

Application No: Y17/1317/SH

Location of Site: Haguelands Farm, Burmarsh Road, Burmarsh TN29 0JR

Development: Construction of detached restaurant/café building (Use class A3), construction of detached indoor play barn (Use Class D2), alterations to existing farm entrance, provision of new hard standing for disabled visitors, deliveries and fenced bin enclosure, relocation of existing parking to overspill car park with permeable surfacing to tracked routes.

Applicant: Mrs SA Clifton-Holt

Agent: Mr M Judge
Judge Architects Ltd

Date Valid: 26.10.2017

Expiry Date: 21.12.2017

PEA Expiry Date:

Date of Committee: 24.04.18

Officer Contact: Julian Ling

SUMMARY

This report considers whether planning permission should be granted for the erection of a detached restaurant/ cafe building and a detached indoor play barn as well as alterations to an existing access and provision of new hard standing areas for car parking and bin storage. The application site is outside of the settlement boundary and within the Romney Marsh Local Landscape Area where the development plan seeks to ensure new development is provided in accordance with the settlement hierarchy and in sustainable locations. The application also proposes recreational facilities in the countryside that fail the detailed policy criteria of Local Plan policy LR3. In addition, insufficient information has been submitted to address key material planning considerations. As town centre uses that are not in an existing centre and that are not in accordance with an up-to-date Local Plan, the development has failed to demonstrate that the application satisfies the sequential test in terms of town centre uses. As such it has not been demonstrated that the businesses need to be located within this rural location as opposed to a more sustainable settlement location. Furthermore insufficient information has been submitted to satisfactorily demonstrate an acceptable vehicular access can be achieved, acceptable parking levels and vehicular tracking and that the development is not constrained by protected species or if so can be appropriately mitigated. The application is also considered to be unacceptable in terms of proposing a visually harmful car park within the countryside that would be detrimental to the Romney Marsh Local Landscape character. For these reasons the application is recommended for refusal. It is considered that the development is acceptable in flood risk terms and the amenities of existing and future occupants would be safeguarded.

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

1.0 THE PROPOSAL

- 1.1 This application seeks detailed planning permission for the construction of a detached restaurant/cafe building (Use Class A3), construction of detached indoor play barn (Use Class D2), alterations to an existing farm entrance, construction of a new hard standing area for disabled visitors, deliveries and fenced bin enclosure, and construction of a car park with permeable surfacing to tracked routes.
- 1.2 The two new buildings would be sited within the existing farm yard area and the yard area known as Haguelds Farm Village and close to the main entrance of the farm yard. Both buildings would be sited to face into the farm yard area with access from within this area. The restaurant building would have a floor area of approximately 213 sqm and a ridge height of 7 metres and an eaves level of 3.6 metres. Internally this would consist of a kitchen area, serving area, seating area and customer wc's. It would be constructed with a shallow pitched gable roof and consist of artificial slate roof tiles, upvc windows and doors and a composite panel wall cladding system. The play barn building would be larger and sited adjacent to the restaurant to the north east. This would have a floor area of approximately 517 sqm and consist of a main play area as well as a reception area, office with kitchenette and a locker room with wc. This building would have a ridge height of approximately 10.3 metres and an eaves level of 6.3 metres and constructed with a pitched gable roof and have a steel panel composite wall cladding and roofing system.
- 1.3 Positioned to the south east of the two new proposed buildings it is also proposed to create an area of disabled parking, delivery area and bin storage area. This would have an approximate area of 626 sqm and be constructed of a paved surface. Within this area three disabled parking bays, a parking space for a van and an enclosed fenced area for bin storage is proposed. In terms of access, it is proposed to hard surface the existing secondary vehicular access off Burmarsh Road positioned to the south east and dedicate this for the Haguelds Farm village traffic to allow the main entrance to be used solely for farm traffic.
- 1.4 Further to the south east outside of the farm yard area and within a grass paddock area it is proposed to construct an overspill parking area of approximately 2762 sqm. This would consist of 96 car parking bays and access roads which would be accessed from the farm yard area. This would be constructed using a permeable rolled granular material.
- 1.5 The application is accompanied by an ecological report and a flood risk assessment (FRA) both of which have been drafted by the applicants' planning agent.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:
 - Outside settlement boundary
 - Romney Marsh Local Landscape Area

- Area of archaeological potential
- Environment Agency Flood zones 2 and 3a
- Strategic Flood Risk Assessment 2115 hazard rating moderate and significant
- Grade 2 agricultural land.

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 Haguelands Farm is located approximately 600 metres to the north of the junction with the Burmarsh Road/A259 and some 1.2 miles from the Dymchurch village centre. The site has diversified over recent years and has a mixed use of agricultural as well as various small retail and craft businesses, seasonal tourism attractions, leisure and storage facilities.
- 3.2 Numerous substantial agricultural buildings occupy the site around the main farm yard which are highly visible in the local landscape. The farmhouse is located to the north west of the main farm yard and to the south and east are agricultural fields.
- 3.3 The application site is located towards the front of the wider farm site adjacent to the main access and Burmarsh Road. This is part of the main farm yard and consists of a large area of hard standing as well as a block of single storey retail units and a restaurant and larger agricultural storage buildings.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The site has a long and varied planning history which relates to all parts of the farm. However the most relevant history is summarised below.
- 4.2 In 2005 planning permission was granted under reference Y05/0467/SH for the change of use of redundant farm buildings to farm shop and cottage industry units together with associated parking. Subsequently in 2006 amendments were approved relating to the external alterations of the building under reference Y06/0055/SH. Both applications were granted subject to conditions including conditions restricting them to a B1 use (condition 4) and limiting the farm shop to the sale of foodstuffs only with a maximum of 20% of turnover derived from the sale of produce imported to Haguelands Farm and not be operated as a separate A1 use (condition 7).
- 4.3 In 2010 planning permission was granted to vary conditions 4 and 7 of planning permissions Y05/0467/SH and Y06/0055/SH to permit use as retail (Class A1) and a mixed use of educational/eating use. This was controlled by a planning condition restricting the additional creation of floor area, the display of the sale of goods outside the individual units at any time, and external lighting and a section 106 legal agreement with the covenants set out in 4.4 below.
- 4.4 In 2016 a request was made to remove the planning obligation covenants 1-7 of the section 106 agreement reference Y16/0206/SH as many of the

units are not used in accordance with the conditions/106 covenants. However the application was refused because it would have allowed unrestricted A1 retail use which is likely to have detrimentally affected the local town centres of Dymchurch, New Romney and Hythe. Covenants 1-7 were as follows:

1. Not to sell anything from the units within the site other than locally sourced food and items ancillary thereto provided always that not more than 10% of the floor area of each individual unit shall be used for the sale of ancillary items.
2. Not to sell hot food takeaway from any part of the site even on an ancillary basis.
3. Restriction on opening hours.
4. Set aside defined areas to be used solely for the retail sale of local seasonal produce.
5. To display details of the owners Covenants set out in this schedule in a prominent position in each retail unit.
6. Not to carry out any frying of food anywhere on the site which requires the use and installation of large external ventilation and extraction equipment.
7. To maintain membership of Produced in Kent and to advertise this membership.

It was refused for the following reason:

“It is considered that covenants 1, 2, 3 and 6 continue to serve a useful purpose in controlling retail development in the countryside outside of any defined settlement boundary, village or service centre safeguarding the vitality and viability of nearby high streets and shopping areas as well as the amenities of the area. The proposed discharge of this planning obligation would render the site unsustainable and unacceptable in planning terms and therefore would be contrary to saved Local Plan policies SD1, CO1, CO5, CO16 and CO19, Core Strategy policies SS1, SS2, SS3, SS4 and CSD3 and the NPPF: 2012.”

- 4.5 Concerning this front farm yard area there are also applications pending and awaiting determination - Y17/1457/SH for the change of use of units 1-7 to retail (Class A1) and application Y17/1318/SH for the construction of a detached retail and flexible office space building, alterations to existing farm entrance, provision of new hard standing for disabled visitors, deliveries and fenced bin enclosure, the relocation of existing parking to overspill car park with permeable surfacing to tracked routes. These are as yet undetermined.
- 4.6 The rest of the relevant planning history is listed below which relates to other parts of the farm and surrounding land;

Y11/0759/SH - Change of use of field from agricultural to a leisure use for the sport of paintball, together with the retention of 2.4 metre high perimeter safety netting and other paintball structures. Approved.

Y12/0982/SH - Change of use of land for the sport of paint ball, together with the siting of a storage container and erection of safety netting. Approved with conditions.

Y14/0143/SH - Change of use of part of agricultural field for an area for dog training. Approved.

Y14/0183/SH - Continued use of the land as a seasonal tourism maize maze facility (July - September) and visitor overflow car park, together with the retention of timber structures on the land. Approved.

Y14/0182/SH - Continued use of the land as a seasonal tourism fun yard. Approved.

Y17/1167/SH - Certificate of lawfulness for existing use of former agricultural building for the storage of building materials. Approved.

5.0 CONSULTATION RESPONSES

5.1 Consultation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below.

5.2 Burmarsh Parish Council

Object on the basis of a lack of need within a countryside location (contrary to policy CO1 of the Local Plan), visual impact where the new buildings will appear as an industrial-like appearance and create a harmful visual impact and road safety where the proposed new entrance would be on a bend in the road which would be unsatisfactory and extremely dangerous.

5.3 KCC Highways and Transportation

Further information is required in respect of;

- Confirmation for the arrangements for deliveries to the restaurant.
- If the current farm access is to be used, tracking details for delivery vehicles.
- A visibility splay plan and speed survey will be needed for the new access.
- Measures to prevent the discharge of surface water onto the highway.
- The use of a bound surface material for the first 5 metres of the access.
- Provision of gates to open away from the highway.
- Insufficient disability and motorcycle parking.

5.4 KCC Archaeology

No comments received.

5.5 KCC Ecology

Insufficient information has been submitted to assess ecological impact.

5.6 Southern Water

No objection. The applicant is advised to consult the Environment Agency directly regarding the use of a private wastewater treatment works or septic tank drainage.

5.7 Environment Agency

No objection. The EA has assessed this application as having a low environmental risk. The EA have not commented on flood risk.

6.0 PUBLICITY

6.1 Neighbours letters expiry date 17.11.2017

6.2 Site notice expiry date 29.11.2017

7.0 REPRESENTATIONS

7.1 Representation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below:

7.2 3 letters/emails received objecting on the following grounds:

- The proposed entrance would be on a dangerous blind bend.
- The road is very narrow and busy and already used by heavy machinery, tractors and harvesters, tourists during summer months, builders' lorries (who use some of the farm buildings) and waste disposal lorries.
- There are no footpaths leading to Hagueldands Farm so most customers would be arriving by car.
- This would compete with Lathe barn that is close by and therefore would not be viable.
- An over-intensive development.
- Disturbance from noise and increased traffic movement.

7.3 3 letters/e-mails of support received on the following grounds.

- This is needed in the area where it is good for local families and children rather than going further afield.
- Good for local business by increasing footfall.
- An exciting new phase for Hagueldands Farm.
- A great addition to the local area.
- A great addition to the current facilities.

7.4 1 e-mail making the following general comments (neither objecting to nor supporting).

- The new access to the site would be better positioned and safer further south away from the sharp and blind bends that runs past the site.
- A 30 mph speed limit should be applied to this road.

8.0 RELEVANT POLICY GUIDANCE

- 8.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1 and the policies can be found in full via the following links:

<http://www.shepway.gov.uk/planning/planning-policy/local-plan>

<https://www.shepway.gov.uk/planning/planning-policy/documents-and-guidance>

<https://www.gov.uk/government/collections/planning-practice-guidance>

- 8.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, BE1, BE16, CO1, CO5 CO11, CO13, TR5, TR6, TR11, TR12, U2, U15, LR3.

- 8.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3, CSD3, CSD4

- 8.4 National Planning Policy Framework

Paragraph 7 – Achieving sustainable development

Chapter 7- Requiring good design

Chapter 10 – Meeting the challenge of climate change, flooding and coastal change.

Chapter 2 – Ensuring the vitality of town centres.

Chapter 11 - Conserving and enhancing the natural environment

9.0 APPRAISAL

Background

- 9.1 Whilst Haguelands Farm remains an active agricultural holding it has, over time, gradually introduced alternative commercial activities which includes craft retail, tourism and leisure business and activities as well as storage uses. The most relevant in this regard are the developments relating to the farm yard and the retail units that were originally approved in 2005 which are set out above in the planning history section.

- 9.2 In 2005 planning permission was granted under reference Y05/0467/SH for the change of use of redundant farm building to farm shop and cottage industry units together with associated parking. Subsequently in 2006 amendments were approved relating to the external alterations of the building under reference Y06/0055/SH and later on in 2010 Members granted permission to vary conditions 4 and 7 of planning permissions Y05/0467/SH and Y06/0055/SH. It is considered that the majority of the uses

operating on the site are not in accordance with the planning permissions granted.

Relevant Material Planning Considerations

- 9.3 The material planning issues for consideration with regards to this application are whether the proposed uses would be acceptable sequential in terms of impact on existing town centres; whether it has been justified that the proposal essentially requires this rural location and would be a sustainable development in the countryside; and whether it complies with saved policy LR3 in respect of providing recreational facilities within the countryside, the visual impact upon the surrounding countryside/ local landscape area, highway safety, ecology, flood risk and the impact upon the amenities of residents.

Town Centre Uses

- 9.4 In accordance with annex 2 of the NPPF: 2012, a restaurant and play barn facility are considered to be town centre uses. In this regard para 24 of the NPPF advises that the sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. The NPPF advises that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. In this regard, the core principle here is protecting the viability and vitality of nearby commercial centres, in this case Dymchurch, Hythe and New Romney.
- 9.5 At the local level the Core Strategy Local Plan reflects national planning policy where policy SS4 requires that a town centre first policy will operate for applicable uses in line with national policy. Policy SS4 advises that town centre activities should be located sequentially, looking firstly at locations within town centres, then on the edge of centres, and only then out of centre; and with regard to their impact on the vitality and viability of the defined town, district and local centres. In addition, Core Strategy policy SS1 advises that the future spatial priority for new development in the Romney Marsh area is on accommodating development at the towns of New Romney and Lydd, and at sustainable villages; improving communications; protecting and enhancing the coast and special habitats and landscapes.
- 9.6 In this regard, the application site is not in or on the edge of a town or local centre and the development proposal is not in accordance with an up-to-date Local Plan and therefore in order to comply with the NPPF the application needs to be sequentially tested. The National Planning Policy Guidance clearly advises that it is the responsibility of the applicant/agent to demonstrate compliance with the sequential test and not the Local Planning Authority (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Where appropriate, the potential suitability of alternative sites should be discussed between the

developer and local planning authority at the earliest opportunity. However in this instance, the application has failed to provide any assessment of sequentially preferable sites to demonstrate compliance with the test and the appropriateness of this rural location. In such circumstances, the Council would expect a statement of need to justify the rural location and why this development cannot be located within or on the edge of a local centre or sustainable settlement, considering and ruling out alternative sites. As such in line with paragraph 26 of the National Planning Policy Framework, given that the proposal has failed to satisfy or even attempt to demonstrate such a test has been undertaken, the proposal fails the sequential test and as such, the application is therefore recommended for refusal on this ground.

Development within the countryside

- 9.7 When considering the impact upon the countryside, there is a general presumption in favour of protecting the countryside as required by saved Local Plan Review policy CO1. Development is normally only permitted in such locations if it is required for agriculture or where a rural location is essential. In this regard the site is located within the Romney Marsh Local Landscape Area where saved Local Plan policy CO5 seeks for development proposals to protect or enhance the landscape character and functioning of these areas.
- 9.8 Core Strategy policy SS1 also requires that additional development should be focused on the most sustainable towns and villages as set out in policy SS3. Development in the open countryside and on the coast will only be allowed exceptionally, where a rural/coastal location is required. In this regard for the Romney Marsh, policy SS1 advises that the future spatial priority for new development in the Romney Marsh Area is on accommodating development and Lydd and at sustainable villages in accordance with the settlement hierarchy. Core Strategy policy SS3 also advises that development within the District is directed towards existing sustainable settlements to protect the open countryside and the coastline.
- 9.9 In this regard, Burmarsh is not a sustainable location being within the countryside and is a location that falls completely outside of the settlement hierarchy in recognition of its unsustainable location. For development in the countryside outside of the settlement hierarchy, Core Strategy policy CSD3 does support rural tourism but requires that development may only be allowed if a rural or coastal location is essential. In this instance, such a rural location is not considered to be essential where it has not been demonstrated there is a need for such facilities in this location. However, chapter 3 of the NPPF does seek to support economic growth in rural areas where proposals are sustainable. This development is not sustainable for a number of reasons set out below in this report and therefore the provision of additional jobs and rural tourism facilities is not an overriding justification to support this development which is considered to be unsustainable.
- 9.10 Furthermore, saved Local Plan policy LR3 relates to recreational facilities in the countryside. In this regard it supports such development subject to meeting the following policy criteria being met:

- must be compatible with the character of the local landscape,
- does not result in the irreversible loss of the best and most versatile agricultural land,
- is well located in relation to existing settlements and the highway network and can achieve an appropriate standard of access,
- accessibility by transport alternatives to the car
- Does not unacceptably impact the amenity of local residents and other users of the countryside and protects or provides satisfactorily for existing public rights of way.
- built development is appropriate in scale and appearance to its surroundings
- Does not include as part of the proposals functionally unrelated ancillary development.

9.11 In this regard the development is considered to be contrary to this policy in several aspects, namely is not considered to be compatible with the character of the local landscape; it is poorly related in relation to existing settlements; it has not been demonstrated that an appropriate standard of access can be achieved; and it is not acceptable in scale and appearance to its surroundings being harmful to the countryside. These are considered in further detail below under each material consideration.

Visual Impact

9.12 The site is located within the open countryside and in an area that is predominantly rural in character being within the Romney Marsh Local Landscape Area (policy CO5). The Romney Marsh Character Area is identified by the Core Strategy, amongst other things, as an area where landscapes are to be protected. Policy CO5 also required proposals to protect or enhance the landscape character and functioning of the Romney Marsh Local Landscape Area.

9.13 The development proposes to erect two additional new buildings within the farmyard being a restaurant building and secondly a larger play barn. Both buildings are considered to be acceptable in siting, scale and design proposing fairly utilitarian style buildings of a basic form that is considered would sit comfortably within the farmyard setting and adjacent to large agricultural steel framed and brick built farm buildings. The buildings would be built on existing hardstanding areas and not on a greenfield area where it is considered that there is sufficient room to accommodate these buildings without appearing cramped or over-intensive. The buildings would be screened from wider landscape views and would not appear visually prominent in the landscape as they would be viewed in the context of the farm yard and other large buildings. As such the individual buildings are considered to be visually acceptable in terms of saved Local Plan Review policies SD1, BE1 and CO1.

9.14 However as part of the development a large car park is proposed to be constructed within the south east part of the site as existing car parking will be displaced due to the siting of the proposed new buildings. This would be constructed with a rolled permeable granular material surface within an

existing agricultural field/paddock that is within a publicly visible prominent location. The size of the car park is considered to be substantial and it would appear visually bland and devoid of any detail or features of interest. As such would result in the loss of a large area of green field that contributes to the rural setting of the area. This would be a permanent feature in the countryside that would encourage the parking of vehicles throughout the year which would be unsightly and add to built development in the countryside and detract from the rural setting. Furthermore the functioning as a working agricultural landscape has not been conserved as a car park would not protect nor enhance this functioning as required by the policy CO5 and the development is not compatible with the character of the local landscape and is considered inappropriate in scale and appearance, contrary to saved Local Plan policy LR3. As such the development is considered contrary to saved Local Plan Review policies SD1, CO1, CO5 and LR3 where it is considered that the development would result in an adverse visual impact upon the landscape and the rural setting and is therefore recommended for refusal on this basis.

Highway safety

9.15 The application proposes to utilise the existing secondary access positioned to the south east of the farm yard off Burmarsh Road. It is proposed to hard surface this secondary entrance so that it can be dedicated to the farm village traffic (typically cars and vans) as well as the other existing tourist activities.

9.16 In terms of the access, based on the current information submitted it is considered that insufficient information has been submitted for Kent Highways and Transportation Services to be able to assess the suitability of the access as well as parking and tracking details. In this regard the application lacks details on the visibility splays required for the access, details for delivery arrangements and vehicular tracking as well as a shortfall of disabled parking and motorcycle parking. As such, based on the information submitted it has not been demonstrated that the development is acceptable and safe in highways and transportation terms and as such is recommended for refusal on highways grounds contrary to saved Local Plan Review policies TR11, TR12 and LR3.

Ecology

9.17 In terms of ecology, the site does not have any national or international nature designation. However part of the site is a grassed field within a rural area and forms part of a farm where there are existing old buildings, vegetated areas, hedgerows, watercourses and ponds which could all offer opportunities for protected species and habitats. A hedgerow also appears to be being removed as part of the development. On this basis a preliminary ecological appraisal must be undertaken, along with any specific species surveys for species identified during the preliminary survey, in order to assess if there will be any likely impacts on ecology. Paragraph 99 of the Government Circular (ODPM 06/2005) Biodiversity and Geological

Conservation – Statutory Obligations and their Impact within the Planning System states that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision”. In addition, saved Local Plan policy CO11 and Core Strategy policy CSD4 seek to safeguard protected species and their habitats and avoid a loss of biodiversity.

9.18 Whilst such a document has been submitted it is considered insufficient where further detailed information is required to enable Officers to be able to determine the application. Following consultation the KCC’s Ecologist has advised that the report submitted is inadequate and that further detailed information is required to consider possible impacts upon ecology before a decision can be made.

9.19 The KCC Ecologist has advised that the report should include details on reptiles, foraging bats and breeding birds, as well as a hedgerow survey. The Natural England standing advice advises that for reptiles, the survey should be carried out by an experienced ecologist and be carried out in April, May and September avoiding July to August and November to February searching for basking animals on banks, piles of wood and edges of woodland, laying out artificial refuges such as corrugated iron sheets (for slow worms) and using carpet tiles or roofing felt bedded down well into the vegetation. For bats, a person who is licensed should carry out these surveys which should include visual inspection of buildings or other structures, inspection of trees, use of bat detectors, using netting and harp trapping and the use of radio-tracking which should be done at the correct times of year. For birds, Natural England advice recommends that for a desk top survey, existing data should be gathered from: local record centres, bird clubs and county birds reports which will then inform possible surveys. The quality of hedgerows on the site is also needed in such an ecology report for this site using the hedgerow evaluation and grading system (HEGS).

9.20 The report fails to provide this information therefore on the basis that the application has failed to properly consider ecology the application is considered unacceptable and contrary to saved Local Plan Review policy CO11, policy CSD4 of the Core Strategy as well as the NPPF: 2012 and thus recommended for refusal on ecology grounds.

Flood Risk

9.21 The site is identified to be within the Environment Agency flood zones 2 and 3a and therefore the development needs to be considered in terms of the flood risk. The NPPF advocates a risk based approach to planning for development in such areas. This includes reducing the adverse impacts of flooding by avoiding inappropriate development in areas at risk of flooding. This is carried out by the requirement for each development to be assessed against the sequential test and, if required, the exceptions test. The sequential test seeks to direct development to sites at the lowest probability

of flooding as informed by the Council's Strategic Flood Risk Assessment (SFRA). Only when these sites have been developed should higher risk sites then be considered for development.

9.22 When assessing the level of risk, restaurant and leisure uses are not considered to be high risk uses in respect of risk to life where the technical guidance to the NPPF advises that these uses are considered to be of a less vulnerable use and are considered to be development that is appropriate within flood zones 2 and 3a.

9.23 Turning now to the application of the sequential and exceptions test, the Folkestone and Hythe District Strategic Flood Risk Assessment shows the site to be partly within a moderate flood risk zone and partly within a significant flood risk zone up to the year 2115. Following consultation, the Environment Agency has not raised objection, and considers the development to have a low environment risk. This is considered to pass the sequential test as there are no other allocated sites or developments that already have the benefit of planning permission or a likely to come forward for such a restaurant and leisure use within the Romney Marsh character area that are at a lower flood risk.

9.24 Following the sequential test the NPPF advises that for less vulnerable development such as this, the exceptions test does not need to be applied. Therefore, given the proposed uses and low risk, it is considered that the development is acceptable on flood risk grounds in accordance with the NPPF: 2012.

Residential amenities

9.25 The nearest residential properties are located some distance away from the application site with intervening landscaping and it is therefore not anticipated that the proposed buildings would result in any significant amenity issues to local residents. In this regard, it is considered that there would be no overbearing or overshadowing issues or loss of privacy.

9.26 In terms of general disturbance issues the proposed uses are not considered to be unduly intensive uses where the majority of noise would be contained within the building and the hours of opening could be controlled by planning condition, in the event that members are minded to grant permission. Owing to the good separation distances away from the nearest properties to the south of approximately 180 metres from the proposed play barn and restaurant and 120 metres from the car park, together with existing boundary hedgerows the proposed development is also not considered to give rise to a significant impact from disturbance. Whilst there would be a general increase in traffic movement, this is not considered to be significantly greater given the existing level of traffic movement that the farm generates and the busy nature of Burmarsh Road to give rise to a significant impact upon residential amenities. As such, the development is considered to safeguard residential amenities in accordance with saved Local Plan Review policy SD1.

Environmental Impact Assessment Regulations 2017

9.27 In accordance with the EIA Regulations the site does not fall within a sensitive area and the development is below the thresholds for Schedule 2 10(b) urban development projects and therefore does not need to be screened under these regulations.

Other Issues

9.28 In terms of archaeology, whilst the site is within an area of archaeological interest, the development would be partly on previously disturbed land where it is considered that the likelihood of finding any buried historical assets to be low. Kent County Council Archaeological Officers have not responded to the consultation and in this respect no further action is considered necessary given that the application is recommended for refusal. In the event that members are minded to grant permission a watching brief could be imposed via condition to control this further.

Human Rights

9.29 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.

9.30 This application is reported to Committee at the request of Cllr Clive Goddard who believes this is good for the local economy and the Romney Marsh needs a facility like this.

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).

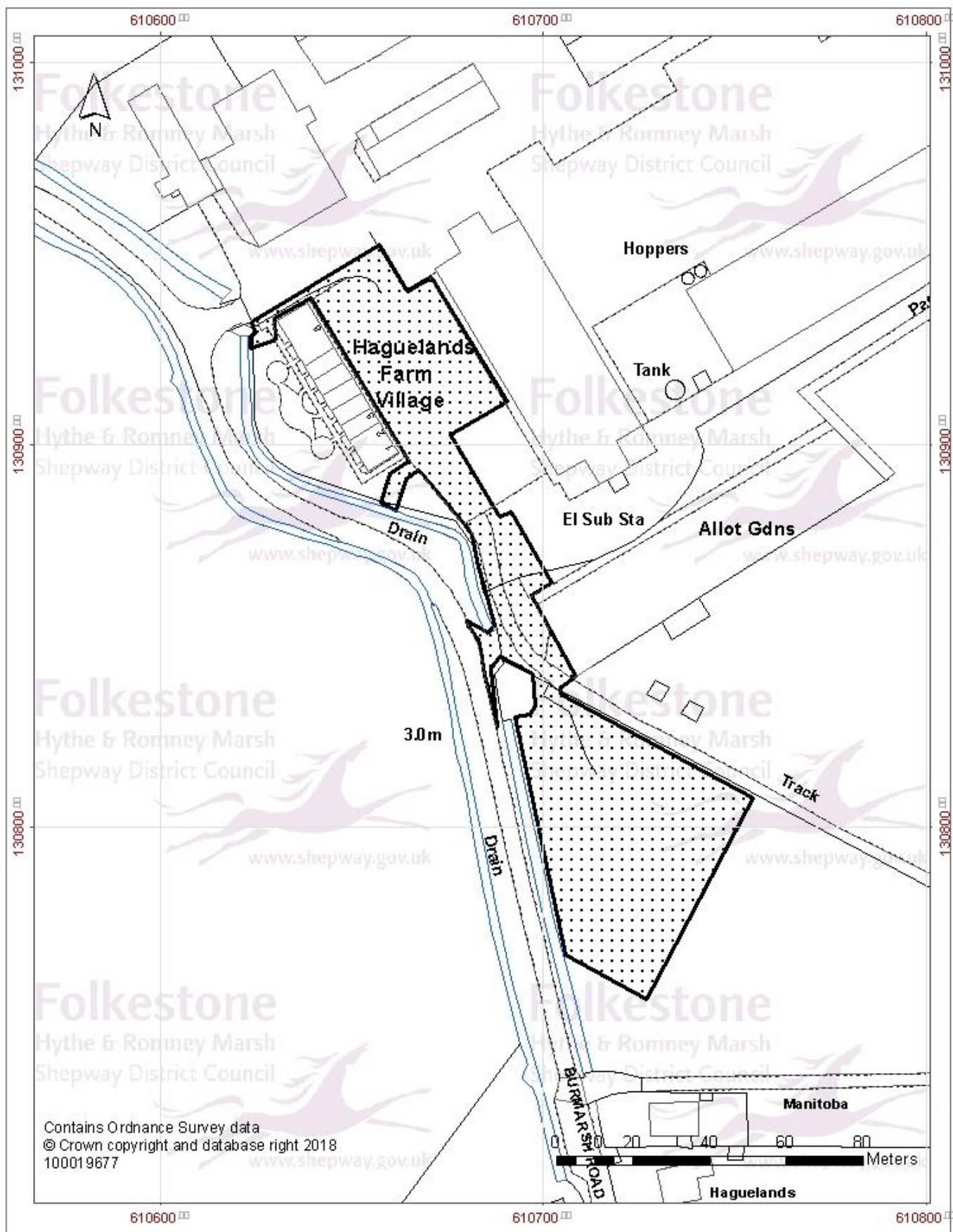
RECOMMENDATION – That planning permission be refused subject to the following reason(s):

1. It has not been demonstrated that this proposal for main town centres uses outside of a recognised centre in a remote rural location would be acceptable in terms of impact on established town and local centres. The

application fails to provide evidence showing that a sequential approach has been carried out or to demonstrate that the development requires a rural location outside of a town or local centre. As such the proposed development is considered contrary to saved Local Plan Review policy SD1, Core Strategy policies SS1 and SS4 and the NPPF: 2012 paragraph 24 which require town centre uses to be sequentially tested and to direct such retail and leisure developments to existing sustainable towns and service centres and failing that, rural centres and primary villages.

2. The site lies within the open countryside outside of any defined settlement boundary as set out in policy CO1 of the Shepway District Local Plan Review. It has not been demonstrated that such a rural location is essential and therefore proposes unacceptable built development within the countryside that is unsustainable, contrary to saved Local Plan Review policies SD1, CO1 and CO5, Core Strategy policy SS1, SS3 and CSD3 and the NPPF: 2012.
3. The site is located within a rural area and within the Romney Marsh Local Landscape area. The proposed development would, by virtue of the construction of the car park, its scale, bland appearance and the loss of the open field character, result in a harmful impact upon the wider landscape and rural setting. As such the development would be contrary to Saved Local Plan Review policies SD1, BE1, CO1 CO5 and LR3, policies SS1 and CSD3 of the Shepway Core Strategy Local Plan as well as the NPPF: 2012 which require developments to protect the particular quality and character of the countryside and the rural setting and the functioning of the Local Landscape Area.
4. In the absence of sufficient information, it has not been satisfactorily demonstrated that the proposed vehicular access would be able to achieve a safe and suitable vehicular access with the required visibility splays and vehicular turning facilities. The development also fails to propose sufficient off street disability and motorcycle parking in accordance with current adopted guidelines. As such the development is considered to be contrary to saved Local Plan Review policies SD1, TR11 and TR12 and the NPPF: 2012 that require development proposals to provide a safe and suitable access for vehicle traffic, cyclists and pedestrians and makes provision for off street parking on or near the site in accordance with current adopted parking standards.
5. In the absence of an adequate ecology survey together with a mitigation strategy (if required) and enhancement measures, it is considered that it has not been satisfactorily demonstrated that the proposal would not be constrained by ecology or result in a harmful impact upon protected species and their associated habitat. As such, the development is considered to be contrary to saved Local Plan Review policies SD1 and CO11, Core Strategy policy CSD4 and guidance contained within Government Circular 06/2005 and the NPPF: 2012 that require developments to minimise the impact upon the natural environment and safeguard protected species.

Y17/1317/SH
Haguelands Farm
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Burmarsh



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