

**Application No:** Y16/0672/SH

**Location of Site:** Land Adjacent Herne Court Horn Street Folkestone Kent

**Development:** Erection of a three storey block of six flats (6 x 1-bedroom units) together with parking and associated development.

**Applicant:** Mr Andy Jarrett  
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Kent

**Date Valid:** 28.06.16

**Expiry Date:** 23.08.16

**Date of Committee:** 25.10.16

**Officer Contact:** Mrs Wendy Simpson

<b>RECOMMENDATION:</b> That planning permission be granted subject to the conditions set out at the end of the report.
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## **1.0 THE PROPOSAL**

- 1.1 The proposal is a full application for the construction of a three storey block of six flats on the application site together with bin storage, parking and landscaping.
- 1.2 The flats are proposed as Local Authority social housing in the form of Council housing rental stock. Two single bedroom units are proposed on each of the three floors. The main entrance to the building would be from Horn Street on the western side, across the remaining grassed area.
- 1.3 The proposed building is roughly of a square footprint of about 12.12m width by 13.3m depth, but utilising bay windows, recesses and steps within the various elevations. The block would have a four way hipped roof with gabled projections on each elevation. The height of the proposed building would measure about 8.15m to the eaves and about 11.5m to the roof ridge. The external palette of materials are proposed as concrete roof tiles, coloured

weatherboarding, render; metal balcony trim, perforated metal balcony infill, grey UPVC windows and red facing brick with grey brick soldier course.

- 1.4 Externally is proposed a 1m high metal railing around the western, northern and eastern sides of the building with planting proposed behind. To the southern side of the building is proposed a car park for five cars. One of these spaces would be a disabled parking space and a further disabled parking space is proposed to the northern side of the building. All parking spaces are to be accessed off Roman Way. Within the car parking area, and attached to the southern side of the building, is proposed a bin store and cycles store with doors opening to Horn Street.

## **2.0 LOCATION AND DESCRIPTION OF SITE**

- 2.1 The application site is an area of green open space at the junction of Horn Street with Roman Way.
- 2.2 The site is within the urban boundary of Folkestone and an established residential area. To the eastern side of the site are two local shop units with flats over and houses to each side. To the northern and western sides of the site are existing detached and terraced housing and to the southern side is a block of eight flats called Herne Court. Beyond Herne Court are railway tracks running in a cutting and Horn Street runs over the tracks on a bridge.
- 2.3 The Local Plan maps show that the site is located within an Area of Archaeological Potential. A gas pipeline is shown to be running under part of the site and on the Environment Agency hazard maps the site is shown to be located within Groundwater Protection Zone 3.

## **3.0 RELEVANT PLANNING HISTORY**

- 3.1 85/0646/SH - Erection of 6 x 3 persons flats and 2 x 2 persons flats (Approved)

## **4.0 CONSULTATION RESPONSES**

### **4.1 Folkestone Town Council**

Object - This is possibly overdevelopment, especially with the other development proposed and the inadequate Horn Street Bridge. It is another subtraction of the greenery and surrounding development is two storeys. The existing shops may be obscured and rendered non-viable.

### **4.2 SGN Plant Protection Team**

On the mains record you can see our low/medium/intermediate pressure gas main near your site.

There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system.

You should, where required confirm the position using hand dug trial holes.

A colour copy of these plans and the gas safety advice booklet enclosed should be passed to the senior person on site in order to prevent damage to our plant and potential direct or consequential costs to your organisation.

Safe digging practices, in accordance with HSE publication H5G47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.

Damage to our pipes can be extremely dangerous for both your employees and the general public. The cost to repair our pipelines following direct or consequential damage will be charged to your organisation.

Please ensure we are able to gain access to our pipeline throughout the duration of your operations.

#### 4.3 KCC Highways and Transportation

It must be noted that the application will require a Stopping Up Order to be completed, to extinguish highway rights for the existing footpath between Horn Street and Roman Way over part of the application site.

The proposed dropped kerb and tactile paving should be slightly readjusted 6 metres to the west so the crossings are aligned.

The new southern footpath connection point on to Horn Street is not required. The northern footpath connection point on Horn Street requires a new footpath connection to be provided on the opposite side of Horn Street.

**INFORMATIVE:** 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. 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.

#### 4.4 KCC- Archaeology

##### **Archaeological background**

The site lies in an area of multi-period archaeological potential based on past discoveries within the Horn Street area. To the north-east of the application site a possible Late Neolithic burial as well as Late Iron Age occupation and a Romano-British cemetery are all recorded. To the south-west of the site recent archaeological investigations have revealed further evidence for Prehistoric and Romano-British activity and also extensive remains of Anglo-Saxon date.

### **Recommendations**

The proposed development has the potential to impact buried remains of archaeological interest. I therefore recommend that provision is made in any forthcoming planning consent for a programme of archaeological work. The following planning condition covers what would be required:

**AR1** No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason:

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

#### **4.5 Southern Water**

Southern Water requires a formal application for a connection to the foul and surface water sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:

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

It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order

- a. Adequate soakaway or infiltration system
- b. Water course
- c. Where neither of the above is practicable sewer

Southern Water supports this stance and seeks through appropriate Planning Conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is

required. We request that should this application receive planning approval, the following condition is attached to the consent:

"Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or [www.southernwater.co.uk](http://www.southernwater.co.uk).

The proposed development would lie within a Source Protection Zone as defined under the Environment Agency's Groundwater Protection Policy. Southern Water will rely on your consultations with the Environment Agency to ensure the protection of the water supply source.

#### 4.6 Environmental Health

##### CONTAMINATED LAND:

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

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

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:
  - Human health;
  - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - Adjoining land,
  - Ground waters and surface waters,

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

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

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

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

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

**Reason:**

To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property

and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

#### 4.7 Environment Agency

This consultation falls outside our remit as a statutory planning consultee. Although it is in a Source Protection Zone 3, it is not potentially contaminating development and the previous use of the site would not have caused contamination to be present.

### **5.0 PUBLICITY**

5.1 Neighbours notified by letter. Expiry date 21.07.2016

5.2 Site Notice. Expiry date 02.08.216

### **6.0 REPRESENTATIONS**

6.1 15 letters/emails received objecting on the following grounds:

- A three storey building fails to integrate with the historic existing buildings;
- Major development in the area on the southern side of the railway bridge is placing enough pressure on the road network on Horn Street, particularly the bridge, which will be exacerbated by this development;
- The building does not resemble buildings in the surrounding area and is out of keeping with the area;
- The development will have negative consequences on the two small businesses behind as they will be out of sight and lose passing trade and may close;
- The loss of the local green space that children enjoy walking on and playing on as they traverse it;
- The green space is used by dog walkers;
- There is not a lot of green space left in the area and its loss is to the detriment of the environment locally;
- The proposed building would be imposing within the outlook from dwellings to the rear;
- Parking may become an issue;
- The site is too small and not suitable for the proposed development, shoehorning it into the site;
- Loss of light and privacy to the shop parade/flats behind;
- Residents of the Herne Court flats will suffer loss of natural daylight and a loss of privacy from windows in the proposed block;
- Loss of customer parking spaces for the existing shops;
- Loss of privacy in the gardens of surrounding houses;
- The location of the bin stores and parking close to Herne Court flats will create noise and disturbance to residents of those flats;

- The value of this green space is of increasing importance given the amount of new development in the area.

## **7.0 RELEVANT POLICY GUIDANCE**

7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1.

7.2 The following saved policies of the Shepway District Local Plan Review apply:

SD1, BE1, BE13, BE16, U2, U4, U10a, TR5, TR11, TR12, HO1

7.3 The following policies of the Shepway Local Plan Core Strategy apply:

DSD, SS1, SS2, SS3, SS5, CSD1, CSD4, CSD5

7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework - particularly paragraphs:

7, 9, 10, 11, 14, 17, 42, 50, 55, 56, 57, 58, 109, 121, 126

Advice set out in the National Planning Policy Guidance

## **8.0 APPRAISAL**

### **Relevant Material Planning Considerations**

8.1 The main relevant issues are the principle of the development at this site, the loss of the existing open space, sustainable development principles, design, amenities, highways and parking issues, archaeology, contamination and drainage, affordable housing, financial considerations. Other matters have also been raised during the consultation process.

### **Principle**

8.2 The NPPF at its core presumes in favour of 'sustainable development' and in its 'core principles' at paragraph 17 (*'12 principles that underpin plan-making and decision-taking'*) encourages the effective reuse of brownfield sites (previously developed land) that are not of high environmental value.

8.3 The definition of 'previously developed land' in the annex of the NPPF is defined (in part) 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 would be developed) and any associated fixed surface infrastructure. This excludes: ...land in built-up areas such as private residential gardens, parks, recreation grounds and*



*allotments...*” As such the application site, which is an open green space within the urban area, does not meet the definition of ‘previously developed land’ (or ‘brownfield’ land) and as such the NPPF does not explicitly support the reuse of the site.

- 8.4 At paragraph 14 of the NPPF it is stated *‘At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking...For decision-taking this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole...’*. Therefore there is the need to refer to Local Plan policies, including Core Strategy policies, to balance the material aspects of this proposal.

### **Loss of Open Space/Residential Development**

- 8.5 The most directly relevant policies within the local plan are those related to the current use of the site as open space.

- 8.6 Saved policy BE13 (Urban Open Space) of the Shepway District Local Plan Review states:

*“Development proposals which would result in the loss of urban open space with amenity value will only be granted where they meet the following criteria:*

- 1. The benefits of the development proposed outweigh the loss of amenity value.*
- 2. There is a minimal impact on the character and appearance of the locality including the openness and tree cover of the existing site.*

*The visual impact of, and the extent of public use and access to the site will be important considerations in evaluating the existing amenity value.”*

- 8.7 Saved policy HO1 (Residential Development) of the Shepway Local Plan Review allows for ‘Redevelopment of previously developed sites or infill within existing urban areas’.

- 8.8 The loss of urban open space is not therefore categorically unacceptable in principle under the NPPF or the local plan but matters of benefits and loss must be assessed and balanced in the decision-taking process.

- 8.9 This proposal is for the provision of affordable housing and will be protected as such in the long term as Council social rented housing stock, although it should be noted that as these units will be Council owned affordable rental units, they may be subject to ‘right-to-buy’ legislation after five years. The

development is proposed to help meet Government's targets for councils to provide new Council-owned affordable housing.

8.10 The NPPF 'core principles' at paragraph 17 states that planning should:

*“proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;”*

8.11 The need for the provision of new affordable housing therefore needs to be balanced against the impact of the loss of the open space, with saved policy BE13 stating in part that *“The visual impact of, and the extent of public use and access to the site will be important considerations in evaluating the existing amenity value”*.

8.12 The existing use of the space is more incidental than constructive. Whilst unfenced and open to the public, the site has a sign saying 'No Ball Games' and there are no benches within the space. The 'incidental' use of the space also seems to be upheld by the public representations which speak of use by dog walkers and children passing through the site.

8.13 The impact on the open space, which is the application site, is such that about 45% of the open space on the site would be lost to the proposed development. There would remain green areas of about 9.6m depth to the front (west) of the building and a the northern parking bay). Public access to this remaining open space would be unaffected by the proposal and there is considered to be sufficient remaining open space to allow for the continued incidental use of the remaining green area.

8.14 In terms of visual impact, point 2 of the policy gives greater understanding of this aspect seeking that; *“There is a minimal impact on the character and appearance of the locality including the openness and tree cover of the existing site.”* In this case the remaining open space will serve to keep the built development back from Horn Street, in line with the Herne Court flats to the south, and as such is reflective of the existing appearance of the locality. The significant inset of the proposed development from Roman Way to the north also retains significant openness at the junction of Horn Street and Roman Way. Overall, although the proposal is a 'change' to the existing appearance of the locality, in terms of the loss of some of the open space, overall the impact of the loss of part of the open space is considered to be a minor change to the character of the wider area as a whole and the overall open, green and pleasant character of this residential area would be retained under this application.

8.15 Therefore, in this case, it is considered that the benefits of the delivery of new affordable housing outweighs the loss of part of the existing green space at the junction of Horn Street and Roman Way and no objection is raised against the loss of some of the open space under saved policies HO1 or BE13 of the Shepway District Local Plan Review.

### **Sustainable Development**

8.16 At a national level the National Planning Policy Framework [NPPF] reaffirms the presumption in favour of sustainable development. Policy DSD of the Shepway Core Strategy and saved policy SD1 of the Shepway Local Plan Review also presume in favour of sustainable development (unless harm will result from the proposal).

8.17 Within the Shepway Core Strategy, policy SS1 addresses the primary Core Strategy aims and sets out the strategic priorities for each of the defined character areas of the district with development being directed to the urban area of Folkestone and Hythe, and promoted on vacant previously developed land, in central Folkestone and the north of the town. Policy SS3 of the Core Strategy directs development toward existing sustainable settlements in order to protect the open countryside.

8.18 The NPPF defines 'Sustainable development' as having three dimensions: economic, social and environmental.

8.19 In this case the site is located adjacent to a bus stop (traffic travelling south) and within a short walking distance to Tesco supermarket and further bus stops. There are two supermarkets within 500m of the site. The site is about 1km from Cheriton High Street that provides a range of local services and is a little over a mile from Folkestone West Railway Station. Location-wise, the site is considered to be sustainable and affords reasonable access to public transport and facilities.

8.20 Environmentally, the site is currently open mowed grass with little biodiversity opportunity. The agent advises that there is limited opportunity for additional planting on the site as part of the development due to services running under the remaining grass area, but a tree at the north-western corner of the site is proposed together with planting behind the railings on three sides of the proposed building. This can be controlled by condition.

8.21 In term of water sustainability, policy CSD5 of the Shepway Core Strategy, in part, requires that all developments should incorporate water efficiency measures that differ slightly from the new national standards as the Shepway District is identified as a 'water scarcity' area.

8.22 The policy states development for new dwellings should include specific design features and demonstrate a maximum level of usage should be of 105 litres per person per day or less. This usage level figure is adjusted to 110 litres per person per day under the guidance of Building Regulations Approved Document G (which came into effect in October 2015). This can

be controlled by condition and no objection is raised in respect of this element of policy CDS5 of the core strategy.

8.23 In addition, as part of the 'environmental' aspect of sustainable development policy CSD5 of the Shepway Core Strategy also requires the wastewater systems be used that do not allow a peak rate and surface water runoff from the site that would exceed the existing surface water runoff rate. Sustainable Drainage Systems are also required to be used. Matters of drainage therefore will need to address that the site is currently undeveloped, that increased runoff rates from the site could increase flood risk in the wider area and that the site is located in a groundwater protection zone. These matters are discussed later in this report under the 'Drainage/Contamination' section.

8.24 Overall, therefore, the proposal is considered to amount to sustainable development under the various national and local policies and guidance.

### **Visual Amenity/Design**

8.25 The NPPF and saved local plan policy BE1 requires new development to be of 'high quality' in terms of the appearance of the development, to ensure that the development density is appropriate for its location, with no detrimental impact upon the street scene or character of the area, and the functionality and layout of the development a key part of the design. Para 56 of the NPPF says that 'good design is a key aspect of sustainable development'. Paragraphs 57 and 58 refer to high quality and inclusive design, that is visually attractive as a result of good architecture and appropriate landscaping, that adds to the overall quality of the area, responding to local character and history and reflecting the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

8.26 Whilst it is appreciated that the majority of the existing residential development in the area is two storey in height the adjacent block of apartments, Herne Court, which also fronts Horn Street, is partially two storey (on its southern side) and partially three storey, on its northern side.

8.27 In terms of scale therefore, the proposed block, at three storeys, is seen to be a continuation of the three storey level of the northern side of Herne Court.

8.28 The design of the proposed block is such that the roof form, using hips and gables, is complimentary to the hipped and stepped roof form of Herne Court. The mass of the block has been broken up by the use of projections, bays and recessed areas on the various elevations.

8.29 The palette of materials proposed also seeks to break up the mass of the block and also to be complimentary to the materials palette of Herne Court.

8.30 In terms of landscaping the tree line to the front of Herne Court is not able to be extended in front of the proposed development due to the underground

services. A new tree is proposed, however, in the north-western part of the site which can be required by planning condition.

- 8.31 On balance, the proposed block is considered to be of a scale and design that responds to the more immediate local character of the area and, given the separation by the road network from the two storey buildings in the wider area, is considered to be sufficiently distanced from them both physically and visually, in order to be considered acceptable within the street scene. Subject to suitably worded planning conditions in respect of materials and landscaping no objection is raised in terms of visual amenity and design.

### **Neighbouring Amenity**

- 8.32 Policy SD1 of the Shepway Local Plan Review and paragraph 17 of the NPPF require that consideration should be given to the residential amenities of both neighbouring properties and future occupiers of a development.

- 8.33 With regard to future occupiers, the proposed flats have a floor area of between approximately 52.5sqm and 53.5sqm, and are of a size and layout that is considered to provide a good level of amenity for occupants.

- 8.34 Turning to neighbouring amenities, aspects of residential neighbours' amenities to consider include impacts upon daylight, outlook, privacy and overshadowing, as well as noise and disturbance. In relation to most of the surrounding dwellings (to the west, north and east) the proposed building is located a sufficient distance from them that they will not suffer a loss of amenity in terms of outlook, daylight or overshadowing. The overlooking of gardens has been raised in public representations and it is appreciated that the closest dwellings to the north have very large front/side gardens and small rear gardens as they are located on a right-angled junction. However, the northern elevation of the building will remain a minimum distance of about 26m from the front boundary of those dwellings' plots. Whilst there will be a possibility to look into those plots from the higher floor levels of the proposed building, given the separation distance the level of overlooking would not justify a refusal of planning permission.

- 8.35 In respect of the Herne Court flats, on its northern side, closest to the application building, Herne Court is three storeys in height and has a number of habitable room windows, including bedroom windows, in its northern elevation. The northern elevation of Herne Court is stepped and the separation between the northern elevation of Herne Court and the southern elevation of the main body of the proposed building is about 12.7m. Within the gap between the adjacent buildings is proposed a car park, cycle store and bin store for the new development. The flank wall of the bin store is located about 7.3m from the Herne Court flats northern elevation.

- 8.36 In support of the proposal the applicant has submitted a 'Daylight and Sunlight Assessment' which concludes that *'it is possible to conclude that any changes to the daylight received by the habitable rooms of neighbouring buildings will not be significant and is unlikely to be noticeable by the occupants'*. This is accepted by officers.

- 8.37 In terms of overshadowing, as the proposed block is to the north of Herne Court shadows cast will not significantly affect Herne Court.
- 8.38 In terms of privacy the development proposes six windows in the southern elevation facing Herne Court; two windows per floor. The windows will serve bathrooms and kitchen areas. As these are non-habitable spaces, all of these windows can reasonably be fitted with obscure glazing and controlled as such by planning condition. Without the use of such a condition a situation of a loss of privacy between Herne Court and the proposed block, and vice-versa, would occur. It is also noted that the design of the windows on the submitted drawings shows side opening windows, which would not be acceptable as once opened, even if obscure glazed, there would be a loss of privacy. The use of fixed glazing, with fanlight openers only can also be the subject of a planning condition.
- 8.39 In terms of outlook from Herne Court, particularly at ground floor level, the occupiers of flats at those levels will be facing the flank of the proposed building and the bin store at a relatively close distance. On balance, the impact upon the outlook from those flats is considered not to be significantly detrimentally such that a refusal of planning permission could be justified.
- 8.40 Occupiers of Herne Court flats have also raised the matter of noise and disturbance from the proposed car park and bin store. It is appreciated that currently there is open space to the northern side of Herne Court and so this is a change to the occupiers of Herne Court flats but it is not uncommon for parking to be in close proximity to ground floor apartment windows and the car park is small, being only for five cars. The collection of the waste/recycling bins will be at the same time as the collection of the bins for Herne Court and as the development is only for six flats the time taken for the additional bin collection will not be extensive. On balance therefore, it is not considered that noise and disturbance from the proposed development would significantly harm the living conditions of occupiers of the Herne Court apartments such that a refusal of planning permission could be justified.
- 8.41 Overall no objection is raised to the development under national and local policy and guidance in terms of neighbours' amenities.

## Highways

- 8.42 Kent County Council Interim Guidance Note 3 sets out parking standards for developments. Saved policy TR11 relates to the impact of new development on the highway network. Saved policy TR5 relates to the provision of cycle parking. Paragraph 32 of the National Planning Policy Framework states, in part, that *'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.'*
- 8.43 The proposal includes the provision of one parking space per flat, including two disabled parking spaces, and an enclosed cycle store with space for six cycles. This level of parking is considered to be acceptable under the guidance and the parking provided is considered adequate to serve the

proposed development. There is scope for visitors to park on the surrounding streets.

- 8.44 Whilst many representations have raised concern on parking and traffic grounds, in accumulation with the traffic from the approved development on the southern side of the railway bridge, no objection has been raised in this respect by the Local Highway Authority (Kent County Council) and as such an argument that the cumulative impact would be severe, as a result of this development of six, one-bedroom flats, cannot be substantiated.
- 8.45 Matters raised by the County Council Highway Officers in respect to the need for a Stopping Up Order to extinguish highway rights for the existing footpath between Horn Street and Roman Way over part of the application site; the final details of proposed dropped kerb and tactile paving across Roman Way and the final new footpath connection details can all be agreed and controlled by the use of planning conditions. Conditions in respect of construction workers parking can also be the subject of planning conditions.
- 8.46 Subject to suitably worded planning conditions, no objection to the highways and traffic aspects of the development are raised under national or local plan policies.

#### **Drainage/Contamination**

- 8.47 Saved policy U4 of the local plan states that development will not be permitted if it would lead to unacceptable risk to the quality or potential yield of the surface or ground water resources or lead to an unacceptable risk of pollution. At paragraph 109, the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).
- 8.48 Policy CSD5 of the Shepway Core Strategy also requires the wastewater systems be used that do not allow a peak rate and surface water runoff from the site that exceeds that of the existing surface water runoff rate, with appropriate sustainable drainage and water management systems incorporated.
- 8.49 Policy U2 of the local plan states that planning permission for housing developments of five or more dwellings and other forms of development generating a similar flow of effluent will be refused unless connection is made to the nearest available mains drainage system with capacity to serve the development, or details are submitted which show how the development will be connected to a mains drainage system.
- 8.50 The proposal details that both foul sewerage and surface water will drain to the mains drainage. Whilst this is acceptable for foul water this is not acceptable for surface water under policy CSD5 of the core strategy or the

NPPF. The Environment Agency confirms that “the previous use of the site would not have caused contamination to be present” and, as such, the use of SUDS systems may be acceptable in principle.

8.51 A drainage scheme for the site therefore needs to be designed based on the findings of a drainage report that identifies the current soakage rate for the site. The drainage scheme will need to slow the rate of soakage of surface water to the ground. However, without the drainage calculations, the form of such a system cannot yet be realised, with consequent uncertainty also regarding the space required for the drainage systems.

8.52 The applicant has undertaken a Stage 1 contamination investigation that demonstrates that there is no contamination concern in respect of the site, thus obviating the need for the standard contaminated land condition, instead requiring one that would cover the discovery of unexpected contamination. The unlikely presence of contamination at the site also suggests that it may be possible to incorporate sustainable drainage systems within the proposed development. The applicant has advised that a surface water drainage solution for this scheme will be designed in accordance with the building regulations. They also confirm that they have commissioned a specialist drainage consultant to prepare a Surface Water Drainage SUDS Design and Risk Assessment that will include the following:

- Hydrological analysis to estimate the rainfall within the catchment using the Flood Estimation Handbook and Micro-drainage.
- Conceptual design and testing of the sustainable drainage system, including storage calculations.
- Preparation of a report detailing how surface water can be controlled, or attenuated on site, and the level of attenuation that can be achieved.

This document will include the details of sustainable drainage systems (SUDS) that can be employed on site, referencing the calculations undertaken in the hydrological analysis.

8.53 Therefore, subject to a suitably worded condition in respect of the use of a suitable sustainable drainage scheme and in respect of mitigation should unexpected contamination be discovered on the site, no objection is raised.

## **Archaeology**

8.54 Saved policy SD1 of the Shepway Local Plan Review requires the protection of local heritage, including archaeology.

8.55 The County Archaeologist has advised that the site lies in an area of multi-period archaeological potential based on past discoveries within the Horn Street area. To the north-east of the application site a possible Late Neolithic burial as well as Late Iron Age occupation and a Romano-British cemetery are all recorded. To the south-west of the site recent archaeological investigations have revealed further evidence for Prehistoric and Romano-British activity and also extensive remains of Anglo-Saxon date.



8.56 The County Archaeologist therefore advises that should permission be granted, a condition is required for a watching brief and recording of any buried archaeological remains.

### **Local Finance Considerations**

8.57 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.

8.58 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. Under the scheme the Government matches the council tax raised from new homes for the first six years through the New Homes Bonus. The Government has consulted councils earlier in the year seeking to reform the New Homes Bonus to be paid over 4 years instead of 6 years, with a possible transition to 5 years. As such only a 4 year value for the New Homes Bonus has been calculated. In this case, the minimum value of the New Homes Bonus as a result of the proposed development is estimated to be approximately £8k per year, for 4 years (subject to consultation outcome). New Homes Bonus payments are not considered to be a material consideration in the determination of this application.

8.59 In accordance with policy SS5 of the Shepway Core Strategy Local Plan, the Council has introduced a CIL scheme that in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £0 per square metre for new dwellings. However, this application is not liable for the CIL charge anyway as it is for affordable housing units, which are exempt.

### **Other Issues**

#### Impact on Retail Units

8.59 Neighbours have raised concern that the development will screen views of the existing retail units to the rear of the site from vehicles and pedestrians on Horn Street, resulting in a loss of trade and viability of these retail units. Both units are set back from Horn Street and are established businesses. Currently one of the units is in use as an engraving service, which is a specialist service not likely to be heavily reliant on passing trade. The other unit is currently in use as a pet shop, which may rely to some extent on passing trade and visibility from Horn Street but it is an established business and likely to have an established customer base that is aware of its location. Whilst the concerns are noted, it is not considered that it has been demonstrated that the impact upon passing trade will be so significant as to justify refusing planning permission.

## Superfast Fibre Optic Broadband

8.61 NPPF paragraph 44 and policy SS5 of the Core Strategy require the provision of high speed broadband, which can be secured by planning condition.

### **Human Rights**

8.62 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.

8.63 This application is reported to Committee following objection to the proposal by Folkestone Town Council.

## **9.0 SUMMARY**

9.1 The proposal is considered to meet the definition of sustainable, subject to the surface water drainage design being designed in accordance with sustainable principles.

9.2 The loss of part of the existing urban open space under this application is accepted on the condition that the proposed flats are provided as affordable housing and that the remaining open space is sufficient in area and location so that the character of the area is not significantly eroded.

9.3 The design of the building and its location within the existing built environment is such that the proposed apartment block is appropriately scaled and detailed to compliment the street scene at this part of Horn Street and will not harm the neighbours' living conditions.

9.4 Matters of contamination investigation, fibre-optic broadband, parking provision and archaeology can be suitably addressed by planning conditions.

9.5 Subject to the agreement of a surface water drainage scheme and the use of appropriate planning conditions the application is recommended for approval.

## **10.0 BACKGROUND DOCUMENTS**

10.1 The consultation responses set out at Section 4.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

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

1. Time condition
2. Submitted plans condition
3. Water efficiency condition
4. Surface Water Drainage Scheme condition
5. Unexpected contamination condition
6. Materials samples condition
7. Archaeological work condition
8. Construction management plan
9. Prevention of debris spreading onto highway condition
10. Installation of High Speed Fibre Optic broadband condition
11. Landscaping condition
12. Car parking provision, surfacing, marking out and retention condition
13. Waste and recycling store condition
14. Cycle parking store condition
15. Highway works condition(s) – Stopping-up Order to extinguish highway rights for the existing footpath between Horn Street and Roman; final details of proposed dropped kerb and tactile paving across Roman Way; final new footpath connection details.
16. Affordable Housing
17. Obscure glazing

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Decision of Committee

Y16/00672/SH  
Herne Court  
Horn Street  
Folkestone

