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Application No: Y19/0248/FH

Location of Site: Land Adj 1 Railway Cottages Duck Street Elham Canterbury
Kent CT4 6TP

Development: Outline application for the erection of 3 x detached dwellings including detailed consideration of access (a short re-alignment of Duck Street) and layout, all other matters reserved.

Applicant: Mrs Vincent

Agent: Mrs Welch
Hobbs Parker
Romney House
Monument Way
Orbital Park
Ashford

Officer Contact: Rob Davis

SUMMARY

This report considers whether outline planning permission should be granted for the erection of three dwellings. The report recommends that planning permission be granted as it is considered that the site is in a sustainable location immediately adjacent to the settlement boundary of Elham and that the development would result in minimal harm to the character of the wider countryside due to the position of the site, which is bordered by residential development on three sides. Landscaping to be considered under a future reserved matters application could be accommodated within the site to mitigate against any visual harm to the landscape and the character and setting of the AONB and Special Landscape Area setting. In addition, a scheme can be suitable designed to ensure appropriate measures are included in respect of neighbouring amenity, highway safety and ecological interests.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out below and the applicant and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary

1. INTRODUCTION

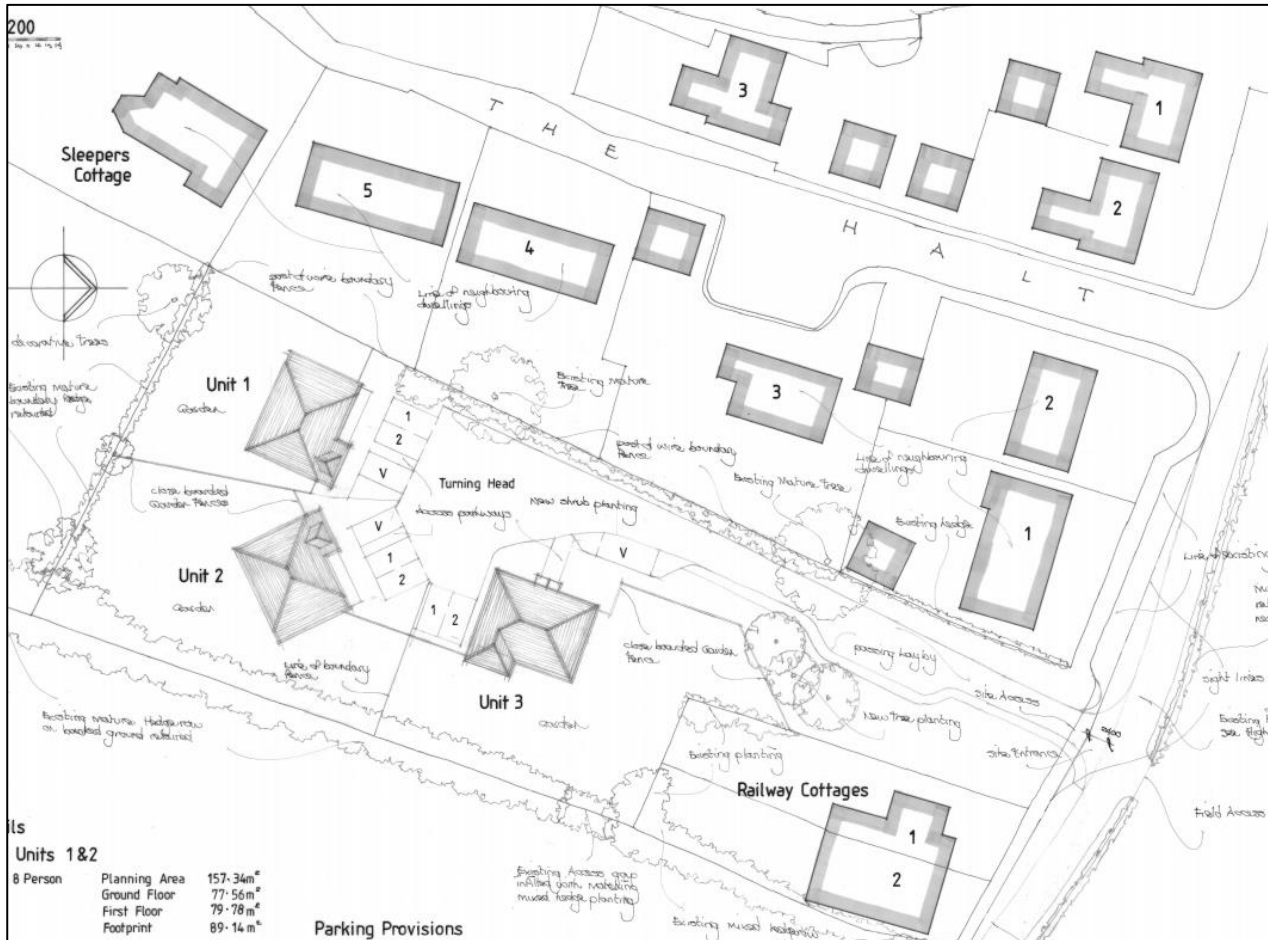
1.1. The application is being reported to the Chief Planning Officer through the delegated plus procedure in exercising emergency delegation powers. The application had previously been due to be considered by the Planning and Licensing Committee due to an objection to the scheme received from Elham Parish Council.

2. SITE AND SURROUNDINGS

- 2.1 The application relates to a site located on the southern side of Duck Street, to the eastern edge of the village of Elham. The site lies outside of the defined settlement boundary of Elham which runs down the western boundary of the site. The site lies within the Kent Downs Area of Outstanding Natural Beauty (AONB) and is within the locally designated a Special Landscape Area (SLA). Part of the western side of the site lies within an area of identified archaeological potential. The site is not within a flood risk area with flood Zones 2 and 3 to the west of the site along The Halt.
- 2.2 The site has an existing access way from Duck Street and is a rectangular plot of undeveloped grassed agricultural land. The site slopes downwards from east to west. There are hedgerows in situ to the southern and western boundaries of the site. Immediately to the east of the site is Nos. 1 and 2 Railway Cottages, a pair of semi-detached cottages, front on to Duck Street. Immediately to the west lie dwellings which front on the 'The Halt', whose rear elevations face towards the western side boundary of the site.
- 2.3 A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 The application seeks outline planning permission for the residential redevelopment of the site comprising three detached dwellings. Detailed consent is sought for layout and access, all other matters (scale, appearance, landscaping) are reserved matters for future consideration. The proposed site layout comprises a vehicular access to the north of the site which runs west of 1 & 2 Railway Cottages, with a passing bay provided, to the proposed three detached dwellings which would be set around a turning head (Figure.1).



(Figure.1)

- 3.2 Whilst permission is not sought for appearance and scale, indicative drawings show four-bedroom dwellings with hipped roofs, brick faced with plain tiled roofs and areas of tile hanging, and white UPVC windows. Indicative floorplans show a living room, study, kitchen / dining area, W.C. and utility room at ground floor, and four bedrooms (two en-suite) and a bathroom at first floor level.
- 3.3 During the course of the application, an indicative plan has been submitted showing a proposed badger-proof fencing line to the southern and eastern boundaries of the site, and a reptile habitat buffer to the eastern boundary of the site.

4. RELEVANT PLANNING HISTORY

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

There is no relevant planning history in connection with the application site itself, however there are former applications connected to neighbours of the site, which may be of relevance. There include:

- Y19/0578/FH**
- Erection of a single storey rear extension, first floor side extension and garage conversion together with alterations to existing fenestration and removal of

chimney stack. Approved 16.08.2019 (1 Railway Cottages)

- Y19/1351/FH** - Section 73 Application for variation of condition 2 (submitted plans) for application Y19/0578/FH. Approved 31.01.2020 (1 Railway Cottages)

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Elham Parish Council: Objection. The proposed siting of the three dwellings is directly opposite the existing neighbours' properties, on higher ground, and would there impose upon the privacy of the existing properties.

The proposed attenuation tank would in no way alleviate the numerous springs which cover the plot. The Parish Council would like to see further investigations / calculations by Building Control.

A proposed scheme of three high-value properties is against the ethos of the Parish Council to promote affordable high-density family homes.

The building plot is outside the curtilage of the district settlement boundaries. FHDC refusal of previous applications for development of this site were based on this fact, this has not changed. Therefore, the application should be refused to be consistent with these previous decisions.

KCC Highways and Transportation: No objection. The proposed minor realignment of Duck Street to provide visibility splays from the proposed access is acceptable, at the expense of the Applicant via Section 278 Agreement.

The development of three houses does not raise concerns regarding highway capacity or safety in this location. The proposed visibility splays are sufficient. The proposed driveway includes a passing bay. Each property has sufficient vehicle, visitor and cycle parking.

Conditions are recommended to secure:

- Provision of parking facilities for site personnel and visitors for the duration of construction.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision of wheel washing facilities for the duration of construction.

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- Use of a bound surface for the first 5 metres of the access from the highway.
- Provision and retention of the proposed vehicle parking spaces.
- Provision and retention of the proposed cycle parking facilities.
- Provision and maintenance of visibility splays.

KCC Archaeology: No objection subject to a condition securing a watching brief. The site of application lies adjacent to the site of the former Elham Station and Elham Valley Line. Archaeological deposits relating to this post-Medieval activity may be exposed during the groundworks involved in the proposed development.

Arboricultural Manager: No objection to the proposed development. A tree protection plan is required in accordance with BS5837:2012 to demonstrate that trees in adjoining sites would be protected during construction works, and that hedgerows alongside the proposed access would be protected.

KCC Ecology: No objection. The reptile survey confirmed that common lizards are present within the proposed development site and it is recommended that the reptiles are translocated to retained habitat along the eastern boundary. KCC previously raised concerns that that part of the proposed receptor site would be located within the residential gardens and therefore there were concerns that it would not be managed appropriately. Revised site plans have been submitted to demonstrate that the mitigation area will be located outside of the residential garden and the applicants have confirmed that this area will be managed by the management company. Provided the strip is wide enough for the management company to access it, the previous concerns raised by KCC have been addressed. The area must be actively managed to ensure that future residents don't expand their garden into the receptor site and if planning permission is granted, conditions requiring reptile mitigation and a site wide management plan should be attached.

Local Residents Comments

5.2 9 neighbours directly consulted. 7 letters of objection received.

5.3 All of the letters received have been read and the key issues are summarised below:

Objections

- Houses are too large and would be too expensive. Elham needs more affordable houses.
- Increased overlooking of neighbouring properties.
- Harm the outlook from neighbouring properties.
- Construction and associated vehicular movements to the dwellings would cause noise disturbance.
- Additional traffic and pollution.
- Increased surface water run-off on to neighbouring properties.

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- Nothing has changed since previous application for dwellings on the site were refused.
- Increased traffic.
- Unclear whether the sewerage and surface water drainage infrastructure can cope with additional development.
- Outside of the settlement boundary and could set a precedent for further expansion of the village.
- Ecological concerns including a badger sett in the field.
- Harm views of the countryside/Elham Valley.
- Would not preserve or enhance the natural beauty of the Kent AONB.
- Houses not required in Elham as a substantial housing development has been approved nearby.
- Harm trees alongside the site.
- Dwellings on the Duck Lane frontage would be more appropriate.
- Neighbouring dwellings alongside the site would lose their countryside view.

5.4 **Ward Member**

Councillor Stuart Peall had called the application to committee if officers were minded to approve the application. The application is now being reported to the Chief Planning Officer through the delegation plus procedure in exercising emergency delegation powers.

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

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

6. **RELEVANT PLANNING POLICY**

- 6.1 The Development Plan comprises the saved policies of the Shepway District Local Plan Review (2006) and the Shepway Core Strategy Local Plan (2013)
- 6.2 The new Places and Policies Local Plan Submission Draft (February 2018) has been the subject to public examination, and as such its policies should now be afforded significant weight, according to the criteria in NPPF paragraph 48.
- 6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.
- 6.4 The relevant development plan policies are as follows:-

Shepway District Local Plan Review (2013)

SD1 – Sustainable Development

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BE1 - Standards expected for new development in terms of layout, design, materials
BE16 - Requirement for comprehensive landscaping schemes
HO1 - Housing land supply
CO1 - Countryside to be protected for its own sake
CO4 - Special Landscape Areas and their protection
CO11- Protection of protected species and their habitat
TR11 - Accesses onto highway network
TR12 - Vehicle parking standards
U1 - Criteria to be considered for development proposals relating to sewage and wastewater disposal for four dwellings or less, or equivalent

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development
SS1 - District Spatial Strategy
SS3 - Place-Shaping and Sustainable Settlements Strategy
CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

Places and Policies Local Plan Submission Draft (2019)

HB1 – Quality Places through Design
HB3 - Internal and External Space Standards
NE2 - Biodiversity
NE3 - Protecting the District's Landscapes and Countryside
NE7 - Contaminated Land
T2 - Parking Standards
T5 - Cycle Parking
HE2 - Archaeology
CC2 - Sustainable Design and Construction
CC3 - Sustainable Drainage Systems (SuDS)

Core Strategy Review Submission draft (2019)

SS1 - District Spatial Strategy
SS3 - Place-Shaping and Sustainable Settlements Strategy
CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

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

Supplementary Planning Guidance/Documents

Government Advice

National Planning Policy Framework (NPPF) 2019

6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant

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material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraphs 12, 106, 108-110, 117, 124, 127, 148, 155, 157-164, 170, 172, 175

National Planning Policy Guidance (NPPG)

Design: Paragraphs 001, 002, 004, 012, 041

Planning and flood risk: Paragraphs 001, 002, 003, 018, 019, 029, 030, 031, 032, 033, 034, 050, 051, 079, 080, 081, 082, 083, 084, 085, 053, 054, 059, 060

Rural housing: Paragraph 001

Natural environment: Paragraphs 004, 007, 016, 017, 018, 020

National Design Guide October 2019

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

7. APPRAISAL

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

- a) Principle of Development and Sustainability
- b) Landscape Impact
- c) Amenities of Neighbouring Occupiers:
- d) Housing Mix/Standard of Accommodation:
- e) Parking and highways:
- f) Ecology and Biodiversity
- g) Flood Risk and Drainage:
- h) Contamination
- i) Trees
- j) Archaeology

a) Principle of Development and Sustainability

- 7.2 The application site lies outside of the settlement boundaries of Elham and as such represents development in the countryside. However, the site is adjacent to the settlement boundary and is therefore not considered to be in an isolated location.
- 7.3 The key policy considerations in terms of the principle of the development are Core Strategy policy SS1 and saved policy CO1 of the Local Plan that advise development in the open countryside and on the coast (defined as anywhere outside of settlements within table 4.4 (settlement hierarchy) will only be allowed exceptionally, where a rural location is essential. The site is not considered to be 'open' countryside as it is adjacent to existing development and the defined settlement boundary.
- 7.4 Core Strategy policy SS1 states "Development within Shepway is directed towards existing sustainable settlements to protect the open countryside...". However, due to the site being adjacent to the defined settlement boundary, the site is not considered to be remote/isolated in NPPF terms due to its proximity to the village. The site is also considered to represent infill development adjacent to existing housing such that it would not be regarded as a site encroaching further into the open countryside. Paragraph 78 of the NPPF also facilitates housing development that is located where it will enhance or maintain the vitality of rural communities and that would be the case with the proposed development.
- 7.5 Therefore, although technically outside the defined settlement boundary and consequently within the countryside, it is not considered that the proposal would have an unacceptably detrimental impact upon the countryside due to the limited amount of dwellings being proposed, that the site is adjacent to existing housing and therefore is within a sustainable location and that the site could be adequately screened from wider viewpoints. Each of these elements will be assessed further below under policy CO1 which sets out criteria for development within the countryside. Policy CO1 states:

The District Planning Authority will protect the countryside for its own sake. Subject to other Plan policies, development in the countryside will be permitted where proposals:

- a) maintain or enhance features of landscape, wildlife, historic, geological and agricultural importance, and the particular quality and character of the countryside;*
- b) demonstrate that they cannot be practicably located within an existing settlement and essentially require a countryside location;*
- c) are of a high standard of design and, sympathetic in scale and appearance to their setting;*
- d) are acceptable in highway and infrastructure terms and;*
- e) preserve or enhance the amenity, character and functioning of rural towns and villages.*

Development proposals that would significantly conflict with one or more of criteria a - e above will only be permitted where it can be shown that:

- i) there is an overriding social or economic need;*
- ii) negative impacts are minimised as far as possible and;*

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iii) adequate measures will be taken to compensate for any the adverse environmental effect. Compensatory measures should, as a minimum, ensure that no net environmental loss occurs.

7.6 Taking each of the criteria in turn:

a) maintain or enhance features of landscape, wildlife, historic, geological and agricultural importance, and the particular quality and character of the countryside;

7.7 The site is beyond Elham settlement boundaries and at present has the character of open undeveloped agricultural land. To the south of the site there is one dwelling in situ; 'The Old Station Master's Cottage', and to the north-eastern corner of the site Nos. 1 and 2 Railway Cottages are in situ. These dwellings are considered to represent historic anomalies beyond the settlement boundary, rather than setting a precedent for further residential development beyond the boundaries of the village. Notwithstanding this, the dwellings 1 and 2 Railway Cottages are in place and the assessment is whether the introduction of the three proposed dwellings between The Halt and the Railway Cottages would cause harm to the landscape and quality and character of the countryside.

7.8 The proposed development would result in the loss of the undeveloped countryside character of the site, and the loss of the site for agricultural use and as such would result in harm to the character of the rural location. However, a detailed and comprehensive Landscape Visual Impact Appraisal has been submitted and demonstrates that any visual harm would be limited due to the topology of the area, the proximity of the site to existing development and vegetation. The site would not be particularly prominent from wider viewpoints, including nearby public footpaths due to the distance and built form surrounding the development. However, to limit any harm that would arise, landscape mitigation would reduce the visibility of the site and soften the development in this setting. Landscaping details can be addressed under the subsequent reserved matters application, however mixed native hedgerows and broad canopy nature trees are suggested. It is therefore considered that the proposed development would not result in unacceptable harm the surrounding area of the AONB and the Special Landscape Area.

7.9 The assessment then turns to the agricultural importance of the site as set out within part a) of this policy, in addition to paragraph 170 of the NPPF which requires decisions to "contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland". The land is classified as 'Good to Moderate' agricultural land, with there being two higher classifications above this ('very good' and 'excellent') and therefore, although loss of any agricultural land is regrettable, this agricultural land is not considered to be the best and most versatile agricultural land available and this point alone would not be a sufficient to warrant refusal of the application.

b) demonstrate that they cannot be practicably located within an existing settlement and essentially require a countryside location;

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7.10 Although Elham has a defined settlement boundary, within which new development is directed, the application site is adjacent to the defined settlement boundary and would infill a gap in the current street pattern, naturally consolidating the built form. Whilst additional units within the countryside would not normally be supported, in this case, any visual harm (as discussed above) would be limited and the site is considered to be in a sustainable location.

c) are of a high standard of design and, sympathetic in scale and appearance to their setting;

7.11 As detailed planning permission is sought for layout and access only, the detailed design of the scheme is not to be assessed under the current application. However, indicative house floorplans and elevations have been submitted. These designs show two-storey dwellings of traditional design and form with hipped roofs and traditional materials.

7.12 The site is located adjacent to the existing settlement boundary and by only proposing 3 dwellings on this site, the dwellings would be within large spacious gardens and therefore there would not be overdevelopment of the site.

d) are acceptable in highway and infrastructure terms and;

7.13 As detailed below, the scheme is considered acceptable in highway and infrastructure terms.

e) preserve or enhance the amenity, character and functioning of rural towns and villages.

7.14 The proposed development is in outline form with only the layout and access to be determined at this stage. Subject to the detailed design and landscaping to be determined within subsequent reserved matters submissions, it is considered that the size of the site combined with the density of housing proposed would enable a high standard of housing development with appropriate design for the rural, sensitive location could be achieved. As such, the development could be designed to ensure that it would make a positive contribution to Elham preserving the amenity and character of the village and the future occupiers could make use of the facilities and services available within the village helping to make a positive contribution to its vitality and functioning.

7.15 Overall it is considered that the proposed development would not conflict with the criteria of policy CO1 and the exceptional circumstances (i) – (iii) do not apply in this case.

b) Landscape Impact:

7.16 As discussed above, there is a dwelling in situ to the south of the site and two dwellings to the north-east corner of the site. As such, the site does not have an open character as it is bordered by housing and residential land on three sides. Although development of the site would change its character and result in some harm, it is considered that with landscaping and the setback position of the dwellings from the front of Duck Street which would allow for landscaping between, would ensure that the development would

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not have a significantly negative impact upon the character and appearance of the countryside or on views within the AONB and Special Landscape Area.

c) Amenities of Neighbouring Occupiers:

- 7.17 Whilst an outline proposal, the proposed layout of dwellings allows for some consideration of potential impacts upon neighbouring amenity. The application site is on higher ground than the dwellings to the west on The Halt, and slopes down towards the rear boundaries of these properties. The proposed dwellings labelled as 'Unit 2' and 'Unit 3' are set 15 metres approx. away from what would be the shared boundary, and therefore whilst dwellings in these locations would impact upon the outlook from the dwellings to the west, there would be sufficient spacing to envisage that dwelling designs could be proposed which would not have an overbearing impact upon these properties and would not result in harmful overshadowing. In addition, appropriate boundary screening and planting could be secured.
- 7.18 The third proposed dwelling, 'Unit 1' would be set the closest to The Halt development, adjacent to dwelling No.5 however, the 90 degree angle of the proposed dwelling would ensure that the proposed dwelling would not result in direct overlooking into the rear garden of No.5 and the separation of approximately 15m between the two dwellings would ensure there would be not be a significant loss of light to this neighbouring dwelling.
- 7.19 It is considered that suitable boundary screening and planting could be secured by condition, and the levels of activity and noise would be in keeping with the residential nature of the development to the west of the site, and that overall this level of noise would not cause significant harm to neighbouring amenity.

d) Housing Mix/Standard of Accommodation:

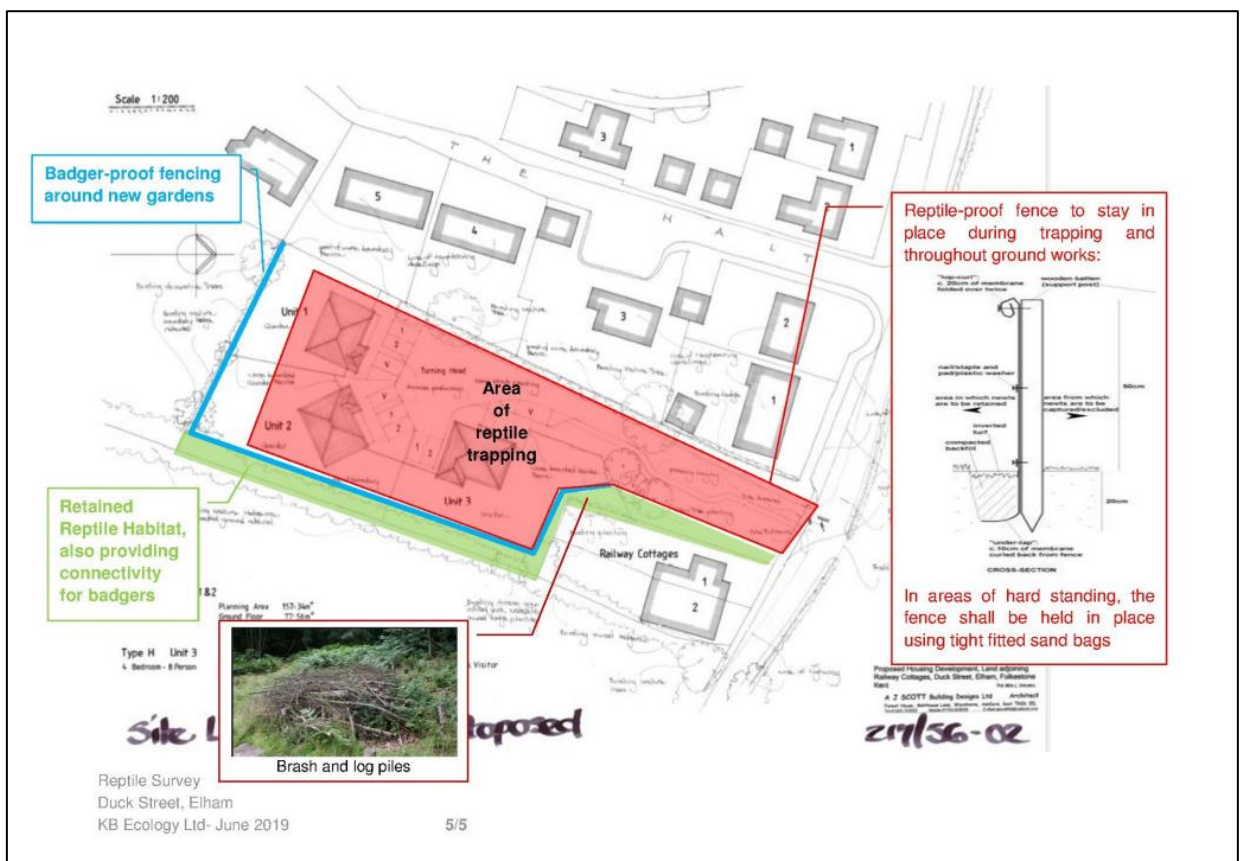
- 7.20 The detailed floorplans and elevations of the proposed dwellings are indicative only and these detailed matters would be considered under a future reserved matters application. The indicative scheme shows three four-bedroom dwellings which would provide a high standard of accommodation and would be in excess of the minimum space standards set out by Government (Nationally Described Space Standards). It is regrettable that dwellings of this scale would not be affordable to many, this factor alone is not however a reason to refuse permission and it is possible that any concerns regarding the size / mix of units proposed could be addressed at Reserved Matters stage when detailed designs would be able to be fully considered.

e) Parking and Highways:

- 7.21 KCC Highways & Transportation consider the proposed access, and minor reconfiguration of Duck Street to be acceptable in highway safety terms, and also consider that the development would have an acceptable impact upon the capacity of the surrounding highway network and would not result in an increased highway safety risk. The proposed parking provision of two parking spaces and one visitor space per dwelling is considered to be appropriate. Full details of cycle parking could be secured by condition along with all other highways requirements.

f) Ecology and Biodiversity:

- 7.22 It is a requirement of national and local policy that development does not endanger protected species, and the NPPF requires that development delivers a net gain in biodiversity terms.
- 7.23 During the course of the application, the proposed site plan has been amended to exclude the south hedge (where the badger sett is located) from the residential curtilage, to ensure that suitable habitat will be retained for reptiles and badgers (as recommended in the submitted reptile report). The strip of land would be outside of private garden space and managed by an appointed management company, to ensure its long term retention and development.
- 7.24 The submitted Reptile Survey and Mitigation Strategy (June 2019) concludes that the fencing would mean that suitable reptile habitat will be retained and the population of lizards could be retained on site. Prior to any ground works starting, a translocation exercise should take place, entailing the erection of reptile-proof fencing around all areas of the site where ground works would take place (Figure.2). This could be the subject of a planning condition.
- 7.25 In addition, the revised plan also shows that the fence will be badger-proof (along the south and west boundaries) to protect private garden spaces, as per recommendations in the badger report. The letter dated 26th February 2020 from the Ecologist states that the fence is such that badgers will be able to get around the proposed development and their ability to forage in the village will not be impaired.



(Figure.2)

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7.26 KCC Ecology raise no objection to the proposal subject to conditions to secure reptile mitigation and a site wide management plan. Therefore, it is considered that the proposed development would safeguard protected species and the proposal would comply with Saved policy CO11 of the Local Plan which seeks to ensure that development would not endanger protected species or cause the loss of, or damage to, habitats and landscape features of importance for nature conservation.

g) Flood Risk and Drainage:

7.27 The application site is classified as Flood Zone 1, it does however slope downwards to the properties to the west on The Halt, and areas of The Halt are classified as Flood Zone 2 and 3. Representations received raise concerns that the proposed development would result in additional surface water run-off, and that springs within the site could be diverted towards neighbouring properties.

7.28 A Flood Risk Assessment and drainage proposal have been submitted which concludes that the site can be adequately drained and the proposals would not increase the flood risk to the neighbouring properties. Measures outlined within this could be the subject of planning conditions.

h) Contamination:

7.29 As an agricultural site there is potential for previous contamination of the site. An Environmental Report has been submitted which concludes that the site represents a very low to low environmental risk, however, a phase II intrusive investigation of the site is required. It is considered that further more detailed land contamination studies could be addressed by a planning condition.

i) Trees:

7.30 Whilst there are no trees within the site itself, the Arboricultural Manager has advised that a tree protection plan is required in accordance with BS5837:2012 to demonstrate that trees in adjoining sites would be protected during construction works, and that hedgerows alongside the proposed access would be protected. This could be secured by planning condition.

j) Archaeology

KCC Archaeology raise no objection subject to a condition requiring a watching brief to be carried out as the site lies on the former Elham Station and Elham Valley Line. KCC Archaeology state that archaeological deposits relating to this Post-Medieval activity may be exposed during the groundworks involved in the development of the site. This could be secured by condition.

Environmental Impact Assessment:

7.31 In accordance with the EIA Regulations 2017, this development, due to the location within the AONB, requires screening for significant environmental impacts.

Local Finance Considerations:

- 7.32 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.
- 7.33 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £138.94 per square metre for new residential floor space.

Human Rights

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

Public Sector Equality Duty

- 7.35 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

Working with the applicant:

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

8. CONCLUSION

- 8.1 The three dwellings would make a small-scale contribution to the housing needs of the district in a sustainable location immediately adjacent to the settlement boundary. Whilst the proposal would introduce built development into an undeveloped rural location, resulting in a level of harm to the character of the area, it is considered that this harm could be mitigated through landscaping due to the limited harm identified. In addition, subject to the reserved matters application that will consider the detailed design of the individual dwellings, it is clear that a development of this scale can be successfully designed that would be acceptable in terms of impacts upon neighbouring amenity, highway and ecology.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and the applicant and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary

Conditions:

1. Approval of the details of the scale and appearance of the building(s) thereto and the landscaping of the site, hereinafter called "the reserved matters", shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: Such details are necessary for the full consideration of the proposal and have not, so far, been submitted.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission.
Reason: As required by Section 92 of the Town and Country Planning Act 1990.
3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended).
4. Prior to works commencing on site (including vegetation clearance) the reptile mitigation detailed within the Reptile Survey and Mitigation Strategy (KB Ecology; June 2019) must be implemented in full.
Reason: In order to protect species in the interests of nature conservation'
5. Within 3 months of work commencing on site a site wide Ecological Management Plan must be submitted to the Local Planning Authority for written approval to include the following details.
 - Map showing the area to be managed

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- Overview of the proposed management
- Timetable to implement the management
- Details of who will be carrying out the management
- Details of monitoring and management plan reviews

The plans must be implemented as approved

Reason: In order to enhance biodiversity in accordance with paragraph 170 of the National Planning Policy Framework.

6. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.
Reason: To ensure that features of archaeological interest are properly examined and recorded.
7. No development shall commence until a tree protection plan is submitted to the Local Planning Authority in accordance with BS5837:2012 that demonstrates how the trees in private ownership on land adjoining the application site to the west (The Halt) will be protected against the effects of the development and the proposed access road that passes in close proximity to them along with measures to safeguard the hedgerows that surround the site.
Reason: In order to protect the longevity of existing trees and hedgerow in the interest of visual amenity.
8. The vehicle parking and vehicle turning facilities shown on the approved plans shall be kept provided and available for parking purposes in connection with the approved development prior to the first occupation of any dwelling and at all times thereafter.
Reason: To ensure the permanent retention of the facilities for parking purposes within the curtilage of the site in order to avoid obstruction of the highway, safeguard the amenities of adjacent properties and encourage alternative modes of sustainable transport in accordance with saved policies TR5, TR12 and SD1 of the Shepway District Local Plan Review.
9. A bound surface for the first 5 metres of access from the highway shall be provided prior to the first occupation of any dwelling.
Reason: In order to avoid the displacement of loose materials onto the highway in the interest of highway safety.
10. The visibility splays shown on the submitted plans shall be provided with no obstructions over 1.05m above carriageway level within the splays prior to the first occupation of any dwelling.
Reason: In order to provide a safe means of access for vehicles entering and egressing the site in the interests of highway safety.
11. No side windows shall be provided within the side elevation to Unit 1 (facing N.5 The Hall) unless obscure glazed and non-opening below 1.7m above finished floor level.

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Reason: In order to provide a satisfactory level of privacy for existing occupiers in the interest of residential amenity.