proposed dormer window above the existing part of the

building which would face south, but this is positioned within a roof valley and situated so far back from the building edge that views downwards into neighbouring gardens are not likely to be possible in my opinion.

- 7.40 There are several windows on the western flank of the building which would face over the rear of Juanda, the immediate neighbouring dwelling to the west. This flank elevation will be a minimum of 9.3m from the common boundary, and there is considerable potential for overlooking of the rear garden of Juanda. However it must be noted that there would have been a degree of overlooking from the existing bedroom within the care home which must be taken into consideration. Proposed first floor windows in this location will serve two bedrooms, a shower room, and a lounge area. A condition to secure obscure glazing to the lower half of these windows (in perpetuity) would minimise potential for direct overlooking of that neighbour's rear garden, and the existing rear conservatory at Juanda will provide some screening to the private amenity area to the rear of the house. Existing coniferous boundary planting will also help to obscure views between the two properties (see photo below).



Fig. 18 Conifers along common boundary with Juanda

- 7.41 Overall, therefore, while there is potential for overlooking of Juanda I am of the opinion that this can be adequately mitigated such that the amenity of the neighbouring residents would not be seriously harmed.
- 7.42 I have no serious concerns in regards potential amenity impacts for dwellings not immediately adjoining the site due to the intervening distances, which greatly minimise the potential for any significant negative impacts.
- 7.43 I have asked the agent to reconsider the position of the proposed bin store on the southern boundary, to move it away from the balcony area of The Coast House. I await an amended drawing and will update Members at the meeting, but don't expect this to be a substantial issue.
- 7.44 There is some potential for noise and disturbance to neighbouring dwellings from the proposed parking areas. The one to the west, however, is a direct replacement for the existing care home car park and unlikely to generate levels

of movement significantly worse than the existing situation. The new parking area to the south side of the building would not project significantly beyond the blank flank elevation of The Coast House, and potential for noise and disturbance to those residents will therefore be limited. I would anticipate vehicle movements from a development such as this to primarily be at peak morning and evening rush hours, with fewer vehicles accessing the site during the remainder of the day.

f) Highways and parking

- 7.45 The development provides 21 on-site parking spaces (to serve 19 flats). This is in accordance with adopted Kent Vehicle Parking Standards IGN3; Residential Parking, which requires a *maximum* of 1 unallocated space per one- or two-bed flat in all locations (town centre through to rural). The proposed parking layout also provides sufficient turning space in each of the two parking areas. Additional parking is also available on-street.
- 7.46 I note that Coast Road and St Andrew's Road are private streets. Rights of access and maintenance issues would therefore be a private legal matter between the owners (I don't have ownership details, but one would expect all properties on a private road to have a degree of shared ownership/responsibility for the highway) and I can't give any weight to objections on such matters.
- 7.47 I do not consider there to be any justification for refusal on highways or parking grounds.

g) Contributions

- 7.48 The development sits within Romney Marsh CIL zone B, and is liable for CIL at £59.04 per sqm.
- 7.49 The development has also attracted a request from KCC for contributions towards local secondary education, libraries, adult education, youth services, social care, and waste, totalling £1602.92 *per applicable dwelling*. Affordable units (x5) are excluded from this, and one-bed flats of less than 56sqm gross internal area (x5) are not liable for secondary education contributions (as they are not likely to house children). The total for the development therefore amounts to £16,765.88. However, following discussions with KCC, they recognise that the scheme is also CIL liable for which they receive receipts. As such, it is not considered reasonable or in accordance with the tests for applying S106 to seek these contributions as they are already being met through CIL.
- 7.50 Contributions will also be sought towards the enhancement of local open space (£23,680.20) and children's play equipment (£10,426.00). These funds are to be split between three local play areas to secure maintenance and additional facilities; currently identified as Greatstone Car Park; Station Road Play Area; and Fairfield Recreation Ground, but this will be reviewed and clarified as necessary by the Council's open spaces team as the development comes forward / money is paid.

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

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

7.53 The applicant has agreed to meet all necessary contributions.

h) Other matters

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

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

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

7.57 I note the weight of local objection but consider that the substantive concerns have been addressed through the above assessment. It must also be noted that a number of issues raised (such as impact on property prices or maintenance of the unmade roads) are not material planning considerations that can be given weight here.

Environmental Impact Assessment

7.58 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

- 7.59 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. The application is subject to CIL at the rate of £59.04 per sqm.

Human Rights

- 7.60 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

- 7.61 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

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

8. CONCLUSION

- 8.1 This application proposes change of use and extension of the Sandbanks Care Home to provide 19 one- and two-bed flats. Loss of the care home is

considered acceptable because the nearby sister facility (Madeira Lodge) is being extended and renovated to accommodate residents from Sandbanks. The proposed development is considered to be of an appropriate scale and design, and no serious amenity impacts are envisaged.

8.2 Therefore, while local objections are appreciated and understood, the proposed development is considered to be acceptable and is therefore recommended for approval subject to the conditions set out at the end of the report; any additional conditions recommended by statutory consultees or considered necessary by the Head of Planning; and the completion of a s.106 legal agreement to secure contributions towards open space and play equipment and the provision of affordable housing.

8.3 I therefore recommend that planning permission should be approved.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission be approved subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

2. No development shall take place other than in accordance with drawings 20.023 – 200 030 rev. 4, 031 rev. 3, 032 rev. 3, 033 rev. 3, 040 rev. 5, 041 rev. 4, 042 rev. 1, 043 rev. 1, and the details set out within the submitted Herringtons Flood Risk Assessment.

Reason: For the avoidance of doubt.

Pre-commencement / foundation level

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the District Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate

- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

4. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment Rev 1 by Herrington Consulting Ltd dated October 2020 and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

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

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

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

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

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

Reason: In order to prevent pollution of water supplies.

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

Reason: In the interest of visual amenity.

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

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

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

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

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

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

10. No development beyond the construction of foundations shall take place until details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, have been submitted to and approved in writing by the Local Planning Authority. Upon approval the measures shall be implemented as a greed and thereafter retained and maintained in perpetuity.

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

During development

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

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

Reason: In the interests of residential amenity.

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

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

In perpetuity

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

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

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

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

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

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

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

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

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

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

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

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

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

19. Finished floor levels shall be set no lower than 5.15mODN, and the flood resilience measures set out at section 6 of the submitted Herrington's Flood Risk Assessment) shall be implemented in full prior to first occupation of any of the dwellings hereby permitted.

Reason: To minimise the risks associated with a flood event.

INFORMATIVES

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

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

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

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

Appendices

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

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

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

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

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

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

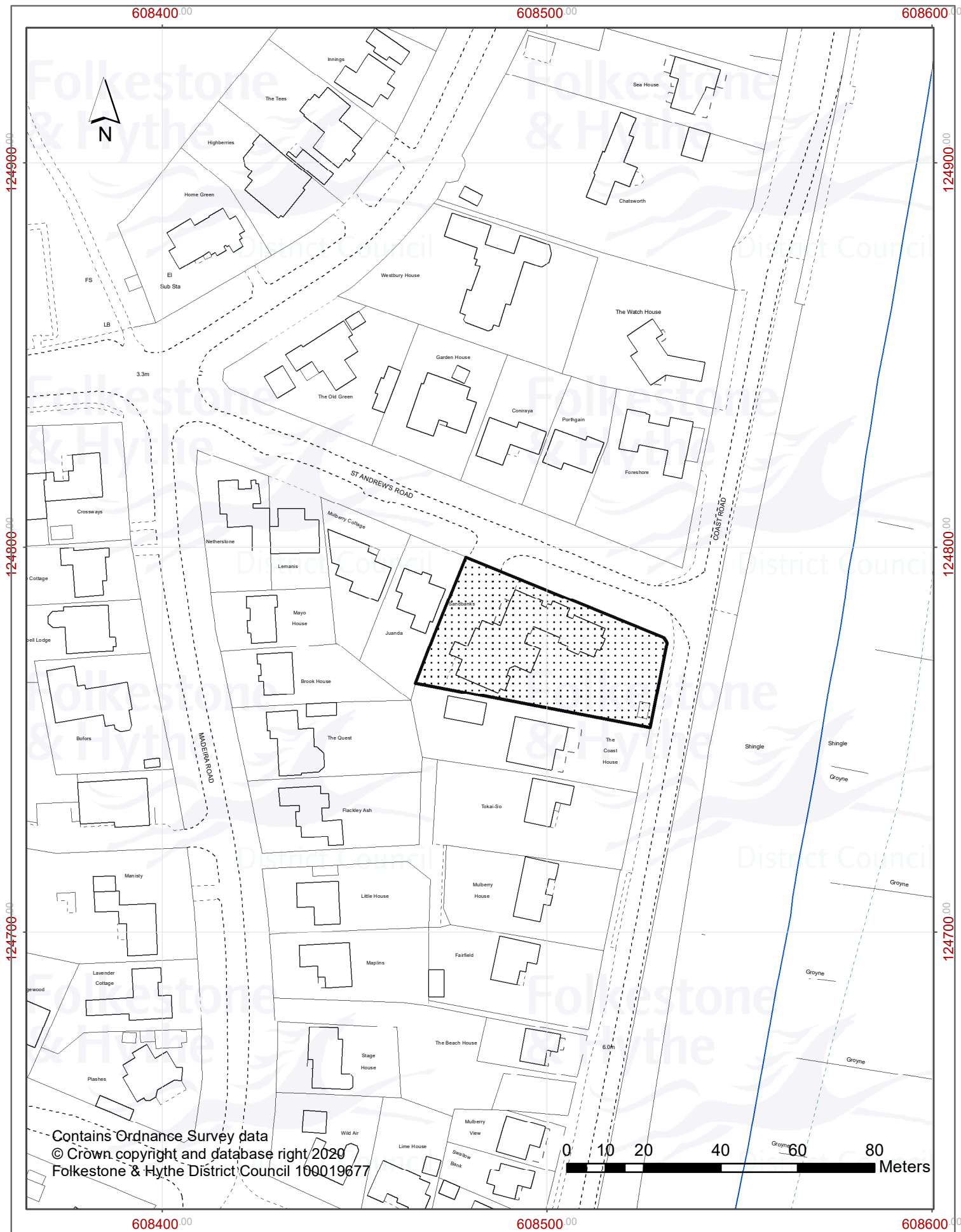
The April 2018 judgement (*People Over Wind v Coillte Teoranta*, ref. C-323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, "*it is not appropriate, at the screening stage, to take account of the measures intended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

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

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

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20/0690/FH
Sandbanks
Coast Road
Littlestone



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Agenda Item 6

DCL/20/49

Application No: 20/1212/FH

Location of Site: Land rear of 2 Willop Close, Dymchurch, TN29 0HU

Development: Erection of 2 three-bedroom dwellings and associated parking.

Applicant: Mr J. Jones

Agent: RDA Architects, Evegate Park Barn, Smeeth, Kent, TN25 6SX.

Officer Contact: Ross McCardle

SUMMARY

This application seeks planning permission for the erection of two detached dwellings on land to the rear of existing houses at Willop Close, Dymchurch. Planning permission was previously refused on the grounds of flood risk but, further to additional information being submitted to demonstrate that the sequential test can be passed and the upgrading of the sea defence works, the site is now at lesser risk as development and considered to be safe under the exceptions test. The development is not likely to give rise to any serious harm to local visual, residential, or highway amenity, and the provision of two well-designed houses would contribute towards meeting the Council's five-year housing land supply. The application is therefore recommended for approval.

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 it has been called in by Cllr Treloar.

2. SITE AND SURROUNDINGS

2.1. The application site comprises a parcel of overgrown land to the rear of 1 and 2 Willop Close, Dymchurch.

2.2. The site is roughly rectangular, measures a maximum of approximately 38m deep x 22m wide, and is enclosed on all sides by the boundary fences of existing dwellings; 1 and 2 Willop Close to the southeast, 108 Hythe Road to the west and southwest, 109 Hythe Road to the north, and 1 and 3 Willop Way to the east and northeast. (A site location plan is attached to this report as **Appendix 1.**)

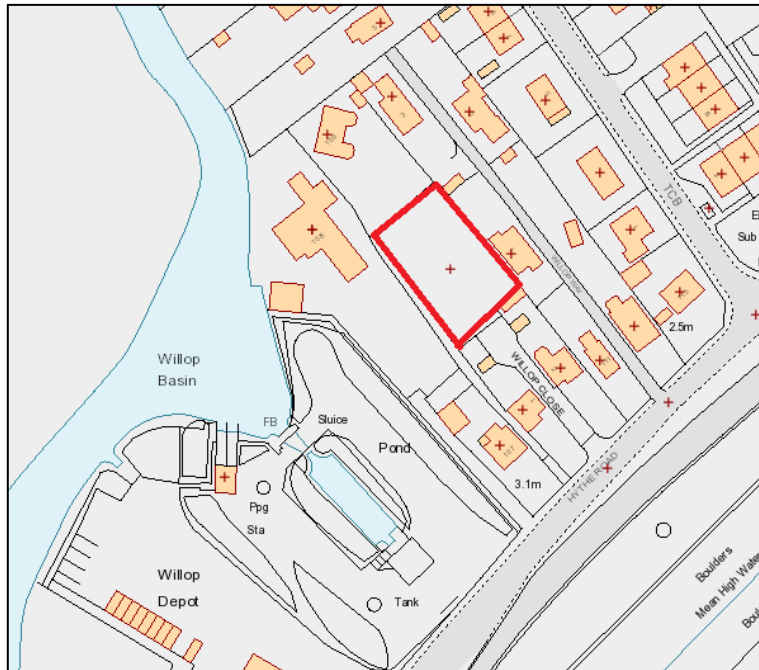


Fig. 1 – Map of local area with approximate outline of site

- 2.3. The land is enclosed by a close-boarded timber fence and has been left undisturbed for some time, with brambles, scrub growth, and a number of small (seemingly self-seeded) trees dotted across it. Land levels drop down from Hythe Road to the site, but then rise gently towards the centre of the site so that it forms a noticeable higher point within the immediate (generally low-lying) landscape.
- 2.4. The surrounding properties are of a mix of types and designs, including a small bungalow at 107 Hythe Road, contemporary detached houses at 1 and 2 Willop Close, and detached post-war prefab style bungalows on Willop Way. This very mixed character is reflective of this part of the district, and Marine Avenue (to the east) also shows a variety of house types, designs, and ages.
- 2.5. The Willop Sewer and Willop Basin run approximately southwest to northeast along the rear of neighbouring properties, and the Willop Depot and pumping station – to the west – are Environment Agency facilities associated with local drainage. It is therefore not surprising that the site lies within flood zone 3, and is marked as being at significant risk in the Council's Strategic Flood Risk Assessment to 2115.
- 2.6. As regards other designations: the site is within the defined built up area boundary; the beach (on the other side of the sea wall) is a Special Protection Area; 2 Ash trees within the garden of 108 Hythe Road (near to the western site boundary) are covered by TPO no.18 of 2020; the site is within an area of archaeological potential; close to a local landscape area (beyond no.108, to the northwest); and within CIL residential zone B (£56.99 per sqm).



Photo 1: 1 and 2 Willop Close with site access between.



Photo 2: Site access



Photo 3: Within the site (white bungalow is 1 Willop Way)



Photo 4: Rear of 1 and 2 Willop Close



Photo 5: Willop Way, facing towards road/ rear of 1 Willop Way.



Photo 6: Rear garden of 1 Willop Way, facing towards application site.



Photo 7: Rear garden of 118 Hythe Road, facing existing garage to rear of 1 Willop Close.

3. PROPOSAL

- 3.1 Full planning permission is sought for the erection of 2no. three-bed houses.
- 3.2 The properties would be set towards the rear of the plot, approximately 11.3m from the rear boundary fence, with a parking/turning area to the front accessed via the existing roadway running between 1 and 2 Willop Close. Each plot would be roughly 11m wide.
- 3.3 The houses would measure approximately 7.6m wide x 10m deep (maximum, including front porch) x 8.2m tall to the ridge, and would be of a relatively simple contemporary design featuring facing brick at ground floor and vertical cladding at first floor. The houses would be set on a high point within the site, and feature eaves that are lower at the front than the rear, with the rooms at the rear set into the roof space to keep overall ridge height low. This has the effect of the houses appearing two-storey from the front and 1.5 stories from the rear.
- 3.4 Internally the houses would provide a kitchen, utility room, WC, and open-plan living/dining room at ground floor; and three bedrooms, bathroom, and en-suite at first floor/within the roof space. Internal floor levels rise up three steps from the entrance hall to the living space (a flood risk mitigation measure) resulting in the kitchen window (within the front projecting bay) being taller than the utility room window (to the side of the front door).
- 3.5 Vehicle parking would be provided to the front of the units, with two spaces per dwelling positioned either side of a turning head within the centre of the site, and with soft landscaping surrounding this. Each property would have a rear garden measuring approximately 11m deep, there would be approximately 2m from the outer flank wall of each property to the side boundaries (with 1 Willop Close and 108 Hythe Road), and a 2m gap between the two proposed houses.



Fig.2 – Proposed front elevation



Fig. 3 – Proposed rear elevation

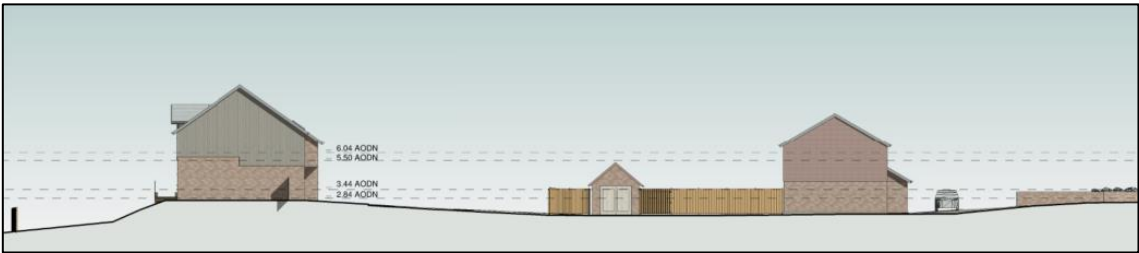


Fig. 4 – Proposed side elevation and site section (1/2 Willop Close to right, proposed house to left)



Fig. 5 – Proposed site layout

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

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Design & Access Statement: sets out the planning history of the site, the design concepts, and key considerations that have gone into design such as flooding, sun path, etc. It concludes that the development would be appropriate in terms of its scale, design, and general impacts on the local area.

Flood Risk Assessment: this is a full technical assessment undertaken by Herrington's Consulting. It sets out the physical and planning context of the site, explores the background of flood risk and flood protection in the area with a site-specific focus, and examines likely risks arising from the development and mitigation measures that can be put in place. It ultimately concludes that the development is acceptable in flood risk terms, with reference to the Council's Strategic Flood Risk Assessment (SFRA), subject to the implementation of a suitable surface water drainage scheme and flood mitigation measures within the new dwellings (such as raised internal floor levels, and dry proofing / flood resistant construction).

Archaeological desktop assessment: evaluates the history and evolution of the area and concludes that there is probably low potential for any archaeological remains to be found on the site.

4. RELEVANT PLANNING HISTORY

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

84/0513/SH	Outline application for demolition of existing building and erection of three chalet bungalows, and alterations to access.	Refused
84/0852/SH	Outline application for demolition of existing building and erection of two dwellings and garages.	Approved
87/1111/SH	Erection of a house.	Approved
87/1112/SH	Erection of a house.	Approved
90/0660/SH	Outline application for erection of pair of semi-detached chalet bungalows.	Refused
90/1024/SH	Outline application for erection of a house.	Refused
Y16/1221/SH	Erection of 2no. two-storey dwellings and associated parking.	Refused

4.2 The most recent application, ref. Y16/1221/SH was refused on the grounds that the site was identified at being at extreme risk of flooding under the Council's SFRA, and the sequential test identified that there were other sites available for development at lower risk of flooding, in preference to the application site.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Dymchurch Town/Parish Council: object to the application and request that it be determined at planning committee. They raise the following summarised concerns:

- Local flooding and drainage issues will be exacerbated by additional buildings;

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- The site originally contained a pond which was filled in by the previous developer;
- There are historic issues of water waste and sewerage in the area, which additional dwellings will add to;
- Additional vehicle movements and impact upon highway safety and amenity;
- Little information regarding the height of the dwellings;
- Impact on privacy and amenity of neighbouring residents; and
- Overlooking of neighbouring properties.

KCC Ecology: no objection subject to a standard condition to secure ecological enhancements, and an informative regarding breeding birds.

KCC Archaeology: no objection subject to a standard condition to secure a programme of archaeological work.

Natural England: has no objection.

Environment Agency: the EA has no objection subject to a standard finished floor levels condition as set out below, which will ensure that the development passes the Exceptions Test. They note, however, that the site is within flood zone 3 and that the Council needs to be satisfied that the development passes the Sequential Test, which aims to steer development to areas at lowest probability of flooding, and the Agency accepts that the Hythe flood defences greatly reduce the risk of a breach.

Southern Water: suggest there are no public sewers in the area to drain surface water from the development, and suggest that alternative means need to be considered. CPO comment – the development would connect to main drainage.

Environmental Protection Officer: has no objection subject to the Council's standard land contamination condition, as set out below.

Contamination consultant: has no objection subject to the Council's standard land contamination condition, as set out below.

Arboricultural Manager: has no objection subject to submission of a pre-development tree survey indicating how the TPO Ash trees close to the site boundary will be protected during construction. This is secured by the condition below.

Local Residents Comments

5.2 16 neighbours directly consulted. 18 letters of objection and 1 letter of support received, but it must be noted that 9 of those letters are supplementary letters from the same households.

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

Objections

- Rear elevations and block plan were not available for public view when the initial consultation letters were sent out [CPO comment: further consultation has been carried out, and these plans made available];
- Officer's site visit was too brief;

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- Objector's property was not visited by planning officer;
- Request a site meeting;
- Request the application be determined by planning committee;
- The land is low-lying and prone to flooding;
- If sea defences are adequate the buildings shouldn't be set on raised levels;
- Local soil includes clay and does not drain well;
- Groundwater flooding is a local problem;
- Proposed flood/drainage mitigation is inadequate;
- Additional water run-off will affect neighbouring properties;
- Previous application was refused on flood risk, and further to EA objection;
- Inadequate water pressure in the area;
- Local sewage system isn't able to cope, extra dwellings will worsen problems;
- Applications and subsequent appeals to develop the site in the '90s were refused by the Council and the Planning Inspector due to the impact on neighbours;
- Site levels and drainage have not been investigated [CPO comment: a site section and FRA are provided];
- Loss of privacy and overlooking of existing properties;
- Cars accessing the rear will affect the amenity of 1 and 2 Willop Close;
- Noise and disturbance during construction;
- Proposed dwellings will be taller than existing properties and incongruous within the area;
- Impact on highway safety from additional vehicles;
- Visitors could park on the A259 and cause problems;
- Limited access for emergency vehicles;
- Additional wheelie bins etc. on collection day would cause visibility issues for drivers;
- Impact on local wildlife;
- No new housing needed on this plot further to larger-scale development elsewhere; and
- Asbestos has been dumped on the site and will need to be disposed of properly.

Support

- Has no objections to the proposals.

5.4 **Ward Member**

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 Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation 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.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policies HB1 (quality places through design)
HB2 (cohesive design)
HB3 (space standards)
HB8 (alterations and extensions)
HB11 (loss of residential care homes)
T2 (parking standards)
T5 (cycle parking)
NE2 (biodiversity)
C3 (Provision of Open Space)
C4 (Children's Play Space)
CC2 (sustainable design and construction)
HE2 (Archaeology)

Shepway Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development)
SS1 (District Spatial Strategy)
SS3 (Sustainable Settlement Strategy)
SS5 (District Infrastructure Planning)
CSD1 (Balanced Neighbourhoods)
CSD2 (District Residential Needs)
CSD5 (Water Efficiency)
CSD8 (New Romney Strategy)

Core Strategy Review Submission draft (2020)

SS1 (district spatial strategy)
SS2 (housing and economy growth)
SS3 (place-shaping and sustainable settlements)
SS5 (district infrastructure planning)
CSD1 (balanced neighbourhoods)
CSD2 (District Residential Needs)
CSD5 (Water Efficiency)
CSD8 (New Romney Strategy)

SS3 requires applications for development within flood risk areas to provide site-specific flood risk assessments, and sets out that no residential development (other than replacement dwellings) will be allowed in areas identified as being at "extreme" risk."

Dymchurch falls within the New Romney area, which policy CSD8 identifies as bringing forward approximately 300 new dwellings across the plan period.

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

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

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

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

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

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

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

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

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

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

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

both parts of the exceptions test must be met for development to be permitted. Para. 163 requires submission of site-specific flood risk assessments, and incorporation of mitigation measures within new development.

National Planning Policy Guidance (NPPG)

The NPPG provides advice on how to determine, assess, and consider flood risk on applications for new development.

National Design Guide October 2019

7. APPRAISAL

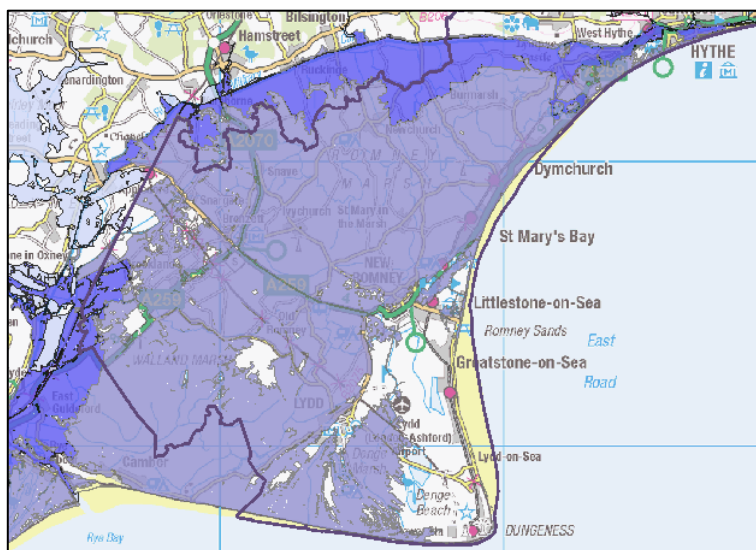
7.1 In light of the above the main issues for consideration are:

- a) Principle of development, flood risk, and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Protected trees
- f) Drainage
- g) Archaeology
- h) Highways and parking
- i) Other matters

a) Principle of development, flood risk, and sustainability

7.2 While the site lies within the defined built up area it also lies within flood zone 3, which is considered to be at highest risk from flooding. Paragraph 11 and footnote 6 of the NPPF make it clear that the presumption in favour of sustainable development does not automatically apply to sites in identified flood risk zones, and the risk of developing in this area needs to be fully considered against the sequential test, exceptions test, and adopted local and national policy.

7.3 The sequential test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, and other potential sites need to be considered before progressing to develop those of lesser preference / greater risk (in flood risk terms). When considering other potential development sites the geographic range is limited to those within the same character area, which in this instance would be the Romney Marsh Character Area. Where other sites at no/lesser risk are not available within the character area local planning authorities can consider sites within identified flood risk areas, which cover substantial parts of the district due to land levels.



7.4 Fig. 6 – map of flood zone 3 within the Romney Marsh area

7.5 In this instance there is one site within the Romney Marsh character area with planning permission for similar scale of development, and which works are not thought to have yet been commenced; this site offers a *potential* alternative to developing on this land:

- 1) Application ref. Y18/0030/PA granted prior approval for conversion of a former agricultural building to two dwellings at Chittenden Lane, St Mary in the Marsh. This development is not considered to offer a suitable alternative to development as the dwellings are substantially bigger buildings (being converted barns) that would not be a direct comparison to the more modest properties proposed here.

7.6 I am therefore of the opinion that there are no other sites reasonably available within the local area that serve as somewhere to direct the applicant towards in preference to this location. This satisfies the sequential test which allows for consideration of development to proceed.

7.7 The next step is to consider the proposals under the exceptions test, which is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

7.8 In this instance the Environment Agency do not object, and have commented that the finished floor levels shown on the submitted drawings (secured by condition below) are sufficient for the proposals to pass the exceptions test. The Exceptions Test has two parts:

- a) *It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risks; and*
- b) *A site-specific FRA must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.*

- 7.9 In the case of the current proposal I consider that part a) – the wider sustainability benefits – is addressed through the inclusion of the site within the defined built up area boundary; the settlement hierarchy (core strategy policy SS3) identifying the wider area for residential development; and policy CSD8 identifying the wider area as a priority centre for residential development to support New Romney as a primary local centre and Dymchurch as a key tourist location. Residential development here would contribute to the broader aim of sustainable development within the district and reduce any pressure on the Council to consider development proposals on greenfield sites elsewhere.
- 7.10 In regards part b of the exceptions test: while the previous application (ref. Y16/1221/SH) was refused on the site being identified as being at “extreme/significant” risk under the Council’s SFRA, the dwellings themselves are away from any part of the site at ‘extreme’ risk falling within an area as ‘significant’ risk and since the previous refusal on this site works to improve the sea defences at Hythe Ranges have been completed (<https://www.gov.uk/government/publications/hythe-ranges-sea-defences-renovation/hythe-ranges-sea-defences-renovation>) sets out that works were finished in December 2020 and that the improvements “*will better protect the area for the next 100 years, taking into account climate change and sea level rise*”). The submitted site-specific FRA takes these works into consideration and, as a result, concludes that the site will (upon future review of the SFRA) fall within an area of “low” risk. The development also includes a number of flood resilience measures (set out within the FRA (section 7.3 in particular) and secured by condition 14 below) such as raised internal floor levels, no sleeping accommodation at ground floor, and flood resilient construction methods.
- 7.11 The application today therefore has a different context in respect of flood risk compared to the 2016 scheme and, given no objection from the EA (unlike in 2016), the likely decrease in risk as a result of flood defence improvement works, and the lack of available alternative sites, I consider development here to be acceptable in principle.
- 7.12 The site is otherwise considered to be sustainable, falling as it does within a defined built up area within which the Council’s adopted and emerging policies have a general acceptance of new residential development. I am satisfied that the proposal passes the sequential and exceptions tests, and note that the EA does not object to the proposals.

b) Design, layout, and visual amenity

- 7.13 The existing development surrounding the site and along the main road is mixed and varied, with no uniform building typology and a mix of bungalows, ‘chalet’ bungalows, and two-storey dwellings surrounding the site. As such there is no distinct form of building style to conform to or contradict. It is acknowledged that traditionally this coastal stretch would have been characterised by low level bungalows, however new development (such as 1 & 2 Willop Close) has generally been two-stories high due to flood risk and the demands for larger properties (compared to the properties built 40 or 50 years ago, for example). Increasingly these areas of low level development are punctuated by higher new development, as with some of the surrounding and nearby properties, and the proposed development would therefore not be incongruous within the context of the area. A two-storey dwelling would also be safer in the event of a flood (as residents could seek refuge upstairs) and it’s therefore likely that all new

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housing development within this part of the district will need to be two-storey, going forward.

- 7.14 While I acknowledge that the proposed houses (at 8.2m high to the ridge and situated upon an area of raised ground – roughly 1.1m above ground level of 1 and 2 Willop Close, total height approximately 9.4m as shown in figure 7 below) would be taller than the surrounding bungalows, they are designed to be read as being substantially lower, with lowered eaves and a partial catslide roof to the front. The design means that even accounting for the level change the buildings would not stand significantly taller than any other modern two-storey house. To ensure this remains the case I have recommended a conditions removing permitted development rights for roof extensions to ensure that the buildings remain as low as possible. The proposed designs are contemporary but feature traditional stock brick, horizontal cladding, and tiled roofs – precise materials are controlled by condition below to ensure they blend appropriately with the surrounding area. Therefore, while the proposed houses would be visible from the highway, the seawall, and from a public footpath across the fields to the north-west, I don't consider that they would be harmful to local visual amenity, or that planning permission could justifiably be refused on such grounds.

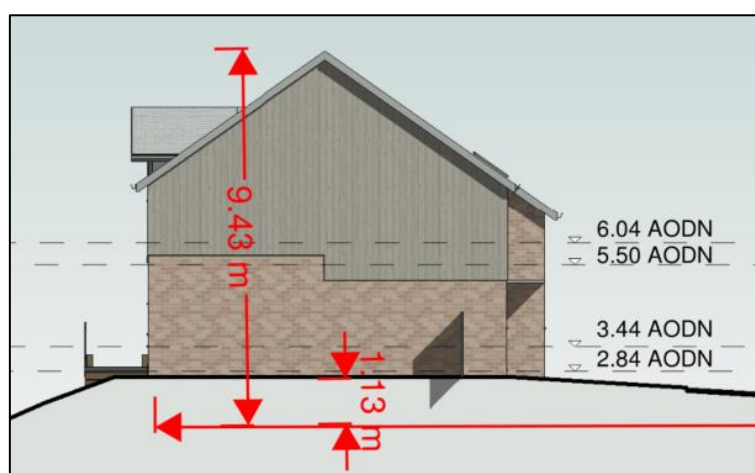


Fig. 7 – Level changes and height in relation to 1 and 2 Willop Close

- 7.15 The layout of the site is sensible, in my opinion. It allows space at the front of the site to accommodate parking and turning, sets the buildings away from the common boundaries, and allows for suitably-sized rear gardens. Layout is considered with regard to residential amenity in the following paragraphs.
- 7.16 Internally the buildings are well designed and would provide a good standard of amenity for future occupants, and would conform to the requirements of policy HB3 and the National Space Standards.

b) Residential amenity

- 7.17 1 Willop Way is the closest neighbouring property, and occupies a narrow plot running along the north-east side of the application site. The proposed houses have been positioned within the site to be set away from no.1 (see fig.9 below), prevent overshadowing or obscuring of the side windows, to minimise overshadowing of the rear garden and, in combination, prevent an unacceptably overbearing impact upon the outlook of those residents. There would be some late afternoon/early evening overshadowing as the sun sits directly west, but otherwise the property would continue

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to receive uninterrupted sunlight (see fig.8 below). As set out above the designed height of the buildings is such that they would not be overly tall or imposing in views from the neighbouring gardens, and while I do understand local concerns in regards new development near their properties I do not consider that this scheme would give rise to any impacts so significant as to justify a reason for refusal.

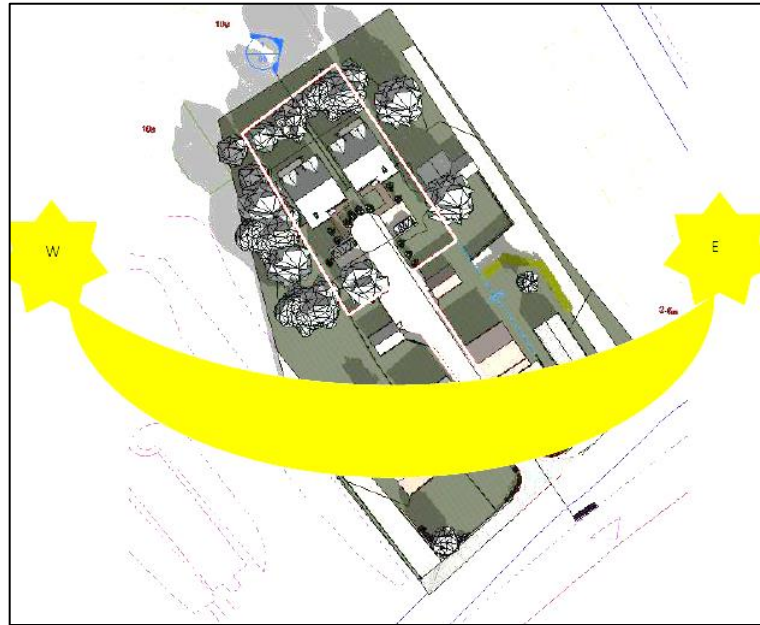


Fig. 8 – Sunlight and shadow study

7.18 Other than the above, and while I understand local objections, the proposed layout does not present any serious concerns in regards impacts upon neighbouring properties. The proposed houses are situated away from the common boundaries and other properties (see fig.9 below) such that no serious overshadowing, loss of light, or overlooking is likely. Fig. 9 below shows that the gardens would be 11m deep, there would be a minimum of 26m to the properties to the rear (in excess of the required 21m minimum), a minimum of 36m to the houses to the front, and reasonably-sized gaps maintained to the side. While I do very much understand local concern I do not consider there to be justifiable reasons for refusal in regards local residential amenity.

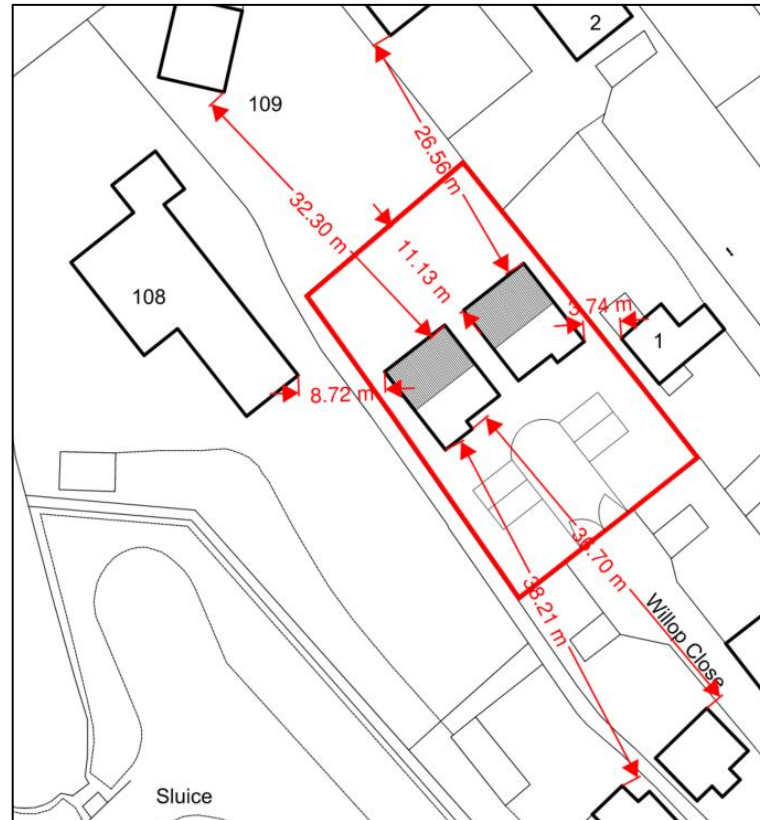


Fig. 9 – Separation distances to existing properties

d) Ecology and biodiversity

7.19 KCC Ecology and Natural England have no objections to the development; KCC are satisfied with the ecological investigation that has been carried out, no protected species have been identified on the site, and the works would be unlikely to affect the SSSI due to their relatively small scale and separation distances involved. Conditions below secure ecological enhancements within the site, and I have no serious concerns on this aspect.

e) Protected trees

7.20 The TPO trees to the west lie outside of the site and are unlikely to be affected by the proposed development. The condition below secures a pre-development tree investigation and protection measures, however, to ensure that they will be adequately protected during the course of construction and not affected in the long-term.

f) Drainage

7.21 I note that site drainage is a particular local concern, and residents have mentioned that the land drains slowly and may have contained a pond at some stage in the past (although this is not evident on the 2015 and 2018 aerial photos, after the site had been cleared of trees).

7.22 This matter is covered in detail within the submitted FRA, which calculates (on pg.30) that the total volume of water discharged from the site from the 100 year 6 hour event (including for a 40% increase for climate change), after construction of the proposed development, equates to 25 cubic metres. The FRA acknowledges that this will need to be mitigated in order to be discharged safely and sustainably.

- 7.23 The FRA sets out that Part H of the Building Regulations sets a preferred hierarchy for drainage of surface water: first via infiltration, then by discharge to a watercourse, and if neither of these options are possible then into the public sewer system.
- 7.24 Ground investigation indicates that the site has moderate to poor ground permeability (as evidenced by resident's claims of localised flooding), but sufficient for *some* infiltration drainage to be used, which can be enhanced through the use of purpose-made SUDS within the site. Section 8.6 of the FRA sets out the elements that will be included within a detailed surface water drainage scheme (secured by condition below), including permeable paving, infiltration blanket, or cellular storage (which would retain water and release it at a reduced rate to prevent water-logging. This would achieve sustainable drainage rates across the site, and on this basis I have no serious objections on this aspect. I also note that the calculations within the FRA include a 40% buffer to account for the effects of climate change, so in the short, immediate term the drainage scheme would exceed current requirements.
- 7.25 The FRA notes that long-term maintenance and management of any drainage system is crucial. I have included a requirement for a management scheme to be provided as part of the detailed drainage strategy condition set out below.
- 7.26 Foul sewage can be connected to the existing foul sewer crossing Willop Close to the south of the application site.
- 7.27 Taking the above into account, and while I understand and appreciate local concerns, I consider that drainage can be adequately controlled and mitigated such that a reason for refusal on this ground would not stand up to scrutiny at appeal.

g) Archaeology

- 7.28 The County archaeologist notes that there is potential for artefacts within the former pond on the site (particularly items associated with Romano-British salt-working), but has no objections subject to the condition below, which will ensure that any remains found during construction are appropriately examined and recorded. I therefore have no concerns on this matter.

h) Highways and parking

- 7.29 The development makes use of the existing access onto/off Hythe Road, which allows for suitable and safe access. The addition of two dwellings onto this access would not generate levels of vehicle activity that would overburden this access point or give rise to any serious highway safety or amenity concerns.
- 7.30 The site layout drawing shows that parking can be provided in accordance with the current adopted Kent Vehicle Parking Standards, and this can be secured by conditions as set out below.
- 7.31 There is sufficient space within the proposed gardens to provide cycle parking/ storage. Such facilities can be can be erected as necessary under permitted development rights.

i) Other matters

7.32 The development is liable for CIL at a rate of £56.99 per sqm. No other contributions are required.

7.33 The site lies outside of the Stodmarsh SSSI drainage catchment.

Environmental Impact Assessment

7.34 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

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

7.36 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 regards the application area is charged at £56.99 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

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- 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

8.1 Summarise issues and conclude the planning balance and conflict or otherwise with Development Plan.

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:

Time limits

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

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

Drawings

2. No development shall take place other than in complete accordance with drawings (all prefaced 20.128) 03 rev. P, 04, 05, 06, 07, and 08, and the submitted Herrington's Flood Risk Assessment.

Reason: For the avoidance of doubt.

Pre-commencement

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

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

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

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

5. (1) No development shall take place until a desk top study has been undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

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

(i) A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

- Human health;
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- Adjoining land,
- Ground waters and surface waters,

- Ecological systems,
 - Archaeological sites and ancient monuments; and
- (iii) An appraisal of remedial options and identification of the preferred option(s).

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

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

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

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

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

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

Reason: In the interest of visual amenity.

7. No development shall take place until a tree survey, carried out in accordance with BS5837:2012, and demonstrating how the TPO Ash trees close to the western site boundary will be accommodated within the scheme and protected during development (including a tree survey schedule, tree constraints plan, arboricultural assessment and method statement, tree protection plan, and shade pattern arcs), has been submitted to and approved in writing by the Local Planning Authority. Upon approval development shall be carried out in accordance with the agreed details.

Reason: To ensure the trees are adequately protected and retained.

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

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

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

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

10. No development beyond the construction of foundations shall take place until details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, have been submitted to and approved in writing by the

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Local Planning Authority. Upon approval the measures shall be implemented as agreed and thereafter retained and maintained in perpetuity.

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

During development

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

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

Reason: In the interests of residential amenity.

Flooding and drainage

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

Reason: In order to prevent pollution of water supplies.

13. No development shall take place until a detailed surface water drainage / management strategy (including proposal for long-term maintenance and management of any on-site SUDS) has been submitted to and approved in writing by the Local Planning Authority. The strategy shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site. On approval the scheme shall be implemented as agreed and thereafter maintained in perpetuity.

Reason: To ensure the site is properly drained and to ensure the development does not exacerbate the risk of on/off site flooding.

14. The development shall be carried out in accordance with the submitted flood risk assessment (Herrington Consulting FRA updated September 2020) and the mitigation measures it details:

- Finished floor levels shall be set no lower than 3.44m above Ordnance Datum (AOD);
- All sleeping accommodation to be set on the first floor above 3.74m ODN;
- Flood risk resilience measures outlined in the FRA (section 7.3) shall be incorporated into the dwellings wherever practicable.

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These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To minimise risk in the event of a flood.

Ecology and landscaping

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

Reason: In the interest of enhancing biodiversity.

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

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

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

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

Highways and parking

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

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

19. Prior to the first occupation of any dwelling hereby permitted suitable Electric Vehicle Charging ductwork capable of receiving the underlying infrastructure for

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a future Electric Vehicle Charging point to serve each dwelling shall have been installed, details of which shall have been submitted to and agreed in writing by the Local Planning Authority prior to installation. The ductwork channelling shall thereafter be made available to the individual or company responsible for the long term governance and maintenance of the car parking area, enabling the installation of Electric Vehicle Charging Infrastructure as and when demand from residents arises.

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

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

Amenity

20. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the first floor flank walls of the dwellings hereby permitted.

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

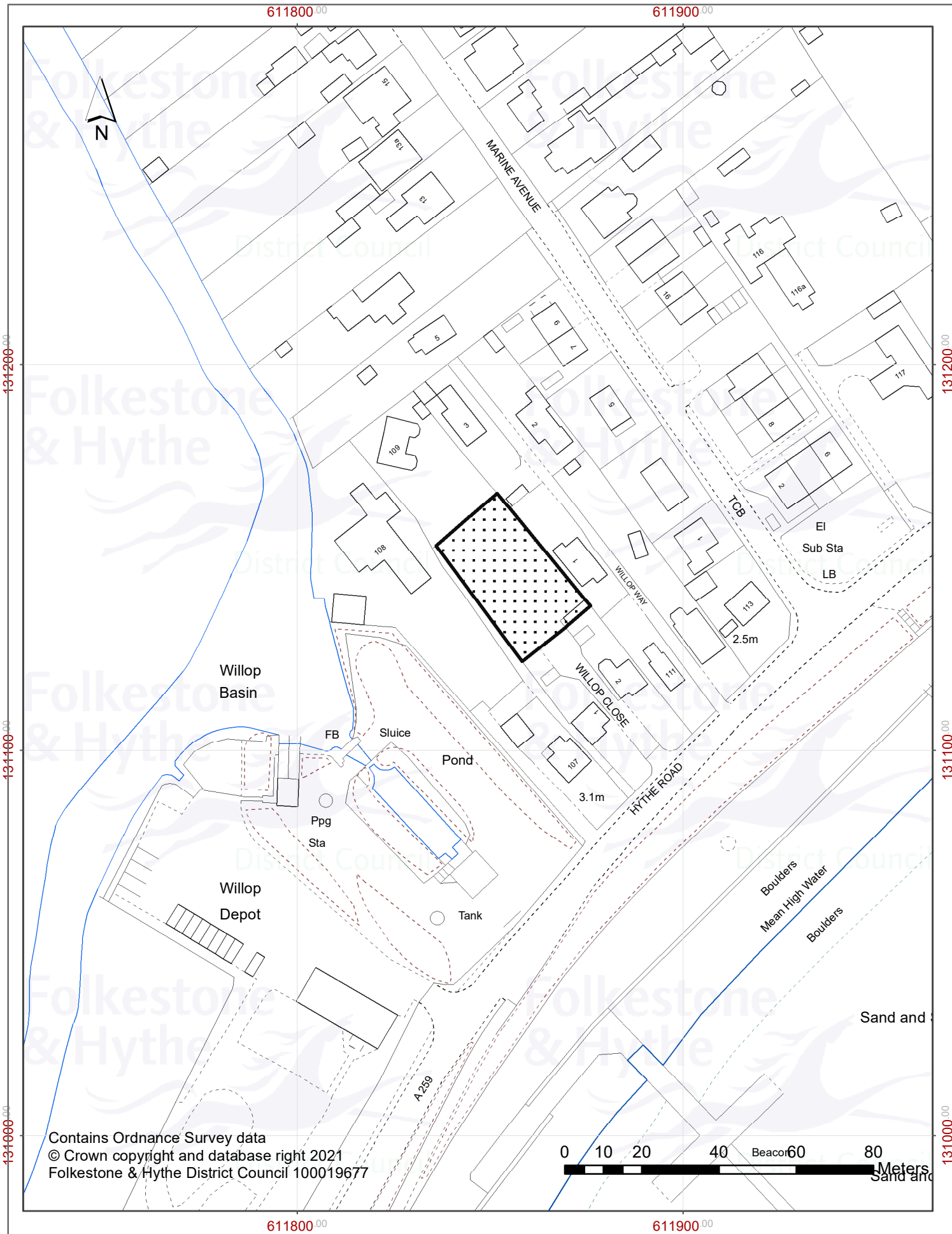
21. Upon completion, no further development, whether permitted by Classes AA or B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: In the interests of the amenities of the area.

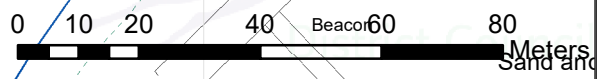
Informatives:

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

20/1212/FH
Land rear 2 Willop Close
Dymchurch



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677



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Application No:	Y19/0071/FH
Location of Site:	Smiths Medical UK, Boundary Road, Hythe
Development:	Outline planning application for the redevelopment of the former Smiths Medical site for up to 97 dwellings (Class C3), up to 153m ² of offices (Class B1) and up to a 66 bed care home (Class C2) with all matters reserved for future consideration except access.
Applicant:	RWED Ltd
Agent:	Mr Alistair Hume – Hume Planning Consultancy Ltd.
Officer Contact:	Emma Hawthorne

SUMMARY

This report considers whether outline planning permission for the redevelopment of the former Smiths Medical site for up to 97 dwellings (Class C3), up to 153m² (Class B1) and up to a 66 bed care home (Class C2) with all matters reserved except for access should be granted.

The application site is land designated within policy UA13 of the Places and Policies Local Plan 2020 for mixed-use development. The proposal would therefore result in acceptable mixed use development on this site, broadly in accordance with the aims of the allocation. The impacts upon the highway, subject to appropriate mitigation being secured via condition, are considered acceptable. All remaining issues pertaining to design and visual amenity, residential amenity and drainage are reserved for future consideration.

This site is included within the adopted Local Plan (2020) in order to deliver a sufficient number of dwellings going forward to maintain a 5 year housing land supply. The site is in a sustainable location close to a range of shops, local services, including schools and doctor's surgeries, leisure facilities and employment opportunities.

The site is located within an area at risk of flooding, however, was sequentially tested at the plan making stage and considered to be sequentially preferable. The Environment Agency are content that the improvements to the Standard of Protection (SoP) that are being undertaken as part of the Hythe Ranges Defence Scheme, and due to be fully completed by the end of 2020, means the site will be afforded a 1 in 200 year standard of defence and that this will likely be for the lifetime of the development. The development is acceptable subject to conditions and the development passes the exceptions test due to the wider sustainability benefits and that the development can be made safe for its lifetime.

The proposal will result in increased traffic on surrounding roads, however, following discussions, Kent Highways and Transportation are content that the measures proposed to alleviate such issues will be acceptable.

The applicant has agreed to pay a wide range of developer contributions to mitigate against the impacts of the development.

RECOMMENDATION:

That outline 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 affordable housing, self-build units, a contribution towards the expansion of Oakland Health Centre, open space and play space; and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee because it is a major application, and Hythe Town Council object.

2. SITE AND SURROUNDINGS

2.1. The Smiths Medical site is a former Class B1 (business) and B2 (general industrial) commercial facility located on Boundary Road, Hythe with buildings comprising of a total of 11,090m² and large areas of hardstanding. Historically there has been a mix of uses on the site comprising offices, research and development facilities and some manufacturing operations, which previously led it to become protected for employment use within the Local Plan (2006) however such employment use ceased in 2017 with staff being relocated to a site in Ashford.

2.2. South of the site is a more modern factory building and car park, which has a gated access from Fort Road. To the north of the site are established residential roads (Fort Road, Frampton Road and Nicolas Road) made up of predominantly Victorian and Edwardian two storey terraced houses. Located east of the site is Hythe Green, a large recreational ground that contains both children's play facilities and a multi-use games area. South and west of the site is the Hythe Ranges, Ministry of Defence land.

2.3. The site is in a sustainable location close to a range of shops, local services, including schools and doctors' surgeries, leisure facilities and employment opportunities. The site is easily accessible to nearby bus stops and Hythe railway station (located 320m) north of the application site.

2.4. The site has an area of 3.2ha. There are existing trees and landscaping along the northern boundary of the site, as well as running across the centre of the site.

2.5. Environment Agency mapping shows the site to include land within Flood Zones 1, 2 and 3.

2.6. The site also lies within an archaeological area, as it has Palaeolithic potential.

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

3. PROPOSAL

- 3.1 Outline planning permission is sought for the development of the site to provide up to 97 dwellings, up to 153m² of offices (Class B1) and up to a 66 bed care home (Class C2), with all matters reserved for future consideration except for access.
- 3.2 It is envisaged to provide a mixture of housing including the provision of 30% affordable housing and including up to 7 self-build units. An accommodation schedule is indicated below:

Open Market Housing	Affordable Housing
5 x 1 beds	7 x 1 beds
23 x 2 beds	10 x 2 beds
40 x 3 beds	12 x 3 beds
Total: 68	Total: 29

- 3.3 There are two existing primary vehicle access points to the site which are to be upgraded as part of the scheme. There would be a single point of access onto Fort Road on the western boundary of the site and a further access onto Range Road to the south east of the site. Additional pedestrian access would be provided to connect with roads to the north of the site. The northern section of the site, units 1-75 and the 153sqm office space, would be served from a single point of access from Fort Road. The southern section of the site, units 76-97 and the care home, would be served from a single point of access from Range Road. Bollards are proposed in the centre of the site, creating separation in the access road whilst maintaining pedestrian access from the north to the south of the site. Footways are proposed to be located throughout the site and provide pedestrian connections to Fort Road, Boundary Road, Range Road and The Green. The primary roads and footways throughout the scheme would be surfaced in tarmac and the secondary road and courtyards would be surfaced with block pavements.
- 3.4 The following illustrations show indicative site details;



Figure 1: Indicative Site Plan



Figure 2: Indicative Street Elevations



Figure 3: Indicative Care Home Elevations

3.5 Due to the outline status, the application does not seek approval regarding the siting, design or scale of the proposed dwellings, offices, care home or associated infrastructure at this stage. The application has, however, been accompanied by indicative drawings and a design and access statement which envisages how the site could be developed incorporating the number of units proposed.

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

Planning, Design and Access Statement

3.7 The statement provides an overview of the site and identifies it as a planning opportunity for a mixed development of a vacant brownfield site. It provides a site context and description and details of the pre application advice received from FHDC. The statement continues with details of the development proposal and how the indicative scale and layout of the dwellings has been informed which has been informed by the built form, scale and character of neighbouring developments, which in this instance is most strongly influenced by the existing Victorian/Edwardian housing to the north. It provides an assessment of how the development would accord with local and national planning policy and an assessment of the key issues. It concludes that the site represents a significant vacant brownfield site, lies within a sustainable location, that the proposal has been carefully conceived and will bring forward significant social, economic, and environmental benefits

Flood Risk Assessment

3.8 A Flood Risk Assessment by Herington Consultants (January 2019) has been submitted for the proposed development. The report identifies that the development site incorporates land within Flood Zones 1, 2 and 3 and provides details of the

sequential and exception tests. The report provides details of the likelihood for resultant flooding of the site from various sources and identifies that most of the site is at 'very low' risk of surface water flooding as the maps over predict the risk of flooding at this location. It identifies the flood risk management measures in the locality and recommends flood mitigation measures be incorporated into the development. The report also provides details of a surface and foul water management strategy for the proposal. The report concludes that the development should not be at significant risk of flooding.

Acoustic Report

- 3.9 A Noise Assessment Report by Hepworth Acoustics (July 2018) has been submitted to provide an assessment of potential noise impacts on the development. The site is adjacent the Hythe Ranges in which the standard hours of operation of the firing ranges are 8.30 to 16.30 daily, with occasional firing up to 23.00. To the south of the site is HV Wooding, a light manufacturing facility, and B&D Specialist Cars, an automotive workshop, with further warehousing beyond. The report provides details of a survey of the prevailing environmental noise levels carried out on the site. It concluded that overall noise levels are modest and that adequate sound insulation measures can be readily incorporated within the scheme to achieve acceptable noise levels.

Odour Assessment

- 3.10 An Odour Assessment by Air Quality Consultants (August 2018) has been submitted to assess the implications on the development on odours emitted from the Range Road Sewage Pumping Station (SPS), operated by Southern Water approximately 300m south of the site. The SPS generates odours, which have the potential to adversely impact upon future residents of the proposed development. It provides details of the treatment works at the SPS and an assessment was undertaken that identified a potential for negligible odour effects at all sensitive receptor locations in the proposed development concluding that the SPS is judged to have an insignificant impact upon the proposed development, and odours should not provide any constraints to the development of residential dwellings anywhere on the application site.

Phase II Site Investigation

- 3.11 A Phase II Site Investigation by Ecologia (October 2017) has been submitted which surveyed ground conditions at the site and related potential risks to the environmental receptors and future users of the site. It assessed that the potential risks from the site would be low to human health and surface water and low to moderate risk to the underlying groundwater for the potential presence of contaminants. It recommends that further assessment be undertaken following the demolition of buildings on site.

Ecological Appraisal

- 3.12 An Ecological Appraisal by Aspect Ecology (January 2019) has been submitted based on standard methodology. It identifies that the site is not subject to any statutory ecological designations but that the Hythe Ranges Local wildlife Site lies directly adjacent to the western and southern site boundaries, whilst a small area is located within this designation, albeit occupied by hardstanding. The survey identifies that the site comprises principally buildings and hardstanding and no features of ecological importance were recorded within the site. The survey found no evidence any protected species but that there was a likelihood of bird nests and some minor opportunities for hedgehogs and reptiles within and adjacent to the site. It provides details of mitigation measures during the site clearance and construction process and opportunities for biodiversity enhancements. These would include the provision of dedicated ecology enhancement areas, comprising new native wildflower grassland and shrub planting,

together with provision of new roosting opportunities for bats and nesting opportunities for birds.

Transport Statement

3.13 A Transport Statement has been prepared by Peter Brett Associates (January 2019) which reviews the transport related policies relating to the development proposals and reviews the existing local highway network. The statement indicates details of surveys of the nearby highways and the likely traffic generation of the development based on TRICS analysis. It found that the predicted trip generation for the development over the lawful use of the site to see a reduction of 229 two way trips as a result of the development. Given the anticipated parking provision across the site it considered that the development would not result in severe impacts in terms of local highway safety, parking or access amenity.

Statement of Community Involvement

3.14 This statement by Hume Planning Consultancy (January 2019) explains the background of research that has informed the design proposal. This includes an analysis of local and national planning policy, pre application engagement with the LPA, Highways Authority, the Environment Agency and other statutory consultees and engagement with representatives of Hythe Town Council.

Archaeological Desk-Based Assessment

3.15 An Archaeological Desk-Based Assessment by CGMS Heritage has been submitted. This is a desk based report using historical evidence to explore and disseminate the known and potential heritage resources within the local area. It provides a background of the policy and legislation relating to heritage. It concludes that the development will not impact on any designated archaeological assets or known non-designated assets and that given the site history, which includes gravel extraction before the end of the nineteenth century, there is a negligible potential for archaeological remains.

Arboricultural Impact Assessment

3.16 An Arboricultural Assessment by Aspect Arboriculture (December 2018) has been submitted to identify impacts on existing trees. It identifies that the site is not within a Conservation Area, nor are any trees within influence of the application area afforded protection within a Tree Protection Order. The assessment finds that the Arboricultural impact of the proposed development would involve the removal of low quality components of the existing landscaping. Removals total twenty individual trees, six low quality groups, and the partial removal of two further groups of trees. A preliminary tree protection drawing is provided to demonstrate the deliverability of safeguarding measures for retained trees and to identify which trees are to be removed.

4. RELEVANT PLANNING HISTORY

4.1 There is substantial planning history for the former industrial use of the site. The relevant planning history in terms of this application is as follows:

<p><u>Y18/1129/FH</u></p>	<p>Determination as to whether the prior approval of the Local Planning Authority is required for the demolition of two warehouse buildings, together with the demolition of single storey ancillary buildings</p>	<p>03 Sep 2018 Prior approval not required</p>
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5. CONSULTATION RESPONSES

5.1 A second round of consultation was undertaken following the submission of revised plans (19th June 2019). The consultation responses received are summarised below.

Consultees

Hythe Town Council: Object on the grounds that:

- An ambulance bay should be allocated to the care home;
- Are 20 spaces sufficient to meet the needs of a fully occupied and staffed care home;
- Contrary to the application, a Travel Plan must be provided. The application has been assessed against current usage which relates to 2007. Local traffic has increased exponentially in the succeeding 12 years. Additionally there is no consideration to the consequence of additional traffic arising from the development of the new Aldi store, off the A259. The extra traffic from Hythe, east of Scanlon's Bridge, will inhibit traffic flow from Frampton or Ford Roads; and
- Flooding issues Zone 3 – there is a high probability of flooding. A flood risk assessment fails to demonstrate that the development is safe.

KCC Highways and Transportation: No objection subject to recommended conditions:

- Provision of construction vehicle loading/unloading and turning facilities prior to commencement of work on site and for the duration of construction;
- Provision of parking facilities for site personnel and visitors prior to commencement of work;
- Provision of measures to prevent the discharge of water onto the highway;
- Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction. Details should be provided of contingency working protocol for action taken should the wheel washing be ineffective and spoil is dragged onto the highway;
- Provision and permanent retention of vehicle parking spaces prior to the use of the site commencing;
- Provision and permanent retention of secure, covered cycle parking facilities prior to the use of the site commencing;
- The proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the LPA; and
- Provision and maintenance of the visibility splays shown on the submitted plans with no obstructions over 1.05 metres above carriageway level within the splays, prior to the use of the site commencing.

FHDC Environmental Health: Accepts the findings found in the noise assessment and odour assessment. Supports the conditions and comments made by the contaminated land contractors. There are outstanding soil tests still to be undertaken.

KCC Flood and Water Management: Conditions recommended:

- No development shall take place until it can be demonstrated that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout;
- Development shall not begin in any phase until a detailed sustainable water drainage scheme for the site has been submitted to and approved in writing by the LPA. The detailed drainage scheme shall be passed upon the FRA by Herrington Consulting (February 2019) and shall demonstrate that the surface water generated by this development (for all rainfall to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on off off-site. The drainage scheme shall also demonstrate (with reference to published guidance) that:
 - Silt and pollutants resulting from the site can be adequately managed to ensure there is no pollution risk to receiving waters;
 - Appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.
 - The drainage scheme shall be implemented in accordance with the approved details; and
- No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a verification report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the LPA which demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by The LLFA. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Natural England: No objection.

Environment Agency: Following a meeting held with the Environment Agency on the 28th May 2020 the following final comments have been received:

- Whilst it is still imperative that the local planning authority (LPA) applies a sequential approach as outlined in our letter of 23rd January (KT/2019/125270/03-01) we now feel that during this process it is acceptable to include the improvements to the Standard of Protection (SoP) that are being undertaken as part of the Hythe Ranges Defence Scheme;
- Works on the scheme started in April this year and remain in progress. We expect the scheme to be fully completed by the end of 2020. This means the site will be afforded a 1 in 200 year standard of defence and that this will likely be for the lifetime of the development. However, it remains important that the Sequential Test aims to place the most vulnerable forms of development in the areas of

lowest risk and we would still advise that the housing element of the proposal is located on the higher ground;

- “Development should only be allowed in areas at risk of flooding where...it can be demonstrated that: **within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location**” (Para 163 NPPF); and
- Given the other planning considerations outlined by Hume Planning during our meeting and the near completion of the Hythe Ranges Defence Scheme we now feel that it is appropriate for this change in the standard of protection to be a factor for the LPA to consider when assessing the suitability of the site layout.

KCC Ecology: Mitigation and compensation measure are proposed within the Ecological Appraisal and it is advised that the details and implementation must be secured by condition, if planning permission is granted.

Housing Strategy: The applicant acknowledges the requirement of the 30% onsite delivery of affordable units for a total of 29. The preferred split would be 60% affordable rent and 40% shared equity. The location of the units 10 and 50 (2 x 2bed) proposed within the development cause concern and the viability of 1 affordable unit in a block with marketable units, unless they have a sole access point into the unit. The units should be transferred to an affordable housing provider to be approved by the Council.

Ministry of Defence: Object to overlooking of the ranges. Noise issues could have a significant adverse effect at a level which could affect the quality of life of occupants.

NHS South Kent Coast Clinical Commissioning Group: Will have a direct impact which will require mitigation through the payment of an appropriate financial contribution of £69,810 towards the extension of Oaklands Health centre.

Kent Fire and Rescue Services: Object because access to the site for its services are inadequate.

Kent Police: There are many positives about the design, but there are still issues that must be addressed as these may affect the development and have a knock on effect for the future services and duties of local policing. If this application is to be approved, it is requested that a condition be included to show a clear audit trail for Design for Crime Prevention and Community Safety and meet both Kent Police and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

Arboricultural Manager: No objection subject to tree protection measures.

- **KCC Economic Development: Appreciate that this application will pay CIL and that these contributions cannot therefore be sought.** The development will have an impact on County services which cannot be accommodated within existing capacity. This development will place the following unfunded pressures on KCC Primary – 78 applicable houses @ £3324.00 and 4 applicable flats @ £1029.00 = £262,596.00
- Secondary - 78 applicable houses @ £4115.00 and 4 applicable flats @ £1029.00 = £325,086.00

- Community learning - £21.08 per dwelling (x98) = £2065.84
- Youth Service – currently no requirement
- Libraries – £227.00 per dwelling (x98) = £22,246.00
- Social Case - £85.51 per dwelling (x98) = £8,379.98
- Broadband – Broadband Delivery UK (BBUK), part of the Department for Culture, Media and Sport requires delivery of superfast broadband to all.

Archaeology Officer: No comments to make.

Contamination Consultant: Supplementary investigation and assessment are required with regard to part 2 of the land contamination condition; recommend standard condition be imposed.

Local Residents Comments

5.2 31 neighbours directly consulted. Nine representations were received comprising four letters of objection, four letters of support and one letter of comment. The responses can be summarised as follows;

Objections:

- Roads will be unable to handle extra traffic as a result of this development;
- Poor design, layout and architecture;
- No Design and Access Statement so it is not possible to see how the design has been derived;
- Opportunities to enhance pedestrian and vehicular links to the Light Railway Station and the beach have been missed

Support:

- In the long term such housing is essential and will significantly improve this area;
- Improvement to living opposite a disused factory;
- Care home is much needed in Hythe and office space is useful;
- Improvements to the green and play area would improve this area

Comments:

- Time scale of building works
- Noise and traffic movement
- Effect in nearby homes
- Pedestrian access to seafront
- Vehicular access appears to be via only one point resulting in all traffic movement going past 34 Fort Road
- Must not be possible for vehicles to get through from Range Road to Fort Road
- Part of the site is in flood zone 3a and therefore an exception test is required, and not convinced that the report adequately makes the case that the benefits of the development outweigh the flood risk.

Additional comments were received from the **Hythe Civic Society:**

The society welcomes the potential redevelopment of the former Smith Medical site but has the following concerns:

- Traffic generation – both the proposed connections to Range Road and St Leonards Road to the south and onto Fort Road to the north are seen as problematic as both routes are used by local residents for ‘on-street’ parking as they are very little existing ‘on site’ parking provision provided on those roads.
- Parking standards – although the residential aspect of this application is only ‘outline’ the Society requests that adequate ‘on site’ parking is provided. The Society regards 3 spaces per dwelling as the minimum standard.

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 Economic Growth Strategy

SS3: Place Shaping and Sustainable Settlements Strategy

SS4: Priority centres of activity strategy

SS5: District Infrastructure Planning

CSD1: Balanced Neighbourhoods for Shepway

CSD2: District Residential Needs

CSD4: Green Infrastructure of Natural Networks, Open Space and Recreation

CSD5: Water Efficiency

CSD7: Hythe 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

HB2: Cohesive Design

HB3: Internal and External Space Standards

HB4: Self build and Custom Housebuilding Development
HB12: Development of New or Extended Residential Institutions (C2 Use)
E2: Existing Employment Sites
E8: Provision of Fibre Optic Broadband
C1: Creating a Sense of Place
C3: Provision of Open Space
C4: Children's Play Space
CC1: Reducing Carbon Emissions
CC2: Sustainable Design and Construction
CC3: Sustainable Drainage Systems (SuDS)
T1: Street hierarchy and site layout
T2: Parking Standards
T5: Cycle parking
NE2: Biodiversity
NE5: Light Pollution
NE7: Contaminated Land
HE2: Archaeology
UA13: Smiths Medical Campus, Hythe

Places and Policies Local Plan policy UA13 is particularly relevant to this case. It states:

Policy UA13

Smiths Medical Campus, Hythe

The site is allocated for mixed-use development with an estimated capacity of approximately 80 dwellings and 2,000sqm of B1 (business) / B8 (storage and distribution).

Development proposals will be supported where:

- 1. Primary vehicular access for residential and business is achieved from Fort Road with a secondary vehicular access connection to Range Road. There should be no vehicular access from Boundary Road;*
- 2. Highway improvements at the junction of St Nicholas Road at Dymchurch Road are provided to the satisfaction of the Local Highways Authority;*
- 3. The established factory unit and car park located at the southern extent of the site are retained or replaced;*
- 4. Appropriate and proportionate contributions are made to the expansion of Oaklands Health Centre through a Section 106 agreement;*
- 5. Appropriate and proportionate contributions, through a Section 106 agreement, are made towards the upkeep and/or improvement of open space and existing play facilities in the vicinity;*
- 6. Ecological investigations are undertaken and adequate mitigation and enhancement measures are incorporated into the design to minimise effects on the Hythe Ranges Local Wildlife Site;*
- 7. Proposals are accompanied by a Site-specific Flood Risk Assessment and demonstrate that any risks can be mitigated and/or safely managed;*

8. *Extra flood resistant and resilient construction measures are incorporated into the design of the development to reduce the risk of life to occupants in an extreme flood event and improve flood risk management;*
9. *The masterplanning of the site is informed by an odour assessment to take account of nearby wastewater treatment works in order to minimise land use conflict;*
10. *Access is maintained to the existing underground sewerage infrastructure for maintenance and up-sizing purposes;*
11. *Any potential contamination from the former use is investigated, assessed and if appropriate, mitigated as part of the development;*
12. *The archaeological potential of the land is properly considered and measures agreed to monitor and respond to any finds of interest; and*
13. *At least 4 self-build or custom build plots are provided on site in accordance with Policy HB4: Self-build and Custom Housebuilding Development.*

Core Strategy Review Submission draft (February 2019)

SS1: District Spatial Strategy

SS2: Housing and the Economy Growth Strategy

SS3: Place Shaping and Sustainable Settlements Strategy

SS4: Priority Centres of Activity Strategy

SS5: District Infrastructure Planning

CSD1: Balanced Neighbourhoods

CSD2: District Residential Needs

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

CSD5: Water and Coastal Environmental Management

CSD7: Hythe Strategy

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

SS1 and SS3 direct new residential development to the defined built up areas and sustainable urban locations within the borough, while SS2 sets out how the Council will meet its housing and employment requirements through delivery of target numbers of units/floor space.

Emerging policy CSD1 differs from the adopted policy in that it requires developments of 15 or more dwellings to provide a minimum of 22% affordable housing on site. Emerging policy CSD3 steers away from explicitly requiring three-bed units to a more balanced approach, requiring a split of 1/2/3/4+ bed dwellings across both private and affordable tenures, weighted towards 2 and 3-bed units.

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

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

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

Supplementary Planning Guidance/Documents

Affordable Housing SPD

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:-

Chapter 2 Achieving sustainable development

8 – Achieving sustainable development

11 – Presumption in favour of sustainable development

Chapter 3 Plan-making

23 – Broad locations / strategic policies need to provide clear strategy to bring forward sufficient land

Chapter 4 Decision-making

38 – Positive, creative and proactive approach to development proposals

47 – Applications to be determined in accordance with the development plan unless material considerations indicate otherwise

55 – Planning conditions must be necessary

56 – Planning obligations must meet the tests

Chapter 5 delivering a sufficient supply of homes

64 – Major development involving provision of housing to expect at least 10% of affordable homes to be made available for affordable home ownership

74 – Requirement to provide a minimum 5 year supply of housing, including a buffer

Chapter 8 Promoting healthy and safe communities

94 – Sufficient choice of school places

96 – Access to network of high quality open spaces

Chapter 9 Promoting sustainable transport

109 – Development should only be refused if there would be an unacceptable impact on highway safety

111 – All developments generating significant traffic movements to produce travel plans

Chapter 11 Making effective use of land

117 – Decisions should promote effective use of land in meeting need for homes and other uses

122 – Decisions should support development that makes efficient use of land

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

155 – Development to be directed away from areas at highest risk of flooding

156 – Strategic policies informed by a strategic flood risk assessment

157 – All plans should apply a sequential risk base approach

158 – SFRA and sequential test

159 – Exceptions test

162 – Site allocated in development plan, applicants need not apply the sequential test again

163 – Development must not increase flood risk elsewhere & need for site specific FRA

165 – Major developments should incorporate SUDS

Chapter 15 Conserving & enhancing the natural environment

170 – Decisions should contribute to and enhance the natural and local environment including the countryside and biodiversity

175 – Principles for safeguarding biodiversity and irreplaceable habitats

180 – Mitigate and reduce to a minimum adverse impacts from noise and avoid noise giving rise to significant adverse impacts on health and the quality of life

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change
Flood Risk and Coastal Change
Natural Environment

National Design Guide October 2019

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

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Conformity with Places and Policies Local Plan 2020 Policy UA13
- c) Housing Need
- d) Care home Need
- e) Highways
- f) Flood Risk
- g) Ecology/ biodiversity/ Arboriculture
- h) Amenity
- i) Visual impact / density
- j) Archaeology
- k) Financial Contributions / CIL

a) Principle of development and sustainability

7.2 Due to the site being identified within the Places and Policies Local Plan (2020) as suitable for mixed-use development with an estimated capacity of 80 dwellings and 2,000sqm of B1 (business) / B8 (storage and distribution) the principle of development is acceptable. However, a key consideration is how compliant the proposal is with the aims of PPLP policy UA13.

7.3 When assessing which sites to put forward for inclusion as allocations within the adopted Local Plan, a sustainability appraisal was undertaken and this site scored favourably compared to other options.

7.4 The site was formerly a designated Employment Site in the Shepway District Local Plan (2006) at a time where the existing facilities were in higher demand. The National Planning Policy Framework makes clear that employment sites should not be retained in areas of high housing need unless there are strong economic reasons not to allow

a change of use. Accordingly, as employment demand for the site has declined, it is now allocated to allow redevelopment.

- 7.5 The site is sustainably located and located on previously-developed land. As such, the site was allocated for a relatively high density of new housing, with the southern factory element being retained or replaced for commercial use. In addition there is an opportunity for self-build and custom build plots to be provided and improvements to the area of hardstanding within the Local Wildlife Site.
- 7.6 The NPPF has a presumption in favour of sustainable development in terms of economically, socially and environmentally. These issues are discussed in further detail throughout this appraisal. However, the site is generally considered to meet these principles, hence why it was put forward as an allocated site within the Places and Policies Local Plan.
- 7.7 The proposal clearly provides economic benefits through the creation of jobs during the construction and an increase in population to use local services and businesses, as well as the provision of office space and a care home. It is also considered to be socially sustainable by providing homes in order to meet the housing and care home needs of the area and providing other benefits such as open space and contributing to improvements to existing services and facilities. The development site is also considered to be environmentally sustainable as it is utilising a vacant brownfield site and is within an urban area in close proximity to facilities.

b) Conformity with Places and Policies Local Plan 2020 Policy UA13

- 7.8 Policy UA13 requires the following aspects to be incorporated into any proposed development of the allocated site:

1. The site is allocated for mixed-use development with an estimated capacity of approximately 80 dwellings and 2,000sqm of B1 (business) / B8 (storage and distribution).

- 7.9 The proposal provides for a mixed use development of up to 97 dwellings, up to 153sqm of office space and up to a 66-bed care home. The proposal seeks a relatively high density of new housing, with commercial uses. In addition there is an opportunity for self-build and custom build plots and improvements to the area of hardstanding within the site. Whilst the application deviates from the allocated commercial elements, the provision of the care home results in an employment generating use. This is discussed in more detail later in the report.

2. Primary vehicular access for residential and business is achieved from Fort Road with a secondary vehicular access connection to Range Road. There should be no vehicular access from Boundary Road;

- 7.10 The application is accompanied by a Transport Statement and follows pre-application engagement with KCC Highways. The primary access to the site will be via Fort Road to serve the northern part of the site, and Range Road to serve the southern part of the site. The application is considered to be compliant with this aspect of the policy.

3. *Highway improvements at the junction of St Nicholas Road at Dymchurch Road are provided to the satisfaction of the Local Highways Authority;*

7.11 The applicant has argued that as the proposed development site is predicted to generate no greater rate of the traffic in comparison to the previous use of the site, it is not deemed necessary to undertake highway improvements at the St Nicholas Road / Dymchurch Road junction. In addition, as there is no highway connection proposed within the site to Boundary Road, the number and type of vehicles through the site which would use St Nicholas Road to access Dymchurch Road is constrained because the road will not function as an outlet for employment uses of Range Road and the heavier traffic movements associated with their operation which currently uses St Leonards Road. Furthermore, the applicant states that given the narrow nature of St Nicholas Road it is considered undesirable to attract further traffic flows through this route. Whilst it would be preferable for the highway improvements to have been included within this application, as KCC Highways have no objection to the outline proposal subject to conditions, there are not considered to be any grounds on which to refuse the application. It is not considered that the application would give rise to highway related issues in the absence of these highway improvements and as such the proposals are considered to be acceptable on these grounds.

4. *The established factory unit and car park located at the southern extent of the site are retained or replaced;*

7.12 The established factory unit and car park located at the southern extent of the site are proposed to be replaced with a care home of up to 66-beds and parking space. The application is considered to be compliant with this aspect of the policy.

5. *Appropriate and proportionate contributions are made to the expansion of Oaklands Health Centre through a Section 106 agreement;*

7.13 This could be secured by way inclusion within the legal agreement as appropriate should Members resolve to grant planning permission. The applicant has agreed to a contribution of £69,810 towards the extension of Oaklands Health centre.

6. *Appropriate and proportionate contributions, through a Section 106 agreement, are made towards the upkeep and/or improvement of open space and existing play facilities in the vicinity;*

7.14 Open space contributions of £71,177.50 and £86,430.90 are agreed. This would be secured by way inclusion within the legal agreement as appropriate.

7. *Ecological investigations are undertaken and adequate mitigation and enhancement measures are incorporated into the design to minimise effects on the Hythe Ranges Local Wildlife Site;*

7.15 Mitigation and compensation measure are proposed within the submitted Ecological Appraisal, however the details and implementation would be secured by condition should Members grant permission. As such, the proposal is considered to be compliant with this part of the policy and a condition is proposed. KCC Ecology have no objection to the application subject to conditions.

8. *Proposals are accompanied by a Site-specific Flood Risk Assessment and demonstrate that any risks can be mitigated and/or safely managed;*

7.16 The whole site is located within Flood Zone 3 (coastal flooding). Accordingly, it has undergone the necessary sequential and exceptions tests as part of the local plan process and was considered sequentially preferable compared to other sites in the character area and necessary to meet the identified housing requirements. It is also acknowledged that the flood defences at The Ranges were undergoing upgrades and these were completed at the end of 2020. This has resulted in the site being afforded a 1 in 200 year standard of defence which will likely be for the lifetime of the development. The applicant has submitted a Flood Risk Assessment and Drainage Strategy, which confirms that issues relating to flood risk and drainage can be mitigated through the design. The development is acceptable subject to conditions and the development passes the exceptions test due to the wider sustainability benefits and that the development can be made safe for its lifetime. As the proposal reserves layout for later consideration, the layout in relation to the flood risk areas can be considered further at that stage.

9. Extra flood resistant and resilient construction measures are incorporated into the design of the development to reduce the risk of life to occupants in an extreme flood event and improve flood risk management;

7.17 As the proposal reserves design for later consideration the extra flood resistant and resilient construction measures in relation to design can only be considered further at reserved matters stage. However, the applicant has submitted a Flood Risk Assessment and Drainage Strategy, which confirms that issues relating to flood risk and drainage can be mitigated through the design.

10. The masterplanning of the site is informed by an odour assessment to take account of nearby wastewater treatment works in order to minimise land use conflict;

7.18 The applicant has undertaken an odour assessment at the site given its proximity north of the Range Road Sewerage Pumping Station, operated by Southern Water. This identified a potential for negligible odour effects at all sensitive receptor location in the proposed development. Similarly, assessments undertaken identified that odours from the station would not adversely impact upon developments beyond approximately 150m north of the extraction vents. The indicative masterplan, demonstrates that it is possible to design the scheme in a manner that would be compliant with this part of the policy.

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

7.19 Southern Water will be consulted on the final design at reserved matters stage to ensure that the proposal complies with this aspect of the policy. No issues have arisen during this application that would prevent a suitable design solution being found on this.

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

7.20 A phase 1 Desk Study Report identified various potentially contaminated land uses location on the site and off the site. Following this report, a Phase II site investigation was undertaken by the applicant. The site investigation found the risk of contamination at the site to be primarily low. It is considered that the recommendation set out in the submitted report by Ecologia (pages 17 and 18) are required for mitigation purposes

and could be secured by planning conditions. Outstanding soil tests could also be secured by way of planning conditions.

13. The archaeological potential of the land is properly considered and measures agreed to monitor and respond to any finds of interest; and

7.21 An Archaeological Desk Based Assessment has been undertaken. The report concludes that there is a negligible potential for archaeological remains for all archaeological periods at the site. There are no designated or non-designated archaeological heritage assets within the site or in its immediate vicinity. Therefore the proposal is not expected to have a widespread or significant archaeological impact.

14. At least 4 self-build or custom build plots are provided on site in accordance with Policy HB4: Self-build and Custom Housebuilding Development.

7.22 Up to 7 self-build units are proposed within the development and the policy requirement of 4 can be secured by way of a planning condition. The proposal is considered to be compliant with this part of the policy.

7.23 To conclude, the application is broadly compliant with the aims and aspirations of Policy UA13 of the Places and Policies Local Plan (2020). As the proposal reserves all matters for later consideration, except for access, further details that have not been submitted or agreed under this outline application can be considered further at that stage. The benefits that would arise from the development of the site would outweigh any concerns and the development of the site still represents sustainable development in accordance with the NPPF.

c) Housing Need

7.24 The Adopted Core Strategy is the overarching planning policy document that sets out the long-term vision and strategic policies for the district. It sets out economic, social and environmental aims for the district and the amount and type of development and strategic development locations for major developments. For residential development, it identifies a core objective to deliver a minimum of 350 dwellings a year on average until 2031. For the first 20 years of the plan period (2006/07 – 2025/26) a target of 8,000 dwellings is set, with a minimum requirement of 7,000 dwellings. The Core Strategy specifies a requirement that approximately 10% of new dwellings should be located in the Romney Marsh area, which equates to 800 of the overall target need of 8,000 homes to 2026 required by Policy SS2.

7.25 The emerging Core Strategy Review (2019) plans for a longer period looking to 2037 and beyond. In planning for this period, the Council undertook a Strategic Housing Market Assessment (SHMA) (2017) for the district, working in partnership with Dover District Council. The SHMA determined that the local housing need for the district was 633 new homes a year.

7.26 While the Council was preparing the Core Strategy Review, the government consulted on the introduction of a standard national methodology for calculating housing need. Following this consultation, the Ministry of Housing, Communities and Local Government (MHCLG) prepared and consulted on a revised draft of the National Planning Policy Framework. An updated version of the NPPF was published in July 2018. Regarding new housing, this states that, *"To determine the minimum number of homes needed, strategic policies should be informed by a local housing need*

assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals". This version of the NPPF has since been updated in February 2019.

- 7.27 The national methodology for housing need factors in the latest household projections and information on housing affordability to arrive at a figure for the minimum number of new homes that local authorities should plan for. At the time of preparing the Submission Draft Core Strategy Review in 2019, the latest household projection and affordability ratio for this district indicates that the council should plan for 738 new homes a year. Given this, the Core Strategy Review plans for a total of 13,285 new homes over the period 2019/20 to 2036/37. This will provide for the minimum amount of new development required by national planning policy.
- 7.28 The standard method for assessing housing need was updated in February 2019 which was before the publication of Core Strategy Review Submission Draft 2020 and therefore the new figure was included in the 2020 draft plan and is up to date. The application site is already accounted for in the future housing land supply as it was already an allocated site in the Places and Policies Local Plan 2020, so if the site were not to come forward, there would be a deficit of approximately 80 dwellings which would result in the Council's 5 year housing supply being put at risk.
- 7.29 In recent appeal decisions, Inspectors have increasingly been concluding that housing need carries enough weight for a development to be permitted even where a local authority can demonstrate a five-year supply of housing land, as required by paragraph 49 of the NPPF. The Secretary of State called-in an appeal in Cherwell (ref: APP/C3105/A/14/2226552) and allowed permission for 54 homes where the application had been refused on the grounds that Cherwell could demonstrate a 5 year housing supply and their neighbourhood plan resisted developments larger than 20 homes. However, the Secretary of State responded stating the following: *"The proposal would be sustainable development and paragraph 187 of the Framework states that decision takers should seek to approve applications for sustainable development where possible."*
- 7.30 A further appeal in Shropshire (ref: APP/L3245/W/15/3001117) saw 215 homes allowed outside the settlement boundary on the grounds that the proposal constituted sustainable development and generally accorded with the development plan. The Inspector identified that they could demonstrate a healthy 5 year housing land supply but also conceded that: *"the existence of a 5YHLS is no impediment to the grant of permission for the development in view of the foregoing conclusions in its favour."*
- 7.31 These appeals identify that even where there is an existence of a 5 year housing land supply, this does not preclude new sustainable development as the NPPF seeks to significantly boost the supply of housing and approve applications for sustainable development. Therefore, although this current scheme does not meet all of the aspirations of PPLP policy UA13, as set out above, it is considered that any disbenefits are outweighed by the need to bring forward the development of up to 97 dwellings that the application would provide for.

d) Care home Need

- 7.32 Kent County Council's (KCC) Kent Social Care Accommodation Strategy 'Better Homes: Greater Choice' (July 2014) notes that the average care home is 27-beds, which is one of the lowest average sizes in the country. It is stated within the adopted Local Plan that, *"Folkestone & Hythe District "...will need more fit for purpose residential and nursing homes in future. There are a high number of converted Victorian properties that are unable to accommodate the more complex individual that we are seeing in today's care homes."*
- 7.33 Given the demographic profile of the district and the historic development of its coastal settlements, many care homes and institutions have been established in the district. However, with the changing nature of the industry and the requirement for improved service provision and for larger sites to increase the viability of businesses, the Council anticipates significant changes in the building stock over the plan period. It is expected that larger Victorian properties that have so far supported residential care in the district will become too costly to reconfigure to modern standards, and that these will be brought forward for conversion or redevelopment for other uses.
- 7.34 KCC's 'Better Homes: Greater Choice' highlights that there will be a particular demand for quality residential accommodation in the district, focused in Folkestone, Hythe, New Romney and Lydd. Already, the district has among the highest proportions of people who live in residential care in Kent, and this need is unlikely to decrease. Both the District and County Councils support provision of accommodation to meet the requirements of those in special need of supervision so that they are fully integrated into existing communities and can live in sustainable locations.
- 7.35 Subsequently there is an increased need in the district over this plan period (PPLP 2020) for the relocation and reconfiguration of existing residential care homes and institutions to meet the standards of KCC and the Care Quality Commission. Policy HB12 of the adopted Local Plan states that planning permission will be granted for the development of new residential institutions, subject to conformity with the following requirements;
- Accommodation is designed and built to the Care Quality Commission's (CQC) Fundamental Standards;
 - The proposal is in a sustainable location with access to local services, leisure and community facilities, including shops, healthcare and public transport in accordance with Core Strategy Policies DSD: Delivering Sustainable Development and SS3: Place-Shaping and Sustainable Settlements Strategy;
 - The proposal is compatible with surrounding land uses, so that the development does not cause substantial disturbance or detrimental impact to neighbours and is not located in an area subject to significant noise or other disturbance, or reasonably likely to be so as a result of the expansion of existing businesses, in accordance with National Planning Policy Framework 2012 paragraph 123(7);
 - The design and layout of the proposal are in accordance with the design policies in this Local Plan, as well as the parking requirements of Policy T2;
 - Sufficient open and defensible amenity space is provided for use by residents, staff and visitors; and

- The site and immediate surroundings have a gentle topography to facilitate pedestrian movement and access to services and public transport facilities.

7.36 The proposal is considered to be in general accordance with the above policy criteria, with matters relating to design and layout reserved for further consideration. As such, the provision of up to a 66-bed, purpose built care home within the proposed development site is considered to be appropriate and policy compliant. This will ensure that the district continues to provide for the increasing demand for quality residential accommodation.

e) Highways

7.37 The application is for outline planning permission, but with means of access for consideration at this stage. Access in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.

7.38 The application is accompanied by a Transport Statement and follows pre-application engagement with KCC Highways. The primary access to the site will be via Fort Road to serve the northern part of the site, and Range Road to serve the southern part of the site. The proposed new access onto Fort Road has demonstrated acceptable visibility splays for the 30mph speed limit, and this is accepted by KCC Highways. Both access roads would consist of a 4.8m carriageway and a 2m footway, connecting to the existing footpaths on Range Road and Boundary Road, and a proposed footpath on Fort Road.

7.39 The submitted Transport Statement includes an assessment of impact on traffic, and concludes that there would be no detrimental impact to the operation of the local highway network. In terms of traffic generation, KCC Highways has taken into account the previous site use and extant lawful use for the site. On this basis, the proposed mix of housing, care home and small allocation for offices would generate less traffic movements (including in the peak hours). It is noted that the operational site would have a significant number of staff and associated business / delivery related traffic movements, however this has been considered in the assessment of traffic generation.

7.40 The main road through the site would be controlled by an access gate and therefore the north and south of the site would be separated. The controlled access gate would provide access to the care home and emergency vehicles only, therefore it would not be one long continuous road. KCC Highways is satisfied that the necessary localised traffic calming measures on the internal site roads can be agreed at the detailed design stage and would be subject to reserved matters applications. These measures such as raised tables could be provided without affecting the number of dwellings that can be achieved on-site.

7.41 The proposed parking provision is acceptable for all house types, as a result of amended drawings, and the care home. The parking provision for the House Type A (3 bed dwellings) was revised from a garage (which is not counted within the provision) to an open car port which can count towards the parking provision for these units in

accordance with the required standards. This follows KCC's recommendation which stated *"In a suburban setting such as this I would accept a 3 bed property with a car port in tandem with a driveway parking space with no additional uplift on visitor parking beyond the 0.2 visitor spaces per unit"*. The site meets the required parking provisions and therefore demonstrates that the site can realistically achieve the proposed number of units.

- 7.42 The proposed care home parking area provides 1 ambulance parking space. Tracking has not been provided at this stage because the layout is illustrative, however there is clearly room to accommodate ambulance turning within the site area for the care home, given the available space to extend the car parking area further south if needed. KCC Highways is satisfied that the specifics regarding ambulance parking/turning for the care home element can be provided at reserved matters detailed submission stage.
- 7.43 The internal roads are to be kept private, which KCC have confirmed is acceptable. Swept path analysis has also been undertaken using an 11.4m refuse vehicle and demonstrates that refuse vehicles can access, within 25m of the bin collection point for each unit. Additionally, swept path analysis has confirmed that all car parking spaces are accessible.
- 7.44 KCC Fire and Safety raised concerns in their comments in relation to accessing plots 58-61 because a turning head is not provided. KCC's Design Guidance advises that *"The Fire Brigade must be able to manoeuvre its equipment and appliances to suitable positions adjacent to any premises and, in the case of dwellings, suitable access maintained for fire-fighting to within 45 metres of all dwellings"* and that *"the maximum reversing distance for fire engines is normally 20 metres."* Alternatively, the installation of a domestic sprinkler system in these dwellings would increase fire service to 90 metres. As demonstrated on the site plan, the access road meets the minimum 3.7m in width which would allow for a fire truck to reverse 20m and would therefore be within 45m of the dwellings (as measured off the indicative plans) and as further protection, these dwellings could be fitted with the sprinkler systems as recommended by Kent Fire & Safety. It is evident from site access, internal roads and the indicate layout that there is an achievable solution for this and as layout is not fixed at this stage, tracking is required to further demonstrate this at reserved matters stage.
- 7.45 As this application is for outline permission, design detail is reserved for future consideration. KCC Highways have confirmed the following design details can be secured at reserved matters stage for approval;
- any necessary localised traffic calming measures on the internal site roads can be agreed at detailed design stage and would be subject to reserved matters applications;
 - specifics regarding ambulance parking/turning for the care home element can also be provided at reserved matters detailed submission stage;
 - supportive of the design change from a built in garage to open car port for the three bedroom properties, these are far more likely to be used for vehicle parking rather than ad-hoc storage;
 - upright cycle parking has been shown to the rear of the car port. This is acceptable, but it should be noted that the wording within the Folkestone and Hythe District Places and Policies Plan requires that cycles stored behind vehicles should be able to be accessible/useable without first moving the vehicle. With the hallway adjacent to the car port and a door serving this space, this would be achievable if the door into this space is simply hung on the opposite side to it having been indicated (i.e.

opening back towards the cloak room). This issue however, as above, is a detailed item and can be settled at any future reserved matters application.

7.46 In addition, the site is well located in terms of walking and cycling access and has bus services to several towns and service centres within the area can be readily accessed.

7.47 To conclude, the proposed access to and from the site is considered to be safe with acceptable visibility splays. The proposal would result in additional traffic movements within the surrounding roads, however, this is considered to be less than the lawful use of the site currently. The proposed roads and footpaths within the site are considered to be in accordance with policy requirements and therefore are acceptable. Further, the mitigation measures at outlined at paragraph 7.45, would ensure that the proposal would not result in highway safety issues or significant highway impacts sufficient to reasonably justify refusing planning permission.

f) Flood Risk

7.48 The site is identified as being within Flood Zones 1,2&3 as depicted on the Environment Agency's flood maps. The northern part of site lies within Flood Zone 3 and south of this is a section of the site within Flood Zone 2. The very southern part of the site falls within Flood Zone 1 (low probability of flooding). The northern part of the site is identified within the Strategic Flood Risk Assessment in 2115(SFRA) (figure 4 below as being at significant risk of flooding. The southern part of the site is outside of any risk in 2115. The application includes a Flood Risk Assessment (FRA) and Drainage Strategy, which concludes that issues relating to flood risk and drainage can be mitigated through the design choices of the scheme.

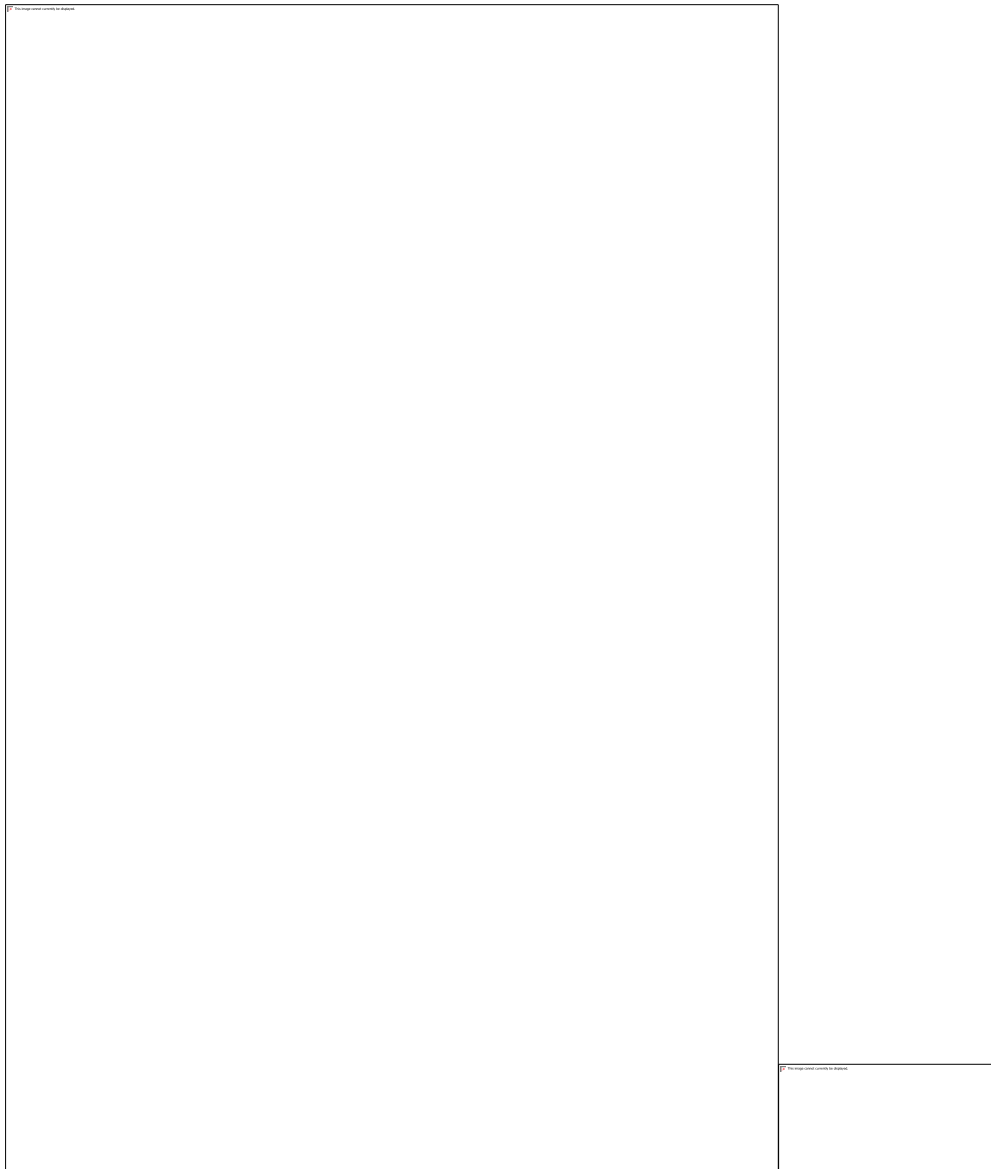


Figure 4: Flood Zones within the SFRA

7.49 Policy SS3 of the Core Strategy requires new development to be directed towards sustainable settlements. As explained earlier in this report, Hythe has been identified as suitable for growth as a Strategic Town. In respect of flood risk, CS policy SS3 and emerging CSR policy SS3 state, *“For development located within zones identified by the Environment Agency as being at risk from flooding, or at risk of wave over-topping in immediate proximity to the coastline (within 30 metres of the crest of the sea wall or equivalent), site-specific evidence will be required in the form of a detailed flood risk assessment. This will need to demonstrate that the proposal is safe and meets with the sequential approach within the applicable character area (Urban Area, Romney Marsh Area or North Downs Area), and (if required) exception tests set out in national policy. It will utilise the Strategic Flood Risk Assessment (SFRA) and provide further information. Development must also meet the following criteria as applicable:*

- i) no residential development, other than replacement dwellings, should take place within areas identified at “extreme risk” as shown on the SFRA 2115 climate change hazard maps; and*

ii) all applications for replacement dwellings, should, via detailed design and the incorporation of flood resilient construction measures, reduce the risk to life of occupants and seek provisions to improve flood risk management.

iii) strategic-scale development proposals should be sequentially justified against district-wide site alternatives.”

7.50 The Local Plan recognises that development within this site is necessary as it is allocated as a mixed use site. The NPPF requires plans to apply a sequential, risk based approach to the location of development. The site was sequentially tested, during the plan making stage, and sites were identified via the Strategic Flood Risk Assessment hazard maps. The site was considered sequentially preferable for residential development and this position was adopted by the Council. As such and in accordance with the NPPF and the National Planning Policy Guidance (NPPG), the sequential test has been applied at the plan level for development of this site and in accordance with paragraph 162 of the NPPF does not need to be reapplied at the site specific level.

7.51 As the development is located within Flood Zones 2&3 as depicted on the Environment Agency flood maps and includes ‘more vulnerable’ development in Flood Zone 3, it is necessary to apply the exceptions test. The exceptions test set out at para. 160 of the NPPF states that in order to grant planning permission or allocate a site:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment;
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall

7.52 It is considered that this site meets the requirements of the exception test for the following reasons. Firstly, the site has wider sustainability benefits – the site was identified within the Local Plan to provide sufficient housing for the Urban Area in order to meet the Council’s requirements for housing land supply. Policy UA13 states that the site has an estimated capacity of approximately 80 dwellings. Therefore the housing provided would have positive benefits for the community. Secondly, it is considered that the development could be made safe for its lifetime. Work to improve the Standard of Protection (SoP) that are being undertaken as part of the Hythe Ranges Defence Scheme started in April 2019 and were completed at the end of 2020 and the site is now afforded a 1 in 200 year standard of defence, which would likely be for the lifetime of the development. The SFRA flood maps have not yet been updated to take these works into account. The Environment Agency’s comments are set out in section 5 of this report. These raise no objection provided the necessary mitigation measures are included. In addition, subject to a SUDS scheme being implemented, which can be required by condition the proposal would not increase flood risk elsewhere. As such, the development is considered to pass the exceptions test.

7.53 In addition to the Sequential Test, the NPPF advocates a sequential approach within sites to provide the most vulnerable development within the lower areas of risk on the site. The NPPF, para. 163 states that; “*Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) *the development is appropriately flood resistant and resilient;*
- c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”*

7.54 The proposal indicatively seeks to provide the residential housing (the most vulnerable development) within the lower part of the site, and thus located in an area at greater risk of flooding. The assessment of the proposal seeks to balance competing issues, being the quality of accommodation, streetscene and place making matters, residential amenity, along with site constraints. The indicative drawings seeks to provide all living accommodation to the upper floors of the units, and as such shows no living accommodation would be provided to the ground floor. Further, the industry uses of the site are located towards the southern end, and therefore the housing units are best placed within the site towards the north. In terms of a place making perspective, the proposed housing would correspond better and link with the existing housing north, adjacent to Boundary Road. It should also be noted that it was never the LPA's intention to provide the housing towards the southern end of the site, during its allocation within the Local Plan as the site-specific policy encouraged the retention of the existing employment building on the site to be used for alternative employment purposes. In addition, the near completion of the Hythe Ranges Defence Scheme provides the site with an increase in the standard of protection and therefore the site will be afforded a 1 in 200 year standard of defence and that this will likely be for the lifetime of the development. As such, it is considered on balance that whilst the proposal would fail the sequential approach (as indicatively proposed), there are overriding planning reasons for supporting this approach. This issue is to be considered, however, at the reserved matters stage when layout is considered.

7.55 Overall, the development passes the exceptions test due to the wider sustainability benefits and that the development can be made safe for its lifetime. It is considered that subject to appropriate conditions the development meets the requirements of policy SS3 of the CS and the NPPF with regards to flood risk.

g) Ecology/ biodiversity/ Arboriculture

7.56 Whilst the site is outside any national or international sites protected for their wildlife, geology or habitats, the south-east corner of the land forms part of the Hythe Ranges Local Wildlife Site, although the area is laid to hardstanding in the form of a car park; in addition a very small area of the site falls within a Biodiversity Action Plan Priority Habitat (perennial vegetation of stony banks). Therefore, development has been informed by an assessment to identify features of ecological interest and should conserve and enhance biodiversity within the site. Natural England has confirmed that the application is unlikely to result in any significant effects on any statutory protected sites or landscapes. As such the proposal would ensure that the conservation objectives are maintained. Natural England also confirms that the proposal would not have an unacceptable impact on the Lympne Escarpment SSSI.

7.57 The application site has been identified as having populations of the following protected species and habitats present:

- Hythe Ranges Local Wildlife site;
- Coastal vegetated shingle priority habitat;
- Nesting birds;
- Reptiles;
- Badgers; and
- Hedgehogs.

7.58 Adopted policy NE3 of the Places and Policies Local Plan explains that planning permission will be refused for development if it is likely to endanger plant or animal life (or its habitat) protected under law. KCC Ecologists have reviewed the submitted ecology and specific species reports. Mitigation and compensation measures are proposed within the Ecological Appraisal and it is considered if the details and implementation can be secured by way of planning conditions in the event of an approval. The proposals have sought to retain those features identified to be of value. Where it has not been practicable to avoid the loss of low-quality habitats, new habitat creation has been proposed to offset losses, in conjunction with new landscape proposals. Full details can be secured by condition and provided at reserved matters stage.

7.59 One of the principles of the National Planning Policy Framework is that net gains in biodiversity should be sought through development. Detailed landscaping matters are deferred for future consideration but can be incorporated into the scheme and biodiversity net gain can be conditioned.

7.60 It is considered that there is a need to ensure that these enhancement measures will be managed appropriately to benefit biodiversity. The creation of any SUDS scheme has potential to provide ecological benefits as well as drainage benefits and its design should have full consultation with an appropriately qualified ecologist, secured as a condition requiring the submission of a Landscape and Ecological Management Plan.

7.61 The site is neither within a conservation area nor has any trees the subject of a tree preservation order (TPO). The application was accompanied by a detailed arboricultural assessment which shows tree cover within influence of the site as *“typical of its existing usage... comprising primarily of ornamental plantings associated with the existing industrial units’ scheme of landscaping and areas of scrub.”* The arboricultural survey identified two moderate quality, early mature silver birch trees (T5 and T10), which are to be retained as part of the proposals alongside new tree planting to this green buffer to the north of the site adjacent to Boundary Road. The arboricultural assessment explains that the proposed development (although outline at this stage) would not result in any significant tree loss as it is possible to manage the encroachment within the root protection areas of retained trees adjacent to the northern boundary, through deliverable means of construction management. As such, the proposal would not result in any significant impact to existing trees of any value, and the redevelopment provides an opportunity to introduce a comprehensive scheme of soft landscaping, which can enhance the species variety and distribution of tree cover within influence of the application area, mitigate for the tree to be removed and provide betterment to the sites amenity. Full details of proposed landscaping are deferred for future consideration at reserved matters stage.

7.62 To conclude, the scheme is considered to comply with the aims of the NPPF and policy NE2 of the Places and Policies Local Plan and, with appropriate mitigation, would not result in harm to protected species on the site. In addition, scheme of soft landscaping would provide significant benefits to the sites amenity.

h) Amenity

7.63 Adopted policy HB1 and the NPPF (paragraph 127) require that consideration should be given to the residential amenities of both neighbouring properties and future occupiers of a development.

7.64 The Local Plan at paragraph 9.63 describes amenity as *“Amenity is usually understood to mean the effect of a development on visual and aural factors in the immediate neighbourhood or vicinity of a site. Relevant factors include: loss of privacy, light, outlook, parking, landscaping and open space; overshadowing; and the creation of an overbearing sense of enclosure.”*

7.65 The residential properties most affected by the proposed development would be those beyond the north of the site, which are separated from the development by Boundary Road and a c.15m green buffer running along the northern site boundary. The site is adjoining the Hythe Rifle Range to the west. To the south eastern corner of the site, it is adjoined to a commercial facility and the Range Road Industrial Estate beyond. At the reserved matters stage, a detailed assessment would be made of the inter-relationship of proposed dwellings to existing dwellings including issues relating to outlook, light, privacy, screening, noise and disturbance.

7.66 The direct impact upon surrounding residential amenity in terms of impact upon outlook, light and privacy would, however, be limited as it is possible to design the layout to avoid impacts on existing and proposed amenity by designing the scheme to avoid overlooking, overshadowing and overbearing impacts. However, impacts from vehicular traffic and general noise would arise, but as discussed above the level of traffic generation is considered to be less than that created by the (now ceased) lawful use of the site. A noise assessment was submitted to support the application and *“based on the measured level, no specific acoustic mitigation is considered necessary, as adequate control of environmental noise in accordance with BS 8233 and WHO guidelines for internal noise would be achieved using standard thermal double glazing with standard non-acoustic trickle ventilators.”* The Council’s Environmental Health Officer agrees with this conclusion and has no objection to the proposal.

7.67 The comments from the Ministry of Defence are noted, however given the above comments and outline nature of this proposal it is not considered that the noise and disturbance issues would have a significant adverse effect upon the on amenity of future occupants of the proposed development.

7.68 The applicants have also undertaken an Odour Assessment to assess the impact of the proposed development on air quality. The Assessment considered a potential for negligible odour effects at all sensitive receptor locations in the proposed development. In addition, a previous odour assessment undertaken identified that odours from the Range Road Sewerage Pumping Station would not adversely impact upon

development beyond approximately 150m north of the extraction vent. It is concluded that odour impact would not be significantly detrimental.

7.69 As such, it is considered that any impact on existing amenity would not be harmful to warrant refusal. A further, detailed assessment would be made at reserved matters stage.

i) Visual impact / density

7.70 The detailed layout and design of the site would be dealt with at the Reserved Matters stage and this will allow the opportunity for assessing the layout, scale, design and materials of the proposed dwellings, care home and office spaces, as well as how this would impact and interact with the wider setting. However, it is proposed that the site would provide up to 97 dwellings at a density of approximately 36 dwellings per hectare which allows for landscaped areas and sufficient landscape buffers. The proposed care home would comprise up to 66-beds and the office accommodation would comprise up to 153sqm of space, within a site with a gross area of 3.2 hectares. As such, it is considered that it is possible to design a layout and scale of development that would be sensitive to the urban location and that incorporates suitable landscaping and vegetation ensuring that the new buildings are assimilated sensitively into the existing local environment.

7.71 It is accepted that the wider setting of the locality would be altered as a result of the proposed development. However, it has been accepted by the allocation of the site within the Local Plan that a mixed use development on the brownfield site is acceptable in principle. It is considered that any negative impact could be mitigated to an acceptable level by a sensitively designed scheme and appropriate landscaping and that any residual impact would be outweighed by the social and economic needs to provide sufficient, sustainable housing in this part of the district and maintain a 5 year housing land supply, in accordance with Local Plan policy UA13, Core Strategy policy CSD7 and the NPPF.

j) Archaeology

7.72 There are no designated or non-designated archaeological heritage assets within the site or its immediate vicinity. The application is supported by an Archaeological Desk Based Assessment assessing the likely degree of heritage potential on the site. The desktop assessment concluded that the site has a negligible potential for archaeological remains for all archaeological periods at the site. KCC's Archaeological Officer has reviewed the submitted information and has no objection to the proposal and therefore no further archaeological work is recommended in this particular instance.

k) Financial Contributions / CIL

7.73 The proposal would result in the provision of additional housing which would lead to additional pressure on existing services and facilities within Hythe. As such, any impacts from the development need to be mitigated by way of conditions and/ or a contributions or provision of mitigation through a S106 agreement.

7.74 The NPPF at paragraph 57 states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. CS policy CSD1 is up to date and requires the provision of 30% affordable housing. Local Plan policy UA13 also require off-site mitigation measures including contributing to the expansion of Oaklands Heath Centre.

7.75 The applicant is willing to enter into a legal agreement to secure the provision of 30% affordable housing to be provided on site. During the processing of the application, a variety of further mitigation measures and contributions have been sought and agreed by the applicant. In total the contributions that would be secured if planning permission is granted are as follows:

Provision/ contribution	Amount
Provision of 30% affordable housing - (60% rented affordable and 40% shared ownership)	N/A to be provided on site
Provision of at least 4 Self Build Units	N/A to be provided on site
Healthcare contribution - towards the extension of Oaklands Health Centre	£69,810.00
Open space and play space contributions	£71,177.50 and £86,430.90

7.76 The requests for financial contributions in respect of support for local services in respect of the additional demand the development will place upon them are payable however the total amount is to be confirmed upon the final number of dwelling granted within the site. These can be secured via a legal agreement, which the applicant has agreed to enter into. This document will also contain the requirement to set up a management company to maintain landscaped/ communal areas within the development.

7.77 The following contributions were requested by KCC in their initial consultation response, however following further discussions with KCC these are no longer requested and 35% contribution of all CIL monies collected are to be distributed to KCC for allocation to the below;

Community learning contribution - towards the cost of additional services, equipment and staff in Hythe
Library contribution - towards additional bookstock for borrowers at Hythe library
Primary education contribution - towards the cost of providing new local primary school accommodation
Secondary education contribution - towards the cost of providing new local secondary school accommodation
Social Care Contribution - toward the cost of providing expanding or improving adult social care service facilities by or improving adult social care services by providing additional services and staff

7.78 To conclude, given the contributions that have been agreed to by the applicant the development is considered to comply with the aims of policies CSD1 and SS5 of the CS, policy UA13 of the Local Plan and paragraph 57 of the NPPF.

7.79 Under the Council's adopted charging schedule, the development is liable for paying the Community Infrastructure Levy (CIL) for the residential development proposed. The applicant has confirmed their agreement to the CIL contributions.

Environmental Impact Assessment

7.80 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. The site does not fall within a sensitive area and the development is below the thresholds for Schedule 2 10(b) urban development projects which state:

- The development includes more than 1 hectare of urban development which is not dwellinghouse development; or
- The development includes more than 150 dwellings; or
- The overall area of the development exceeds 5 hectares.

Therefore the development does not need to be screened under these regulations.

Local Finance Considerations

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

7.82 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 (Zone C) is charged at £115.71 per square metre for new residential floor space.

7.83 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. Under the scheme the Government matches the council tax raised from new homes for the first four years through the New Homes Bonus. Due to the outline nature of this application, this calculation cannot be made currently as the final number of dwellings is not agreed. New Homes Bonus payments are not considered to be a material consideration in the determination of this application.

Human Rights

7.84 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

7.85 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

7.86 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 While the Town Council's objection is noted the application complies with the requirements of the Council's adopted policies, would bring about considerable economic, social and environmental benefits, and would not give rise to any unacceptable highway impacts.

8.2 It is therefore recommended that outline planning permission should be approved subject to conditions and a s.106 agreement.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and the applicant entering into a S106 legal agreement securing affordable housing, provision of self-build units, a contribution towards the expansion of Oakland Health Centre and open and play space contributions; and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary:

Conditions:

1. Approval of the details of the scale, appearance, layout (including location of SUDS) and the landscaping of the site (including boundary treatments), hereinafter called "the reserved matters", shall be obtained from the Local Planning Authority in writing before any development is commenced. The submission of boundary treatments shall include the recommendations provided in paragraph 6.1.5 and 6.1.14 of the Ecological Appraisal, dated January 2019.

Reason: Such details are necessary for the full consideration of the proposal and have not, so far, been submitted.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended).

4. The development hereby permitted shall be limited to no more than 97 dwellings, a 66-bed care home and 153sqm of office space, and shall be carried out in accordance with the Location Plan (drawing no. P_02) and broadly in accordance with the Site Plan as Proposed (drawing no. P12 Rev B).

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Policy SS1 of Local Plan Core Strategy (2013) and Policy UA13 of the adopted Local Plan (2020).

5. The reserved matters application(s) to be submitted pursuant to condition 1 above shall include details of a Landscape/Habitat Management Plan to include long-term design objectives, timings of the works, habitat creation, enhancement, management responsibilities and maintenance schedules for all landscaped areas (other than privately-owned domestic gardens). Such details shall be submitted for the written approval of the Local Planning Authority. The requirements of the Landscape/Habitat Management Plan shall be informed by the submitted Ecological Appraisal (dated January 2019) and the approved measures shall be carried out in accordance with the approved Plan.

Reason: In order to ensure matters of ecological interest are preserved and enhanced.

6. The details to be submitted pursuant to condition 1 above shall include drawings showing existing and proposed ground levels and finished slab and floor levels together with the roof ridge lines and eaves levels of the proposed buildings in relation to the neighbouring buildings bordering the site. The finished floor levels of non-habitable levels shall be a minimum of 300mm above the design flood level (at 2.9maODN) with all habitable accommodation a minimum of 600mm above at 3.2maODN. Such details as may be approved in writing, by the Local Planning Authority shall be undertaken fully in accordance with the approved

plans and thereafter floor levels shall be maintained in accordance with the approved details.

Reason: In the interests of risk to life and property.

7. The details submitted pursuant to condition 1 above shall include an Arboricultural Impact Assessment and Tree Constraints Plan to include existing hedgerows. The assessment shall include details of all root protection measures which shall accord with BS5837 "Trees in Relation to Demolition, Design and Construction" and a timetable for the implementation and retention of such works linked to the proposed phasing and completion of construction work. The development shall be carried out in strict accordance with the approved assessment.

Reason: In the interests of the visual amenities of the area.

8. The reserved matters application(s) to be submitted pursuant to condition 1 above shall include details of vehicular and cycle parking, including visitor parking, and turning facilities. The provision of vehicular and cycle parking and turning facilities as approved for each reserved matter and in any phase or sub-phase of the development hereby approved, shall be implemented, in full, prior to the first occupation of the units they serve. These facilities shall be kept available for parking and turning purposes in connection with the units they serve at all times thereafter.

Reason: In the interests of highway safety and convenience.

9. No development shall take place until the details required by Condition 1 above shall demonstrate that requirements for surface water drainage for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated within the proposed development layout.

Reason: To ensure development is served by satisfactory arrangements for the disposal of surface water and that they are incorporated into the proposed layouts.

10. The reserved matters application(s) to be submitted pursuant to condition 1 above shall include details of a scheme for any external building or ground mounted lighting/illumination and such lighting shall be in accordance with guidance from an ecologist to minimise impacts on wildlife. Such details shall be submitted for the written approval of the local planning authority and shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution. The submitted details shall also demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated.

The lighting strategy shall;

- a) Identify those area/features on site that are particularly sensitive;
- b) Show how and where external lighting will be installed in accordance with the recommendations in section 6.1.6 of the Ecological Appraisal dated January 2019.

Thereafter any lighting erected as part of the development shall only be erected in accordance with the approved details.

Reason: In order to minimise light pollution and protect wildlife.

11. No work on the construction of the building(s) hereby permitted shall take place until samples of the materials and details of the windows and doors to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include a schedule and plan indicating the materials to be used for each plot within the phase, or sub-phase. The development shall be carried out in accordance with the approved details.

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

12. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for:

- a) Working hours and arrangements for the delivery and storage of materials for the off-site highway works.
- b) The parking and turning for on-site of vehicles of site operatives and visitors.
- c) The loading and unloading of plant and materials.
- d) The storage of plant and materials proposed to be used in the construction of the development.
- e) The design, erection and maintenance of site perimeter fencing and security hoardings.
- f) Details of working and delivery hours including details to avoid/minimise deliveries during peak hours and school opening/closing times.
- g) The display of contact details of the site manager.
- h) Routes to be taken by vehicles carrying plant/materials to and from the site.
- i) Measures to ensure that construction plant and vehicles and delivery vehicles do not impede access to nearby properties.
- j) Details of wheel washing facilities and other measures to prevent the deposit of mud and debris on the public highway.
- k) Details of any temporary traffic management/ signage to ensure delivery routes are adhered to.
- l) Details of piling methods and timings.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

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

13. No development shall take place (including any ground works, site or vegetation clearance) until a construction environmental management plan (CEMP (Biodiversity)), for the protection of:

- Hythe Ranges Local Wildlife Site;
- Coastal vegetated shingle priority habitat;
- Badgers;
- Reptiles;
- Hedgehogs; and

- Nesting birds

during the construction works has been submitted to and approved in writing by the Local Planning Authority. The CEMP (biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities, including any need for lighting during construction;
- b) Identification of 'biodiversity protection zones' (on and off-site);
- c) Practical measures (both physical measures and sensitive working practises) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similar competent person;
- h) Use of protective fences, exclusion barriers and warning signs.

A suitably experienced and qualified ecologist or Ecological Clerk of Works must carry out the role of maintaining ecological watching briefs.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: In order to ensure biodiversity within the site is preserved and enhanced.

14. No development shall take place until an ecological design strategy (EDS) addressing the provision of compensatory habitat and ecological enhancements, as outlined in Section 6 of the Ecological Appraisal dated January 2019, has been submitted to and approved in writing by the Local Planning Authority. The EDS shall include the following:

- Purpose and conservation objectives for the proposed works
- Review of site potential and constraints
- Detailed design(s) and/or working method(s) to achieve stated objectives
- Extent and location/area of proposed works on appropriate scale maps and plans
- Type and source of materials to be used where appropriate, eg. Native species of local provenance
- Timetable for implementation demonstrating that works are aligned with the proposed phasing of development
- Persons responsible for implementing the works
- Details of initial aftercare.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: In order to ensure biodiversity within the site is preserved and enhanced, and to include the provision of compensatory habitat for the loss of Local Wildlife Site.

15. Development shall not begin in any phase until a detailed sustainable water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be passed upon the FRA by Herrington Consulting (February 2019) and shall demonstrate that the surface water generated by this development (for all rainfall to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on off off-site.

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

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

No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority.

The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include: i. A timetable for its implementation, and ii. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

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

16. a) The development shall be carried out in accordance with the submitted Phase I Land Contamination Assessment, by Ecologia dated 10/08/2017).
- b) If the desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include; - A survey of the extent, scale and nature of contamination - An assessment of the

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

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

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

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

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

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

17. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a verification report

pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the LPA which demonstrate the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by The LLFA. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from the development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework (2019).

18. Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved in writing by the Local Planning Authority, detailing the containment, control and removal of cotoneaster on site. The measures shall be carried out in accordance with the approved scheme.

Reason: In order to control invasive species within the site.

19. Prior to occupation of the development hereby approved, a landscape and ecological management plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following;
 - a) Description and evaluation of features to be managed;
 - b) Ecological trends and constraints on site that might influence management;
 - c) Aims and objectives of management;
 - d) Appropriate management options for achieving aims and objectives;
 - e) Prescriptions for management actions, together with a plan of management compartments;
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);
 - g) Details of the body or organisation responsible for the implementation of the plan;
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met, how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In order to control invasive species within the site.

20. Prior to the first use of the site or occupation of any dwelling, care home or office space hereby permitted, the access arrangements (including visibility splay on Fort Road with no obstruction over 1.05m above the carriageway level within the splays) shall be implemented in full and opened to vehicular and pedestrian traffic. Thereafter the approved visibility splays shall be maintained at all times.

Reason: In the interests of highway safety and convenience.

21. Prior to the first occupation of any dwelling, care home or office space hereby permitted, the proposed roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture to be laid out and constructed in accordance with details to be submitted to and approved by the LPA. Thereafter the approved details shall be maintained at all times.

Reason: In the interests of highway safety and convenience.

22. Prior to the occupation of any dwelling hereby permitted a residential travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall include initial baseline targets based on the agreed trip rates for the site, measures to encourage sustainable transport to/ from the site and modal share targets for a 5 year period upon the last occupation on the site. The approved measures shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of sustainable development and highway safety and convenience.

23. No building hereby permitted shall be occupied until a Verification Report pertaining to the surface water drainage system, carried out by a suitably qualified professional, has been submitted to the Local Planning Authority which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as approved by the Lead Local Flood Authority. The Report shall contain information and evidence (including photographs) of earthworks; details and locations of inlets, outlets and control structures, extent of planting; details of materials utilised in construction including subsoil, topsoil, aggregate and membrane liners; as built drawings; topographical survey of 'as constructed' features and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised.

24. The approved noise mitigation measures shall be implemented in accordance with the recommendations set out within the Noise Assessment Report by Hepworth Acoustics (dated July 2018) unless otherwise previously agreed in writing by the Local Planning Authority. All habitable room windows to be standard thermal double glazing, comprising two 4mm thick standard panes with a minimum 122mm air cavity,

Reason: In order to protect amenity of future occupiers.

25. Prior to the occupation of any dwellings, office or care home hereby approved, the proposed internal road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose plans and sections indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are constructed and laid out in a satisfactory manner.

26. Prior to the occupation of any dwelling hereby approved the following works between each dwelling and the highway shall be carried out:

(a) Footways and/or footpaths, with the exception of the wearing course;

(b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates, and highway structures (if any).

Reason: In the interest of highway safety and amenity.

27. (a) Construction shall not proceed beyond slab level 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.

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

Reason In accordance with the requirements of policies CSD5 and SS3 of the Shepway Core Strategy Local Plan 2013 which identify 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-water-efficiency-calculator-for-new-dwellings>

28. The non-residential uses of the development hereby permitted shall be constructed to secure an overall minimum Very Good rating for BREEAM standards. Full details shall be submitted, for consideration, to a BRE trained and licensed independent assessor, these details and the assessors report shall then be submitted to and approved by the Local Planning Authority. The development

shall then be constructed in accordance with the approved details before occupation.

Reason: To ensure the development contributes to the principles of sustainable development as outlined in Local Plan policy CC2.

29. No work above slab level on the construction of the buildings hereby permitted shall take place until a copy of formal confirmation has been supplied to the Local Planning Authority confirming that High Speed Fibre Optic that meets the Department for Culture, Media and Sport requirement that 'fibre to the premise' broadband connections are available to all premises of gigabit capacity will be provided to all dwellings. Prior to the first occupation of any of the dwellings hereby approved, confirmation shall be submitted to the Local Planning Authority that the infrastructure to allow 'fibre to the premise' broadband connections are available to all premises of gigabit capacity has been laid out in the site.

Reason: In order to ensure the future provision of superfast fibre optic broadband for occupants in accordance with emerging policy E8 of the Places and Policies Local Plan.

30. Details of how the development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate, as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings, shall be submitted to the Local Planning Authority for approval, in writing, prior to progression of development beyond foundation level, with such details as approved implemented in full and thereafter retained and maintained.

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

31. Prior to commencement of any onsite works of the development hereby approved, a Security Management Plan shall first be submitted to, for the prior written approval of, the Local Planning Authority. The Security Management Plan must adhere to the requirements of Secure by Design to ensure protection from crime and anti-social behaviour. Upon approval, the Security Management Plan shall be carried out as approved and thereafter maintained.

Reason: To ensure the development is secure from crime in accordance with Local Plan Policy BE1 and on Secure by Design grounds.

32. Prior to the commencement of any works above slab level hereby permitted, details of electric charging points shall be submitted to and approved in writing by the Local Planning Authority. The approved electric charging points shall be implemented in full accordance with the approved details and maintained as such thereafter.

Reason: In accordance with Local Plan policy T2 and to support the transition to a low carbon future.

33. The offices (use class B1) hereby permitted shall not be open to customers outside the following times 08:00hrs - 18:30hrs Mondays to Saturdays and 10:00hrs -16:00hrs on Sundays and Bank Holidays.

Reason: In the interest of neighbouring amenity.

Informatives:

1. Your attention is drawn to the need to contact the Council's Street Naming and Numbering Officer on 01303 853418 in order to have the new properties formally addressed.
2. Planning permission does not convey any approval for construction of the required vehicular crossing, or any other works within the highway for which a statutory licence must be obtained. Applicants should contact Kent County Council - Highways and Transportation (web: www.kent.gov.uk/roads_and_transport.aspx or telephone: 03000 418181) in order to obtain the necessary Application Pack.

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

3. This decision is also conditional upon the terms of the Planning Agreement which has been entered into by the developer and the Local Planning Authority under Section 106 of the Town and Country Planning Act 1990. The Agreement runs with the land and not with any particular person having an interest therein.
4. Kent County Council recommends that all developers work with a telecommunication partner or subcontractor in the early stages of planning for any new development to make sure that Next Generation Access Broadband is a fundamental part of the project. Access to superfast broadband should be thought of as an essential utility for all new homes and businesses and given the same importance as water or power in any development design. Please Liaise with a telecom provider to decide the appropriate solution for this development and the availability of the nearest connection point to high speed broadband. We understand that major telecommunication providers are now offering Next Generation Access Broadband connections free of charge to the developer. For advice on how to proceed with providing access to superfast broadband please contact broadband@kent.gov.uk.
5. In relation to condition 32 above, it is advisable, where appropriate, to install one electric charging point per dwelling, or as a minimum, ensure there is infrastructure put in place to allow electric charging points to be installed at a later date.
6. In preparation of the required Security Management Plan, the Applicant must have regard to Secure by Design. Secured by Design (SBD) www.securedbydesign.com is the not for profit UK Police flagship initiative combining designing out crime and security. They list accredited products and suppliers that are independently certificated to recognised security standards.

They have been responsible for consistently high reductions in crime as verified by numerous independent academic research studies.

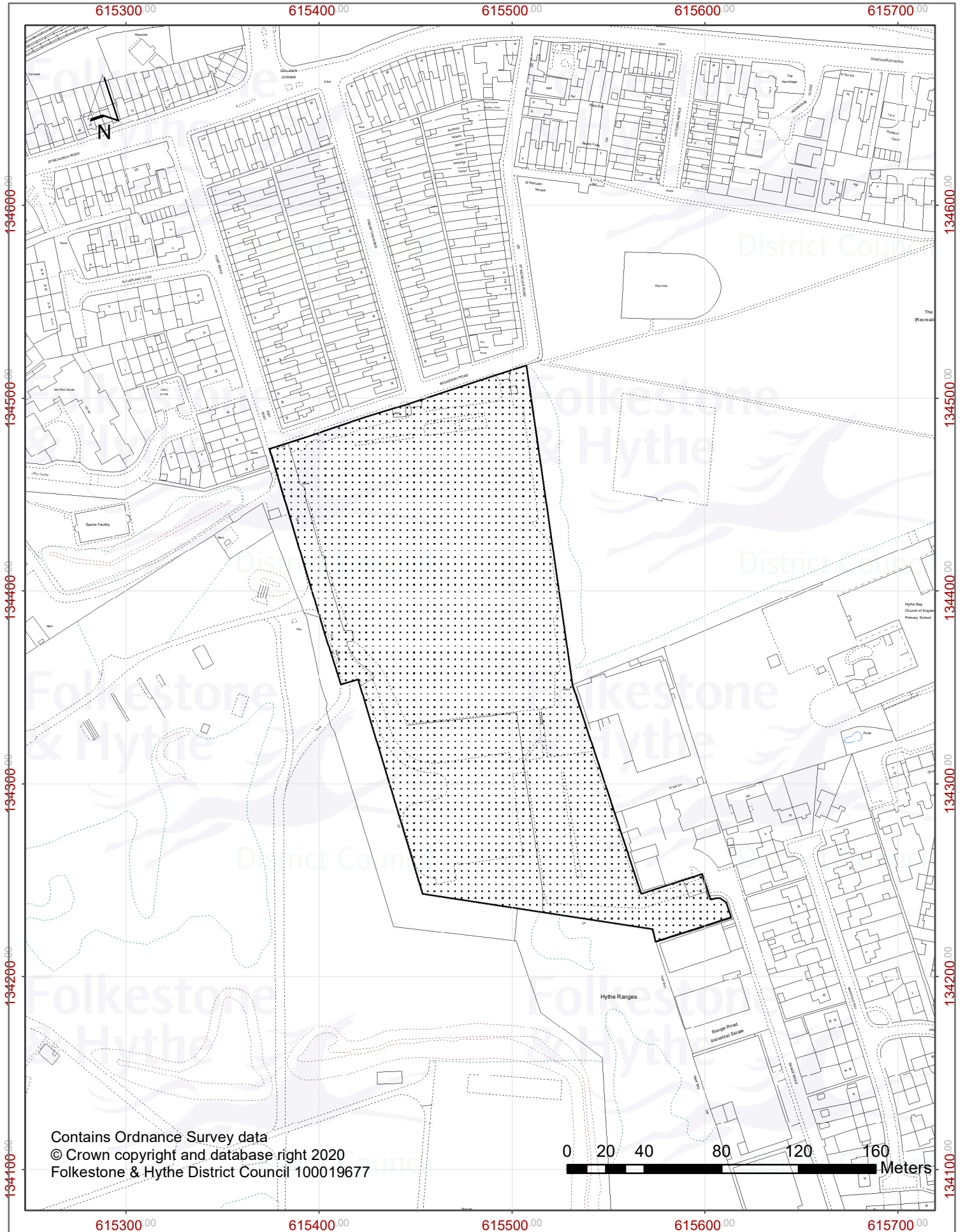
Details of how to ensure products are certified are on the SBD website. Sold Secure is also a testing and certification house for security products. On their website: www.soldsecure.com you will find a range of products tested and approved by Sold Secure to provide you with the best in security for a variety of applications.

Kent Police, through their comments in relation to this proposal, has requested that the security for the development meets or exceed the standards of SBD and Sold Secure silver, this is to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.



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Y19/0071/FH
Smiths Medical UK
Boundary Road
Hythe



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Folkestone & Hythe District Council 100019677

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This Report will be made public on 15 March 2021

Report Number **DCL/20/47**

To: Planning and Licensing Committee
Date: 23 March 2021
Status: Non key Decision
Responsible Officer: Llywelyn Lloyd, Chief Planning Officer

SUBJECT: PLANNING CONTRIBUTIONS SECURED THROUGH SECTION 106 AGREEMENTS AND COMMUNITY INFRASTRUCTURE LEVY

SUMMARY:

Some planning decisions are subject to legal agreements requiring developers to make financial contributions to the Council and Kent County Council (KCC) to provide for on and off site infrastructure to mitigate the impact of the development, under Section 106 of the Town and Country Planning Act 1990 (as amended).

Some developments for which planning permission is granted are also subject to the Community Infrastructure Levy (CIL). Although separate to the S106 process, the purpose of CIL payments is also to ensure developers make an appropriate financial contribution to mitigate the impact of the development on local infrastructure.

The adequacy and effectiveness of the procedures and controls relating to S106 agreements was first reviewed by the East Kent Audit Partnership in 2014 with a follow up review in 2018/19. The original report recommended that the position regarding planning obligations that involve financial contributions should be reported to members on an annual basis. Following the introduction of CIL in 2016 the report now also includes CIL contributions.

REASONS FOR RECOMMENDATIONS:

The Committee is asked to agree the recommendations set out below so that there is a clear and transparent record regarding financial contributions required and received by the Council as a result of the planning process.

RECOMMENDATIONS:

- 1. To receive and note report DCL/20/47.**
- 2. To receive and note Appendix 2.**
- 3. To receive and note Appendix 3.**

1. BACKGROUND

- 1.1 The objective of the East Kent Audit Partnership reviews was to provide assurance on the adequacy and effectiveness of the procedures and controls established to ensure all Section 106 agreements are correctly administered and adequate monitoring is undertaken of monies held. These procedures and controls are reviewed by the East Kent Audit Partnership every four years.
- 1.2 Two of the key recommendations of the original 2014 report were:
- that Section 106 obligations should be recorded and monitored regularly to ensure that the Council is receiving all of the monies due under the legal agreements; and
 - that an update report should be provided to the then Development Control Committee on at least an annual basis.
- 1.3 At the January 2018 meeting of the now Planning and Licensing Committee it was resolved that a S106 report incorporating the CIL report would be reported to the Planning and Licensing Committee within the January of each year as an established agenda item, so as to ensure the recommendations of the audit report are met and that information relating to the collection and allocation of monies from S106 legal agreements and CIL is publically available. Unfortunately a report was not presented to Members in January 2020 due to the introduction of new IT platform across the Council in January which required new processes for S106 and CIL and the subsequent transfer of data.
- 1.4 The Council's CIL scheme was adopted in August 2016. The monies due and received under CIL payments are monitored to ensure the Council receives all the monies due.
- 1.5 The basis for collecting contributions is planning policy SS5 of the Council's 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 on major residential schemes of 10 units or more, whereas under the Council's adopted CIL charging schedule CIL payments are required for all new housing schemes, subject to exemptions, and also some retail developments. It is important to note that S106 contributions can only be required to mitigate the impact of development, whereas CIL contributions are collected to fund wider infrastructure requirements.
- 1.6 The latest revisions to the CIL regulations made via the Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019, require that from December 2020 local authorities must publish an Infrastructure Funding Statement (IFS), and information should be drawn from this. 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. It should also identify infrastructure needs, the total cost of that infrastructure and the choices that the authority has made about how the collected contributions will be used.

- 1.7 A draft copy of the Council's first IFS is attached to this report at Appendix 1.

2. REVIEW OF MONIES HELD

S106 Monies

- 2.1 The table below summarises the S106 contributions received and paid out for all S106 agreements since 1st April 2015.

	Received	Paid Out	
	£	£	£
Balance at 31 March 2015			1,517,450
2015/16	549,567	- 622,805	
2016/17	965,564	-441,127	
2017/18	2,050,935	-1,470,228	
2018/19	606,627	-610,570	
2019/20	664,292	-792,054	
2020/21 (to 18th December 2020)	249,339	-182,005	
Total	5,086,324	-4,118,789	967,535
Balance at 18 December 2020			2,484,985

- 2.2 The balance of S106 income as at 31st December 2020 of £2,484,985 is held for the following purposes:

PURPOSE	£	£
Kent County Council		
Social Care	5,049	
Libraries	4,020	
Education	149,295	
Community Learning	1,441	
Other	14,343	
Total KCC		174,149
NHS		156,896
Folkestone & Hythe District Council		
Affordable housing	1,262,740	
Open space & play	281,931	
Other community use	609,269	
Total FHDC		2,153,940
Total S106 held		2,484,985

- 2.3 The table at **Appendix 2** is an extract from the monitoring spreadsheet and shows the current live planning permissions that have contributions due and those planning permission on which contributions have been paid and the Council is still holding the monies pending release.

CIL Monies

- 2.4 The table at **Appendix 3** shows the total CIL receipts and transfers to Town and Parish Councils up to 29th September 2020.
- 2.5 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. The purpose of the governance framework in place is to ensure the deployment of CIL income follows clear and appropriate processes.
- 2.6 Further details on how monies received from CIL are allocated and spent are contained in the draft IFS appended at **Appendix 1**.

3. HUMAN RIGHTS

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

4. PUBLIC SECTOR EQUALITY DUTY

- 4.1 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.
- 4.2 It is considered that the proposed enforcement action would not conflict with objectives of the Duty.

5. RISK MANAGEMENT ISSUES

5.1 These are set out in the East Kent Audit Partnership's report and are not relevant to this report, which is for information purposes only.

6. LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES

6.1 Legal Officer Comments (NM)

This report ensures the Council as Local Planning Authority is transparent in how it collects and spends the funds received under s106 contributions and CIL. There are no legal implications other than as set out in the report.

6.2 Finance Officer Comments (LK)

The financial information contained in Section 2 of the report has been prepared by Financial Services. There are no financial implications arising directly from this report.

6.3 Equalities & Diversity Officer Comments (GE)

There are no equalities implications directly arising from this report. Consideration for human rights and the Public Sector Equality Duty are set out within the main body of the report.

CONTACT OFFICER AND BACKGROUND DOCUMENTS

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

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

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

None.

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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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Section 106 Agreement - contributions received

APPLICATION	ADDRESS	TYPE	AMOUNT DUE	AMOUNT PAID	DATE RECEIVED	AMOUNT PAID	DATE RECEIVED	AMOUNT PAID	DATE RECEIVED	BALANCE	MOVEMENT	BALANCE C/F	PROJECT
20/0579/FH	The Leas Club, The Leas, Folkestone	Monitoring fee	£2,000.00	£2,000.00	27.11.20					£2,000.00		£2,000.00	Monitoring of planning obligation clauses
			£2,000.00	£2,000.00						£2,000.00		£2,000.00	
Y19/0254/FH	LA Fairlight Terrace Lydd Road New Romney	Libraries	£1,008.42										Bookstock at NR library
		Adult social services	£1,551.27										Enhancements at Romney Marsh Day Care Centre
		Community learning	£442.68										Additional services, equipment & staff in NR
		Indexation											
			£3,002.37										
Y19/0048/FH	Land at Rolfe Lane/Cockreed Lane New Romney	Open space	£13,365.00	£13,365.00	02.12.20					£13,365.00		£13,365.00	Firstly towards the cost of providing new & improved Infrastructure/facilities to St Nicholas School playing field with residue to be applied to improving open space facilities at St Martins Field and Fairfield Rd Recreation Ground
		OP indexation	£1,135.14	£1,135.14	02.12.20					£1,135.14		£1,135.14	
		NHS health care	£4,717.44	£4,717.44	02.12.20					£4,717.44		£4,717.44	Additional health services in local surgeries
		HC indexation	£400.67	£400.67	02.12.20					£400.67		£400.67	
		Travel plan & cycle voucher	£37,800.00	£37,800.00	02.12.20					£37,800.00		£37,800.00	Public transport & sustainable travel improvements required as a consequence of the development
		TP & C indexation	£3,210.50	£3,210.50	02.12.20					£3,210.50		£3,210.50	
		Libraries	£3,025.26	£3,025.26	02.12.20					£3,025.26		£3,025.26	Additional resources and books at New Romney Library
		Lib indexation	£256.95	£256.95	02.12.20					£256.95		£256.95	
		Community learning	£1,328.04	£1,328.04	02.12.20					£1,328.04		£1,328.04	Additional equipment for family learning at New Romney Children's Centre & St Nicholas Primary School.
		CL indexation	£112.80	£112.80	02.12.20					£112.80		£112.80	
		Adult social care	£4,653.81	£4,653.81	02.12.20					£4,653.81		£4,653.81	Romney Marsh Day Centre
		ASC indexation	£395.27	£395.27	02.12.20					£395.27		£395.27	
		Primary education	£135,218.62	£135,218.62	02.12.20					£135,218.62		£135,218.62	Additional places at St Nicholas Primary School
PE indexation	£11,484.65	£11,484.65	02.12.20					£11,484.65		£11,484.65			
			£217,104.15	£217,104.15					£217,104.15		£217,104.15		
Y18/1404/FH	LA Hope All Saints Garden Centre	Social care	£73.87 per dwelling (up to £8,642.79)										Providing, expanding or improving adult social care facilities by additional services or staff at Romney Marsh Day Centre & Rehabilitation Unit
		Libraries	£48.02 per dwelling (up to £5,618.34)										Additional book stock at New Romney library
		Community learning	£21.08 per dwelling (up to £2,466.36)										Additional services, equipment & staff in New Romney
		Primary Education	£3,324 per house + £831 per flat (up to £388,908)										New accommodation at Greatstone Primary School
		High St/Station Rd improvement works	£131,000 . If cost exceeds this, developer to pay 51.55% of additional cost up to £45,000										Junction improvement works as specified in S106
		High St improvements	£688 per dwelling up to £80,496										Improvements to NR High St to include but not limited to: aesthetic improvements such as painting; planters; safety railings in town colours & town crest; town signs; replacement benches; bins; repairs to civic buildings
		Travel plan & cycle voucher	£70,000.00										Public transport & sustainable transport improvements
		Travel plan monitoring fee	£5,000.00										Costs of monitoring travel plan
		Traffic safety	£1,000.00										Implementing alternative traffic safety measures in the vicinity of the site
		Playing field	£18,977.10										Improving off site open space facilities at Fairfield Recreation Ground
		Healthcare	£68,922.56										Improvements to health service facilities at Oak Hall Surgery and/or Church Lane Surgery in New Romney
Indexation													
			Up to £702,031.15										

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Y18/1305/FH	95 Seabrook Road Hythe	Affordable Housing	£87,234.49								Within the district	
		Community learning	£295.07								Additional classes & equipment to meet needs of new attendees at The Cube Adult Education Centre Folkestone	
		Libraries	£3,178.00								Improvements & additional bookstock at Hythe Library	
		Primary Education	£13,608.00								New Shorncliffe Primary School	
		Social care	£1,197.14								Age Uk Hythe kitchen improvements	
		Play space	£8,822.00								In lieu of on-site play area. Maintenance, upkeep or provision of play space within 1,000m of development	
		Indexation										
			£114,334.70									
Y18/1035/FH	LA The Mount Barrow Hill Sellindge	Library	£108.32 per dwelling (up to £1,191.52)								Additional bookstock for mobile library attending Sellindge & improvements to Hythe Library	
		Primary Education	£4,535.00 per dwelling (up to £49,995)								1.5 FE expansion of Sellindge Primary	
		Indexation Lib										
		Indexation P Ed										
			Up to £51,076.52									
Y18/0066/SH	Land at Park Farm Road Folkestone	Travel plan monitoring	£5,00.00								To be used by KCC for monitoring travel plan	
		Indexation										
			£5,000.00									
Y17/1377/SH	Aldi (Kengate Industrial Estate) 142 Dymchurch Road Hy7the	Employment Initiative	£147,500	£147,500.00	26.03.19				£147,500.00	£0.00	£147,500.00	Refurbishment of off site industrial space or alternative employment initiatives in the district
		Indexation & interest	£11.54									
		Off site highway works	£5,000.00	£5,000.00	26.03.19				£5,000.00	£-5,000.00	£0.00	Off site highway works to include extension of double yellow lines in Military Road on the A259 & associated road lining & signing
		Indexation & interest	£6.82									
		Traffic Regulation Order	£2,955.00	£2,995.00	26.03.19				£2,995.00	£-2,995.00	£0.00	TRO in connection with off site highway works
		Indexation & interest	£340.48									
			£155,814.00	£155,495.00				£155,495.00		£147,500.00		
Y17/1099/SH (Y12/0897/SH)	Folkestone Seafont	Libraries	£67.03 per dwelling									
		Access Management Contribution	£200,000									
		Adult learning contribution	£21.34 per dwelling									
		Footpath contribution	£100,000									
		facilities and social care	£106.74 per dwelling									
		Primary Education	£2987.50 per dwelling									
		Tontine street	£150,000									
		Youth and community	£70.60 per dwelling									
		VMS contribution	£30,000									
		travel plan monitoring	£10,000									
		Junction 5 contribution	£50,000									
		Monitoring fee	£7000 *Supplementary monitoring fee of £xx per year after 7 years									
		Leas Lift (Community Facilities)	£500,000									
		Sea Sports (Community Facilities)	£250,000									
		Sea Sports (Community Facilities)	£200,000									
Public Space & Parking (Community Facilities)	£250,000 Leas Lift Contribution if not used											
GP contribution (Community Facilities)	DxPx£360 (see DoV)											
Beach facilities	£500,000 - £800,000											
Affordable housing	Residue of Community Facilities Contribution											

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		Indexation											
			Variable										
Y17/1042	Princes Parade Promenade	Healthcare	£151,200									Improving Oaklands Health Centre in Hythe	
		Indexation											
			£151,200										
Y16/1122/SH	Land rear of Rhodes House Main Road Sellindge	Healthcare	£360 per predicted occupant in a minimum sum of £136,800									Improving Sellindge Surgery to mitigate impact of development	
												Improving Sellindge Surgery to mitigate impact of development	
		Community learning	£21.08 per dwelling up to max of £3,414.40									Additional equipment in Folkestone Skills Centre Grace Hill Library, including laptops & IT	
		Primary school	£528,000.00									37 additional primary school places in Sellindge Primary School	
		Library	£108.32 per dwelling, max £17,547.92									Bookstock for mobile library service attending Sellindge & improvements to Hythe Library	
		Social care	£73.87 per dwelling to max of £11,966.94									Providing, expanding or improving adult social services facilities in Folkestone & Hythe to mitigate impact	
		Sports Pitch	£34,536									Upgrading playing pitches at Sellindge Sports & Social Club	
			£5,175pa for 10 years									Maintenance of pitches	
		Indexation											
			Variable										
Y16/0794/SH	Land at St Saviours Hospital Seabrook Road Hythe	NHS	£360 per predicted occupancy									Oaklands Health Centre	
		Play area (in lieu of on site provision)	£120 per child bedspace									Play areas within 1 mile radius of site to mitigate impact	
		Play area maintenance (in lieu of on site provision)	£3.05 per sqm play space per annum (5 sqm per child bedspace)									To mitigate the maintenance cost to the Council	
		Open space (in lieu of on site provision)	£6.99 per sqm									New, improvement or enhancement of open space within 1 mile radius	
		Open space maintenance (in lieu of on site provision)	£1.161 per sqm PA over 10 yrs									To mitigate the maintenance cost to the Council	
		Indexation											
			Variable										
Y16/0220/SH	58 Canterbury Road Folkestone	Affordable housing	£10,000.00										
		Libraries	£576.19									Additional bookstock	
		Indexation											
			£10,576.19										
Y15/0806/SH (Y10/0698/SH)	Romney Marsh Potato Co Ltd Cockreed Lane New Romney	Monitoring fee	£1,000.00										
		NR Library	£7,301.84	£7,301.84	27.04.16	N/A	N/A	N/A	N/A	£7,301.84	-£7,301.84	£0.00	Additional bookstock
		Adult education	£1,257.20	£1,257.20	27.04.16	N/A	N/A	N/A	N/A	£1,257.20	-£1,257.20	£0.00	Further information requested
		Adult social services	£1,174.32	£1,174.32	27.04.16	N/A	N/A	N/A	N/A	£1,174.32	-£1,174.32	£0.00	Romney Marsh Day Centre & Rehabilitation Unit through structural changes to the building to incorporate a centre for tele-health and technology
		Primary education	£31,727.92	£31,727.92	27.04.16	N/A	N/A	N/A	N/A	£31,727.92	-£31,727.92	£0.00	Further information requested
		Play facilities	£20,000.00	£20,000.00	24.01.17	N/A	N/A	N/A	N/A	£20,000.00		£20,000.00	NEED TO CONSIDER ALONGSIDE ADJOINING SITE - to be used towards to provision of plays facilities in the local area to mitigate the impact of the development
		Pedestrian & cycle connectivity to & from the site	£70,000.00	£70,000.00	22.03.17	N/A	N/A	N/A	N/A	£70,000.00	-£70,000.00	£0.00	Creation of paths to improve cycle and pedestrian connectivity to and from the site
		NR High Street improvements	£38,538.00	£38,538.00	24.01.17	N/A	N/A	N/A	N/A	£38,538.00		£38,538.00	Providing expanding or improving crossing points and/or environmental improvements to NR High St to mitigate impact of development.
		Indexation NRL	£245.71	£245.71	27.04.16	N/A	N/A	N/A	N/A	£245.71	-£245.71	£0.00	
		Indexation AE	£42.30	£42.30	27.04.16	N/A	N/A	N/A	N/A	£42.30	-£42.30	£0.00	
		Indexation ASS	£39.52	£39.52	27.04.16	N/A	N/A	N/A	N/A	£39.52	-£39.52	£0.00	
		Indexation PE	£1,067.65	£1,067.65	27.04.16	N/A	N/A	N/A	N/A	£1,067.65	-£1,067.65	£0.00	
		Indexation PF	£1,021.38	£1,021.38	24.01.17	N/A	N/A	N/A	N/A	£1,021.38		£1,021.38	
		Indexation PCC	£3,574.82	£3,574.82	22.03.17	N/A	N/A	N/A	N/A	£3,574.82	-£3,574.82	£0.00	
		Indexation NRHS	£1,861.20	£1,861.20	24.01.17	N/A	N/A	N/A	N/A	£1,861.20		£1,861.20	
			£177,851.86	£177,851.92						£177,851.86	-£116,431.28	£61,420.58	
		Libraries	£672.28	£672.28	02.10.19					£672.28	-£672.28	£0.00	Stock for mobile library that attends Hawkinge

Section 106 Agreement - contributions received

Y15/0741/SH	Mill Farm, Mill Lane, Hawlinge	Education	£33,053.44	£2,360.96	02.10.19			£2,360.96	-£2,360.96	£0.00	Enhancement of Hawking PC for additional school places
		Open space	£13,705.84	£13,705.84	02.10.19			£13,705.84		£13,705.82	Towards the cost of maintaining the open space in Kettle Drive
		Child Play Space	To be determined by No. of bedspaces	£34,220.00	02.10.19			£34,220.00		£34,220.00	Towards the cost of maintaining the play area at Kettle Drive
		Street Lighting	Dependent on cost to maximum of £5,000								For the provision of one street light on existing telegraph pole in Mill Lane - KCC Highways. Cost not to exceed £5K
		Indexation Lib	£65.85	£65.85	02.10.19			£65.85	-£65.85	£0.00	Stock for mobile library that attends Hawkinge
		Indexation Ed	£231.26	£231.26	02.10.19			£231.26	-£231.56	£0.00	Enhancement of Hawking PC for additional school places
		Indexation OS	£1,342.49	£1,342.49	02.10.19			£1,342.49		£1,342.49	
		Indexation CPS	£3,351.85	£3,351.85	02.10.19			£3,351.85		£3,351.85	
		£91,643.01							£55,950.52	£52,620.16	
Y15/0720/SH	Philbeach Nursing Home Tanners Hill Hythe	Health Care	£59,472.00								
		Indexation									
		£59,472.00									
Y15/0581/SH	Land adjoining End House Grand Parade Littlestone	Libraries	£528.17	£528.17	18.08.17			£528.17	-£528.17	£0.00	Additional bookstock for New Romney Library
		Affordable housing	£125,000.00			£125,000.00	02.11.18	£125,000.00	£0.00	£125,000.00	Off site provision
		Interest(Lib)		£9.89	18.08.17			£9.89	-£9.89	£0.00	
		Indexation (Lib)		£12.70	18.08.17			£12.70	-£12.70	£0.00	
		Indexation AH				£10,902.83	02.11.18	£10,902.83		£10,902.83	
		£125,528.17	£550.76		£135,352.83		£136,453.59		£135,902.83		
Y15/0467/SH	Paddock House 13 Prospect Road Hythe	Affordable housing	£76,050.00	£76,050.00	07.08.17			£76,050.00		£76,050.00	Princes Parade
		Indexation		£1,665.75	07.08.17			£1,665.75		£1,665.75	
		Libraries	£480.16	£480.16	07.08.17			£480.16	-£480.16	£0.00	Hythe Library bookstock
		Indexation		£10.52	07.08.17			£10.52	-£10.52	£0.00	
		£76,530.16	£78,206.43				£78,206.43		£77,715.75		
Y15/0164/SH	Land opposite Dorland Cockreed Lane New Romney	Social Care	£8,125.70	£4,062.85	07.08.19			£4,062.85	-£4,062.85	£0.00	Romney Marsh Day Centre
		Community	£2,318.80	£1,159.40	07.08.19			£1,159.40	-£1,159.40	£0.00	Additional equipment for family learning at New Romney Children's Centre & St Nicholas Primary School.
		Libraries	£5,282.20	£2,641.10	07.08.19			£2,641.10	-£2,641.10	£0.00	Additional resources and books at New Romney Library
		Education	£236,096.00	£118,048.00	07.08.19			£118,048.00	-£118,048.00	£0.00	Additional places at St Nicholas Primary School
		Highways & High Street	£136,960.00	£136,960.00	10.08.18			£136,960.00	£0.00	£136,960.00	Reconfiguration & alterations of existing Hight St/Station Rd/Church Rd signalised junction & Cockreed Lane/St Marys Rd junction improvements
		Travel plan & cycle voucher	£66,000.00	£33,000.00	07.08.19			£33,000.00	£0.00	£33,000.00	Public transport & sustainable travel improvements required as a consequence of the development
		Health Care	£64,864.80	£64,864.80	07.08.19			£64,864.80	£0.00	£64,864.80	Additional health services in local surgeries
		Open space	£163,350.00	£163,350.00	18.07.18			£163,350.00	£0.00	£163,350.00	Firstly towards the cost of providing new & improved Infrastructure/facilities to St Nicholas School playing field with residue to be applied to improving open space facilities at St Martins Field and Fairfield Rd Recreation Ground
		Indexation open space	£5,257.34	£5,257.34	08.06.18			£5,257.34	£0.00	£5,257.34	
		Indexation highways & High St	£8,627.08	£8,627.08	10.08.18			£8,627.08	£0.00	£8,627.08	
Indexation on remainder	£19,342.00	£19,342.00	07.08.19			£19,342.00	-£10,883.09	£8,458.91	As above		
		£716,223.92					£557,312.57		£420,518.13		
Y14/1428/SH	Land adjoining Fairlight Terrace Lydd Road New Romney	Libraries	£1,008.33								Bookstock
		Education	£11,897.97								New Romney Primary School
		Social Care	£1,551.27								Romney Marsh Day Centre
		Community	£442.59								
		Indexation									
		£14,900.16									
Y14/0873/SH	Land Adjacent The Surgery Main Road Sellindge	Monitoring	£5,500.00								
		Village Green & Open Space Maintenance	£626,320.00								
		Libraries	£27,327.21								
		Education	£836,260.00								Sellindge Primary School Expansion
		Health Care	£252,000.00								Sellindge Surgery Expansion
		Bus Services	£30,000.00								
		£1,771,907.21									

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Y14/0578/SH	Land at Coach Depot King Street Brenzett	Social Care	£230.28										
		Community	£231.84										
		Libraries	£1,283.83										
		Education	£4,589.55										
		Indexation											
			£6,335.50										
Y15/0467/SH	13 Prospect Road Hythe	Affordable Housing	£76,050.00										
		Indexation											
			£76,050.00										
Y14/0300/SH	Shorncliffe Garrison Folkestone Kent	Monitoring	£9,240.00	£9,240.00	21.02.17				£9,240.00	-£9,240.00	£0.00		
		Education	£3,143,222.00	£50,000	Paid direct to KCC				£0.00		£0.00	New primary school	
		Management & Maintenance of Pavilion	£228,600.00										
		Management & Maintenance of Toilet Block	£17,544.00										
		Formal Open Space	£164,865.00 for The Stadium and LEAP; £280,432.00 for Le Quesne and the NEAP										
		Libraries	£167,008.25										
		PROWs (HF38 & HBX11)	£55,000.00	£55,000.00	21.02.17				£55,000.00	-£55,000.00	£0.00	HF55 £34,338 new metalled path; HF38 £5,900 new metalled path, £8294 new wearing course; HBX11 £6,637 new metalled path	
		Indexation		£907.52	21.02.17				£907.52	-£907.52	£0.00		
		Footpath (Church Road & Cheriton High Street)	£25,000.00	£25,000.00	21.02.17				£25,000.00	-£25,000.00	£0.00	Upgrading of existing footpath linking Church Road and Cheriton High Street -HB38 & HBX11	
		Indexation		£412.51	21.02.17				£412.51	-£412.51	£0.00		
		Cycle Routes	£25,000.00	£25,000.00	21.02.17				£25,000.00	-£25,000.00	£0.00	Improvements to existing cycle routes in vicinity	
		Indexation		£412.51	21.02.17				£412.51	-£412.51	£0.00		
		Signals & Minor Junction improvements	£25,000.00	£25,000.00	21.02.17				£25,000.00	-£25,000.00	£0.00	Reconfiguration of signal timings an minor works at A20 Cheriton High Street/Risborough Lane signals junction	
		Indexation		£412.51	21.02.17				£412.51	-£412.51	£0.00		
		Signal Works	£1,750.00	£1,750.00	21.02.17				£1,750.00	-£1,750.00	£0.00	Reconfiguration of signal timings Cheriton Rd/Cherry Garden Ave/Beachborough Road signals junction	
		Indexation		£28.88	21.02.17				£28.88	-£28.88	£0.00		
		Bus Service Pump Priming	£880,000.00										
		Travel Plan Monitoring	£9,000.00		£1,000.00	21.02.17				£1,000.00	-£1,000.00	£0.00	
					£1,000.00	03.01.18				£1,000.00	-£1,000.00	£0.00	
					£1,000.00	21.05.19				£1,000.00	-£1,000.00	£0.00	Released to KCC 28.07.20
					£1,000.00	27.01.20				£1,000.00	-£1,000.00	£0.00	Released to KCC 28.07.20
		Indexation			£16.50	21.02.17				£16.50	-£16.50	£0.00	
					£74.39	03.01.18				£74.39	-£74.39	£0.00	
		Cycle Voucher	Max. £120,000.00										
Public Transport Voucher	Max. £180,000.00												
Indexation													
			£5,332,661.25	£188,014.82				£184,940.43		£0.00			
		Monitoring fee	£1,000.00										
		Affordable Housing	£90,000.00	£90,000.00	13.11.19			£90,000.00		£90,000.00	Off site affordable housing in the district		
		Social care	£376.74	£376.74	13.11.19			£376.74	-£376.74	£0.00	Romney Marsh Day Centre		
		Education	£10,198.26	£10,198.26	13.11.19			£10,198.26	-£10,198.26	£0.00	Additional places at St Nicholas School New Romney		

Section 106 Agreement - contributions received

Y13/1206/SH	Land adj 143 Queens Rd Littlestone	Libraries	£1,704.55	£1,704.55	13.11.19				£1,704.55	-£1,704.55	£0.00	Additional bookstock at NR library and mobile library for Greatstone	
		Community	£378.81	£378.81	13.11.19				£378.81	-£378.81	£0.00	Additional equipment for family learning at New Romney Children's Centre & St Nicholas Primary School.	
		Indexation AH	£12,574.57										
		Indexation SC	£52.64										
		Indexation Ed	£1,424.87										
		Indexation Lib	£238.16										
		Indexation Com	£52.93										
		£117,001.52	£102,658.36					£102,658.36		£90,000.00			
Y13/0858/SH	Stoneleigh House Tram Rd Folkestone	Monitoring fee	£500.00										
		Adult social services	£1,393.18										
		Community learning	£295.07										
		Libraries	£370.25										
		Primary schools	£11,298.14										
		Indexation											
		£13,356.64											
Y13/0172/SH	Land at Seapoint Centre (Oliver Court) Seabrook Road Hythe	Monitoring fee	£1,000.00										
		Affordable Housing	£250,000.00	£88,255.00	29.02.16	£88,255.00	23.05.16	£73,490.00	29.11.16	£250,000.00	-£250,000.00	£0.00	
		Canal bank platform	£8,000.00	£2,810.00	29.02.16	£2,810.00	23.05.16	£2,380.00	29.11.16	£8,000.00	-£8,000.00	£0.00	Erection of a new launch platform onto canal
		Community facility (SDC)	£150,000.00	£52,935.00	29.02.16	£52,935.00	23.05.16	£44,130.00	29.11.16	£150,000.00	-£38,704.47	£111,295.53	Seapoint Canoe Centre
		Education and community facilities (KCC)	£17,000.00	£6,000.00	29.02.16	£6,000.00	23.05.16	£5,000.00	29.11.16	£17,000.00	-£17,000.00	£0.00	Shorncliffe Garrison Primary School and Hythe Age UK - accessibility improvements & refurbishment of café; new seating for lounge and dining area
		Indexation on first 2 payments		N/A	N/A	£6,073.84	29.11.16	N/A		£6,073.84	-£6,073.84	£0.00	
		Indexation on balance		N/A	N/A			£11,274.31	17.01.17	£11,274.31	-£4,824.89	£6,449.42	
		£425,000.00	£150,000.00		£156,073.84		£136,274.31		£442,348.15	-£324,603.20	£117,744.95		
Y13/0166/SH	52-54 Guildhall Street	Monitoring fee	£250.00										
		Social Care	£1,393.14										
		Community	£294.63										
		Libraries	£667.90										
		Education	£15,703.94										
		Indexation											
		£18,059.61											
Y13/0127/SH (linked to Y10/0739/SH)	4 Defiant Close/Spitfire Leisuredrome Hawkinge	Libraries	£307.68										
		Education	£1,672.60										
		Community	£84.20										
		Social Care	£83.76										
		Indexation	£115.28										
		£2,263.52											
Y13/0024/SH	Silver Springs, Caesars Way, Folkestone	Monitoring fee	£500.00	£500.00	31.07.14	N/A	N/A	N/A	N/A	£500.00	-£500.00	£0.00	
		Libraries	£29,038.06										
		Community	£1,620.47										
		Social care	£7,662.27										
		Education	£86,371.42										
		Bus vouchers	£7,700.00										
		Bus stop relocation	£3,000.00										
		Monitoring travel plan	£5,000.00										

Section 106 Agreement - contributions received

		Child play space	£60,000.00										
		Indexation											
		Interest											
			£200,392.22										
Y12/1144/SH	Old Rectory Cottage Acrise	Monitoring fee	£200.00										
Y12/1097/SH (Y09/0702/SH)	Building adjoining Grace Chapel Folkestone	Monitoring fee	£500.00										
		Community	£314.30										
		Education	£15,703.89										
		Libraries	£938.98										
		Social Care	£1,393.18										
		Indexation											
			£18,350.35										
Y12/1000/SH	Land at 72 Cheriton High Street Folkestone	Monitoring fee	£500.00										
		Social care	£1,194.15										
		Libraries	£804.84										
		Education	£13,460.48										
		Community	£269.40										
		Indexation											
			£15,728.87										
Y12980/SH	Royal Victoria Hospital Radnor Park Avenue Folkestone	Affordable Housing	£195,000.00										Towards the cost of affordable housing within the Council's administrative area
		Additional Affordable Housing if applicable	Subject to vaibility & calculation										Towards the cost of affordable housing within the Council's administrative area
		Bus Shelter	£5,000.00										To be used towards the provision of a shelter at Radnor Park bus stop
		BS Indexation & Interest	£168.62										
			£200,168.62										
Y12/0802/SH	Land at The Shakespeare Centre 145/147 Sandgate Road	Monitoring fee	£250.00	£250.00	30.01.13	N/A	N/A	N/A	N/A	£250.00	-£250.00	£0.00	Monitoring agreement
		Community	£269.40										
		Social care	£1,194.15										
		Libraries	£804.84										
		Education	£13,460.48										
		Indexation											
			£15,728.87										
Y12/0767/SH	Land adjoining Ingles Manor Castle Hill Avenue Folkestone	Monitoring Fee	£6,000.00	£1,000.00	20.01.14					£1,000.00	-£1,000.00	£0.00	Monitoring agreement
		Libraries	£2,814.70										
		Community	£1,241.66	£16,769.36	27.02.15					£16,769.36	-£16,769.36	£0.00	
		Social care	£5,871.09										
		Education	£66,180.89										
		Sustainable Transport	£5,900.00										
		Traffic Regulation Order	£15,426.42										
		Open space	£45,235.00										
		Indexation	£380.82	£380.82 (Ph1)	24.05.16					£380.82	-£380.82	£0.00	
			£143,050.58	£17,150.18						£17,150.18		£0.00	
Y12/0274/SH (reserved matters Y16/0597/SH)	Rear of 18-20 Radnor Park Avenue Folkestone	Monitoring fee	£500.00										
		Social care	£1,425.71	£1,425.71	09.11.16								
		Community	£291.72	£291.72	09.11.16								
		Libraries	£871.78	£871.78	09.11.16								
		Education	£14,582.23	£14,582.23	09.11.16								
		Play space	£12,000.00	£12,000.00	09.11.16								
		Indexation											
			£29,171.44	£29,171.44									
Y12/0260/SH	Land at 1 Victoria Mews	Monitoring fee	£100.00										
		Social care	£1,535.38										
		Community	£314.16										
		Libraries	£938.84										

Section 106 Agreement - contributions received

	Christchurch Road Folkestone	Education	£15,703.94										
		Indexation											
			£18,492.32										
Y12/0055/SH (Y13/0595/SH)	Folkestone Ambulance Station, 121 Church Road Folkestone	Monitoring fee	£500.00	£500.00	16.04.14	N/A	N/A	N/A	N/A	£500.00	-£500.00	£0.00	
		Social care	£1,535.35	£1,535.35	03.04.14	N/A	N/A	N/A	N/A	£1,535.35	-£1,535.35	£0.00	Local hub for PD clients; Local services for OP; Local hub for people with LD; Co-location with health - all in Folkestone; Assistive Technology
		Community	£314.27	£314.27	03.04.14	N/A	N/A	N/A	N/A	£314.27	-£314.27	£0.00	The Cube Adult Education Centre
		Libraries	£938.94	£938.94	03.04.14	N/A	N/A	N/A	N/A	£938.94	-£938.94	£0.00	Folkestone Library - expansion of library space and additional stock
		Education	£15,703.89	£15,703.89	03.04.14	N/A	N/A	N/A	N/A	£15,703.89	-£15,703.89	£0.00	
		Play space	£5,000.00	£5,000.00	09.12.13	N/A	N/A	N/A	N/A	£5,000.00	£0.00	£5,000.00	Provision or maintenance of child play space to mitigate the impact of the development
		Indexation	£988.61	£988.61	16.04.14	N/A	N/A	N/A	N/A	£988.61	-£988.61	£0.00	
			£24,481.06	£24,481.06						£24,481.06		£5,000.00	
Y11/1156/SH	Lawrence House 15 St Marks Close Folkestone	Monitoring fee	£1,000.00	£1,000.00	20.11.12					£1,000.00	-£1,000.00	£0.00	Monitoring agreement
		Play space	£10,000.00	£5,000.00	24.09.14	£5,000.00				£5,000.00	-£5,000.00	£0.00	Providing improving or maintaining child play space facilities in the vicinity of the site to mitigate the impact of the development
		Community Infrastructure	£12,000.00	£6,000.00	24.09.14	£6,000.00				£6,000.00	£0.00	£6,000.00	Providing, improving or maintaining community infrastructure to mitigate the impact of the development
		Tree planting	£2,000.00	£1,000.00	24.09.14	£1,000.00				£1,000.00	£0.00	£1,000.00	Tree planting in the vicinity to mitigate the impact of the development
		Indexation		£552.00	24.09.14					£552.00	-£475.76	£76.24	
		Indexation & Interest PS				£7,454.92	04.11.20			£7,454.92	-£5,475.76	£1,979.16	Naseby Ave - play equipment, fencing & safety surfacing
		Indexation and Interest CI				£8,945.91	04.11.20			£8,945.91	£0.00	£8,945.91	
		Indexation & Interest TP				£1,490.98	04.11.20			£1,490.98	£0.00	£1,490.98	
			£24,000.00	£12,552.00		£29,891.82				£30,443.82		£19,492.29	
Y11/0812/SH	Land rear of Victoria Road Littlestone	Monitoring fee	£750.00			N/A	N/A	N/A	N/A				
		Open space & play equipment	£2,800.00	£2,800.00	25.02.15	N/A	N/A	N/A	N/A	£2,800.00	£0.00	£2,800.00	
			£2,800.00	£2,800.00						£2,800.00		£2,800.00	
Y11/0765/SH	46 Palmbeach Avenue	Monitoring fee	£200.00										
Y11/0537/SH	Garden of Hawkurst West Lawn Gardens Sandgate	Education - secondary	£290.50										
		Education - primary	£244.50										
		Libraries	£928.40										
		Social care	£1,299.40										
		Indexation											
			£2,762.80										
Y11/0334/SH	Monument House The Leas Folkestone	Monitoring fee	£500.00										
		Social care	£1,316.02										
		Community	£269.38										
		Libraries	£804.81										
		Education	£13,460.52										
		Indexation											
			£15,850.73										
		Libraries	£3,457.91	£3,457.91	20.04.15	N/A	N/A	N/A	N/A	£3,457.91	-£3,457.91	£0.00	Released to KCC for book stock at Hythe library
		The Boadwalk maintenance to SDC	£5,000.00	£5,000.00	20.04.15	N/A	N/A	N/A	N/A	£5,000.00	-£5,000.00	£0.00	Developr has agreed for monies to be used for ramp from carpark instead. See letter on planning file dated 28.11.18
		Social care	£9,856.20	£9,856.20	20.04.15	N/A	N/A	N/A	N/A	£9,856.20	-£9,856.20	£0.00	Age UK Hythe kitchen improvements
		Site play provision	£16,000.00	£16,000.00	20.04.15	N/A	N/A	N/A	N/A	£16,000.00	-£16,000.00	£0.00	Hythe TC improvements to Oakland play area
		Public art	£10,000.00	£10,000.00	20.04.15	N/A	N/A	N/A	N/A	£10,000.00	-£10,000.00	£0.00	Art work on Fishermans' Beach
		Shingle monitoring	£16,169.00	£16,169.00	20.04.15	N/A	N/A	N/A	N/A	£16,169.00	-£13,149.00	£3,020.00	Applicant has submitted program of survey work that has been agreed by Natural England, to be undertaken by Sean Clancy as works incorporate monitoring of Emerald Moth Habitat. We will need to release funds to pay for the monitoring as per the quotation so as to ensure NE's requirements are met
		Youth & community facilities	£10,757.81	£10,757.81	20.04.15	N/A	N/A	N/A	N/A	£10,757.81	-£10,757.81	£0.00	Towards Hythe Scout Group improved HQ in Range Road
			£71,240.92	£71,240.92						£71,240.92	-£68,220.92	£3,020.00	
Y11/0122/SH	Land adjoining 20 Encombe Sandgate	Education, libraries, adult social services, Indexation	£30,676.30										
			£30,676.30										

Section 106 Agreement - contributions received

Y11/0121/SH	Land at 11 Littlestone Road New Romney	Libraries	£633.95												
		Youth & communities	£487.13												
		Adult social services	£234.63												
		Indexation													
			£1,355.71												
Y10/0898/SH	Hotel Imperial Princes Parade Hythe	Monitoring fee	£5,000.00	£5,000.00	02.06.17	N/A	N/A			£5,000.00	-£5,000.00	£0.00			
			£3,000.00	£3,000.00	02.06.17	N/A	N/A			£3,000.00	-£3,000.00	£0.00			
			£2,000.00	N/A	N/A		£2,000.00	05.10.17			£2,000.00	-£2,000.00	£0.00		
											£10,000.00		£0.00		
		Libraries	£17,025.00	£8,512.50		£8,512.50					£17,025.00	-£17,025.00	£0.00	Hythe Library works & stock	
		Education	£138,116.00	£69,058.00		£69,058.00					£138,116.00	-£138,116.00	£0.00		
		Social care	£90,075.00	£45,037.50	02.06.17	£45,037.50		05.10.17			£90,075.00	-£90,075.00	£0.00	Extension to Age Uk building in Hythe to create bespoke area for people living with dementia	
		Affordable housing	£1,038,400.00	N/A	N/A	£1,038,400.00		05.10.17			£1,038,400.00	-£456,878.95	£581,521.10	Towards preliminary costs incurred for the Princes Parade leisure & housing development(including affordable housing) scheme in 2019-20	
		Pumping Station	£12,500.00			£12,500.00		05.10.17			£12,500.00	£4,755.00	£7,745.00	Repairs to 2 sections fo RMC banking that has collapsed close to Imperial Green in order to mitigate against further erosion and flood risk	
		Ph 1 Indexation libraries, primary and social services		£36,371.75	02.06.17	N/A	N/A							As above	
		Ph 2 Indexation for libraries, primary, social services					£45,758.01	05.10.17				£82,129.76	-£82,129.76	£0.00	As above
		Affordable housing indexation					£377,600.00	05.10.17				£377,600.00	£0.00	£377,600.00	As above
		Pumping Station indexation					£4,545.45	05.10.17				£4,545.45	-£1,729.00	£2,816.45	As above
			£1,296,116.00							£1,775,296.30		£969,682.55			
Y10/0322/SH	Land at King Street Brenzett Romney Marsh	Libraries	£2,497.00												
		Community	£9,097.00												
		Indexation													
					£11,594.00										
Y09/0627/SH	Military Road Hythe	Monitoring fee	£3,000.00	£3,000.00	20.05.10	N/A	N/A	N/A	N/A	£3,000.00	-£3,000.00	£0.00	Monitoring agreement		
		Residential improvement	£85,000.00	£85,000.00	20.05.10	N/A	N/A	N/A	N/A	£85,000.00	-£79,974.00	£5,026.00	Double glazing noise reduction		
		Town centre purposes	£200,000.00	£200,000.00	16.02.11	N/A	N/A	N/A	N/A	£200,000.00	-£181,954.24	£11,819.86	Hythe events - released to Hythe TC 22.07.11. Signage, lighting & passenger shelters - released to Hythe TC 2012-2014. Promotional bags 03.02.16. Mackeson Sq improvements Jan 19 - tree in footway £1,200		
		Traffic management	£35,000.00	£35,000.00	16.02.11	N/A	N/A	N/A	N/A	£35,000.00	-£35,000.00	£0.00	Traffic improvements detailed in S106. Released to KCC 18.07.11		
					£320,000.00						£320,000.00	-£296,928.24	£16,845.86		
Y08/0152/SH	8 & 9 Marine Parade Folkestone	Monitoring fee	£100.00	£100.00	23.12.08	N/A	N/A	N/A	N/A	£100.00	-£100.00	£0.00	Monitoring agreement		
			£400.00												
		Parking Strategy/sports provision	£2,400.00												
		Adult education	£2,160.00												
		Social care	£14,412.00												
		Youth & community	£2,481.00												
		Indexation													
			£21,453.00												
Land adjoining Pumping Station		Libraries	£4,081.70	£4,081.70	14.12.17					£4,081.70	-£4,081.70	£0.00	New Romney library bookstock & St Marys Bay mobile library		
		Community	£1,791.48	£1,791.48	14.12.17					£1,791.48	-£1,791.48	£0.00	Staff & equipment at St Marys Bay village hall adult learning sessions		
		Social care	£5,131.45	£5,131.45	14.12.17					£5,131.45	-£5,131.45	£0.00	Romney Marsh Day Centre & Rehabilitation Unit		

Section 106 Agreement - contributions received

Y07/1566/SH	Land adjoining Pumping Station Dymchurch Road St Marys Bay	NHS	£77,760.00	£77,760.00	14.12.17					£77,760.00	£0.00	£77,760.00	Enhancing healthcare needs in surgeries in New Romney area	
		Indexation	£4,138.57	£4,138.57	14.12.17					£4,138.57	£-591.93	£3,546.64		
		Interest												
			£92,903.20	£92,903.20						£92,903.20		£81,306.64		
Y06/1647/SH &Y06/1648/SH	Lydd Airport	Development monitoring	£2,500.00	£2,500.00	18.11.13	N/A	N/A	N/A	N/A	£2,500.00	£-2,500.00	£0.00	Monitoring development	
			£2,500.00											
			£41,000.00											
			£41,000.00											
		Noise survey fee for Greatstone School	£10,000.00	£10,000.00	08.07.14	N/A	N/A	N/A	N/A	£10,000.00	£-10,000.00	£0.00	To be used for sound insulation survey for Greatstone School	
		Noise mitigation measures for Greatstone School	£90,000.00											
		Bus shelter	£10,750.00											
Indexation														
		£197,750.00	£12,500.00						£12,500.00		£0.00			
Y06/1079/SH	Nickolls Quarry Dymchurch Road Hythe	Monitoring	£25,000 (£20K SDC, £5K KCC)											
		Sport leisure & community	£3,200,000.00	£9,925 (+ £1,547.45 indexation & £937.75 interest)	09.10.15					£9,925.00	£-9,925.00	£0.00	Strategic leisure feasibility study	
		Railway contribution	£100,000.00											
		Bus	£625,000.00											
		Highways (works to Scanlons Bridge)	£45,000.00	£45,000.00	14.04.14 paid direct to KCC	N/A	N/A	N/A	N/A	£45,000.00	£-45,000.00	£0.00	Toucan crossing at Scanlons Bridge	
		Highways (works to Newingreen Junctions)	£289,000.00	£289,000 (+ £44,101.40 indexation)	08.05.15 Paid direct to KCC	N/A	N/A	N/A	N/A	£289,000.00	£-289,000.00	£0.00	Works to Newingreen Junctions	
		Pedestrian Route Improvements	£15,000.00											
		Education	£1,200,000.00											Palmarsh School
		Supplementary Measures fund	£50,000.00											For variations to travel plan
		Indexation		£44,101.40						£44,101.40	£-44,101.40	£0.00	Works to Newingreen junctions	
		Indexation		£1,547.45						£1,547.45	£-1,547.45	£0.00	Strategic leisure feasibility study	
		Interest		£937.75						£937.75	£-937.75	£0.00	Strategic leisure feasibility study	
		Interest												
		£5,479,000.00	£390,511.60						£0.00		£0.00			
Y03/0903/SH	Land at Former Aerodrome Hawkinge	Transportation in Hawkinge (SDC)	£65,000.00	£65,000.00	24.03.06	N/A	N/A	N/A	N/A	£65,000.00	£-16,359.21	£48,640.79		
		Pedestrian crossing (KCC)	£10,000.00	£10,000.00	24.03.06	N/A	N/A	N/A	N/A	£10,000.00	£-10,000.00	£0.00	Pedestrian crossing on Southern Link Road	
		Open space (SDC)	£155,000.00	£155,000.00	10.05.12	N/A	N/A	N/A	N/A	£155,000.00	£-155,000.00	£0.00	For maintenance of POS when transferred to FHDC in 2014.	
		Indexation	£29,975.61	£29,975.61		N/A	N/A	N/A	N/A	£29,975.61	£-29,975.61	£0.00		
				£259,975.61	£259,975.61						£259,975.61		£48,640.79	

APPENDIX 3 Total CIL Receipts and Transfers up to 29th September 2020.

<u>29/09/2020</u>								
Application No.	Date Paid	Application site	CIL due	Amount Paid	Amount outstanding	5% admin fee £ transferred	Paid out to town/parish councils	Comments
Y16/0987/SH	08/08/2017	Land adjoining 6 Stade Street Hythe	-£ 13,300.00	-£ 13,300.00	£ -	£ 665.00	£ 1,995.00	Paid to Hythe Town Council 11/02/2020
Y16/0933/SH	17/10/2017	5 Dunstall Gardens, St Marys Bay	-£ 2,685.00	-£ 2,685.00	£ -	£ 134.25		
Y17/0594/SH	24/11/2017	Land Adjoining Acorns, Barnhurst Lane, Hawkinge,	-£ 9,704.00	-£ 9,704.00	£ -	£ 485.20		
Y17/0830/SH	06/03/2018	47 Kingsway, Dymchurch,	-£ 4,678.50	-£ 4,678.50	£ -	£ 233.93		
Y17/1022/SH	31/10/2018	69A Seabrook Road, Hythe	-£ 104,000.00	-£ 104,000.00	£ -	£ 5,200.00	£ 15,600.00	Paid to Hythe Town Council 11/02/2020
Y17/0710/SH	21/12/2018	Ingles Meadow Garden Centre, Jointon Road, Folkestone	-£ 42,141.97	-£ 42,141.97	£ -	£ 2,107.10	£ 6,321.30	Paid to Folkestone Town Council 14/07/2020
Y17/1385/SH	21/12/2018	Sea Close, Cannongate Road, Hythe	-£ 25,162.00	-£ 25,162.00	£ -	£ 1,258.10	£ 3,774.30	Paid to Hythe Town Council 11/02/2020
Y18/0093/SH	08/01/2019	Sea Close, Cannongate Road, Hythe	-£ 99,400.00	-£ 99,400.00	£ -	£ 4,970.00	£ 14,910.00	Paid to Hythe Town Council 11/02/2020
Y18/0524/FH	28/02/2019	Claverley 145 Queens Road, Littlestone	-£ 6,892.20	-£ 6,892.20	£ -	£ 344.61	£ 1,033.83	Paid to New Romney Town

APPENDIX 3 Total CIL Receipts and Transfers up to 29th September 2020.

									Council 17/07/2020
Y17/0150/SH	03/04/2019	33 Newlands St Marys Bay Romney Marsh	-£ 9,050.00	-£ 9,050.00	£ -	£ 452.50			
Y18/0327/SH	09/04/2019	Rolfe Lane, New Romney	-£ 35,390.90	-£ 35,390.90	£ -	£ 1,769.55	£ 5,308.64		Paid to New Romney Town Council 17/07/2020
Y17/1512/SH	20/06/2019	Great Field Farm, Misling Lane, Stelling Minnis	-£ 12,581.00	-£ 12,581.00	£ -	£ 629.05			
Y17/0127/SH	17/09/2019	Seascape, Madeira Road, Littlestone	-£ 19,800.00	£ -	-£ 19,800.00	£ -			
Y18/1258/FH	16/12/2019	Land adjoining Telephone Exchange, Barnhurst Lane, Hawkinge	-£ 23,750.00	-£ 23,750.00	£ -	£ 1,187.50			
Y19/0409/FH	23/12/2019	Land Adjoining 17 Hillcrest Road ,Hythe	-£ 59,590.65	-£ 59,590.65	£ -	£ 2,979.53			
Y15/1292/SH	22/01/2020	Stonegate Farmers, Stone Street Stelling Minnis	-£ 118,458.58	-£ 118,458.58	£ -	£ 5,922.93			
Y17/0866/SH	07/01/2020	96 St Leonards Road Hythe	-£ 28,444.00	-£ 28,444.00	£ -	£ 1,422.20	£ 4,266.60		Paid to Hythe Town Council 11/02/2020
Y17/0971/SH	07/01/2020	Land Rear 162 High Street Hythe	-£ 54,600.00	-£ 54,600.00	£ -	£ 2,730.00	£ 8,190.00		Paid to Hythe Town Council 11/02/2020
Y17/0312/SH	05/02/2020	74 High Street New Romney	-£ 39,600.00	-£ 39,600.00	£ -	£ 1,980.00	£ 5,940.00		Paid to New Romney Town Council 17/07/2020
Y18/0355/SH	02/06/2020	34 Julian Road Folkestone	-£ 15,425.00	-£ 15,425.00	£ -	£ 771.25	£ 2,313.75		Paid to Folkestone

APPENDIX 3 Total CIL Receipts and Transfers up to 29th September 2020.

								Town Council 14/07/2020
Y12/0980/SH	19/08/2020	Royal Victoria Hospital, Radnor Park Road, Folkestone	-£ 89,174.99	-£ 89,174.99	£ -	£ 4,458.75	£ 13,376.25	Paid to Folkestone Town Council 09/09/2020
Y19/0068/FH/AT	26/08/2020	Land Adjoining Millside, Rhee Wall Road, Brenzett	-£ 39,684.12	-£ 39,684.12	£ -	£ 1,984.21		
Y17/1549/SH	25/08/2020	12 Jointon Road Folkestone	-£ 44,689.00	-£ 44,689.00	£ -	£ 2,234.45		
Y19/0231/FH	02/10/2020	20 Encomber Sandgate	-£ 34,437.60	-£ 34,437.60	£ -	£ 1,721.88		
Y18/1200/FH	15/10/2020	76 Shorncliffe Road, Folkestone	-£ 34,296.90	-£ 34,296.90	£ -	£ 1,714.85		
Y19/0962/FH	03/12/2020	Land Adjoining Heidi Ho, Quarry Road,(formerly land at 31 Castle Road) Hythe	-£ 21,340.80	-£ 21,340.80	£ -	£ 1,067.04		
	03/12/2020	43 High Street, Hythe	-£ 16,100.00	-£ 16,100.00	£ -	£ 805.00		
20/0157/FH	10/12/2020	1 Elvington Lane, Hawkinge,	-£ 23,144.00	-£ 23,144.00	£ -	£ 1,157.20		
		Total	-£ 1,027,521.21	-£ 1,007,721.21	-£ 19,800.00	£ 50,386.06	£ 83,029.66	

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This Report will be made
public on 15 March 2021

Report Number **DCL/20/51**

To: Planning and Licensing Committee
Date: 23 March 2021
Status: Non key Decision
Responsible Officer: Llywelyn Lloyd, Chief Planning Officer

SUBJECT: UNAUTHORISED CHANGE OF USE OF LAND FROM TOURING CARAVAN AND CAMPING SITE TO USE AS A RESIDENTIAL CARAVAN SITE AND THE SITING OF RESIDENTIAL CARAVANS AND CAMPERVANS AT ELHAM VALLEY HOLIDAY PARK (ALSO KNOW AS GOLDPARK LEISURE CARAVAN AND CAMPING SITE).

SUMMARY:

This report considers the appropriate action to be taken regarding the use of the camping and touring caravan site at Elham Valley Holiday Park (also known as Goldpark Leisure Caravan and Camping Site) for the siting of residential caravans and campervans. Planning permission has been refused, and an appeal dismissed, for a residential static caravan on the site and a recent application for a Certificate of Lawful Development for the siting of static caravans for permanent residential accommodation has also been refused. The report recommends that an Enforcement Notice be served to require the cessation of the residential use and the removal of the caravans, vehicles and items associated with the residential use of the land.

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. There appears to be no special justification as to why a rural location is essential for the residential use and as such the development is contrary to Core Strategy Review policies SS1, SS3 and CSD3 which seek to direct development to sustainable rural settlements; policy E5 of the Places and Policies Local Plan, which requires diversification of touring caravan and camping sites to be compliant with the holiday use; and paragraphs 78 and 79 of the National Planning Policy Framework which seek to avoid isolated and unsustainable development in the countryside.

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 siting of residential caravans on the site and the associated residential use of the land including the associated domestic paraphernalia has changed its character and appearance from that of transient and variable use and activity to permanent use and an increased level of activity resulting in a detrimental impact on the character of the rural area. As such the development is contrary to policy CSD3 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, 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 majority of the site is located within Flood Zone 3 and permanent residential caravan sites are classed as highly vulnerable under the Environment Agency's flood risk categorisation. As such continued residential use of the site would result in risk to life, contrary to the paragraph 163 of the National Planning Policy Framework, policy SS3 of the Core Strategy which seek to direct development away from areas vulnerable to flood risk.
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.

RECOMMENDATIONS:

1. **To receive and note report DCL/20/51.**
2. **That an Enforcement Notice(s) be served requiring the cessation of the residential use and the removal of the caravans, vehicles and items associated with the residential use of the land.**
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 Elham Valley Holiday Park (also known as Goldpark) has a lawful use as a touring caravan and camping site situated on Canterbury Road, between Breach and Wingmore, in the Elham Valley. The site measures approximately 170m x 40m and runs parallel to the Elham Valley Road, which is immediately to the south-east, from which there are broad views across the site and the wider valley. There is a building at the northern end of the site, dark timber-clad with a steep tiled roof, which serves as an amenity block; this was erected under permitted development rights as a requirement of the site licence for the camping and touring caravan site. Vehicle access is located at the northern end of the site, off the Elham Valley Road via a pair of five-bar gates that lead to an informal circular hardcore road around the site. There is a low fence along the road boundary and mature hedgerow and boundary planting on the other sides. The location of the site is shown below at Figure 1.

Figure 1 – Site location plan

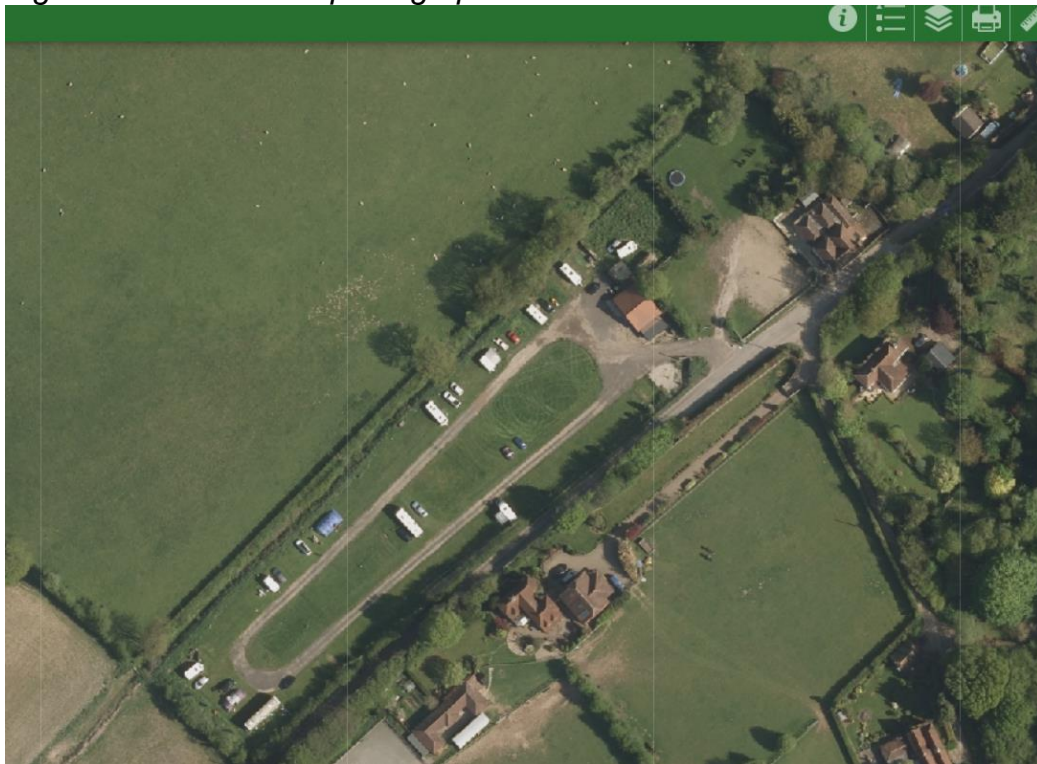


- 1.2 The site is located within the North Downs Area of Natural Beauty and Special Landscape Area. It is located outside of any defined settlement boundary under the Places and Policies Local Plan and, as such, the countryside protection policies in the National Planning Policy Framework (NPPF), Core 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 To the north east of the site is the residential dwelling and curtilage of the Grade 2 Listed Building, the Palm Tree House (formerly the Palm Tree Inn) and the surrounding area comprises agricultural land classified as Grade 3 under the Agricultural Land Classification. Public Right of Way HE69 lies

approximately 50 metres to the north of the site and runs in a north westerly direction. There are dwellings opposite the site on the other side of the Elham Valley Road.

- 1.4 The Nail Bourne runs along the north western boundary of the site. This is a dry river that only flows during excessively wet periods when the water table is sufficiently high. However, when this does happen it can burst its banks, with the Holiday Park site forming part of the flood plain. For this reason, the site lies within Flood Zone 3 on the Environment Agency Flood maps, within the only the access off the public highway and the part of the site closest to the highway being in Flood Zone 1.
- 1.5 The site is also 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.
- 1.6 Figure 2 below is an aerial photograph of the site in 2018.

Figure 2 – 2018 Aerial photograph.



2. PLANNING HISTORY OF SITE

- 2.1 The site was originally within the ownership of the Palm Tree Public House, which is now a dwelling in separate ownership. In 2007 a Certificate of Lawful Use was granted for the continued use of the land as a camping and touring caravan site (Y07/0039/SH).

2.2 In 2016 a planning application was submitted for the siting of a static caravan for use by a warden (Y16/0431/SH). This was refused on the grounds of inappropriate residential use in the countryside; detrimental visual impact; and flood risk to occupants, being a highly vulnerable form of development within Flood Zone 3. An appeal against the refusal of planning permission was dismissed.

2.3 In December 2020 the Council received an application (reference: 20/1966/FH) for a Certificate of Lawful Development for the siting of static caravans for permanent residential accommodation. This was refused for the following reason:

‘The stationing of static caravans for permanent residential occupation would represent a material change in the character and appearance of the site and activity thereon, resulting in a material change of use of the site. The proposed works would therefore constitute development for which express planning permission is required’

3. THE BREACH OF PLANNING CONTROL

3.1 In January 2018 a complaint was made to the Council that the site was being used for residential purposes, with a converted coach and a caravan being used as dwellings. Figure 3 below shows the site in January 2018. Further investigations by Council Officers, including the serving of the first of two Planning Contravention Notices, confirmed that at least one unit on the site was being used as a full time residence. A further visit in June 2018 confirmed that 3 units appeared to be being lived in.

Figure 3 – January 2018

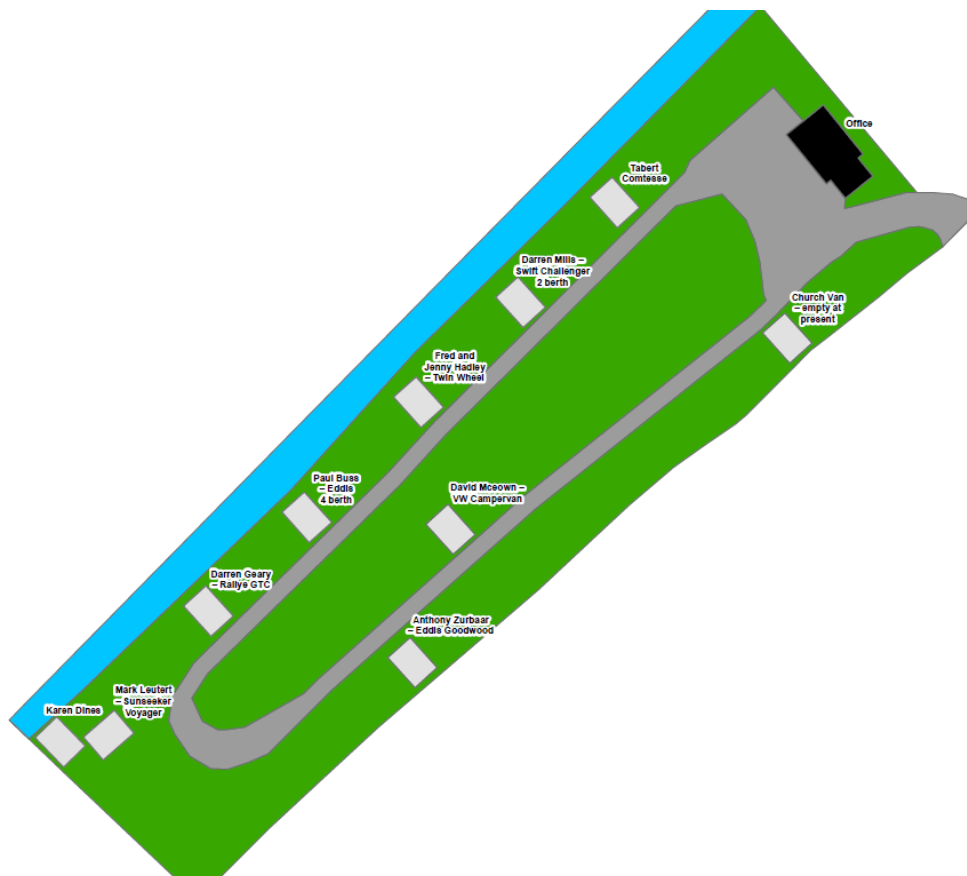


3.2 The owners of the site disputed that the residential use was in breach of planning control and correspondence with the owners regarding this matter continued for some time. This culminated in the Council’s Legal Department writing to the owners’ solicitor in June 2019 advising them that the Council

was satisfied that such a use was a breach of planning control and that this use should cease by August 2019. The use continued.

- 3.3 Subsequently, the Council was informed that the ownership of the site had changed in November 2019. The Council wrote to the new owners in February 2020 and advised them to ensure that the residential use ceased by 31st May 2020. However, the Council took no further action immediately after this deadline due to the restrictions of movement that were in place at the time under the Covid regulations.
- 3.4 In July 2020 the Council was informed that the coach which had been converted and being used as a dwelling had been removed but that other touring caravans and campervans were still being permanently occupied. In this way. The Council again wrote to the owners in July and August 2020 requesting that the residential use cease. Despite these requests, the unauthorised residential use continued.
- 3.5 On the 8th January 2021 a second Planning Contravention Notice was served in regard to the residential use. This Notice was served on the new owners of the property, Yieldcom Limited. A response was received to the Planning Contravention Notice (PCN), including a plan, on the 2nd February 2021, which confirmed that 9 individuals were living on the site at in touring caravans and campervans at that time. Figure 4 below shows the plan received in response to the PCN and highlights the location on the site of the residential caravans and campervans.

Figure 4 – Location of residential caravans and campervans.



- 3.6 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 subject to certain time limits. In this case the relevant period for the change of use of the land is 10 years. As the change of use took place in late 2017 or early 2018, it is not immune from enforcement action.
- 3.7 The lawful use of the site is as a camping and touring caravan site and there are no permitted development rights for the change of use to a residential caravan site, therefore the material change of use that has occurred requires planning permission. The change of use constitute a breach of planning control for which no planning permission has been granted.

4 RELEVANT PLANNING POLICY

- 4.1 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.

- 4.2 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.

- 4.3 The relevant development plan policies are as follows:

Places and Policies Local Plan 2020

- HB1 – Quality Places through Design
- HB2 – Cohesive Design
- NE2 - Biodiversity
- NE3 – Protecting the District's Landscapes and Countryside
- E5 - Touring and Static Caravan, Chalet and Camping Sites

Shepway Local Plan Core Strategy (2013)

DSD - Delivering Sustainable Development

SS1 - District Spatial Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

CSD3 – Rural and Tourism Development

CSD4 - Green Infrastructure

Core Strategy Review Submission draft (2019)

SS1 - District Spatial Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

CSD3 – Rural and Tourism Development

CSD4 - Green Infrastructure

4.4 The following are also material considerations in regarding to the expediency of taking formal enforcement action.

Government Advice

National Planning Policy Framework (NPPF) 2019

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

Paragraphs 78 & 79 – Rural Housing

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

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.

5 APPRAISAL

5.1 The relevant issues that need to be considered in respect of whether it is expedient to take enforcement action are:

- (a) sustainability of residential use in this location;
- (b) diversification of the touring caravan and camping site;
- (c) impact on the AONB;
- (d) neighbouring amenity;
- (e) flood risk
- (f) impact on protected habitats and biodiversity
- (g) highway safety

(a) Sustainability

5.2 The Council's Settlement Hierarchy seeks to maintain the character and integrity of the countryside. 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.

- 5.3 The site is outside any settlement boundary and is located between Breach and Wingmore, in the Elham valley. Wingmore is not a rural centre or a primary or secondary village. There are no shops or community facilities in Wingmore with the nearest small shops being over 2 miles away in Elham. There are no supermarkets nearby. Although there is a primary school in Elham, the nearest secondary schools are in Canterbury and Folkestone. The only easily accessible public transport is the bus route along the Elham Valley Road. As such, residents of the site are principally reliant on their own private transport to access shops and limited local amenities in Elham. Therefore, it is considered that this site is in an unsustainable location for residential accommodation.
- 5.5 Planning policies seek to resist isolated development in the countryside such as this, which is particularly isolated in regard to necessary facilities.

(b) Diversification of the touring caravan and camping site

- 5.6 The lawful use of this site is a camping and touring caravan site. Although there aren't any restrictions on this use under the Certificate of Lawful Use and Development, there is case law that this use does not include permanent residential occupation of the site. Touring caravan and camping sites are more likely to be used by visitors to the district and involve a turnover of occupants. Policy E5 of the PPLP relates to the proposals for the infilling, expansion and diversification of existing lawful touring and static caravan, chalet and camping sites and is, therefore applicable to this site. It is not known whether the intention of the site owners is to have a purely residential site or a mix of permanent residential and touring/camping uses. The policy requires that any diversification of touring caravan and camping sites is compliant with the holiday use. This is in order to safeguard the important role such sites play in the provision of tourism accommodation in the district, to prevent residential uses in unsustainable locations, to safeguard the landscape against the greater visual impacts that permanent residential sites can have and to safeguard occupants in areas that are at higher risk of flooding, as caravans are classed as highly vulnerable to flood risk.
- 5.7 In terms of policy E5, permanent residential occupation is not compliant with the holiday use and for the reasons set out in the remainder of this report, residential use on this site is not considered acceptable in respect of the reasons for the policy.

(c) Impact on AONB

- 5.8 The site is a grassed field in the Elham Valley, with the only permanent development on it being the access road and amenity block. It is in an area of open countryside surrounding by fields, hedgerows and wooded areas. A small number of residential properties border the Elham Valley Road in the vicinity of the site. The site is highly visible within the countryside and AONB. Where previously the visual impact of touring caravan and tents would have been expected for part of the year only, with the level of activity and the number of touring caravans on the site being variable, the unauthorised development that has taken place has resulted in a year round visual impact on the AONB. The continued residential use, with its associated residential

paraphernalia has resulted in the domestication of the landscape outside of any built area, which adversely impacts on the visual amenity of the landscape above and beyond that of the lawful touring caravan and camping use, which by its nature is more seasonal and transient. 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.

(d) Residential amenity

- 5.9 The activity both on site and from vehicles coming and going is not likely to be any greater with a residential site than with a touring caravan and camping site. It is accepted that residential use would be more likely to take place year round rather than just within the holiday and summer seasons. However, given there are no restrictions on occupation under the Lawful Development Certificate for the site, there is nothing to stop year round occupation taking place under the lawful use of the site.

(e) Flood Risk

- 5.10 The site is located within Flood Zone 3. National planning policy and Core Strategy policies seek to direct inappropriate development away from areas at highest flood risk. Paragraph 163 of the NPPF requires that development should only be allowed in areas at risk of flooding, where the sequential test and, if appropriate, the exception test have been passed. National Planning Policy Guidance (NPPG) sets out how and when to apply these tests. Under the Environment Agency (flood risk vulnerability classification, while holiday and short let caravan and camping sites are classified as more vulnerable, permanent residential sites have a higher vulnerability classification of highly vulnerable. National planning guidance is clear that highly vulnerable development should not be permitted in Flood Zone 3, due to the risk to life. Therefore, residential use on this site is not acceptable and is contrary to national policy.

(f) Protected habitats and biodiversity

- 5.11 Given the lawful and existing use of the site as a touring caravan and camping site, residential touring caravan use on the site is unlikely to have any additional on-site impacts on protected species or biodiversity. However, 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. The current waste water system on site is a septic tank and this requires emptying and the waste water disposing of. Although the site has a lawful use as a touring caravan and camping site, permanent residential use would have occupancy over longer periods of time and occupancy levels could be higher over longer periods of time. This would result in an increase in the amount of waste water being generated and disposed of. Therefore Natural England's requirement applies to this development.

- 5.12 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.

(g) Highway Safety

- 5.13 In terms of vehicle movements, the permanent residential use of the site has potential to result in increased car movements in terms of day to day trips, but the number of caravan movements in and out of the site is likely to be lower as there would be lower turnover of caravans entering and leaving the site. Therefore, it would be difficult to justify the residential use as being detrimental to highway safety, when compared to the lawful use of the site.

6 CONCLUSION

- 6.1 The use of this site as a residential caravan site results in unsustainable development, detrimental to the rural character of the area and the landscape character of the AONB and Special Landscape Area. As the majority of the site falls within Flood Zone 3 and residential caravan sites are categorized as highly vulnerable uses, the residential use of the site results in unacceptable flood risk/ risk to life to the occupants. Due to the likely increase in waste water generation from the site as the result of the residential use it needs to be demonstrated that the continued use will not have an adverse impact on protected species or an internationally designated wildlife site. As such this is

unsustainable development in the countryside, contrary to the requirements of national and local planning policies relating countryside protection policies. Therefore it is recommended that an Enforcement Notice be served to require the unauthorised residential use to cease and the caravans, vehicles and items associated with the residential use of the land to be removed.

7 HUMAN RIGHTS

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

8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 In assessing this planning 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.

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

9 RISK MANAGEMENT ISSUES

A summary of the perceived risks follows:

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

10 LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES

10.1 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

10.2 Finance Officer Comments (LK)

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

10.3 Equalities & Diversity Officer Comments (GE)

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 7 and 8.

CONTACT OFFICER AND BACKGROUND DOCUMENTS

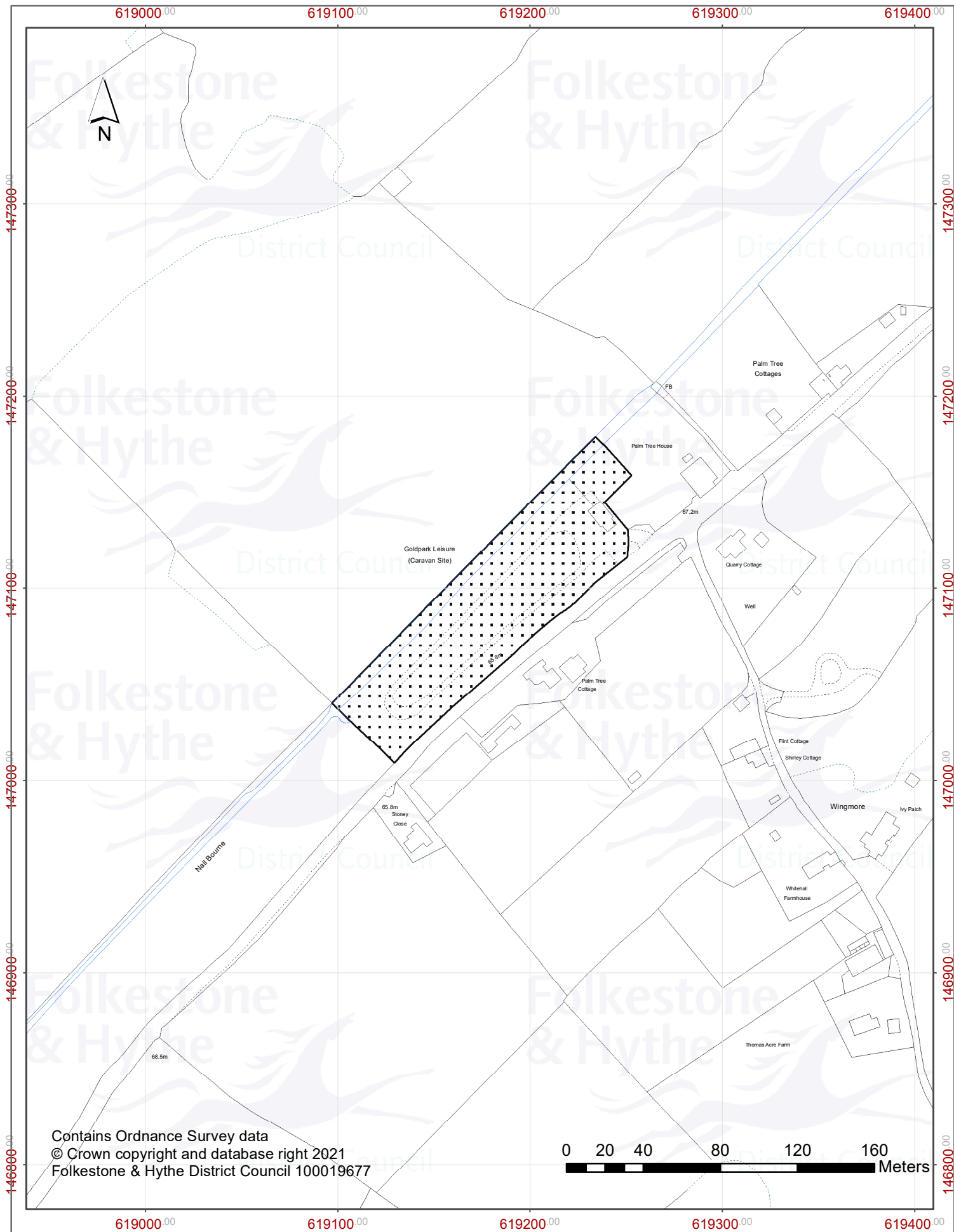
Councillors with any questions arising from this report should contact the following officer prior to the meeting.

Clive Satchell
Senior Enforcement Officer
Development Management
clive.satchell@folkestone-hythe.gov.uk
01303 853414

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

None

Agenda Item
Elham Valley Holiday Park
Canterbury Road
Wingmore



Contains Ordnance Survey data
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Folkestone & Hythe District Council 100019677

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This Report will be made public on 15 March 2021

Report Number **DCL/20/52**

To: Planning and Licensing Committee
Date: 23 March 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; AND UNAUTHORISED LAYING OF HARDSURFACING AT LAND ADJOINING MARTINFIELD COTTAGE LYDD ROAD OLD ROMNEY.

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 Martinfield Cottage Old Romney. A planning application was submitted for the residential use of the land for four gypsy families but the necessary information required to validate the application was not supplied. As such planning permission has not been granted for the use of the land or any of the operations. Serving of an Enforcement Notice is recommended.

REASONS FOR RECOMMENDATIONS:

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

1. The site is located outside of any defined settlement boundary and, as such, the use results in an unsustainable development in the countryside, remote from any settlement that has a wide range of facilities. In the absence of sufficient justification demonstrating why a rural location is essential, the development is contrary to policy HB14 (2.) 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 have regard to the presumption in favour of sustainable development and 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 locally designated Romney Marsh 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. This, as an addition to the use and development of the allocated site to the west, has cumulatively resulted in a more urbanised appearance to this part of the Marsh which previously consisted of a small conclave of visually isolated dwellings, to the detriment of the character and appearance of this isolated rural location. As such the development is contrary to paragraph 25 of the Planning Policy for Traveller Sites which seeks to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community; paragraph 172 of the National Planning Policy Framework that requires planning decisions to protect and enhance valued landscapes; policies SS3 of the Core Strategy and Core Strategy Review and NE3 of the Places and Policies Local Plan which seek to protect or enhance the landscape character and functioning of Local Landscape Areas; and 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.

3. 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 do 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.
4. The site comprises Grade 1 agricultural land and its loss from agriculture is contrary to policy HW3 of the Places and Policies Local Plan and paragraph 170 of the National Planning Policy Framework. Policy HW3 seeks to resist the loss of the best and most versatile agricultural land unless there is a compelling and overriding planning reason to do so and mitigation is provided through the provision of productive landscapes on-site or in the locality.

RECOMMENDATIONS:

- 1. To receive and note report DCL/20/52.**
- 2. That an Enforcement Notice(s) be served requiring the cessation of the residential use; the removal of the caravans/mobile homes and associated materials and paraphernalia; removal of the hardcore; and the reinstatement of the grass.**
- 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 southern side of A259 Lydd Road, between Old Romney and Lydd on part of the marsh know as Rhee Wall. Immediately to the west of the site are 3 residential dwellings and immediately to the west of them is an allocated gypsy site which was granted planning permission in 2019 for five mobile homes and a community hall to provide travellers' accommodation. The location of the site is shown below roughly outlined in red below at Figure 1.

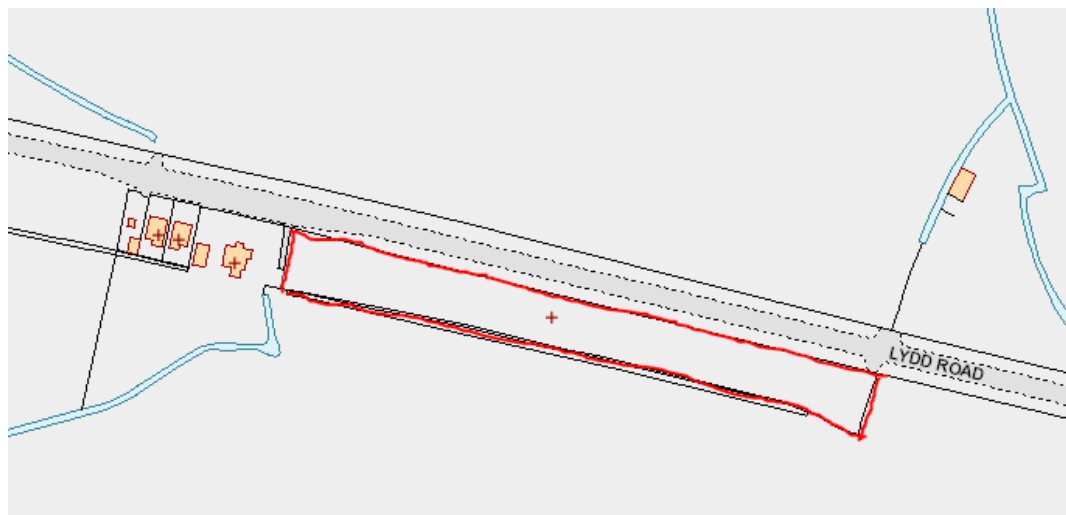


Figure 1 – Site Plan

- 1.2 The site is located within the locally designated Romney Marsh Local Landscape Area and outside of any defined settlement boundary under the Places and Policies Local Plan. As such 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 the Local Plan policies relating to the Local Landscape Area are relevant.
- 1.3 Prior to the unauthorised development taking place the site comprised an agricultural field, open on all four sides with a short stretch of hedgerow along the roadside boundary. On the 2018 aerial photograph (Figure 2 below) it is shown to have been grassed. It is a greenfield site and is classified as Grade 1 under the Agricultural Land Classification.
- 1.4 The site also falls within a Site of Special Scientific Interest (SSSI) Impact Risk Zone where Natural England are a statutory consultee on all non householder applications affecting greenfield sites outside of settlements. It is within an Archaeological Notification Area which requires KCC consultation on all planning applications. In terms of flood risk, the site falls outside Flood Zones 2 and 3 as shown on the Environment Agency flood maps. They border the site and overlap the boundaries but for the most part the site is outside. The site is not shown as being at risk under the Council's Strategic Flood Risk Assessment, apart from a very small section shown to be a low risk in 2115.

Figure 2 - Aerial photograph of the site in 2018



2. THE BREACH OF PLANNING CONTROL

- 2.1 In June 2020 the Council received complaints about an access being formed, the land being subdivided into plots, motorhomes on the land and the erection of fencing and works to provide water and electricity to the plots. The Enforcement Officer was advised (during initial inspection) that a planning application would be submitted for the works within 6 weeks. No application was submitted and subsequent complaints were received about hardcore being laid. A subsequent inspection found three mobile homes had been installed on the land, this was followed by a fourth. In addition, ranch style post and rail fencing was erected within the site and stock proof fencing around boundaries, together with hedging plants.
- 2.3 Below at Figures 3 and 4 are photographs taken in August 2020.

Figure 3 – Site entrance August 2020



Figure 4 Site August 2020



- 2.4 In August 2020 a Planning Contravention Notice was served to obtain information necessary to investigate the breach and to inform any subsequent enforcement action. A Temporary Stop Notice was also served requiring the use of the land for residential purposes and all works associated with the construction of the hardstanding and access to cease with immediate effect. The Temporary Stop Notice ceased to have effect on 18th September 2020.
- 2.5 On 28th August, 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 14th October 2020 when a further court hearing took place. Due to difficulties encountered by the Process Server in tracing all relevant persons on whom the injunction had to be served, the full hearing was adjourned until 27th January 2021 and a further interim injunction was served. At the January hearing a third injunction was granted to the Council prohibiting the same development as the first and that injunction has effect until 27th January 2024. The defendants were also ordered to pay the Council's costs of £3,546.60. The injunction has only just been issued by the Court at the time of writing and arrangements are being made for its service.
- 2.6 On 10th August 2020 a planning application was submitted for the change of use of land for 4 pitch Gypsy & Traveller site with associated operational development including 2no new entrances, installation of 2 water treatment plants, hardstanding and landscaping. 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. None of the requested information was received by the date given and despite further requests and extra time given to provide the information, only some of it was submitted. The application was finally returned as invalid on 25th February 2021.

- 2.11 By early October 2020 the number of mobile homes on the site had increased to 4 and repositioned on the site with work appearing to have been undertaken to lay out the site and subdivide it. See Figures 5 and 6 below.

Figure 5 – Early October 2020



Figure 6 – Early October 2020



- 2.7 Later in October 2020 several of the mobile homes on the site were irreparably damaged in high winds and the majority of the resultant debris has been cleared from the site, although some does remain. Since then there have only been two mobile homes on the site. Photographs of the site taken in October 2020 after the storm are included below at Figures 7 and 8.

Figure 7



Figure 8



- 2.8 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 commenced in June 2020, neither are immune from enforcement action.
- 2.9 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. Therefore, all of the development referred to above constitute a breach of planning control for which no planning permission has been granted.
- 2.10 The fencing that has been erected along the site boundaries and within the site appears to be within the height necessary to be permitted development.

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

HW3 - Development That Supports Healthy, Fulfilling and Active Lifestyles

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 to the west of this site for Gypsy and Traveller accommodation with capacity for 4 pitches comprising amenity blocks, parking for static and touring caravans, visitor parking and storage.

Policy HW3 includes a requirement that proposals should not result in the loss of the best and most versatile agricultural land (Grades 1, 2 and 3a) unless there is a compelling and overriding planning reason to do so and mitigation is provided through the provision of productive landscapes either on-site or in the locality.

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, protected habitats and the best and most versatile agricultural land.

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.*

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:

- a) the need for the site
- b) sustainability;
- c) impact on the Local Landscape Area,
- d) impact on the residential amenity of neighbours,
- e) highway safety,
- f) impact on protected habitats, biodiversity,
- g) contamination and;
- h) loss of best and most versatile agricultural land.

(a) Need for the site

4.2 In considering the existing provision and need for sites, the NPPF (Paragraph 60) requires LPAs 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 Planning Policy for Traveller Sites (PPTS) (Paragraph 4) requires LPAs 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 sites 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 the allocated site at 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 The Planning 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. However, the existing traveller pitch provision in the district is currently met through privately owned family sites and as such there is no alternative accommodation in the district available to the occupants of this site.
- 4.7 In these circumstances 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".
- 4.8 A confidential statement was submitted with the invalid planning application which made reference to the gypsy traveller status of the site occupants and set out the reasons for their need for a site. A planning statement submitted with the invalid application stated that each of the 4 pitches would contain one mobile home and one touring caravan and there would be 2 Klargester sewage treatment plants for the whole site, each serving 6-8 people. In terms of occupants, it stated that the plots will all be occupied by members of the same family or family members that are associated by marriage, that the women on the site have been left in extreme conditions through no fault of their own and that they cannot be expected to live by the roadside with children. This would have negative and long lasting detrimental impact on the family.
- 4.9 Despite requests no information has been provided with the invalid application on the family's connections to the district, whether they have stayed in the district before or to demonstrate that they are 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.

(b) Sustainability

- 4.10 The Council's Settlement Hierarchy seeks to maintain the character and integrity of the countryside, and protect 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.
- 4.11 The application site is outside any settlement boundary and the nearest supermarket, shops, schools and other services are in the town of New Romney, the centre of which is approximately 3km from the site. The majority of the journey is along an A road with no footpaths and subject to the national speed limit of 60mph. Although the site is on a bus route the occupants of the site would be predominantly reliant on their own private transport to access shops and other facilities in New Romney and Ashford. Therefore, it is considered that the site is in an unsuitable location for residential accommodation and, as such, it not supported by local or national planning policy in this respect. Although there is an allocated traveller site to the west of the neighbouring dwellings, this was the only site that had been put forward and was available to meet the need identified in the GTAA following a thorough process by the Council to identify a suitable, available and deliverable site.
- 4.12 While 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, no justification has been provided in this case as to why the occupants cannot locate at 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.

(c) Impact on Local Landscape Area

- 4.13 The site comprises a formerly undeveloped green field immediately adjacent to the road. The hardstanding, mobile homes/caravans etc on the site are clearly visible from the road in what is a very flat and open landscape. The unauthorised development that has taken place has completely changed the rural character and appearance of the site from a grassed agricultural field to an urbanised appearance with a considerable area of hard surfacing. 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. Planting has taken place along the road boundary which would in time provide some screening, however, it is not known whether the species planted are native and if not they too would appear alien in the landscape. It is accepted that there is an allocated site to the west of the neighbouring dwellings which is also visible from the road, however, that site was allocated to meet an identified need and it has a planning permission in place which is subject to conditions requiring the implementation of a landscaping scheme and removing permitted development rights, in order to mitigate impacts as

much as possible. It is a larger site, with the majority of mobile homes set back from the road frontage, so the visual impact from the road is slightly less than this site. The continued residential use of this site, with its associated residential paraphernalia would further consolidate the domestication of the landscape which already exists from the existing neighbouring development and this would adversely impact on the visual amenity of the landscape. This site in such close proximity to the existing one has had a greater impact on the overall character of this part of the Local Landscape Area as it has cumulatively resulted in a more urbanised appearance to this part of the Marsh which previously consisted of a small conclave of visually isolated dwellings. This is contrary to paragraph 25 of the Planning Policy for Traveller Sites which seeks to ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community. Without sufficient justification of need and why the accommodation has to be provided in this particular location it is not considered that there is sufficient justification for accepting further visual impact on the countryside. As such, the development is considered to be detrimental to the character and appearance of the landscape, failing to protect or enhance this part of the Romney Marsh Local Landscape Area and contrary to national and local planning policies which seek to protect valued landscapes.

(d) Impact on residential amenity

- 4.14 This is a site of four traveller pitches on an elongated site fronting an A road. As such the activity associated with the residential pitches is spread out along the site, rather than being concentrated adjacent to the nearest residential dwelling adjoining the site to the west. Given this, it is not considered that the activity associated with the use of the site for four residential pitches is such that it has a significant adverse impact on the amenity of the existing residents.

(e) Highway safety

- 4.15 The use of the site for four residential caravan pitches results in an increased use of the access than the previous agricultural use. The access is directly onto the A259 which is the main route between New Romney/Lydd and Ashford. However, the entrance is on a straight section of road with good visibility in both directions.
- 4.16 KCC Highways and Transportation comments on the invalid planning application were that, although further information was required, visibility splays for the two access points should be achievable. Therefore it is considered that the increased use of the access resulting from the use of the site is unlikely to result in an objection from KCC Highways and Transportation on grounds of highway safety. In light of this the use is not considered to be detrimental to highway safety

(f) Protected species & biodiversity

- 4.16 No ecological desktop study was originally submitted with the invalid application to identify any protected species or habitat on the site. However,

one has subsequently been submitted which concludes there is no requirement for protected species surveys. Given the agricultural nature of the field and the lack of hedgerows and trees around the site it is considered that the development that has taken place is unlikely to have resulted in any significant adverse ecological impacts. Natural England were consulted on the application as it falls within an SSSI Impact Risk Zone and did not raise any objection.

(g) Contamination

- 4.17 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.

(h) Loss of best & most versatile agricultural land

- 4.18 Paragraph 170 of the NPPF requires planning decisions to recognise the economic and other benefits of the best and most versatile agricultural land and policy HW3 of the PPLP seeks to resist the loss of such land unless there is a compelling and overriding planning reason and unless mitigation is provided through the provision of productive landscapes on site or in the locality. This site is shown to be Grade 1 agricultural land which is land of the highest agricultural quality. For all the reasons set out at paragraphs 4.2 – 4.9 above, it is not considered that there is a need for this site and as such there is no overriding or compelling need for the loss of this Grade 1 land.

5 CONCLUSION

- 5.1 The site is in an unsustainable location in the countryside. The formalisation of the site and the visual impact of the mobile homes/caravans and hard core is detrimental to the rural character of the area and the special landscape character of the Local Landscape Area. The development has resulted in a loss of Grade 1 agricultural land and it is not possible to demonstrate that there is no contamination on the site which would cause a hazard to occupants. As such this is considered to be unacceptable development in the countryside for which no need has been demonstrated, contrary to the requirements of national and local planning policies relating to gypsies and travelers and countryside and agricultural land 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 and hard core and the reinstatement of the grass.

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 would be children of various ages living on the site. No information was provided with the invalid planning application on whether they attend schools locally. However, given the short length of time that they would have been living on the site, the fact that schools have been closed for long periods of time during this period due to Covid 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
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Development becomes immune from Enforcement Action and level of use of site increases	High	High	Serve Enforcement Notice
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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.

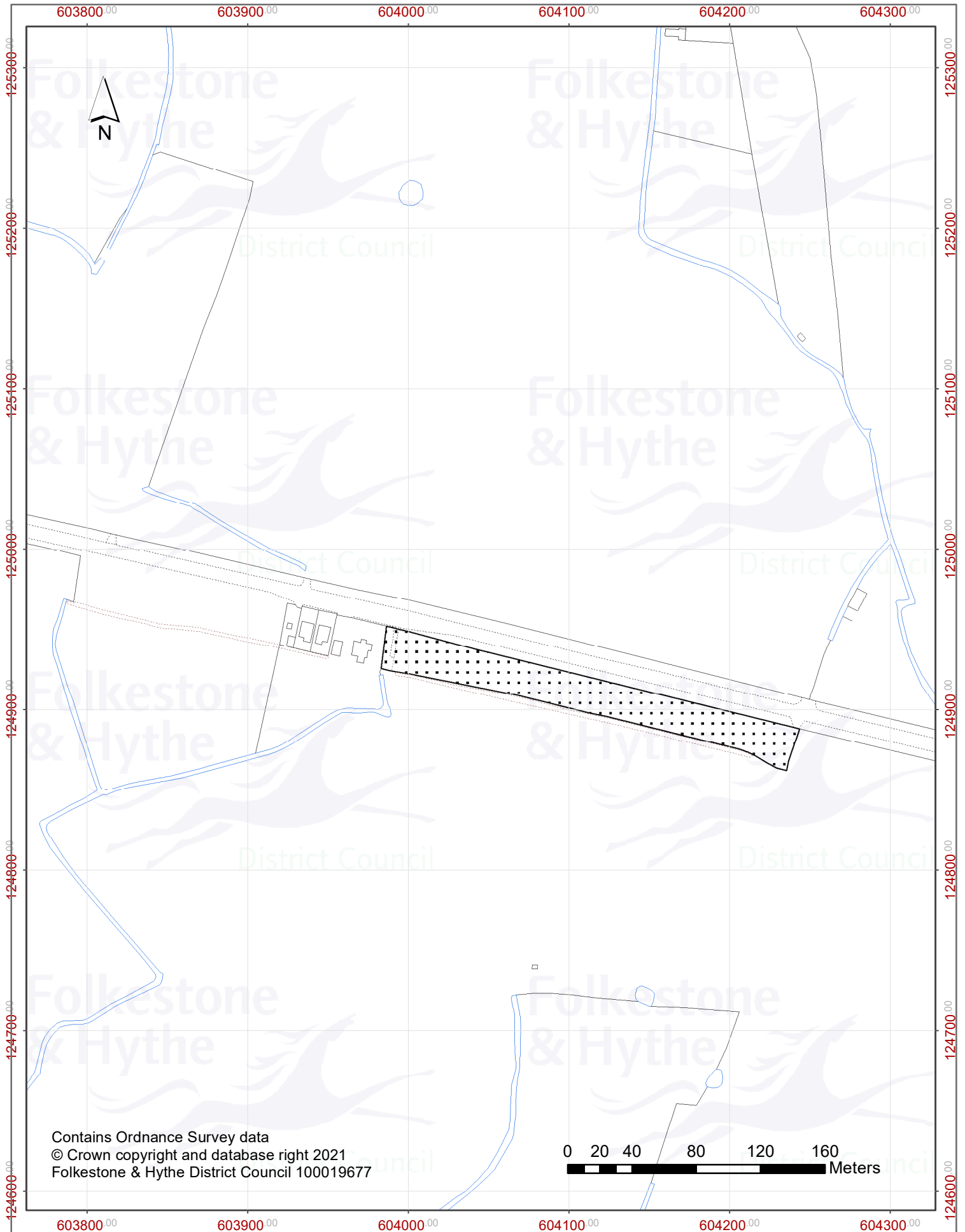
Lisette Patching
CIL & Enforcement Team Leader
Development Management
lisette.patching@folkestone-hythe.gov.uk
01303 853448

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

None.

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Agenda Item
Land adjoining Martinfield
Lydd Road
Old Romney



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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 23 MARCH 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

23 MARCH 2021

REPORT OF THE CHIEF PLANNING OFFICER ON APPLICATIONS

1. 20/0690/FH SANDBANKS, COAST ROAD, LITTLESTONE, NEW ROMNEY

(Pages 13 - 50)

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.

Mr & Mrs Graham, local residents, to speak against the application

Paul Reynolds, local resident, to speak for the application

Paul Thomas, on behalf of New Romney Town Council, to speak on application

Leo Griggs, applicant, to speak on application

2. 20/1212/FH LAND REAR OF 2 WILLOP CLOSE, DYMCHURCH

(Pages 51 – 78)

Erection of 2 three-bedroom dwellings and associated parking.

John Field, local resident, to speak against the application

Jeff Lawrence, on behalf of Dymchurch Parish Council, to speak on application

Tim Parrett, on behalf of the applicant and agent, to speak on application

3. Y19/0071/FH SMITHS MEDICAL UK, BOUNDARY ROAD, HYTHE

(Pages 79 - 128)

Outline planning application for the redevelopment of the former Smiths Medical site for up to 97 dwellings (Class C3), up to 153m² of offices (Class B1) and up to a 66 bed care home (Class C2) with all matters reserved for future consideration except access.

Alister Hume, agent, to speak on application

THE SCHEDULE WILL RESUME IN THE FOLLOWING ORDER:

4. Planning contributions secured through Section 106 Agreements and Community Infrastructure Levy (Pages 129 - 162)

Some planning decisions are subject to legal agreements requiring developers to make financial contributions to the Council and Kent County Council (KCC) to provide for on and off site infrastructure to mitigate the impact of the development, under Section 106 of the Town and Country

Planning Act 1990 (as amended).

Some developments for which planning permission is granted are also subject to the Community Infrastructure Levy (CIL). Although separate to the S106 process, the purpose of CIL payments is also to ensure developers make an appropriate financial contribution to mitigate the impact of the development on local infrastructure.

The adequacy and effectiveness of the procedures and controls relating to S106 agreements was first reviewed by the East Kent Audit Partnership in 2014 with a follow up review in 2018/19. The original report recommended that the position regarding planning obligations that involve financial contributions should be reported to members on an annual basis. Following the introduction of CIL in 2016 the report now also includes CIL contributions.

5. Unauthorised change of use of Land from Touring Caravan and Camping Site to use as a Residential Caravan Site and the siting of Residential Caravans and Campervans at Elham Valley Holiday Park (ALSO KNOW AS GOLDPARK LEISURE CARAVAN AND CAMPING SITE). (Pages 163 - 178)

This report considers the appropriate action to be taken regarding the use of the camping and touring caravan site at Elham Valley Holiday Park (also known as Goldpark Leisure Caravan and Camping Site) for the siting of residential caravans and campervans. Planning permission has been refused, and an appeal dismissed, for a residential static caravan on the site and a recent application for a Certificate of Lawful Development for the siting of static caravans for permanent residential accommodation has also been refused. The report recommends that an Enforcement Notice be served to require the cessation of the residential use and the removal of the caravans, vehicles and items associated with the residential use of the land.

6. Unauthorised change of use of land from Agricultural to use as a Residential Caravan Site and the Siting of Residential Caravans; and unauthorised laying of hardsurfacing at Land Adjoining Martinfield Cottage, Lydd Road, Old Romney (Pages 179 - 208)

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 Martinfield Cottage Old Romney. A planning application was submitted for the residential use of the land for four gypsy families but the necessary information required to validate the application was not supplied. As such planning permission has not been granted for the use of the land or any of the operations. Serving of an Enforcement Notice is recommended.

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