

Application No: Y15/0720/SH

Location of Site: Philbeach House Tanners Hill Hythe Kent

Development: Outline application for the erection of 84 extra care flats with access and landscaping. All other matters (appearance, layout and scale) to be reserved for future consideration.

Applicant: Mr Phil Barker
Saltwood Care Centre
C/o Kent Planning Ltd
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Agent: Mrs Sarah White
Kent Planning Ltd
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Date Valid: 15.07.15

Expiry Date: 14.10.15

Date of Committee: 20.12.16

Officer Contact: Mr Robert Allan

RECOMMENDATION: That planning permission be granted subject to the receipt of acceptable additional arboriculture reports, comments from the Environment Agency, and the conditions set out at the end of the report, with delegated authority given to the Head of Planning to negotiate the final wording and add/remove conditions as required.

1.0 THE PROPOSAL

1.1 The proposal is an outline planning application for the erection of 84 extra care flats, seeking approval for matters of access and landscaping, but reserving matters of appearance, layout and scale for future consideration. The intention of the development is to provide one and two-bedroom living units as extra care apartments, offering the option of care provided by the adjacent site's care home provider. There would also be a centralised facilities / amenities community hub for future residents, which would also be open to residents of the existing Saltwood Care Centre and Mulberry Court. This would be a central point for the wider site, offering facilities such as a restaurant and cafe, shop, fitness suite, cinema, physiotherapy, hairdressing, osteopathy and possibly other spaces.

- 1.2 The submitted parameter plan and indicative plans show a two-storey care accommodation block to the north of a three-storey care accommodation block just west of the centralised access road, with a four-storey block proposed to the east, and the proposed 'hub' to the south of this, on the lowest part of the site beyond the Mulberry Court car park. Indicatively, each block is shown to run approximately perpendicular to the slope – essentially following the contour lines. Within the supporting information, it is suggested that car parking for the apartments would be in subterranean garages, with 74 spaces in total, although visitor and staff car parking would be offered externally at ground level. Eight cycle parking spaces are proposed. The appearance of the proposed buildings is a reserved matter, but indicative proposals suggest a contemporary style, with shallow pitched roofs in order to accommodate a 'green' roof. There would be lifts throughout to aid accessibility.
- 1.3 With regard to the matters being put forward for consideration as part of the outline application, the proposed vehicular access would enter the site from Tanners Hill, turning north-eastwards for a short distance before turning south to connect to the existing car park to the east of Mulberry Court. A pedestrian access is shown as being provided at the northern-most point of the site adjacent to Tanners Hill and following the path of the internal access road to the existing car-park area.
- 1.4 For landscaping, it is proposed to remove trees and other vegetation from the centre of the site in order to accommodate the proposed buildings, the location of which is indicatively suggested to be toward the centre of the site, with the planting of hedges, woodland trees and groundcover shrubs, alongside the retention of existing trees and the retention and enhancement of existing landscape areas. The application notes that the best trees line the eastern and western site boundaries, which are generally to be retained as an aid to screening and for their inherent amenity value. Landscape buffers are shown at the northern-most and southern-most boundaries of the application site, with the most intensive planting on the northern-most edge of the site.
- 1.5 Due to the sloping nature of the site, terracing will be necessary, with sloping natural landscaping between buildings and the open landscaping in the site left to be landscaped/planted as necessary.
- 1.6 The application is accompanied by a planning statement, a design and access statement, a flood risk assessment, a care needs assessment, an ecological scoping survey, a tree survey schedule, a landscape and visual impact assessment, a transport assessment, a use class assessment, an operational plan and a parameter plan.

2.0 LOCATION AND DESCRIPTION OF SITE

- 2.1 The application site is approximately 2.1ha in area and positioned north of Hythe, immediately to the north of the existing Saltwood Care Centre known as Philbeach House, a four-storey 68 bedroom long term nursing care

facility for the elderly, and Mulberry Court/Holly Close, a sheltered housing scheme of 28 units for those aged over 50, with no care provided. There are four residential dwellings to the south-east of the site, accessed from Station Road that are unconnected with the site use. The application site is located outside of the defined settlement boundary and therefore, for planning policy purposes, is considered to be within the open countryside.

- 2.2 The northern-most tip of the site abuts the Kent Downs Area of Outstanding Natural Beauty and a public right of way (PROW), reference HB23, runs along the northern boundary of the application site. The application site is within a defined Local Landscape Area and is covered by Tree Preservation Order (TPO) No. 07 of 1993.
- 2.3 Vehicular access to the site is currently via the Saltwood Care Centre site, with the road terminating in a small, un-marked gravel-surface car park, a section of which has usage rights for the occupants of Mulberry Court/Holly Close. The western edge of the site is within an area of archaeological potential, whilst the site as a whole is an area of potential land instability.
- 2.4 The topography of the site slopes steeply from high to low toward the east, where there is a watercourse flowing south on the eastern boundary of the application site. The valley then rises again steeply to the east, up toward the rear of properties that front Blackhouse Hill. The site is generally scrubland, with trees dotted throughout forming part of the curtilage of the care centre and thought to be neglected former informal garden area.

3.0 RELEVANT PLANNING HISTORY

92/0451/SH	-	Erection of three storey extensions to provide 42 self-contained warden assisted units, communal facilities, car parking and improvements to access. Refused 27.08.92.
92/0755/SH	-	Erection of three storey extensions to provide 36 self contained warden assisted units, communal facilities car parking and improvements to access. Refused 23.11.92.
92/0773/SH	-	Erection of an extension to provide lift and fire escape and extensions to roof. Approved with conditions 25.11.92.
95/0868/SH	-	Erection of 28 retirement homes together with associated parking and access. Approved with conditions 12.01.96.
Y00/0536/SH	-	Erection of four detached houses with double garages served by a private access from Tanners Hill Withdrawn 18.07.00.

- Y01/0260/SH - Erection of a part 2 storey and part 3 storey block of 17 single bedroom retirement apartments together with parking and access. Refused 23.05.01.
- Y03/1091/SH - Renewal of planning permission 98/0856/SH for the erection of a gardeners store/workshop and greenhouse, as amended by the drawings numbered 95/20/01 revision A, 95/20/05 revision A and 95/20/09 revision A date stamped 24th November 1998. Approved with conditions 17.11.03.
- Y12/0996/SH - Erection of extension to end of north-eastern wing to enclose new lift and fire escape staircase serving all four floors, following removal of existing external staircase, raising height of roof to existing lift shaft at end of south-western wing, alterations and extensions to central section of roof to form link between north-eastern and south-western wings, including installation of two dormer windows to either side of central section of roof, installation of six rooflight windows to south-east and north-west facing roof slopes and elevational alterations to lower ground floor of north-eastern wing. Approved with conditions 21.12.12.
- Y14/0857/SH - Erection of a single storey conservatory extension, first floor and roof level extensions and alterations, including fenestration alterations and other internal alterations, to improve existing bedrooms, renovate ancillary areas and create five additional bedrooms. Approved with conditions 19.09.14.

4.0 CONSULTATION RESPONSES

4.1 Hythe Town Council

Support

4.2 Saltwood Parish Council

Saltwood Parish Council recommend refusal of this application for the following reasons:

- a) Access concerns - agree with Kent Highways comments that more information required.
- b) Scant and sometimes incorrect information.
- c) An over intensive development being in close proximity to ANOB.

4.3 Southern Water

Please find attached a plan of the sewer records showing the approximate position of combined sewer crossing the site, the exact position of the combined sewer must be determined on site by the applicant before the layout of the proposed development is finalised. It might be possible to divert the combined sewer, so long as this would result in no unacceptable loss of hydraulic capacity, and the work was carried out at the developer's expense to the satisfaction of Southern Water under the relevant statutory provisions.

Should the applicant wish to divert apparatus:

1. The 225 mm diameter sewer requires a clearance of 3 metres either side of the sewer to protect it from construction works and allow for future access for maintenance.
2. No development or new tree planting should be located within 3 metres either side of the centreline of the public sewer.
3. No new soakaways should be located within 5 metres of a public sewer.
4. All other existing infrastructure should be protected during the course of construction works.

Alternatively, the applicant may wish to amend the site layout, or combine a diversion with amendment of the site layout. If the applicant would prefer to advance these options, items (1) — (4) above also apply.

Furthermore, 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.

In order to protect drainage apparatus, Southern Water requests that if consent is granted, a condition is attached to the planning permission. For example "The developer must advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to divert the public sewers, prior to the commencement of the development."

Following initial investigations, there is currently inadequate capacity in the local network to provide foul sewage disposal to service the proposed development. The proposed development would increase flows to the

public sewerage system, and existing properties and land may be subject to a greater risk of flooding as a result. Additional off-site sewers, or improvements to existing sewers, will be required to provide sufficient capacity to service the development. Section 98 of the Water Industry Act 1991 provides a legal mechanism through which the appropriate infrastructure can be requested (by the developer) and provided to drain to a specific location.

Should this application receive planning approval, please include, as an informative to the permission, the following requirement:

"The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary sewerage infrastructure required to service this development. Please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk". The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS).

Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme
- Specify a timetable for implementation
- Provide a management and maintenance plan for the lifetime of the development. This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

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."

4.4 Natural England

4 August - Thank you for your consultation on the above dated 21 July 2015 which was received by Natural England on 11 August 2015.

Statutory nature conservation sites — no objection

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites.

Protected landscapes

Having reviewed the application Natural England does not wish to comment on this development proposal. The development, however, relates to the Kent Down AONB. We therefore advise you to seek the advice of the AONB Unit. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB management plan.

Protected species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published [Standing Advice](#) on protected species.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted. If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us with details at consultations.naturalengland.org.uk.

Local sites

If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on *"Development in or likely to affect a Site of Special Scientific Interest"* remains in place

(Schedule 4, w). Natural England's **SSSI Impact Risk Zones** are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments *likely to affect a SSSI*. The dataset and user guidance can be accessed from the gov.uk website.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006

The consultation documents indicate that this development includes an area of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006. The National Planning Policy Framework states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

4 September - Planning consultation:

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 04 August 2015.

The advice provided in our previous response applies equally to this additional information although we made no objection to the original proposal. Should the proposal be amended in a way which **significantly** affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

4.5 East Kent PROW

No comments to make

4.6 KCC Highways and Transportation

23 July:

The application description submitted in the Transport Assessment is incorrect and is for 75 bed care home and 47 retirement apartments whereas the current application is for 84 extra care units. The Transport Assessment is therefore incorrect and will need to be re-written to include the current proposals. This will have an effect on parking demand, trip generation and potential traffic impact.

The number of staff with the current proposals should be clarified as the information submitted in the Transport Assessment is based on the previous proposals.

The site layout plans submitted in the Transport Assessment are incorrect and need to be updated to reflect the current proposals.

The landscape strategy plan shows a footpath in a northerly direction from the new site access to connect into the existing steps up to Tanners Hill Gardens. It is not considered that elderly people would use these steps due to the steepness and therefore this link should be removed. All pedestrian links

should run through the site and connect to the existing access point on Tanners Hill.

24 September:

Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters:

The amended Transport Assessment is now satisfactory.

The proposed site plan still shows a footpath in a northerly direction from the new site access to connect into the existing steps up to Tanners Hill Gardens. It is not considered that elderly people would use these steps due to the steepness and therefore this footpath should be removed from the proposed speed ramp northwards. All pedestrian links should run through the site and connect to the existing access point on Tanners Hill.

15 November:

I have looked online at the drawing and now the path has been amended. I can confirm the amended plan is acceptable.

There is visibility splay plan in the TA to CIV SA 95 0003 A02 which should be conditioned. Also condition the same plan for the completion and maintenance of the access.

Gradient of the access to be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Provision and permanent retention of the vehicle parking spaces and turning as shown of the submitted plan.

Condition a Construction Management Plan.

4.7 Environmental Health

No objection subject to contamination condition.

4.8 KCC Strategic Commissioning Accommodation Solutions

Kent County Council Social Care, Health and Wellbeing launched an Accommodation Strategy in July 2014 to take forward a Transformation Programme for Adult Social Care.

KCC, District council partners and Clinical Commissioning Groups worked together to project future need for extra care housing, and agree that there is growth needed in this area. During development of the strategy, we identified key areas where extra care is needed and results showed that there is a need for an extra care development in this area.

The applicant has engaged with KCC Commissioning from an early stage and we hope that this engagement continues. We are therefore supportive of

this development going forward as developments of extra care in the right areas of need are a priority for KCC.

4.9 Housing Strategy Manager

It is noted that in the Operational Plan – Saltwood Care Centre Extra Care Units document 3704222 page 2 Section 10 – Occupancy contains the following:

“The occupancy would be taken up by a leasehold purchase. The operator will always retain the freehold to control who lives here. There will be opportunities for rental and shared ownership”.

We would want to achieve a 30% affordable housing contribution (rent/shared ownership) on site.

4.10 K.C.C. (Planning - Archaeology)

The proposed development site is located in an area that is of broad archaeological interest. The site lies close to the supposed route of the Roman road between Folkestone and Lympne, which has acted as a focus for activity in the Roman and post-Roman periods. On higher ground to the west the discovery of a number of burials close to the road suggests the presence on an Anglo-Saxon cemetery, whilst to the north a number of chance finds of metalwork of medieval and post-medieval date have been made, including seals, buckles and other objects.

Given the size and location of the site it is possible that the proposed development may affect remains of archaeological interest. I therefore recommend that provision is made in any forthcoming planning consent for a programme of archaeological work. The following 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.

4.11 KCC Social Services Dept.

No comment received.

4.12 KCC Ecology

13 June 2016

Initial comments advised that as the *Ecological Scoping Survey* report submitted with the application reported the results of a survey carried out in June 2013, making it almost 3 years old, an updated survey must be sought in relation to bats, reptiles and badgers, to ensure that the planning decision can be based on up-to-date ecological information. Full comments are available on the file.

06 December 2016

We have reviewed the ecological information submitted in support of this application and advise that sufficient information has been provided to determine the application. Therefore, we require no additional information.

Protected Species

A reptile survey has been undertaken with a low population of slow worms being recorded. No detailed mitigation measures have been provided, however after consulting with the landscape strategy, there is potential to retain the slow worm population on site. Therefore, we advise that a detailed mitigation strategy is secured through a condition of any planning application. The receptor site should be located along the northern and eastern part of the site to ensure that connectivity is maintained in the wider landscape. In addition, mitigation measures for breeding birds and bats should be included. We suggest the following wording:

No development shall take place (including any ground works, site or vegetation clearance) until a method statement for ecological mitigation (including provision for reptiles, nesting birds, and bats) has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:

- a) Purpose and objectives for the proposed works;*
- b) Detailed design(s) and/or working methods necessary to achieve stated objectives;*
- c) Extent and location of proposed works, including the identification of a suitable receptor site, shown on appropriate scale maps and plans;*
- d) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;*
- e) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;*

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Enhancements

One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*". In addition to securing any necessary mitigation measures, we advise that Shepway DC should also seek to ensure that ecological enhancement measures are incorporated into the landscaping of the proposed development. There is potential to provide enhanced opportunities for breeding birds, bats, reptiles and invertebrates through the provision of bat/bird boxes, wildlife habitat piles and generous native planting (where necessary). The landscaping and habitat management details can be

secured by condition, if planning permission is granted and we suggest the following wording:

Prior to occupation of the dwellings hereby approved, details of how the development will enhance biodiversity will be submitted to and approved in writing by the Local Planning Authority. This shall include the provision of bat boxes, habitat piles and native planting. The approved details will be implemented and thereafter retained.

4.13 Arboricultural Manager

I see that there is a tree survey schedule and tree positions plan, but no real detail relating to tree retention or removal as it relates to the proposed development or a tree protection plan and arboricultural method statement. These documents will need to be submitted in order for me to provide formal comments on the application.

4.14 South Kent CCG

No comments received.

4.15 KCC LLFA

Kent County Council as Lead Local Flood Authority have the following comments:

Having reviewed the Flood Risk Assessment undertaken by Monson, dated 24th May 2013, we do not object to the principles proposed for dealing with surface water but do have the following advisories:

As of 19 February 2016, the Environment Agency published new guidance on how to use climate change allowances in flood risk assessments. The guidance can be found at: <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>

The new allowances for peak rainfall intensities have implications for drainage design and should be included within any drainage strategy prepared to accompany a planning application.

As LLFA, KCC will require that the design accommodates the 1 in 100 year storm with a 20% allowance for climate change and an additional analysis undertaken to understand the flooding implication for a greater climate change allowance of 40%.

This analysis must determine if the impacts of the greater allowance are significant and exacerbate any flood risk. The design may need to be minimally modified but may also need additional mitigation allowances, for example attenuation features or provision of exceedance routes. This will tie into existing designing for exceedance principles.

The Greenfield run off rate calculation given in the FRA refers to a soil of 0.45; we assume this is actually the percentage run off figure? If so the figure used is associated with a soil type of 4. Our resources give a soil type of 2 for this region with a corresponding SPR of 0.3, this fundamentally affects the Greenfield Run Off rate figures, we would advise for Ground Investigation to be undertaken to prove soil type and SPR.

The Environment Agency's Flood Map for Surface Water clearly shows a conveyance route through the site in n East to West direction, this will need to be considered as part of the design.

Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and we would urge the applicant to contact us prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require our formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.

Should your Authority be minded to grant permission to this development, we would recommend that the following conditions are attached:

- i. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of without increase to flood risk on or off-site. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- ii. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - a. A timetable for its implementation, and
 - b. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason:

To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

5.0 PUBLICITY

5.1 Neighbours notified by letter. Expiry date 27.10.15

5.2 Site Notice. Expiry date 27.08.15

5.3 Press Notice. Expiry date 20.08.15

6.0 REPRESENTATIONS

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

- Detrimental to rural landscape
- Visual intrusion;
- Out of keeping;
- Increased noise and disturbance;
- Hazardous vehicular access;
- Increased traffic;
- Flats would not be controlled occupancy – they wouldn't be C2;
- Previous appeal decision at Mulberry Court;
- No exceptional circumstances exist to justify development;
- Overbearing;
- Disruption during construction;
- Development wouldn't integrate with Hythe;
- Impact upon GP services;
- Impact on local infrastructure.

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 policies of the Shepway District Local Plan Review apply:
SD1, BE1, BE16, BE17, BE19, U2, U10a, TR11, TR12, CO1, CO5, CO11

7.3 The following policies of the Shepway Local Plan Core Strategy apply:
DSD, SS3, CSD2, CSD3, CSD4, CSD7

7.4 The following Supplementary Planning Documents and Government Guidance apply:

National Planning Policy Framework
National Planning Policy Guidance
Kent Design Guide

8.0 APPRAISAL

Relevant Material Planning Considerations

- 8.1 The main considerations in this case are the principle of development at this site, the potential impact of the proposal upon the visual character of the countryside, the impact upon the amenities of neighbouring uses, ecology and highway safety considerations. Other material considerations including flooding and drainage, archaeology and contamination are addressed within the report also.

Policy / Principle

- 8.2 The application site is located outside of any established settlement boundary as identified on the policies map of the Development Plan and consequently, for planning purposes, is considered to be within the open countryside.
- 8.3 The principle policies applicable to the proposal are saved policies SD1, BE1 and CO1 of the Shepway District Local Plan Review and policies SS1, SS3 and CSD3 of the Shepway Core Strategy Local Plan 2013. In summary, saved policy SD1 concerns sustainable development and specifically states that all development proposals should take account of the broad aims of sustainable development by ensuring, amongst other things, that the character of the countryside in general is protected, unless there is an overriding social or economic need. Policy CO1 also seeks to protect the countryside for its own sake and to resist development that would be detrimental to its character, again with the caveat of an overriding social or economic need providing justification, should development proposals conflict with these aims. Policy BE1 seeks to ensure that development accords with the existing development in the locality.
- 8.4 Policy SS1 addresses the primary Core Strategy aims and sets out the strategic priorities for each of the defined character areas of the district. Policy SS3 of the Shepway Core Strategy Local Plan 2013 directs development toward existing sustainable settlements in order to protect the open countryside, with table 4.3 in the preamble to this policy setting out the settlement hierarchy in relation to accommodating place-shaping change, clarifying places not regarded as countryside, guiding regeneration priorities and co-ordinating development location decisions overall. Within this table, Hythe is identified as a strategic town for Shepway that can “accommodate significant development”. However, it is made clear at paragraph 4.63 that “To maintain the character and integrity of the countryside, and protect small rural places, the extent of settlements is defined through boundaries separating settlements from open countryside.”
- 8.5 As stated previously, the policies map shows that the application site is outside of these boundaries. At paragraph 4.64 of the Core Strategy, it is also set out that the focussing of attention within these boundaries in relation to development, underpins the protection of the open countryside and seeks the achievement of sustainable places through driving a complimentary mix of uses within a locality that minimises the length of journeys to services,

employment and other regular trips, as well as increasing the proportion of people who regularly walk or cycle.

- 8.6 This aligns with the presumption in favour of sustainable development that runs through the National Planning Policy Framework, which goes on to identify that the development plan is the starting point for decision making, with proposed development that conflicts with this refused, unless other material considerations indicate otherwise.
- 8.7 Within the Shepway Core Strategy Local Plan 2013, policy CSD3 seeks to protect the countryside from inappropriate development that does not require a countryside location. However, there are exceptions within policy CSD3 when development in a rural location could be acceptable in principle. The policy also sets out that new development will be allowed within defined settlements, but that where sites are unavailable within settlements, it may also be acceptable on the edge of Strategic towns and Service Centres, such as Hythe.
- 8.8 Consequently, whilst the application site is outside of the defined settlement boundary, it could be considered an acceptable and sustainable location with regard to being immediately adjacent to the Strategic Town of Hythe and its associated services, employment etc. Other material considerations must, however, be assessed fully.
- 8.9 Core Strategy policy SS3 also identifies that development should address social needs within the neighbourhood, with policy CSD2 also stating that new accommodation should be designed and located to manage demographic changes, as well as meeting the specific requirements of groups in the District. Paragraph 50 within the National Planning Policy Framework (NPPF) recognises the need for a spectrum of housing choices for older people, with the definition of 'older people' identified as; *"people over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support or care needs."*
- 8.10 Within the National Planning Practice Guidance (NPPG) at paragraph 037, reference ID: 3-037-20150320, it is acknowledged that older people have a wide range of different housing needs, ranging from suitable and appropriately located market housing through to residential institutions (Use Class C2). Local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement. In decision-taking, evidence that development proposals for accessible and manageable homes specifically for older people will free up under-occupied local housing for other population groups is likely to demonstrate a market need that supports the approval of such homes.
- 8.11 The proposed extra care units would, if permitted, offer housing with care for those over 65 with a need for care. The proposal is that the level of care

available is flexible, so that individuals can live as independently as they wish, or are able. Future occupiers would be required to undergo a care needs assessment prior to occupation with, for those in a couple, at least one being able to meet the eligibility criteria. As part of the entry requirements, residents will be required to have a minimum of two hours care a week, which can be increased as care needs change so that residents can continue to be accommodated without the need to move elsewhere for higher care provision.

- 8.12 Following discussions with officers the applicant has supplied a significant amount of supporting evidence within the application regarding the proposed use and how it would fall within the C2 use class, defined in the Use Classes Order 1987 as; “*Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses))*.” The applicant asserts that the proposal is not for a set of individual homes where care can be provided (like a C3 dwelling house), instead stating that the whole site, inclusive of the community hub, is to be taken as one planning unit.
- 8.13 Part of this supporting evidence is a large number of appeal decisions supporting the assertion that the proposed units, with the entry requirements and minimum care package proposed, would fall within the C2 use class, together with a specimen condition that would, if permission were granted, control the occupancy of the units in order to limit them to the C2 use. Following a detailed assessment of this information by officers, as well as a review of case law and appeal decisions, it is recommended that this evidence is accepted and that, on balance and because of the proposed controls that can be put in place, the C2 use classification of the proposed development is appropriate.
- 8.14 Kent County Council Strategic Commissioning has commented on the proposal and noted that there is a need for extra care housing in this area and are therefore supportive of this proposed development. No comment has yet been received from the NHS South Kent Coast Care Commissioning Group.
- 8.15 It is also noted that within the Councils emerging Places and Policies Local Plan, which is currently out to consultation on the preferred options, the application site is being considered for inclusion. However, it must be noted that this document carries little weight in the decision-making process at this stage.
- 8.16 To conclude this section, although the application site is in a countryside location outside of the defined settlement boundary, it is immediately adjacent to the Strategic Town of Hythe and consequently considered to be in a sustainable location. The type of extra care accommodation it proposes is in demand and would form part of a wider site, being in proximity to an existing care facility and sheltered housing facility.
- 8.17 However, the Council’s Annual Monitoring Report 2015 identifies that Shepway has a supply of deliverable housing sites within the next five years (2016 – 2021), with expected completions being up to 106% of the Core

Strategy requirement. National policy is clear (NPPF paragraph 49) that where local planning authorities can demonstrate a five year supply, all relevant policies for the supply of housing must be considered. Consequently, other development plan policies must still be addressed in the context of the proposed development, which is done in the following sections.

Visual Amenity

- 8.18 The application site is in the open countryside, with the northern tip of the site abutting the Kent Downs Area of Outstanding Natural Beauty. The Saltwood conservation area, which includes Saltwood Castle, is approximately 525metres away to the north west. The views into the site are from elevated positions such as Tanners Hill and the public footpath HB22 to the rear of properties that front Blackhouse Hill to the east, toward the top of the opposite valley side, as well as from the public footpath HB23 that runs along the northern boundary.
- 8.19 Views from Tanners Hill are predominantly of open pasture (grade 4 agricultural land) with groups of trees. The undeveloped landscape is rural parkland in character, with an intimate, enclosed feel to it due to the valley form, but as a consequence, has a limited influence on the wider landscape. The site is framed by hedgerows and trees along the boundaries. Houses are visible amongst trees on the Blackhouse Hill side of the valley.
- 8.20 Development in the surrounding area is residential of a low density with medium to large houses many of which are located in generously sized garden plots. However, the most obvious development in the immediate locale is that of the Mulberry Court houses, visible from Tanners Hill, as well as the larger Saltwood Care Home, which despite its size, is less visible from Tanners Hill due to being lower in the valley. It is more visible from Station Road to the south east, where it can be seen through trees.
- 8.21 From the supporting information within the application, whilst the appearance, layout and scale are reserved matters, the indicative plans show large buildings aligned with the contours, the supporting statement suggests subterranean floors set into the valley sides and the parameter plans suggest that the building would vary between two and four storeys. Despite this being an outline planning application with all matters bar access and landscaping reserved for future approval, the parameter plans, should they be found acceptable, can be approved in order to ensure future reserved matters submissions comply with them.
- 8.22 In this respect, it is considered that the proposal recognises important aspects of the landscape and attempts to minimise the impact of the buildings on their surroundings through preserving the valley formation and limiting the amount of surface car parking in order to preserve green space, which is considered to be a key mitigating element for the proposal. A landscaping scheme is proposed to enrich existing landscaping around the site boundaries, with the better quality mature hedgerow and trees

acknowledged as already being located at the field boundaries of the site, proposed to be retained.

- 8.23 The placement of the taller elements toward the valley bottom and toward the south of the site, as shown on the parameter plans, will mitigate the visual impact to some extent due to the height being 'absorbed' by the change in land levels, together with the enhanced/replacement planting and the indicative use of green roofs. It is acknowledged that the building massing is more closely related to that of the Saltwood Care Home, rather than the surrounding residential development, but in this respect, the valley area then develops its own built form characteristic, which due to its form, impacts less on the surrounding area.
- 8.24 The landscape and visual impact assessment that accompanies the application identifies a moderate adverse effect on the character of the site, although this would be moderated in time as new planting established over 10-15 years, which the Council's Landscape and Design Officer agrees with. However, additional detail has been requested by the Council's Arboriculture Manager in relation to tree retention and removal, as well as tree protection details and an arboriculture method statement, the submission of which is awaited.

Neighbouring Amenity

- 8.25 The nearest neighbours to the site are to be found in Tanners Hill Gardens and Station Road, as well as the residents of Mulberry Court. With regard to noise and disturbance, the proposed use is essentially a residential one, so is considered likely to be compatible with existing uses in this respect. Comings and goings to the site would be likely to be focussed around the new access/egress at the north western corner of the site, so would be associated primarily with the new development so would not pass by or intrude upon the existing development.
- 8.26 If the proposal is granted permission, noise and disturbance associated with construction work could impact negatively upon amenity, albeit temporarily, but could be addressed through the requirement to submit a construction management plan to address such things as working hours, contractor parking, dust mitigation etc.
- 8.27 With regard to overlooking, overshadowing or any overbearing/enclosing presence, the private residential uses to the west of the site in Tanners Hill Gardens will be unaffected, due to their elevated position and significant distance from the application site. The properties to the south accessed from Station Road are also a significant distance away from the proposed development, with number 11 being the closest. This has mature vegetation around the common boundary with the site and an existing close relationship with Saltwood Care Home that is considered to be acceptable.
- 8.28 It is considered that although the proposed development will be up to four storeys at the community hub, as shown on the parameter plans, the separation distance and position to the north would ensure no

overshadowing or overbearing presence. For overlooking, although the appearance and therefore final design is a reserved matter, it is considered that the separation distance, together with the existing vegetative screening, future planting and careful review of window placement and design would ensure that privacy is maintained for this property. Overall, it is considered that there would be no significant detrimental impact upon the amenities of neighbouring uses as a consequence of the proposed development.

Highways

8.29 The proposal includes the formation of a new access from Tanners Hill, which would extend into the site and link to a car parking area serving the existing development, with the indicative layout showing under storey car parking for residents, with 74 spaces in total, although visitor and staff car parking would be offered externally at ground level. Eight cycle parking spaces are proposed.

8.30 The application is accompanied by a Transport Assessment, which has been reviewed together with the other highway aspects of the proposal by KCC Highways and Transportation and found to be acceptable with regard to the safety of the access, the levels of traffic that would be generated and the levels of parking that would need to be provided, subject to the imposition of suitably worded conditions relating to visibility splays, parking retention, gradients of the access and the securing of a construction management plan, should permission be granted. Overall, it is considered that there are no likely detrimental impacts arising from highway issues.

Ecology

8.31 The application site was accompanied by an Ecological Scoping Survey carried out in June 2013 and following comments from KCC Ecological Advice Service, the Council was advised that an updated survey must be sought to ensure that the planning decision can be based on up-to-date ecological information. Up to date surveys were received and have been commented upon by the KCC ecological Advice Service.

8.32 The updated information is considered to be sufficient and no additional information is required. A low population of slow worms has been recorded on site and although no detailed mitigation measures have been submitted, there is potential to retain the population on-site, with the receptor site located along the northern and eastern part of the site to ensure that connectivity is maintained in the wider landscape. Such details can be subject to the securing of a detailed mitigation strategy via condition, with mitigation for breeding birds and bats included.

8.33 One of the principles of the National Planning Policy Framework is that *"opportunities to incorporate biodiversity in and around developments should be encouraged"* so in addition to securing any necessary mitigation measures, ecological enhancement measures should be incorporated into the landscaping of the proposed development through enhanced opportunities for breeding birds, bats, reptiles and invertebrates via the

provision of bat/bird boxes, wildlife habitat piles and generous native planting, which would also be subject to an appropriately worded condition. Overall, there are no concerns regarding detrimental impacts upon ecological considerations.

Flooding/Drainage

8.34 The application site borders a watercourse at the bottom of the valley, on the eastern boundary of the application site. The Environment Agency's flood risk maps show that this stream has a small area around it that is designated flood zone 3, but the site location plan accompanying the application suggests that the application site falls outside this area.

8.35 The applicant has submitted a flood risk assessment with the application, which concludes that whilst there is no likely risk to the proposed development from flooding, in order to ensure overall surface water discharge from the site does not exceed the existing green-field situation, various measures should be incorporated into future development, including:

- Rainwater harvesting;
- Permeable hard standing areas;
- Attenuation ponds toward the eastern boundary to allow controlled discharge to the adjacent watercourse.

8.36 Kent Country Council Local Lead Flood Authority have no objection to the proposals, but advise that a drainage strategy should accommodate new allowances for peak rainfall intensities alongside a 1 in 100 yr storm design, with up to a 40% allowance for climate change, in order to inform the final, full design. If consent is granted, a condition is proposed regarding the implementation, operation and maintenance of the sustainable urban drainage system. The views of the Environment Agency are awaited and will be reported on the supplementary sheets.

8.37 Southern Water has raised no objection to the proposal, seeking details of foul and surface water drainage via condition, should permission be granted, which is considered to be reasonable.

Contamination

8.38 The site is within the curtilage of the existing buildings at the site and likely to be former informal garden area. The Council's Environmental Health Officer has recommended that should planning permission be granted, a desk top study is undertaken to identify previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information, in order to ascertain whether any further work is required in order to protect the environment and human health against contamination and pollution. This study can reasonably be secured by condition.

Archaeology

8.39 As identified in the comments from KCC Archaeology, due to the size and location of the site it is possible that the proposed development may affect remains of archaeological interest. Therefore, should permission be granted, provision must be made for a programme of archaeological work, which can reasonably be secured by condition.

Land Instability

8.40 Saved policy BE19 of the Shepway Local Plan Review requires that development in areas of land instability will not be granted unless investigation and analysis has been undertaken which clearly demonstrates that the site can be safely developed and the proposed development will not have an adverse effect on the slip area as a whole. However, this information can reasonably be required via a suitably worded planning condition, should permission be granted.

Affordable Housing

8.41 The comments of the Housing Strategy Manager at paragraph 4.9 are noted, but since their comments were made, the Council has accepted the view that the development will fall within the C2 use class, so affordable housing is not required to be provided as this relates to a C3 use class.

Local Finance Consideration

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

8.43 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. The figure likely to be received from the New Homes Bonus is being sought and will be reported on the supplementary sheets. New Homes Bonus payments are not considered to be a material consideration in the determination of this application.

8.44 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a CIL scheme, which in part replaces planning obligations for infrastructure improvements in the area. However, the proposed development would be exempt from the CIL levy as it is not C3 housing.

Human Rights

- 8.45 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.
- 8.46 This application is reported to Committee in accordance with the Council's scheme of delegation as it is a departure from the development plan.

9.0 SUMMARY

- 9.1 The application site is in a countryside location outside of the defined settlement boundary, but immediately adjacent to the Strategic Town of Hythe and consequently considered to be in a sustainable location. Paragraph 50 of the National Planning Policy Framework (NPPF) recognises the need for a spectrum of housing choices for older people, with the type of extra care accommodation the application proposes in demand locally and nationally. The application site is in proximity to an existing care facility and sheltered housing facility, so would form a 'hub' with a range of care levels available for the elderly.
- 9.2 Parameter plans are included with the proposal, which can be secured by condition to inform future reserved matters submissions, and show the taller elements of the proposed scheme toward the valley bottom and the south of the site in order to mitigate the visual impact of the two, three and four storey blocks, with the enhanced/replacement planting and the indicative use of green roofs and subterranean parking also considered to be suitable mitigation to lessen the visual impact of the proposed development. Additional detail has been requested by the Council's Arboriculture Manager, which is awaited.
- 9.3 With regard to amenity, it is considered that there would be no significant detrimental impact upon the amenities of neighbouring uses as a consequence of the proposed development, due to the separation distances involved. For highways, the proposed access and the levels of traffic that would be generated are considered to be safe, with adequate levels of parking to be provided, all of which would be subject to the imposition of suitably worded conditions, giving rise to no likely detrimental impacts on highway grounds.
- 9.4 As regards ecology, additional information has been submitted and found to be acceptable by the KCC Ecological Advice Service subject to the imposition of conditions regarding mitigation and enhancement measures at the site.

- 9.5 In relation to drainage and flooding issues, KCC Local Lead Flood Authority and Southern Water have raised no objection to the proposal. Comments from the Environment Agency are awaited.
- 9.6 Finally, with regard to archaeology, land instability and contamination, all these matters can reasonably be addressed through the imposition of suitably worded conditions.
- 9.7 The occupancy of the proposed units will be controlled by condition(s) that dictate entry requirements and care packages received in order to ensure that the units remain in the C2 use class.

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).

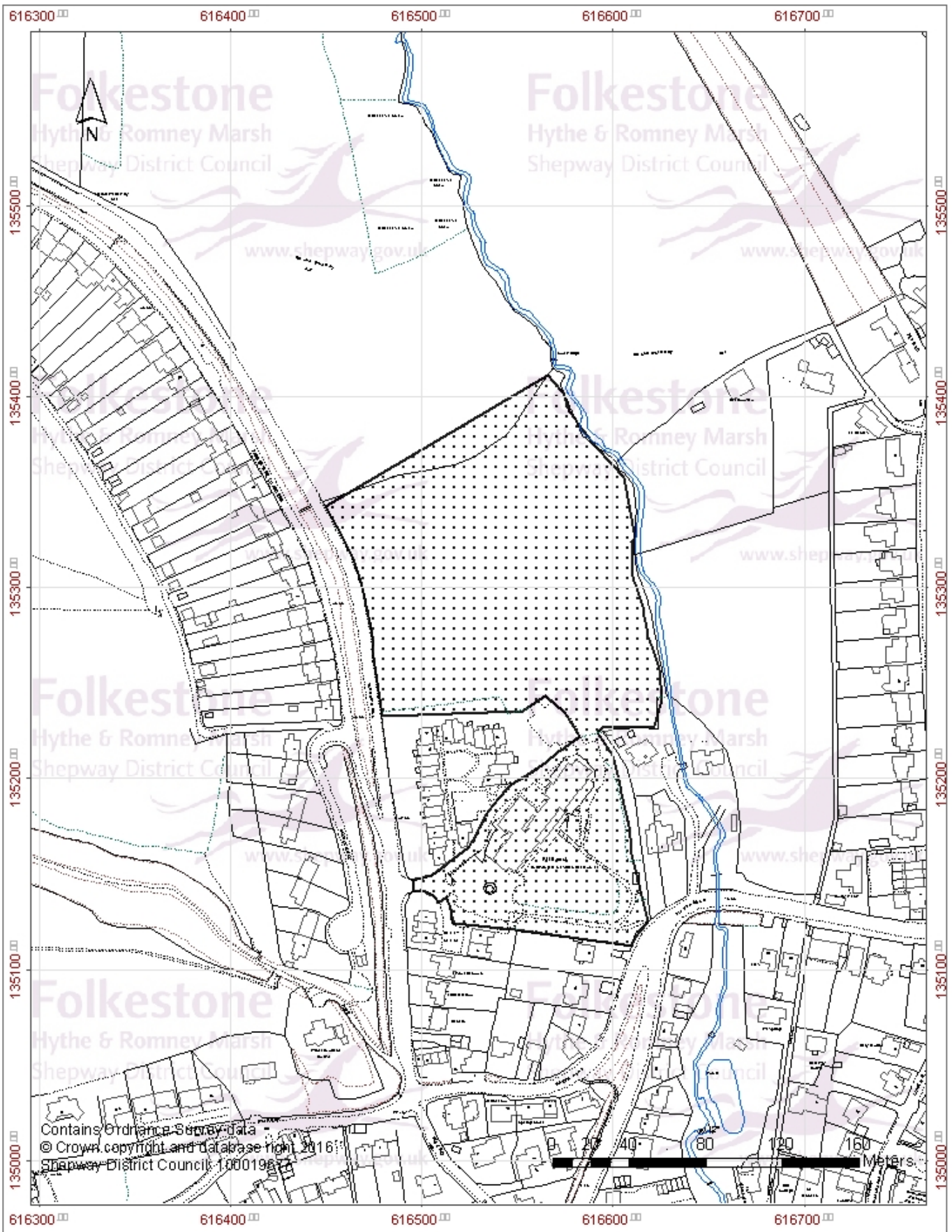
RECOMMENDATION – That planning permission be granted subject to the additional ecology surveys being found acceptable, the receipt of acceptable additional arboriculture reports, the receipt of comments from the Environment Agency and KCC Local Lead Flood Authority, and the conditions set out at the end of the report, with delegated authority given to the Head of Planning to negotiate the final wording and add/remove conditions as required:

1. Outline reserved matters
2. Reserved matters time condition
3. Outline time limit
4. Approved plans, including parameter plan
5. Water usage
6. Energy efficiency
7. Foul drainage
8. Sustainable urban drainage systems
9. Visibility splays
10. Completion / maintenance of access
11. Access gradients
12. Completion / retention of parking including 10% electric vehicles, cycle parking and mobility scooters
13. Construction management plan

14. Contamination
15. Archaeology
16. Latchgate
17. Landscaping detail including management / maintenance and ecological mitigation / enhancement
18. Ecological mitigation strategy
19. High speed broadband
20. Tree works / tree planting details
21. Condition controlling occupancy

Decision of Committee

Y15/0720/SH
Philbeach House
Tanners Hill
Hythe



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