



Agenda

Meeting: **Planning and Licensing Committee**
Date: **20 April 2021**
Time: **7.00 pm**
Place: **Remote Meeting**

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

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

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

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 3 - 4)**

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

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

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

To consider and approve, as a correct record, the minutes of the meeting held on 23 March 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 6 April 2021.

5. **20/0467/FH - Land adjoining Coldharbour, Blackhouse Hill, Hythe (Pages 13 - 40)**

Erection of two residential detached dwellings, utilising the existing access, together with the provision of parking and landscaping.

6. **20/0684/FH - The Rectory, Rectory Lane, Lyminge, CT18 8EG (Pages 41 - 60)**

Erection of a detached dwelling and two garages.

7. **20/1596/FH - Manor Barn, Teddars Leas Road Etchinghill CT18 8AE (Pages 61 - 84)**

Retrospective application for the existing dwelling as constructed; variation of condition 2 of planning permission Y12/0442/SH for external alterations to stable block and machine/hay store building, conversion of part of the ground floor and loft space of the machine/hay store building to pool and gymnasium, use of loft space over detached stable block as tack rooms and horse feed storage; and installation of lamp standards

8. **20/1928/FH - Copper Beech Farm, Lymbridge Green, Stowting Common, TN25 6BJ (Pages 85 - 102)**

Change of use of existing annex to allow occasional use as a holiday let.

9. **20/1918/FH - 303 Cheriton Road, Folkestone, Kent, CT19 4BG (Pages 103 - 118)**

Change of use and conversion of the ground floor retail unit and office into a residential unit including external alterations to front (north) elevation.

10. **20/2091/FH - Land adjoining Casebourne Cottage, Underhill Rd, Folkestone (Pages 119 - 142)**

Retrospective application for the change of use of an agricultural field to a dog walking facility and associated field shelters.

11. **Supplementary Information (Pages 143 - 148)**

12. **Supplementary Information 2 (Pages 149 - 150)**

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, 23 March 2021
Present	Councillors Danny Brook, John Collier, Field (In place of David Wimble), Gary Fuller, Clive Goddard (Chairman), Mrs Jennifer Hollingsbee, Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Ian Meyers and Georgina Treloar
Apologies for Absence	Councillor David Wimble
Officers Present:	David Campbell (Development Management Team Leader), Kate Clark (Case Officer - Committee Services), Ewan Green (Director of Place), Emma Hawthorne (Principal Planning Officer), Sue Head (Principal Planning Officer), Llywelyn Lloyd (Chief Planning Officer), Ross McCardle (Principal Planning Officer), Lisette Patching (CIL and Enforcement Team Leader) and Helena Payne (Development Management Team Leader) and Geoff Mills (Committee Services)
Others Present:	None

65. **Declarations of Interest**

Item 5 on the Agenda – Councillor Clive Goddard declared a ‘Other Significant Interest’ on the grounds that the company he works for has been undertaking work at the Royal Victoria Hospital and is the applicant of Application 20/0690/FH.

Item 5 on the Agenda – Councillor John Collier made a ‘Voluntary Announcement of Other Interests’ on the grounds that his son-in-law works with the applicant.

Item 6 on the Agenda – Councillor Field made a statement of explanation to make clear he was not related, nor had ever met, Mr John Field, a local resident.

Item 6 on the agenda - Sue Head (Principal Planning Officer) made a Voluntary Announcement of 'Other Interests' on the grounds her husband was a director of RDA Architects.

66. **Minutes**

The minutes of the meeting held on 9 February 2021 were submitted and approved. The Chairman's signature would be added to these minutes as approved.

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

The minutes of the meeting held on 3 February 2021 were submitted and approved. The Chairman's signature would be added to these minutes as approved.

Councillor Philip Martin was in the Chair for the following Item.

68. **20/0690/FH - Sandbanks, Coast Road, Littlestone, New Romney, TN28 8RA**

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

Having made a declaration of 'Other Significant Interest' under Item 5 on the Agenda, Councillor Goddard left the meeting and therefore did not participate in any of the discussion or voting.

The declaration made by Councillor John Collier of a 'Voluntary Announcement of Other Interests' under Item 5 on the Agenda had been noted.

The Case Officer – Committee Services, read the following to the meeting:

A statement from Mr and Mrs Graham, local residents, setting out their reasons as to why they opposed the application.

A statement from Mr Paul Reynolds, a local resident, setting out his reasons as to why he was opposed to the application.

A statement from Mr Paul Thomas, on behalf of the New Romney Town Council, setting out the concerns of the Town Council, should the application be approved.

A statement from Mr Leo Griggs, the applicant, which set out his reasons as to why the application should be approved.

Following discussion:

Proposed by Councillor Ian Meyers

Seconded by Councillor Jackie Meade; and

RESOLVED:

That the application be refused on grounds which included a need to demonstrate that the loss of the care home was acceptable under the requirements of policy HB11 of the Places and Policies Local Plan.

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

Taking into account the reasons for refusal, the Chief Planning Officer was granted delegated authority by the Committee to draft the exact wording of the grounds for refusal.

8.00 PM – Councillor Goddard returned to the meeting and took the Chair.

69. **20/1212/FH - Land rear of 2 Willop Close, Dymchurch, TN29 0HU**

Erection of 2 three-bedroom dwellings and associated parking.

Having made a declaration of 'Other Significant Interest' under Item 6 on the Agenda, Sue Head (Principal Planning Officer) left the meeting during the course of the discussion on this item.

The Case Officer – Committee Services read to the meeting a statement by Mr John Field, a local resident, setting out the reasons why he was opposed to the application. *(Mr Field had submitted a video which was shown to the Committee but because of the sound quality his statement was also read out)*

Mr Jeff Lawrence spoke on behalf of the Dymchurch Parish Council via a video link. In this statement, Mr Lawrence set out the grounds on which the Parish Council objected to the application.

Following discussion:

Proposed by Councillor Georgina Treloar
Seconded by Councillor Jim Martin; and

That the application be refused on the grounds that the flood risk posed by the development of this site did not outweigh the wider sustainability issues. Also, the development would have an overbearing impact on neighbouring properties, in particular No. 109 Hythe Road.

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

As the vote was tied the Chairman exercised his casting vote against the proposal to refuse the motion.

THIS MOTION FELL.

Following further discussion:

Proposed by Councillor Ian Meyers
Seconded by Councillor Mrs Jenny Hollingsbee; and

RESOLVED

That consideration of this application be deferred in order to allow discussions to take place with the applicants on an additional planning condition being imposed, which would require the development to be served by pumped drainage, discharging to the Willop Basin.

(Vote: 7 For, 1 Against; 4 Abstentions)

70. **Y19/0071/FH - Smiths Medical UK, Boundary Road, Hythe**

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.

In introducing this item, the Principal Planning Officer said that since the publication of the Committee report, the application had been revised and therefore all details were now reserved matters for future consideration.

The Case Officer – Committee Services read to the meeting a statement from Mr Alistair Hume, the applicant's agent, setting out the reasons why he believed the application should be approved.

Following discussion,

Proposed by Councillor Jim Martin

Seconded by Councillor Mrs Jenny Hollingsbee; and

RESOLVED

That outline planning permission for this application be granted as detailed in the written report by the Chief Planning Officer, and also the update provided at the meeting.

(Vote: 10 For, 2 Against; 0 Abstentions)

71. **Planning contributions secured through Section 106 Agreements and Community Infrastructure Levy**

The CIL and Enforcement Team Leader submitted a detailed report setting out the background behind seeking developer contributions through S106 and CIL and provided summaries of the monies received and where they have been spent in the interests of transparency.

RESOLVED

That the report and its appendices be noted.

All agreed.

72. 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).

This report considered 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 had 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 recommended 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.

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

RESOLVED

(i) To receive and note report DCL/20/51.

(ii) 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.

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

(iv) That the period of compliance with the Notices be twelve (12) months; and

(v) 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: 10 For, 0 Against; 2 Abstentions)

73. 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

This 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 Martinfield Cottage, Old Romney. A planning application has been 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 had not been granted for the use of the land or any of the operations. Serving of an Enforcement Notice was recommended.

Proposed by Councillor Jim Martin.

Seconded by Councillor Gary Fuller; and

RESOLVED

(i) To receive and note report DCL/20/52.

(ii) 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.

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

(iv) That the period of compliance with the Notices be twelve (12) months, and;

(v) 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.

(vi) That following the recent submission of a planning application, if the application is valid no action will be taken on serving the Enforcement Notice until the application has been determined and an Enforcement Notice will not be served if planning permission is subsequently granted.

(Vote: 11 For, 1 Against; 0 Abstentions)

Minutes

Licensing Sub-Committee

Held at: Council Chamber - Civic Centre Folkestone
Date: Tuesday, 6 April 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: Representatives in respect of Report DCL/20/54.

66. Election of Chairman for the meeting

Proposed by Councillor John Collier
Seconded by Councillor Gary Fuller and

Resolved: That Councillor Philip Martin be appointed as Chairman for the meeting.

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

67. Declarations of interest

There were no declarations of interest.

68. 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 paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 –

**'Information relating to any individual'; and
'Information which is likely to reveal the identity of an individual.'**

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

69. **Review of whether any action should be taken on a Street Trader Licence and Consent**

Report DCL/20/53 considers whether any action should be taken against a Street Trader licence and consent following an incident.

Proposed by Councillor Gary Fuller
Seconded by Councillor Philip Martin and

Resolved: To issue a formal warning to the Street Trader referred to in the report.

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

70. **Review of whether any action should be taken on a Street Trader Licence.**

Report DCL/20/54 considers whether any action should be taken against a Street Trader licence following an incident.

Proposed by Councillor Gary Fuller
Seconded by Councillor Philip Martin and

Resolved: To issue a formal warning to the Street Trader referred to in the report.

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

Agenda Item 5

DCL/20/55

Application No: 20/0467/FH

Location of Site: Land adjoining Coldharbour, Blackhouse Hill, Hythe

Development: Erection of two residential detached dwellings, utilising the existing access, together with the provision of parking and landscaping

Applicant: The executors of Bridget Mary Wight

Agent: Elizabeth Welch
Hobbs Parker
Romney House
Monument Way
Orbital Park
Ashford TN24 0HB

Officer Contact: Robert Allan

SUMMARY

This application is for the erection of two, two-storey detached dwellings within the grounds of the existing property known as 'Coldharbour'. The application site is located inside the defined settlement boundary but is also within the designated Kent Downs Area of Outstanding Natural Beauty. The site is immediately adjacent to established residential development and is bordered by dwellings on three sides. Existing boundary planting would remain, with additional landscaping and planting within and to the boundaries of the site. This application represents a low density scheme that reflects the spatial pattern of neighbouring development and the site's edge of settlement location. The site is not readily visible from nearby public vantage points or in longer distance views from the seafront. The impact upon the landscape and AONB is considered minimal due to the existing development, the topography of the site, the design of the buildings and the proposed landscaping, and the scheme would not cause significant harm to the special landscape qualities of the Kent Downs Area of Outstanding Natural Beauty. It is considered that all other material considerations relating to design, layout, highways, amenity of existing or future occupiers, ecology or drainage are satisfactory, and it is considered that the scheme would be acceptable with regard to local and national planning policy. 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 any others that the Chief Planning Officer considers to be necessary.

1. INTRODUCTION

DCL/20/55

The application is reported to Planning & Licensing Committee at the request of Cllr Lesley Whybrow.

2. SITE AND SURROUNDINGS

- 2.1. The application site is located to the north east of Hythe, and is accessed from an existing access road from Blackhouse Hill which runs between two dwellings, 3 Bassett Gardens and Hillwood House and serves the property, Cold Harbour. Cold Harbour is located to the south and is within the same ownership. The application site is stated to have been in use until recently as the vegetable garden area, forming part of Cold Harbour's substantial garden. There is a small storage building abutting the wall at the north eastern entrance to the site, constructed of brick, stone and having a pitched, plain tiled roof. At the westernmost extent of the site is a small shed-style structure, of brick and timber frame construction, in a dilapidated state. The site slopes to the south / south west and is becoming overgrown, although the fruit cages, shrubs and other domestic planting can be clearly seen in Figure 1.



Figure 1

- 2.2. Immediately south of the application site, at a lower level, is a field which is also within the same ownership. To the north and west are the properties 1, 2 and 3 Basset Gardens and 36 Blackhouse Hill, while to the south west is 33A Blackhouse Hill. The site can be seen in **Figure 2** below.

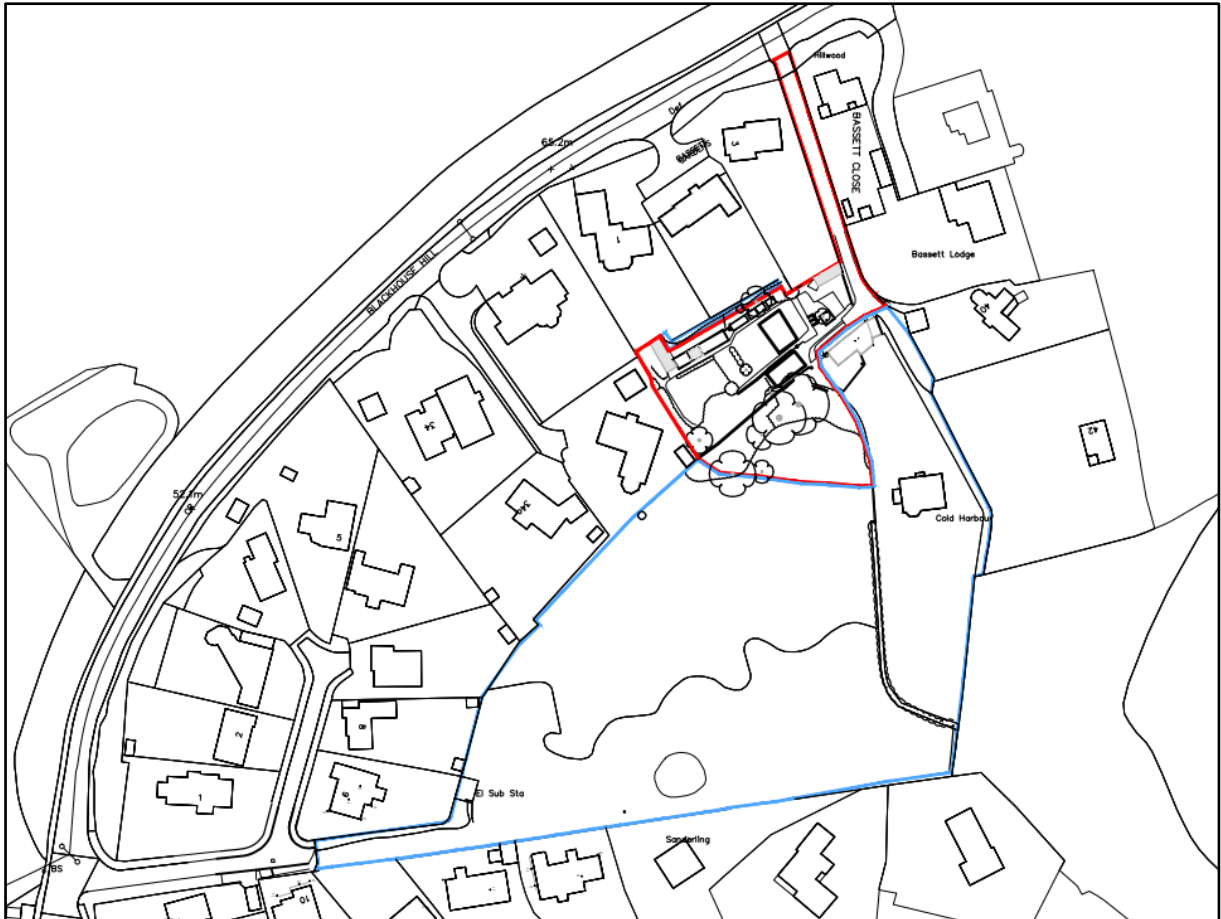


Figure 2: site location plan

- 2.3. The application site is within the defined settlement boundary of Hythe, within the Kent Downs Area of Outstanding Natural Beauty (AONB). The site is also within an Archaeological Notification Area.
- 2.4. The character of development in the area is of predominantly detached dwellings within spacious plots. There is a wide variety of architectural styles, with two storey dwellings, bungalows and chalet bungalows evident, constructed with a broad palette of materials, including brick of varying colours, cladding, natural stone, clay plain tiles, concrete tiles.
- 2.5. The total area of the application site is 0.25 hectares. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Full planning permission is sought for the erection of two detached two-storey dwelling houses, together with parking provision (detached car ports) and landscaping. The lower floor of both dwellings would be partially set into the ground (see **Figures 3, 4 and 5** below) and would be smaller in area than the upper floor. The houses would

DCL/20/55

have an 'upside down' arrangement, with three of the bedrooms on the lower ground floor and the living / dining / kitchen area, study, and fourth bedroom, on the upper floor.

3.2 In respect of materials, the Design and Access Statement sets out that the properties would use:

- Multi stock red brickwork with natural timber boarding feature panels;
- Plain clay tile roof finish which wraps vertically to form a seamless tile hung façade;
- Kentish ragstone base to lower ground floor;
- Dark framed powder coated aluminium windows and doors;
- Hidden box guttering and downpipes.

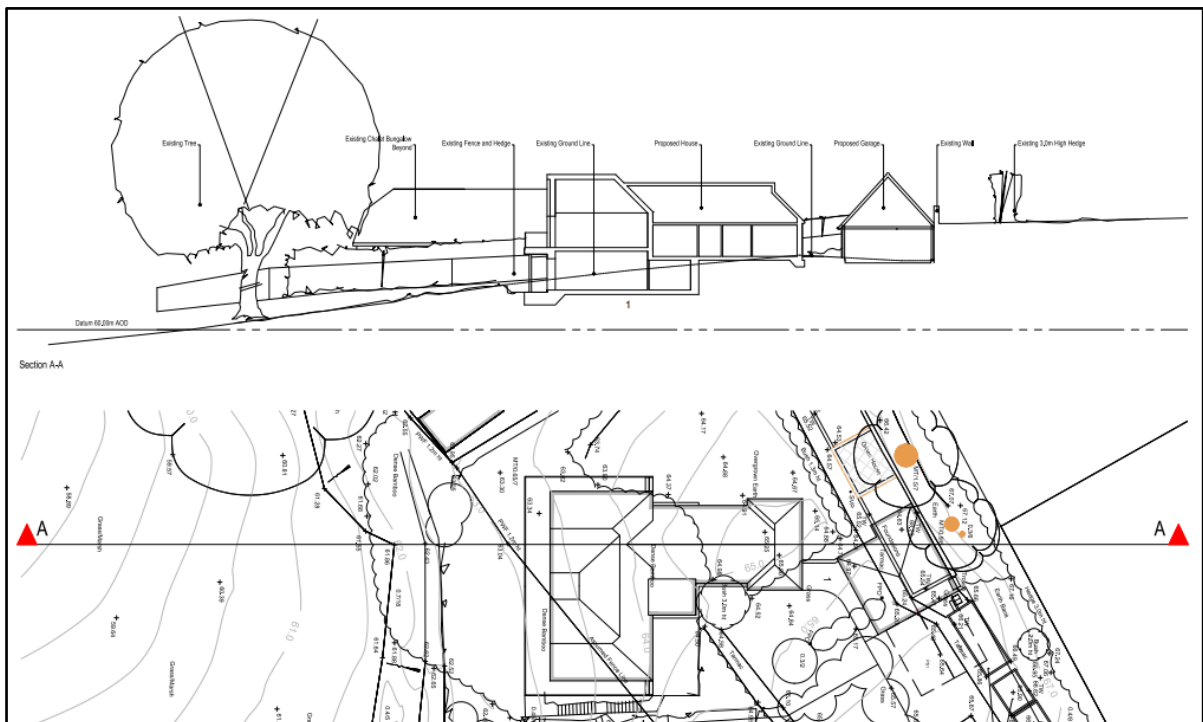


Figure 3: section plot 1 (view from east)

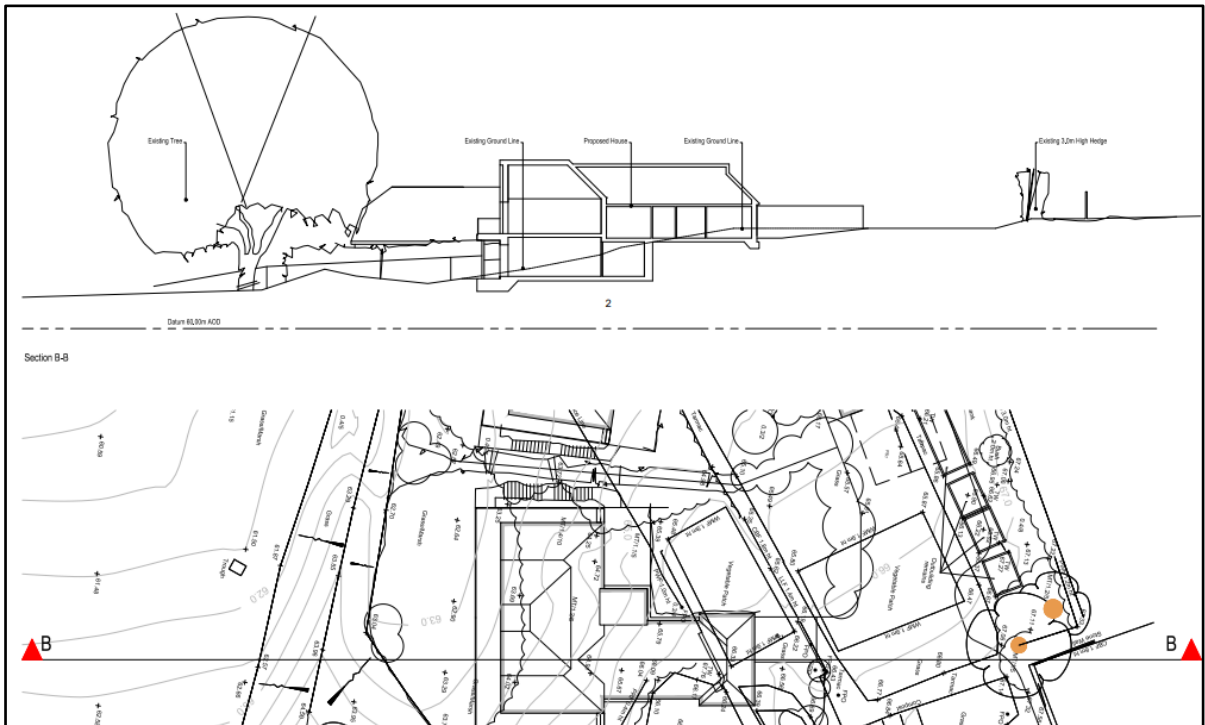


Figure 4: section plot 2 (view from east)

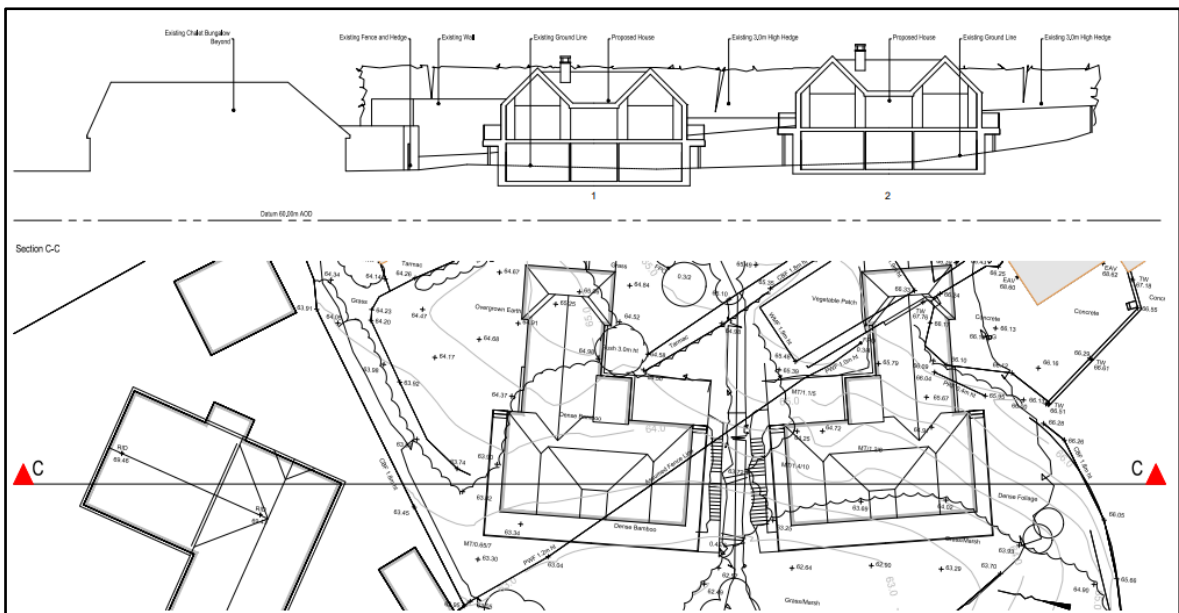


Figure 5: section plots 1 and 2 (view from south)

The key elevations of the proposed properties can be seen in the images at **Figures 6 - 9** below:



Figure 6: proposed front elevation (view from north)



Figure 7: proposed rear elevation (view from south)



Figure 8: side elevation plot 1 (view from west)



Figure 9: side elevation plot 2 (view from east)

3.3 Internally, the properties would comprise two floors of living accommodation at lower ground and ground floor level containing a total of 4 bedrooms. The total internal floor space of each property would be approximately 216m². Both properties would have an external balcony area, as can be seen in figures 9 and 10 below, but during the course of the application, at the request of the Planning Officer, that for plot 1 has been amended so as to remove the western-most element of this, as well as securing the full height windows to the lounge area to have obscure glazing. A garden area would surround both units, with the driveway leading to the turning area and car ports (see **Figures 10 - 12** below).

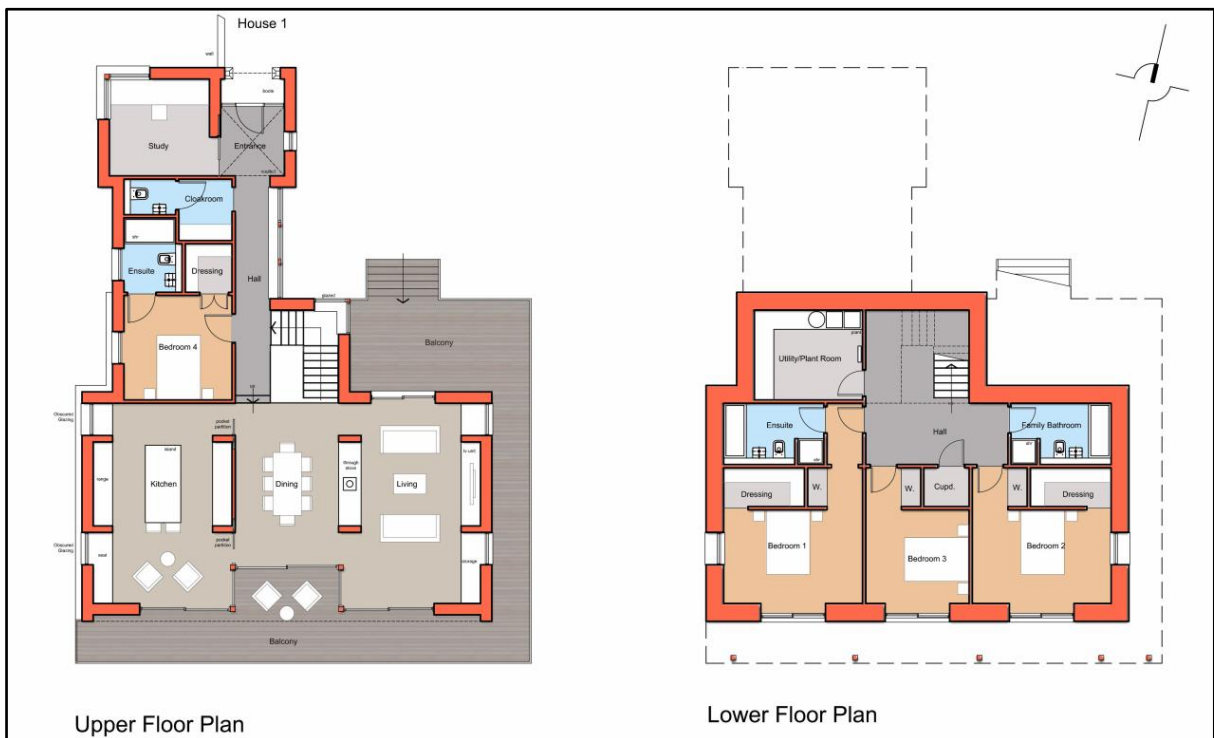


Figure 10: floor plans plot 1



Figure 11: floor plans plot 2

3.4 As well as the submitted drawings, the application is accompanied by several reports:

Design and Access Statement

This document describes the site and surrounding area, planning policy context and the proposed development, as well as the design ethos underpinning the proposals, considering issues of use, amount, layout, appearance, scale, landscape, access and sustainability.



Figure 12: application site area

Planning Statement

This describes the site and surrounding area, planning policy context and the information submitted with the application and concludes that the proposal would be acceptable.

Drainage Assessment

The report concludes that the site can be adequately drained, and is sustainable in terms of flood risk. Foul water can be drained to the combined sewer in Blackhouse Rise by gravity, across land within the ownership of the applicant. Surface water drainage for the proposed development can also be attained via attenuation within the site and discharge to the combined sewer also.

Arboricultural Method Statement

The Arboricultural Method Statement provides details of trees to be removed and pruned as part of the proposed development, and sets out tree protection measures. The trees within the site are in the main located around the site boundaries and are a mix of both B and C category trees. Category B trees are of moderate quality and value and Category C trees are of low quality and value. Four trees, all of category C, are proposed to be removed to facilitate the development; three of these from toward the centre of the site and one from the western edge.

Contaminated Land Report

DCL/20/55

A Phase 1 Contamination Risk Assessment has been carried out by Ground and Environmental Services Limited which covers a larger area of land than the application site. The relevant area is referred to as a walled garden with brick outbuildings within the report. The report concludes that the site would **not** be considered to be “Contaminated Land” based on a residential end use.

Preliminary Ecological Appraisal and Phase II Surveys

This report demonstrates that:

Bats	the site is of negligible importance in respect of bats
Reptiles	a low population of common lizards and grass snakes were recorded, with a suitable receptor site identified that can be used to mitigate the loss of reptile habitat
Great Crested Newts	The site holds negligible potential for GCN as no suitable water bodies are present within 500m of the site
Dormice	The site is considered to have low potential for dormice

A range of recommendations are proposed to achieve a meaningful biodiversity gain as part of the development.

4. RELEVANT PLANNING HISTORY

4.1 There is no recorded planning history for this site.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council: Support subject to planning officer being satisfied with the resolution for the disposal of foul water.

KCC Ecology: No objection.

Whilst the population of reptiles was concluded as ‘low’, based on a peak count of adults, the presence of juvenile reptiles denotes a breeding population within the area. As such, an appropriate translocation methodology and receptor site (subject to confirmation of consent) has been provided for the site’s reptile population.

Due to the presence of a bat roost within a retained building and its proximity to the development footprint, a precautionary mitigation approach has been proposed. This includes an exclusion buffer-zone around the building and a sensitive lighting plan during construction, as well as securing a lighting plan for the finished development.

In alignment with paragraph 175 of the National Planning Policy Framework, the implementation of enhancements for biodiversity should be encouraged. The ecology report recommends suitable enhancements such as native hedgerow planting and provision of bird boxes

Conditions are recommended to be attached to any permission granted, as well as an informative relating to breeding birds.

KCC Highways & Transportation: Folkestone & Hythe District Council Refuse Services team have confirmed that a 3.5T vehicle currently services this site, and this size vehicle will continue to do so should the above application be granted planning permission. In addition, Kent Fire & Rescue Services have commented confirming they are satisfied with the above proposals. This access currently serves a small number of dwellings and as such has an established use. Therefore, with regards to access for service vehicles, this proposal would not warrant a recommendation of refusal from KCC in its capacity as the local highway authority.

Waste Management: Veolia have confirmed that a 3.5T narrow access vehicle will service these properties.

Southern Water: No comment made

Environmental Health: No objection subject to imposition of the Councils standard contamination condition.

Arboricultural Manager: No objection subject to recommendations within the pre-development tree report being secured via condition.

Kent Fire & Rescue Service: The off-site access requirements of the Fire & Rescue Service have been met. On-site access is a requirement of the Building Regulations 2010 Volume 1 and 2 and must be complied with to the satisfaction of the Building Control Authority who will consult with the Fire and Rescue Service once a building Regulations Application has been submitted.

Local Residents Comments

5.2 15 neighbours directly consulted. 10 representations received.

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

- Sympathetic approach to existing arboriculture and vegetation
- Welcome limiting rooflines to effectively one-storey
- Design approach emphasises quality and sustainability
- Welcome approach to privacy
- Garages are overbearing with excessive roof heights
- Query as to whether a small-scale archaeology survey is needed
- Concerns regarding access with regard to visibility splays, lack of pedestrian footpath, constrained by ragstone walls
- Access should be for the proposed properties only and Coldharbour, no other future properties

DCL/20/55

- Increased traffic from future residents and deliveries leading to conflicts of use
- Blackhouse Hill is a hazardous road
- A Construction and Environment Management Plan should be required
- Suggestion of naming to reflect former ownership by Lord Wakefield
- Height of buildings should be limited due to location within the AONB
- Impact of noise and vibration during construction
- Possible loss of privacy for properties fronting Blackhouse Hill
- Remaining parcel of land will be developed in the future and the site should be considered as a whole
- Archaeological connections with Lord Wakefield and a nearby 12th Century Monastery
- Loss of habitat for a range of wildlife
- Light pollution

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan (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)

Policy HB1 - Quality Places through Design

Policy HB3 - Internal and External Space Standards

Policy HB10 - Development of Residential Gardens

Policy T2 - Parking Standards

Policy T5 - Cycle Parking

Policy NE2 – Biodiversity

Policy NE3 - Protecting the District's Landscapes and Countryside

Policy NE6 - Land Stability

Policy NE7 - Contaminated Land

Policy HE2 - Archaeology

Shepway Local Plan Core Strategy (2013)

Policy DSD - Delivering Sustainable Development

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

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

Core Strategy Review Submission draft (2019)

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

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

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

Supplementary Planning Guidance/Documents

KCC: Kent Design Guide

Kent Downs AONB Management Plan

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

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

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

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

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 - Weight to be applied to emerging policies

Paragraphs 108-110 - Transport and access

Paragraphs 124, 127- Design

Paragraphs 170-173 - Conserving and enhancing the natural environment

Paragraph 175 – Habitats and biodiversity

Paragraph 178 – Ground conditions and pollution

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

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

I2 - Well-designed, high quality and attractive

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

N3 - Support rich and varied biodiversity

7. APPRAISAL

7.1 The main issues for consideration are:

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Highways
- e) Ecology and biodiversity
- f) Trees and landscaping
- g) Drainage
- h) Other issues

a) Principle of development and sustainability

DCL/20/55

- 7.2 Core Strategy policy SS3 directs development toward existing sustainable settlements to protect the open countryside and the coastline, with the principle of development likely to be acceptable on previously developed land, within defined settlements, provided it is not of high environmental value. Focusing attention on existing centres underpins not only the protection of the District's open countryside, but also seeks the achievement of sustainable places.
- 7.3 The application site is located within the Kent Downs AONB. Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB, which have the highest status of protection in relation to these issues, with policy NE3 of the Places and Policies Local Plan echoing this position.
- 7.4 The site was part of the garden of Coldharbour and as such is not previously developed land under the definition within the National Planning Policy Framework glossary. Policy HB10 sets out that development proposals involving the complete or partial redevelopment of residential garden land within settlement boundaries will be permitted, subject to fulfilling certain criteria. Proposals must respond to the character and appearance of the area, as well as the layout and pattern of the existing environment, taking into account views from streets, footpaths and the wider residential and public environment and the plot to be developed should be of an appropriate size and shape to accommodate the proposal, taking into account the scale, layout and spacing of nearby buildings, the amenity of adjoining residents and the requirements for living conditions. Access and parking must meet adopted standards and established trees must also be incorporated, wherever possible. The compatibility with these requirements is assessed within the following sections b) – f).
- 7.5 The general thrust of national and local planning policy is to secure sustainable patterns of development through the efficient re-use of land, concentrating development at accessible locations. In being located within the defined settlement boundary, the proposal is considered likely to facilitate the achievements of these objectives and be sustainable development in terms of its location. It would also contribute toward the Council's housing target. In conclusion the principle of development at this site is considered acceptable subject to the material considerations below, which shall be assessed in the remaining sections of this report.

b) Design/layout/visual amenity

- 7.6 Policy HB1 of the PPLP and NPPF Paragraph 127 require development to make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density and materials. The proposed buildings are of a contemporary design but would utilise traditional materials found in the locality in the form of stock bricks, clay tiles and timber cladding, as well as proposing to use locally distinctive ragstone for the lower ground floor. They would be partially set into the ground, as a response to the sloping nature of the site and in order to reduce the visual impact of the development, with the buildings appearing to be single storey when viewed from the north. The stated intention is to appear similar in general form to the existing outbuildings within the site.
- 7.7 In this respect, it is considered that the proposed dwellings represent good design that would be sympathetic to the range of architectural styles that can be seen in the surrounding development. The surrounding development has a range of heights and

building forms – two storey dwellings, bungalows, and chalet bungalows – with a variety of materials employed in the external finishes. The proposed dwellings would have a two storey structure but with the ground floor partially set into the site to reduce the overall visible massing, which would compare favourably in respect of the surrounding development, some of which has similar form in order to accommodate the sloping nature of the topography.

- 7.8 Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection, with policy NE3 of the PPLP identifying that the natural beauty and locally distinctive features of the AONB and its setting should be conserved and enhanced. The introduction of two new dwellings into the AONB, where new development is specifically restricted to protect the visual amenity of the landscape, could potentially harm the character and visual amenity of the area.
- 7.9 However, in this respect the proposed development would be well-related to the existing settlement pattern and would infill a site that is immediately to the south of development fronting Blackhouse Hill; development which precludes ready views of the application site from the highway. Longer distance views are not readily possible because of the existing development that surrounds the site, the topography of the surrounding land and the existing vegetation. Cumulatively, these factors mean that the site is not readily visible from the surrounding public road network or in long distance views, such as from Princes Parade to the south, which the most prominent elevation of the proposed development would face toward. Materials would accord with those used in the surrounding development and if the properties were readily visible from public vantage points, they would not appear incongruous.
- 7.10 The layout of the proposal would consolidate the existing strip of low-density edge-of-settlement development, in accordance with the character of the area of detached dwellings within spacious plots, with no significant visual intrusion into the views of the site from additional built form as a consequence of the proposed dwellings being comparable in size to existing dwellings and also the partial setting into the ground of the ground floor. The pattern of development is considered acceptable, with examples of 'backland' style development to be seen in 34a, 36a, 40 and 42 Blackhouse Hill in the immediate vicinity. Consequently, there would be no significant impact upon the character and distinctiveness of the AONB designation or the surrounding pattern of development.
- 7.11 In light of the above it is considered that the proposal would not cause significant harm to the local character and distinctiveness of the AONB, with no visual presence within the street scene due to the existing built development, topography and vegetation screening ready views of the site, and would accord with the existing low-density character of development in the area in accordance with the aims and objectives of policies HB1 and NE3 of the Places and Policies Local Plan and the NPPF.

c) Residential amenity

- 7.12 The proposed dwellings are set away from the common boundaries of the properties edging the site and in conjunction with being partially set into the ground, would have no adverse impact upon residential amenity through an overbearing presence, overshadowing, or an increased sense of enclosure. The closest neighbour would be 36a Blackhouse Hill, which would be 11 metres away to the west, from building to building.

- 7.13 In relation to overlooking, both properties would have an external balcony area, but during the course of the application, at the request of the Planning Officer, the balcony for plot 1 has been amended so as to remove the western-most element of this, as well as securing the full height windows to the western wall of the kitchen area to have obscure glazing, in order to protect the privacy of the property to the west, 36a Blackhouse Hill. The other windows in this elevation, which serve a bedroom and bathroom are, respectively, approximately 11.5 and 14m away from the common boundary with 36a Blackhouse Hill and face a hedge that is to be retained. In light of this and the amendments to the scheme that have been secured, it is considered that the privacy of the occupants of this dwelling would be safeguarded.
- 7.14 The existing boundary vegetation provides a generally strong visual screen for all adjacent properties. Four trees are proposed to be removed to facilitate the development; three of these from toward the centre of the site and one from the western edge, with additional planting proposed to the edges of the site and running through the middle of the site as part of the ecological enhancement measures and general landscaping that can be secured via condition, with species and final placement forming part of submitted details in order to ensure integration with existing vegetation, so as to further ensure that no perceived or actual overlooking would occur to neighbouring properties. It is considered that this would provide an acceptable screen for neighbouring uses.
- 7.15 Finally, the additional activity associated with two dwellings is also considered unlikely to result in any significant noise and disturbance as to impact detrimentally upon residential amenity given the domestic nature of the proposed development - where residential development would be considered compatible with other residential development – and also the low number of additional dwellings, with vehicle movements from an additional two units considered unlikely to result in significant additional noise and disturbance over and above that generated by the coming and going of vehicles associated with the three other properties that utilise the access way.
- 7.16 In relation to internal and external space standards, the proposal exceeds the adopted requirement for each and as such Officers are satisfied that the development would provide an acceptable standard of accommodation and level of amenity for future occupants and as such complies with policy HB3 of the Places and Policies Local Plan.

d) Parking, access and transport

- 7.17 The site would be accessed from Blackhouse Hill to the north, via an existing single-track residential access with an established use, with off-street parking and car ports provided within the site. Although concern has been expressed with regard to the use of the access for the additional units, the applicant has included pre-application advice from KCC Highways & Transportation which concludes that the additional traffic movements would not impact upon highway safety, with the visibility when exiting the site considered more than adequate. Further comments from KCC Highways & Transportation in conjunction with Folkestone & Hythe District Council Refuse Services and Kent Fire & Rescue have confirmed that the existing access is acceptable and as such there is no planning justification for refusing permission on those grounds.
- 7.18 Kent Design Guide Review: Interim Guidance Note 3 Residential Parking states that a minimum of 2 independently accessible car parking spaces should be allocated for a 4 bedroom house in a suburban edge / rural location. This would be met under this

proposal. As such, the parking provision meets the Council's adopted standards as set out in policy T2 of the Places and Policies Local Plan and Officers are satisfied that the development would not result in harm to highway safety or convenience.

- 7.19 With regard to cycle parking, this is shown to be provided within the proposed garage structures at a ratio of 1 space per bedroom in accordance with PPLP policy T5 and it is considered reasonable to impose a condition requiring that this secure, covered storage is provided prior to first occupation of the dwellings.

e) Ecology and biodiversity

- 7.20 The applicant has submitted a preliminary ecological appraisal and phase II surveys in support of the application that conclude there would be minimal impact to habitats and protected/notable species from the proposed development, if mitigation measures are implemented.
- 7.21 The population of reptiles was concluded as 'low', based on a peak count of adults, but the presence of juvenile reptiles denotes a breeding population within the area. As such, an appropriate translocation methodology and a suitable receptor site will be provided for the site's reptile population.
- 7.22 For bats, due to the presence of a bat roost within a retained building, the garage and archway that forms an entrance to the property known as Coldharbour, and its proximity to the development footprint, as it is immediately adjacent to the red line of the application site, but under the control of the applicant, a precautionary mitigation approach has been proposed, including an exclusion buffer-zone around the building and a sensitive lighting plan during construction, with details of external lighting for the properties post-construction to be secured by condition.
- 7.23 In alignment with paragraph 175 of the National Planning Policy Framework 2019, the implementation of enhancements for biodiversity should be encouraged and the ecology report recommends suitable enhancements such as native hedgerow planting and provision of bird boxes, which can be secured via condition. The suggested conditions are considered appropriate and would ensure that the development would not result in harm to the biodiversity of the site.

f) Trees and landscaping

- 7.24 The site has well-established and mature existing boundary vegetation, comprised of hedgerow to the south western boundary and trees and shrubs along the north western boundary, with sections of brick wall. Four trees are proposed to be removed to facilitate the development; three of these from toward the centre of the site and one from the western edge, with additional planting proposed to the edges of the site and running through the middle, as part of the ecological enhancement measures and general landscaping. This is considered acceptable and can be secured by condition. The retained trees are not covered by a Tree Protection Order and are of grade B and C, although their presence forms part of the rural-edge character of the area. Consequently, it is considered reasonable to protect them via condition.
- 7.25 The Council's Arboricultural Manager considers that the recommendations within the arboriculture method statement relating to protective fencing, protection of ground within the root protection areas (RPA), supervised excavations for foundations etc. and

provision of underground services, are suitable to protect the retained vegetation and should be secured via condition.

7.26 Overall, although there would be some loss of vegetation from the centre of the site as a consequence of the siting of the proposed dwellings, the protection of the retained trees, alongside the securing of additional landscaping would mitigate that loss and the development proposal and maintain the rural-edge character of the site. Furthermore, it is considered that the proposed planting, through the need to complement the existing vegetation and also provide appropriate ecological enhancement, would be likely to enhance the overall quality of vegetation within the site and the AONB.

g) Drainage

7.27 The application submission includes a drainage strategy for the site. The site is not in an area with identified issues in this respect – flood zone 1 and at low risk of flooding from any other sources – and the report concludes that the properties would not be at risk. Foul water can be drained to the combined sewer in Blackhouse Rise by gravity, across land within the ownership of the applicant. Surface water drainage for the proposed development can also be attained via attenuation within the site and discharge to the combined sewer, limiting discharge rates to 2 l/s for all rainfall events up to and including the 1 in 100 year event with an allowance of 40% for climate change. As such, it is considered that there are no negative impacts in this respect. Details of foul and surface water drainage will be secured via condition.

h) Other issues

7.28 The application site is on sloping ground, but the British Geographical Survey landslip data identifies it to be in Zone B – which means that instability problems are not likely to occur but potential problems of adjacent areas impacting on the site should always be considered. The site is not within an area identified as being at risk of land instability and as such a soil stability report was not considered necessary as part of the application. Consequently, it is considered that the proposal is acceptable in this regard, within planning terms.

7.29 A Phase 1 Contamination Risk Assessment has been submitted concluding that the site would not be considered to be “Contaminated Land” based on a residential end use. The Environmental Health Team have reviewed this report and requested the Council’s standard contaminated land condition is imposed, should permission be granted. It is considered that this would satisfactorily address any issues regarding contamination that may arise and the requirements of PPLP policy NE7.

7.30 In respect of bin storage, during the course of the application the plans have been amended to show how the site could be accessed by a refuse lorry, with bin stores shown for each proposed unit on these plans. However, it has been confirmed that the existing properties are currently serviced by a smaller waste collection vehicle and will continue to be so. As such, it is considered that there would be suitable arrangements and facilities for the collection and storage of waste and recycling so as to safeguard residential amenity and the visual amenity of the area.

7.31 As regards means of access to the site by the Fire and Rescue Service, their comments have been sought and they raise no objection, with their off-site access requirements being met.

Environmental Impact Assessment

7.32 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

7.33 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £118.08 per square metre for new residential floor space.

Human Rights

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

Public Sector Equality Duty

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

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

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

Working with the applicant

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

8. CONCLUSION

8.1 The application site is within a sustainable location and the proposed development would not be readily visible from nearby public vantage points or in long distance views of the scheme from the seafront. Also the proposal would have a negligible impact

DCL/20/55

upon the designated AONB as a consequence of its location within the existing built up area, the topography of the site, the design of the buildings and the proposed landscaping. It is considered that there are no other material considerations relating to design, layout, highways, amenity of existing or future occupiers, ecology or drainage that would warrant refusing planning permission, and it is considered that the scheme would be acceptable with regard to local and national planning policy. The application is therefore recommended for approval.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATION

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

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

Reason:

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

2. The development hereby permitted shall not be carried out except in accordance with the details shown on the submitted plans: Proposed floor plans - House 1 19_81_20A; Site layout plan 19_81_05G; Proposed rear elevation 19_81_27A; Proposed side elevation - House 1 19_81_23A; Site layout plan - 19_81_05 Rev D; Section A-A - 19_81_30; Section B-B - 19_81_31; Section C-C - 19_81_32; Proposed front elevation - houses 1 and 2 19_81_22; Proposed side elevation - house 2 19_81_26; Proposed side elevation - house 2 19_81_25; Proposed side elevation - house 1 19_81_24; Proposed floor plans - house 2 19_81_21; Proposed garage - house 1 - 19_81_28 Rev A; Proposed garage - house 2 - 19_81_29 Rev A; Section A-A - 19_81_30; Section B-B - 19_81_31.

Reason:

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

3. No work on the construction of the external surfaces of the buildings hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason:

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

4. 1. Prior to commencement of the development a desk top study shall be undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might

DCL/20/55

reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

2. If a desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include - A survey of the extent, scale and nature of contamination - An assessment of the potential risks to - Human health - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, - Adjoining land, - Ground waters and surface waters, - Ecological systems, - Archaeological sites and ancient monuments and - An appraisal of remedial options and identification of the preferred option(s). All work pursuant to this Condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

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

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

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

Reason:

DCL/20/55

To protect the environment and human health against contamination and pollution, in accordance with Places and Policies Local Plan policy NE7 and the NPPF: 2019.

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

Reason:

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

6. Prior to commencement of works (including site clearance), all mitigation measures for reptiles shall be carried out in accordance with the details contained in section 5.2 of the Ecological Impact Assessment (David Archer Associates October 2020).

Reason:

In the interests of protecting protected species and habitats in accordance with NPPF paragraph 175 and Places and Policies Local Plan policy NE3.

7. During all work on the site in connection with the implementation of the planning permission (including site clearance), all precautionary mitigation measures for bats during construction shall be carried out in accordance with the details contained in section 5.4.2 of the Ecological Impact Assessment (David Archer Associates October 2020).

Reason:

In the interests of protecting protected species and habitats in accordance with NPPF paragraph 175 and Places and Policies Local Plan policy NE3.

8. Prior to first occupation of the dwellings hereby approved, a lighting scheme for biodiversity shall be submitted to, and approved in writing by the local planning authority. The lighting scheme shall be designed by a qualified lighting designer and shall include the type, level of illumination and locations of all external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting shall be installed in accordance with the specifications of the lighting scheme, the lighting shall be retained as approved and no additional lighting shall be installed thereafter.

Reason:

In the interests of protecting protected species and habitats in accordance with NPPF paragraph 175 and Places and Policies Local Plan policy NE3.

9. Within six months of the commencement of development, details of how the development will enhance biodiversity shall be submitted to, and approved in writing by, the local planning authority. This will include recommendations in section 6 of the

DCL/20/55

Ecological Impact Assessment (David Archer Associates October 2020) as well as an implementation and maintenance schedule. The approved details will be implemented and thereafter retained.

Reason:

In the interests of protecting protected species and habitats in accordance with NPPF paragraph 175 and Places and Policies Local Plan policy NE3.

10. No construction work above the foundation level of any building on site shall take place until a hard and soft landscaping scheme for the site, including an implementation programme and maintenance schedule, shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall be carried out in accordance with the approved details and implementation programme unless an alternative timescale has first been agreed in writing with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

Reason:

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

11. The parking and cycle parking shown on the approved plans shall be provided in full prior to the first occupation of any dwelling or dwellings hereby approved and shall thereafter be kept available for parking in connection with the development at all times.

Reason:

It is necessary to make provision for adequate off street parking to prevent obstruction of the highway and to safeguard the amenities of adjoining areas, with secure, covered cycle parking required in order to encourage means of travel other than the private motor vehicle.

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

Reason:

In the interests of visual amenity.

13. Upon commencement of the development hereby permitted, all recommendations and measures contained within David Archer Associates Arboricultural Method Statement March 2020 shall be carried out in full and in accordance with the details within the approved document, until the completion of the development.

Reason:

In the interests of good arboricultural practice.

14. Prior to the first occupation of Plot 1, the first floor windows in the western elevation serving the kitchen area as shown on approved drawing 19_81_20 Revision A and as shown on approved drawing 19_81_23 Revision A, shall be fitted with obscured glass

DCL/20/55

of a type that is impenetrable to sight and shall be non-opening up to a minimum of 1.8 metres above the internal finished floor level and shall be so retained at all times.

Reason:

To minimise overlooking onto adjoining properties and maintain privacy.

15. No construction work above the foundation level of any building on site shall take place until details have been submitted to and approved in writing by the Local Planning Authority of foul and surface water drainage to serve the development, with such details as approved, implemented in accordance with the approved plans, prior to the first occupation of the dwellings.

Reason:

In the interests of safeguarding the amenities of adjoining areas and sustainable water resource management.

16. No trees, shrubs or hedges within the site which are shown as being retained within the David Archer Associates Arboricultural Method Statement date: March 2020, shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.

Reason:

In the interests of the amenity and environmental quality of the locality.

Informative

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
2. 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.

Appendix 1 – Site Location Plan

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Land adjoining Cold Harbour
Blackhouse Hill
Hythe

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Agenda Item 6

DCL/20/56

Application No: 20/0684/FH

Location of Site: The Rectory, Rectory Lane, Lyminge, CT18 8EG.

Development: Erection of a detached dwelling and two garages.

Applicant: Canterbury Diocesan Enterprises Ltd.

Agent: John Bishop and Associates,
Zealds House,
39 Church St,
Wye.

Officer Contact: Ross McCardle

SUMMARY

This application proposes the erection of a detached dwelling on land currently forming part of the garden to The Rectory, and the erection of a detached garage for both existing and proposed dwellings. The site is within the built up area boundary and the development would not give rise to any serious issues of visual, residential, or highway amenity. The site is identified as having significant potential for archaeology but the KCC archaeologist raises no objection subject to imposition of a condition securing archaeological field works. The site lies within the Stour Operational Catchment but will not affect the integrity of the SSSI as the site drains to the Hythe pumping station, which is outside of the impact zone.

RECOMMENDATION:

That planning permission be approved subject to further information regarding on-site drainage, and the conditions set out at the end of the report.

1. INTRODUCTION

- 1.1 This application is presented to committee due to an objection from Lyminge Parish Council.

2. SITE AND SURROUNDINGS

- 2.1 The Rectory is a detached house situated within generous grounds within the built up area of Lyminge. The property lies at the end of a narrow lane of similarly large detached houses, and is partially screened in views from the road by existing boundary planting. The plot is a notable projection to the south of the village, and is surrounded to the west, south, and east by agricultural fields.
- 2.2 The site is within the built up area boundary as defined by the adopted Local Plan; land stability zone A (the zone of least risk); the Area of Outstanding Natural Beauty; and an area of archaeological potential. It lies outside of any defined flood risk zone.

- 2.3 A public right of way (PRoW) runs southwards to the front of the site as the continuation of Rectory Lane.
- 2.4 There are no Tree Preservation Orders within the site.
- 2.5 A site plan is attached at **Appendix 1**.

3. PROPOSAL

- 3.1 This application seeks planning permission for the erection of a detached house and two garages on part of the garden of the Rectory.
- 3.2 The existing garage to the front of the site and a small collection of outbuildings at the south west corner of the site will be removed to enable development.
- 3.3 Access to the site will be via the existing driveway at the head of the lane.
- 3.4 A single storey garage will be erected to the south of the existing house, approximately 3.7m from the southern flank wall, to serve the proposed new dwelling. The garage will measure approximately 4.2m wide x 7.2m deep x 3.9m high with a hipped roof. A driveway/parking area to the front of the garage will be approximately 9.3m deep.
- 3.5 To the north of the existing dwelling a single storey garage of a similar scale and design, to serve the existing dwelling, is proposed
- 3.6 The proposed dwelling will be set approximately 1.7m to the south of the garage (9.6m from the flank of the Rectory). It will measure approximately 10m wide x 8.3m deep x 8.3m tall with a gable ended pitched roof. External materials are proposed as brick at ground floor, horizontal timber cladding at first floor, and a tiled roof. A small porch canopy will project to the front. Internally the building will provide an open-plan living/kitchen area, study, and utility room at ground floor, with four bedrooms, bathroom, and two en-suites at first floor.
- 3.7 A 1.8m close-boarded fence will be erected between the existing and proposed houses, and other boundary fencing remains as existing. Each property will have a garden of approximately 20m wide x 18m deep.

4. RELEVANT PLANNING HISTORY

4.1 None.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

5.2 Consultees

Lyminge Parish Council: object for the following reasons:

- The Rectory sits outside the settlement boundary [NB: it is within the defined built up area boundary];
- It is at the end of a narrow “no through road”;
- It is in a prominent position when approaching the village by road from Etchinghill and an additional dwelling will be prominent;
- Other housing developments in the area will meet the identified need, and there is no need for this dwelling;
- Potential for archaeological remains within the site;
- Impact on views when approaching the village on the adjacent public footpath;
- Loss of trees on the site; and
- The application doesn't contain any sustainability measures.

The Parish Council also approached the Council to request a TPO be placed on an Ash tree within the site. [**Chief Planning Officer comment:** this was assessed by the Council's Arboricultural Officer and found to be of insufficient quality to justify a TPO in this instance.]

KCC Highways & Transportation: Have made no comment.

KCC Archaeology: Raise no objection subject to condition in light of the significance of Lyminge as a pre-Christian settlement, and the potential for important remains to be found in the immediate local vicinity.

F&HDC Contamination Consultant: Raises no objection and considers the site to be low-risk given its historic residential use.

Arboricultural and Grounds Manager: Raises no objection subject to a pre-commencement condition to secure a survey of the nearby mature trees and a corresponding tree protection plan.

5.3 Local Residents Comments

Three neighbouring residents were consulted.

Twenty letters of objection have been submitted by a local residents. I have read all of the letters received. The key issues are summarised below:

- Overdevelopment of the site;
- Additional vehicles and increased traffic on the lane;
- Damage to the lane and PRow;
- Potential conflict of movement between vehicles and pedestrians on the lane;
- Inadequate parking and turning space;
- Access to the garage is too narrow;
- Signage (no turning, residents only) should be erected at the head of the road;
- There should be no access or parking on the lane for contractor / construction vehicles;
- Residents should be advised of construction periods;
- Noise and disturbance during construction;
- Health and safety during construction;
- The existing lane should be resurfaced by the developer;
- No turning allowed on neighbouring resident's property;
- Hours of work should commence after 08.00;
- Inaccuracies in the D&A Statement;
- Loss of Rectory garden as a community space for church functions [**Chief Planning Officer comment:** It is a private garden];
- Impact on curate pastoral services within the village;
- Few details in regards the sustainability of the development;
- Potential damage to TPO trees on the site [NB: there are no TPOs on the site];
- Archaeological potential of the site;
- Notification as required by the "Church Commissioners Parsonage and Glebe Diocesan Manual July 2012" has not been carried out [**Chief Planning Officer comment:** this is not a planning consideration];
- "Insufficient notice to allow for proper consultation of this planning application";
- No site notice posted [**Chief Planning Officer comment:** site notice erected 15.07.20, photo on file];
- Not in keeping with the AONB;
- Precedent for future development;
- Site is outside the built up area of the village [**Chief Planning Officer comment:** It is within the defined BUAB]; and
- Loss of light to the existing dwelling.

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

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the Places and Policies Local Plan 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)

Policy HB1 – Quality Places Through Design

Policy HB2 – Cohesive Design

Policy HB3 – Space Standards

Policy HB8 – Alterations and Extensions to Buildings

Policy T2 – Parking Standards

Policy NE2 – Biodiversity

Policy NE3 – Protecting the District’s Landscapes and Countryside

Policy CC2 – Sustainable Design and Construction

Local Plan Core Strategy (2013)

Policy DSD – Delivering Sustainable Development

Policy SS1 – District Spatial Strategy

Policy SS2 – Housing Strategy

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

SS3 directs new residential development to the defined built up area boundaries within the Borough.

Core Strategy Review Submission draft (2019)

Policy SS1 – District Spatial Strategy

Policy SS2 – Housing Strategy

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy.

As above: SS3 directs new residential development to the defined built up area boundaries within the District.

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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 generally supports residential development in appropriate locations, subject to amenity considerations.

Paragraph 11 states there is a presumption in favour of sustainable development and paragraph 47 states that applications for planning permission should be determined in accordance with the development plan. Chapter 15 in particular seeks to ensure the countryside, designated landscapes, and biodiversity are preserved or enhanced, and paragraph 172 sets out that the AONB should be afforded the “highest status of protection.”

Supplementary Planning Guidance/Documents

KCC: Kent Design Guide

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

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

7. APPRAISAL

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

- a) Principle of development and loss of a community space
- b) Scale, design, and visual amenity
- c) Residential amenity

- d) Archaeology
- e) Highways and parking
- f) Other matters

a) Principle of development and loss of a community space

- 7.2 While I note that a number of local objections suggest the site is outside the built up area it does, in fact, entirely lie within the built up area boundary as defined by the adopted Local Plan, and the principle of residential development is therefore acceptable. As a result there is no requirement to justify the principle of infill development.
- 7.3 Local objections refer to loss of the garden as a space for church community functions – fetes, BBQs, etc. The Rectory garden is not a community facility in the same manner as (for example), church, public doctor's surgeries, villages halls, etc. This is a private residential garden attached to a private residential dwelling that has historically been used for events in association with the occupation of the resident of the Rectory (i.e. the local minister).
- 7.4 The land is not publicly accessible nor is it designated for wider community use. As a result adopted policy C2 which protects against the loss of community facilities is not engaged. Notwithstanding this, it should be noted that this application is brought forward by the church, and there are other sites at which these kind of events could be held, such as the church yard or the local park, both of which are nearby and publicly accessible.
- 7.5 I consider the principle of development to be acceptable.

b) Scale, design, and visual amenity

- 7.6 The existing dwellings along the lane are of mixed scales, designs, and styles and as such there is no particularly identifiable unifying character. The proposed dwelling whilst of relatively simple design is of an appropriate scale and form that would not appear incongruous within the context of the lane or the wider AONB, in my view. The use of vernacular materials (as secured by condition below) reinforce this and would help ameliorate the proposals into its surrounds.
- 7.7 The proposed dwelling meets the Council's adopted space standards both in terms of internal floor space and garden size.
- 7.8 The new house would be viewed in context against the neighbouring properties, and a suitable native landscaping scheme (as secured by condition below) would help to screen views and soften the impact of the development. I note concerns regarding the prominence of the building when approaching the village either by road or on foot along the public footpath, but

do not consider that it would be so harmful to visual amenity, or be overbearing in the wider street scene such that a refusal would be justified.

- 7.9 The proposed garages would be relatively small structures tucked between existing and proposed houses, and would not be out of character or harmful to the character and appearance of the area.

c) Residential amenity

- 7.10 Due to the scale and position of the proposed dwelling I do not consider that it would give rise to any serious amenity concerns for neighbouring residents in terms of overlooking, overshadowing, loss of privacy, or general disturbance.

- 7.11 In terms of noise, disturbance, etc. created during construction this would be a temporary impact during the construction period only and can be mitigated through the standard construction management plan condition set out below.

In light of the above, I am satisfied that the development would not harm the residential amenity of existing residents and would provide for the needs of the future occupiers.

d) Archaeology

- 7.12 The site lies within an area of significant archaeological potential, and the KCC Archaeologist requested additional information prior to determination in recognition of this fact. An initial assessment has been carried out, submitted by the applicant, and is considered acceptable.

- 7.13 Further to this additional information and subject to a standard condition KCC Archaeology have no objections, and I therefore am satisfied that that archaeological remains would be protected. I have no serious concerns in this regard.

e) Highways and parking

- 7.14 One additional dwelling on the lane is unlikely to generate additional vehicle movements to a degree that would seriously impact the functioning or integrity of the lane in my opinion, nor would it give rise to conflicts of movement significantly different to the current situation. Therefore while I note local objections in this regard I do not consider there to be justification for refusal on these grounds.

- 7.15 The development would not affect the use or functioning of the PRoW to the front of the site; the proposed buildings are clear of its route and there are unlikely to be any additional impacts upon use of the route from the extra traffic generated by a single additional dwelling.

- 7.16 Damage to the lane during construction would be a private matter between the developer and KCC Highways, and not an issue on which planning permission could justifiably be refused.

7.17 Parking for two vehicles is available for both existing and proposed dwellings in accordance with adopted Kent Vehicle Parking Standards.

f) Other matters

7.18 The development is liable for CIL at £144.65 per sqm, and the requisite form has been provided.

7.19 I note concern in regards the trees on site but, as set out by the Council's Arboricultural officer, they are not of a sufficient quality to warrant formal protection. The landscaping conditions below can secure additional planting on site to ensure no net loss of soft landscaping and an increase in biodiversity potential, and the tree survey condition will ensure the trees on site are adequately protected during construction.

7.20 The Council's standard conditions regarding sustainable development will ensure the scheme contributes positively to these objectives.

7.21 The site lies within the Stour Operational Catchment, where Natural England have recently identified that any new residential development has potential to impact the functioning and integrity of the Stodmarsh SSSI because of additional nitrates (nitrogen and phosphorous) entering the water from sewage / drainage at new developments.

7.22 The applicant has commissioned a drainage "nutrient neutrality" survey (carried out by Herrington's) which shows the site would be connected to existing local sewerage system that terminates at the Hythe Waste Water Treatment Works, which is outside of the Stour operational catchment and therefore has no impact upon it. The report therefore concludes that the development will be "nutrient neutral" in terms of nitrogen and phosphorous outputs to the Stodmarsh SSSI, and I have appended an Appropriate Assessment concluding that the development can proceed without harm to the SSSI.

Environmental Impact Assessment

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

Local Finance Considerations

7.24 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or 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. 7.18 The development is liable for CIL at £144.65 per sqm

Human Rights

7.25 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

7.26 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

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

8. CONCLUSION

8.1 This application seeks planning permission for the erection of a single dwelling and two detached garages within the defined built up area of Lyminge. While local objections are noted and understood they are not considered to amount to a reason for refusal in this instance, and it is considered that the development would not give rise to any serious harm to local amenity or the character and appearance of the AONB.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATION

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

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

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

2. No development shall take place other than in accordance with drawings 20-003/02, 03, and 04.

Reason: For the avoidance of doubt.

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

archaeological investigation and recording in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

5. 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.

6. 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 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.

7. Prior to the commencement of the development hereby permitted a tree survey report (to be carried out in accordance with BS5837:2012, and including the following components: tree survey schedule, tree constraints plan, arboricultural impact assessment, arboricultural method statement, and a tree protection plan) shall be submitted to and approved in writing by the Local Planning Authority. Upon approval the development shall be carried out in accordance with these agreed details.

Reason: In the interests of protecting existing trees which are worthy of retention in the interests of the amenities of the area.

8. 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.

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. 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.

11. 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.

12. 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.

13. The garages hereby approved and parking spaces to the front thereof (as shown on the approved drawings) shall be kept available for the parking of vehicles 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 or in such a position as to preclude vehicular access thereto.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users and in a manner detrimental to highway safety and amenity.

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.

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

This Appropriate Assessment (AA) has been undertaken with regard to information provided by the applicant.

The application site lies within the Stour Operational Catchment, where waters drain into the river Stour and its tributaries and ultimately pass through the Stodmarsh SPA / SAC / SSSI / Ramsar site, which is a designated site afforded international protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

The water environment within the Stour catchment is important for water dependant wildlife. There are high levels of nitrogen and phosphorous input to this water environment with sound evidence that these nutrients are causing eutrophication at part of these designated sites. These nutrient inputs are currently thought to be caused mostly by wastewater from existing housing and agricultural sources. The resulting nutrient enrichment is impacting negatively upon the Stodmarsh site's protected habitats and species.

There is uncertainty as to whether new growth will further deteriorate the SPA / SAC / SSSI / Ramsar. Until an Environment Agency Water Industry National Environment Programme (WINEP) investigation is complete and a full report provided (due 2022), the uncertainty of new growth's impacts on the designated site remains, and there is consequently potential for any new residential developments across the wider Stodmarsh catchment to exacerbate the existing impacts and create a risk to the designated site's potential future conservation status through inputting additional wastewater into the system. The proposal therefore 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 site's interest, Natural England advises the Council that it should have regard to any potential impacts that a development may have, and specifically recommend that a nutrient budget is calculated for each development with the aim of ensuring nutrient neutrality (*Advice on Nutrient Neutrality for New Development in the Stour Catchment in Relation to Stodmarsh Designated Sites - For Local Planning Authorities July 2020*).

Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the site. However, further to the submitted Nutrient Neutrality Assessment (Herrington Consulting Ltd, 15.01.21), which demonstrates that the site drains to a wastewater processing site outside of the Stour Operational Catchment, it is considered that the proposal is not likely to have significant effects upon the integrity of the Stodmarsh SSSI or the species which it contains.

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*

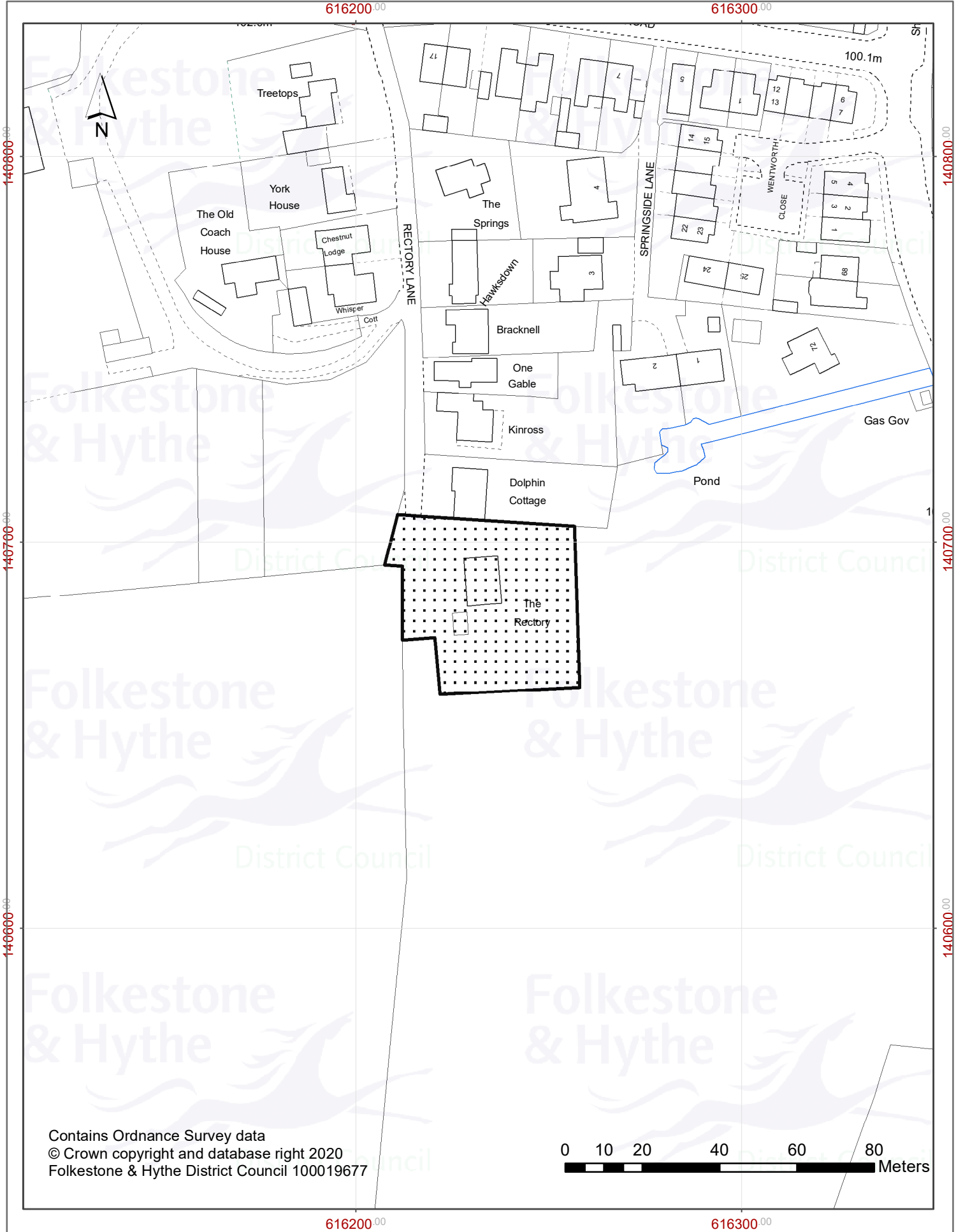
harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment.

However, the proposed development, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA / SAC / SSSI / Ramsar, as demonstrated by the submitted Nutrient Neutrality Assessment (Herrington Consulting Ltd, 15.01.21).

I therefore consider that there will be no adverse effect on the integrity or functioning of the SPA / SAC / SSSI / Ramsar as a result of this development.

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20/0684/FH
The Rectory
Rectory Lane
Lyminge



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Agenda Item 7

DCL/20/57

Application No: 20/1596/FH

Location of Site: Manor Barn, Teddars Leas Road Etchinghill CT18 8AE

Development: Retrospective application for the existing dwelling as constructed; variation of condition 2 of planning permission Y12/0442/SH for external alterations to stable block and machine/hay store building, conversion of part of the ground floor and loft space of the machine/hay store building to pool and gymnasium, use of loft space over detached stable block as tack rooms and horse feed storage; and installation of lamp standards.

Applicant: Mr. W Collins
Manor Barn
Teddars Leas Road
Etchinghill

Agent: Mr. J Dolan
James Dolan Architect
4 Upper Sheridan Road
Belvedere DA17 5AP

Officer Contact: Lisette Patching

SUMMARY

The application seeks retrospective planning permission to retain the existing dwelling, machine store/pool building and stables at the site. Planning permission has previously been granted for a dwelling on the site that incorporated integrated stables. Planning permission was subsequently granted for a separate stable building and a machine/hay storage building. None of these have been built in accordance with the previously approved plans. The principle of a dwelling and of three buildings of similar size, design and use to those that have been constructed has however already been established. It is not considered that there is sufficient additional harm arising from the development as constructed when compared to what has previously granted planning permission to justify refusing planning permission.

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

DCL/20/57

1.1. The application is reported to Committee because the parish council has objected to the application.

2. SITE AND SURROUNDINGS

2.1. The application site comprises a detached two storey dwelling and 3 outbuildings on the southern side of Teddars Leas Road, between Etchinghill and Paddlesworth. The outbuildings comprise an indoor riding arena, a U shaped stable block with accommodation above and a garage/store building also containing a swimming pool and accommodation above, including a gym area.

2.2. To the west and immediately adjoining the site is a dwelling called Rivendell which was originally in the same ownership as the application site. The land has been subdivided through land sale and now forms two separate parcels of land in separate ownership.

2.3. Apart from Rivendell and its curtilage the site is surrounded by countryside, with the nearest other built development being a farmyard and two dwellings approximately 0.14 km to the east. The application site has mature trees along the boundaries with a large hard surfaced parking and turning area to the front of the dwelling and stable block. The trees around the boundaries are protected by Tree Preservation Order No. 5 of 1999.

2.4. An extract from the 2018 aerial photograph at Figure 1 below shows the application site on the right and the neighbouring dwelling on the left. The indoor riding arena is the large grey roofed building on the right and the stable block is in front of that. The dwelling is the larger of the two brown roofed buildings to the left of the riding arena and the building containing the store/gym/pool is in front of the dwelling. Rivendell is the grey roofed building to the left of the boundary hedge.

Figure 1 – 2018 aerial photograph of site



Figure 1 – 2018 aerial photograph of site

- 2.5. The application site is located within the North Downs Area of Outstanding Natural Beauty and Special Landscape Area outside of any settlement boundary. The Folkestone to Etchingill Escarpment Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) adjoins the rear boundary of Rivendell. The application site contains Japanese Knotweed.
- 2.6. The construction of the dwelling has been completed and it is being lived in by the applicant. In terms of the accommodation it appears that it was originally constructed as it is now, rather than being constructed as approved with the stables and then subsequently converted after. The applicant has confirmed this was the case.
- 2.7. The materials are red brick with flint panels and dark stained weatherboarding above, with a brown plain clay tile roof. It comprises 3 floors of accommodation with the upper two floors in the roofspace. The dwelling is a converted barn style design with a double height glazed cart entrance and half hipped roof.
- 2.8. The machinery store is constructed of the same materials and similar barn style design to the dwelling. On the ground floor it contains an elongated oval shaped swimming pool at one end, which the applicant stated was previously used for exercising foals. On the first floor is a kitchenette and gym area with the remainder unfinished.

2.9. The stable building is U shaped and constructed of the same materials as the other two buildings. The stables contained at least 3 horses at the time of the officer's site visit. The upper floor area was boarded out but unfinished.

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

3. PROPOSAL

3.1 Planning permission has previously been granted for the three buildings the subject of this application but they were not constructed in accordance with the approved plans in terms of the purposes for which they are used or are intended to be used. Also some of the fenestration and elevation details are not in accordance with the approved plan. The details of the changes will be explained below in the Relevant Planning History section in respect of each relevant planning permission. This application essentially seeks to retain the buildings as constructed in terms of appearance and use of accommodation. The application also includes the retention of lighting columns around the site.

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

- Design and Access Statement
- Japanese Knotweed Proposal

3.3 The Design and Access Statement is a brief summary of what is being applied for. The Japanese Knotweed Report contains options for eradicating Japanese Knotweed from the site.

3.4 In terms of the dwelling on the site, the accommodation previously approved was for 5 stables and a tack room on two thirds of the ground floor with self-contained residential accommodation on the remainder of the ground floor and part of the first floor. This is shown at Figure 2 below.

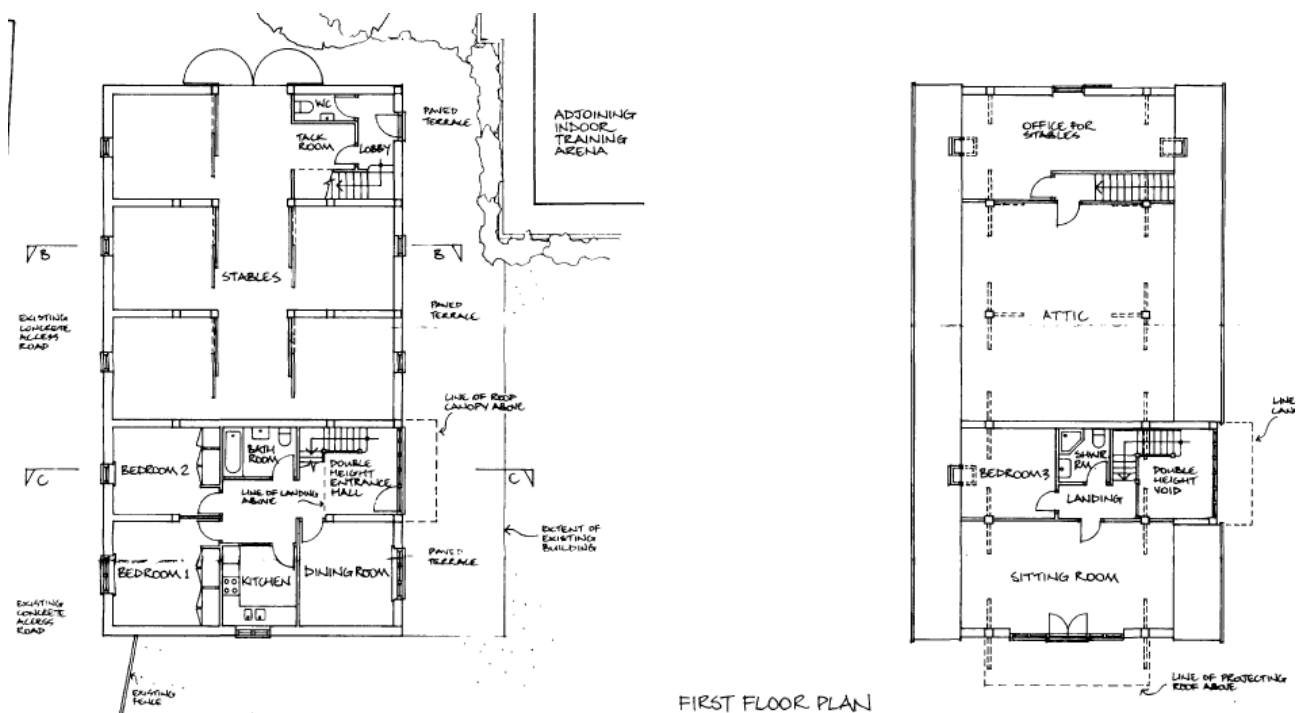


Figure 2 floor plan as approved (Y00/0545/SH & Y12/0337/SH)

DCL/20/57

The accommodation as built comprises a living room where the stables would have been, the whole of the first floor is living space and there is a sitting room and bar area in the roof space at second floor level. As originally submitted, the living room was shown as an equine media room but on visiting the property it appears as a large living room. The use of the room was queried with the applicant and he was advised that there is no planning permission for a business use. The applicant stated that no business is operated at the property and that the room is used as a living room. The planning officer requested the plans be amended to reflect this and for the sake of clarity. See **Figure 3** below.

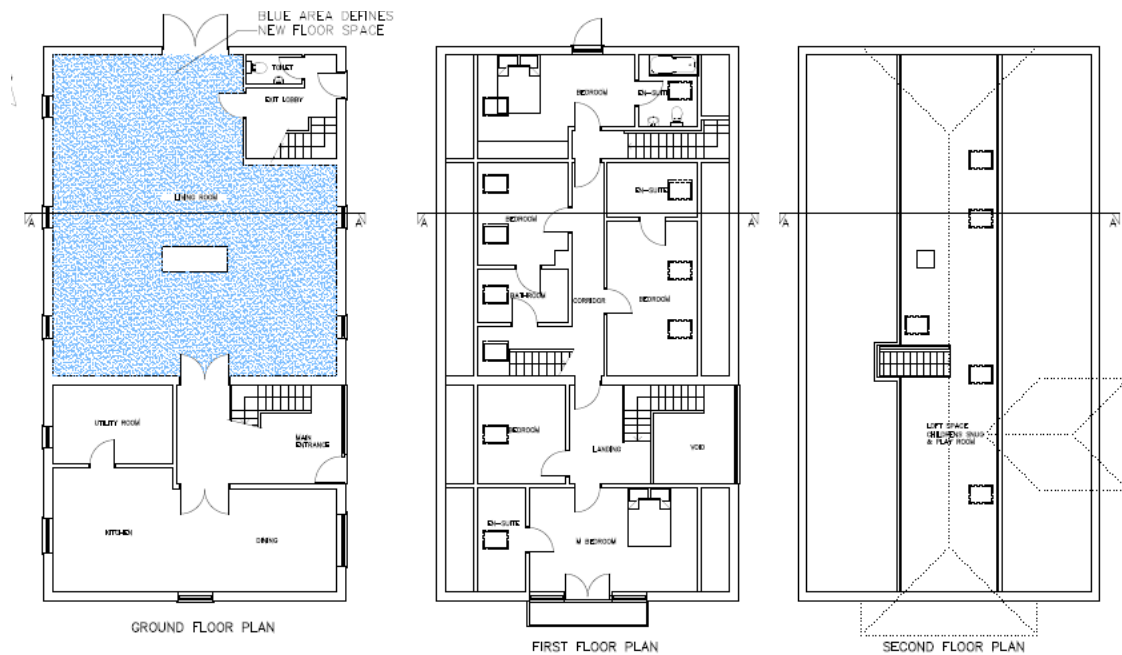


Figure 3 - current floor plans.

3.5 The approved elevations are at **Figure 4** below.

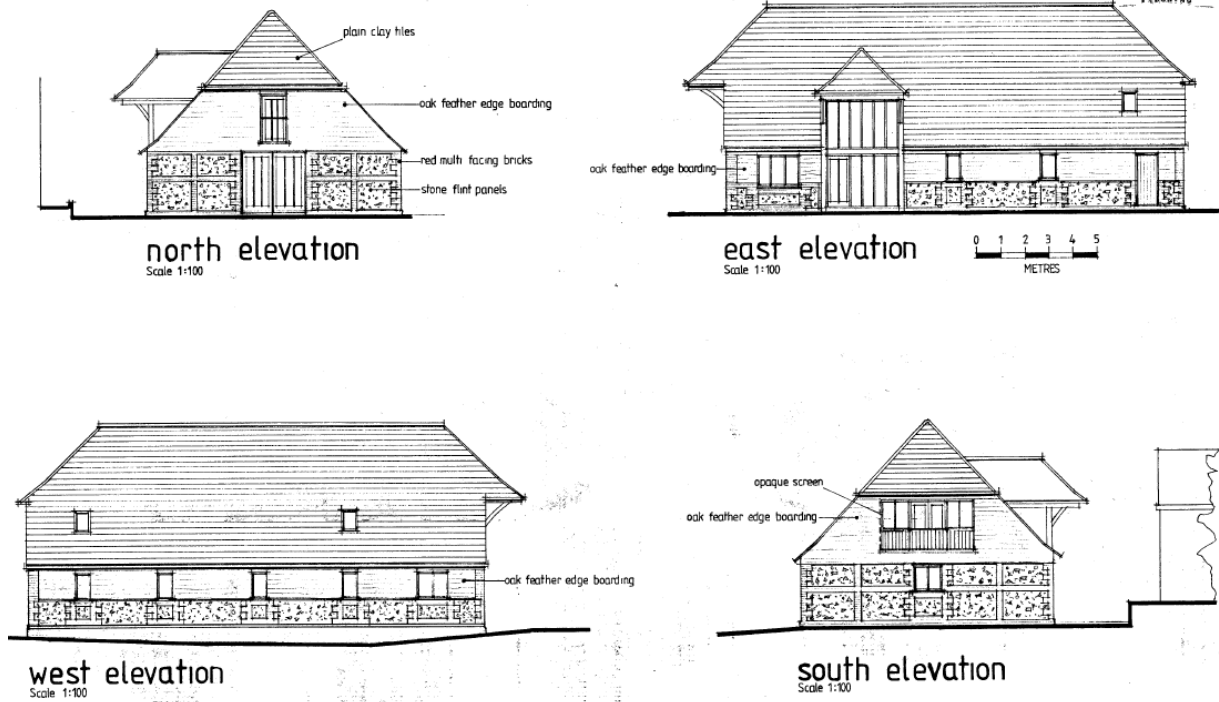


Figure 4 – elevations as approved (Y12/0037/SH)

The elevations as constructed are shown below at **Figure 5**



Figure 5 – elevations as constructed

3.6 The materials and design are as approved but it can be seen that there is a significant increase in the number of roof lights in the east and west elevations.

3.7 The floor plans and elevations of the hay barn and machinery store as approved are at **Figure 6** below.

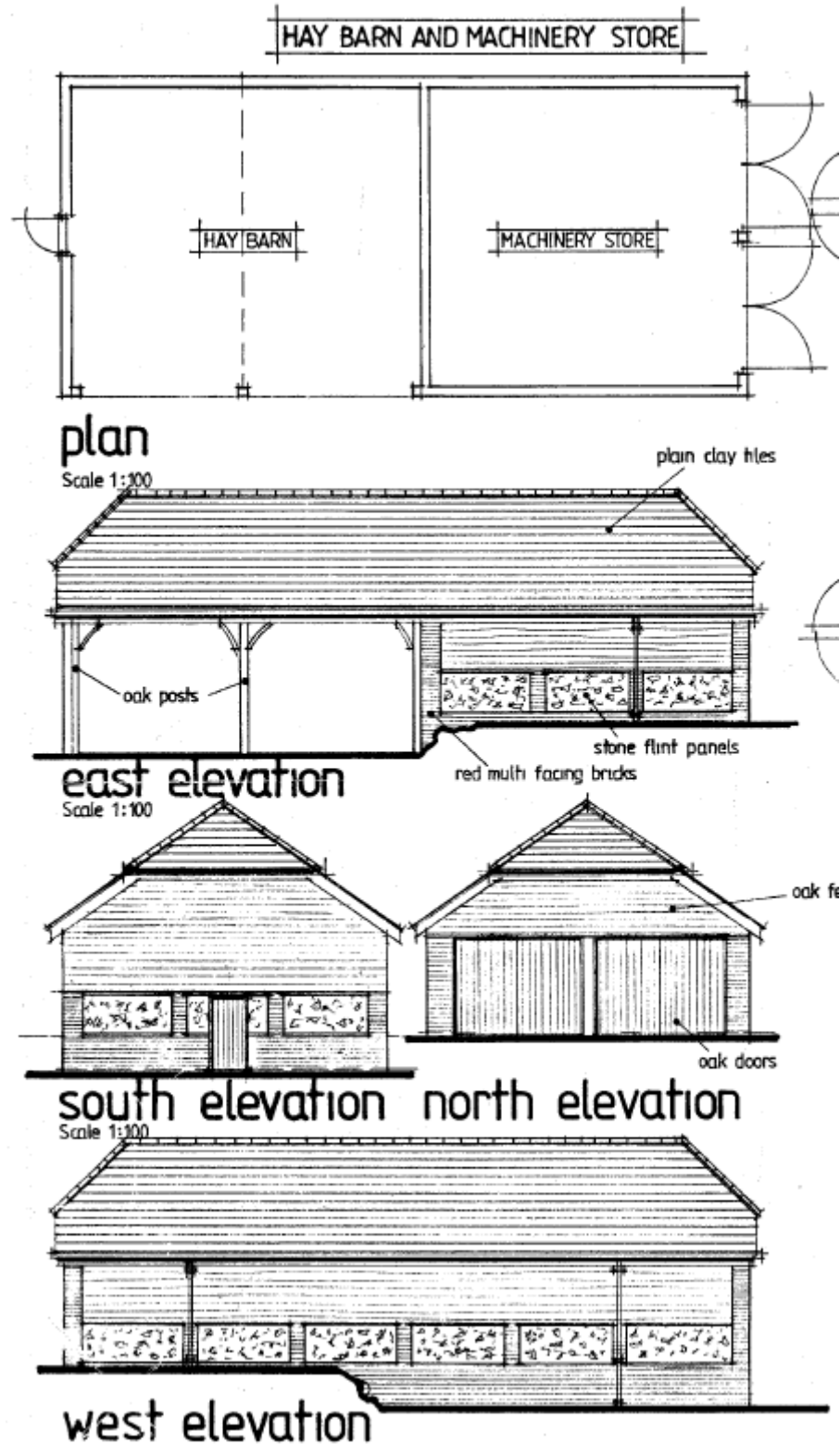


Figure 6 – Hay barn and machinery store as approved

Figure 7 below shows the building as constructed. It can be seen that as approved the building only contained one floor of accommodation. On the ground floor what was the hay barn now contains a pool and sauna area. The upper floor when complete is intended to comprise an office, kitchenette, small gym, shower and bathroom. On the eastern elevation the former open frontage to the hay store is now glazed.

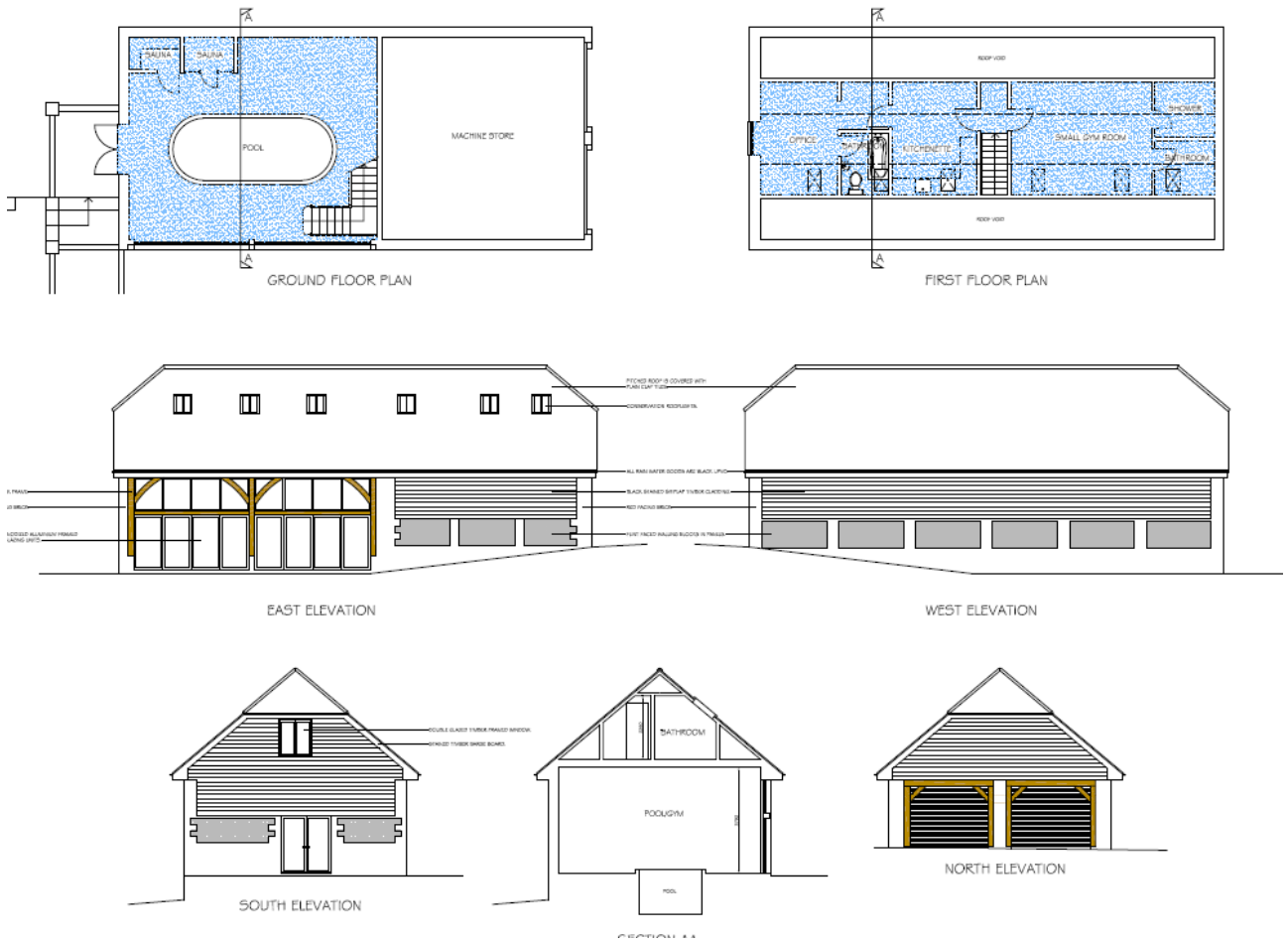


Figure 7 – Machinery store and pool block elevations as constructed.

3.8 The approved plans for the stable block also granted planning permission under Y12/0442 are shown below at **Figure 8**.

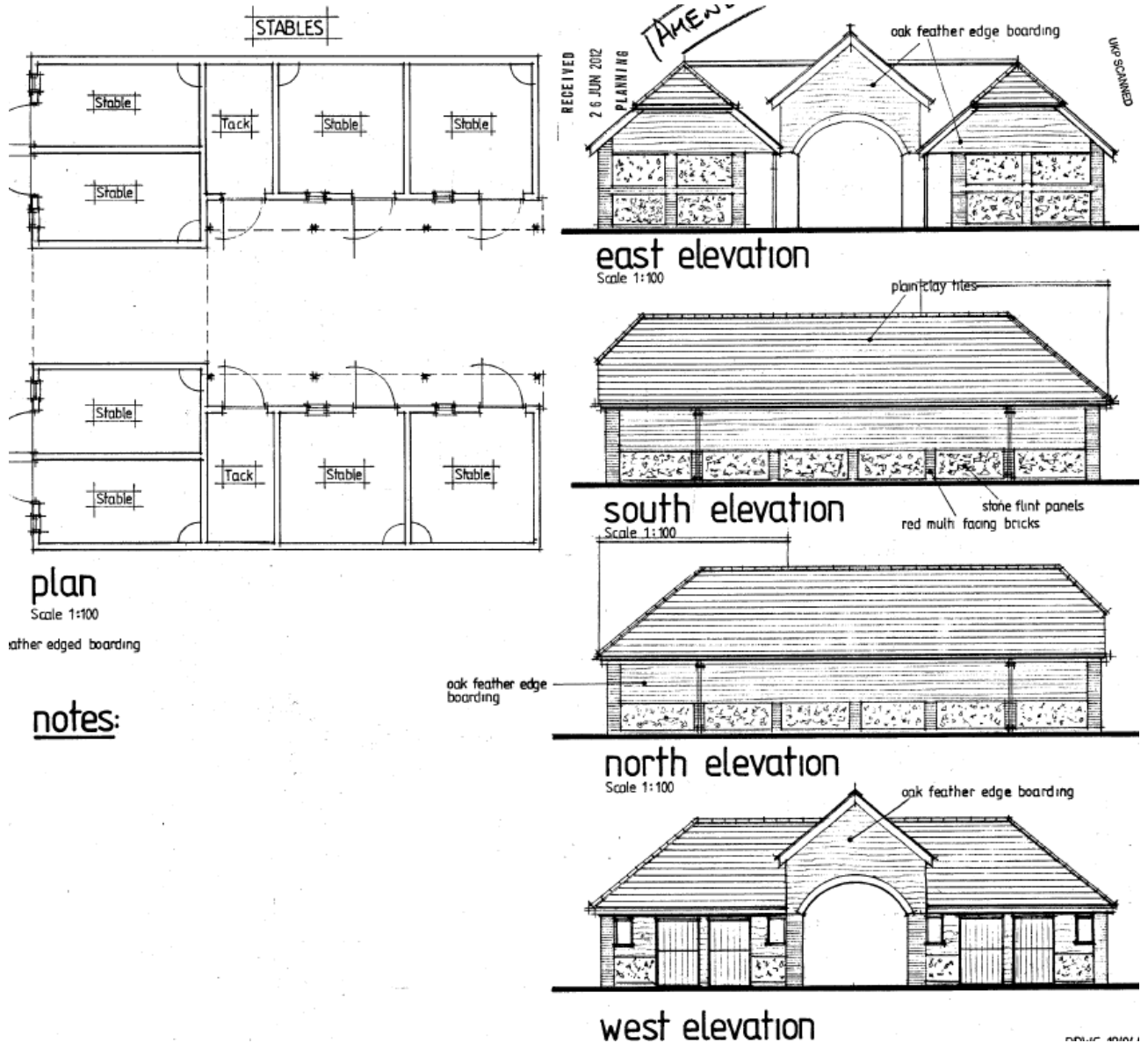


Figure 8 – Stable block as approved Y12/0442/SH

3.9 The plans for the stable block as constructed are below at **Figure 9**. There are 8 stalls as approved and what were shown to be tack rooms now provide access to the upper floor, which was not part of the approved plan. The upper floor is shown to comprise tack rooms and horse feed storage. The upper floor was not finished internally at the time of the planning officer’s visit. The entrance to the stables has also been changed from what was approved, with it now comprising an archway with a taller pitched roof over.

4. RELEVANT PLANNING HISTORY

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

SH/86/0107	Erection of building for agricultural storage and training of horses. This was under the same ownership as Greenloaming (now Rivendell)	Approved
SH/87/0469	Erection of stables. This was under the same ownership as Greenloaming (now Rivendell)	Approved
SH/96/0227	Erection of extension over existing stables to provide residential accommodation.	Approved
99/1067/SH	Temporary siting of mobile home	Refused
Y00/0545/SH	Erection of a replacement building with residential and stable accommodation. Condition restricting occupancy of dwelling to person involved with stabling/training horses in the stables	Approved
Y00/0829/SH	Retention of a mobile home for 6 months. Conditions requiring removal by 31.03.01 and restricting occupancy to person involved in stabling/training of horses at Greenloaming.	Approved
Y05/0565/SH	Renewal of planning permission Y00/0545/SH for replacement building for residential & stable accommodation.	Refused
Y08/0920/SH	Variation of condition 2 of SH/86/0107 and condition 2 of SH/87/0469 which restricts use of barn and stables to applicant only.	Approved
Y09/0905/SH	Erection of two storey detached dwelling, garage and stable block	Refused
Y10/0709/SH	Erection of two storey detached dwelling, garage and stable block, following demolition of existing building	Refused
Y11/0223/SH	Erection of a two storey detached dwelling with attached garage and fodder store.	Refused
Y12/0337/SH	Variation of condition 2 of planning permission Y00/0545/SH to change the external materials of the building to brick, flint and weatherboard	Approved

Y12/0442/SH Erection of a new hay and machinery storage barn and stable block following demolition of existing barn and stables Approved

- 4.2 The buildings on the site in the 1980s and 1990s were used for the training of horses used for top level dressage by the then occupant of Greenloaming (now Rivendell). Due to the stated need to sell the dwelling the then applicant applied for planning permission in 1996 (SH/96/0227) for the erection of residential dwelling over existing stables in order to continue to train her own horses and due to the value of the horses. This would have created a 3 bedroom self-contained residential unit over the existing single storey building containing 7 stables, offices and tack room. It was subject to a condition requiring the occupation of the dwelling to be limited to a person involved with the stabling or training of horses in the stables below and adjacent arena, or dependent of such person. Permission was granted as it was considered essential for the security and operation of the establishment given the unique facilities that existed on the site.
- 4.3 Following separation of the dwelling from the equestrian part of the site planning permission was granted for the erection of a replacement building for the above with residential and stable accommodation (Y00/0545/SH). This was subject to a condition restricting occupancy of dwelling to person involved with stabling/training horses in the stables that formed part of the building and adjacent arenas and one removing permitted development rights. There was no condition required the retention of the stables in perpetuity. A temporary permission for a mobile home was granted the same year in order to retain a residential presence on site while the new accommodation was being constructed (Y00/0829/SH).
- 4.4 Y05/0565/SH for renewal of the previous planning permission for residential and stables was refused as the business for which the dwelling was previously considered essential no longer existed on the site. However in 2008 planning permission was granted for the variation of the conditions on the 1986 and 1987 planning permissions for the barn and stables that restricted their use to the named applicant only (Y08/0920/SH). This was granted on the basis that although the residential and stable accommodation approved under Y00/0545/SH had not been built out, all conditions had been discharged and development had commenced within the relevant time period. The permission to vary the conditions was sought so that the occupant of the unbuilt building would be able to use the storage and training barn and stables in connection with the occupation of the new stables and residential accommodation and so that the premises could be used privately by a person other than the former applicant. Planning permission was granted subject to conditions restricting the use of the buildings for horses and ponies for the private use and enjoyment of the owners/occupants of the site only and not for any commercial purposes, or for hire or reward including uses as a riding school, livery or animal sanctuary and that no shows, display events or other activities shall be carried out for attendance by the general public.

- 4.5 In 2009 the current applicant submitted an application for a dwelling with separate stables (Y09/0905/SH). Planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification and lack of drainage details. A similar application was submitted under Y10/0709/SH. The reason for refusal relating to drainage details had been overcome but other reason for refusal had not and planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification. A further application was submitted for the erection of a two storey detached dwelling with attached garage and fodder store (Y11/0223/SH). Planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification and on the overall scale and massing of the building.
- 4.6 In 2012 an application was submitted under reference Y12/0373/SH to vary a condition on planning permission Y00/0545/SH (Erection of a replacement building for the above with residential and stable accommodation) in order to change the external materials for the elevations of the building. The building design on the submitted plans was the same as that previously approved with the only difference being a change from oak weather boarding above a red brick plinth to a mixture of red brick and stone panels on the lower sections, with oak feather boarding above. The previously proposed plain clay tiles to the roof were shown to be kept. There were also minor changes to some of the fenestration. Planning permission was granted with conditions requiring the internal layout of the building to be as approved under Y00/0545/SH; the occupation of the dwelling to be limited to a person involved with the stabling or training of horses in the stables which form part of the building and adjacent; and the removal of permitted development rights Classes A to E relating to alterations and extensions to the building and erection outbuildings. There was no condition requiring the stables to be retained in perpetuity.
- 4.7 In 2012 planning permission was granted for the erection of a new hay and machinery storage barn and stables block following demolition of existing barn and stables (Y12/0442/SH). These were two separate buildings and planning permission was granted subject to conditions, including requiring the development to be built in accordance with the approved plans; a scheme for dealing with the Japanese Knotweed on the site; and that the buildings only be used for the private enjoyment of the occupants and not for any commercial purposes.
- 4.8 As can be seen from the planning history of this site there have been a number of applications for residential accommodation since the mid-1990s. Planning permission was originally granted for residential accommodation in connection with an established facility the training of horses for high level dressage following the separation of the site from the dwelling previously known as Greenloaming, now Rivendell. That permission was for one building containing stables and residential accommodation and was granted subject to a condition tying the occupation of the dwelling to the stables and the equine use on the site. It is important to note that the condition specified 'dwelling', rather than residential accommodation. Therefore, at this point the principle of the

acceptability of a residential use on the site was established. Also there was no condition requiring the stables to be retained once constructed.

- 4.9 Also on the site at that time as part of that equine use were the indoor arena, a separate stables block and a store building. The stable block and store building had personal conditions on them tying them to use by the then owner. There was no such personal condition on the dwelling/stable building.
- 4.10 The dressage training use ceased before the dwelling/stable building was built out. However, the relevant conditions were discharged and the development had commenced on site within the relevant time period – therefore the permission was extant and could not be revoked.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Newington Parish Council:

Object on material grounds because previous planning decisions have not been complied with. Comments made on withdrawn application 20/0653/FH still apply.

Natural England:

Comments awaited

Contamination Consultant/Environmental Protection:

Comments awaited

Arboricultural Manager:

No objections. All recommendations within the accompanying Japanese Knotweed Report to be adhered to and actioned within the recommended timescales.

Local Residents Comments

- 5.2 One neighbour directly consulted. 2 emails of objection and 5 of support received
- 5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- Contrary to policy as outside settlement boundary and in AONB.
- Back door attempt at obtaining planning permission
- Fourth attempt to obtain unrestricted dwelling on the site
- Not a replacement dwelling and no justification provided
- Dwelling not needed for security and operation of equine establishment

- Dwelling and machinery store considered to be higher than approved.
- Buildings unduly large and prominent
- Kept awake at night by loud music
- Eight velux windows facing us, permission only given for two
- Third floor rooflight on west elevation not accurately shown on plans
- Concern that buildings bigger than previously approved
- Balcony reintroduced after being removed.
- Balcony should have been removed to safeguard neighbours' privacy
- Overbearing and overlooking impacts from dwelling
- Third storey not included in description
- Loud music from third storey of building causes noise nuisance
- Have provided evidence of deliberate concealment
- No justification provided for proposed tack rooms and horse feed storage
- Has been very little if any equine activity on this site since unauthorised use by Harrington Horses ceased
- No justification for additional stables or conversion of loft space
- Ornate lamp standards and fencing out of place in countryside
- No steps taken to deal with Japanese Knotweed

Support

- Stunning job with build, tastefully done
- No objection to turning derelict site with ugly commercial buildings into beautiful home
- Traditional materials used
- Improvement

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 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

Policy HB1 - Quality Places Through Design

Policy HB5 - Replacement Dwellings in the Countryside

Policy HB8 - Alterations and Extensions to Buildings

Policy NE2 - Biodiversity

Policy NE3 - Protecting the District's Landscapes and Countryside

Policy NE4 - Equestrian Development

Policy NE5 - Light Pollution and External Illumination

Policy NE7 - Contaminated Land

Local Plan Core Strategy (2013)

Policy DSD - Delivering Sustainable Development

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'

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

Core Strategy Review Submission draft (2019)

Policy SS1 - District Spatial Strategy

Policy SS3 - Place-Shaping and Sustainable Settlements Strategy

Policy CSD3 - Rural and Tourism Development of Shepway'

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

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

Supplementary Planning Guidance/Documents

Kent Downs AONB Management Plan

Policy SD1 – AONBs given highest level of protection in development control decisions

Policy SD3 – New development opposed if disregard primary purpose of AONB

Policy SD9 – New developments to be complementary to location character in form, setting, scale, contribution to settlement pattern and choice of materials.

Government Advice

National Planning Policy Framework (NPPF) 2019

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

DCL/20/57

says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 - Weight to be applied to emerging policies

Paragraph 79 - Avoid development of isolated homes in the countryside

Paragraphs 124, 127- Design

Paragraphs 170-173 - Conserving and enhancing the natural environment

Paragraph 175 – Habitats and biodiversity

Paragraph 178 – Ground conditions and pollution

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Visual amenity
- c) Residential amenity
- d) Ecology and biodiversity
- e) Contamination

Principle of development and sustainability

7.2 For clarity, it can be seen that the historical set of events referred to in the Planning History section of the report has resulted in an extant permission for a private dwelling on the site. It is unfortunate that at the time of the original permissions the Council did not bind the land and development together in a legal agreement to stop sub-division as would be the case today. In considering this application therefore the Council must take into account the previous planning history and the development that could be further implemented without the need for further planning permission i.e. the erection of the approved building. It is also worth highlighting that the original permission did not unfortunately include any conditions requiring the integrated stables to remain in situ in perpetuity and, as such, it would have been open to the applicant at the time to lawfully implement the stables and the following day convert them to living accommodation. Once again this was a historic error but material in the consideration of this application and whether a refusal of planning permission could be sustained at appeal.

7.3 In light of the extant permission a further planning permission was granted for the variation of the conditions on the 1986 and 1987 planning permissions for the barn and stables that restricted their use to the named applicant only. This variation sought to link the use and occupation of the unbuilt dwelling/stable building to the occupation of the new stables and residential accommodation. As a result all the buildings were

DCL/20/57

restricted to use for horses and ponies for the private use and enjoyment of the owners/occupants of the site only and not for any commercial purposes. In short the Council had granted permission for a dwelling in the countryside.

- 7.4 Planning permission was subsequently granted in 2012 for a replacement stable building and storage building and these had the same use conditions. Therefore in 2012 the site had permission for a dwelling and associated stables and storage buildings all conditioned for private equine use only. The only main difference to what exists on the site now is that the dwelling also had integral stables.
- 7.5 The current applicant has previously applied several times for a dwelling without any integral stables and planning permission was refused on the grounds of unsustainable development in the countryside without sufficient overriding justification, as the previous justification for granting planning permission was considered to no longer exist, given the training of top level dressage horses had ceased. The applicant has now built a dwelling on the site without internal stables through a breach of planning control.
- 7.6 While this is contrary to the planning permission that was granted, the key consideration is whether the application before the Council is materially different to that already approved and extant and whether what is currently on site would result in any additional level of harm to the countryside.
- 7.7 The principle of a dwelling on the site has been established (albeit it as an integrated building with stables) and the principle of a private equine use on the site has been established, both as combined stables building with the dwelling and as a separate stables building. However, it is no longer acceptable under modern living standards for horses and humans to live in the same building, where that building is the self-contained dwelling of the occupants. Therefore, given that both the principle of a dwelling and the principle of an equine use have been established on the site by previous grants of planning permission it is considered that there is no valid justification on planning grounds for refusing to grant planning permission for the dwelling as constructed, without the integral stables.
- 7.8 If the dwelling on the site is considered to be acceptable then there are no valid planning grounds for objecting in principal to the pool, gym and other accommodation within the pool/machine store building as they acceptable ancillary parts of a residential use and can be conditioned to be used for private domestic use only. Similarly, as the principle of a stables building has already been established, the installation of an upper floor in the roof space to accommodate tack rooms and feed store is considered reasonable.

Visual amenity

- 7.9 Although internally the accommodation within the buildings is different in part to that shown on the previously approved plans, externally the changes are minor and, in terms of form, design and materials, overall the appearance of the buildings is as previously approved. In terms of visual impact the only significant difference from previously approved plans is the entrance way to the stables which is of a different design and higher than approved. Given the location of the building set back from the road and screened from the rear by the indoor school there is no adverse visual impact

arising from this. The additional glazing to the pool/machine building is only visible from inside the site and is considered acceptable. The additional rooflights in the western elevation of the dwelling have a neutral impact in terms of the visual impact of the building. The balcony has been constructed in accordance with the previously approved plans but has been shown incorrectly on the plan submitted with this current application so an amended plan has been requested. As a result it is not considered that the proposal results in any further material harm to the AONB over what has previously been approved.

Residential amenity

- 7.10 The closest neighbouring dwelling to the site is Rivendell, which adjoins the site to the west. The western elevation of Manor Barn has 8 roof lights compared to 2 on the previously approved plans. This elevation is opposite the eastern elevation of Rivendell. In terms of separation distances, the distance of Manor Barn from the boundary is 9.87m at the front and 10.07m at the rear, when scaled from the plans. The separation distance between the two dwellings is 20.85m at the front and 21.5m at the rear, when scaled from the plans. Although it is possible for occupants to have views out of the rooflights as they have cill heights below 1.7m, given the separation distance between the boundary and the rooflights and the existing boundary screening and tree planting, which is protected by a TPO, it is not considered that these result in an unacceptable level of overlooking, sufficient to justify refusing planning permission. With regard to overlooking from the balcony, when measured from the floor plans (which show it correctly), the distance of the closest part of the balcony to Rivendell from the boundary is 13.81m and 24.61m on the side elevation of Rivendell. This is considered sufficient distance to prevent unacceptable overlooking and, furthermore, the balcony as constructed was shown on the previously approved plans, so there is no reasonable justification for raising an objection to it now.

Ecology and biodiversity

- 7.11 The application does not include any new building work and as such a Preliminary Ecological Appraisal was not required. Natural England were consulted on the application due to the proximity of the site to an SSSI and SAC but no comments have been received. Given there is no new building work proposed there are unlikely to be any issues.

Contamination

- 7.12 There is Japanese Knotweed on the site and the previous planning permission for the stables and machine store required its eradication from the site. The required information was not submitted and it appears that Knotweed is still present on site. A Breach of Condition Notice has been served under that planning permission and the matter is being dealt with by the Senior Planning Enforcement Officer. The information submitted as part of this application is insufficient to satisfy the requirements of the condition. Further information has been requested. This is not a valid reason for refusing planning permission as Japanese Knotweed is essentially a civil matter with other legislation in place outside of the planning system to control the spread or nuisance of this plant.

Environmental Impact Assessment

7.13 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

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

Human Rights

7.15 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

7.16 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

7.17 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

DCL/20/57

- 8.1 Although the dwelling and the other two buildings have not been built in accordance with the planning permissions that were granted, what has to be considered is whether there is sufficient justification on planning grounds for now refusing planning permission given what the site had planning permission for – a dwelling with integral stables, a separate stables, a storage building and an indoor arena. The principle of a dwelling on the site was established by previous grants of planning permission, there were no conditions requiring the retention of the integral stables, the principle of a private equine use on the site has been established and it is not acceptable under modern living standards for horses and humans to live in the same building.
- 8.2 If the dwelling on the site is considered to be acceptable then there are no valid planning grounds for objecting to the pool, gym and other accommodation within the pool/machine store building as they acceptable ancillary parts of a residential use and can be conditioned to be used for private domestic use only. Similarly, as the principle of a stables building has already been established, the installation of an upper floor in the roof space to accommodate tack rooms and feed store is considered reasonable.
- 8.3 The development as built is not considered to have any greater impact on neighbouring amenity that that which was previously granted planning permission, if anything the activity generated by the current residential use is likely to be less. The only outstanding issue is that of the Japanese Knotweed on the site, which has not been dealt as required under the previous planning permission. This is being dealt with separately with a breach of condition notice and is recommended to be included if Members resolve to grant planning permission.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

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

Conditions:

1. The development is approved in accordance with the following plans only:
TMB/2020/05 – Site Location Plan
MB/2020/01 Revision B – Existing Site Plan
MB/2020/02 Revision A – Existing Plans, Elevations & Section - Dwelling
MB/2020/03 – Existing Plans, Elevations & Section – Machine Store & Pool
MB/2020/04 Revision A – Existing Plans, Elevations & Section – Stables

Reason:

For the avoidance of doubt.

DCL/20/57

2. Within 28 days of the date of this decision notice a report by a certified specialist in eradicating Japanese Knotweed shall be submitted to the Local Planning Authority either verifying that the Japanese Knotweed has been eradicated from the site or setting out how the Japanese Knotweed will be eradicated from the site. Such details shall include the extent of all works that have been or will be undertaken, a timetable of works including a completion date any subsequent visits that may be necessary, site management procedures and a verification plan. Once approved all works shall be undertaken by certified specialist. The works shall be carried out in accordance with the approved details 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 eradication works.

Within one month of the agreed completion date of the works a verification report shall be submitted to the Local Planning Authority demonstrating completion of the works and any additional measures required to ensure that the Knotweed has been eradicated (including any subsequent visits) The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the eradication process has been met. It shall also include details of longer term monitoring and arrangements for contingency action, as identified in the verification plan, and for the report of this to the Local Planning Authority.

Reason:

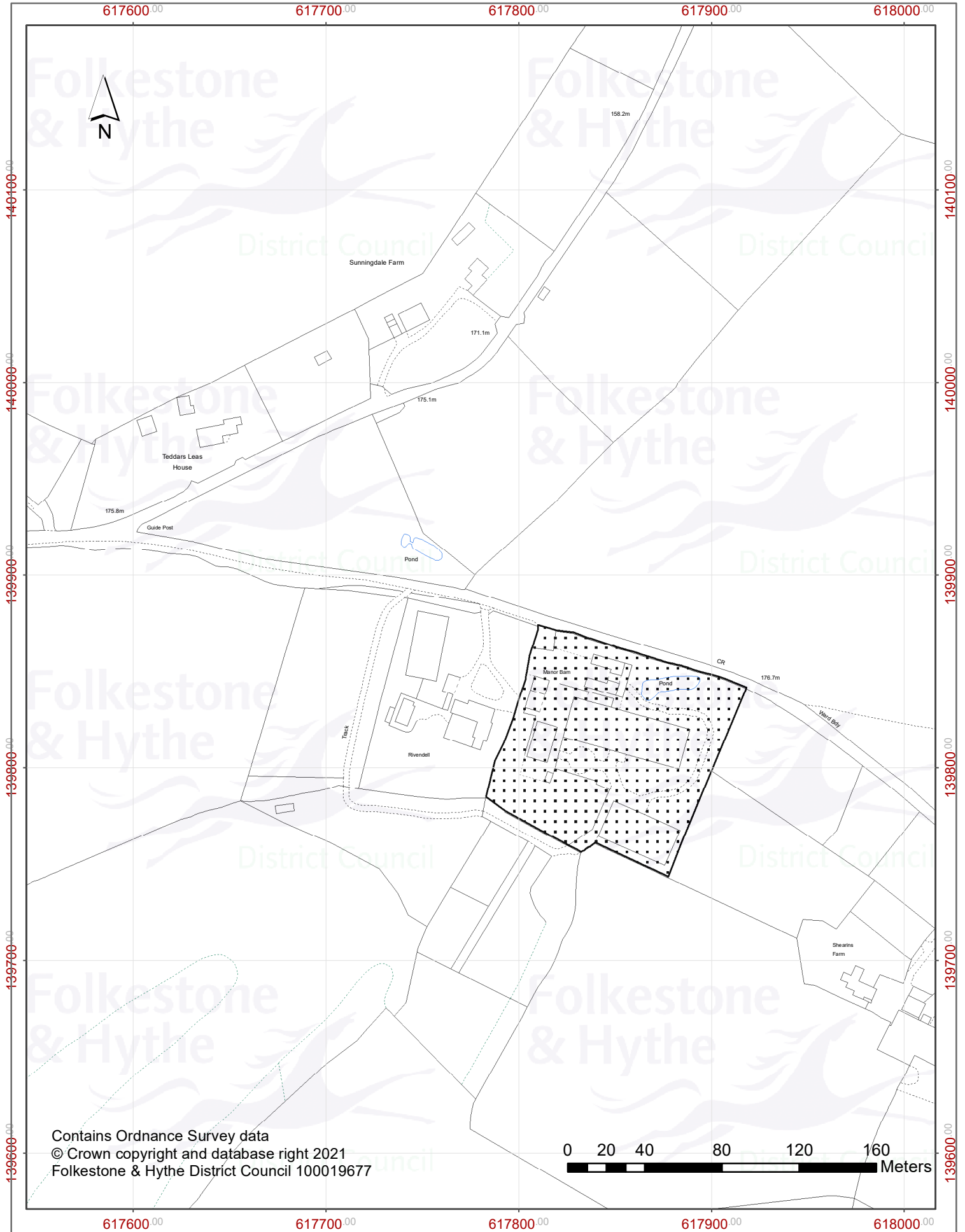
In the interests of preventing the spread of Japanese Knotweed in the interests of the ecology and biodiversity of the area.

3. The stables and machine store/pool building hereby approved shall be used for the keeping of horses/ponies and for storage and domestic and private use and enjoyment of the owners/occupants of the site only and shall not be used for any commercial purposes for hire or reward including uses as a riding school or for livery purposes or use as an animal sanctuary.

Reason:

In order to protect the character of the countywide, Area of Outstanding Natural Beauty and Special Landscape Area and the amenity of neighbouring residents.

20/1596/FH
Manor Barn
Teddars Leas Road
Etchinghill



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Agenda Item 8

DCL/20/58

Application No: 20/1928/FH

Location of Site: Copper Beech Farm, Lymbridge Green, Stowting Common, TN25 6BJ

Development: Change of use of existing annex to allow occasional use as a holiday let.

Applicant: Mr & Mrs Alman

Agent: Jonathan Lee
Hobbs Parker
Romney House
Monument Way
Orbital Park
Ashford TN24 0HB

Officer Contact: Emma Hawthorne

SUMMARY

The application site is located outside of the defined settlement boundary within the open countryside and is also within the designated Special Landscape Area, a ground water source protection zone and Kent Downs Area of Outstanding Natural Beauty. Given that the proposed holiday let use would be set away from local amenities, without easy access to sustainable transport modes, the site is considered to be unsuitable and an unsustainable location for such a use as future occupants of the holiday let would be reliant on private motor vehicle use to carry out activities. In addition the need and demand for this type of accommodation in this unsustainable location has not been demonstrated, and limited viability information has been submitted. As such, the development would result in a tourism facility that is in an unsustainable location and which has not been demonstrated to be financially viable or have any significant economic benefits locally. The proposed internal floor area would not meet the space standards as set out in Local Plan policy HB3 and so would provide a poor level of accommodation for future guests. The application is therefore recommended for refusal.

RECOMMENDATION:

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

1. INTRODUCTION

1.1. The application is reported to Committee at the request of Cllr Carey.

2. SITE AND SURROUNDINGS

2.1. The application relates to a two-storey detached property set in a substantial plot on the southern side of Stowting Hill. The site is outside of any defined settlement

DCL/20/58

boundary and is classed as being in the countryside. The wider area has a green and pleasant rural character.

- 2.2. The property is in facing brick, with a tiled pitched roof. The building has a central chimney, a front gable projection and an L-shaped front dormer. The building is set away from the roadside with a driveway providing access onto the site. A single-storey pitched-roof garage structure is located adjacent to the highway.
- 2.3. The site is located within the Kent Downs AONB, a ground water source protection zone and a Special Landscape Area.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Planning permission is sought for the change of use of an existing annex to allow for occasional use as a holiday let, for a maximum capacity of two people.
- 3.2 The building (previously a garage) has been converted to provide a bed, small kitchenette and en-suite. The building is infrequently used by family and friends when visiting and the sharing of meals in the main house, communal use of the garden results in this current use of the building being incidental to the main dwelling house, and therefore a use that does not require planning permission.



Figure 1: Existing annexe (entrance)



Figure 2: Existing annexe

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

Planning Statement

The Planning Statement been prepared to accompany a planning application, and has been submitted in accordance with the requirement of the Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004. The Statement outlines the proposal, and give details of how the holiday let would be used. The submitted Planning Statement accepts that the proposal is technically contrary to policy, but concludes that the proposal is for a limited use by holiday makers who specifically wish to stay in a rural location such as this. It also notes the importance of the current pandemic which has resulted in huge numbers of people being unable to travel abroad.

Financial Viability Assessment

The Financial Viability Assessment sets out the proposed estimated bookings for the holiday let to illustrate the viability of the proposal. The Assessment demonstrates that there was demand for this type of tourism as booking have been taken for the holiday let in the past. The applicants also state that since 2020 and the Covid-19 pandemic, the UK has seen a rise in demand for local tourism, so the need for such accommodation will be far higher than that of 2019.

4. RELEVANT PLANNING HISTORY

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

96/0464/SH	Erection of stables, tack room and storage building after demolition of existing stables and store.	Approved
97/0212/SH	Use of land for grazing of horses and provision of outdoor horse riding mangle with post and rail fencing.	Approved
Y02/0950/SH	Erection of detached dwelling following demolition of existing.	Approved
Y13/1239/SH	Installation of a ground mounted 4 kW photovoltaic array and a 180 tube ground mounted solar thermal array to provide electricity and hot water for Lymbridge Green Cottage.	Approved
Y18/0902/FH	Retrospective application for the change of use of agricultural land to residential garden land.	Refused
Y18/1460/FH	Erection of a detached single storey timber building to support the agricultural and equestrian holding, with associated hardstanding	Approved
Y19/0672/FH	Retrospective application for the replacement of fencing and gates with walls and gates, and the conversion of a redundant outbuilding for ancillary residential use.	Refused Subsequently determined that planning permission not required, therefore no enforcement action taken.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Stowing Parish Council: Objection. The Parish Meeting voted to object to holiday letting use in this outbuilding as part of its response to application Y19/0672/FH. There does not appear to have been a significant change of circumstance between

DCL/20/58

then and now. In their view, these proposals would constitute a new tourism facility in the countryside. The LPA's policies seek to direct such facilities towards defined settlements and the application does not explain why the proposed facility could not be located within a defined settlement. We also note that no viability statement has been provided. Regarding comments made in relation to application Y18/1077/FH at page 7 of the submitted Planning Statement, it is perhaps worth highlighting that the officer recommendation in that case was for refusal and that the reasoning applied in that report is consistent with the reasons for refusal in applications Y19/0173/FH and Y19/0322/FH. Whilst we acknowledge that there may be cases where material considerations indicate otherwise, in this case we say that there do not appear to be any material considerations that would justify departure from the LPA's policies.

Local Residents Comments

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

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

Support

- No parking issues as parking provided;
- Would help bring tourism to the area; and
- No neighbours affected.

5.4 **Ward Member**

No response.

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) (PPLP)

Policy HB1 – Quality Places through Design

Policy HB3 – Internal and External Space Standards

Policy HB8 – Alterations and Extensions to Buildings

Policy HB9 – Annexe Accommodation

Policy E3 – Tourism

Policy E4 – Hotels and Guest Houses

Policy E7 – Reuse of Rural Buildings

Policy RL7 – Other District and Local Centres

Policy T2 - Parking Standards

Policy T5 - Cycle Parking

Policy NE3 – Protecting the Districts Landscapes and Countryside

Shepway Local Plan Core Strategy (2013)

Policy DSD – Delivering Sustainable Development

Policy SS1 – District Spatial Strategy

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

Core Strategy Review Submission draft (2020)

Policy SS1 – District Spatial Strategy

Policy SS3 – Place-Shaping and Sustainable Settlements Strategy

Policy CSD2 - District Residential Needs

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

Supplementary Planning Guidance/Documents

Kent Downs AONB Management Plan

DCL/20/58

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

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

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

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

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 - Weight to be applied to emerging policies

Paragraphs 108-110 - Transport and access

Paragraphs 124, 127- Design

Paragraphs 170-173 - Conserving and enhancing the natural environment

Paragraph 175 – Habitats and biodiversity

Paragraph 178 – Ground conditions and pollution

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

National Design Guide October 2019

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

7. APPRAISAL

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

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

a) Principle of development and sustainability

7.2 Policy CSD3 of the Core Strategy states that tourist, recreation and rural economic uses will be allowed within defined settlements in the Settlement Hierarchy. Where sites are unavailable within these settlements it may be acceptable on the edge of Strategic Towns and Service Centres, and failing that, Rural Centres and Primary Villages. Paragraph 4.62 of the Core Strategy (2013) states that the Settlement Hierarchy provides a framework for the planning system to concentrate development in selected location across the district, and can maximise efficient use of existing infrastructure and support business and community facilities. The application site is outside any settlement boundary and Lymbridge Green in Stowting Common is not a rural centre or primary or secondary village. The Settlement Hierarchy seeks to maintain the character and integrity of the countryside, and protect small rural places, the extent of settlement s is defined through boundaries separating settlements from open countryside. Focusing attention on these existing places underpins not only the protection of the district's open countryside, but also seeks the achievement of sustainable places. Therefore, this unsustainable location for a tourist facility in the form of guest accommodation would not be supported by local policy as there would likely be other sites in more sustainable locations which could accommodate this type of tourist accommodation.

7.3 The sequential approach for locating such tourism facilities is further echoed in Local Plan policy E3 which states that planning permission will be granted in or on the edge of centres in the settlement hierarchy for proposals to provide new tourism development including hotels, guest houses, bed and breakfast, self-catering accommodation and new visitor attractions where location is well related to the highway network and is accessible by a range of means of transport, including walking and cycling and by public transport. The policy further states that new tourist accommodation in the countryside will only be permitted in exceptional circumstances where it can be demonstrated that available sites within or on the edge of settlements are not suitable and an open countryside location is needed. This application is for a new guest accommodation and it has not been demonstrated within the application submission why the accommodation cannot be located within or on the edge of a

DCL/20/58

settlement and why it is required to be located in Lymbridge Green in the open countryside, other than this is where the applicants live and have a converted garage incidental to the dwelling.

- 7.4 Local Plan policy E7 is concerned with the 'Reuse of Rural Buildings'. This policy explains that the Council will support the re-use or adaptation of rural buildings, such as barns and stables, for new commercial, industrial, recreational or tourism-related uses that assist in the diversification of the rural economy or meets specific needs of rural communities. Proposals will be acceptable if they are in keeping with their surroundings in terms of their form, bulk and general design and do not generate unacceptable impacts on environmental, traffic or other grounds. Whilst this is a building in the rural area, it is not considered that it falls within the category of building that this policy envisaged, particularly given the reference to farm diversification.
- 7.5 Paragraph 83 of the NPPF (2019) supports, "the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings." Although the application site is within a rural area, no evidence have been submitted to show that this proposal is part of an existing rural tourism business. The Planning Statement submitted to support the application states that the proposal 'is part of an existing rural tourism business', however no further details or clarification of this have been provided. Planning history for the site does not confirm any rural tourism business being granted for this site.
- 7.6 Paragraph 83 of the NPPF (2019) goes on to state that support will be given to "sustainable rural tourism and leisure developments which respect the character of the countryside." However, this is not considered to be a sustainable location. Stowting Common is situated a significant distance away from public transport with the closest train station being Sandling Station which is approximately 6.7 miles away and the closest bus stop being Tumulus Farm located on Stone Street, approximately 2.5 miles away. Therefore future guests would be heavily reliant on journeys carried out by private car representing an unsustainable form of development in the countryside. In addition, there are limited, if any, tourist attractions within the immediate area which would require people to stay within Stowting Common, other than to walk, hike, run and cycle as suggested by the applicant in their submitted Planning Statement. This, if considered to be a valid consideration, would attract a very limited market. As the holiday let is proposed to be self-catering, the distance to facilities have been assessed, with the closest pub/restaurant being The George Inn located 2 miles away, the Tiger Inn located approximately 2.2 miles away, and the Five Bells pub/restaurant located approximately 2.4 miles away.
- 7.7 The Planning Statement explains that bus services run to Canterbury, Ashford and Folkestone, however bus services are estimated at 50 minutes, 2.4 hours and 1.55 hours respectively. Therefore guests would likely rely on the private car to access such destinations, again further demonstrating that the site is in an unsustainable location.
- 7.8 It is acknowledged that paragraph 84 of the NPPF (2019) states that there should be recognition that to meet local business and community needs in rural areas, sites may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. However, it is considered that it has not been sufficiently demonstrated that there is an adequate demand and need for holiday let accommodation in this particular location, over and above other locations which are

more sustainably located within defined settlements, or on the edge of Strategic Towns or Service Centres, Rural Centres, Primary or Secondary Villages.

- 7.9 The NPPF (2019) states that in these circumstances the development should provide opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The NPPF (2019) further states that use of previously development land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. However, the proposal is not considered to be well-related to existing settlements and as the proposal is small scale it would not be proportionate for the development to improve public transport to the area.

Viability

- 7.10 Local Plan policy E3 also states that planning permission for new tourism development in the countryside would only be granted where the development is viable and would have significant economic and other benefits to the locality.
- 7.11 A viability statement has been submitted (as additional information), however this is limited in scope and vague in information. The financial viability statement is based on previous lettings over a very short period of time, and is considered to be unreliable as a projection of future performance. It is not therefore considered that it has been demonstrated that the holiday let would be viable and provide significant economic benefits. There is also concern that due to the incidental annexe (proposed to be used as an occasional holiday let) currently being used by friends and family, it would not be available for substantial periods throughout the year for paying tourists. The submitted Planning Statement confirms that, “the owners’ friends and family all live abroad or in other countries and they have visitors all year round who stay in the annex.” It goes onto state that, “the owners will only be making the annex available at times for private rentals when it is empty of friends and family.” This is also confirmed in the submitted financial viability statement as it states the primary use of the annex to be for family and friends when visiting. Although it is acknowledged that there would be minimal costs associated with the change of use, it is considered that insufficient evidence has been provided to demonstrate there would be sufficient demand or lettings to keep the holiday let business running in the long term. Further, the proposal has not confirmed that there would be significant economic benefits to the local area to justify overriding the unsustainable location due to the small scale nature of the proposal.

b) Design/layout/visual amenity

- 7.12 The site is within the Kent Downs Area of Outstanding Natural Beauty (AONB) and so the impact of the proposal, and the cumulative effect on the AONB and its setting needs to be carefully assessed. The site is also within the locally designated Special Landscape Area (SLA) and therefore the proposal should seek to protect or enhance the natural beauty of the SLA.
- 7.13 Policy CSD1 of the Core Strategy (2013) states that “planning decisions will have close regard to the need for conservation and enhancement of natural beauty in the AONB and its setting, which will take priority over other planning considerations.’ The NPPF (2019) at paragraph 172 also states that great weight should be given to conserving and enhancing landscaping and scenic beauty in the AONB.

- 7.14 The proposed holiday let would be within the existing garage building, which has been converted to an incidental annexe. Therefore there would be no external alterations required as a result of the proposed change of use. As such, the character and appearance of the site and streetscene would not be impacted upon. As such, the proposal would accord with Local Plan policy NE3 which requires development within the AONB to reinforce and respond to, rather than detract from, the distinctive character and special qualities including the tranquillity of the AONB. Further, given that no external alterations are proposed, the change of use would not harm the setting nor character of the SLA.
- 7.15 It could be argued that by providing a holiday let in this location, the proposal would be introducing additional activity to the residential site, thus impacting on the tranquillity of the area. However, given the size of the building and the proposed occasional use, it is not considered that it would result in such a significant impact to warrant refusal on this ground.

c) Residential amenity

Neighbouring amenity

- 7.16 Considering the location of the site, which is set a reasonable distance from the front of the existing residential dwelling, and with neighbouring dwellings set a considerable distance away (at least 30m away) it is not considered that the proposed holiday let would have a negative impact upon neighbouring amenity in terms of noise disturbance resulting from the change of use of the outbuilding.
- 7.17 No external alterations are proposed to the existing building and therefore there would be no concerns with regards to overshadowing, overbearing or overlooking. As such, the proposal is considered to be compliant with policy HB1 of the Local Plan (2020) which seeks to safeguard and enhance the amenity of residents.

Future occupants

- 7.18 The proposed internal floor space for the holiday let would measure approximately 20 sqm. Policy HB3 of the Local Plan (2020) requires a floor area of 50 sqm for a two person, single storey dwelling. Although it is acknowledged that the proposal would not be providing a permanent residential dwelling, it would be providing residential accommodation and as holiday lets fall within the same use class as residential (Class C3) the space standards policy therefore applies. As such, the proposal would conflict with the policy, and would result in a poor level of accommodation for future guests.

d) Trees

- 7.19 There are no TPO trees present on the site and there are not consider to be an arboricultural constraints present as the proposal is for the change of use only with no external alterations. As such there are no objections to the proposal on arboricultural grounds.

e) Drainage

DCL/20/58

- 7.20 The site lies within Flood Zone 1, and therefore has a low probability of flooding. Therefore flood risk would not be considered a constraint to the proposed development.
- 7.21 The proposal is located within an identified ground water protection zone. Southern Water have not offered comment on the application. However, the proposed works would not require any excavation or other interruption to ground water resources. The site is currently in use as an incidental annexe, with kitchenette and w/c, and therefore no changes would be required to change the use of the annexe to a holiday let. It is therefore considered that there would be an acceptable impact on the ground water protection zone that would not result in an unacceptable risk of pollution.
- 7.22 The site is also located within the Stodmarsh Special Protection Area, as it lies within the Little Stour and Wingham catchment area. However, the outbuilding has already been converted to an incidental annexe and has all facilities installed, therefore the proposal is to allow occasional use as a holiday let. As such, there would be no substantial increase in the use for holiday accommodation over and above when it's used for incidental residential accommodation.

f) Highway safety

- 7.23 Policy T2 of the Local Plan (2020) states that, "be granted for schemes providing residential parking where the resident and visitor parking is sufficient and well integrated so that it does not dominate the street." The proposal utilises an existing entrance into the site and proposes sufficient parking adjacent to the holiday let. Table 13.1 does not provide parking requirements specifically for holiday lets, however 1 allocated parking space for the proposed used is considered to be acceptable and generally in line with requirement for 1-2 bed flats and hotel uses. Sufficient parking would remain for the dwelling also.
- 7.24 In terms of the visitor traffic to and from the site this is considered to be negligible and therefore it is not considered that intensification of this access would be unacceptable in terms of highway safety.

Environmental Impact Assessment

- 7.25 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

- 7.26 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.

DCL/20/58

7.27 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. Although the proposal is for a holiday let, the proposed building would be C3 use and would therefore be liable for CIL charging.

Human Rights

7.28 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

7.29 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

7.30 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. In this instance the proposal is contrary to policy and therefore amendments would not have overcome concerns raised.

8. CONCLUSION

8.1 The application site is outside any defined settlement boundary within the countryside, within the hamlet of Stowting Common. Stowting Common is not included within the settlement hierarchy as set out in the Core Strategy (2013). The need and demand for this type of accommodation in this unsustainable location has not been demonstrated, and limited viability information has been submitted with the application. As such, the development would result in a tourism facility that is in an unsustainable location and which has not been demonstrated to be financially viable or have any significant economic benefits locally. The proposed internal floor area would not meet the space standards as set out in Local Plan policy HB3 and so would provide a poor level of

accommodation for future guests. The proposal is considered to be acceptable on the setting of the AONB and locally designated SLA, and therefore would be no detrimental impact upon neighbouring amenity or highway safety.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATION

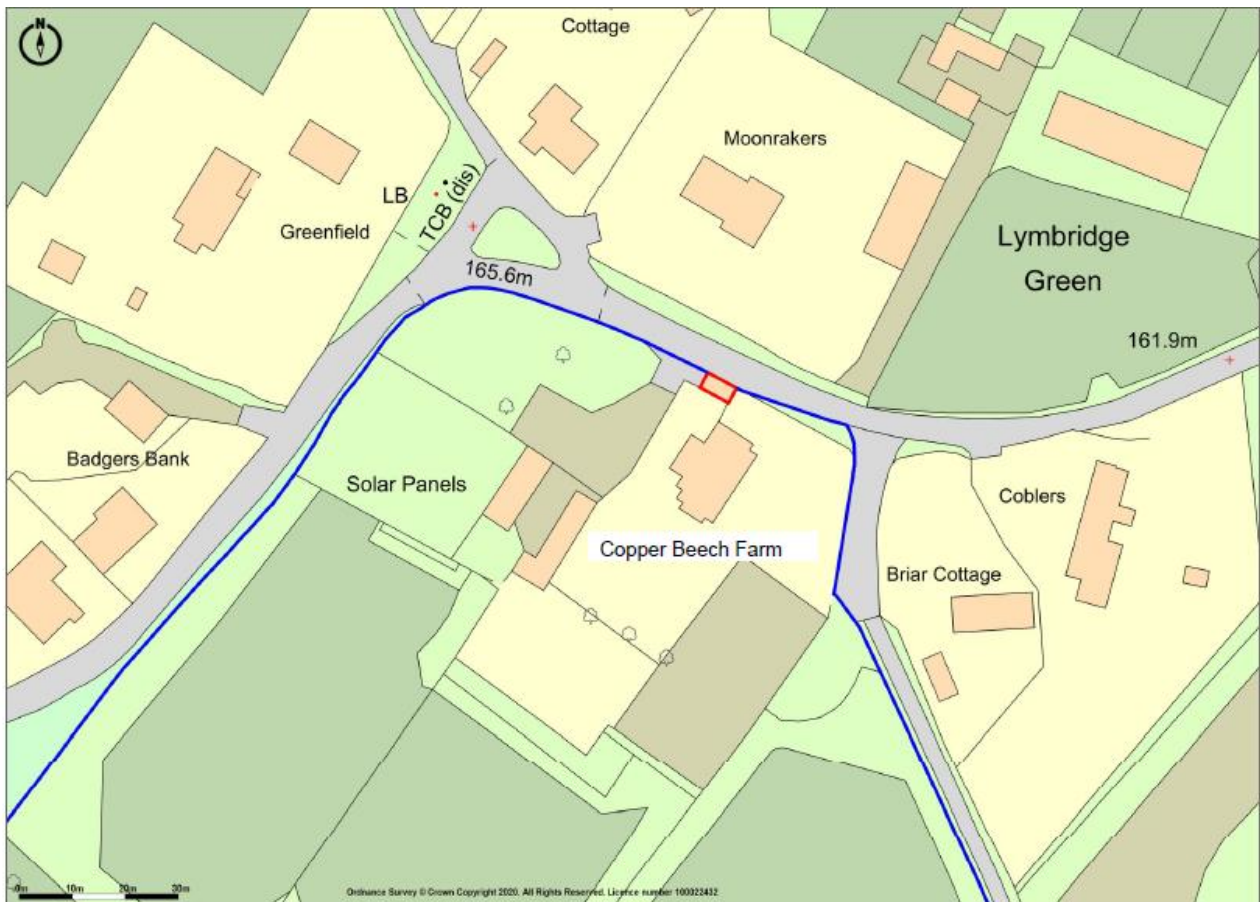
That planning permission be refused/for the following reason(s):

1. The proposed development, due to being outside any defined settlement boundary and not within a rural centre or primary village as set out in the Settlement Hierarchy of the Core Strategy (2013), would result in an unsustainable tourism facility with poor access to services. The application has also failed to demonstrate that there is sufficient need or demand for this tourism facility or that it would be viable in the long term and as such has failed to demonstrate that the proposal would not result in unnecessary development in the countryside resulting in harm to its intrinsic character. The proposal is therefore contrary to policies CSD3 of the Core Strategy (2013) and policy E3 of the Places and Policies Local Plan (2020), and paragraphs 83 and 84 of the National Planning Policy Framework (2019), which seek to protect the countryside by requiring new tourism accommodation to be located in sustainable locations which are well related to the highway network and are accessible by a range of means of transport, including walking and cycling, and by public transport.
2. The proposed holiday let would fail to provide sufficient internal floor space, contrary to policy HB3 of the Places and Policies Local Plan (2020), resulting in an unacceptable level of amenity and providing a poor level of accommodation for future occupants.

Informative:

1. The plans and documents considered in the assessment of this proposal are;
 - Site Location Plan
 - Block Plan
 - Existing Plan and Elevations, drawing no. 201120-E-001
 - Proposed Plan and Elevations, drawing no. 201120-P-001
 - Site photographs
 - Financial Viability Assessment
 - Planning Statement.

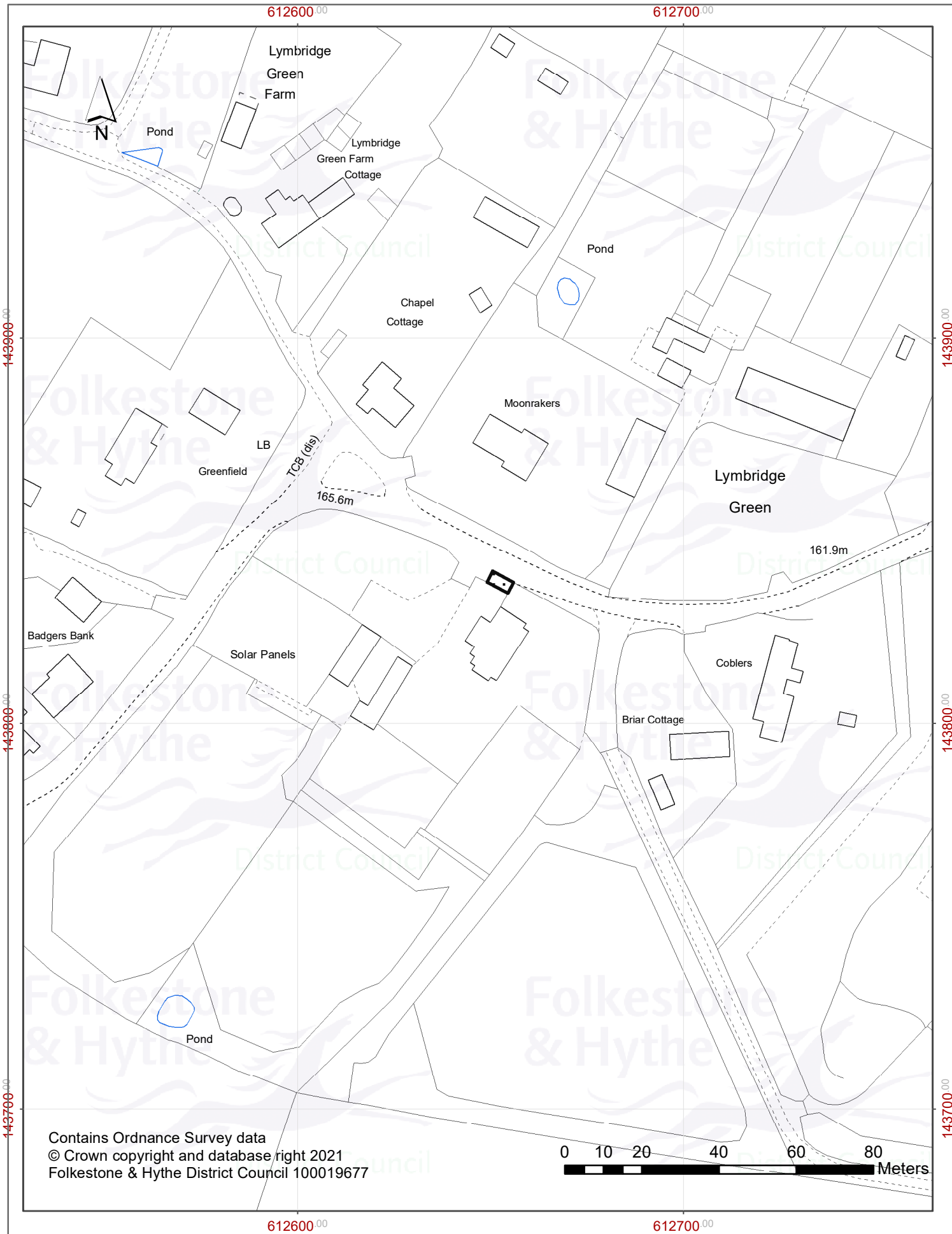
Appendix 1 – Site Location Plan



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20/1928/FH
Copper Beech Farm
Lymbridge Green
Stowting Common



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Agenda Item 9

DCL/20/59

Application No: 20/1918/FH

Location of Site: 303 Cheriton Road, Folkestone, Kent, CT19 4BG

Development: Change of use and conversion of the ground floor retail unit and office into a residential unit including external alterations to front (north) elevation.

Applicant: Mr Neil Cufley

Agent: Miss Padina Amininavaei
CL Architects
127 Sandgate Road
Folkestone
CT20 2BH

Officer Contact: Katy Claw

SUMMARY

This application site relates to the proposed change of use to residential of an existing ground floor commercial unit located to the south of Cheriton Road within the settlement of Folkestone. The building is three storeys in height and includes 2 flats at first and second floor levels. The site falls within the Cheriton District Centre, as defined within policy RL5 of the Places and Polices Local Plan, which seeks to preserve the vitality and viability of the centre. The policy allows for planning permission for the change of use of town centre uses to be granted where certain criteria are met and the report concludes that these criteria have not been met, and planning permission should be refused. Furthermore, the proposal, if permitted, would result in the loss of a shopfront and the creation of a domestic frontage, thereby adding to the general erosion of the vitality and viability of the shopping street.

RECOMMENDATION:

That planning permission be refused for the reason(s) set out at the end of the report.
--

1. INTRODUCTION

1.1. The application is reported to Committee at the request of Cllr Peter Gane.

2. SITE AND SURROUNDINGS

2.1 The site lies on the south side of Cheriton Road, between 301 Cheriton Road (The Windmill café) which is a corner plot and 305 Cheriton Road (a residential unit). The

DCL/20/59

host building reads as part of 301 Cheriton Road, being set forward of the build line when compared to the residential units of 305-315 Cheriton Road. The residential units of No.s 305-315 are all set back with small front amenity areas and the ground floors all being accessed via a small flight of external stairs. The end plot of this row (No.317 Cheriton Road) is also set forward of the build line and also has a commercial unit at ground floor and also falls within the designated 'Cheriton District Centre'. In the context of the streetscene, these corner plots featuring commercial units at ground floor appear as projecting book ends to the row of terraced residential properties.

- 2.2 The building is three stories in height and includes 2 flats at first and second floor levels. At ground floor front (north) elevation are two entrance doors, one to the right-hand side leading to the upper floor flats and one that allows direct access to the ground floor commercial unit. There is also a large shop-front style window.
- 2.3 The ground floor retail unit is currently vacant however the evidence submitted with the application indicates that the premises was last occupied by an internet café/computer repair shop (A1). The supporting documents also indicate that the site also contained an insurance broker's office (A2) to the rear which is consistent in part with the planning history, and consistent with the submitted existing ground floor plans. Due to the recent amendments to the Use Classes Order (amended 1 September 2020), Class A1 has been replaced by Class E(a) and Class A2 has been replaced with Class E(c)(i).
- 2.4 The site is approximately 98.70sqm. The ground floor retail unit is approximately 27.8sqm and the office is approximately 20.2sqm. There is an outdoor space of approximately 25.70sqm.
- 2.5 The site is located within the District Centre of Cheriton with a mix of residential and commercial, including shops, food outlets, a petrol station, garage repair/workshops and church, in close proximity to the application site. Figure 1 below shows some of the extent of the Cheriton shopping area with the application site highlighted in yellow. The shopping area continues along at the northwest point of the image down to the junction of Cheriton Road with Risborough Lane.
- 2.6 The following apply to the site:
 - Within the settlement boundary
 - Cheriton District Centre
- 2.7 A site location plan is also attached to this report as **Appendix 1**.

FIGURE 1

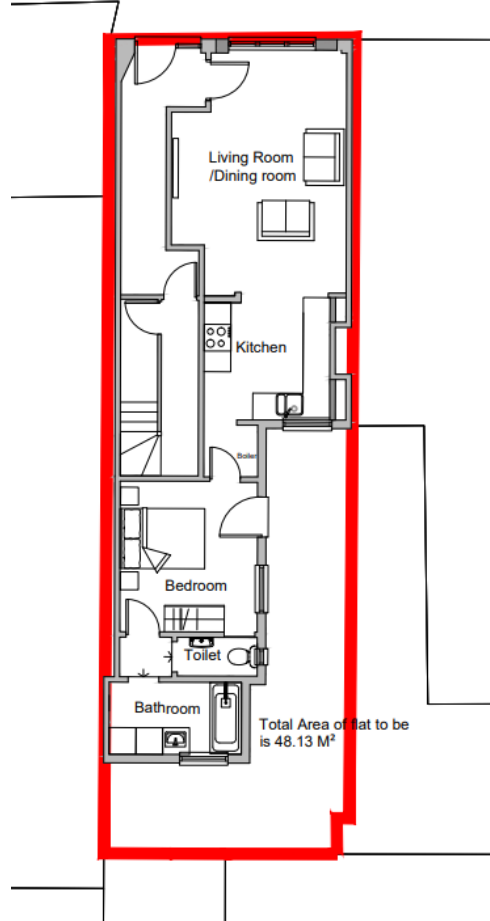
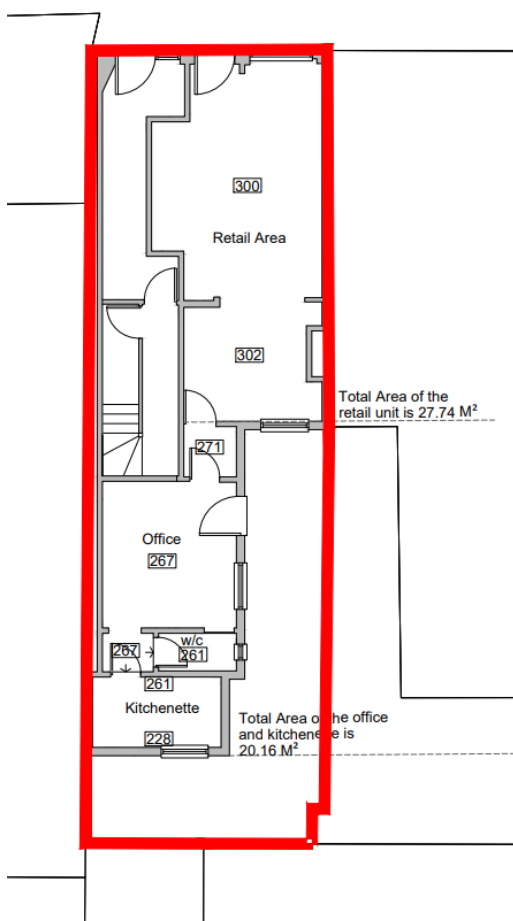


3. PROPOSAL

3.1 Planning permission is sought for the change of use and conversion of the ground floor retail/office area from Class E(a) and Class E(c)(i) (formally Class A1/A2), to a one bedroom residential flat (Class C3). The flat would comprise an open plan living/dining room and kitchen with a double bedroom, WC and bathroom to the rear, totalling a liveable area of approximately 48sqm. The flat would have access to the existing courtyard via an existing side door.

FIGURE 2 – existing ground floor

FIGURE 3 – proposed ground floor



- 3.2 The proposed conversion would involve alterations to the frontage of the building. The existing shopfront window would be removed and replaced with a smaller window serving the flat. The door to the shop would be removed and the new flat would use the front door that currently serves the other 2 existing flats. Part of the existing brickwork at ground floor level on the front façade would be rendered. The windows and doors would be white uPVC to match the units on the upper floors.

FIGURE 4 – existing front elevation



FIGURE 5 – proposed front elevation



- 3.3 In addition to the plans, the application has been accompanied by two reports:

Design and Access Statement

- 3.4 This document sets out the site, its location, planning history, the scale, amount, layout, appearance and access of development. The document says that the site has been vacant for a number of years and that the shop is not attractive for either retail or office use. The document goes on to say that there is no change to the scale or amount of 303 Cheriton Road, the layout will retain the existing internal and external areas of the building with alterations proposed to the access to the site, including reconfiguring the front façade. It also states that there are also good links with public transport.

Viability Statement

- 3.5 This document sets out the location and existing use of the development. It states that the site has been vacant for over 5 years and that an application was submitted in 2008 for change of use and a statement within that application shows that the previous owner marketed the space for over 5 months without interest. The statement looks at other vacant sites in the area, listing 11 other nearby sites within the vicinity, concluding that supply exceeds the demand and that any business looking to establish themselves would not be harmed by the loss of the ground floor space at the application site. The statement goes on to say that the previous conversion to upper floor flats has impacted the ground floor display window which is now small and compromises the

DCL/20/59

opportunity for display and that this has contributed to the struggle to find tenants for the unit. The constraints of the site mean that there are far more attractive units in the area, a number of which are also vacant. The statement concludes that the site would be better suited to a residential unit which would be swiftly occupied and help regenerate a failing commercial space.

- 3.6 As set out within the National Planning Policy Guidance (NPPG), all planning viability assessments must be publicised alongside other information supporting the application. The above mentioned viability report was made public on 27th November 2020 and has remained as such throughout the lifetime of the application process.

4. RELEVANT PLANNING HISTORY

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

85/0032/SH	Change of use to builder office and store and insurance office with offices above.	Approved
86/0858/SH	Use of ground floor for the sale of hot Chinese take-away food.	Refused
Y03/0576/SH	Change of use of first floor offices to a self-contained flat, addition of a second floor to provide a further self-contained flat and the installation of a replacement shopfront.	Approved
Y08/0816/SH	Change of use from retail (Class A1) to a self-contained flat.	Refused
Y19/0889/FH	Change of use of the existing ground floor retail unit (Class A1) and office (Class A2) into a one bedroom residential flat (Class C3).	Withdrawn
20/1315/FH/PA	Determination as to whether the prior approval of the Local Planning Authority is required for the conversion of a ground floor retail unit (Class A1) (27.74sqm) and office (Class A2) (20.16sqm) into a residential unit (Class C3) with a total floor area of 48.13sqm.	Refused

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: No objection to the proposal.

Local Residents Comments

5.2 13 neighbours directly consulted. 0 letters of objection, 0 letters of support received and 0 letters received neither supporting nor objecting to the application.

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the 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 as 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

Policy HB1 – Quality Places through Design

Policy HB3 – Internal and External Space Standards

Policy T2 – Parking Standards

Policy T5 – Cycle parking

Policy RL5 – Cheriton District Centre

Shepway Local Plan Core Strategy (2013)

Policy DSD – Delivering Sustainable Development

Policy SS1 – District Spatial Strategy

Policy SS3 – Place Shaping and Sustainable Settlements Strategy

Core Strategy Review Submission draft (2019)

Policy SS1 – District Spatial Strategy

Policy SS3 – Place Shaping and Sustainable Settlements Strategy

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

Supplementary Planning Guidance/Documents

Government Advice

National Planning Policy Framework (NPPF) 2019

DCL/20/59

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

Paragraph 11 & 12 - Presumption in favour of sustainable development.

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

Paragraph 57 – Need and weight given to viability statements.

Paragraph 80 – Investing in business, supporting economic growth, taking into account local business needs and wider opportunities for development.

Paragraph 85 – Support the role that town centres play. Define a hierarchy and promote their long-term vitality and viability.

Paragraph 92 – Provide the social, recreational and cultural facilities and services the community needs.

Paragraph 121 - take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres.

Paragraph 124 - creation of high quality buildings and places is fundamental to what the planning and development process should achieve

Paragraph 127 – ensure that development will function well and add to the overall quality of the area, visually attractive, sympathetic to local character and history, maintain a strong sense of place, appropriate amount and mix of development, safe, inclusive and accessible.

National Planning Policy Guidance (NPPG)

Design: process and tools
Effective Use of Land

National Design Guide October 2019

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

I2 - Well-designed, high quality and attractive

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

7. APPRAISAL

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

- a) Principle of development / loss of ground floor commercial unit in a shopping area
- b) Loss of an active shopfront to be replaced with a frontage of domestic appearance
- c) Amenity of future occupiers
- d) Amenity of neighbouring properties
- e) Storage of refuse
- f) Secure bicycle storage
- g) Parking and transport / sustainability

a) Principle of development / loss of ground floor commercial unit in a shopping area

7.2 The Places and Policies Local Plan (PPLP) policy RL5 says that within the District Centre of Cheriton, as defined on the policies map (as shown in Fig.1), proposals for the development, redevelopment or change of use to Class A uses (1 to 5) (shops, financial and professional services, restaurants and cafes, drinking establishments and hot food takeaways) will be permitted. The policy states that appropriate sui generis uses will be permitted providing that they create an active frontage with a shopfront display and positively contribute towards providing a high quality environment and enhance the vitality and viability of the area. Other town centre uses will be permitted provided that they would not create a continuous frontage of three or more A5 units and meet the requirements in Policy HW1: Promoting Healthier Food Environments.

The Policy also states that planning permission will be granted for change from a town centre use where:

- 1) The proposed use is not detrimental to residential amenity;
- 2) There is evidence to demonstrate that there is no demand for the continued use of the premises for retail or community uses;
- 3) The existing use is no longer viable and 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; and
- 4) The proposed use does not threaten the vitality and viability of the district centre and retains an active frontage at street level.

7.3 Paragraph 12 of the NPPF promotes the presumption in favour of sustainable development but makes clear that the presumption of sustainable development does

DCL/20/59

not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 7.4 Policy RL5 of the PPLP seeks to retain the vitality and viability of the district centre through the retention of a healthy proportion of retail uses. In light of this, and the above-mentioned policy requirements, it is considered that the proposed change of use to residential would be contrary to this policy unless the 4 criteria listed in the policy, and as set out above are met.
- 7.5 With regards to point 1 of Policy RL5, this is addressed in more detail below under paragraph 10.11 but it is considered that the proposed use of the site as a one bedroom residential flat would not have a detrimental impact upon the amenity of existing residential units within the host building or upon other nearby residential properties for the reasons set out in paragraph 10.11.
- 7.6 With regard to points 2 & 3 of Policy RL5, the onus is on the applicant to demonstrate that there is no demand for the continued use for retail or community uses and that the existing use is no longer viable and has been actively marketed. In this case, the application has been accompanied by a supporting viability statement. The viability statement advises that the site has been vacant for over 5 years and indicates that the site was marketed for a period of 5 months in 2008 at the time of an earlier planning application (Y08/08166/SH), which Members will note was also refused on the grounds of lack of supporting evidence.
- 7.7 From the information obtained from the 2008 application file, there is no evidence of the marketing as suggested by the Applicant (e.g. a copy of an estate agent listing). The only reference to marketing was contained within the submitted Design & Access Statement (DAS) which stated that *'the existing shop has been vacant for the past 5 months and although advertised for rental there has been no interest. My client has therefore decided on financial grounds that the best solution will be to convert the shop into a residential flat'*.
- 7.8 In order to be taken as the most up-to-date evidence of lack of interest to satisfy the criteria in point 3) of the policy, the marketing should have taken place in the time leading up to the submission of the application. No evidence of marketing was submitted for the 2008 application, and reliance on what was submitted at that time approximately 13 years ago, does not satisfy point 3) of the policy at this point in time. No specific details or marketing particulars of the site have been submitted with the application, and therefore it cannot be established whether there is no demand for the site in its current use nor whether any reasonable offers have been made for its continued use in that regard.
- 7.9 Whilst not a requirement of Policy RL5, in further support of the lack of demand, the applicant's viability statement lists 11 vacant sites with accompanying streetscene photos. These properties are listed on the basis of an observation survey at street level of vacant frontages. Whilst it is accepted that the retail units listed are currently

DCL/20/59

vacant/unoccupied, no evidence has been provided to demonstrate whether or not all of these have been, or are still under, active advertisement, either for sale or rent. For example, 353 Cheriton High Street (former HSBC bank listed as 'D' in the viability statement) has recently been granted planning permission for extension and conversion with the ground floor office to be retained but the site is currently vacant given the intended conversion works. In light of the above, it cannot be presumed at face value from external observation alone that each property listed in the viability statement is not viable or not under offer. Notwithstanding the reliability of the detail relating to other similar sites within the vicinity, the information has limited weight when considering the viability of the application site itself. In order to be acceptable in policy terms, the criteria in the policy have to be met, and the submission of other "vacant" sites in the locality is not one of the criteria. On the basis of the information submitted, it is not considered that the proposal satisfies the criteria set out in points 2 and 3 of Policy RL5 such that planning permission could be granted.

b) Loss of an active shopfront to be replaced with a frontage of domestic appearance

- 7.10 Point 4 of Policy RL5 seeks to reinforce the vitality and viability of the district centre by resisting the loss of active frontages at street level. Whilst on the edge of the shopping area, with other residential development in close proximity to the site, the domestic nature of the proposed use would not be characteristic of the shopping area in which it is located, which is made up of a mix of retail, café and office uses. The introduction of residential uses also inevitably result in the addition of domestic frontages.
- 7.11 In this case, the proposed development would result in the total loss of a shopfront and the creation of a wholly domestic frontage. It is accepted that half of the original shopfront (the right side shop window) has already been lost by a door serving the upper floor flats, which occurred during the conversion as approved under an earlier consent (Y03/0576/SH), but this proposal would result in the wholesale loss of the shopfront, reinforcing the points set out above. It is therefore concluded that the proposal would also fail to satisfy point 4 of Policy RL5.

c) Amenity of future occupiers

- 7.12 Policy HB3 of the PPLP requires new build and conversions to residential to meet the Council's space standards. The application proposes to provide a 1 bedroom, 2 person flat, which is required under policy HB3 to provide 50sqm of internal floor space and 1.5sqm of built-in storage with private usable balcony area with a minimum depth of 1.5m, as long as this does not reduce the privacy of neighbouring dwellings.
- 7.13 In this case the unit would provide 48.13sqm as set out on the proposed floor plan. The proposal also shows a wardrobe within the bedroom for storage and it is likely that other small areas of storage could be accommodated within the flat. It is noted that the internal space provided results in a shortfall of 1.87sqm against the policy minimum. It would be difficult to justify a ground of refusal based on this shortfall.
- 7.14 With regard to outside space it is accepted that the flat cannot provide a balcony and policy HB3 goes on to say that the Council will only consider variations to the external space standards if it can be demonstrated that such an approach is needed

DCL/20/59

to reflect the character of the area. In this case the application sets out that the flat would have use of the rear courtyard area, and given this and the fact that it is located within a sustainable urban area, a short walk from public open spaces, it is considered to be acceptable.

- 7.15 The proposed flat would share a party wall with the adjoining café. The current use of the neighbouring site as a café, or as a retail use in general, is unlikely to generate significant levels of noise as the café use/seating area for customers is confined to the internal ground floor space only. The nature of a retail business in this location is such that it would not likely give rise to excessive noise disturbance during unsocial hours. During the site visit it was not possible to ascertain the location of any flue extraction system associated with the café use but cooking here would be likely be limited to frying foods on a scale that may not require a large industrial extraction system. There are other nearby residential units to the immediate rear of the café that appear as relatively new builds, as well as the flats already established in 303 Cheriton Road. All seemingly co-exist well together and as such there are no substantial grounds for refusal on the basis of noise/smells from the ground floor café unit at 301 Cheriton Road. With that in mind it is considered that the amenities of the future occupiers would not be unduly impacted by being in such close proximity to a commercial unit.

d) Amenity of neighbouring properties

- 7.16 In this case the upper floors of the host building are already in residential use and self-contained residential units stacked on one another is common however the layout of development such as this would normally encourage similar uses below each other to mitigate against noise between residential units. In this case there would be a requirement under Building Regulations to install noise mitigation in terms of sound proofing, but it is not considered that the general layout of the residential accommodation would give rise to adverse noise impacts in this regard. The adjoining café shares a party wall with the application site but the proposed use of the site as a one bedroom residential flat would not have a detrimental impact upon the function of this commercial site.

e) Storage of refuse

- 7.17 There is sufficient outdoor space within the courtyard area to provide a storage area for refuse and this can be secured by condition. The Council's waste department would provide the residents with details regarding the necessary refuse receptacles required for a 1 bed flat.

f) Secure bicycle storage

- 7.18 Policy T5 PPLP says that 1 bicycle space should be provided per bedroom. The plans do not show adequate space for the storage of a bicycle but there is considered to be sufficient outdoor space and secure bicycle storage could be secured by condition. It is accepted that this would eat into the available amenity space but there is a desire to support sustainable modes of transportation in line with policy.

g) Parking and transport / sustainability

- 7.19 This proposal falls outside of the protocol under which KCC highways provide comments and so they were not formally consulted.

7.20 Policy T2 PPLP says that for 1 and 2 bed units in this type of location, 1 parking space per unit should be provided. The site cannot provide the required amount of parking provision but it is accepted that this is an existing building and off-street parking is also not available for the existing commercial unit. Given the location of the site, within close proximity of shops along Cheriton Road and Cheriton High Street it would be unreasonable to refuse the application on the grounds of lack of parking provision in this instance. Parking on street is time limited during certain hours Monday-Saturday but residents would be able to park in the evening and there is unrestricted parking in some of the side roads, albeit it a number of these are close to capacity.

7.21 In conclusion, the proposed unit is unlikely to significantly place increased demand upon the amount of on-street parking spaces previously used for the site as a commercial unit, taking into account staff and customers.

Environmental Impact Assessment

7.22 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

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

7.24 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £0.00 per square metre for new residential floor space. This application is not liable for the CIL charge as it is a change of use and would not create any additional floor space.

Human Rights

7.25 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

DCL/20/59

7.26 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

7.27 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.

8.0 CONCLUSION

8.1 The application site falls within the Cheriton District Centre protected by Policy RL5 of the PPLP, and the application submission has failed to provide evidence to demonstrate that there is no demand for the continued use of the premises for retail or commercial uses. The application submission has also failed to demonstrate that the existing use is no longer viable and that the property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offer has been made, both of which are requirements with policy RL5 PPLP. Furthermore, the changes to the shopfront would result in a domestic appearance that would fail to satisfy policy RL5. The applicant has not provided a robust reason as to why local plan policy should not be adhered to in this instance.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATION

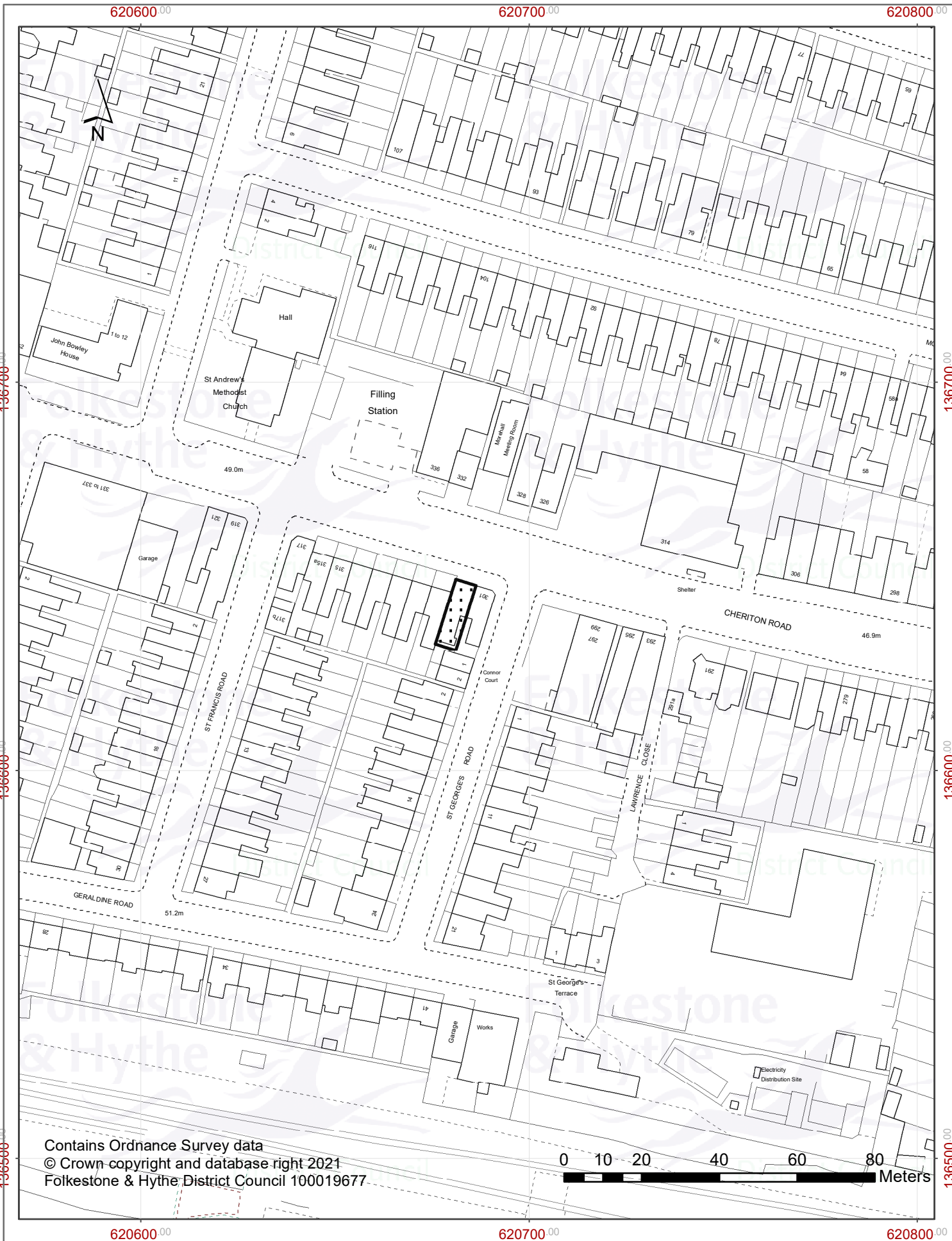
That planning permission be refused/for the following reason:

The application site is located within the Cheriton District Centre as defined in local planning policy RL5 of the Places and Policies Local Plan which states that planning permission will be granted for a change of use from a town centre use where a set list of criteria are met. The Local Planning Authority considers that the application submission has failed to provide evidence in line with the list of criteria as the submission has failed to demonstrate that there is no demand for the continued use of the premises for retail or commercial. The application submission has also failed to demonstrate that the existing use is no longer viable and that the property has been actively marketed at a reasonable rate for

DCL/20/59

a period of at least 12 months and no reasonable offer has been made. Further, the alterations to the front elevation would result in the loss of an active shop front by the removal of the shopfront window, resulting in the appearance of a domestic frontage. As such the proposal is contrary to the aims of local planning policy RL5 PPLP which seeks to protect the vitality and viability of the district centre and retain an active frontage at street level.

20/1918/FH
303 Cheriton Road
Folkestone



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Agenda Item 10

DCL/20/60

Application No: 20/2091/FH

Location of Site: Land adjoining Casebourne Cottage, Underhill Rd, Folkestone

Development: Retrospective application for the change of use of an agricultural field to a dog walking facility and associated field shelters

Applicant: Ms P Suddens & Ms C Goodchild

Agent: Mr Nick Kirby
Pegasus Group
The Columbia Centre
Station Road
Bracknell
RG12 1LP

Officer Contact: Katy Claw

SUMMARY

This application seeks permission for the change of use from agricultural land/field to a dog walking facility with associated field shelters, including access to the land and parking provision on the driveway of Casebourne Cottage for customers. Whilst there is an argument that the site is not wholly unsustainable due to its proximity to a settlement boundary and the nearby sustainable transport links, the application has failed to justify that this business essentially requires a rural location and that there are no other alternative locations within a defined settlement for this type of non-rural business. Furthermore, the fences, gates, means of enclosure and wooden shelters would give rise to a significant change in the rural character of the area that would fail to protect or enhance the landscape character and functioning of Local Landscape Areas, contrary to policy NE3 PPLP.

RECOMMENDATION:

- A) That planning permission be refused for the reasons set out at the end of the report.**
- B)**
- 1. That an Enforcement Notice be served requiring the cessation of the use of the land for all activities associated with the dog walking business; the removal of the field shelters, fencing and all other paraphernalia associated with the authorised use of the land.**
 - 2. That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notice.**
 - 3. That the period of compliance with the Notice be 6 months.**

4. That the Assistant Director – Governance, Law and Regulatory Services be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

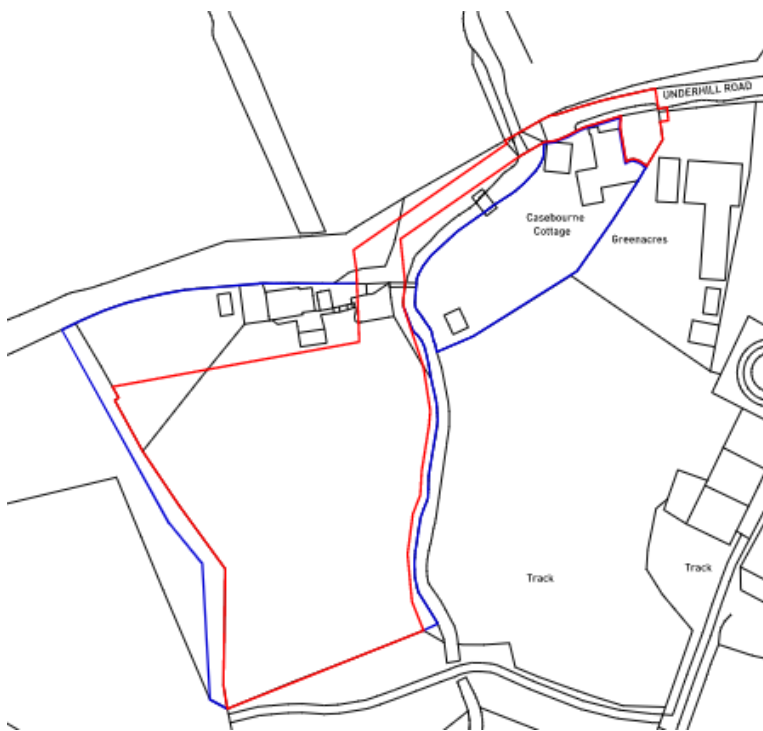
1. INTRODUCTION

1.1. The application is reported to Committee at the request of the Chief Planning Officer. The Chief Planning Officer believes the application raises issues which should be considered by the Planning and Licensing Committee, in accordance with point 10.2.1e) of the Folkestone and Hythe District Council Scheme of Delegation.

2. SITE AND SURROUNDINGS

2.1 The application site is a field of approximately 0.25Ha, which lies to the southwest of an established detached dwelling house currently owned by the applicants. The dwelling itself is sited at the end of Underhill Road, an unclassified, single track 'no-through-road', which itself exists onto the western side of Horn Street in Folkestone. Horn Street is a designated here as a primary 'C' road.

FIGURE 1 – Application site in red, other land owned by the applicant in blue



2.2 The land the subject of this application is shown from the Council's aerial photography to be laid with grass and tree/shrub-lined with mostly deciduous trees. There is little evidential change since at least 2006. Land to the immediate north (edged in blue) has been subject to some additional buildings over that time but the main field remains as agricultural/pasture land.

FIGURE 2 – Land in 2006 and 2018



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

3. PROPOSAL

3.1 Planning permission is sought for the change of use of the land from pasture/agricultural land to land for the walking of dogs. The application is retrospective and the business has been operating since October 2019.

3.2 The supporting statement dated December 2020 says that the business would operate a 'meet and greet' policy where the owners meet new clients and direct them to the parking facilities, therefore all returning clients know exactly where to park. It is understood from the transport statement that the new clients would then walk to the field access where they are then left to exercise their dogs on the field.

3.3 The supporting statement sets out that the operating hours would vary seasonally, GMT opening will be 08:00-16:30 and BST will be 08:00-19:30.

3.4 The booking process is online and allows for half hour or hour slots to be booked by customers and that a maximum of 8 booking slots are available per day. The business managers allow at least a 30 minute changeover period between booking slots to allow customers to pack up cars and exit the site before the next clients arrive. The business does not offer a 'drop in' usage, bookings must be made in order to use the site.

3.5 Customer (pedestrian/dog) access to the field itself is only possible by foot, and access from the associated parking/driveway area situated next to (east of) Casebourne Cottage would be via an existing wooden 5-bar gated entrance that leads round to a further set of wooden gates that allows access into the main dog walking area. This equates to around a 50 metre walk from car to field.

DCL/20/60

- 3.6 Vehicular parking for the business use is located immediately adjacent to the east of the main dwelling of Casebourne Cottage, on the existing driveway. The submitted statement and block plan indicate 3 parking spaces, although applying KCC vehicle parking space standards reduces this to 2 parking spaces.
- 3.7 Supporting information accompanying the application has confirmed that the site would accommodate up to 4 dogs at any one time over the 30 minute or 60 minute booked slots.
- 3.8 The statement sets out that the majority of bookings only require one car, but a second parking space is available for a second car should an additional driver need to attend the booking, but this is not typical. It is understood from supporting comments that some people meet friends/family at the site which explains the occasional requirement for two spaces. The applicants have sole use of their garage for parking of their personal vehicles.
- 3.9 In addition to the change of use of the land the applicant is seeking the retention of two field shelters, erected in association with the business. These are wooden in construction and open on one side. The field shelter located at the northern end of the field is of lean-to design and measures approximately 2150mm x 1900mm with a maximum height of 2100mm. The field shelter located at the bottom end of the field is of pitched roof design and measures approximately 1850mm x 1200mm with a maximum height of 2250mm.

FIGURE 3 – Field shelter 1 and 2



- 3.10 Members' attention is directed to the presence of other fences/gates erected on the site in association with the dog walking business. However, the applicant has not included these within the application submission as they consider that as the fences/gates are under 2m in height (1.8m) they do not require planning permission in their own right.
- 3.11 In addition to the submitted plans, the application has been accompanied by the following reports:
- 3.12 Planning Statement (produced by Pegasus Group, received December 2020)

This document sets out the site and its location description, planning history, the proposed development, an assessment against relevant policy and a conclusion. The statement concludes that the use is appropriate within the location in which it is set and provides opportunities for safe, outdoor recreation, of significant value to the local community whilst meeting ambitions for exercise and welfare and is supported by the

DCL/20/60

NPPF for rural-based leisure recreation. The site provides sufficient parking and there is no adverse impact on road capacity, with the site accessible by public transport. The change of use adheres to relevant development plan policies and will assist dog owners in meeting their legal obligations under the Animal Welfare Act 2006. It concludes that planning permission should be granted to support a vibrant small business.

3.14 Transport Statement (produced by Pegasus Group, received January 2021)

This document sets out key transportation issues setting out the site and context, the existing access and parking arrangements, the local highway network, including public rights of way. With regards to the junction of Underhill Road/Horn Street it identifies any highway safety issues including by the use of 'crashmap', which the report states did not note any recorded incidents within the vicinity of Horn Street/Underhill Road junction. The report concludes in that regard that the local highway network in the vicinity of the site operates safely and there is no material existing accident pattern or problem.

With regards to on-site parking, the transport assessment sets out that vehicular parking arrangements will remain as per the existing situation.

3.15 Acoustic Assessment of Casebourne Cottage Dog Walking Site (produced by ACA acoustics, received January 2021)

The statement sets out that a sound level survey was carried out between Monday 7th to Thursday 10th December 2020 at the edge of the main dog walking area and that 14 dog walking sessions were captured in that time period, along with residual levels during periods without any walking activity taking place. The statement sets out that 15 minute averages were taken and these averages equated to levels deemed to be "negligible" to "slight" when assessed in accordance with the guidelines. The report concludes that the site is suitable for use as the proposed dog walking site and should not result in adverse impact on nearby occupants.

An assessment of the customer vehicle activity was also carried out within the same survey, resulting in "slight" impact when assessed in accordance with the guidelines and that sounds of customer vehicles is comparable to other activity of similar nature in the vicinity of the relevant noise receptor. The report sets out that each vehicle movement has been evaluated to take around 2 minutes and that the noise assessment was taken over an hour period. In this regard the report concluded that the traffic movements (2 movements per hour, up to 14 movements per day) would be heard but would not result in any change in the behaviour or attitude of adjoining occupants.

4. RELEVANT PLANNING HISTORY

- 4.1 There is no planning history associated with the site as outlined in red on the submitted site location plan.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

DCL/20/60

Hythe Town Council: Object on the grounds that there are health and safety issues, access and egress issues, drainage issues, a detrimental effect on wildlife, the location is not suitable for this sort of business and the effect of traffic and noise would have an adverse effect on the neighbours.

KCC Highways and Transportation: KCC Highways has commented on the proposal and initially did not intend to comment on the application but sought to clarify their position on this matter further in regards to the junction of Underhill Road and Horn Street. They confirm that this particular section of Underhill Road is unclassified and publicly maintainable by KCC. They set out that under NPPF guidance, they are only allowed to object on highway grounds if the impact of the proposal is severe in nature. They have checked personal injury records, which indicates there have been no accidents on Underhill Road at the junction with Horn Street. They have set out that the applicant's Transport Statement explains that they plan to limit the number of bookings per day (with a maximum of 6 bookings per day during GMT and 8 bookings per day during BST), limit to one car (unless one additional car is authorised at the time of booking), and include an additional gap half an hour between bookings to allow for one person to leave before the next person arrives. This is acceptable and reasonable, with very low resulting traffic movements. As such, they do not consider the proposals will have a severe impact on the junction of Underhill Road and Horn Street.

KCC Ecology: No ecological information has been submitted with this retrospective application. If planning permission is granted they advise a condition to ensure that no net-loss of biodiversity occurs and that enhancement measures are implemented. The condition would include the planting of native vegetation.

Environment Agency: The Environment Agency raised no objection on the understanding that where a channel had been dug, it should not be carrying any pollution, such as dog excrement laden runoff into the river. They have included an 'environmental permit' informative which refers to the applicant needing to obtain a permit for any activities which will take place on or near the Seabrook Stream.

Environmental Protection Officer: Initial comments from the Environmental Health Officer received February raised concerns around assumptions made in the Acoustic report (due to variables such as weather conditions/seasons/number and size of dogs etc). The Environmental Health Officer suggested conditions, including hours of operation, limit of 6 dogs on site at one time, any external lighting to be switched off by 18:00hrs, no over-night boarding and that a 2.0m high solid timber fence/wall should be erected. Following the submission further information and clarity on the assumptions made in the initial Acoustic report (from agent dated 10 March) the Environmental Health Officer has submitted revised comments dated 31 March confirming that Environmental Health department cannot reasonably request the 2.0m high acoustic fence and they withdraw this proposed condition, they would however welcome the proposed reduction in maximum number of dogs, from 6 to 4. The other suggested conditions should remain. In addition to the suggested conditions the

DCL/20/60

Environmental Health Officer advised that it would not be reasonable for clients to self-regulate themselves regarding excessively barking dogs and therefore advise the site to be appropriately staffed, while in operation.

Local Residents Comments

5.2 2 neighbours directly consulted. 167 individuals/interested parties have commented on this proposal, some in support and some in objection. There are instances of several comments on file from the same individuals/interested parties.

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

Objections

- Underhill Road isn't suitable for the increase of traffic movements
- Impact on Horn Street due to increase of traffic
- Noise generated from increased traffic movements, numerous dogs, shouting and noisy training aids/dog toys
- Excessive operating hours
- Hazard. Surrounding fields either have sheep, cattle or equine which spook easily
- Nature of business attracts dogs that are antisocial and cannot be let off in public places with other animals/people
- Danger of dogs escaping
- Access point not owned by applicant but gate has been installed
- Flooding issued caused by new drainage system

Support

- No other comparable sites nearby, willing to travel from outside the district to use facilities
- Good place for dogs who are not good with other dogs or humans
- Good for persons and/or dogs with disabilities and mental health disorders
- Nothing similar within close proximity/locally. Most fields contain other dogs or livestock
- Dogs have freedom to run off-lead in a safe and enclosed area
- Booking system ensures no crossover of persons or dogs resulting in minimal congestion and noise
- Sheltered with seating and dog toy/training aids and other provisions (including water/wash area and dog waste bins) are on site, unlike public dog runs
- Fences/enclosures are high and screened, unlike that found in local authority dog runs
- Will not impact upon neighbours

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

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

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the Places and Policies Local Plan 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

Policy HB1 – Quality Places through Design

Policy T2 – Parking Standards

Policy NE2 – Biodiversity

Policy NE3 – Protecting the District’s Landscapes and Countryside

Policy HE2 – Archaeology

Shepway Local Plan Core Strategy (2013)

Policy DSD – Delivering Sustainable Development

Policy SS1 – District Spatial Strategy

Policy SS3 – Place Shaping and Sustainable Settlements Strategy

Policy CSD3 – Rural and Tourism Development of Shepway

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

Core Strategy Review Submission draft (2019)

Policy SS1 – District Spatial Strategy

Policy SS3 – Place Shaping and Sustainable Settlements Strategy

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 – Local planning authorities may give weight to relevant policies in emerging plans.

Paragraph 54 - Whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

Paragraph 83 – Supporting a prosperous rural economy. Sustainable growth and expansion of all types of business in rural areas and sustainable rural tourism and leisure developments which respect the character of the countryside.

Paragraph 84 - Decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. Important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.

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.

Paragraph 170 - Decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside, minimising impacts on and providing net gains for biodiversity, 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.

National Planning Policy Guidance (NPPG)

Design: process and tools
Effective Use of Land
Natural Environment
Noise
Use of Planning Conditions

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

7. APPRAISAL

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

- a) Principle of development
- b) Impact upon the countryside / Local Landscape Area
- c) Neighbouring amenity
- d) Parking provision and highway implications
- e) Other issues

a) Principle of Development

7.2 The general thrust of national and local plan policy is to secure the sustainable patterns of development through the efficient reuse of previously developed land, concentrating development at accessible locations. At a basic principle, policies SS1, SS3 and CSD3 of the Council's Core Strategy restrict development in the countryside and direct residential development towards existing settlement patterns to protect the open countryside. Policy SS3 Core Strategy says that the principle of development is likely to be acceptable on previously developed land, within defined settlements.

7.3 The NPPF defines previously developed land as "land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure". In this case, from reviewing aerial photography and without evidence to the contrary from the applicant, it would appear that the parcel of land outlined in red has been used as pasture land (and is located within an area of classified Grade 4 Agricultural land) with very little alteration for a period spanning at least 10 years, until the change of use occurred in 2019. As such the land cannot be considered as 'previously developed land' as defined within the NPPF. Notwithstanding this the site is itself located outside a defined settlement and so this policy principle could not apply.

7.4 Policy SS1 states that additional development should be focused on the most sustainable towns and villages as set out in Policy SS3. Policy SS1 also says that development in the open countryside (defined as anywhere outside of the settlements) will only be allowed in exceptional circumstances, where a rural/coastal location is essential. Policy CSD3 goes on to state that where sites are unavailable within settlements and the development is proportionate in scale/impact and accessible by a choice of means of transport, it may be acceptable on the edge of Strategic Towns and Service Centres, and failing that, Rural Centres and Primary Villages.

DCL/20/60

- 7.5 Whilst the application site is outside of an established settlement, it is considered to be in reasonably close proximity to a settlement boundary (approximately 148m from the southeast corner of the site to settlement along Horn Street). The land in question is not considered to be poorly connected by sustainable transport modes. There are bus stop along Horn Street and Horn Street is a main road connecting the site to Hythe and Cheriton with the M20 motorway and high-speed train links available in Folkestone. Taking the above in to consideration it cannot therefore be argued that the site is in a totally unsustainable location although given the nature of the business, as somewhere to go to specifically walk dogs, the number of customers who would walk here to walk their dogs would be likely to be low.
- 7.6 There are cases where development in the countryside is permitted by local plan policy and this is set out within policy CSD3 Core Strategy. Policy CSD3 refers to the District's 'Rural and Tourism Development'. The policy says that proposals for new development in locations outside of the Settlement Hierarchy may only be allowed if a rural or coastal location is essential, and to meet green infrastructure requirements. Development in these locations will only be acceptable in principle if forming a site for:
- a. affordable housing (rural exceptions as per CSD1, or allocated sites)
 - b. agriculture, forestry or equine development
 - c. sustainable rural diversification, and tourism enterprises as set out below
 - d. local public/essential services and community facilities in line with policies SS3/4
 - e. replacement buildings (on a like for like basis)
 - f. conversions of buildings that contribute to the character of their location
 - g. sustainable rural transport improvements
 - h. essential flood defences or strategic coastal recreation

The policy goes on to say that tourist, recreation and rural economic uses will be appropriately protected and new development allowed within defined settlements in the Settlement Network. Where sites are unavailable within settlements – and development is proportionate in scale/impact and also accessible by a choice of means of transport – it may also be acceptable on the edge of Strategic Towns and Service Centres, and failing that, Rural Centres and Primary Villages.

- 7.7 In this case, a business as a 'dog walking facility' cannot reasonably be considered as a rural enterprise, essentially requiring a rural location, unlike equine development for example. This is supported by the fact that most (if not all) purpose-built dog runs in the district are sited within urban built-up areas, easily accessible to all by various modes of transport. Given that the policy does not support new non-rural development in locations outside of the settlement hierarchy, it is not considered that policy CSD3 can be used to support this use, which does not have to be located in the rural area.
- 7.8 At a national level paragraph 83 NPPF refers to 'Supporting a prosperous rural economy' and states that:
- Planning policies and decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;

DCL/20/60

- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

- 7.9 Paragraphs 83 and 84 of the NPPF have been used by the applicant in support of their submission. However, it is considered that paragraph 83 has been misinterpreted as whilst it does lend support to the 'sustainable *growth* and *expansion* of *all types* of business in rural areas', it does not actively support 'new development' in rural areas. As such, this should not hold significant weight in the support of this application.
- 7.10 Paragraph 84 of the NPPF says 'planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope of access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'.
- 7.11 The requirements of Paragraph 84 appears to offer more support to the applicant's proposal than local policy or paragraph 83 of the NPPF however, this support is caveated by a set of criteria that need to be met. It is considered that the proposal would not meet all the necessary criterion of this principle policy for reasons which are covered elsewhere in the report under their relevant sub-headings below.
- 7.12 Where development is proposed outside of any defined settlement and the business use is not covered by policy CSD3 then the onus falls to the applicant to justify its rural location. It is considered that the application has failed to satisfy the planning policy requirements of only allowing development 'in exceptional circumstances, where a rural location is essential', as required by policies SS1, SS3 and CSD3 of the Council's Core Strategy.
- 7.13 Based on the evidence submitted, there is no demonstration that alternative locations have been considered within a defined settlement. It is reasonable to assume that the business in this location relates to the fact that the site is within the applicant's ownership, which is adjacent to their residential property but which does not form part of the residential garden.
- 7.14 It is accepted that the proximity of the business to the applicant's residential property would be of convenience to the applicant, certainly where a 'meet and greet' facility is being offered for first-time visitors. However, a planning permission runs with the land and Casebourne Cottage does not fall within the application red line boundary. The argument for allowing this use here because of the link to Casebourne Cottage is therefore not justified because they are not within the same planning unit and could

not be connected through conditions attached to any planning permission. In certain circumstances a personal permission may be granted, but a grant of planning permission based solely on the grounds of an individual's personal circumstances will scarcely be justified.

7.15 In this case it is noted that operating a business in close proximity to personal property offers opportunities for 'home working' or to permit operations for a 'home business'. Whilst personal need is not a material planning consideration in itself, it can form part of a balanced argument. In this case the applicant has not put forward an argument as to why the business can only operate from the proposed site and why a more appropriate location for such a business is not feasible.

7.16 On balance, it is concluded that whilst there is an argument that the site is not wholly unsustainable due to its proximity to a settlement boundary and the nearby sustainable transport links, the application has failed to justify that this business essentially requires a rural location and that there is no other alternative locations within a defined settlement for this type of non-rural business.

b) Impact upon the Countryside / Local Landscape Area

7.17 The application includes details of the two wooden shelters that have been erected on the site. As part of the retrospective operations at the site the applicant has also erected fences/gates/enclosures, but the agent is of the view that as they are all under 2m in height, they do not in themselves require planning permission. As such they have not been included as part of the application submission, and the applicant wishes for the application to be determined on that basis. It is not considered that this is correct.

7.18 Given the proximity to other residential properties and the need to contain dogs within the application site, it is reasonable to assume that gates, fences or other means of enclosure would be required as part of that use. The installation of such structures would be essential to the operations of the change of use application being sought. Such structures, whilst not necessarily needing planning permission in their own right, are a material part of the proposals and they are only necessary as a result of the intended use. It is therefore considered that the gates, fences and other means of enclosure that have been erected on site form part and parcel of the change of use, and the impact the fencing/gates would have of the visual character and appearance of the site and on the wider countryside should be considered as part of the application.

7.19 The erection of boundary treatments, including fences and gates is to be expected in the rural area, used a way to demarcate one parcel of land from another and to contain any associated livestock, especially where there is a difference in ownership on adjoining parcels. As such, the erection of boundary treatments under 2m in height, separating one parcel of land from another, is not uncommon and not objectionable in this case. Concern arises not from the boundary fences but from the need for other fences/gates and enclosures within the site itself, such as the various entry gates along with the separate enclosures for the dog washing area.

7.20 In addition to the number of fences/gates/enclosures, the two shelters that are in situ on the land are domestic in nature, more akin to the kind of structure you would find

DCL/20/60

in a residential garden. As such they appear alien and out of character within the wider countryside setting and are not suitable structures for this particular rural location.

- 7.21 The site itself is set within a valley but there is a public footpath to the north of the site which runs northwest of the site, across open fields from which the associated dog walking paraphernalia would be visible. In addition the associated shelters, fencing/enclosures and their accompanying screening would visible from other locations outside of the site.

It is accepted that the screening used here would be dark green in colour (a type of netting) but this not does not entirely negate the visual harm caused to the area due to the excessive amounts of fencing/enclosures required on a relatively small parcel of land.

- 7.22 With regards to impact upon the countryside and LLA, it is considered that the resulting works would give rise to a significant change in the rural character of the area, a physical change which would, due to the non-rural nature/amount of structures, fail to protect or enhance the landscape character and functioning of Local Landscape Areas, contrary to policy NE3 PPLP. It is considered that as the fences/gates and other means of enclosure are required in association with the business operations, they form a material consideration in the determination of this application.

c) Neighbouring Amenity

- 7.23 The criteria set out under PPLP Policy HB1 addresses neighbouring amenity considerations. The policy states, amongst other things, that planning permission will be granted where the proposal does not lead to an adverse impact on the amenity of neighbours, or the surrounding area. The main concern in the determination of this application with regards neighbouring amenity centres around resulting noise and disturbance.

- 7.24 The nearest neighbouring property to the application site is Greenacres, approximately 60m east from the house, and approximately 34m from the garden. To the east of Greenaces is Casebourne Farm. The application site is approximately 84.6m from the house and 55m from the garden. Other nearby neighbouring properties are within Craythorne Close to the southeast of the site, the nearest being 1 Craythorne Close, 162m from the site.

- 7.25 There have been some concerns raised by neighbours with regards to the time/days that the submitted Acoustic Assessment (produced by ACA Acoustics) was undertaken. Concerns relate to the survey being carried out during a Covid-19 lockdown period, when the site was not operational during this period and as a result the report findings would not be accurate. Notwithstanding these concerns, it must also be considered that there has been no evidence to demonstrate that the site was not operating during this time. As the assessment has been carried out by a competent and suitably qualified 3rd party, it would not be appropriate for the findings reported to be dismissed and there is no evidence that the Report is in anyway misleading.

DCL/20/60

- 7.26 The Acoustic Assessment has been broken down into two parts, the first assesses the noise of dogs/persons on the site and the other assesses the traffic movements. The report states that the survey was carried out between Monday 7th to Thursday 10th December 2020 and that 14 dog walking sessions were captured along with residual levels during periods without any walking activity taking place. The report concluded that the levels captured equated to an increase of noise level rated as “negligible” to “slight”. The report concludes that noise impacts are low and no further mitigation measures will be required.
- 7.27 An assessment of the customer vehicle activity resulted in a “slight” noise impact and the report concludes that the noise impact of the customer vehicle movements should not be detrimental to the amenity of nearby residential occupants.
- 7.28 In conclusion the report found that, in accordance with relevant policies, standards, and guidance, it is the author’s opinion that the site is suitable for the use as the proposed dog walking site and should not result in adverse impact on nearby occupants.
- 7.29 It is accepted that there is a degree of assumption made as they survey was carried out during one season with its own particular seasonal conditions and that in the summer for example, when the trees are in leaf, or considering changes in wind direction etc, would all play a role in noise levels on any given day. However, the Acoustic Survey has made clear that the impacts from noise, be that from dogs/persons or traffic movements would be “negligible” to “slight” and as such any mitigating weather factors on any given day is unlikely to raise noise levels beyond acceptable levels. The report concludes that no further mitigation measures will be required.
- 7.30 It is noted that the Council’s Environment Health Officer (EHO) had originally requested that an acoustic fence be secured by condition in their initial response but upon further consideration, given that the report concludes that no further mitigation is required, this requirement would be unreasonable and so would no longer form a conditional requirement should Members be minded to permit.
- 7.31 Taking into account the findings of the Acoustic Assessment, undertaken by suitably qualified persons, it is considered that there are no reasonable grounds for refusal on the basis of noise impacts from dogs/persons or vehicular traffic.
- 7.32 The hours of operation are set to daylight hours only and as such no floodlighting would be required. The applicant has noted that there is existing lighting on the site but this is existing and does not form part of the application submission.
- 7.33 Concern had been raised with regard to the impact of odour from the dog excrement bins. Following discussion with the applicant’s agent and the Council’s Environmental Health Officer, the applicant intends to employ the services of a regulated commercial waste disposal company.

- 7.34 Concern has been raised about the type of dog using the site and the fact that there are horses and livestock in the near vicinity. This is duly noted but it is for the applicant to ensure the protection of any nearby livestock.
- 7.35 Environmental Health and other interested parties have raised concerns with regards to the management of the site. The Environmental Health Officer suggests that it would not be reasonable for customers to self-regulate themselves regarding noise mitigation from any dogs barking excessively and they advise that the site should be appropriately staffed, while in operation.

d) Parking Provision and Highway Implications

- 7.36 The application has been supported by a Transport Assessment. It is noted that some concern has been raised by neighbours about the assessment as it has been produced by the agent and not a suitably qualified 3rd party. However, given that KCC Highways and Transport has not objected to the survey or to the application itself it is considered that the submission is valid and acceptable.
- 7.37 Underhill Road is an un-adopted road and as such KCC Highways and Transportation department has only commented on the traffic at the junction of Horn Street with Underhill Road. KCC has confirmed that their records show there have been no accidents on Underhill Road at the junction with Horn Street. They conclude that based on the number of traffic movements associated with the proposal (maximum of 8 bookings per day BST) limited to one car (unless one additional car is authorised at the time of the booking), and to include an additional gap of half an hour between bookings to allow for one person to leave before the next person arrives, that this is acceptable and reasonable, with very low resulting traffic movements.
- 7.38 Given these conclusions, it is considered that there would not be a reasonable grounds for refusal on the basis of traffic increase at the junction of Underhill Road and Horn Street.
- 7.39 With regards to vehicular traffic along Underhill Road itself, it is accepted that this is a single lane and as such, any increase in traffic may give rise to minor inconvenience of highway users should paths cross when using the road. Single track lanes are commonplace in the countryside and reversing or giving way for other road users is to be expected. The applicant has attempted to alleviate highway issues by highlighting the road capacity and requesting customers to consider other road users from information set out on their website and also in the way of apparent information sent out via their digital booking confirmations (noted from reading comments).
- 7.40 It is accepted that not all road users are courteous but that is not a material reason to withhold planning permission. Underhill Road is a public road and applications can only be refused on highway grounds in line with NPPF guidance. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.41 Whilst concerns have been raised about speed of traffic/number of traffic on the road there is no definitive evidence which supports that this is as a direct result of the business operations at the site and, in line with advise from KCC Highways, the highway implications upon the existing highway network as a result of this proposal would not be severe enough to warrant a reason for refusal on highway grounds.

- 7.42 Parking for the customers would be upon privately owned land within the residential curtilage of Casebourne Cottage. The application submission shows 3 parking spaces but in reality, taking into account KCC IGN3 minimum parking size space standards (adopted by the LPA under policy T2 PPLP), the site can only accommodate 2 cars. The 2 car maximum is in line with the applicant's intended operations of only permitting up to 2 cars at any one time and in this regard there are no objections raised to the parking provision.
- 7.43 The proposal would reduce the amount of available parking for Casebourne Cottage. The applicant's currently use a garage located to the west of the main house to park their own vehicles. Garage spaces do not usually count towards parking provision but it is understood that this is an existing situation and no objections are raised. It would be imperative that a degree of parking provision was retained at all times in connection with the business use in the interests of highway safety.

e) Other Issues

- 7.44 There is a requirement under local and national planning policy to seek a biodiversity gain. As such KCC Ecology department has requested a condition to ensure that no net-loss of biodiversity occurs and that enhancement measures are implemented. This is reasonable and should Members be minded to grant planning permission then a condition would include the planting of native vegetation to be carried out within a set time frame, usually to coincide with the next planting season given that the works are retrospective.
- 7.45 Concern has been raised regarding the fact that the applicant does not own all the land to which the application relates. The applicant has completed Certificate D of section 25 of the application form which certifies that all reasonable steps have been taken to find out the names and addresses of everyone else who was the owner of any part of the land to which the application relates. They have confirmed that a land registry search was undertaken and that a notice was placed in the Folkestone Herald Express. For the purposes of applying for planning permission the applicant has carried out the necessary steps and the issue of land ownership would not preclude planning permission from being granted.
- 7.46 The MoD has raised concerns in response to the planning application, however this relates to the potential impact on the access to their land and not to the change of use itself. It is understood that the MoD can still access their land, albeit through a gate that the applicant has erected. This in itself is not a planning consideration as access can be made and the MoD has not formally objected on the grounds of lack of access. Retaining rights of access would require resolving with the applicant and is a civil matter rather than one for planning to consider.
- 7.47 Drainage ditches have been dug and the Environment Agency offered no objection on the understanding that where a channel had been dug, it should not be carrying any pollution, such as dog excrement laden runoff into the river. The agent has confirmed that the drainage channels have been piped, and topped with gravel membrane and soil as they are not open and it is not possible for dog waste to be placed in them. Any other works regarding drainage and flooding issues resulting in impact to the Seabrook Stream are being addressed between the applicant and the EA, they do not form part of this application for change of use of the land and so falls outside the remits of consideration under this application.

Environmental Impact Assessment

7.48 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

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

Human Rights

7.50 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

7.51 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

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

8. CONCLUSION

- 8.1 The application site seeks planning permission for a non-rural use within the open countryside without justification for its rural location. The LPA is of the opinion that whilst there is an argument that the site is not wholly unsustainable due to its proximity to a settlement boundary and the nearby sustainable transport links, the application has failed to justify that this business essentially requires a rural location and that there are no other alternative locations within a defined settlement for this type of non-rural business. The application has failed to satisfy the planning policy requirement of only allowing development 'in exceptional circumstances, where a rural location is essential', as required by policies SS1, SS3 and CSD3 of the Council's Core Strategy.
- 8.2 The resulting physical development that would be required (fences/gates/means of enclosures) along with the physical development proposed under this application submission (wooden shelters) in order to facilitate this change of use to a dog walking facility would give rise to a significant change in the rural character of the area that would, fail to protect or enhance the landscape character and functioning of Local Landscape Areas, contrary to policy NE3 PPLP.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATION

A) That planning permission be refused/for the following reasons:

1. The site is located outside of any settlement boundary and within the open countryside. The application submission has not provided robust justification to support exceptional circumstances, where a rural location is essential for a proposal that seeks to operate a non-rural business in a rural location, outside the confined of the settlement boundary, contrary to policies SS1, SS3 and CSD3 Shepway Core Strategy Local Plan and the NPPF.
2. The proposed paraphernalia required with the dog walking business (including any necessary fences/gates/means of enclosure, together with the proposed retention of the wooden shelters) would result in harm to the character of the countryside setting, which is afforded additional protection by virtue of local designation as a Local Landscape Area and the application has failed to demonstrate that this location is the most sequentially preferable location and that the need to secure economic and social wellbeing outweighs the need to protect the area's local landscape importance as required by policy NE3 of the PPLP.

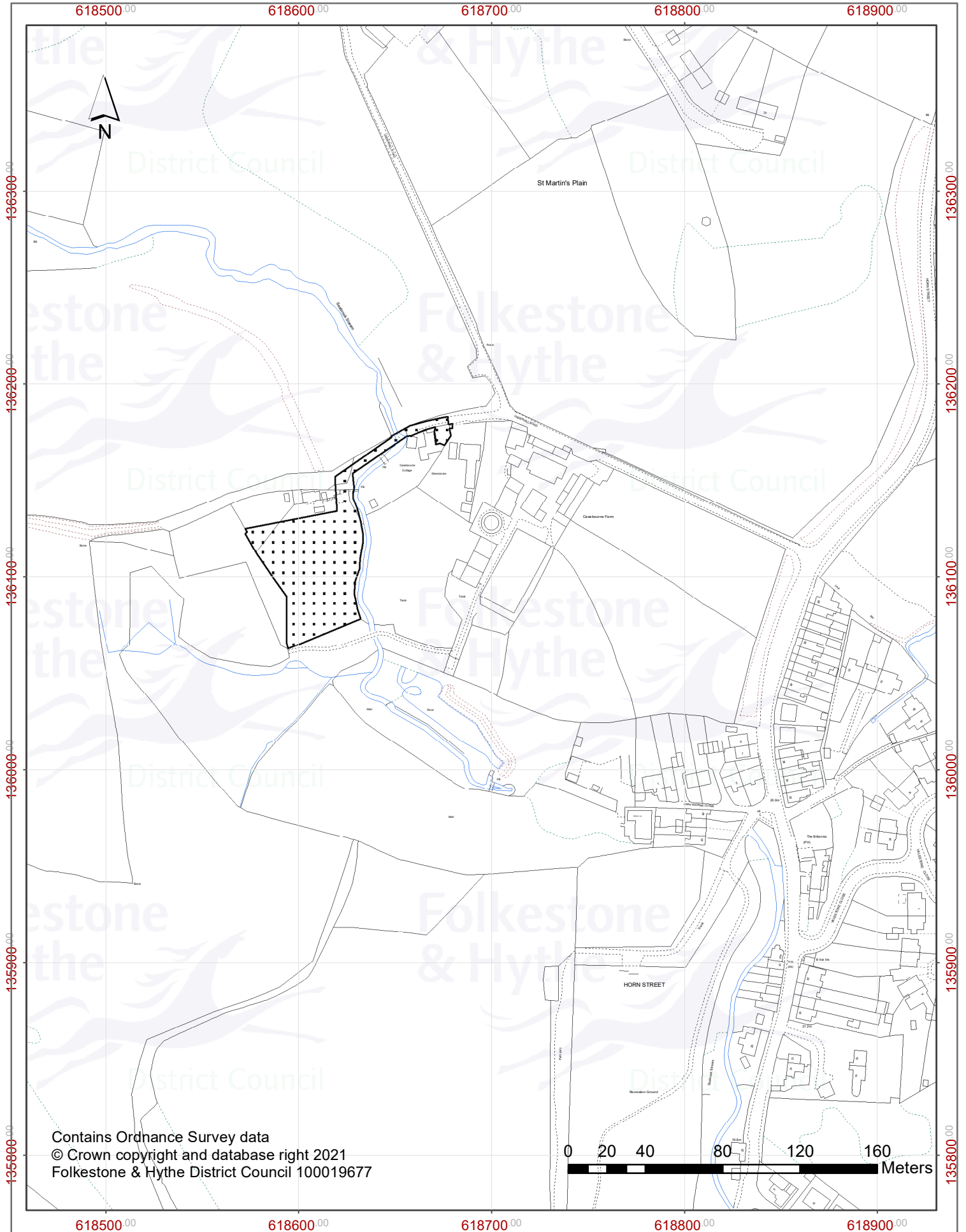
B)

1. That an Enforcement Notice be served requiring the cessation of the use of the land for all activities associated with the dog walking business; the removal of the field shelters, fencing and all other paraphernalia associated with the authorised use of the land.
2. That the Chief Planning Officer be given delegated authority to determine the exact wording of the Notice.

DCL/20/60

- 3. That the period of compliance with the Notice be 6 months.**
- 4. That the Assistant Director – Governance, Law and Regulatory Services be authorised to take such steps as are necessary including legal proceedings to secure compliance with the Notice.**

20/2091/FH
Land adjoining Casebourne Cottage
Undercliff Road
Folkestone



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

20 APRIL 2021

REPORT OF THE CHIEF PLANNING OFFICER ON APPLICATIONS

**1. 20/0467/FH Land Adjoining Cold Harbour, Blackhouse Hill, Hythe
(Pages 13-39)**

Erection of two residential detached dwellings, utilising the existing access, together with the provision of parking and landscaping.

James Kirby, local resident, to speak against the application.

Elisabeth Welch, agent, to speak on the application.

**2. 20/0684/FH - The Rectory, Rectory Lane, Lyminge, Folkestone, CT18 8EG
(Pages 41-59)**

Erection of detached dwelling and two garages.

K.Druery, local resident to speak against the application.

Cllr Roger Joyce, on behalf of Lyminge Parish Council, to speak on the application.

**3. 20/1596/FH - Manor Barn, Teddars Leas Road, Etchingill, CT18 8AE
(Pages 61-83)**

Retrospective application for the existing dwelling as constructed; variation of condition 2 of planning permission Y12/0442/SH for external alterations to stable block and machine/hay store building, conversion of part of the ground floor and loft space of the machine/hay store building to pool and gymnasium and use of loft space over detached stable block as tack rooms and horse feed storage; and installation of lamp standards.

Ian Cloke, local resident, to speak against the application.

**4. 20/1928/FH - Copper Beech Farm, Lymbridge Green, Stowting Common,
TN25 6BJ**

(Pages 85-101)

Change of use of existing annex to self-contained holiday let.

Mr Lionel Roberts, local resident, speaking in support of the application.

William Harbottle, Chairman of Stowting Parish Meeting, to speak on the application.

Cllr Susan Carey, ward member, to speak on the application.

A.& C.Alman , applicant, to speak on the application.

5. 20/2091/FH - Land adjoining Casebourne Cottage, Underhill Road, Folkestone

(Pages 119-139)

Retrospective application for the change of use of an agricultural field to a dog-walking facility and associated field shelters and parking provision for customers.

Lisa Stock, local resident, to speak against the application.

Angelica Araque-Ludlow, local resident, in support of the application.

Nick Kirby, agent , to speak on the application.

6. 20/1918/FH - 303 Cheriton Road, Folkestone, CT19 4BG

(Pages 103-117)

Change of use and conversion of the ground floor retail unit and office into a residential unit including alterations to front elevation in the form of alterations to the fenestration and partial rendering at ground floor level.

Supplementary Comments

20/1596/SH Manor Barn Teddars Leas Road Etchinghill

Revised drawing for the dwelling has been submitted to accurately reflect it as constructed, which shows the balcony on the southern elevation as constructed and the correct position of the second floor roof light on the west elevation.

Revised drawing for the stable block has been submitted to accurately reflect it as constructed, showing the correct location of the rooflights in the southern wing.

As a result of the revised drawings an amendment to condition 1 on the officer's report is proposed to refer to the revised plans where applicable, rather than those listed.

A further representation has been received from a local resident raising concerns that the officer's report contains misleading inaccuracies. The comments are summarised below and a full copy is available on the planning file.

- Appraisal only includes certain key facts and is predisposed towards the recommendation
- It does not ask Members to consider if this substantial residential accommodation in a rural area should be permitted
- Section 7.2 is misleading as the removal of the stables would mean the right to living accommodation no longer exists
- Refers to wrong plan, should be revision C which correctly shows balcony and roof light
- Previous officer considered balcony unacceptable in terms of overlooking and it was removed from the plans
- Plan shows second floor as children's snug and play room, not bar and sitting room as referred to in officer report
- Statement that there is no valid justification on planning grounds to refuse planning permission is factually incorrect.
- Report should give Committee a balanced summary of all the relevant facts to enable them to reach their own decision

With regard to the wrong plan being referred to, the reason for this is that the revised plan was not received until after the committee report had been written. In accordance with the Council's standard procedure it was intended that an update on the revised plan and an amendment to the condition would be referred to in the Supplementary Sheets, as above.

Regarding the balcony, this has previously been approved. Planning permission Y12/0373/SH was effectively a new planning permission for the dwelling. That planning permission included a condition requiring the dwelling to be built in accordance with the approved plans and lists the relevant plan numbers. These include Drawing D2A which shows the balcony as constructed along the full width of the glazing. So that planning permission included the balcony. The plans do make reference to an opaque screen on the western side of the balcony, shown as a dotted line on the plan. However there were no details of the screen, such as its height and depth and there was no condition requiring details of it, or for it to be installed and maintained. Therefore, it would not have been possible to enforce the installation of the screen based on the approved plan. No requirement for a screen has been included as a recommended condition for the current application as it is not considered necessary by officers. However, if Members consider a screen to be necessary this can be included as condition if Members resolve to grant planning permission.

Although the submitted plans show the loft space as a children's play room and snug, the officer's report sets out how the rooms appeared at the time of the officer's site visit. Unless there are specific planning reasons for doing so (such as on flooding grounds, or to safeguard garages for parking) so it is not reasonably impose a condition restricting how certain rooms in a dwelling are used by the occupants of that dwelling as this is considered too onerous on the occupants' enjoyment of their property. Provided they are used for residential purposes and there is no material change of use then uses of rooms in a dwelling can be changed without needing planning permission.

20/1928/FH - Copper Beech Farm, Lymbridge Green, Stowting Common, TN25 6BJ

Since the completion of the committee report, the description of development has been amended to better reflect the proposal and now reads as "Change of use of existing annex to self-contained holiday let."

20/2091/FH – Land adjoining Casebourne Cottage, Underhill Road, Folkestone

Since finalising the officer committee report, additional comments have been received from residents:

1. One further letter in support
2. One further letter in objection

The main points raised within the two letters received from residents have previously been raised via representation to the application and have already been addressed within the body of the officer report. The main points of concern relate to:

- The use of the facility by dangerous dogs is concerning given the proximity to livestock/other residents;
- Impact on highways and highway safety

The points of support relate to

- Safe and valuable place to use, prevents dog fouling in public places, safe and secure environment.
- No notable increase in noise or traffic

In addition to the above two emails have been received from the MoD.

The MoD has advised that the applicant's response to their comments is not entirely accurate. The MoD has confirmed that the gate sits upon land not owned by the MoD. It is unregistered land to which the MoD have the benefit of a right of way. The MoD does not have any authority (nor interest) over this land other than using it for their own access purposes. Historically, there was occasion in recent years when a non-padlock was found to be on this gate so the MoD removed the existing padlock and placed its own padlock on the gate. This was done solely in order to maintain the MoD's rightful access, and for no other purpose, thereafter a copy key was given to the Applicants. Since this time the Applicants have given the MoD a copy key to operate the electrical mechanisms they installed on the gate to ensure the MoD's unrestricted access is maintained. For avoidance of doubt – the MoD is concerned about maintaining its access arrangement.

Comments from the MoD refer to access matters that are not directly related to the planning matters as already highlighted at point 7.46 of the officer committee report.

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ADDITIONAL SUPPLEMENTARY SHEET - PLANNING AND LICENSING COMMITTEE

20 APRIL 2021

REPORT OF THE CHIEF PLANNING OFFICER ON APPLICATIONS

20/2091/FH – Land adjoining Casebourne Cottage, Underhill Road, Folkestone

Further to the additional information set out within the Supplementary Sheet, the Agent has also provided further communication following the publication of the committee report by way of a letter to provide Members with clarification on a number of considered 'inaccuracies'. These are set out below:

- Features and paraphernalia

It has been confirmed in response to para. 3.8 of the Committee report that the applicants have a double garage to provide for their personal parking requirements.

With regard to fencing on site, the Applicants wish to clarify that neither the boundary nor internal fencing at the site have been erected to specifically facilitate the dog walking use.

In response to concern regarding dangerous dogs and impact on livestock, the Applicant has confirmed that the perimeter of the site is fully secured. Additionally, there is sufficient space to provide separation between dogs in the dog walking field. The space and screening on site is considered to be sufficient to visual screen the dog walking use.

- Consultation

In response to section 7.7 of the Committee report, no evidence has been provided by the Council to support the claim that the dog walking businesses generally are located in urban areas. A list of private dog walking businesses in the South East has been provided, which demonstrates that these are located in the main within rural areas, also being within AONB's and National Parks.

In response to section 7.5, which considers the sustainability of the development, it is considered that the report contradicts itself by saying the site is sustainable but then the development is unacceptable in the rural area. It is stated that the proposed use would support the rural economy.

- Other Matters

The Agent has responded to para 7.14 of the Committee Report, which states that planning permission is sought involves two sites not within the same planning unit and that this could not be connected through conditions. In the interests of fairness, the Agent has stated that a personal permission could be achieved if the Council were minded to grant planning permission, through the use of either a Grampion Condition or legal agreement of sorts. No such offer has been made to the Applicants.

Point 7.25 of the Report states that no evidence was submitted to demonstrate that the site was in operation during the time of the Acoustic Assessment. Pages 9 and 10 of the Acoustic Survey demonstrated that during the unattended sound level survey, a camera was set up with a sensor to record images whenever motion was detected on the field. The time and date stamped images on Page 10 clearly show the field was in operation during the study period and therefore this paragraph is factually incorrect.

In respect of dog waste and its removal, it is confirmed that S&S Doggie Field have an agreement in place with Pet Waste Solutions to remove waste from their site on a regular basis.