

Application No: Y17/1099/SH

Location of Site: Former Rotunda Amusement Park, Marine Parade, Folkestone

Development: Section 73 application for the removal of condition 41 (Provision of Sea Sports Centre) and variation of conditions 4 (Reserved Matters), 6 (Phasing), 7 (Reserved Matters Details), 15 (Public Realm), 16 (Play Space/ Amenity Facilities), 18 (Public Toilets), 21 (Wind Flow Mitigation), 23 (Heritage Assets), 25 (Bus Stop), 37 (Wave Wall); and 42 (Provision of Beach Sports Centre) of planning permission Y12/0897/SH (Outline planning application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1000 dwellings (C3), up to 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as sea sports and beach sports facilities. Improvements to the beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking, accompanied by an Environmental Statement) to enable changes to the plot shapes, footprints, maximum height, changes to parameter plans, levels, parking arrangements, how the sea sports and beach sports facilities are provided, and alterations to the Environmental Statement.

Applicant: Folkestone Harbour Limited Partnership

Agent: Mr Edward George Savills
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Date Valid: 06.10.17

Expiry Date: 22.12.17

PEA Date:

Date of Committee: 3rd April 2018

Officer Contact: David Campbell

SUMMARY

This report considers whether the amendments to the parameter plans, design and landscape guidelines, changes to conditions and other alterations set out in the description of the Section 73 application should be approved.

The application site is a strategic allocation within the Core Strategy as stated in policy SS6 and is needed by the Council to meet its 5 year supply of housing as required by the NPPF and as such would positively contribute to meeting the housing needs of the District. The proposal would provide new open spaces, improved parking facilities and connectivity, over and above the previous approval

and includes highway mitigation for the increased traffic. The changes to the parameters including the alterations to the scale, form of the plots and heights have been considered and their impact on heritage assets such as the setting of the conservation area and listed buildings and the demolition of Harbour House, a non-designated heritage asset. The scheme has been assessed as having less than substantial harm as defined by paragraph 134 of the NPPF and as such the public benefits of the scheme such those mentioned above and the £3.5m contribution towards community projects such as the refurbishment of the Leas Lift, are considered to mitigate and outweigh the less than substantial harm caused.

This Section 73 application is considered an appropriate way of dealing with the changes, however much of the detail will be provided at reserved matters stage. Where officers have concerns with the current illustrative material this has been highlighted in the report, however as a set of parameters, it is considered that they provide a framework on which development on site could be carried out and deliver a high quality scheme on an important brownfield site in Folkestone.

No impacts have been identified at this stage that suggests that the scheme would have a significantly more harmful impact than the approved scheme based on the issues identified in this report such as flooding, drainage, ecology, contamination, neighbouring living conditions, highway, the England Coastal Path and through the completion of a legal agreement will provide sufficient mitigation to offset any other impacts of the development. An addendum to the Environmental Statement has been produced and external consultants have confirmed that this is acceptable for the purposes of the EIA 2017 regulations. It is therefore considered that the proposal complies with the polices of the NPPF and the development plan and therefore should be granted subject to the completion of a legal agreement and suitable conditions.

RECOMMENDATION: That the section 73 application should be granted subject to delegation being given to the Head of Planning for the detailed wording and finalisation of suitable conditions and a deed of variation to the section 106 agreement to deliver the requirements set out in the report.

1.0 THE PROPOSAL

1.1 This application is a Section 73 Planning Application to Planning Permission Y12/0897/SH which was granted planning permission in 2015. The existing permitted outline permission included for site enabling works / demolition on site and the delivery of the following development:

‘Outline Planning Application with all matters (access, scale, layout, appearance, landscaping) reserved for the redevelopment of the harbour and seafront to provide a comprehensive mixed use development comprising up to 1,000 dwellings (C3), up to 10,000m² of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses as well as seaports and beach sports facilities. Improvements to beaches, pedestrian and cycle routes and accessibility into, within and out of the seafront and harbour, together with associated parking.’

- 1.2 A copy of the original officers report and minutes of the meeting can be seen here - <http://www.shepway.gov.uk/moderngov/ieListDocuments.aspx?CIId=122&MIId=2678>

It should be noted that this report provides a description and consideration of the changes made, and the original report should be referred back to for all matters not under consideration as part of this section 73 application.

- 1.3 The previous approval also included the following in terms of infrastructure and Section 106 contributions (the triggers were all included in the legal agreement):

Infrastructure	Amount or Provision	Phasing
Sea sports centre (incl public toilets)	Provision	1
Beach Sports Centre	Provision	1
KCC developer contributions	Contribution of £3,253.27 per dwelling	TBC, at various trigger points – every 50 units for example
Cliff path provision and improvement	Minimum of £30k/direct provision	1 and 2
Natural England & Open Space	Contribution of £200 per unit	TBC
Play Space	Both -	Strategy TBC, delivery at each phase
Highway improvements – Tontine St	S106 contribution	TBC with KCC Highways
Highway improvements – J5	S106 contribution	TBC by KCC Highways
Bus infrastructure	On site provision	TBC
GP Premises & Nursery building (500m ²)	On site provision	Phase 6/plot PH01
Harbour Arm open space & restoration of lighthouse	On site provision	TBC – prior to final phase
Inner Harbour Bridge green link	On site provision	TBC – prior to final phase
Heritage asset retention	On site provision	TBC – prior to final phase
Flood defences	On site provision throughout development	TBC – phasing schedule to be agreed
Lifetime homes	On site provision	20% of each phase or in accordance with phasing plan to be agreed by LPA
Improvements to Marine Parade	On site provision	TBC, likely phase by phase approach
Affordable Housing	On site provision	In accordance with phasing schedule

- 1.4 This application is a Section 73 application (Minor Material Amendment) for the removal of conditions 41 (Provision of Sea Sports Centre) and 42 (Provision of Beach Sports Centre) as these facilities will no longer be provided.

- 1.5 The remaining conditions which are the subject of this application are to be varied to accommodate changes to the design and phasing of the development. Condition 4 is proposed to be varied to refer to amended parameter plans / Masterplan Design Guidelines and Landscape Guidelines, condition 6 varied to refer to amended phasing plan and Landscape Guidelines and condition 7 varied to refer to amended Landscape Guidelines. Conditions 15, 16 and 21 are to be varied to refer to the amended phasing plan and new plot names, condition 18 is to be varied to amend plot names in relation to amended parameter plans and condition 23 is to be varied to refer to the amended parameter plan and phasing plan. Conditions 25 and 37 are to be varied to refer to appropriate phase and conditions 41 and 42 are to be removed as the sea and beach sports facilities are no longer proposed to be delivered by the development.
- 1.6 As with the approved planning permission the application seeks approval for parameter plans, masterplan design guidelines and landscape guidelines, with the two guideline documents providing guidance on the proposed development design, setting out the structure and vision and how this should be translated in to design within future reserved matters. These provide guidance at the plot by plot basis, as well as for character areas within the proposed development.
- 1.7 The most significant proposed changes to the parameter plans are in relation to the plot shapes and heights, with the changes to the plot shapes and names set out in Parameter Plan 1a. The parameter plans establish how big each individual plot is in terms of horizontal and vertical deviation, with parameter plans 7a and 8a providing details of minimum and maximum development. As with the approved development, the building deviations are given as a range so the precise height of each individual building will not be known until reserved matters stage, when applications will be made in accordance with the parameter plans and guideline documents.
- 1.8 The main difference between the consented parameter plans and the proposed parameter plans is the shape and height of the plots, with the current scheme seeking to achieve sea views for as many properties as possible to the south of Marine Parade and to achieve greater connectivity from North to South when moving through the site by providing for a number of crescent shaped plots along Marine Parade (plots B-E), whilst plot A incorporates an alternative car park use to the plot previously identified for sea sports and plot F-1 and F-2 provide for a greater amount of public realm due to the removal of beach sport facilities. The applicant has confirmed the most western plot L has been removed from the application plans. Plot H, fronting on to the inner harbour proposes a taller building, with a smaller footprint.
- 1.9 The parameter plans also include details for setting out the development (plot key and setting out, parameter plan 3a, existing and proposed site levels and areas of public realm (parameter plans 5a and 6a) and access (parameter plan 4a) which is identical to that approved.

- 1.10 As per the existing permission the application still seeks to provide up to 1000 dwellings and up to 10,000 sqm of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses. The applicants have stated in their supporting statement that the proposed changes to the plot shapes also allow for a greater open space to be created at the base of the Leas Lift to the west of the site, and a retained opening opposite Marine Crescent. They also explain that the proposed plot shapes also allow for greater areas of open space between the plots, using shingle areas within the development area to integrate the landscape of the established public beach with the proposed development, allowing for greater north to south connectivity within car free/low use, beachscape public realm.
- 1.11 The application also proposes replacing the sea and beach sports with a contribution of £3.5m to additional community benefits directly linked to the scheme and to be mutually agreed. This community benefits fund has been agreed as an amendment to the section 106 Agreement. Examples of such community benefits include funding towards the restoration of the Leas Lift, further enhancements to the Lower Leas Coastal Park, increased or improved provision at the sea sports centre on the Stade and enhanced play and exercise equipment in public spaces to be funded from this contribution. Opportunity is also available to fund improvements to cycle, walking and parking provision within or adjoining the site, whilst the NHS South Kent Coastal CCG have requested an off-site contribution towards Primary Health to mitigate the impact of the development, rather than an on-site space.
- 1.12 The table below sets out the height changes proposed to the plots – it should be noted that within each plot (as before) there is height variation from north to south and east to west and this is explored in more detail within the description of each plot.

Consented Plot No.	Consent Height (m) ASD	Proposed Plot No.	Proposed height (m) ASD
LL01	16-20.5 & 25-29.5	A	25-29.5
MP01	16-20.5	B (West)	25-28.5
MP01	12-16.5	B (East)	16.5-25
MP02/ MP03	12-16.5	C-1 (East & West)	16-20.5
PH03	12-16.5	F	16-20.5
PH02	16-20.5	H	31-35.5

- 1.13 The consented outline scheme, approved parameter plan 2 Rev B (Buildings Retained / Demolished) showed the retention of the Harbour Master's House to the east of the site adjacent to the station and included the demolition of the former historic station itself. The current application proposes to include the demolition of the Harbour Master's House, however now seeks to retain the Harbour Station as a core component of the public realm of the development, connecting through to the harbour arm and swing bridge and viaduct to provide for a continuous north to south linear route providing for public realm, open space and commercial activity within designated and undesignated heritage assets.. Other buildings previously on site have been demolished following the outline planning consent have been removed from the amended parameter plan 2a.

1.14 The table below gives the maximum number of storey of each plot of the development as set out in the revised design guidelines and illustrative masterplan and how this compares to the approved scheme.

Previous Plot Number	Maximum mandatory storeys	Current Plot Number	Maximum mandatory storeys
LL01 & LL03	7 reducing to 5 & 2 reducing to 1	A	9 (including basement) and 2
MP01	6 reducing to 2 storeys	B	7 reducing to 3
MP02 & MP03	6 reducing to 2 storeys	C1	6 reducing to 3
DW02	2 storeys	C2	2 storeys
MP04	6 reducing to 2 storeys	D1	6 reducing to 3
DW03	2 storeys	D2	2 storeys
MP05	6 reducing to 2 storeys	E1	6 reducing to 3
DW04	2 storeys	E2	2 storeys
PH03, PH04 & PH09	6 reducing to 2 storeys	F1	6 reducing to 3
DW05	2 storeys	F2	2 storeys
PH01	12 storeys	G1	12 storeys
PH05	3 storeys	G2	4 storeys
PH02	6 storeys	H	8 storeys
PH06	3 storeys	I	4 storeys
PH07	Lift	J	Lift
PH08	2 storeys	K	2 storeys
LL02	2 storeys	L	Removed

1.15 The application is seeking approval for the following documents:

Parameter Plans

- Parameter Plan 1 – Rev: A Planning Application Boundary
- Parameter Plan 2 – Rev: A Buildings Retained/ Demolished
- Parameter Plan 3 – Rev: A Plot Key and Setting Out
- Parameter Plan 4 – Rev: A Site Access
- Parameter Plan 5 – Rev: A Public Realm
- Parameter Plan 6 – Rev: A Existing and Proposed Site Levels
- Parameter Plan 7 – Rev: A Minimum/ Maximum Development
- Parameter Plan 8 – Rev: A Ground Floor Horizontal Deviations

1.16 Parameter Plan 1 Rev A – Planning Application Boundary.

1.17 Parameter Plan 2 Rev A – Buildings Retained/Demolished. Parameter plan 2(b) identifies those structures to be retained and those to be demolished, as well as listed buildings within and adjoining the application site. Within the site the following buildings are stated as being retained: Harbour Master’s House, Signal Box, Customs House, Harbour Arm, partial retention of Platform

Canopies and Screens, Lighthouse, Swing Bridge and viaduct (Harbour as a whole).

- 1.18 Parameter Plan 3 – Rev A – Plot key and Setting Out. Provides a plot key, setting out the numbering and extent of each building plot and its exact position (eastings and northing) using GPS.
- 1.19 Parameter Plan 4 Rev A – Site Access. This plan outlines the vehicle and pedestrian access for the planning application site. The routes are differentiated as existing and proposed.
- 1.20 Parameter Plan 5 Rev A – Public Realm. This plan identifies all areas of public realm, both within the applicant's and other ownership.
- 1.21 Parameter Plan 6 Rev A – Existing and Proposed Site Levels. This plan identifies where levels in the site are to be altered, as recommended in the engineer's flood risk assessment.
- 1.22 Parameter Plan 7 Rev A – Minimum/Maximum Development Plot Level. This plan defines the maximum and minimum deviation of each plot above Ordnance Datum Level. Each building or group of buildings shall be as tall as the minimum vertical deviation and no taller than the maximum vertical deviation indicated on these plans.
- 1.23 Parameter Plan 8 – Rev A – Ground Floor Horizontal Deviation. This plan defines the permitted maximum and minimum horizontal deviation for each development plot. Facades must be located on or within the space between the minimum and maximum horizontal deviations.

Illustrative Plans

- 1.24 The following plans have been submitted and are illustrative:
 - Illustrative Plan A – Rev: A Names and Places
 - Illustrative Plan B – Rev: A Transport
 - Illustrative Plan C – Rev: A Use Classes
 - Illustrative Plan D – Rev: A Land Ownership
 - Illustrative Plan E – Rev: A Indicative Phasing Plan
- 1.25 Illustrative Plan A – Rev: A Names and Places – Provides possible future names for the development plots.
- 1.26 Illustrative Plan B – Rev: A Transport – Provides details on the existing access routes and the proposed bus routes.
- 1.27 Illustrative Plan C – Rev: A Use Classes – Provides an indication of the proposed use classes for each block.
- 1.28 Illustrative Plan D – Rev: A Land Ownership – Provides details of land ownership across the site.

- 1.29 Illustrative Plan E – Rev A – Indicative Phasing Plan – Following discussions with the applicant it is agreed that the phasing plan should form a document seeking approval.

Other Documents/ Supporting Information

- 1.30 The Environmental Statement Addendum and Transport Statement Addendum have also been submitted with the application.
- 1.31 Other documents include the Masterplan Design Guidelines Rev: A, Parameter Plans and Illustrative Scheme Comparison, Folkestone Seafront Landscape Guidelines Rev: 2, Folkestone Seafront FS3 Supplementary Information and Planning Statement

Masterplan Design Guidelines/ Landscape Design Guidelines

- 1.32 The development masterplan, produced by ACME provides a an indicative example of what the applicant currently considers the most viable and appropriate interpretation of the requirements of the Parameter Plans and Design and Public Realm documents following consultation with the public, local authorities and other statutory agencies. Approval is not sought for the masterplan, nor illustrative elements set out within the design guideline documents, with the mandatory elements clearly defined. Whilst illustrative, much of the level of detail set out within the Design Guidelines and Public Realm Design guide for approval identifies how the extent of public realm, streetscape and the dwelling typologies and locations are agreed within the outline application, and therefore the illustrative masterplan provides an accurate representation of how the development could appear in its completed form, should Reserved Matters applications follow this approach. The Illustrative masterplan proposes a total of 784 units, as set out below. This amount of development is considered to be the most viable and appropriate to the site in current market conditions, a similar quantum to that shown in the previous illustrative masterplan produced for the site.
- 1.33 The Landscape Design Guidelines have also been updated to reflect the alterations to the parameter plans. It includes details of the open space, connectivity and landscape principles. There are also indicative proposals for planting and materials that should inform Reserved Matters applications.

2.0 SITE DESIGNATIONS

- 2.1 The following apply to the site:

- Inside settlement boundary
- Folkestone Leas and Bayle Conservation Area
- Town Centre and Seafront Redevelopment Site
- Area of open space value or potential
- Area of archaeological potential
- Area at risk of fluvial/ tidal flooding

3.0 LOCATION AND DESCRIPTION OF SITE

- 3.1 The application site boundary, as set out in the parameter plans comprises the area known as Folkestone Seafront, the former Rotunda and Folkestone Harbour an area of 23 Hectares, located at the southernmost point of the town centre, largely below the West Cliff and Leas and to the east of the Coastal Park. The site extends on to the beach to the south and includes the inner and outer harbours and the harbour arm.
- 3.2 The Folkestone Leas and Bayle Conservation Area surrounds the site to the north, east and west, with small areas of the site – to the south of Marine Terrace and surrounding the northern edge of the Harbour and Stade located within the Conservation Area. The Conservation Area Appraisal recognises that the Conservation Area includes different character areas. Within close proximity to the site the Conservation Area includes The Leas and grade II listed 'zig zag' path and pulhamite caves. Fronting the site to the northern side of Marine Parade are the listed properties of Marine Crescent and 4-7, 8-9 and 10-15 Marine Parade, all 4 storey stuccoed properties with basements and attics dating from the 1870's. The Grade II* listed Leas Water Lift, brake and weighting rooms, providing vertical transport between the site and the Leas above are located to the north of the application site towards its western extent and date from 1885. Whilst not within the Conservation Area the Harbour forms a considerable part of its setting, forming a close relationship with the mediaeval 'old town' core of the Bayle and Old High Street.
- 3.3 Sitting below the Leas Cliff, the site is generally flat in appearance, with levels ranging from 5.7 metres above sea level (Above Ordnance Datum (Newlyn) -AOD) along the southern extent of the existing concrete apron to 6.5 metres AOD along Marine Parade and surrounding the harbour. There are also a number of 'spot levels' higher than the surrounding area, including in front of the Leas Lift (8.5m AOD) and adjacent to the former Harbour Pilot Station (7.6m AOD), whilst the beach drops away to the south.

4.0 RELEVANT PLANNING HISTORY

- 4.1 The full planning history of the site is given in the committee report of the original outline application Y12/0897/SH. Given this application is an amendment to the outline, the planning history is not repeated here.
- 4.2 Application Y18/0232/SH for the demolition of a single storey building adjacent to Harbour Master's House was deemed to required prior approval for demolition. This was because it was deemed to be not urgently necessary in the interests of safety or health.

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 Folkestone Town Council

Folkestone Town Council commented as follows and voting was carried out on individual issues as stated below. For reference the letters used below indicate the following: F – for the motion, Ag – against the motion and Ab – abstentions.

- 1) The Committee supported the original Folkestone Seafront scheme although with some worries which it thought would be resolved over time and wishes to see proposals provide an exciting replacement for the derelict ferry sheds, nightclub and fun-fair. (F:6, Ag:0, Ab:0).
- 2) The Committee are concerned with various technical matters, whilst deferring to the views of the experts involved. There are concerns with the impact on future sea levels and particular the low level parking and on road access. The Committee consider that the alterations to Tram Road as successful but not the alterations to Tontine Street. If the section 73 application leads to more bedrooms on the development, this may cause more traffic and parking issues. The Committee is also concerned about the provision of schools and surgery facilities for the new Harbour area. (F:6, Ag:0, Ab:0).
- 3) The Committee objects to the increase in the height of the blocks of flats as these seem to take the development too close to The Leas and The Bayle. There are concerns that the roofs of these flats will be ugly and contain unscreened equipment with the potential for throwing stones and rubbish from The Leas to the roofs.
- 4) The Committee likes the alteration from blocks to seafront crescents and the greater space around the Leas Lift and Marine Crescent area. It can appreciate that some of this is a trade off with greater height elsewhere, but is still opposed to the excessive height very near The Leas and next to the fountains. (F:6, Ag:0, Ab:0).
- 5) The Committee is disappointed about the 8% affordable housing and the lack of real social housing. The majority feels that the Harbour Arm is not pure planning gain to be offset. (F:5, Ag:1, Ab:0).
- 6) The Committee is very disappointed about the Section 73 proposals to demolish the 1850's Harbour Master's House but will defer to Historic England's judgement. (F:6, Ag:0, Ab:0).
- 7) The Committee considers that the proposals are significant enough to justify a general public meeting to answer any criticisms and clarify the difference between the two schemes. Consideration should be given for a separate video room for public use. (F:6, Ag:0, Ab:0).
- 8) The Committee is concerned about the impact of the building works and the plans to minimise disturbance to the public. (F:6, Ag:0, Ab:0).

5.3 The National Planning Casework Unit

Have no comments to make on the Environmental Statement.

5.4 Environment Agency (EA)

The EA raised concerns with the original submission on the grounds that the proposed basement car parking would be below the maximum predicted flood level for the site. The EA have subsequently withdrawn their objection on the basis of the new information provided in January 2018. They have noted section 4 of the Environmental Statement Addendum states that the previously submitted Flood Risk Assessment and Drainage Strategy has been amended to remove reference to the previously recommended self-activating flood-barriers. They have also commented that the revised statement recommends that the threshold to the parking area is retained at 6.5maODN unless subsequently agreed in writing. They explain that a lower threshold should be avoided and that they would only consider an alternative if it can be adequately demonstrated that this could not be achieved.

5.5 Southern Water

Comments provided for the 2012 application remain unchanged.

5.6 Historic England

Historic England has previously engaged in proposals to redevelop Folkestone Harbour and Seafront in response to planning application ref: Y12/0897/SH. The biggest change to the approved scheme is a move away from the formality of the previous layout, towards a more informal sinuous arrangement of blocks along the seafront. They note that this approach contrasts the more formal character of the Old Town in Folkestone which is characterised by a network of streets laid out in a grid pattern. However, they have no objections given the proposed character references the crescents of some historic seafront development such as Marine and Clifton Crescents.

Historic England think there are areas of the new scheme which would be more harmful to the significance of designated heritage assets including the grade II listed Marine Crescent, a terrace of c1870 designed to capitalise on sea views. While it is acknowledged those views were reduced by the approved scheme, they would not wish to see them reduced further by this proposal. They note that the latest scheme includes some development in the centre of block C1, whereas the previous scheme proposed a complete gap between blocks MP02 and MP03. While they note the additional development here will be no more than 4m, i.e. a single storey structure, this nevertheless has the potential to impede views out from the crescent to a greater extent than the permitted scheme and we maintain some concerns for this reason. (Since Historic England issued their comments, the applicants have confirmed that the 4m single storey sloped structure will now be no higher than 2.5m.

They therefore think the Council must satisfy itself that any additional harm here is justified as per the terms of the NPPF, Paragraph 132. They also note that the gap between taller blocks on either side could be marginally narrower than was consented and suggest the Council check whether this is the case. If it is so, then we think the applicant must demonstrate why a wider gap between flanking blocks cannot be retained in this instance.

They also draw the Council's attention to changes close to the grade II* listed Leas Lift. This building, which transported visitors and locals between the

seafront and the Lees, derives some significance from the way it was designed to take advantage of sea views which became in essence a pleasure activity associated with its primary functional role as a lift. Diminishing an experience of the sea in views out from the lift thus causes some harm to the significance it derives from its sea facing location.

They note this scheme proposes higher blocks flanking the lift (up to 8-9 storeys), whereas the previous scheme proposed lower blocks to the lifts immediate south. Nevertheless, they acknowledge that the greater separation between the high blocks will allow for wider views of the lift and out from it. They think this is something that we can be content with provided that the higher blocks do not rise above the top of the cliff. They suggest the Council must satisfy itself that this is the case and that any lift overrun for the higher blocks will also not be visible above the cliff top.

At the site's eastern end the major change proposed is around the railway station. They are very pleased that the station itself will be retained, refurbished and made assessable to the public and will be located between blocks F1 and G1. They think the retention of undesignated heritage assets is a welcome move which assists in delivering a development which reinforces and reveals aspect of local distinctiveness as advocated by Paragraph 131 of the NPPF.

However, that is not to say that there is no harm to non-designated heritage here and they acknowledge that the proposed demolition of the Harbourmasters House would be regrettable. Nevertheless, they understand the reasons behind this decision, in that it could open views of the basin edge from the station and they are willing to be persuaded that its loss might be outweighed by retaining the station if the latter was demonstrably made part of a positive heritage strategy which seeks to sustain, enhance and celebrate retained structures from the historic station. We advise that the loss of the Harbourmasters House should be treated in the manner of Paragraph 135 of the NPPF.

Historic England has concerns regarding the application on heritage grounds and recommends that the Council considers whether harm arising from this proposal, which may be more harmful than the consented scheme, is minimised as per the terms of the NPPF Paragraph 129 and justified in line with the requirements of Paragraph 132. It will then be for the Council to weigh any remaining harm to designated heritage assets against the public (including heritage) benefits of this proposal in the manner of Paragraph 134 of the NPPF.

5.7 Stagecoach

The changes to Tontine Street to facilitate two way working for buses mean that the eastern end of the Harbour Area now served in both directions with four buses per hour between the town centre and the Old High Street and six buses per hour in the other direction. This level of service adequately satisfies the current level of demand from the Harbour Area.

If the scheme is built out, there may be a case for providing additional journeys, which would terminate in a loop working via Marine Parade, Marine Terrace and Harbour Street and utilise the existing bus stop currently unserved in Marine Parade. This would require additional funding until it becomes commercially viable. They do not expect to divert existing journeys as this would disadvantage existing users for little gain. The bus stop in Marine Parade would need to be upgraded to meet current accessibility standards.

A bus service linking the western end of the proposed development and the town centre would be circuitous and unlikely to attract sufficient patronage, even with the development fully built out to be commercially sustainable. The town centre would be more easily accessible by utilising the Leas Lift and therefore they support the views expressed by KCC in this respect.

5.8 South Kent Coastal CCG (Healthcare Provision)

South Kent Coastal CCG have confirmed that they would be keen to progress with an off-site contribution rather than the proposed 350 sqm facility as part of the development.

CCG are looking to develop a Folkestone solution which would see fewer, larger premises in the town as opposed to numerous small surgeries which are unsustainable. A facility of 350 sqm would not even allow us to relocate an existing surgery. The development will obviously have an impact on the local delivery of primary care, however we would no longer support a small facility as the solution. These are calculated using the following formula:

Predicted Occupancy rates

1 bed unit	@	1.4 persons
2 bed unit	@	2 persons
3 bed unit	@	2.8 persons
4 bed unit	@	3.5 persons
5 bed unit	@	4.8 persons

For this particular application the example below gives a likely maximum contribution: 1000 dwellings (occupancy unknown) would mean $1000 \times 2.8 \times \text{£}360 = \text{£}1,008,000$.

NHS Kent and Medway therefore propose to seek a contribution of up to £1,008,000 plus support for our legal costs in connection with securing this contribution. This figure has been calculated as the cost per person needed to enhance healthcare needs within the NHS services.

5.9 Natural England

Natural England requested additional information with regards to the impact on the England Coastal Path and were not in a position to support the application. However, Natural England have now reviewed the additional documentation. They have advised the Council that the amended plans allow

for the England Coast Path (ECP) to be aligned predominantly along the boardwalk that runs on the seaward side of the development on the shingle beach. They advise that, subject to the ability to vary the ECP so that it substantively aligns with the boardwalk as detailed in the Planning Statement Addendum, Natural England is satisfied with the proposals, and has no further comment to make.

5.10 KCC Highways and Transportation

KCC have made the following comments:

- 1) Vehicle tracking for an 11.4m long refuse vehicles should be submitted to show that it can enter the service route and then exit back onto Marine Parade.
- 2) The accessibility of the site to the town centre is worse than when the Leas Lift was in operation as pedestrians now need to use the non DDA compliant steps from Marine Crescent/ Lower Leas Coastal Park or the Road of Remembrance. This acts as a barrier for future residences and visitors accessing the site. Folkestone Central Railway Station is now outside a 15 minute walk to the site. Funding for the Leas Lift should be provided for five years. The previous application proposed off site footpaths improvements to improve connectivity to areas to the west and north of the site. These paths are not DDA compliant to a 1 in 20 gradient and as such the contribution to the Leas Lift is required.
- 3) Buses should be re-routed to serve the site via Folkestone Promenade, Marine Parade and then Marine Terrace.
- 4) KCC wish to see the junction 5 improvement constructed by the applicant and the Local Highway Authority do not have the resources. This should be constructed prior to the occupation of 100 dwellings on the site as set out in the correspondence for the 2012 application.
- 5) All other Section 106 requirements remain the same as previously agreed in the 2012 application.

5.11 KCC Archaeology

No objection subject to watching brief condition.

5.12 KCC Contributions

All contributions agreed in the 2012 application should be carried forward to this application. The sums of money however should be linked back to the original indexation agreed in the previous Section 106 agreement.

5.13 KCC Ecology

No comments as the application does not change anything that relates to ecology from the approved scheme.

5.14 KCC Public Rights of Way (PROW)

PROW would like to highlight the England Coast Path which passes directly through the site which a new National Trail is a walking route being developed by Natural England. The path is not recorded on the PROW Definitive Map but the trail gives the public a right of access around the English coastline. The

section in Folkestone was officially opened in July 2016 and is now managed by the KCC PROW Access Service in partnership with Natural England.

With reference to the movement diagram, pedestrian movement would have a significant impact on the coast path as the new dwellings would obstruct sections of it. To address this, the applicant has proposed a new route for the England Coastal Path, which passes along the beach boardwalk and connects with the Harbour Approach Road. This is welcome but the applicants would need to engage with Natural England. KCC would want to be included in these discussions.

5.15 KCC Sustainable Drainage

No comments to make as the section 73 application does not propose to vary the surface water drainage conditions. They would be happy to comment further when details for these conditions are submitted for approval.

5.16 Arboricultural Manager

No objection subject however the final landscaping details will need to be formally submitted and approved at a later date following the submission of final layout plans when the specific species, size and maintenance can be discussed formally. Play provision will be dealt with in the Section 106 agreement so the proposals within the landscape document are appropriate for the areas detailed.

5.17 Conservation Consultant

(Please note the Conservation Consultant's comments are currently in draft form while officers address some factual inaccuracies. Councillors will be updated on the supplementary sheets with any changes that arise).

The current application now shows a level of detail that demonstrates the extent of the proposals in an architectural form rather than as a series of diagrammatic parameter heights and plans and, in addition, the combination of Accurate Visual Representations and architectural visualisations demonstrates, for the first time, the possible appearance of the scheme and its impact on the setting of Folkestone, the Harbour and the existing Heritage assets along the Marine Parade, these, in particular, including:

- The Leas Lift and Lower Lift Station
- Marine Crescent
- Terraces at no's 5-15 Marine Parade

These all within the Conservation Area and Grade II Listed

As well as the buildings clustered around the southern end of the Swing Bridge and the Marine Station

- The Customs House
- Signal Box
- Harbour House
- Marine Station

These outside the Conservation Area and unlisted but to be considered as Heritage Assets.

In addition, the AVR's demonstrate the impact of the development from viewpoints up on The Leas and from The Bayle in the Old Town Conservation Area.

I have also tried to classify these impacts to the Heritage Assets by the means included in the NPPF (as Substantial or Less than Substantial) and at the most general level, the development could be considered to have a Substantial Impact on the character of the lower town (Marine Parade) element of the Conservation Area and on the harbour itself (which is not Conservation Area). The impact on views of the town from the south (from the Harbour Arm and from the sea) will also be Substantial, but perhaps the views from the Leas and from the old town, at The Bayle could be considered to be Less than Substantial (although the view from The Bayle, in particular is very significant).

The increased level of visuals helps with the appreciation of the scheme in general and certainly some of the broader changes from the approved outline scheme could be considered as distinct improvements, these including:

- The change in the general principle of the development from a more urbanised scheme to a series of curved promontory blocks separated by shingle gardens.
- The change from a share surface roadway along the beach to a fully pedestrianised Boardwalk
- The increase in the gap between blocks A and B, Leas Lift Square (but see my reservations about this below)
- The change to a symmetrical plan – Block B
- The reduction in the gap between blocks E1 and F1 and the street here becoming a beach garden
- Reduction in plan area – Block H
- Increase in size of Station Square and its connectivity to the Harbour
- The new circulation route between Blocks F1 and G1 – connecting to the Harbour Arm
- The retention of the Marine Station and its conversion to a principal pedestrian circulation route

However, the AVR's, in particular, identify a number of significant concerns. Some of these were previously identified in November 2017 but the expanded presentation throws these into sharper focus.

These include:

- The gap between blocks A and B – wider than before but still not wide at Leas Lift Square and the non-alignment with the axis of the Leas Lift itself (Substantial)
- The size, height and prominence of Block A in wider views of the town and especially as experienced as one progresses along the Lower Sandgate Road/ Marine Parade and the seafront walks, in either direction, and also the way in which it rises up in front of the wooded Leas Slopes to almost merge with the buildings atop it in the Leas (Less than Substantial)
- The increased height of the end pavilions of Block B and their impact, particularly the eastern pavilion on Marine Crescent (Substantial)

- The increase in height along the Marine Parade frontage of Block C1 and the increase in height of its end pavilions, out of scale with Marine Crescent opposite.(Substantial)
- The manner in which Block C1 separates Marine Crescent from its sea views with the proposed gap at the centre raised up to first floor level insufficient to maintain a meaningful connection with the sea here (Less than Substantial)
- The height of Block H and its possible dominating impact on the scale of the inner harbour and in wider views of the town (Less than Substantial)
- The impact of the heights of Blocks F1 and G1, in particular intruding into the views out to sea from The Bayle (Less than Substantial)
- The demolition of Harbour House (Substantial)
- A general scepticism over the density and proposed character of the Beach houses (blocks C2 – F2)

5.18 Environmental Health

Agree with the Contamination consultants and have no other comments to make.

5.19 Merebrook (Contamination Consultants)

The submissions do not appear to impact the land contamination aspects of the scheme and there are no proposed changes to the contamination conditions. Land Contamination has been scoped out of the recent EIA submission and therefore they have no comments to make.

6.0 REPRESENTATIONS

6.1 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:

6.2 237 letters/emails received objecting on the following grounds:

Principle

- No objection to the development of the site.
- Objections remain despite the submission of additional information.
- Concerns about the stability of land to support the development.
- The amendments are too significant to be considered under a Section 73 application and fundamentally changed the plan.
- The current LPA team should be ashamed of what their predecessors allowed.
- Some of the visual representations are incorrect, incomplete and poorly scanned.
- Contrary to the Core Strategy, Local Plan, the Spatial Strategy for Folkestone Seafront and the Kent Design Guide.
- Ignores Folkestone's history.

Proposed uses/ amount of development

- Removal of leisure facilities such as sea and beach sports centres.
- Acknowledgment that there is significant public realm investment, but this is not a substitute for lack of leisure facilities. These are needed to attract people to Folkestone.
- How can the leisure facilities be deemed unsustainable if the Roger de Hann Charitable trust is already running a successful one?
- Would destroy any traditional seaside trade and price many people out of the area's proposed facilities.
- No provision of a museum.
- Overdevelopment of the site
- 25% increase in number of bedrooms will have an impact on local facilities such as GP's, schools, water, parking and on local roads.
- Use classes have changed significantly.
- It is not clear what the use of plot LL will be.
- The developer does not have to construct all the homes, the precise number is unknown
- Pile driving could make crumbling cliffs worse. The nature of the sub soil is not ideal.
- Will fisherman and recreational users lose their moorings?
- The development will be used as second homes.
- Leisure and other tourism activity beyond walking eating and drinking should be provided to ensure the seafront contributes positively to Folkestone's economy.
- The three car parks could easily be used for large structures and would not spoil views from neighbouring properties.
- There are already too many vacant shop units in Folkestone.
- There are already enough cafes.
- The uses which have been lost are not replaced by the Creative Quarter which only appeals to a minority of people.
- Nightlife is virtually non-existent in the town
- The opportunity to provide all year round family entertainment has been ignored.
- The town was previously promised a cinema and bowling alley.
- The application lacks adult's fitness equipment and children's play space.
- Should have a military museum on the scheme.
- Getting rid of the amusements killed Folkestone, something needs to be built for young people.

Design, mass, height and bulk of the proposed buildings

- The proposed buildings have been significantly altered, including the removal of some and the addition of others.
- The buildings are out of scale and not in keeping with their surroundings.
- The plots have changed significantly in shape and height.
- Poor design.
- Site heights have been altered.
- The reduction in height of plot B is not significant.
- Would have a detrimental visual impact and appear as a concrete jungle.

- Comparisons with the Burstin are unhelpful as many believe this should not have been built.
- The maximum heights should include the lift overruns and anything else on the roof.
- Only a few metres from the top of the Leas.
- The designs are only indicative at this stage.
- Any cantilevers on Plot I would not be feasible because of the rocks and may need piling into the seabed.
- The Burstin should not be used as a precedent or justification for the heights of the buildings as this is already intrusive.
- The improved beach gardens and crescents do not compensate for harmful design.
- There is insufficient detail with the application.
- Would harm views of and compete with the iconic white cliffs. Would also spoil view to sea and France.
- The current scheme is worse than the previous one and will ruin Folkestone, the coastline and the openness of the harbour.
- Folkestone's image as a fishing harbour will be lost.
- Wasted opportunity for a high quality development, particularly as the harbour is a great asset for the town.
- The development appears like a self-sufficient village.
- Architecture in the area will be ruined.
- The single gardens are a cheap cop-out.
- There is a strong local vernacular along Marine Parade, Marine Crescent, The Leas, The Bayle and The Stade.
- Comparisons to large cities have no bearing on Folkestone.
- The beach houses have no defensible space and open spaces appear to be left-over land.
- Has regard for disabled facilities been had for future residents?
- Most people dislike the design.
- No consideration has been given to the town's architecture or integration with the beach.
- Looks like Benidorm.
- The previous scheme by Fosters was rejected for being too tall.
- Why not take inspiration from the newer flats in Hythe and Imperial Hotel?
- Public gardens have been removed from the application.
- Views of the roofscape will be harmful.
- Should be a substantial planting scheme.
- Properties in The Bayle have lost gardens due to landslips.

Harm to residential living conditions

- Loss of a view.
- Loss of light.
- Overshadowing of neighbouring properties.
- Could cause damage to homes at the top of the cliff.
- The Council has the power to overrule public opinion. This is undemocratic.
- Increase in anti-social behaviour and vandalism.
- 20 years to build the scheme will make living in the area miserable.

Heritage issues

- The Harbour Master's House should be retained as a heritage asset.
- Will have a negative impact on the listed Marine Parade and Marine Crescent listed buildings.
- There will be worse views from the Grade II* listed Leas Lift.
- The Conservation Area Appraisal identifies the view from The Leas as a key view which will be harmed.
- The Burstin is visible from the Bayle Conservation Area and this mistake should not be repeated.
- Retention of harbour station is positive but does not justify the demolition of Harbour Master's House. This is an important part of the history of the site.
- The Council should require the west end to be re-designed to ensure heritage assets are protected. Building surrounding the inner harbour are particularly damaging.
- Archaeology and monuments should be preserved.

Highways/ PROW

- Deviation from the England Coastal Path.
- Lack of parking.
- Insufficient visitor parking.
- Concerns of underground parking for residents.
- The proposed undercroft parking appears to ignore the advice of the EA and could be a risk to life.
- Insufficient information on how much parking there will be.
- The boardwalk is not a suitable replacement for the England Coastal Path as it keeps needed repair work, is often covered in shingle and may need to be closed during bad weather. It could also represent a hazard for disabled people particularly those in wheelchairs and sections are not suitable for cyclists.
- The viaduct does not make for a suitable replacement for the pavement if it is intended to be built on.
- KCC Highways and Stagecoach consider that the Leas Lift should be brought back into use.
- KCC Highways have commented on the lack of pedestrian access.
- Harmful impact on traffic flows.
- Increased pollution.
- Harm to public safety, cyclists and pedestrians.
- Existing residents may need parking permits in the future.
- Increase risk of traffic accidents.
- Insufficient public car parking.
- What about cycle parking and mobility parking.
- Provision for refuse collection, lorries and buses should be considered.

Affordable housing and contributions

- The suggestion that the application could fund the Leas Lift is surprising as it was understood that the applicant was going to do this anyway.
- It is acknowledged that the Roger De Haan Charitable Trust has paid for surveys on the Leas Lift to be done, they are not the applicants.
- 30% affordable housing target will not be achieved.

- The affordable housing provision only offers a subsidy of around 20% of the price. The units will not be affordable to first time buyers or families.
- There is no social housing on the development.
- People are being forced to live in Dover or Ashford as they are unable to afford Folkestone.
- The developers should keep to the same legal agreement where issues have not changed.
- The scheme has already received £5 million public money to prepare the site so public interest should be paramount.
- This will not help with the housing shortfall as there is no affordable and many will be holiday lets.
- A new school at Shorncliffe will be no use to future residents of the scheme.
- We have a housing waiting list which will not be addressed.
- A new application would trigger CIL payments and bring much funding.

Consultation

- Lack of public consultation/ presentation.
- Should be more dialogue with the community.
- The applicants have not responded to requests from member of the public.
- The proposal neglects the opinions of local people including those who currently enjoy the space and spoil the good work the coastal park and harbour arm have done.

Other issues

- Previous police concerns of increased crime.
- Regard should be had for the Folkestone Harbour Revision Order.
- The process has been flawed.
- Is the land stable enough to accommodate the development?
- Would lead to loss of tourism.
- No public toilets in the scheme.
- Similar mistakes have been allowed elsewhere around the world.
- The town centre should be redeveloped to deal with the increase in people.
- Will not help job creation.
- Increase in flooding and problems during high tide.
- Will lead to empty flats as too many units flood the market.
- The scheme is aimed at Londoners.
- Does the Council hate the town? Is the Council a puppet of the developer?
- Impact on the port has not been fully considered.
- The Marine Management Organisation should be involved.
- Storms have previously caused damage in the area.
- Only benefits profits for the developer and not the town.
- The development will have a negative impact on property prices.
- Harm to sea defences.
- The website has gone down during the consultation process.
- Expressions of support for much of the work the applicant has done in the town.
- Will lead to gentrification of the area.

6.3 6 letters of support can be summarised as follows:

- Injecting much needed revenue into the town.
- More homes are needed
- With new amenities including sea sports hopefully more people will be attracted into the town and much needed trade.
- More jobs for the economy.

6.4 The Bayle Residents' Association

- Strongly object to the application and comment that the additional information has not addressed concerns.
- Do not accept that these are minor material amendments.
- The illustrative material exacerbate fears regarding the design, even if this will be determined later.
- Concerns raised over the building heights, claustrophobic and overpowering effect and reduced beachfront. Especially along Marine Parade.
- Only building heights from one part of The Bayle are shown.
- The high buildings will be visible from every direction detrimentally affecting views all around.
- Strong objections to the increase in the height of Plot H and strongly disagree that this balance the dominance of The Burstin.
- The Burstin is not a suitable reference point as it is out of scale with its surroundings. The application will make this worse.
- They do not accept that the two plots at the western end need widening or that it would sufficiently improve public space as this also involves the increase in height.
- The development is over-dense and would lead to loss of light and over-shadowing.
- Loss of openness. The previous buildings on site were much lower.
- The retention of the station and other public benefits do not outweigh the loss of the Harbour Master's house. Although it is not listed it should be retained even at the expense of open space and should not be a payoff for all the positive refurbishment that has already taken place.
- Noise and disturbance during construction works.
- Insufficient car parking

6.5 Go Folkestone

- Strongly supports the development of the seafront and feels the owner has the town's best interests at heart.
- The site a redundant buildings are useless in their current state.
- Could be good for Folkestone's economy, tourism and image.
- Members worry that the proposed shops will have an impact on the town centre.
- Geology and water issues could make this an expensive build and therefore has to be fairly dense.
- Outline permission has already been given.
- The changes are extensive enough to warrant public comment.
- Historic England only reluctantly accepts the loss of the Harbour Master's House which will be missed but difficult to keep. Some members believed it would make a good pub or restaurant.

- The heights of the blocks have been re-jigged and were originally much lower nearer the cliff and Marine Crescent. They will be 10m away from the cliff but 3m below. Two stories appear to have been added.
- Go Folkestone backs Historic England's concern with the heights of the building particularly Plot A near the Leas Lift.
- The sea sports centre was trialled but was not a success. An urban sports centre is already being built.
- Supports Historic England and any amendment backs provides a better relationship between the frontage and the elevations of Marine Crescent.
- A multi-storey car park may be a better solution to accommodate all the parking.
- Appears to be better than the approved scheme from the 2000's.
- No one has the right to a view and blocks of flats are inevitably going to block some views.
- The Leas is a tourist and residential showpiece so should be as well designed as possible.
- Here should be some studies which look at the impact from the developments on the Leas.
- Should be studies on the noise impact now the roofs are closer to The Leas.
- The roofscape is important and perhaps green roofs, screening artwork and reduced building heights should be considered. Air conditioning units should be hidden.
- Trees on the slopes above Lower Sandgate Road should not be felled, put-thinned out and coppiced.
- Go Folkestone support the scheme overall as an answer to the decay of several parts of Lower Sandgate Road, Marine Terrace and the Harbour district and to bolster the future of Folkestone in general.
- The ferry and the railway are history.

6.6 No.1 The Leas Residents Association

- Has concerns regarding the area around the Leas Lift
- They note the welcome modification to the layout of the buildings opposite the Leas Lift providing direct views of the sea when exiting the lift.
- Concerned with the increase in height on Plot A and the western end of Plot B.
- There is no visual smooth between the buildings and the Coastal Park.
- The buildings are out of scale adjacent to the site boundaries.
- The submitted documents do not appear to have considered the view from the Leas Lift.
- Visual amenity from the top of the development at roof level should be protected by conditions and any equipment restricted.
- Visual impact from the Memorial Arch should be protected.
- There have been many planning errors in the past, this should not be another
- There should be more public amenities such as the sports centres rather than increase profits for the developer.
- Will lead to a 'wind city' with so many high buildings.

6.7 The New Folkestone Society

- The New Folkestone Society has long been anxious to see the benefit of the site which has long been empty and gives the area a forlorn appearance.

- Regret that they are opposed to the development.
- The proposed height and design would be completely unacceptable and would block many historic views.
- Does not compliment the Victorian character of the town.
- There must be a better way of developing the site.

7.0 RELEVANT POLICY GUIDANCE

7.1 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>

7.2 The following policies of the Shepway District Local Plan Review apply: SD1, HO1, HO2, HO4, LR9, LR10, BE1, BE4, BE5, BE11, BE16, BE17, U4, U9, SC1, S2, TR2, TR5, TR6, TR11, TR12, TR13, TR14, CO11, FTC4, FTC5, FTC6, FTC7, FTC8, FTC9, FTC10, FTC11.

7.3 The following policies of the Shepway Local Plan Core Strategy apply: SS4, SS5, SS6, CSD1, CSD2, CSD4, CSD5, CSD6

7.4 The following Supplementary Planning Documents apply:

- National Planning Policy Framework
- Kent Design Guide & associated appendices
- Building for Life 12
- Affordable Housing SPD

7.5 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that the determination of any planning application shall be in accordance with the development plan, unless material considerations indicate otherwise.

7.6 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied, replacing a large number of Planning Policy Statements and Planning Policy Guidance, amassed over the last 20 years. As set out in Section 38(6) (above) Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, and the NPPF forms a material consideration in plan formulation and decision taking.

7.7 Central to the NPPF (paragraphs 14 and 17) is a presumption in favour of sustainable development, for decision taking this means:

Approving development that accords with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within this framework taken as a whole, or
- Specific policies in this Framework indicate development should be restricted.

7.8 Much of the NPPF is relevant to the current application, with further discussion of the application's detailed compliance within the relevant section of the report. Key sections of NPPF relevant to this application are its focus on –

- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Promoting sustainable forms of transport
- Delivering a wide choice of quality homes,
- Promoting healthy communities,
- Meeting the needs of climate change , flooding and coastal change,
- Conserving and enhancing the historic environment, and
- Ensuring viability and delivery

7.9 Paragraphs 186 and 187 make it clear that Local Planning Authorities should approach decision taking in a positive way to foster the delivery of sustainable development. The relationship between decision making and plan making should be seamless, translating plans into high quality development on the ground. The NPPF stipulates that local planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible. Local Planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental considerations of the area.

7.10 In terms of heritage issues, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that within Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that [conservation] area. Considerable importance and weight should be attached to this duty. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on the District Planning Authority as regards listed buildings in exercise of its planning functions. It provides that, in considering whether to grant planning permission for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraphs 128-137 of the NPPF seek to protect heritage assets. In summary:-

7.11 Paragraph 129 provides that local planning authorities should identify and assess the particular significance of any heritage assets that may be affected by a proposal (including development which affects its setting) taking account of the available evidence and any necessary expertise. Paragraph 132

advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be;

7.12 Paragraph 133 advises that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that such harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss or other criteria applied, which are not applicable in this case; and

7.13 Paragraph 134 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

7.14 As such, the NPPF acknowledges that harm to designated heritage assets may be acceptable if outweighed by public benefits. Less than substantial harm does not translate to less than substantial objection. Preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged. The NPPF defines 'significance' in the context of heritage assets as 'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.'

8.0 APPRAISAL

8.1 The relevant material planning considerations are considered to be the following:

- Suitability of a Section 73 application
- Site Specific Policy
- Removal of sea sports and beach sports facilities
- Changes to parameter plans
- Indicative design/ landscaping details
- Living conditions
- Highway safety/ public rights of way
- Flooding
- Ecology
- Affordable housing/ Contributions
- Environmental Impact Assessment Regulations 2017
- Other issues
- Conclusion
- Local finance considerations

Suitability of a Section 73 application

- 8.2 This application has been made under section 73 of the Town and Country Planning Act 1990, and is known as a Material Minor Amendment which can be made to vary or remove conditions associated with a planning permission. Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made.
- 8.3 Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A section 73 application is considered to be a new application for planning permission under the 2011 Environmental Impact Assessment Regulations and is subject to the same full consultation as an application made under section 70 of the Town and Country Planning Act 1990 (as amended).
- 8.4 There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. In this instance the application is seeking to remove conditions 41 and 42 (provision of sea and beach sports facilities) and vary conditions 4, 6, 7, 15, 16, 18, 21, 23, 25 and 27 of that approved for application Y12/0897/SH, which granted permission for up to 1,000 dwellings and 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses. The current application seeks the same number of dwellings and the same uses as per the approved application.
- 8.5 As such, the overarching nature of the application is not considered to have significantly changed, what is under consideration are the changes made to the proposal via the variation and removal of conditions, in particularly changes to the Parameter plans and Design Guidelines and the suitability of these changes when considered against development plan policy and the removal of sea and beach sports facilities.
- 8.6 The objections from members of the public in this respect are noted, however it is the professional view of officers that this can be assessed as a material minor amendment under Section 73 of the Act. However any proposal submitted under Section 73 of the Town and Country Planning Act is seeking a new planning permission, is subject to full consultation and that the requirements of planning policy and the Environmental Impact Regulations fully apply in considering the suitability of the application.

Site Specific Policy

- 8.7 The adopted Core Strategy 2013 includes policy SS6 which is the Spatial Strategy for Folkestone Seafront. It states: Folkestone Seafront is allocated for mixed-use development, providing up to 1,000 homes, in the region of 10,000 sqm of floorspace comprising small shops and retail services (A use classes), offices (class B1) and other community and leisure (C1, D1, D2 and sui generis) uses; together with beach sports and sea sport facilities and with

associated and improved on- and off- site community and physical infrastructure. Planning permission will only be granted where:

a. Proposals clearly support the delivery of planned incremental redevelopment for a distinctive, unique and high-quality seafront environment, with a mix of uses providing vitality for the whole site and Folkestone.

b. The proposals directly contribute to the regeneration of Folkestone by reconnecting the town centre to the Seafront, and enhancing the attractiveness of Folkestone and its appeal as a cultural and visitor destination, complementary to the Creative Quarter and existing traditional maritime activities.

c. Development is appropriately phased to ensure benefits can be fully realised, with infrastructure improvements delivered at appropriate stages to ensure on-and off-site facilities are available to create a sense of place and community and to manage environmental improvements in relation to infrastructure capacity.

d. Sufficient contributions are made to highways, public transport and parking arrangements so as to provide sustainable connectivity between the Seafront development, the town centre and central and eastern Folkestone, including improved pedestrian, cycle and bus links and according with SS5.

e. Appropriate financial contributions are provided to meet additional school pupil places generated by the development.

f. Design is of very high quality, preserving the setting of the key heritage assets and archaeological features of the site, sympathetic to the landscape and coastal character of the area including the retention of the Inner Harbour Bridge.

g. The layout is planned to achieve sufficient ground floor active/commercial uses in and around the Harbour and at the Pier Head Quarter to ensure a sense of vitality can be maintained, fully utilising the setting, and also featuring a central avenue and a range of open and enjoyable coastal environments.

h. Development delivers 300 affordable housing dwellings for central Folkestone, subject to viability (or if the total residential quantum is less than 1,000 units, a 30% contribution).

i. Residential buildings achieve a minimum water efficiency of 90litres/person/day, plus Code for Sustainable Homes level 3 or higher. All development must be designed and constructed to achieve high standards of environmental performance, and buildings should be designed to allow convenient waste recycling.

j. All development is located within the site in accordance with national policy on the degree of flood risk and compatibility of specific use and, where necessary, includes design measures to mitigate flood risk.

k. Development proposals include an appropriate recreational access strategy to ensure additional impacts to Natura 2000 site(s) are acceptably mitigated against, in accordance with policy CSD4.

Any detailed planning application submitted in relation to any of the site will only be granted if it is supported by and consistent with either:

- A masterplan for the whole site produced in line with this policy, or
- An outline/detailed planning application for the whole site that provides satisfactory masterplanning in line with this policy, including phasing proposals and necessary viability assessments.

Masterplanning for the site should accord with the core principles shown in Figure 4.5.

Contribution to five year housing land supply

- 8.8 The district has a healthy housing supply of 7.1 years (2016/17), which consists of allocated sites in the Core Strategy (2013) and sites with planning permission. (The council is currently updating its housing land supply figures for the examination into the Places and Policies Local Plan.) The Seafront Development is important for a continued healthy housing supply for two reasons.
- 8.9 The first relates to the contribution larger sites make to the overall supply. There are six sites that are over one hundred dwellings but these make up almost half of the overall supply. The Seafront development is one of these sites. The remaining sites with planning permission consist of sites of between 10 and 100 dwellings. This means that there is a high turnover of developments, as sites are brought forward through the planning process, start on sites and are completed; many being completed within two or three years. The larger sites, especially the Seafront development Nickolls Quarry and Shorncliffe Garrison with around one thousand dwellings each, ensure that there is continual sound supply for the full five years and beyond.
- 8.10 The second reason is the longer term maintenance of the five year supply. The District Council is currently in the process of producing two Local Plans, the Places and Policies Local Plan and the review of the Core Strategy Local Plan. The former, which allocates a variety of smaller and medium-sized residential sites across the district, is at a later stage in the plan making process and will be subject to an Examination in Public later in the year; although many sites allocated within the plan are coming forward for development. The Core Strategy Local Plan Review, which allocates larger strategic sites, is about to be published for the first time for public consultation. The Core Strategy Review looks to a longer period, to 2037, and contains strategic sites which are likely to take a number of years to come forward and be built out. The evidence base supporting the review of the Core Strategy identifies that the district has an housing need that is significantly above that within the current Core Strategy – 633 dwellings per year for the period 2014-2037 rather than the target of 400 homes per year

and requirement of 350 homes per year up to 2031. It is therefore vital that in planning for additional growth within the Core Strategy Review existing sites allocated within earlier plans contribute significantly to meet the current and emerging need.

- 8.11 As neither Plan has been adopted, there could be a void in the short term in larger sites coming forward and contributing to the five year housing supply. The Seafront development is important for maintaining the five year supply whilst the Plans make their way through the plan making process and during early years of their adoption.

Removal of sea sports and beach sports facilities

- 8.12 The changes to the design and parameter plans are assessed in the next section, which also includes the impact on heritage assets. This section considers the acceptability of the removal of the sea sports and beach sports facilities, as required by policy SS6 and then sets out what is to be delivered in its place. The applicants have stated that since the previous application was approved, a trial sea sports centre was operated for four years within the site. After this time, it was deemed that due to the steep beach and sea conditions that a permanent facility was not viable.

- 8.13 In the meantime consultation with local groups The Shepway Sports Trust was established on the Stade and caters for sailing, canoeing and paddle boarding and is operated as a charity run project. It is considered that the location of this facility is more suitable than that approved as part of the outline and is within the immediate vicinity of the site. This was not carried out as part of the outline and therefore is a stand-alone entity, however delivers the policy requirement for sea sports facilities outside of the application site, with opportunity for further investment to be delivered at this facility via s106 agreement.

- 8.14 Similar circumstances have also been applied to the beach sports facility, with a lack of a potential operator coming forward to operate the site. The applicants have highlighted that in the local area there is now an indoor sports park planned in the area (Urban Sports Park) due to open in 2019, Lower Leas Coastal Park, improvements to the Harbour Arm, children's play fountain and Three Hills Sports Park, with opportunity for further provision to be delivered via s106 agreement.

- 8.15 The applicants contend that given the proximity of the new facilities, there is no need to have another on the site and as such the requirements of policy SS6 in this respect no longer need to be delivered on site. The applicants have instead offered the cost of such facilities as a contribution in its place for additional community benefits, which amounts to £3.5m. This would be included in a legal agreement should the Section 73 application be approved. These projects could include refurbishment of the Leas Lift, Lower Leas Coastal Park, additional cycling, walking and parking opportunities in the area, contributions to the sea sports centre on the Stade and enhanced play and exercise equipment in public spaces to be funded from this contribution.

- 8.16 It is considered that there is unlikely the need for two sea sports facilities or indeed a beach sports facility in the area given the improved recreational offering that Folkestone has since the granting of the original consent. It is also considered that when the original outline permission was granted the, scheme responded to needs at the time of the decision, however circumstance have changed since then and now there are other projects which could have a greater positive impact if delivered. For example, it is considered that bringing the Leas Lift back into operation would be a huge benefit for the town and significantly improve connectivity between the site and the town, whilst opportunities exist to expand beach activities within and adjoining the site utilising funding from the development that will mitigate the loss of the beach sports centre.
- 8.17 As such it is considered that the scheme is acceptable on these grounds and the replacement of the sea sports and beach sports facilities with the equivalent financial contribution would allow the scheme to respond to needs of the area today, as opposed to when the scheme was originally granted. There are therefore no objections to this part of the application.

Changes to parameter plans

General Comments

- 8.18 The current changes to the parameter plans are seeking to establish the plot shapes and height. There are no final design proposals as the application is at outline stage. It should also be noted that the images provided at this stage are illustrative only and are not seeking approval. This section assesses the changes to the overall masterplan and each of its sections in turn. (Please note again, the Conservation Consultant's comments are currently in draft form.)
- 8.19 To assist with the visual assessment, the applicants provided an assessment of the most important views of the scheme and these have been scrutinised by officers and by the Conservation Consultant. The most recent version of this is found in the Environmental statement Addendum dated 12 January 2018. It is important to note that this is very similar to the approved visual assessment and that this only applies maximum parameters, rather than requirements set out within design guidelines and therefore does not represent a true representation of what could be built, only a three dimensional representation of the plot parameters within the landscape.
- 8.20 In terms of the general layout, Historic England comment that the biggest change to the approved scheme is a move away from the formality of the previous layout, towards a more informal sinuous arrangement of blocks along the seafront. They note that this approach contrasts the more formal character of the Old Town in Folkestone which is characterised by a network of streets laid out in a grid pattern. However, they have no objections given the proposed character references the crescents of some historic seafront development such as Marine and Clifton Crescents. The Conservation Consultant also had no objections to this revised approach.

- 8.21 The comparison between the approved master plan (which was a more simple grid of urban development extended as far the Boardwalk), with the proposed masterplan which comprises a series of curved blocks extending south from Marine Parade towards the Boardwalk with shingle gardens between the blocks, smaller individual houses to the south of the Boardwalk spilling out onto the shingle beach zone and with the more concentrated commercial development at the east end on the old harbour parking areas. In terms of the overall design, while the proposed scheme takes a different design approach, there are no objections to this in principle. It is considered that the changes to the parameter plans allow for the creation of an appropriate development form that promotes local character and distinctiveness and ensures the development is well connected with the beach, with greater provision of public open space, drawing the shingle of the beach north towards Marine Parade.
- 8.22 In terms of parking the main change is the provision of undercroft parking to the five peninsular blocks whilst retaining on street visitor parking only along Marine Parade and removing all parking from beach side houses. The main change in terms of pedestrian circulation is the removal of conventional streets extending south from Marine Parade, replaced by a more irregular network of shared surfaces or pedestrianised areas. The circulation in the commercial block at the east end is simplified with a simple spine route through this block leading to the Harbour Arm. In terms of circulation in general, it is considered that the revised proposals would provide good circulation around the scheme and may even offer an improvement on the original scheme in this respect, particularly with regards to the reduction in surface level parking.
- 8.23 In terms of public spaces, the proposed layout now provides a series of shingle gardens between the blocks and introduces the idea of a pedestrian route through the Harbour Station. There is a larger square on the South Quay of the harbour, to either side of where the swing bridge joins it and a much larger street through the middle of the commercial block. It is considered that the use of shingle and the increase amount of public open space should mean the scheme would integrate with the beach and provide high quality public open spaces. This has been achieved while increasing the heights of several buildings and utilising curved modern buildings in place of a more traditional grid layout. There are no objections to the revised approach as it is considered the scheme could still deliver high quality design, although in a different form to the original, drawing strongly on local character – in particular the plan form of the west end of Folkestone and the nearby Grade II listed Marine Crescent.
- 8.24 However, there has been a significant amount of local opposition to the scheme on design grounds. While it is the parameter plans that are being formally changed at this stage, the visual representations showing large white blocks have attracted a significant level of public criticism. Many people have acknowledged that the external appearance would be considered at a later stage; however this has not stopped unfavourable comparisons with The Grand Burstin Hotel and numerous references to Spanish coastal resorts. A

discussion of the suitability of the illustrative masterplan and material is set out later within this report.

- 8.25 The following sections have been separated into different areas comprising the Leas Lift Area, Marine Parade Area and Harbour Area, where each are discussed in more detail.

Leas Lift Area

- 8.26 In terms of the individual areas of the revised masterplan, there have been some fairly significant changes to accommodate the above. Firstly Plot L has now been deleted from the masterplan as the sea sports facilities are no longer being proposed. The former plots LL03 and LL01 are being merged to form plot A. There has been a reduction in the footprint of Plot A and no changes to its maximum height. There is also the introduction of a car parking area under an area of public open space on plot A with the parameters allowing another storey of uses on top of this. Previously this was to be retail/commercial to compliment to sea sports. There is also now greater separation between Plots A and B, from 8m to 14m, which has in turn allowed greater views of the Leas Lift than in the approved scheme.
- 8.27 The Conservation Consultant has commented that the separation is still not wide enough and is not aligned with the axis formed by the lift since it will be that view of the sea, experienced by lift passengers. He has also concerns about the general bulk and height of the Block A and its impact in views along the seafront and considers that these cause substantial and less than substantial harm respectively. However it is considered that as the Council have already approved a similar height it terms of Plot A and a narrower gap between buildings, substantial harm as defined by paragraph 133 of the NPPF has not taken place and the application is providing an improved vista to the grade II* listed Leas Lift.
- 8.28 Historic England have also commented in respect of the impact on the grade II* Leas Lift and say that this derives some significance from the way it was designed to take advantage of sea views which became in essence a pleasure activity associated with its primary functional role as a lift. Diminishing an experience of the sea in views out from the lift thus causes some harm to the significance it derives from its sea facing location, although they acknowledge that the approved scheme has restricted this already. They note this scheme proposes higher blocks flanking the lift (up to 8-9 storeys), whereas the previous scheme proposed lower blocks to the lifts immediate south. Nevertheless, they acknowledge that the greater separation between the high blocks will allow for wider views of the lift and out from it. They think this is something that we can be content with provided that the higher blocks do not rise above the top of the cliff. They suggest the Council must satisfy itself that this is the case and that any lift overrun for the higher blocks will also not be visible above the cliff top. The applicants have already provided a drawing which demonstrates that the scheme will not be higher than the cliff. With this in mind, officers are clear that the scheme does not give rise to substantial harm, with the parameters improving the opening at the base of the Leas Lift.

- 8.29 The shape of Plot B has changed to a crescent with two 'bookends' of taller blocks to the east and west ends and also a raised garden area adjacent to Marine Parade. The central elements of the plot are to be 11m high facing Marine Parade, reduced from 16.5m and the section facing the sea now 15m high, an increase from the 11-13.5m of the consented scheme. The bookends are now to be a maximum of 28.5m high, an increase from 20.5m at the western end and 13.5m-16.5m at the eastern end. The maximum increase in height at certain aspects of Plot B is significant at certain locations, however this needs to be balanced against the increase in terms of the gap between plots, an increase from 8m to 14m. This has allowed greater visibility at The Leas Lift and increased opportunity for public open space. The new symmetry in Plot B would also allow for high quality design which features a curved elevation, maximising sea views from the new properties. It should also be noted that the design guidelines restrict the tallest element of plot B to 7 storeys in height, with opportunity for the design of the building to reduce impact by recessing of the upper floor(s) at Reserved Matters stage recommended to address concerns raised by the Conservation Consultant.
- 8.30 There are some concerns with both Plots B regarding the ground level frontage directly onto Marine Parade, also it is acknowledged that this will have to be assessed at reserved matters stage. The concerns relate to the possibility of blank walls which have been included to provide the undercroft parking spaces. The proposal is to use Green Walls on the open void of the undercroft parking could be screened from Marine Parade. This needs to be assessed again at reserved matters stage, perhaps with the advice of an arboriculturalist, at which point officers would expect significant detail to be provided in support of a design solution to demonstrate that such an approach is acceptable particularly as the wall faces north within a marine environment.
- 8.31 The Conservation Consultant considers that the bookends appear too large (7-8 storey) and compares unfavourably with the six storey design of Block C and the historic Marine Crescent opposite which is lower still. He considers these cause substantial harm and suggests that these should be reduced by at least two storeys, a view not expressed by Historic England as the national heritage body who also provided detailed comments on the original application. He goes on to suggest each could be surmounted by a penthouse set back from the edge to reduce the apparent bulk as seen from the street. In terms of setting in a potential penthouse, this is a design detail which would normally be assessed later and while he has raised concerns regarding the height, there does appear the potential for a design solution within the parameters and design guidelines that are seeking approval that can be addressed at Reserved Matters stage.
- 8.32 There have been objections from members of the public on this issue which are also noted, however the assessment of Plot B must consider the increase in height over and above the approved plans, in conjunction with the positive improvements which have been highlighted above and the restriction on storey heights set out within the design guidelines. Although neither officers nor Historic England consider substantial harm has taken place, the increased impact on the listed building along Marine Parade and the conservation area

mean that less than substantial harm has occurred. As such under paragraph 134 of the NPPF, the public benefits of the scheme should be weighed against the harm caused. This is a judgement that relates to the scheme overall, however it is noted that the increase in height has allowed for increases in public open space and greater visibility for the Leas Lift. It is also considered that the new relationship between the Leas Lift and Seafront, bring further connectivity to the scheme. The Leas Lift is not currently operational and requires a large amount of investment to get it into working order again and this application provides an opportunity to do that. It is considered that in this case, the opening of the Leas Lift is a public benefit, (there are currently no views from a lift that is out of operation), and this application could provide the funds needed to make this happen. Therefore, on balance, there are no objections to this section of the development and the ability to secure a viable and long term future for a grade II* listed designated heritage asset is a significant material consideration and appropriate mitigation to the limited additional harm caused to its setting.

Marine Parade Area

8.33 Plot C-1 is located directly opposite Marine Crescent and replaces what was plots MP02 and MP03. The revised proposal changes from the original scheme of a rectangular block with a central 28m wide street set on the axis of Marine Crescent and with blocks a maximum of 16.5m along the street to a solid block, still with 16.5m frontage to Marine Parade but bisected by a 26m gap through the centre of the plot, with taller 20.5m bookends at either end of the reversed crescent, (an increase from the previous 16.5m of 4m). The architectural visualisation envisages the gap as a raised area of gardens ramping up from Marine Parade to the boardwalk to the south, while still maintaining views of the sea, with the design guidelines confirming the height through this central area will be between 0m and 2.5m ASD.

8.34 Historic England consider that the current scheme would have more of a harmful impact than the previous scheme, particularly in views from Marine Crescent. They acknowledge these views were reduced by the approved scheme and would not wish to see them reduced further by this proposal. They note that the latest scheme includes some development in the centre of block C1, whereas the previous scheme proposed a complete gap between blocks MP02 and MP03. However it should be noted this is limited to 2.5m maximum height (subsequently confirmed by the applicants), rather than the 4m stated in their comments and this area is proposed to form a public park area, sloping between the beach and Marine Parade, as set out in the mandatory landscape and design guidelines. Historic England consider that this has the potential to impede views out from the crescent to a greater extent than the permitted scheme. Officers consider that the 2.5m high slope would not significantly impede views of the sea and given that public open space with no on street parking is to be provided may improve views from this area. The Conservation Consultant considers that the increase in the height of Plot C causes substantial harm and that it is out of scale with Marine Crescent. He also believes that in filling the gap is insufficient to maintain a meaningful connection with the sea and has deemed this less than substantial harm. These views are again not shared by Historic England or officers, who have

responded to the Conservation Consultants draft comments to question his consideration of the design guidelines alongside the parameter plans. An update on this matter will be reported in due course.

- 8.35 While it is acknowledged that there would be less visibility from the public domain, given that the raised section would provide an opportunity for public realm, off street parking while maintaining views of the sea. It is therefore considered that in this instance there are no objections to this element of the scheme. Historic England have not objected to the increase in height to Plot C, whereas the Conservation Consultant has called it substantial. Given the previous approval and Historic England's comments, officers are clear that substantial harm has not taken place, and that substantial harm is usually defined by demolition or loss of a designated heritage asset, which is not proposed in this instance. However, given that Historic England have confirmed that the scheme would be more harmful than the previous less than substantial harm could be considered to apply here, based largely on the additional impact upon the setting of the listed buildings opposite plot C.
- 8.36 It is considered that the public benefits of the scheme outweigh the increased harm caused and that further detailed design will be subject to consultation. It also has to be taken into account that the setting of the listed buildings on Marine Parade will change significantly given the building upon the southern side of Marine Parade has already been established by the permission in place and would do in any event should the approved scheme be constructed. It is considered that the increased harm, identified by Historic England, is compensated by the benefits of the scheme that have already been identified. There are therefore no objections to the impact of Plot C.
- 8.37 In terms of the Crescent Way Connections which are opposite the south end of Harbour Approach Road, it is proposed to redesign and narrow down the gap between blocks E-1 and F-1 from 26-30m to 13.5-22m. The approach of introducing curves is also applied to plots D-1 and E-1, with the heights being similar to the previous scheme. However, to the south of this facing the sea, the blocks open out rapidly to either side. It is considered that whilst the gap between blocks is narrower, the way in which the blocks curve away rapidly from the pinch point to create a rapidly widening shingle beach zone is a distinct improvement on the approved scheme (which consists of a wide street between blocks MP06 and MP03). The pinch point gap is still generous, with information provided by the applicant showing it is of a similar width to successful public spaces in the town, such as Rendezvous Street and the architectural visualisation shows how this may appear. This change is considered to be an improvement by officers and the Conservation Consultant.

Harbour Area

- 8.38 The Conservation Consultant has serious reservations about the demolition of Harbour House as it is one of the few remnants of the historic harbour complex. Harbour House is not listed and not in a conservation area, but is considered to be an undesignated heritage asset. He considers that whilst it is suggested that the building is an impediment to pedestrian flows to the

station route, if retained, would form a very fitting focal point for the square and indeed the positioning of the building is part of the formal arrangement of the whole area, being also positioned as the focal point at the end of Marine Parade and seen from right along the length of the parade. He therefore does not support its loss and considers that instead the designs need to be modified to respond to the presence of a retained Harbour House, as well as the retained Harbour Station that is proposed for demolition within the approved development.

8.39 Historic England have also commented on the loss of Harbour House which they acknowledge would be regrettable. Nevertheless, they understand the reasons behind this decision, in that it could open views of the basin edge from the station and they are willing to be persuaded that its loss might be outweighed by retaining the station if the latter was demonstrably made part of a positive heritage strategy. Therefore, whilst having regard to the comments of both the Conservation Consultant and Historic England, as well as paragraph 135 of the NPPF, it is considered that in the absence of a Historic England objection it would not be possible for the Council to refuse the application on these grounds and successfully defend its action at appeal. Officers agree with Historic England's assessment and that the scheme as whole could benefit from Harbour Houses' removal, given the retention of the Harbour Station. However Officers consider this should be demonstrated at reserved matters stage. A condition preventing its demolition prior to the approval of the reserved matter application for Harbour Square is recommended as officers consider there is significant opportunity to explore the retention of the Harbour Master's House within future reserved matters applications and would expect designs for the square to seek to retain the undesignated heritage asset where possible to do so. The provision of such a condition would ensure that the undesignated heritage asset is retained unless it was demonstrated its removal was necessary to deliver a scheme of a higher quality.

8.40 It is considered that the retention of the station as part of a heritage strategy could assist in generating a high quality public area that relates well to its surroundings; and a condition requiring the delivery of the station improvements alongside a phase of the development is recommended. It is acknowledged that on the basis of the illustrative layout, that circulation around this part of the scheme would be improved if Harbour House was demolished and that this would allow for the area to be comprehensively re-developed, however given the longevity of the development it would be short-sighted to allow for its removal now ahead of the detailed design of this space, which may change as the scheme is developed. There is also no reason to believe that redevelopment would not happen, with paragraph 136 of the NPPF in mind. Both Historic England and the Conservation Consultant are pleased that Harbour Station is to be retained. This aspect of the application is therefore welcomed. The revised scheme allows for a more open character to the area with more connectivity between the station square and the harbour itself. The retention of the station platforms is considered to be a significant improvement on the proposed scheme, which did not retain the station at all and should complement the regeneration of the Harbour Arm particularly with high quality landscaping of the station platform.

- 8.41 At Station Square, to the west of the where the swing bridge meets the South Quay, Plot H is between the square and the harbour, formally Plot PH02. Plots PH03, DW05, PH09, PG04 of the previous scheme to the south of the square is renamed F1 and Plot PH01, a commercial block to the east of the station platforms is renamed G-1. The main changes include Plot H increasing in the maximum parameter from 20.5m to 35.5m and The Harbour House being demolished. Plot F-1 is unified as a single block mostly of the same height as previously proposed but with development along the south side of the square higher (20.5m from 16.5m) with to the south of it a smaller block F-2 which is to remain the same height as the previous DW05 and PH09. Plot G-1 remains a similar height to that previously proposed.
- 8.42 In terms of Plot H, the applicant has confirmed that whilst the parameter plan is seeking a building of up to 35.5m ASD the design guidelines are clear that the building will be required to be tiered and will not exceed 8 storeys in height, with a 40% decrease in footprint when compared to the approved scheme and a further 20% reduction in volume delivered by the tiers. As such, officers consider the building is likely to be significantly less intrusive than the parameter plan applied for suggests, due to the mandatory requirements of storey heights and setbacks set out within the application that must be adhered to at Reserved Matters stage. Officers consider that the Design guidelines controls provide appropriate reassurance to ensure that future reserved matters applications on this plot will deliver a building of appropriate quality and scale that would not harm the setting of the harbour and wider Conservation Area.
- 8.43 The changes in the other surrounding blocks are not considered significant and in the context of the space of the proposed Station Square, the increase in the height of the south side of the square (F1) from 16.5m to a maximum of 20.5m is considered to be acceptable. The area identified as South Quay (formerly Plot PH01 now G-1), occupies the same footprint as before but the pattern of development, previously this formed a series of blocks with a frontage block on the north side facing the harbour and four blocks south from this. Instead, the plot is bisected by a main route way which connects the South Quay with the area at the start of the Harbour Arm, with the development arranged all around the perimeter of the block and varying between 20.5m (along South Quay) and rising to two towers of 40.5m at the extreme eastern edge overlooking the sea. These are the tallest buildings in the development.
- 8.44 The Conservation Consultant also commented that the heights of Plots F, G and H would lead to them being too dominant, and in his view would equate to less than substantial harm. Historic England did not object to these elements and it is considered that the increases in plot F and H are acceptable for the reasons set out above, with plot G remaining unchanged from that approved, subject to the controls within the design guidelines and appropriate detailed design. It is acknowledged that the character of the area will change completely if the development is constructed and this would have been considered when the Core Strategy allocated the site in the first instance and further when permission was granted under reference Y12/0897/SH, however

subject to the final design of these buildings at reserved matters stage, there are no objections to these elements either. As such Plot F and G parameters are considered acceptable however the illustrative material, in particular for plot G is not considered suitable to the maritime harbour character of the area and will need an entirely different approach at reserved matters stage submission to be suitable, as discussed further in the report.

- 8.45 There is also the introduction of the north-south route through the centre of Plot G which is considered to be a positive change that improves the connection with the Harbour Arm. The proposed heights of the plot are unchanged from the approved scheme. Whilst some elements could be improved, such as the design of the junction with Customs House, this can be explored in detail at a later stage, as advised by the Conservation Consultant.
- 8.46 Plot I is to be a four storey high block containing residential units with commercial on the ground floor and residential above. The parameter envelop shows the building overhanging the harbour. The reserved matters application would have to demonstrate how this was going to be achieved. Plot J is intended to be a public lift and stair to provide access to the viaduct from the Harbour Square. There are no objections to either of these plots subject to a suitable design being approved at reserved matters stage.

Beachfront and Boardwalk

- 8.47 In terms of the Beachfront and Boardwalk, this is a substitution for the previously approved Dune Way, a shared surface road connecting lower Sandgate Road to the west with the harbour station. The new Boardwalk (which has been built) is in roughly the same position as previously proposed and is to be reclaimed grade A hardwood sleepers. This is intended to relate to Folkestone railway heritage. It is considered that the idea of a fully pedestrian boardwalk is a significant improvement, giving the seafront area a more pedestrian friendly character. However this is subject to the views of Natural England which are considered later.
- 8.48 The Shingle Gardens are now proposed as four roughly triangular spaces set between the peninsular blocks. These are open spaces substituted for the two more street-like spaces that previously connected Marine Parade with the Boardwalk (part of the approved scheme). The concept of these spaces which will extend the beach like character of the real beach to the south of the Boardwalk into the development is a significant improvement on the more urbanised feel of the approved scheme and is a very welcomed change. However, to achieve this, the heights of buildings on other parts of the scheme have had to increase, and as such will form part of the overall balance in the assessment of the scheme.
- 8.49 The Conservation Consultant is concerned that this will undermine the underlying concept and density of this part of the development and will mean that the Boardwalk area will become, in the summer, an extremely densely populated space. These are legitimate concerns, however their character is

very similar to the previously approved scheme and as such it is not considered that the Council could defend a reason for refusal on these grounds. However, it is considered that attention should be given to these when formulating detailed designs, to ensure the best possible scheme.

Summary

- 8.50 Both the Conservation Consultant and Historic England have concerns regarding the application on heritage grounds and as such the Council should consider whether these issues, which may be more harmful than the consented scheme, is minimised as per the terms of the NPPF Paragraph 129 and justified in line with the requirements of Paragraph 132 while considering any public benefits in line with Paragraph 134 of the NPPF. It is considered that the scheme taken as a whole will have less than substantial harm on both the setting of the conservation area and on the setting on the surrounding listed buildings and as such paragraph 134 of the NPPF needs to be considered in terms of the public benefits the scheme provides. Therefore the increased gap around the Leas Lift, the increase in public open space, the funding to bring the Leas Lift back into operation, the ability to provide off street parking and in the interests of securing the maximum benefits on an urban brownfield site, it is considered that there are public benefits that would outweigh the harm. It is also considered that the scheme does not give rise to substantial harm as defined by paragraph 133 of the NPPF. Although the Conservation Consultant has indicated that parts of the scheme do, Historic England do not share these concerns and officers agree with Historic England in this respect.
- 8.51 It should also be noted that although the heights of the building have been the focus of much of the discussion in this report, consultee comments and local resident representation, the horizontal development parameters have also been considered for each plot and have been found to be acceptable. The assessment has considered the maximum deviation in each case, however each plot will have to demonstrate its acceptability at reserved matters stage. Site levels are also proposed to be altered across the site to accommodate the undercroft parking, although there are no plans to increase site levels above those already approved. The main consideration here is whether this would make the flooding situation worse and this assessed later in the report.
- 8.52 On balance therefore it is considered that although some of the buildings are getting higher, the parameters for these are suitable for the site. It is considered that design solutions, such as setting in elements of the scheme or different materials could be used to good effect at reserved matters stage, and it is at this stage that applications will need to be assessed to ensure appropriate design quality is delivered, using the parameter plans and guidelines as mandatory requirements. It is considered that the design of the parking elements, the increase in public open space, the integration with the beach and greater connectivity will result in the scheme being high quality.

Indicative design/ landscaping details and Illustrative masterplan

- 8.53 The final designs for the scheme will be approved at future reserved matters stage and not under this section 73 application, which established the parameters and guidelines within which future applications must operate. As with the previous proposals designed by Farrell's the application is supported by an indicative masterplan and illustrative material within the design and landscape guidelines, provided by ACME and Spacehub. As illustrative material the application does not seek approval of the detailed design shown within this information, however as supporting information it is important officers comment on the suitability of the approach shown, so as to ensure future Reserved Matters are appropriately informed at the outset. Officers have raised concerns over the suitability of illustrative material with the applicant, who has recognised that future applications will need to be subject to detailed and full pre-application advice, with a requirement for this secured by condition.
- 8.54 Following the granting of outline planning permission significant areas of public realm and heritage, including the Harbour Arm and Viaduct, Boardwalk and restored Signal Box and Customs House have been delivered by the applicant within the masterplan area, ahead of the requirements of the extant planning permission. These requirements, which all form part of the placemaking requirements of the development (and funded through the development) have had a profound impact on the area, reconnecting Folkestone with the sea and attracting significant numbers of visitors to the town. The delivery of these elements has demonstrated that the applicant has a commitment to quality and Officers are keen to ensure the development builds on this through future reserved matters applications.
- 8.55 The changes to the plot parameters, in particular plots A to F and H inform the illustrative masterplan proposals. Whilst there is scope for some variation within each plot parameter and guideline, the changes are such that the opportunity for variety when compared to the earlier approval is far more limited, with the exception of plot G where parameters have undergone very limited change.
- 8.56 The changes to the parameters allow for the delivery of significantly greater areas of public realm, in particular with the formation of significant shingle gardens between plots B/C, C/D, D/E and E/F. The Spacehub mandatory guidelines provide sufficient detail to ensure the public realm will be of the highest quality, and this is reflected in the illustrative masterplan, which identifies a network of connected shared spaces, via the boardwalk between the beach and marine parade, with public squares at the western (Leas) and eastern (harbour Sq) ends of the boulevard.
- 8.57 It is considered that the changes to parameters, in particular plots B to E allow for the creation of high quality, contemporary crescents that draw strongly from the local vernacular that will create a place of real architectural character and quality. Officers have raised concerns with the applicant over the risk that the masterplan will appear monotonous. In response, the applicant has provided a breakdown of how a wide mix of unit types to provide for high density living, with access to private and shared outside space can be

provided for within each crescent. The final design and form of the crescents will be subject to detailed reserved matters approval, where it will be important that architectural detailing, set backs, finish and material, as well as variation and consideration of the important roofscape and relationship with the streetscene and active frontages are considered with the utmost care for future reserved matters applications.

- 8.58 At the western end of Marine Parade the application proposes a significantly larger Leas Lift Square. Whilst enlarged, the square is also enclosed by the increase in height of the western corner element of plot B. It is recommended that the openness to the front of the Leas Lift is maximised for Reserved Matters submissions, with the upper floors of the corner plot staggered to increase views from the Lift on its descent and reduce the impact of the additional scale on the area. The adjacent plot A is in the main the same scale as previously approved however now incorporates a car park plot adjacent to the coastal park. Very little information has been provided in relation to this plot, the detailed design of which will need significant consideration given its entrance location to the coastal park, with reserved matters expected to minimise the height of this building and instead utilise the site topography to deliver underground parking spaces within an architecturally innovative clad structure at street level.
- 8.59 At the eastern end of Marine Parade is the proposed Station Square. Officers have raised concerns over the demolition of the Harbour Masters House, though on balance consider the retention of the Harbour Station as a connected heritage asset outweighs this loss opportunity should be further explored within the future masterplan for its retention. The form and structure of plot F, as shown in the illustrative material is considered broadly suitable, however Station Square should provide for a significant area of public realm at the heart of the development that allows for informal and formal activities to take place.
- 8.60 Plot H represents a significant amendment to the approved parameter plans. The illustrative material identifies a curved, tiered 8 storey building that steps up from its eastern side in height towards the Grand Burstin hotel to the west. The requirements to tier the building and have a maximum of 8 storeys are set out in the design guidelines and these will allow for the creation of an elegant, standalone building via detailed design. It is vital that this building provides for significant interaction at the ground floor with the surrounding public realm (ideally with commercial or community uses) and also that the detailed design utilises materials that reduce the enclosure of the inner harbour. The illustrative masterplan gives very little detail of the final design and as such significant pre-application discussion is recommended for this building.
- 8.61 Whilst Plot G, the Harbour has undergone very little change with regards to the parameters Officers have concern over the suitability of illustrative material provided within the Design Guidelines, both in the shape of the artists impressions and examples of development from elsewhere. Officers have communicated these concerns to the applicant who is aware that the relationship between the inner and outer harbour and the development and

views to and from the Stade are of the utmost importance. Officers have identified to the applicant that a more ordered, vertical emphasis and traditional form to the harbour should be pursued for future reserved matters applications, with an opportunity for a taller, feature building(s) at the eastern extreme of the plot acting as an exclamation mark to the development and town itself at its transition to open water.

- 8.62 The submitted Landscape Guidelines is considered to be a very useful document and sets out the principles that the site could be developed under. It gives information on the connectivity of the site as well as areas of public open space. It is considered that the details of this document would make a positive contribution towards achieving and enhancing a high quality development and there are no objections at this stage to this document. Further more specific details would be required at reserved matters stage to ensure high quality design for the resultant buildings.

Amenity

- 8.63 It is considered the alterations to the parameter plans, together with the changes to the design guidelines and landscape guidelines will not result in additional harm to residential amenity of existing occupants by reason of overlooking, loss of outlook or overshadowing. As with the approved scheme, there is no right to a view and the application proposes substantial development to the south of Marine Parade that will significantly alter the character of the locality, as it has changed significantly in past and recent years. The key issue here is to assess the differences between the two schemes to establish whether there would be any increased harm in living conditions as a result of the scheme. The most affected neighbouring properties would be those located on the opposite side of Marine Parade which could suffer an increased impact where the proposed buildings are getting higher. The precise details are not yet known and as such issues such as overlooking cannot be fully assessed as it is currently unknown where the windows and balconies will be on the proposed development.
- 8.64 It is considered that Marine Parade is wide enough to ensure that there will be no detrimental harm to neighbouring living conditions, however this will have to be re-assessed at reserved matters stage before the final designs are approved. Other issues such as the size and mix of the units would also be assessed at reserved matters stage. There are therefore no objections on these grounds at this stage.

Archaeology

- 8.65 There are no changes to the scheme proposed with respect to archaeology. As such there are no further comments to make.

Highway safety/ public rights of way

- 8.66 KCC Highways and Transportation have commented on the need for vehicle tracking for an 11.4m long refuse vehicles, a contribution to ensure the Leas Lift is operational again, buses to be re-routed, road improvements and to maintain the previous Section 106 requirements. Stagecoach have also requested money to upgrade the bus stop on Marine Parade. KCC have not raised any objections in terms of traffic movements or the level of parking. It is considered that the tracking for refuse vehicles would need to be provided at reserved matters stage to ensure these requirements could be met in terms of the final designs. The applicants have also agreed that funds could be directed towards the Leas Lift which would fulfil the requirements for this. The remaining section 106 requirements are to remain the same as the previous one including the trigger point for the junction 5 improvements.
- 8.67 There has been a considerable amount of objections to the scheme on highway grounds. However, the quantum of development from the approved scheme has not changed and as such the majority of these objections could not be defended at appeal. Whilst it is acknowledged that the increase in the number of bedrooms could have an impact in terms of highway impact, particularly at the later stages of the development. (It could also have an impact on schools, GP surgeries and other facilities) the development remains within the approved parameters, with contributions already identified to mitigate impact on this basis. As has been mentioned previously, at this stage the quantum of development has not changed since the previous approval and as such there are no objections on highway grounds.
- 8.68 Both KCC PROW and Natural England have highlighted the England Coast Path which passes directly through the site which a new National Trail is a walking route being developed by Natural England. The path is not recorded on the PROW Definitive Map but the trail gives the public a right of access around the English coastline. KCC have welcomed the new route for the England Coastal Path, which passes along the beach boardwalk and connects with the Harbour Approach Road. However the applicants would need to vary the England Coastal Park and engage with Natural England for this to be implemented.
- 8.69 Natural England have now reviewed the additional documentation. They have advised the Council that the amended plans allow for the England Coast Path (ECP) to be aligned predominantly along the boardwalk that runs on the seaward side of the development on the shingle beach. And that they are satisfied with the proposals in this respect. This is therefore considered to be acceptable and no objections are raised on planning grounds.

Flooding & Drainage

- 8.70 The EA raised concerns with the original submission on the grounds that the proposed basement car parking would be below the maximum predicted flood level for the site. The EA have subsequently withdrawn their objection on the basis of the new information provided in January 2018. They have noted section 4 of the Environmental Statement Addendum states that the previously submitted Flood Risk Assessment and Drainage Strategy has

been amended to remove reference to the previously recommended self-activating flood-barriers. They have also commented that the revised statement recommends that the threshold to the parking area is retained at 6.5maODN unless subsequently agreed in writing. They explain that a lower threshold should be avoided and that they would only consider an alternative if it can be adequately demonstrated that this could not be achieved. KCC also have no objections to the scheme on drainage grounds as this part of the development is not changing.

- 8.71 It is therefore considered that subject to the amended information, the scheme is acceptable on flooding grounds. These parts of the scheme would be assessed at each reserved matters stage to ensure that this remains the case, with details to be agreed by condition.

Ecology

- 8.72 There are no changes to the scheme proposed with respect to ecology. As such there are no further comments to make.

Affordable housing/ Contributions

- 8.73 There have been numerous objections on the grounds of insufficient affordable housing and in particular no social rent housing. The level of affordable housing for the scheme was approved under the previous scheme and the applicants have not sort to change this here. As such the level of affordable housing remains the same as approved and there is no mechanism for the Council to review this..
- 8.74 The situation with the sea sports and beach sports facilities has been covered earlier in the report. The agreed contribution of £3.5m towards additional community benefits directly linked to the scheme has been agreed and will be secured by legal agreement. It has also been agreed that should the money not be spent on appropriate projects within a defined period, then any underspend could be directed towards affordable housing as a commuted sum.
- 8.75 The Planning Policy Team have been liaising with the South Kent Coastal CCG as part of the work carried out to support the emerging local plan and the following advice has been provided. Of the 12 primary care sites in Folkestone, 5 are considered 'Red' Rated which highlights the need for change as they are unfit for purpose, not suited to the provision of primary care in the long term and have limited/no development potential. Using NHS England guidelines on the recommended size of practice premises, Folkestone is considered to be 2570 sqm under provided for the existing patient population. (c. 1,500 sqm within the town centre, 500 sqm in Cheriton and 500 sqm within the surrounding villages). Folkestone has the largest portfolio of poor quality estate in the CCG area with very few development opportunities on existing sites. The CCG will continue to develop the S106 opportunity on the Shorncliffe Barracks site, and will look to work with the

council on a town centre solution for Folkestone which could provide the opportunity to relocate a number of the smaller town practices from the poorest accommodation to purpose built premises.

- 8.76 Primary Care Access Hubs will be opened from April 2018 in Shepway, on the Royal Victoria Hospital site in central Folkestone, and at the New Romney Day Centre, Oaklands Health Centre and New Lyminge Surgery. A multi-disciplinary approach to primary care will be available to over 100,000 patients across Shepway alongside the traditional GP services already available.
- 8.77 As the CCG have made clear in their representation on the seafront application that a financial contribution to mitigate the impact of the development, rather than the provision of on-site space (as required by the current s106) that does not fit the current commissioning model. Negotiation by officers with the applicant has led to confirmation that a sum in the region of £1,008,000 (depending on unit numbers and mix) will be required to mitigate the impact of the development. This sum will be provided to the District Council to use in conjunction with the South Kent Coastal CCG to mitigate the development by funding towards new and improved Primary Care premises within the town centre area serving the development, with phasing of this sum to be negotiated with the applicant.
- 8.78 The applicant has confirmed that this sum will be drawn from the 'place making contribution' of £3.5m, representing the costs associated with the delivery of sea and beach sports facilities on the site, that will also provide further mitigation as set out in the report.
- 8.79 It is considered the funding of off-site primary care, as opposed to the retention of the existing s106 legal agreement requirements of 350sq/m of on-site provision represents a significant betterment that will ensure the development provides appropriate infrastructure to mitigate its impact, as required by development plan policy and the NPPF.
- 8.80 Other contributions as secured in the original Section 106, such as the education contribution would be carried over and would still apply. It is also noted that the Landscape Guidelines that the requirement of public realm improvements and play space in the form of LAPs, LEAPs and NEAPs will also be provided as part of this development. The contribution to the Lower Leas Coastal Park will also still be provided, as will other sums to be provided for offsite improvements set out within the existing s106 agreement.

Environmental Impact Assessment Regulations 2017

- 8.81 In accordance with the EIA Regulations the Council had the amendments to the Environmental Statement Assessed by a consultant to ensure the Environmental Statement (ES) provides the Section 73 application with the information required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (The EIA

Regulations). The Consultants have confirmed that the method used in undertaking the assessment, is in line with the Institute of Environmental Management and Assessment (IEMA). The consultants are the same as those who reviewed the original Environmental Statement with the previous application.

8.82 They have confirmed that the ES is a very clear and concise addendum to the original ES reviewed by WYG in 2012/2013 and clearly sets out the changes that are being assessed. The review has focussed on the content of the ES main text and identified a number of 'critical' and 'desirable' improvements to the ES. The critical issues are those that are regarded as the most important that should be addressed as a minimum. Desirable issues are those which would further improve the quality of the ES to be comparable with best practice.

8.83 WYG have commented that the only critical issue to have been identified is to ensure that the ES and its component assessments clearly set out the limitations experienced in undertaking the assessment in accordance with the requirements set out in the Regulations. A further issue that has been identified as 'desirable' is the presentation of the methodologies that have been used in undertaking the assessments. The methodologies are not presented in the ES addendum and ideally they should be as in accordance with case law the ES 'should not be an unnecessary paperchase'. However, given WYG's historic involvement with the review of the original ES and therefore previous comments on the methodologies employed, they have appended their previous review report to their most recent to cover this area.

Other Issues

8.84 There have been numerous objections to the principle of development or to matters that were determined under the previous application. Other objections have related to issues that will be looked at under the reserved matters and are not for determination under this application. The reserved matters applications will be subject to public consultation as well as discussions with public bodies and a requirement for pre-application advice with the LPA to be achieved via condition. It should also be noted that the parameter plans must be read in accordance with the design guidelines and landscape guidelines and that as a whole it is considered these elements of the application are suitable and accord with development plan policy.

Conclusion

8.85 The application site is a strategic allocation within the Core Strategy as stated in policy SS6 and is needed by the Council to meet its 5 year supply of housing as required by the NPPF and as such would positively contribute to meeting the current and future housing needs of the District. The proposal would provide new open spaces, improved parking facilities and connectivity, over

and above the previous approval and includes highway mitigation for the increased traffic. The changes to the parameters including the alterations to the scale, form of the plots and heights have been considered and their impact on heritage assets such as the setting of the conservation area and listed buildings and the demolition of Harbour House, a non-designated heritage asset. The scheme has been assessed as having less than substantial harm as defined by paragraph 134 of the NPPF and as such the public benefits of the scheme, including the delivery of housing, improvements to open space, the restoration of heritage assets and the efficient reuse of urban brownfield land, together with the additional funding towards community projects such as the refurbishment of the Leas Lift, are considered to mitigate and outweigh any less than substantial harm caused.

- 8.86 This Section 73 application is considered an appropriate way of dealing with the changes, however much of the detail will be provided at reserved matters stage. Where officers have concerns with the current illustrative material this has been highlighted in the report, however as a set of parameters, it is considered that they provide a framework on which development on site could be carried out and deliver a high quality, locally distinctive scheme on an important brownfield site in Folkestone.
- 8.87 No impacts have been identified at this stage that suggests that the scheme would have a significantly more harmful impact than the approved scheme based on the issues identified in this report such as flooding, drainage, ecology, contamination, neighbouring living conditions, highway, the England Coastal Path and through the completion of a legal agreement will provide sufficient mitigation to offset any other impacts of the development. An addendum to the Environmental Statement has been produced and external consultants have confirmed that this is acceptable for the purposes of the EIA 2017 regulations. It is therefore considered that the proposal complies with the policies of the NPPF and the development plan and therefore should be granted subject to the completion of a legal agreement and suitable conditions.

Local Finance Considerations

- 8.88 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.
- 8.89 In accordance with policy SS5 of the Shepway Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. Given this is an amendment to a previously approved consent where the quantum of development is not changing, there will be no CIL payment

that is applicable. It is also noted that policy SS6 is outside of CIL charging schedule as a strategic allocation in the plan.

Human Rights

8.90 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.

8.91 The application is reported to committee as the site is a strategic allocation. It has also been called in by Cllr Mary Lawes due to concerns that the new application is a complete change to original application Y12/0897/SH, the height and size have changed, open spaces (water sports removed), parking and facilities altered and heritage buildings have been removed.

9.0 BACKGROUND DOCUMENTS

9.1 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 –

a) That that the Head of Planning Services be authorised under delegated authority to grant the Section 73 application, subject to:

- Completion of a legal agreement with the applicant that secures the social and physical infrastructure and financial contributions detailed within this report and which the Head of Planning Services considers to be acceptable.
- The key conditions as imposed on the previous application and as discussed in this report and any amendments and additional conditions the Head of Planning Services considers to be necessary following detailed discussions with the applicant.

b) That in the event that the legal agreement is not finalised by 1st August 2018 and an extension of time has not been entered into by the applicant, the Head of Planning be given delegated authority to refuse planning permission on the following grounds:

In the absence of a signed legal agreement there is no mechanism for ensuring the provision of the required levels of affordable housing on site. The application is therefore contrary to policies SS5 and SS6 of the Shepway Core Strategy Local Plan which requires that development should provide, contribute to or otherwise address the current and future infrastructure needs of the district.

Decision of Committee

Y17/1099/SH
Former Rotunda Amusement Park
Marine Parade
Folkestone

