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Application No:	Y19/1492/FH
Location of Site:	Nickolls Quarry, Dymchurch Road, Hythe, Kent, CT21 4NE
Development:	Outline planning application accompanied by an Environmental Statement for a mixed use development comprising up to 650 no. residential dwellings employment development (Class E (g) use (former B1 uses) up to 15,000 sqm, and / or care/extra care facilities up to 18,000 sqm), local centre (E use (former A1/A2/A3/A4/A5 uses) up to 1,150sqm; community/sports and leisure uses (up to 3,650sqm E, F.1 or F.2 uses I, 14.02ha open space and site restoration including raising land levels with all matters reserved
Applicant:	Camland Hythe Ltd & Nickolls Properties Ltd, C/O Borough Green Sand Pits, Platt Industrial Estate, St Mary's Platt, Borough Green, TN15 8JL
Agent:	Miss Kate Holland
Officer Contact:	Sue Head

SUMMARY

This report considers whether outline planning permission should be granted for a mixed use development including 650 dwellings, employment or C2 Care uses, a local centre, community/sports and leisure uses, open space and site restoration at Nickolls Quarry.

Outline planning permission has previously been granted on this site as part of the wider original planning permission for 1,050 dwellings and 400 of those houses have detailed planning permission and are being built out on site.

Due to an expired time condition, a new outline application for the remainder of the land has been submitted to enable the remaining units that were previously granted outline planning permission to be built out.

The report concludes that the Parameter Plans and Design and Access Statement include sufficient information to ensure that the development will be well connected, with strong green and blue connections, a clear movement hierarchy and creating a development with a strong sense of place.

Whilst no longer a formal site allocation in the adopted Core Strategy or the PPLP, it is being considered as an allocation in the Core Strategy Review and the site is shown as a development site within the Hythe Strategy and the PPLP allocates the site for 15,000sqm of B1 uses, with the flexibility to introduce up to 25% of non-business use class subject to certain criteria. The site forms part of the Council's housing trajectory, and the development of the site is therefore accepted as a matter of principle.

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A viability assessment has been submitted in support of the proposals which demonstrates that the site is unable to pay the full contributions that would normally be required. However, almost all of the extant S106 contributions for the original permission will have been made by the time the 400 houses that have detailed permission have been occupied, as well as policy compliant 22% affordable housing across the application site. The new S106 will include a mechanism to assess the opportunities for flexibility on the employment / care use land so that viability can be re-assessed as the development progresses and further contributions can be sought.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing 22% affordable housing; 2 years bus service contributions; railway halt contributions and a flexible approach to securing the employment and / or care uses and remaining contributions, 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 or obligations that he considers necessary.

1. INTRODUCTION

- 1.1. The application is reported to Committee because the Chief Planning Officer believes it raises issues which should be considered by the Planning and Licencing Committee.

2. SITE AND SURROUNDINGS

- 2.1. The application site comprises an area of 37.58ha and is located approximately 3km from Hythe town centre at the western edge of the settlement. It is accessed from the A259 Dymchurch Road which forms the south eastern (front) boundary to the site. Botolphs Bridge Road is to the west and the Romney Hythe and Dymchurch Railway runs along the north western boundary of the site. The site forms part of a former working quarry that was granted outline planning permission for redevelopment in 2010. Part of that application site has detailed planning permission and residential development has commenced on that part of the site that lies to the north east of the application site.
- 2.2. Whilst historically the site has been used as a quarry for gravel extraction and waste disposal, extraction has now ceased. As a consequence of the approved residential development that has commenced on the land to the east of the application site, land raising works have been taking place and to facilitate that, stockpiles are present across the majority of this site. These stockpiles are continually worked and intermittently moved around the site.
- 2.3. To the north east of the site is an existing lake which is used for recreational sailing and fishing, and to the south and south east of the lake (north and north east of the application site), is a residential development being constructed by Barrett Homes. This development forms Phases 1 and 2 of the original 2010 outline permission and will deliver a total of 400 dwellings. These dwellings are accessed from a right hand turn priority junction from Dymchurch Road.

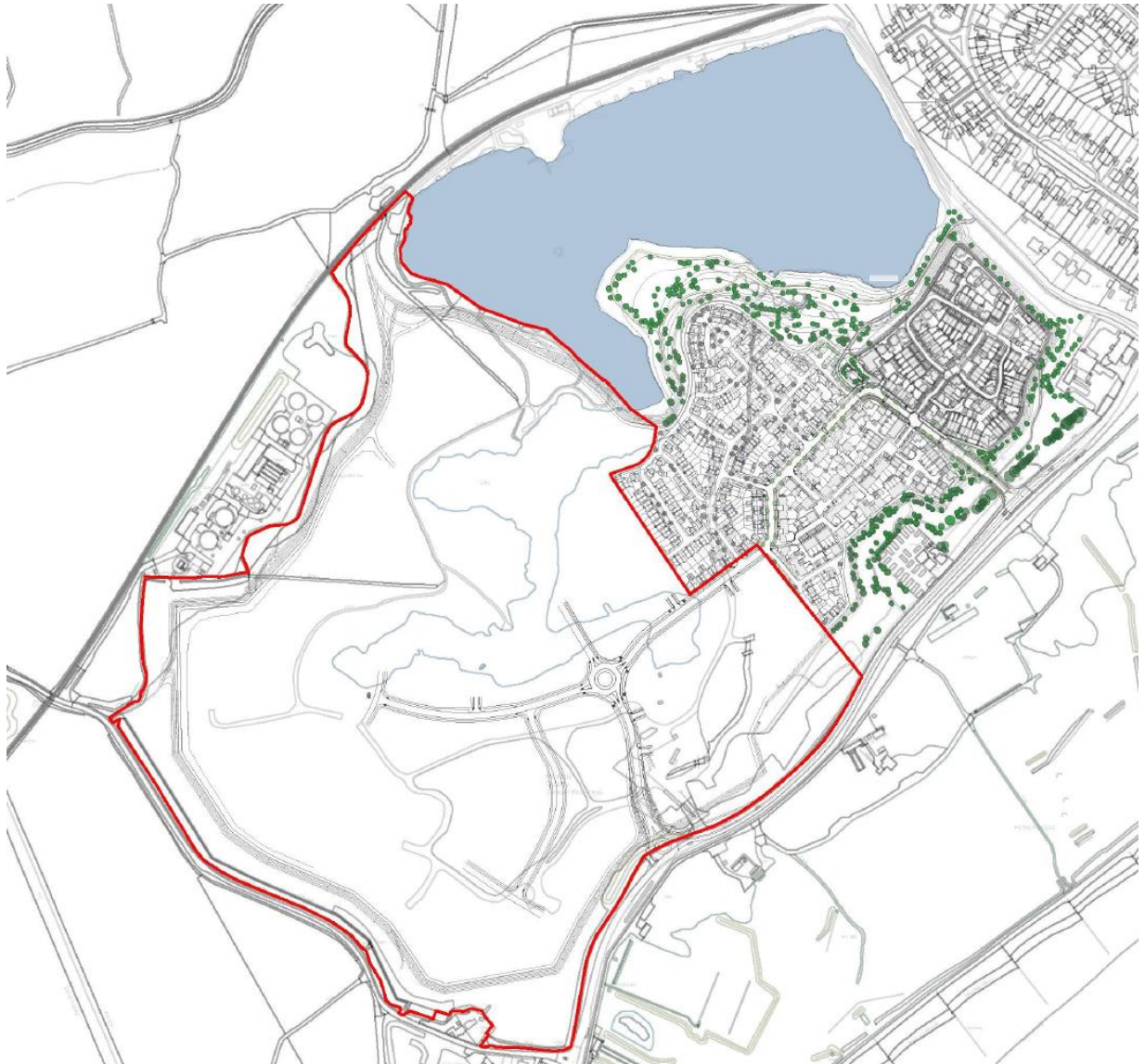


Figure 1 Location Plan

- 2.4. Beyond the Barratt development to the north east is an access road leading to a gated access to the lake. Beyond this (and outside the original Nickolls Quarry site) is residential development in the Palmarsh area of Hythe. This area includes Palmarsh Primary School which is approximately 600m from the site. There are a number of caravan parks to both the east and west of the site.
- 2.5. To the south of Dymchurch Road are the Hythe Ranges, an operational MOD site and used for rifle shooting practice by the army. Beyond the Ranges is a beach and the sea. To the north western boundary of the site is the Palmarsh sewage treatment works, separated from the site by a belt of trees on the boundary. The treatment works include open settlement tanks and is accessed from Botolphs Bridge Road to the south west. Land to the north of the site is relatively flat towards the Royal Military Canal, a Scheduled Ancient Monument situated approximately 700m to the north, beyond which the land rises steeply towards Lympne village. The surrounding landscape to the west is low lying and flat consisting of large fields sometimes bisected by canals.
- 2.6. The boundaries of the site are largely delineated by hedgerows or tree screening and on the southern boundary, the trees are subject to Tree Preservation Order. A public

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footpath runs inside the boundary along the western edge and extending along the northern boundary of the site, crossing the railway line to the north adjacent to the existing lake.

2.7. The site is located in Flood Zone 3a (identified in the Council's 2015 Strategic Flood Risk Assessment) and is at risk of flooding from the sea. The site is not in any area of special landscape or policy designations but the site is in close proximity to the AONB, which slopes to the escarpment to the north. There are a number of designated Heritage Assets in close proximity to the site, including the Scheduled Ancient Monuments of Botolph's Bridge, Dymchurch Redoubt and St Mary's Church and the Grade II Listed Martello Tower no. 19.

2.8. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

3.1 Outline planning permission is sought for a mixed-use development including both residential and commercial/employment uses with the potential for care/extra care uses, along with areas of open space and site restoration to include raising land levels.

3.2 The site forms part of a larger site that was granted outline planning permission for redevelopment in 2010, and then by virtue of a S73 permission in 2015. Part of that permission has been implemented and is being built out on land to the north east of this site, but a condition of that outline permission required all reserved matters applications to have been submitted by May 2020 (which was subsequently extended to May 2021 as a result of the Covid Regulations). The applicant took the view that it would be more appropriate to plan positively and to amend the scheme by submitting a new outline application for the remainder of the site. This new outline application therefore seeks to amend the original masterplan to take account of changing planning policy, and environmental and economic changes that have taken place since the original outline permission was granted. All matters are reserved, and the application is supported by a number of parameter plans to establish a framework against which future Reserved Matters applications would be determined.

3.3 The table below shows the changes from the original outline permission to the current proposal:

Original Scheme	Proposed Scheme
1,050no. dwellings	1,050no. dwellings (650no. to be delivered within the site area)
Up to 15,000sqm B1 (office and light industrial)	Up to 15,000sqm B1 (office and light industrial uses), or 18,000sqm care uses, or a mix of both to create greater flexibility
500sqm A1/A2 uses (shops/services) and 500sqm A3/A4/A5 uses (restaurants/drinking establishments/takeaways)	1,150sqm local centre to deliver A1 (shops) A2 (financial/professional services), A3 (restaurants), A4 (drinking establishments)
18.8ha open space	14.02ha open space within the site area

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15.5ha water bodies (of which 2.5ha to be within the new site area)	Ephemeral water bodies created by swales interspersed with smaller permanent water bodies
Balancing/ecology lake to provide surface water drainage solution	Balancing/ecology lake removed and replaced with natural open space with ecology habitat informed by ecology surveys. Open space elongated to provide visual buffer with sewage treatment works to the north
Location of employment and local centre land spans both sides of main access road	Employment land and mixed-use local centre situated to south west of access road and to the north of the main access road to maximise road frontage for commercial uses
Phasing of employment land provision, land to be provided as raised, serviced parcels by 300no. residential occupations	Phasing will bring forward mixed use local centre, community uses and some employment land as a first phase with balance of employment land to be provided as a last phase of development occupations

- 3.4 Two accesses from Dymchurch Road were proposed as part of the original outline application. The right-turn priority junction to serve the first phase of the development has been implemented and is in use. A roundabout on Dymchurch Road was proposed to serve this part of the site, the details of which were to be subject to a future application. The details of the design of the roundabout to serve this part of the site were approved in April 2020 under reference Y19/0540/FH.
- 3.5 The application is accompanied by a number of Parameter plans which set the framework for the determination of future reserved matters applications.
- 3.6 The parameter plans to be determined as part of the outline application are the:
- Framework Plan;
 - Land Use Plan;
 - Indicative Movement Plan;
 - Green Infrastructure Plan;
 - Densities Plan;
 - Building Heights Plan;
 - Phasing Plan
- 3.7 During the processing of the application, officers have worked with the applicant to secure a number of amendments to the proposals to ensure that the approved plans provide a framework for high quality place making and a successful new place for residents of the district to live in.
- 3.8 The discussions have centred around the creation of a legible and connected movement network to aid and encourage walking and cycling within the development. Further significant attention has been paid to agreeing the detailed principles for each of the three character areas proposed, ensuring the green infrastructure is firmly

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embedded within the character area. The vignettes in the Design and Access Statement set these out.

- 3.9 It is considered that this would make sure that those character generating principles are fixed and can be delivered when considering practical aspects in detail, including street alignments and parking, the result being a development with clear and distinct parts which should contribute to the overall sense of place. Detailed principles have been identified within each character area with more detailed plan vignettes and street typology sections establishing a variety of parking typologies, both via the additional more detailed vignettes and street typology sections. More details are set out below.
- 3.10 The Framework Plan shows a central square, which is accessed from the main road from Dymchurch Road. This road then runs through the square and connects with the existing development to the east, becoming the primary road through the development. The mixed uses are located around the square, and the main area of employment land is located in the south west part of the site, as proposed in the original outline application. Three housing character areas are proposed, which are described in more detail in paragraph 3.14.



Figure 2 Framework Plan

- 3.11 Structural landscape/open space is proposed around the north, west and southern boundaries of the site. A large area of landscaping is proposed to the north of the housing, separating the built development from the sewage treatment works and the

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railway line. In addition to this, two areas of open space within the site are proposed, one in the western part of the development and the other at the eastern boundary, adjacent to the boundary with existing Phase 1. These two spaces are connected by wider “green streets”, which also run through the central community square and have formal street trees planted on both sides in grass verges. The street that connects the central square to the open space and lake to the north is in the form of a linear park with trees and a wide verge on the eastern side with the opportunity for swales. Along the western boundary, the structural landscape is shown punched into the development area, thus softening this edge where it meets open space to the west. Further open space/landscaping is shown between the housing development and the employment/care use land, and street trees and soft landscaping is identified on all streets within the road hierarchy.

3.12 The Indicative Movement Plan shows the street hierarchy within the site, with the primary street entering the site from Dymchurch Road via the approved roundabout, running through the central community square and extending eastwards to meet up with the adjoining Phases 1 and 2 which are currently being built out. This part of the primary street from the community square is also defined as a primary green street, as are the two other two streets which meet at the community square and extend westwards and northwards. Secondary streets are shown within the development areas, linked by an indicative road network which will be determined at reserved matters stage. The existing and proposed footpath network is shown on this plan as well as an indicative route for the new England Coastal path which runs through the landscaping at the front of the site, through the community square, the linear park and then to the open space to the north.



Figure 3 Movement Plan

3.13 The Density Plan shows densities ranging from 35dph to 45dph with the highest density being within the central part of the site, close to the community square and commercial uses at the heart of the development. The densities reduce towards the edges of the development. The building heights plan show buildings ranging from 2 storey (max. 10.2m to ridge) to 3 storey (max. 14.2m to ridge) and these heights are reflected in the density plans, with the taller buildings around the central, more dense part of the site, with the lower, 2 storey development being located in the western part of the development, particularly on the very western edge.

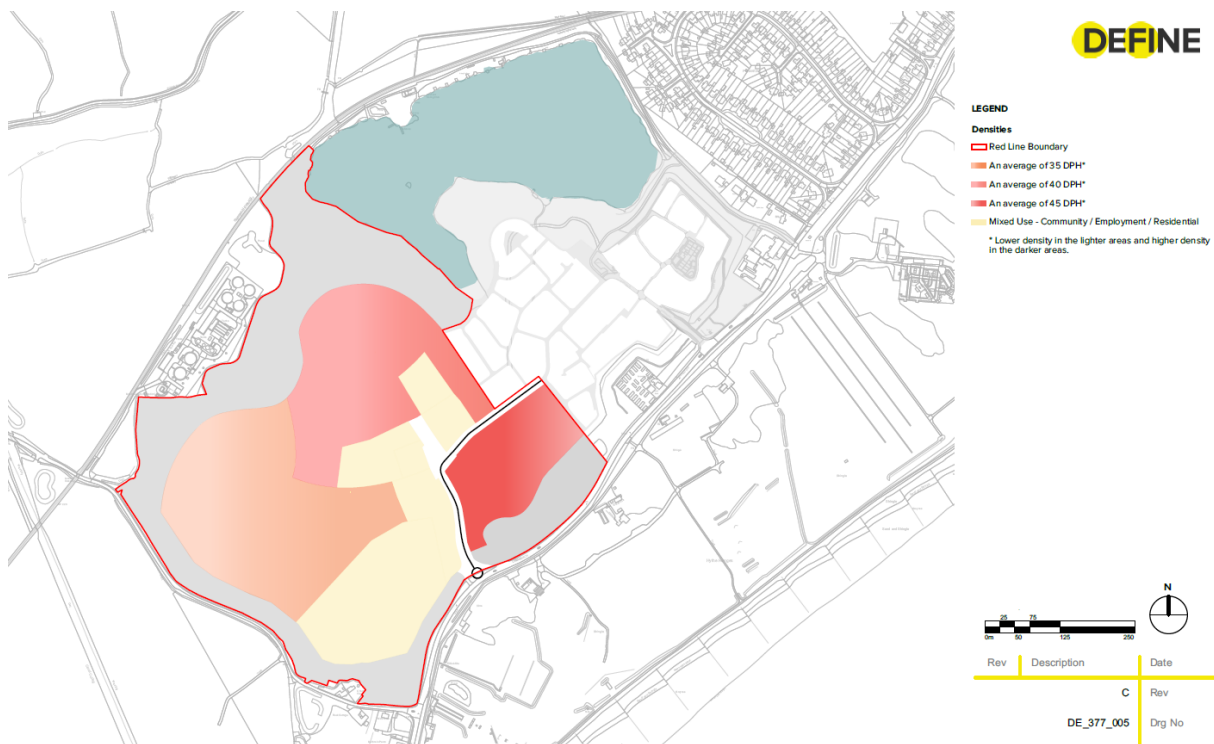


Figure 4 Densities Plan

3.14 The Placemaking Plan identifies the three residential character areas, the street hierarchy, the footpath and cycleway routes, the Community Square, the Village Green and the Woodlands Green as well as the Key Gateway Entrance, Key Corners and Key Vista Terminations. The distinguishing characters of the three character areas are noted in terms of their densities, edges, built form and streets as well as the parking solutions for each area. The Woodlands character area is characterised by a less regular building/street alignment, with shared surface lanes, a central Woodland Green and woodland “clumps” which break up the outer edge of the development, as mentioned in the previous paragraph. The Village character area is located in the south eastern part of the site, and has a tighter urban grain and smaller geometric perimeter blocks of development with more linked and smaller house types. The Lakeside character area has a distinctive linear park along the main road which connects the Community Square to the open space and lake to the north. The dwellings would be taller along this street to create a sense of enclosure, whilst a lower density is proposed on the lakeside edge with larger detached units in larger plots.

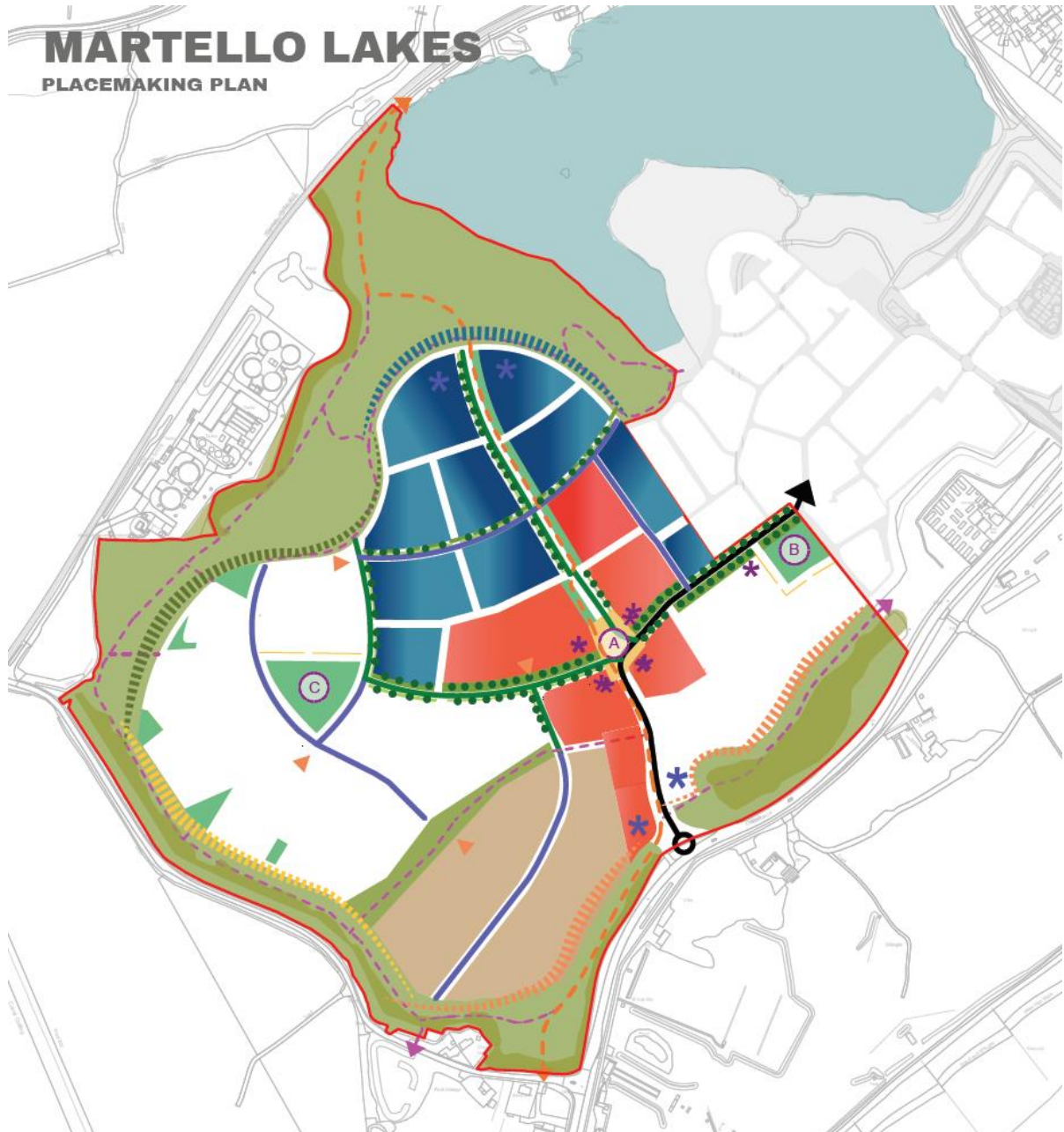


Figure 5 Placemaking Plan

- 3.15 The land uses and general layout have not changed significantly since the original outline permission, but the two main changes in this application are the alternative proposals for the employment land and the omission of the balancing pond in the northern part of the site.
- 3.16 The application proposes either 15,000sqm of B1 employment uses and / or care uses up to 18,000sqm. The applicant has put forward a case that there is no market for this amount of employment land in this location, and should that be the case, the land could

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be used for care uses – residential care, extra care or elderly living accommodation, or a mixture of employment and these uses.

- 3.17 The Flood Risk and SUDS Strategy document deals with the loss of the balancing pond and this states that storm water run-off from the site currently drains to Martello Lakes from where it discharges to the ground. Monitoring has been undertaken to assess how quickly water infiltrates from the lake and this confirms that sufficient capacity exists to receive flows from the application site. This analysis demonstrated that the balancing pond included in the consented scheme had little hydraulic effect and was not required.
- 3.18 Finally, it is proposed to raise the land levels as was accepted in principle as part of the original outline permission and has been done on the first two phases. The original outline allowed site levels to be raised to a minimum of 5.77m AOD. This application seeks to raise levels to a minimum of 5.9m AOD, with finished floor levels raised 300mm above this (ie at 6.2m AOD), to give a free board of 660mm above the AEP tide level, providing an uplift for the effects of climate change.
- 3.19 The following reports were submitted by the applicant in support of the proposals:

Planning Statement

The Planning Statement sets out the relevant development history and planning policy background, together with the details of the site's context and suitability for development. It concludes that the proposals closely accord with National and Local Planning Policy guidance and represents a sustainable form of development that should be supported by the Council and approved without delay, in accordance with para 11, NPPF.

Design and Access Statement and Addendum

An Addendum to the original Design and Access Statement (DAS) has been submitted as a result of discussions during the processing of the application that have resulted in amended Parameter Plans and additional explanatory information. The DAS seeks to communicate the masterplanning process and proposed development principles whilst demonstrating how the site would be developed in accordance with current urban design guidance and good practice. It seeks to demonstrate how a high quality development would be achieved in terms of development use, amount, layout, scale, landscape, appearance, access to the site and the relationship between the proposed new development and its surroundings. It also communicates the collaborative design process undertaken to the date of submission involving Planning Officers, KCC officers and other key consultees.

The DAS Addendum details the result of the discussions that have taken place during the processing of the application. These cover the more detailed principles for each character area, ensuring the green infrastructure is firmly embedded within the character vignettes are "fixed" and can be delivered when considering practical aspects in detail, including street alignments and parking. The DAS Addendum identifies the detailed principles within each character differentiation with more detailed plan vignettes and street typology sections whilst establishing a variety of different parking typologies, both via more detailed vignettes and street typology sections.

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Statement of Community Involvement

This states that as part of the preparation of the planning application, the applicant undertook a comprehensive programme of community involvement. A variety of practices were used not only in shaping the final proposals, but also in influencing the timing of the planning application. The SCI illustrates how the local community and key stakeholders have been consulted and provides details of the feedback received and the applicant's response which has assisted in the evolution of the scheme as submitted.

Transport Statement & Travel Plan

The report states that the scope of the Transport Statement was agreed with KCC Highways as was the Trip Rates for the respective land uses. The TA concluded that it had demonstrated that the highways and transportation elements of the proposed development are generally consistent with those associated with the 2010 permitted scheme and that there would be no material change in traffic impacts that would result in a severe residual cumulative impact or unacceptable impact on highway safety.

The report stated that whilst not factored into the technical assessment of traffic impacts on the surrounding highway network, the TA was supported by a Framework Residential Travel Plan and a Framework Commercial Travel Plan which have been produced with the aim of reducing single car occupancy journeys, reducing demand for on-site car parking and maximising the use of more sustainable forms of travel such as walking, cycling, public transport and car sharing by future residents. As such, the report stated that it should be considered that the technical assessments set out within the TA are robust.

Preliminary Arboricultural Assessment & AIA

A desk study and a field survey of the trees present on site were undertaken in May 2019. The desk study exercise identified that a number of trees present on site are protected by TPO. The field survey identified that the site contains a number of young, early-mature and mature trees which are predominately in a good condition.

The most significant trees recorded within the survey were the group of trees located along the eastern boundary, adjacent to Dymchurch Road. The groups of trees were made of mixed species and ages, but generally these groups were in good health and exhibited minor defects. These groups of trees offered the site screening and should be retained if the site is to be developed.

A number of groups within the site were considered to be of low quality and offered the site a limited contribution. These groups exhibit defects such as tear wounds, storm damage, major defects, trees in decline and dead trees. Due to these defects the groups were considered to be of a low retention value.

The report sets out recommendations for the subsequent mitigation or avoidance of impact. It concludes that the proposed development would have limited impact upon the visual amenity of the local area as a result of the proposed tree removal. Additionally, the proposed works are unlikely to impact significantly upon the long-term health of retained trees and new tree planting will significantly mitigate for the minor tree loss identified and will enhance and reinforce the existing boundary tree cover resulting in significant increase in the number of trees as well as the quality and biodiversity of the site.

Flood Risk Assessment and SUDs Strategy

The key conclusions of this report are as follows:

- The site is located in Flood Zone 3a where, prior to the consideration of flood defences, the existing probability of tidal flooding is greater than 0.5% (1 in 200) annually;
- Development of a residential lead scheme in FZ 3a is considered to be acceptable under planning policy provided the Exception Test and Sequential Tests are passed;
- The site is allocated for housing in both the 2013 Core Strategy and the emerging Core Strategy Review, therefore in line with para 162 of the NPPF, it passes the Sequential Test and no further consideration of alternative site is required;
- The scheme passes both points a and b of the exception test.
- An initial flood screening concluded that tidal flooding and flooding from infrastructure failure (i.e. the coastal flood defences) required further technical assessment whilst the other sources of flooding did not pose a significant risk to the development;
- Overtopping or breaching of the coastal flood defences is a real possibility and the probability of this occurring will also increase over the development lifetime as a result of sea level changes associated with climate change. Despite this, the risk posed to the scheme is assessed to be low as the site will be raised by building up ground level and finished floor levels within the scheme will all be at at least 600mm above the design flood height including an appropriate allowance for climate change over the next 100 years;
- Notwithstanding this, it is possible that flooding could cut off access to the site. This residual risk will be managed by developing and implementing an Emergency Flood Response Plan;
- Storm water run-off from the site currently drains to Martello Lakes from where it discharges to the ground. Monitoring has been undertaken to assess how quickly water infiltrates from the lake and confirms that sufficient capacity exists to receive flows from the application site. This analysis demonstrated that the balancing pond included in the consented scheme had little hydraulic effect and was not required;
- Changes in water level may occur in Martello Lake during an extreme storm event but the removal of the balancing pond would result in an increase in maximum water levels of less than 0.01m. This is considered a negligible change;
- Storm water run-off from the proposed development would be routed to Martello Lake via a series of swales and wetland areas. This scheme has been designed to enhance and expand existing wetland habitat on the site and ensure that water draining to Martello Lake is clean;
- This sustainable drainage network will act as a buffer between the development and the adjacent sewage treatment works and as an amenity area for future residents.

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Drainage Strategy

- There are capacity issues with the existing foul water system to the west of Hythe. These matters were raised as part of the original Outline planning permission ((Y06/1079/SH) and subsequently amended by a s.73 planning permission in 2015 (Y15/0094/SH)) and a strategy was developed at that time, in consultation with Southern Water, to upgrade the network to accommodate the new development. Some initial works have already taken place to allow the development at Phase 1 to be completed. This has included the installation of a pumping station which connects to a point at the end of the access road leading to the lake to the north of the site. The contractor then laid pipework to a point in Palm Beach Avenue to connect the site to the existing system.
- The full upgrade works will be required at approximately 300no occupations, and therefore prior to the commencement of development the subject of the current outline planning application. This includes running a new rising main from the existing connection pint (at the lake access road point) along the front of the site (i.e. along Dymchurch Road) to connect to the new pumping station which will be located to the west. The new rising main will take foul flows from the site towards Hythe for primary treatment before being pumped back to the sewage treatment works to the north of the site for secondary treatment. The applicant is currently in the process of developing a detailed construction design for these works.
- The applicant has agreed with Southern Water that they are responsible for all off site infrastructure upgrades (other than the installation of the Rising Main) and they will charge a connection fee for each new dwelling / commercial entity to connect to their foul water system. The upgrade works are due to be undertaken by the end of 2021 and this is programmed in to their work schedule.

Ecology Reports

This states that the habitats onsite support bats, badger, breeding birds and wintering birds, reptiles and invertebrates. Mitigation measures are proposed to address potential impacts to these protected species and ensure compliance with applicable legislation. Opportunities for ecological enhancement have been adopted within the scheme, guided by the results of the surveys and the scheme provides scope for enhancement of creation of retained grassland, scrub, woodland and hedgerows and creation of new habitats such as vegetated coastal shingle, wetland/floodplain habitats and a comprehensive wildlife box/refuge scheme. The development is not anticipated to result in any residual significant negative effects on important ecological features. The report concludes that the scheme is considered to accord with all relevant nature conservation legislation, as well as with the provisions of the NPPF (2019) and Shepway Core Strategy (2013).

Archaeological and Heritage Impact Assessment

This report concluded that due to late 20th century quarrying and gravel extraction, any remains associated with prehistoric, Romano-British and medieval coastal activity are likely to survive as islands between areas of disturbance. The proposed development is likely to result in a partial or complete loss of significance of any potential remains within the site and in accordance with local and national planning policy, it is likely that further archaeological investigations may be required through an appropriately worded condition.

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An assessment of the potential effects of the proposed development upon the settings of the designated heritage assets within the wider surroundings of the site was also carried out. It concluded that the proposed development would not have any physical or non-physical impact on the Scheduled Monuments or Listed Buildings in the wider landscape.

Preliminary Risk Assessment (PRA)

This states that whilst the document is submitted as a Preliminary Risk Assessment (PRA), it goes several stages further than a desk-based study. The application site is unusual in that a significant amount of intrusive investigation and associated interpretive reporting has already been undertaken as part of the original outline application (Y06/1079/SH) and on that basis, this report provides an up-dated PRA and summarises previous phases of site investigation, interpretive reports and a remediation strategy. The report concludes that the existing remediation strategies, if applied to Phase 3 of the development, are sufficient to address pollution linkages identified in the Conceptual Model. It recommends that the application site is remediated in accordance with the Hydrock Remediation Strategy of 2010 and SRH Remediation Strategy of 2018.

Shadow Habitats Regulation Screening Assessment

This considered the impact pathways of recreational disturbance, air quality and water quality and concluded that the proposed development will not have any likely significant effects on the Dungeness, Romney Marshes and Rye Bay SPA/Ramsar site or Dungeness SAC or Folkestone to Etchinghill Escarpment SAC.

Environmental Statement (ES)

The Environmental Impact Assessment submitted with the application considered the significant environmental effects of the proposed development, being socio-economic, landscape and visual amenity, biodiversity, traffic and transport, noise and vibration, air quality and water environment. Further effects were considered in terms of the planning requirements but were “scoped down” in terms of meriting the preparation of stand-alone chapters in the ES. These were buried heritage – archaeology, ground conditions, human health, major accidents and disasters and climate change and greenhouse gas emissions. In accordance with accepted methodology, the ES considered six assessment scenarios, these being the existing baseline as at 2019, the expected future baseline conditions at this time, the assessment of the construction phase, the first year of the commercial elements of the site and initial occupation of the first phase of residential units, the final completion of the scheme and the final completion of the scheme with regard to the surrounding cumulative developments.

In terms of the likely significant effects during the construction phase, following implementation of the mitigation measures, the ES concluded that there would be no potential significant environmental effects associated with the proposed development likely during construction. All potential environmental effects to the surrounding sensitive receptors during construction are considered to be of negligible to minor adverse and therefore considered not significant.

In terms of the operational phase, following implementation of mitigation measures, the proposed development would produce the following likely significant environmental effects during operation:

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- Changes to the landscape receptors (Viewpoint 1 – taken from a public footpath near the grounds of Lympne Castle, north of Lympne Park Wood and Viewpoint 2 – representative of walkers using a public footpath that broadly follows the escarpment edge) – Moderate Averse
- Generation of new operational employment – Moderate Beneficial
- Provision of new housing – Moderate Beneficial
- Provision of new care home/ retirement facilities – Moderate Beneficial
- Provision of open space, leisure facilities and playspace – Moderate Beneficial

The remaining potential environmental effects during operation are considered to be of negligible to minor beneficial or adverse and therefore are considered not significant.

Noise Assessment

This report assessed the shooting noise from the Ministry of Defence firing ranges on the opposite side of Dymchurch Road.

The report was prepared in response to the noise conditions imposed on the original outline permission. These related to the submission of a scheme for noise attenuation in respect of residential and commercial properties and public and private amenity space emanating from the MOD land; details of design mitigation measures for noise to be submitted; and fencing and solid barriers to be located for private gardens which are subject to incident noise levels above 62dbL.

The report states that average noise levels were measured at specific monitoring locations and noise levels across the site measured during the survey were below 85db and thus, the proposed layout was deemed suitable for residential accommodation. Typically, existing external maximum noise events across the site due to the firing range were in the range of 70 -80dB, therefore 2m high close boarded boundary fences would be required at all properties. For properties with north facing gardens, where the buildings provide screening from the firing range, the noise levels are likely to be below the 70dB limit set by the condition.

The results of the noise survey allowed the minimum sound reduction requirements of the external building fabric of the proposed development to be established as a performance specification and determination of those properties where noise levels are expected to exceed the threshold requirements set out in the conditions. The window contractor should demonstrate that the minimum sound reduction requirements can be achieved by their proposed window systems.

Air Quality Assessment

The report looked at existing air quality in the area and relevant air quality legislation, policy and guidance. The report concluded that during construction, the highest potential risk was from dust soiling but this was low risk and could be mitigated. The main potential air quality impact once the proposed development is complete was concluded to be emissions from road traffic associated with the proposed development. In comparison with the impact of the existing outline planning permission however, the impact of the proposed development in 2032 once fully operational, prior to mitigation, was predicted to be not significant. Mitigation should therefore be considered as proposed in the previous outline permission.

Viability Assessment

The applicant has put forward a viability case based on development costs and the proposed S106 obligations. The original outline permission showed 15,000sqm of B1 uses within the site. The applicants have proposed adding flexibility into this permission by allowing for a mix of employment and Care uses within the employment land area, which would have a more favourable impact on the viability of the scheme.

4. RELEVANT PLANNING HISTORY

4.1 The site has significant planning history. The key history is as follows:

Y06/1079/SH	Outline application for mixed use development comprising residential development (1050 dwellings); employment development (use class B1, 15,000sqm); local centre (500sqm use classes A1/A2); 500 sqm use classes A3/A4/A5); community centre/community facilities (1,000sqm use class D1); public open space (10.3ha); retention and alteration of water bodies (retained area 15.5ha)p provision of 2no. new access points to Dymchurch Road and site restoration including raising land levels.	Approved
Y13/0736/SH	Reserved matters application relating to access, appearance, layout and scale of Phase 1 comprising 192no. dwellings being details pursuant to condition 19 of outline planning permission Y06/1079/SH	Approved
Y13/0981/SH	Reserved matters application relating to the primary access spine road including drainage and street lighting for Phase 1, being details pursuant to outline planning permission Y06/1079/SH for residential development	Approved
Y15/0094/SH	Section 73A application to remove condition 12 and vary condition 57 of outline permission Y06/1079/SH – removal of condition 12 to enable development to take place without the construction of a pumping station at Grand Redoubt; and variation of condition 57 in relation to the provision of offsite highway improvement works.	Approved

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Y18/1306/FH	Reserved matters application relating to access, appearance, layout, scale and landscaping for Phase 2 comprising 208 dwellings being details pursuant to outline permission Y15/0094/SH for mixed use residential development; and details pursuant to conditions 22, 23, 24, 25, 27 and 32.	Approved
Y19/0540/FH	Condition 52 (highway works) for planning application Y15/0094/SH).	Approved
Y19/0937/FH	Reserved matters application relating to access, appearance, layout and scale for Phase 1 (partial re-plan) comprising 15 dwellings being details pursuant to outline permission Y15/0094/SH for mixed use residential development; and details pursuant to conditions 22, 23, 24, 25, 27 and 32.	Approved
Y19/0005/SCO	EIA Scoping Opinion under the Town and Country Planning Environmental Impact Assessment) Regulations 2011.	Scoping Opinion adopted

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town/Parish Council: Support subject to the width of parking bays being increased, and an adequate travel plan being produced. Members would like it to be noted that they feel there should be a bus service into the development as they have concerns regarding the disembarking of passengers on such a busy main road particularly with regard to school children or the elderly.

On amended plans: Members felt that they could not comment on this re-consultation due to the lack of explanation rendering them unable to scrutinise this and previous applications for the site. Members requested that in future changes should be highlighted with more clarity, bullet points or advice from the Planning Officer at Folkestone and Hythe Council.

KCC Highways and Transportation: No objection subject to the highway works for the new roundabout junction on the A259 as previously agreed and any other relevant previous highway conditions being attached to any planning permission granted together with the following planning conditions / S106 Planning Agreement:

Conditions:

- Construction Management Plan
- Provision and retention of parking
- Provision and retention of cycle spaces
- Detailed road layouts to be submitted
- Completion of works between a dwelling and adopted highway
- Electric vehicle charging point
- S106 Agreement:
- £5,000 for Travel Plan monitoring

All other highway contributions required from original outline and the repayment date for the contributions towards the Hythe Road arm and Stone Street arm of Newingreen junction that KCC Highways and Transportation has received should be 5 years from the date of the granting of any planning permission on this site.

KCC Ecology: Satisfied with the range of ecological surveys undertaken, however additional ecological information is required to be submitted with the reserved matters if planning permission is granted:

- Ecological Mitigation and Enhancement Strategy
- Landscape and Ecology Management Plan

KCC Public Rights of Way: Holding objection until a PROW Management Scheme is submitted and approved by KCC. In addition, details of the re-routing of the England Coast Path should be included, as this was supposed to be re-aligned through the site. PROWs should be included in the Travel Plans and the Travel Plan Co-ordinator should engage with KCC PROW.

Views on amended plans awaited and any updates received will be reported to Members at the Planning & Licensing Committee.

KCC Flood and Water Management: Recommend approval of the approach outlined in the Proposed Sustainable Surface Water Management (SLR, Drawing 004 Rev 1, December 2019) but would recommend that design provision is submitted for further review and approval when the layout is submitted for reserved matters. Recommend conditions relating to the submission of a detailed SUDs strategy and verification report.

KCC Archaeology: No objection subject to the following condition:

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

KCC Development Contributions: The contributions from the development are calculated as follows:

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- Primary - £1,662,000
- Secondary build - £2,343,518
- Secondary land - £901,675.18
- Waste - £221.92 per household - £144,248

Please note that there will be no Primary requirement under this application if the 3rd (final) tranche of the current S106 Primary contribution is paid (CPO: This is the case).

Natural England: No objection – the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

Environment Agency: No objection subject to conditions relating to mitigation for flood risk and ground water and contamination.

Romney Marshes Area Internal Drainage Board: No response

Kent Downs AONB Unit: Recognise that the principle of the development has already been established with the extant planning permission, but nevertheless concerned about the potential impacts on the Kent Downs AONB.

While the proposed development incorporates a substantial amount of green infrastructure within the application site, we do not agree that the proposed GI has been designed to minimise visual effects or enhance critical views as is stated in the Design & Access statement (page 52). As recognised in the LVIA, the site is clearly visible from the higher topography of the Lympne escarpment within the Kent Downs. This is a major development that will result in a large area of roofscape and significantly change the current undeveloped views over the site.

The proposed green infrastructure is proposed almost entirely around the perimeter of the site. The green space incorporates tree planting along the northern boundary, however this is some distance from the proposed built development and because of the higher topography of the Kent Downs, will do little to screen or filter views of development within the site. In order to help mitigate impacts on views from the higher topography of the AONB by reducing the large expanse of visible built development, it will be necessary to incorporate two or three bands of tree planting (with trees that have the capacity to develop large crowns) across the width of the site on an east-west axis. A wide range of species is suggested to cope with future threats of disease and climate change stress.

In respect of the LVIA submitted in support of the application, we do not agree with the Sensitivity assigned to VP2. While VP1, located on a public footpath on the Lympne escarpment is assigned a High sensitivity, VP2, also on a Public Right of Way on the escarpment is only assigned a Medium to High Sensitivity, the lower sensitivity being justified on the basis of their being less people using the Footpath as it is not a through route. We see no justification for the reduction in Sensitivity however and do not consider this consistent with advice provided in the GLVIA 3 – the location of both View

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Points in a nationally protected landscape and where users are recreational and where user's attention will be focused on the views before them would, in our view, warrant both Viewpoints being assigned a High Sensitivity.

The LVIA recognises, in respect of View Point 1 that 'Due to a combination of this elevated position and the application site central to the view, the proposal will become a prominent feature within the view and extend the built up area associated with Hythe to the west. When combined with the high sensitivity of the receptor, would result in a Substantial Adverse effect at construction and operation, which would be long-term direct and irreversible'. The LVIA assesses the visual amenity impacts at both construction and operation at Viewpoints 1 and 2 in the Kent Downs AONB to be Substantial Adverse. We agree with this assessment.

The LVIA also recognises at paragraph 4.9.1 that due to the elevated position of the Viewpoints in the AONB, that the mitigation measures will not materially alter the significance of impact and that the 'long term visual effects will therefore be felt on the elevated position of the Hythe Escarpment'. Given this recognition, we are very surprised that no mitigation as suggested above is proposed to help minimise impacts on views from the Kent Downs AONB, as is required by both local and national planning policy and advocated in the NPPG. Impacts could be further reduced by restricting building heights to 2 or 2.5 stories across the site, or at least on the parts more visible from the AONB as well as by ensuring that materials facing the Kent Downs are non-reflective and not pale in colour. Without incorporation of such mitigation, the Kent Downs AONB Unit objects to the application.

On amended plans: The proposal has been amended to try and address some of our previously expressed concerns and not incorporates more tree planting along the internal road network. While we welcome the incorporation of these trees, we are concerned that the amended plans do not go far enough to overcome the objections raised in our original letter. We would have liked to have seen the incorporation of tree belts incorporating trees that have the capacity to establish large crowns, rather than the pyramidal shaped trees specified in the plans. Furthermore, the proposal remains at 3 stories across much of the site which means that much of the roofscape will still be visible above the trees from the higher elevations of the Kent Downs to the north. As such, we maintain our earlier view that this major development in its current form will significantly change the current undeveloped views over the site, adversely affecting the setting of the AONB, failing to conserve or enhance it, contrary to the NPPF paragraph 172, and in conflict with policy CSD4 of Folkestone's Core Strategy, NE3 of the PPLP as well as the Kent Downs AONB Management Plan.

Southern Water: The water supply and sewers services at this location are the responsibility of IWNL.

Contamination Consultant: No objection subject to parts 4 and 5 of the standard land contamination condition being applied.

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Environmental Protection Officer: No objection subject to conditions relating to noise, construction hours, odour assessment and air quality mitigation.

Local Residents Comments

- 5.2 33 neighbours directly consulted. 1 response received querying the mains drainage arrangements.
- 5.3 **Ward Member** – No response received.
- 5.4 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 Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.
- 6.2 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 and as been subject to an Examination in Public in January 2021. As such its policies should be afforded weight where there are not significant unresolved objections.
- 6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

- HB1 – Quality Places through Design
- HB2 – Cohesive Design
- HB3 – Internal and External Space Standards
- HB4 – Self-build and Custom Housebuilding Development
- HB12 – Development of New or Extended Residential Institutions (C2 Use)
- E1 – New Employment Allocations
- E8 – Fibre to the Premises
- RL1 – Retail Hierarchy
- C1 – Creating a Sense of Place
- C3 – Provision of Open Space
- C4 – Children's Play Space
- T1 – Street Hierarchy and Site Layout
- T2 – Parking Standards
- T5 – Cycle Parking
- NE2 – Biodiversity
- NE3 – Protecting the District's Landscape and Countryside
- NE5 – Light Pollution and External Illumination

NE7 – Contaminated Land
CC1 – Reducing Carbon Emissions
CC2 – Sustainable design and construction
CC3 – Sustainable Drainage Systems
HW2 – Improving the Health and Wellbeing of the Local Population and Reducing Health Inequalities
HW3 – Development that Supports Healthy, Fulfilling and Active Lifestyles
HW4 – Promoting Active Travel
HE2 – Archaeology

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development
SS1 – District Spatial Strategy
SS2 – Housing and economy
SS3 – Sustainable settlements
SS4 – Priority Centres of Activity Strategy
SS5 – District Infrastructure Planning
CSD1 – Balanced neighbourhoods
CSD2 – District Residential Needs
CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation
CSD5 – Water and Coastal Environmental Management in Shepway
CSD7 – Hythe Strategy

Core Strategy Review Submission draft (2019)

SS1 – District Spatial Strategy
SS2 – Housing and the Economy Growth Strategy
SS3 – Place-Shaping and Sustainable Settlements Strategy
SS4 – Priority Centres of Activity Strategy
SS5 – District Infrastructure Planning
CSD1 – Balanced Neighbourhoods for Shepway
CSD2 – District Residential Needs
CSD4 – Green Infrastructure of Natural Networks, Open Spaces and Recreation
CSD5 – Water and Coastal Environmental Management in Shepway
CSD7 – Hythe Strategy

Kent Minerals Plan 2013 – 30 (July 2016)

CSM5 – Land-won Mineral Safeguarding
DM7 – Safeguarding Mineral Resources

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

Supplementary Planning Guidance/Documents

Kent Downs AONB Management Plan

Kent Minerals & Waste Local Plan, Safeguarding SPD

Government Advice

National Planning Policy Framework (NPPF) 2019

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

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Flood Risk and Coastal Change

Natural Environment

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) Development framework
- c) Employment land
- d) Highways and access
- e) Flood risk and drainage

- f) Ecology and biodiversity
- g) Noise
- h) Protected trees and landscape/Visual Impact
- i) Contamination
- j) Heritage and Archaeology
- k) Waste
- l) Impact on residential amenity
- m) Environmental Impact Assessment
- n) Viability and S106 Contributions

a) Principle of development and sustainability

- 7.2 By means of background, a larger site, of which this site forms part, was allocated for residential development in the Shepway Local Plan Review (SLPR) (2006) for 500 dwellings, along with the provision of a local centre, 6ha land to accommodate B1 uses, 3.6ha public open space and the retention of 15.5ha open water. The policy also required site levels to be raised, flooding to be addressed, densities of 30 dwellings per hectare with 50 dwellings per hectare around the local centre, high quality design, affordable housing, and the provision of a railway halt on land adjacent to the Romney, Hythe and Dymchurch railway line. Outline planning permission was subsequently granted in 2010 for 1,050 dwellings along with 15,000sqm B1 uses, 15.5ha open water and 18.8ha open space pursuant to that allocation, albeit with a departure from the policy, particularly in terms of the increase in the number of dwellings. A Section 73 application (Y15/0094/SH) to remove condition 12 and vary condition 57 of the original outline was granted permission in July 2016.
- 7.3 Reserved Matters approval has been granted for 400 houses within Phases 1 and 2, to the east of the application site, and development is well underway. The time frame to submit all reserved matters applications expired in May 2020 (subsequently extended to May 2021 as a result of the Covid Regulations). As is explained in paragraph 3.2 above, rather than rush to submit all the remaining reserved matters applications within the time-frame, which would have been an option open to them, the applicant chose instead to react positively and to amend the original masterplan to take account of changing planning policy, and environmental and economic changes that have taken place since the original outline permission was granted. So this new outline application seeks permission for the balance of the site which does not benefit from detailed permission, ie 650 dwellings, as well as the employment and other uses. The total quantum of residential dwellings remains the same as the original outline permission, with the inclusion of care uses as a potential option for some of the employment land.

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- 7.4 In terms of the policy position, given that the site had planning permission at the time the 2013 Core Strategy was prepared and adopted, it is identified as a 'potential new residential development' in Figure 5.6 of the adopted plan, but not specifically identified as an allocation in the policy or Policies Map. This approach was taken forward in the Core Strategy Review and minimal changes were proposed to Policy CSD7, Hythe Strategy.
- 7.5 Representatives of the site objected to this approach and recommended modifications that would refer specifically to the site in Policy CSD7. The Inspectors examining the Core Strategy Review considered the planning status of the site and whether the site should be referred to in the policy, on 17 December 2020, as part of the public hearings into the Core Strategy.
- 7.6 Following the hearing session, the Inspectors instructed the Council to prepare the Main Modifications to Policy CSD7 that would address the concerns of the site's representatives. Proposed Main Modifications have been drafted that would refer to the site as an allocation in Policy CSD7 and cross-reference to the figure (now renumbered Figure 5.5).
- 7.7 On the close of the public hearings into the Core Strategy Review, if instructed by the Inspectors, the Council will consult on the Main Modifications, including proposed modifications to Policy CSD7, for a six-week period. Public comments will be passed to the Inspectors to consider in writing their report. If the Inspectors consider that the plan is 'sound' with the Main Modifications, the Council can proceed to adopt the plan.
- 7.8 Notwithstanding the above, the site is identified as a major development in the Hythe Strategy in both the adopted and review of the Core Strategy (Policy CSD7 of the Core Strategy and Policy CSD7 of the Core Strategy Review), and it forms part of the Council's housing trajectory. The Places and Policies Local Plan (PPLP) allocates part of the site for delivery of 15,000 sqm of B1 (employment uses, with the flexibility to introduce up to 25% of non-business class uses subject to certain criteria.
- 7.9 Given the planning history of the site and the policy considerations (existing and emerging), the principle of development is acceptable. Although there is no current policy against which to judge the application, it is appropriate to consider it against the original outline permission and the policy requirements of the SLPR.
- 7.10 Where the proposal differs from the original outline permission as described in section 4 of this report is as follows. The main changes are the loss of the balancing pond, a slight increase in the amount of retail space and the option introduced for a flexible approach to the use of the employment land, with care uses proposed as an additional or optional use. These matters are dealt with in the following paragraphs. In terms of the other policy requirements, these are met by this proposal. The site levels are to be raised, flooding has been addressed, the development densities are acceptable and a contribution towards the railway halt continues to be sought.
- 7.11 In terms of affordable housing, the original outline proposed 20% across the site which whilst not in compliance with the adopted policy at the time, was accepted due to the viability case that was made. This application proposes 22% affordable across the site which is in accordance with emerging policy. Had 20% affordable been achieved across the whole site (as in the original permission), this would have resulted in 210no affordable units in total. If 22% is achieved on this part of the site as proposed, this will result in 143no affordable units on this site, which would result

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in an additional 13 affordable units being provided had the original outline been implemented. This is an improvement over the original scheme.

- 7.12 The site benefits from an extant outline permission for a mixed development (albeit that the time period for submitting reserved matters applications has now expired), and Local Plan policy supports the proposed employment provision. This application seeks to amend the masterplan to ensure the new development is deliverable and is offering the best economic, social and economic benefits. Furthermore, the community facilities and open space for the wider development fall within this application, which the occupants of the approved 400 dwellings will have access to. In light of this, I am satisfied that the principle of the development is acceptable, subject to all other material planning considerations being addressed. This most significant change from original outline permission and deviation from the policy position in terms of the employment land is dealt with in section c) of the report.

b) Development Framework

- 7.13 Policy HB1 of the PPLP requires development to make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density and materials. This is an outline application that is supported by a number of documents and Parameter Plans that set out the various elements of the overall Framework within which more detailed design proposals can be generated. The Parameter plans set out maximum parameters for matters such as density and building heights, but they allow flexibility in determining the detailed design of the scheme that would come through in reserved matters applications.
- 7.14 The site layout has not changed significantly from that granted under the outline permission, with the employment land to the south and residential development extending to the west and north. The main changes relate to the location of the A1 – A5 uses (shops and restaurants) which were located on the access road in the original application, but are now proposed around a local centre. The development area has also been extended as a result of the loss of the balancing pond, but the number of dwellings has not increased, therefore the density will be slightly lower than previously envisaged in the outline and has been built in Phases 1 and 2. The landscaped area between the boundary of the built development and the sewage treatment works has been increased in depth.
- 7.15 Discussions with the applicant during the processing of the application have resulted in a number of changes to the Parameter Plans, which are considered to be an improvement to the original layout. The movement and street hierarchy has been more clearly defined, and further details have been provided in terms of the 3 proposed residential character areas. The changes have also ensured that the green infrastructure is more firmly embedded within the proposal and certain aspects are fixed within the residential character areas, such as street alignments, street trees and parking, so that there is more certainty about the delivery of a high quality place when reserved matters are considered. Additional explanatory information has been included within the DAS Addendum, which includes more detailed vignettes of each of the 3 residential character areas and the central square, showing road alignment, landscaping, parking typologies and sections through streets which demonstrate how all those components fit within the streets.

7.16 The Primary road through the site runs from the (approved but not yet constructed) roundabout on the A259. It runs through the central square and extends eastwards, to meet up with the road on the adjacent site – this road becomes the primary road through the site as a whole and is a logical and legible route through. As originally submitted, the roads ran through the middle of the square with commercial buildings around it. The amendments show the roads running around the edges of the square leaving a large flexible open space in the centre which could be used as a market or other community space, or just somewhere for people to gather. The central square now acts as a focus for the development and one of the additional vignettes in the DAS Addendum demonstrates how it could be arranged with Primary Green Streets leading west/east and north, the former into the residential areas to the west and east, and the latter through the residential area to the north and then the open landscaped area and the lake. The central square is strategically positioned at the heart of the scheme to create a vibrant social space supported by a mixed use centre. Trees are proposed within a hard landscape, whilst a large area of flexible open space is shown in the centre. The Coastal Path is shown running through the square, exiting along the linear park to the north towards the lake. Given the importance of the design of the square at the heart of the development, a condition is suggested requiring a detailed design to be submitted to ensure a high quality outcome.

COMMUNITY SQUARE

DEFINE

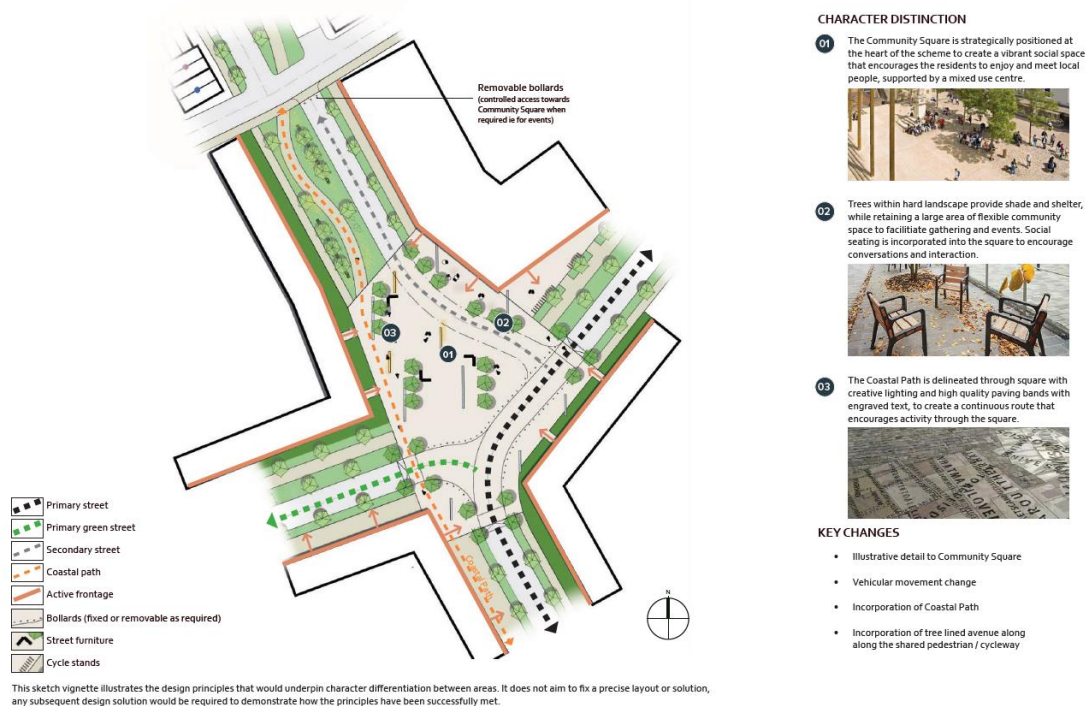


Figure 6 The Square Vignette

7.17 The roads which run north and west to east through the central square are referred to as “Primary Green Streets”. They are distinguished from the Primary roads in that they have grass verges and street trees on both sides, thus softening their appearance and marking a change in the character of the area.

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7.18 The Primary Green Street that runs from the square to the lake to the north is in the form of a linear park and this runs through one of the residential character areas – The Lakeside. The linear park creates a substantial green connection between the local centre and the lake which will promote sustainable movement and provide recreational benefits. The street will be incorporated in a landscaped setting of trees, shrubs, footpath/cycleway with informal play areas on the way. SUDs could also be incorporated along the length in the form of swales. Development in The Lakeside character area is proposed to be in the taller range – up to 3 storeys, with street alignment focussing on the lake. Plots will be larger but those plots that front the lake will have shorter front gardens so as to create a strong built edge against the lake.

THE LAKESIDE



This sketch vignette illustrates the design principles that would underpin character differentiation between areas. It does not aim to fix a precise layout or solution, any subsequent design solution would be required to demonstrate how the principles have been successfully met.

Figure 7 The Lakeside and Linear Park Vignette

- 7.19 The Primary Green Street that runs from the central square to the west, leads to another residential character area – The Woodlands. Within this area, the amendments have resulted in a central triangular landscaped space with a central single stand of native Birch trees and grass, meadow, play areas and paths. A number of native woodland “clumps” have also been introduced, positioned to make them visible as a primary character element, whilst breaking up the outer edge of development allowing the outside rural character to bleed into the built development. A more irregular street alignment is proposed, as well as corner buildings being set back to open up views and informal shared surface lanes and informal street parking.
- 7.20 The Primary Green Street that runs from the central square to the east leads to the third character area – The Village. A village green with children’s play area is proposed at the edge of this character area, which will be adjacent to the developments being built in Phase 2. As such it will provide an attractive route for those people walking from Phases 1 and 2 to the facilities in the central square. Built development is tighter in form on the southern edge of this area, with linked units proposed, due to noise constraints from the road and the Ranges. Smaller geometric perimeter blocks are proposed here, with a larger proportion of linked dwellings and a repetition of house types compared to the other two character areas.



Figure 8 Green Infrastructure

7.21 As referred to in paragraph 7.8, each of the proposed residential character areas and the central square are supported by more detailed vignettes which demonstrate through plan form and sections, how the streets will be arranged with landscaping, street trees and several different typologies of parking. Within each residential character area, a plan and description is included which provides a written and plan form description of that particular character. These show how the layout differs between each character area, and these will help build the different characters at the detailed reserved matters stages.



This sketch vignette illustrates the design principles that would underpin character differentiation between areas. It does not aim to fix a precise layout or solution, any subsequent design solution would be required to demonstrate how the principles have been successfully met.

Figure 9 The Woodlands Character Area

- 7.22 The main bulk of the employment land is shown in the same position as in the previous outline in the south east part of the site, close to the main road, but separated by a landscape buffer. The community, sports and leisure use is shown to the north of the square, fronting on to the linear park primary road that runs to the lake to the north. A small part of the employment or care use land is shown on the opposite side of this road, and positioned behind some of the retail area. This concentrates most of the pedestrian movement around the central square, making it a vibrant and busy place to be.
- 7.23 The existing and proposed footpaths are shown on the Movement Plan. There is an existing footpath that runs along the south west and north west perimeters of the site and new footpaths are proposed through the site and the open space to the north. As members will see from the comments from the KCC Public Rights of Way Officer, there are proposals to re-align the England Coastal Path through the site. The amended plans show the Coastal Path entering the site from the south west corner, running through the landscape buffer at the front and then running northwards through the central square and the linear park and leaving the site in the north east corner. KCC PROW have been consulted on this amendment, but have not responded. In the circumstances and in view of the original comments from them, I consider it appropriate to attach a condition requesting the submission of a footpath plan, prior to the submission of the first reserved matters application.
- 7.24 The Framework Plan pulls all these details together and this shows how the structural landscaping runs west to east, from the Woodland open space, along the west/east primary secondary road to the east, running through the central square and connecting, via the open space/play area in the Village character area, to the existing development in Phases 1 and 2. The north/south linear park primary road also provides a strong green link from the square to the open space and link to the north. The building form at the edges of the Woodland area to the west are more informal, which allows green fingers of landscaping to extend into the site, making this edge much softer. The structured landscaping all along the front of the site to Dymchurch Road provides a good screen in visual terms and also protects residents from noise from the road and Ranges. I am satisfied that the amendments that have been achieved to the Framework and other Parameter Plans demonstrate that a high quality place can be achieved with good pedestrian links to the centre and the surrounding area.

c) Employment Land / Care Uses

- 7.25 The original outline gave permission for up to 15,000 sqm of B1 employment land, whereas this application proposes a flexible approach whereby there would be a commitment to a certain percentage of the land being provided for employment land, with a flexible approach to the remainder, for it to be used either for employment or for care uses (care/extra care/retirement homes). The applicants have put forward this approach as the use of the land affects the viability of the proposal. The planning merits of this approach are dealt with in this section and the impact on viability is dealt with in Section n) of this report.

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- 7.26 The PPLP allocates the site for delivery of 15,000sqm of B1 uses (Policy E1), with the flexibility to introduce up to 25% of non-business class uses subject to 3 criteria being fulfilled (the use will add to the attractiveness and function of the employment site; there is full justification for it; and the proposals comply with other Local Plan policies).
- 7.27 The applicant's case in this proposal is that the economic climate has changed significantly since the time of the original permission and the Council's own evidence base demonstrates a likely lack of demand for B1 employment floorspace in Hythe with the Council proposing to deliver a significant quantum of B1 floorspace on its own site at Otterpool Park, which is located directly adjacent to the M20. They say they have been actively marketing the land with but there is limited demand for B1 uses in Hythe.
- 7.28 They therefore propose an element of flexibility in this application by allowing a mix of employment and Care uses within the employment land. They say that care uses deliver an element of employment which varies depending on the type of care provided and that there is a demand for care uses within Folkestone and Hythe which is not fully accounted for in the Core Strategy Review and all allocations are situated in the north of the District. Furthermore, they state that in response to the economic and employment landscape changes since the original permission, the NPPF and NPPG have sought to insert flexibility into the planning system, to require planning policies to be able to reflect changes in the demand for land in the interests of economic elements of sustainable development.
- 7.29 From the Council's perspective, the Employment Land Review states that "the site offers potential for some modern good quality units although the remote and unproven location may make it difficult to attract demand for the proposed level of employment space. Overall, and subject to future delivery and phasing, the proposals should deliver some employment space subject to market demand. The site at Nickolls Quarry equates to almost half of all B class employment land in Hythe and offers the only opportunity in Hythe to deliver modern business units with good access for this and likely future plan periods. That said, care uses are an employment generating use in their own right, so there will still be an element of employment should some of the land be used for care use. Furthermore, Policy HB12 of the PPLP supports the provision of new residential institutions subject to certain criteria, such as it being in a sustainable location, and it being in an easily walkable location with good access to services and public transport. It is also a consideration that the delivery of housing at this site is profiled to make important contributions to the District's housing delivery targets over the next 8 years, and it is important that housing here isn't stifled.
- 7.30 In terms of the principle of care uses on this site, it is considered that this would be appropriate, given that the land is close to the central square and other amenities, and will have other residential development around it. Care uses at this site would therefore be acceptable in principle.
- 7.31 The introduction of an element of flexibility is therefore considered acceptable in principle. The mechanisms of achieving the flexibility are important however, and should permission be granted, they will be contained within the S106 Planning Agreement. This is dealt with in more detail in section n) of this report.

d) Highways and Access

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- 7.32 The details of the access from Dymchurch Road to the site have already been approved by virtue of a condition attached to the original outline application (Ref: Y19/0540/FH). This shows a roundabout access into the site and Kent Highways have raised no objection to this application subject to the access being constructed in accordance with that permission. A condition will be attached to this permission to ensure that the access to the site is constructed prior to development commencing.
- 7.33 As this is an outline application with all matters reserved, Kent Highways has no comments on the details of the road layout or parking. I am satisfied that the road layout shown on the Parameter plans and discussed in the preceding section, will result in a legible layout in which it is easy to travel sustainably and pleasantly within the site.

e) Flood Risk and Drainage

- 7.34 Policy SS3 of the Core Strategy requires new development to be directed towards sustainable settlements. In respect of flood risk, CS policy SS3 and emerging CSR policy SS3 state “For development located within zones identified by the Environment Agency as being at risk from flooding, site specific evidence will be required in the form of a detailed flood risk assessment. This will need to demonstrate that the proposal is safe and meets with the sequential approach within the applicable character area of the district of the three identified, and (if required), exception tests set out in national policy. It will utilise the Shepway Strategic Flood Risk Assessment.
- 7.35 The site is located in Flood Zone 3a where development is required, under planning policy in the NPPF, to pass both the Exception and Sequential tests. Paragraph 162 of the NPPF states that where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account. The NPPF goes on to state where appropriate, applications should be accompanied by a site-specific flood risk assessment and development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable), it can be demonstrated that:
- a) Within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) The development is appropriately flood resistant and resilient;
 - c) It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) Any residual risk can be safely managed; and
 - e) Safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 7.36 As explained in paragraph 7.4 above, the site allocation for this development was not carried forward in the Core Strategy Review. However, it is likely to be included in the Core Strategy Review, outline planning permission has previously been granted for the site by virtue of a site specific allocation in the previous Local Plan, and it is identified as a major development in the Hythe Strategy (Policy CSD7 of the Core

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Strategy and Core Strategy Submission Draft). Furthermore, the Places and Policies Local Plan allocates the site for delivery of 15,000sqm of B1 uses (as part of the wider housing permission), and the housing element forms part of the Council's Housing Trajectory. The Flood Risk Assessment submitted with the application states for these reasons, there is no need to undertake a further Sequential Test.

- 7.37 Notwithstanding the conclusion of the FRA submitted with the application, given that the site is not allocated in the current Core Strategy, it is considered necessary to apply the sequential test. To do this it is necessary to look at whether other sites are available for the development and the NPPF states that the area to apply the sequential test across will be defined by local circumstances. Core Strategy policy SS3 states that the sequential test should be applied within the applicable character area (Urban Area, Romney Marsh Area or North Downs Area). This site is within the Urban Area for the purpose of applying the sequential test.
- 7.38 Folkestone and Hythe form a continuous built-up area by virtue of the connecting coastal neighbourhoods of Sandgate and Seabrook and this is defined as the Urban Area in the Core Strategy, It is bounded by the sea to the south and the escarpment to the north. The Council's 2015 Strategic Flood Risk Assessment (SFRA) identifies the land around Hythe, to the west, north and east as being within flood zone 3, with some smaller areas of land immediately to the west and north as being in flood zone 2. Further east, towards Folkestone, apart from the immediate coastal area and the river/streams, the urban area is not identified as being at risk of flooding. The PPLP allocates 17 sites for housing in the Urban Character Area, but none are large enough to accommodate the quantum of development proposed in this application. Furthermore, the NPPF requires that when applying the sequential test, a pragmatic approach on the availability of alternatives should be taken, and cites the example of an extension to an existing business premises, where it is impractical to suggest that there are more suitable alternatives for that development elsewhere. That example is similar to this development in that this site was part of a larger development site that has had planning permission granted; reserved matters approval has been granted for 400 dwellings within the larger site; and all of the community and commercial infrastructure for those 400 dwellings falls within this application site. It is therefore considered that the proposed development satisfies the sequential test.
- 7.39 As the development is located within Flood Zone 3 and includes "more vulnerable" development, it is necessary to apply the exception test. The exception test states that in order to grant planning permission or allocate a site:
- It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment
 - A site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 7.40 In terms of the sustainability benefits of the proposal, it will deliver much needed housing and delivery here forms part of the Council's housing trajectory. The proposals include extensive community facilities, ecological enhancements, substantial areas of open space and new commercial uses to the benefit of the local community. In terms of the safety issues required to be addressed, the Flood Risk

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Assessment submitted with the application includes an Emergency Flood Response Plan to manage the risk posed during a major flood event when the access to the site may be blocked. Ground levels would be raised to effectively lift the development platform out of the flood risk area (as with the original outline permission), with finished floor levels raised at least 300mm above ground levels. The applicant states that the overall site levels have been calculated to include a provision for climate change and would therefore ensure that the development would not be at risk from tidal flooding or the breach of coastal flood defences through the lifetime of the development.

- 7.41 The Environment Agency has been consulted on the application and has no objection subject to conditions. Having assessed all the necessary requirements in terms of flood risk, including both the sequential and exception test, I am therefore satisfied that the proposal is acceptable in terms of flood risk.
- 7.42 Turning to surface water drainage, the NPPF also requires major development to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. It is advised that the systems used should take account of advice from the local lead flood authority; have appropriate proposed minimum operational standards; have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.
- 7.43 Surface water run-off from the site currently drains into Martello Lake where it discharges into the ground. The applicant has undertaken monitoring to assess how quickly water infiltrates from the lake and this has confirmed that sufficient capacity exists to receive flows from the proposed development site. Under the original outline application, a balancing pond was proposed on this application site, but this analysis has demonstrated that the balancing pond had little hydraulic effect and is not required. An extreme storm event has been modelled which demonstrates that even with the removal of the balancing pond, the maximum increase in water levels in Martello Lake would be less than 0.01m and would therefore be negligible.
- 7.44 In this proposal, surface water run-off from the proposed development would be routed to Martello Lake via a series of swales and wetland areas in the northern part of the site, beyond the northern extent of the built development. This provides an opportunity to enhance and expand the existing wetland habitats on the site, improve the buffer between the housing and the adjacent sewage treatment works and provide an open space amenity feature for future residents. It is also a much more natural reaction to sustainable drainage as the balancing pond would have had to have been a deep lined lake that was fenced off for safety reasons.
- 7.45 KCC as Local Lead Flood Authority were consulted on the application, and have raised no objection subject to further details being submitted at reserved matters stage. I am therefore satisfied that the proposals are acceptable in terms of the SUDs scheme proposed.
- 7.46 In terms of foul drainage, there are capacity issues with the existing foul water system to the west of Hythe. However, these capacity issues were raised as part of the original outline planning permission and subsequently amended by planning permission Y15/0094/SH. A strategy was developed at the time, in consultation with Southern Water, to upgrade the network to accommodate the new development. Some initial works have already taken place to allow the development in Phase 1 to be implemented. Detailed planning permission has been given for 400no dwellings

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on phase 1 and the full upgrade is required at approximately 300no occupations, which is prior to the commencement of any development commencing as part of this application. The upgrade works are due to be undertaken by the end of 2021 and are programmed in to Southern Water's work schedule. This will provide sufficient capacity for the development the subject of this application, as it would have the original outline permission, so I am satisfied that the proposed foul drainage improvements will provide sufficient and timely capacity for this proposal.

f) Ecology and biodiversity

- 7.47 A full ecological survey has been submitted with the application, and a number of surveys of the site have been undertaken. The site is not subject to any specific ecological designations, however, it is located as follows in relation to designated ecological sites:
- 220m to the north west of the Dungeness, Romney Marshes and Rye Bay SPA;
 - 7km north east of the Dungeness, Romney Marshes and Rye Bay RAMSAR;
 - 7.1km south west of the Folkestone to Etchinghill Escarpment SAC; and
 - 8.4km north east of the Dungeness SAC.
- 7.48 A significant proportion of the land in the centre of the site has been disturbed and accommodates stockpiles of materials that are constantly being worked. This limits the potential to host protected species, but as the boundaries of the site are largely undisturbed, this is where there is the most potential for ecological potential.
- 7.49 The Ecological Mitigation and Enhancement Strategy sets out a method for avoidance, mitigation and where necessary, compensation for potential impacts to habitats, flora and fauna. It also includes provision for ecological enhancement measures to be delivered alongside the proposed development. A monitoring strategy for the mitigation and management measures is included to inform their successful implementation and maintenance.
- 7.50 A key benefit of this scheme over the previous outline permission in terms of ecology, is that the loss of the balancing pond provides an opportunity to offer a greater biodiversity benefit through the introduction of the swales and wetland to the north of the site. This area will provide habitat for a wider range of species than the balancing pond, and is therefore considered a betterment over the previous scheme.
- 7.51 KCC Ecology was consulted on the application, and responded that they are satisfied with the range of ecological surveys undertaken, however they require additional ecological information to be submitted with the reserved matters in respect of an Ecological Mitigation and Enhancement Strategy and a Landscape and Ecology Management Plan. This can be secured through condition should planning permission be granted.
- 7.52 The application documents also include a Shadow Habitats Regulations Assessment (HRA) to provide information to the Council, as Competent Authority, in its consideration of whether the proposed development would have likely significant effects on European sites as required under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. As the Competent Authority, the Council has

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to undertake an Appropriate Assessment (AA) of the implications of the proposed development upon the European sites referred to in paragraph 7.28 above.

- 7.53 Natural England was consulted in this respect and stated that they have no objection, as the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites. In terms of the AA it is therefore concluded that, having assessed the implications of the proposed development, there will not be any significant adverse impact on the integrity of any protected European sites. I have set out an Appropriate Assessment under the Habitat Regulations in the appendices below.

g) Noise and Air Quality

- 7.54 A Noise Assessment has been submitted with the application, which considers the effect of the development with respect to noise including the effects of existing conditions on the development. The dominant noise source at the site is road traffic to the east, with additional noise emanating from the shooting activity at the Hythe Ranges to the south. The full Noise Assessment submitted with the original outline application has been up-dated with the current noise information updated to reflect changes in traffic generated by new development permitted since the original permission and the changes to the development proposals. This current assessment demonstrates that there would be a negligible increase in noise levels due to the change on road traffic flows.
- 7.55 The Planning Parameter Plans include design interventions to lessen the noise impact to the proposed houses including setting back residential development from the noise sources of the road, sewage treatment works and locating employment land to the south western boundary, which is the noisiest location for firing noise.
- 7.56 The extant planning permission includes conditions relating to noise levels to be achieved within residential gardens and dwellings as maximum noise levels. The Noise Chapter of the ES recommends internal and external noise levels to be achieved as a 16-hour average to ensure appropriate noise levels can be achieved without detriment to residential amenity. It also recommends input at detailed Reserved Matters stage from the acoustic consultant to ensure residential dwellings can achieve those required levels.
- 7.57 The Council's Environmental Health Officer has been consulted on the application and recommends that a more up to date noise impact assessment is required in order to ensure that any potential noise problems can be addressed and mitigation proposed for the reserved matters applications. This can be covered by condition.
- 7.58 An Air Quality Assessment has been submitted with the application, included within the ES. This investigates any potential impacts and mitigation measures required during the construction phase and also any residual impacts of the completed development.
- 7.59 The main potential air quality impact once the proposed development is complete and occupied is likely to be emissions from road traffic associated with the proposed development. A detailed assessment of operational impacts was carried out and this was found to be negligible in comparison with the impact of the extant outline permission. The report proposes mitigation measures however, and the Council's

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EHO has recommended a planning condition be attached to ensure that those mitigation measures are agreed and implemented accordingly.

- 7.60 The application site is located adjacent to a sewage treatment works and part of the site is subject to odour issues, mainly emanating from the open settlement tanks. The original outline application was supported by an Odour Constraints Assessment which concluded further odour controls would be required to prevent an unacceptable odour impact on the development. A condition was attached to the previous outline permission which required a scheme to be agreed with Southern Water to protect future residents from the risk of odour.
- 7.61 An application to discharge the relevant odour condition attached to the outline permission was submitted last year, and in liaison with Southern Water, it was approved in November last year. There is no need for any further action in respect of odour control measures, as that scheme covered all of the development from the original outline development site. However a condition should be imposed tying this development to that approved scheme.

h) Protected trees and landscape / Visual impact

- 7.62 The site is located within the flat landscape of the Romney Marsh, but the land to the north of the site rises steeply which allows for longer range views from the escarpment onto the site. The application is supported by a Landscape and Visual Impact Assessment (LVIA) which considers the impact of the development upon localised and long range views. The Kent Downs AONB Unit was also consulted on the application proposals, although the site itself falls outside of the Kent Downs AONB designation.
- 7.63 Policy CSD4 of the Core Strategy relates to green infrastructure of natural networks, open spaces and recreation and seeks to protect and enhance green infrastructure. Moreover, it states that planning decisions will have close regard to the need for conservation and enhancement of natural beauty in the Kent Downs AONB and its setting, which will take priority over other planning considerations. Elsewhere, development must not jeopardise the protection and enhancement of the district's distinctive and diverse local landscapes (especially where these support the setting of the AONB), and must reflect the need for attractive and high quality open spaces throughout the district.
- 7.64 Policy NE3 of the PPLP states that the impact of individual proposals and their cumulative effect on the Kent Downs AONB and its setting will be carefully assessed, and sets out certain criteria that have to be met in order for planning permission to be granted:
- The natural beauty and locally distinctive features of the AONB and its setting are conserved and enhanced;
 - Proposals reinforce and respond to, rather than detract from the distinctive character and special qualities including tranquillity of the AONB. The design, scale, setting and materials of new development must be appropriate for the AONB;
 - Either individually or cumulatively, development does not lead to actual or perceived coalescence of settlements or undermine the integrity of the

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predominantly open and undeveloped rural character of the AONB and its setting;

- Development is appropriate to the economic, social and environmental well-being of the area or is desirable for the understanding and enjoyment of the area (where this is consistent with the primary purpose of conserving and enhancing natural beauty; and
- Development meets the policy requirements of the Kent Downs AONB Management Plan and AONB Unit supporting design guidance.

7.65 The NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs.

7.66 The Landscape and Visual Impact Assessment submitted with the application accepts that the development will result in the loss of open land, but states that the majority of the valuable landscape resource within the site is located towards the site boundaries and to the north of the site, all of which are proposed to be retained by the proposed development. It states furthermore, that the centre of the site has been largely disturbed and has been the subject of quarrying activities for over 60 years, and this has defined the landscape character of the application site.

7.67 It is accepted that the centre of the site is largely disturbed, but that does not mean that what replaces it should be devoid of landscape character. In the proposals as first submitted, the proposed green infrastructure was proposed almost entirely around the perimeter of the site, and there was little green infrastructure within the body of the site to soften wider views from the escarpment. This concern was supported by the Kent Downs AONB unit in their comments on the application.

7.68 The amendments that were sought to the Parameter plans as referred to in the section above relating to Development Framework sought in part to address this. The main west/east primary secondary route has been significantly improved in terms of its landscape impact, with green verges and street trees, and linked green spaces from the woodlands in the west, through the central square to the open space at the eastern boundary. The linear park form of the road that runs north to the lake from the central square will be a significant green lung that runs through the site, breaking up the appearance of the built development. The purpose of seeking the vignettes for each of the residential character areas and the central square submitted with the amended Design and Access Statement was to demonstrate how different parking typologies and street trees can be incorporated within the streets so that when the detailed plans are submitted they will be expected to achieve that high quality detail. The AONB unit has been consulted on the amendments and whilst they acknowledge that more tree planting has been incorporated, they do not think they go far enough to overcome their objection.

7.69 The development of the site and the impact on the views from the AONB have been established in principle through the original outline application and the houses that are being built out in Phases 1 and 2, and it is of note that the AONB Unit did not object in principle to the original outline application, only recommending conditions and informatives relating to the detailed design.

7.70 The original outline permission showed a balancing pond in the centre of the site, which would have provided more open space within the built up area, particularly when viewed from the escarpment. There is no functional requirement for this any longer so it does not form part of this application. The number of dwellings has not

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been increased however, so the result of the loss of the balancing pond is that there is more space for landscaping around the edges of the site, particularly to the north, with more spacious layouts, and more space for landscaping and street trees within the development.

- 7.71 There is no doubt that views from the AONB towards the site will be changed by virtue of this development, but this has already been accepted in principle by virtue of firstly the allocation of the site in the SDLP and secondly by the grant of outline permission. The impact will be more significant in the short term before landscaping matures, but mitigation, particularly in the form of early landscaping around the periphery of the site, will help the development settle into the landscape in the longer term. On balance, given the amendments secured to the Framework Plan, I am satisfied that the impact on and from the AONB will be no worse than the original outline permission and in time, it will become part of the urban part of Hythe.
- 7.72 Turning to trees, the majority of the site is clear of vegetation and trees following quarrying and land raising activities. The trees at the front of the site close to Dymchurch Road are however protected by Tree Preservation Order and the Arboricultural Survey submitted with the application classifies all these trees as Category B. The section of woodland to the north of the site, between the sewage treatment works and the existing lake has also been classified as Category B. The remaining trees are all of a C or U Category.
- 7.73 The Arboricultural Survey states that all the Category B trees will be retained, with the TPO trees sitting within a reptile receptor area, and those to the north being in the proposed open space. The majority of the boundary trees will also be retained, with the exception of a group of trees located where the new, already permitted roundabout will access the site. Given that the majority of existing trees can be retained and additional trees will be planted in streets and open spaces, I am satisfied that in this respect, the proposal is acceptable.

i) Contamination

- 7.74 The site has been the subject of extensive site investigation and risk assessment as part of the planning process associated with the redevelopment of the site. These investigations lead to the production of a remediation statement that was submitted in support of the 2010 outline planning application. The site investigations found that no risk to controlled waters (surface water and groundwater) were identified; future risks to controlled waters are not anticipated as long as material imported to, and placed at, the application site complies with strict import criteria; potential risks to human health from contamination present in historic shallow soils have been identified, however in the process of raising site levels a clean cover system will be installed that will remove this risk pathway completely if it is of sufficient quality and meets the import criteria; and potential risks associated with gas migration into new properties (but not off-site) have been identified however a gas mitigation scheme has been proposed to address this pathway.
- 7.75 The report submitted with this application has reviewed the existing site assessments and remediation strategies and conclude that if these are applied to the next phases of development, this would be sufficient to address pollution linkages. The Council's contamination consultant has reviewed the report and states that they have no objection to the grant of planning permission, subject to conditions relating to the

submission of a Verification Report and Contamination Discovery Strategy. These are recommended in the conditions at the end of my report.

j) Heritage and Archaeology

- 7.76 There are two issues to be considered here – the potential for archaeology on the site, and the potential impact of the development on heritage assets in close proximity to the site. Paragraph 189 of the NPPF requires local planning authorities, in determining applications, to require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and where necessary, a field evaluation.
- 7.77 The Heritage Desk Based Assessment submitted with the application identified limited evidence of pre-historic activity within the environs of the site and stated that it is situated outside known Roman period settlements. From the medieval period onwards, the site would have comprised marshland and agricultural land, and more recently, during the 19th and 20th centuries, the site was subject to several phases of activity, including military. In the late 20th century, quarrying and gravel extraction disturbed the ground and would have removed any remains associated with any early activity on the site. As such, the report concludes that any remains which survive on the site would only exist as islands between areas of disturbance. The report concludes that the proposed development would be likely to result in the partial or complete loss of significance of any potential remains within the site, however, as these remains are unlikely to be of the highest archaeological significance, it is considered that archaeological investigation and recording of remains would be an appropriate and proportionate response. KCC Archaeology was consulted on the application and have no objection subject to a condition requesting the submission of a programme of archaeological work.
- 7.78 Turning to the potential for the development to impact on heritage assets, there are no heritage assets within the application site, but within the surrounding area there are 6 Scheduled Monuments, 2 Grade II Listed buildings and several further listed buildings located on the Lympne Escarpment which overlooks the site. Government guidance requires the effects of the development on the setting of these assets to be assessed as part of the decision making process. The report submitted with the application assessed the impact of the development on the Scheduled Monument and Grade II Listed St Mary's Church, and the Scheduled Royal Military Canal and concluded that they are both a sufficient distance from the site and screened by topography, existing vegetation and intervening built form, such that the site does not form part of their setting and not sensitive to the proposed development. The report also reviews each of the other heritage assets and the impact of development upon their settings or historic interest. It concludes that the proposals would result in no harm to the significance or setting of the Scheduled Monuments and Listed Buildings within close proximity to the site. I agree with this conclusion.

k) Waste

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- 7.79 The Kent Minerals and Waste Local Plan (KMWLP), provides an overarching strategy and planning policies for mineral extraction, importation and recycling and the waste management of all waste streams that are generated or managed in Kent, and describes the spatial implications of economic, social and environmental change in relation to strategic materials and waste planning. The Shepway District Mineral Safeguarding Area Map identifies Martello Lakes as an allocated site within the District's Core Strategy as a Mineral Safeguarding Area (MSA), and that part of the site includes potential for storm beach gravel deposits. Policy CSM5 of the KMWLP identifies and safeguards economic mineral resources from being unnecessarily sterilised by other development through the identification of MSAs and Mineral Consultation Areas, and Policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where it is demonstrated that (amongst others), it constitutes development on a site allocated in the Development Plan.
- 7.80 Kent County Council adopted its Safeguarding Supplementary Planning Document (SSPD) in April 2017. The SSPD provides guidance on information required to support applications for development that would potentially be incompatible with mineral safeguarding. It states that proposals covered by these clauses should be accompanied by information demonstrating that they are exempt from mineral safeguarding, and this will indicate to the local planning authority that the presence of the safeguarded mineral resource has been acknowledged and that the development is in accordance with Kent MWLP Policy CSM 5 and DM7. The SSPD states that the County Council need not be consulted on these types of applications.
- 7.81 In this case, the applicant has confirmed that the quarry has been fully excavated and quarrying has ceased with all viable minerals exhausted. Furthermore, the site was previously allocated for development in the Development Plan, and outline permission has previously been granted. I am therefore satisfied that the proposal is acceptable in terms of mineral safeguarding issues.

l) Impact on residential amenity

- 7.82 Botolphs Bridge Road runs along the western boundary of the site and there are several properties on that road, close to its access with Dymchurch Road. They will be separated from the development by a landscape belt that runs along that boundary within the site, so the impact on their residential amenity will be minimal.
- 7.83 The only other residents that may be affected by the development are those who live in the new houses in Phase 1, and the relationship between those and the new dwellings on this site can be dealt with at Reserved Matters stage to ensure that the amenities of both can be protected.

m) Environmental Impact Assessment

- 7.84 An Environmental Statement (ES) has been submitted with the application. The Non-Technical Summary of the ES summarises the mitigation measures and residual effects identified in each of the technical assessments included within the ES. The development has been subject to an iterative design process and as this process progressed, measures have been incorporated into the development parameters in order to avoid, reduce or offset significant environmental effects. Where this has not been possible, further mitigation measures have been proposed and the residual

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effects of the development following mitigation, have been determined. As such, the ES concludes that the development would not have a significant environmental effect. On the strength of the consultation responses to the application and my assessment of the development impacts, I have no reason to doubt this conclusion.

f) Viability and S106 Contributions

Approaching Viability

- 7.85 Viability assessment is defined by government as a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, land value, landowner premium and developer return.
- 7.86 The NPPF sets out that where there are abnormal costs associated with bringing development forward, the applicant is able to submit viability work to demonstrate why certain, unusual requirements for affordable housing or S106 cannot be made. At paragraph 57 it states “where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage”.
- 7.87 It also states that all viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
- 7.88 The National Planning Policy Guidance (NPPG) also provides guidance on when and how viability appraisals should be approached, both by the applicant and the local planning authority. This states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.
- 7.89 Such circumstances could include, for example, where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent, housing for older people or enabling development for heritage schemes); or where a recession or similar significant economic changes have occurred since the plan was brought into force.
- 7.90 The applicant has provided the Council with a viability appraisal which has been independently assessed to ensure accuracy.
- 7.91 In line with the requirements of the NPPF and PPG, this has been made publicly available (on the Council’s website).

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- 7.92 It is relevant to recall the planning history of the site, as referenced in section 3.0 of this report.
- 7.93 This application site forms part of the wider site at Nickolls Quarry for which outline planning permission was granted in 2010. Reserved matters consent has been granted for the first 400 houses of that outline permission, which are being built out on site, but a time limited condition for the submission of the remaining reserved matters applications expired in May 2020. This outline application therefore seeks permission for the balance of the housing - 650 dwellings, plus the other uses as detailed in the description.
- 7.94 The original outline application was also accompanied by a viability assessment due to the high exceptional costs such as land raising, off site infrastructure reinforcement and improvement works to the sewage treatment works to the north. As a result, 20% affordable housing was proposed and accepted, which was a departure from the adopted policy at the time, which was 30%. Other S106 contributions were phased during the course of the development and whilst some have already been paid, some remain to be paid as the occupation triggers for payment have not yet been reached.
- 7.95 The following contributions have been paid or are still to be paid in association with the approvals to date and as such are not subject to review under this application:
- 42 no. affordable housing units (20% of total reserved matters approvals);
 - Bus contributions for 3 years;
 - Sports and leisure contribution;
 - 2nd Primary School contribution (completing the KCC Palmarsh Primary School works);
 - Travel Plan monitoring fee of £5k
- 7.96 Whilst the current application is CIL liable it has been agreed with the applicant for the sake of continuity and also to ensure the timely provision of infrastructure such as education that this application continues under the S106 regime.
- 7.97 As a result, the following heads of terms would also be sought as part of any approval:
- 22% affordable housing;
 - 25% of the serviced employment land being made available on the occupation of the 500th dwelling (of the total 1.050), and an Employment Land Masterplan to be produced in consultation with the Council;
 - Marketing of the employment land to be carried out at the same time, to assess the future viability of the employment land in accordance with a strategy to be agreed with the Council and reviewed at appropriate times;
 - Transfer of the Sports and Leisure site if required by the Council;
 - 2 years bus service contributions;
 - Railway halt contribution
- 7.98 The following S106 contributions are also sought:
- Secondary education;
 - Waste management
 - Healthcare

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- 7.99 The applicant has put forward a viability case based on development costs and the proposed S106 obligations. The original outline permission showed 15,000sqm of B1 uses within the site. The applicants have proposed adding flexibility into this permission by allowing for a mix of employment and Care uses within the employment land area. This would have an impact on the viability of the scheme and both scenarios have been included by the applicant in their viability assessment.
- 7.100 It is important to ensure that the information submitted is robust and stands up to examination. The Council therefore commissioned its own viability consultant, Gerald Eve, (GE) to review the submission, with their findings summarised below.
- 7.101 GE has undertaken a review of the submissions made and advises that the financial modelling submitted by the applicant, is based on a Master Developer (MD) approach, who is responsible for strategic investment in the site-wide enabling works and infrastructure, selling off appropriately sized serviced land parcels to housebuilders and/or developers who carry out the development of individual land parcels. Strategic costs are set against land receipts to derive the overall scheme viability with development timings carefully considered to maximise developer returns. The residual appraisals of the land parcels generate land values which are applied as revenue in the master developer model. GE consider this methodology for assessing the delivery and viability of a large-scale development site, including the level of infrastructure, to be acceptable. The development of the site is dependent on the investment of upfront large-scale core infrastructure costs across the area before the land parcels can be delivered for residential and commercial uses. The MD is effectively de-risking the site for the parcel developers to take forward.
- 7.102 GE concluded that on the basis of assessed costs and values, the proposed scheme does not appear to viably support the provision of 22% affordable housing, current proposed S106 contributions and the minimum strategic infrastructure contributions. They assessed both scenarios – 15,000sqm of B1 employment land or a mix of 15,000sqm of employment and care uses, and found that the latter improves viability.
- 7.103 The merits of introducing a flexible approach to the employment land in planning terms are dealt with in section c) of this report. It is considered an acceptable approach if there is an appropriate mechanism within the S106 to ensure that all measures have been taken over a period of time, to secure employment uses on the site.
- 7.104 The applicant is willing to commit to 25% of the serviced land being made available by the occupation of the 500th dwelling (over the total 1,050 dwellings), at which point a marketing process would be begun, in consultation with the Council. The marketing strategy will incorporate periods of review and reassessment over the period of time to make sure changing market conditions are accounted for, with the additional requirement in the S106 to work with the Council to explore joint funding opportunities, if appropriate at the time. At the end of the marketing period, should it be demonstrated that there is no market potential for the remaining employment land at that point or in the future, the land could come forward for an alternative care use. This is a pragmatic approach which secures 25% of the employment land as a certainty, and allows flexibility for an alternative use that would also be acceptable in planning terms, in this location. Should the land come forward for care uses, this will secure the full S106 costs required for the development.

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- 7.105 In conclusion, the viability assessment produced by the applicant has been assessed by an independent assessor appointed by the Council, and found to be accurate. On balance, the flexibility provided for in respect of the employment land would ensure that both a viable scheme and full contributions to infrastructure listed above are secured, as well as an increase in affordable housing. As a result, the needs of the full 1050 dwellings envisaged in 2010 would be met.
- 7.106 The S106 obligations are considered to satisfy the terms of Regulation 122 of the Community Infrastructure Levy Regulations as being necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development.

Environmental Impact Assessment

- 7.107 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1 & 2 of the Regulations and it is considered to fall within Schedule 2 10(b) and falls within the threshold in column 2 of Schedule 2 (i), (ii) and (iii). An Environmental Assessment was submitted with the application.

Local Finance Considerations

- 7.108 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. There is no CIL requirement for this development.
- 7.109 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 £x per square metre for new residential floor space with the exception of the x No. affordable / self-build housing units which are exempt. / For new business floor space the levy is charged at £x per square metre/This application is not liable for the CIL charge as it is a change of use and would not create any additional floor space.*amend/delete as appropriate.

Human Rights

- 7.110 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

7.111 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.

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

Working with the applicant

7.113 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. In this case, the applicant has engaged with Officers through the pre-application discussions and through negotiations since the submission of the planning application.

8. CONCLUSION

- 8.1 The principle of development on this site has been established by the original outline permission which was approved in 2010. Whilst no longer a formal site allocation in the Core Strategy or the PPLP, it is likely to be included as an allocation in the Core Strategy Review, subject to instruction by Examination Inspectors. The site is shown as a development site within the Core Strategy Hythe Strategy and the PPLP allocates the site for 15,000sqm of B1 uses, with the flexibility to introduce up to 25% of non-business use class subject to certain criteria. The site forms part of the Council's housing trajectory and the development of the site is therefore accepted as a matter of principle.
- 8.2 The technical consultee responses have been considered and where appropriate, matters can be covered by condition. The land levels have been raised slightly compared to the original permission to take account of climate change. Whilst the AONB Unit maintains an objection to the development, the amendments to the Framework Plan and the fact of the original outline permission establishes the principle of development here, means that their objection cannot be given significant weight.
- 8.3 The applicant has submitted a full viability report which has been independently assessed by the Council's advisors. The report identifies that due to the abnormal costs of developing the site, there would be no provision towards the full S106 obligations. However, the extant S106 requirements from the original permission will be paid by the occupation of the 400 dwellings already granted detailed permission

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and being built out on site, apart from part of the bus contribution and the contribution to the rail halt. The new S106 will pay those contributions, plus the emerging policy compliant affordable housing provision of 22% which results in an additional 13 affordable units across the whole site, compared to the original permission. The applicant has committed to 25% of the serviced employment land to be made available at which point there will be commitment from them and the Council to seek a way forward for more of it to come forward by means of a marketing strategy and masterplan. If unsuccessful, the land can be used for C2 care uses, which would be acceptable in this location, and would in itself generate employment.

- 8.4 In summary, this new outline application provides the opportunity to improve the layout in terms of place-making, to address issues of climate change and to increase the supply of affordable housing across the whole site. It is recommended that planning permission be granted, subject to the completion of a suitable S106 Agreement, and the imposition of the conditions set out below.

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 entering into a S106 legal agreement securing the following:

- a. **22% affordable housing;**
- b. **25% of the serviced employment land being made available at the occupation of the 500th dwelling (over the 1,050 total) and marketed alongside an Employment Land Masterplan to be produced in consultation with the Council;**
- c. **A marketing review to be carried out at the same time, to assess the future viability of the employment land;**
- d. **Travel Plan monitoring fee of £5k;**
- e. **Transfer of the Sports and Leisure site if required by the Council;**
- f. **2 years bus service contribution;**
- g. **Railway halt contribution;**
- h. **If care uses come forward on part of the employment land, the following contributions will be secured:**
 - I. **Secondary education;**
 - II. **Waste management;**
 - III. **Healthcare**

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:

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Conditions:

1. Approval of the details of the scale, appearance, layout, landscaping and access, hereinafter called “the reserved matters”, shall be obtained in writing 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 the approval of the first reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission and application for the approval of the final reserved matters for housing and commercial uses shall be made to the Local Planning Authority before the expiry of 6 years from the date of this permission and application for the approval of the final reserved matters for the employment land shall be made to the Local Planning Authority before the expiry of 9 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. The development hereby permitted shall be carried out in accordance with the Parameter Plans (Drawing no's DE377_008B – Phasing; DE377_005C Densities; DE377_001H Framework Plan; DE377_003C Indicative Movement; DE377_002C Land Use; DE377_006C Building Height; DE377_004C Green Infrastructure and DE377007B Illustrative Framework Plan).

The development shall also take account of the Design and Access Statement (October 2019) as revised by the Design and Access Statement Addendum (October 2020), Martello Lakes Environmental Statement (October 2019) and the Supplementary Addendum to the ES (October 2020).

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

5. The development hereby permitted shall be limited to no more than 650 dwellings.

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

6. The development shall be phased in accordance with Parameter Plan DE_377_008B unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a phased mixed use development, provision of adequate infrastructure and a sustainable community.

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7. Prior to the submission of the first reserved matters application pursuant to condition 1 above, a Public Rights of Way Management Scheme shall be submitted to and approved by the Local Planning Authority in consultation with the Kent County Council Public Rights of Way, and the scheme shall include provision for:
 - a) The design of access and public rights of way routes and their surfacing, widths, gradients, landscaping and structures
 - b) The design and alignment for the England Coastal Path including width, surfacing and landscaping
 - c) Any proposals for diversion and closure of public rights of way and alternative route provision.

Reason: In the interests of the amenity and safety of the public, active travel and sustainability.

8. The reserved matters application(s) to be submitted pursuant to condition 1 above shall include details of vehicular and cycle parking, including visitor parking and turning facilities for each use hereby permitted. The provision of vehicular and cycle parking and turning facilities as approved for each reserved matter and in any phase or sub-phase of the development hereby approved, shall be implemented in full, prior to the first occupation of the units they serve. These facilities shall be kept available for parking and turning purposes in connection with the units they serve at all times thereafter.

Reason: In the interests of highway safety and convenience.

9. The details submitted pursuant to condition 1 above shall include an Arboricultural Impact Assessment and Tree Constraints Plan to include existing hedgerows. The assessment shall include details of all root protection measures which shall accord with BS5837 "Trees in Relation to Demolition, Design and Construction" and a timetable for the implementation and retention of such works linked to the proposed phasing and completion of construction work. The development shall be carried out in strict accordance with the approved assessment.

Reason: In the interests of the visual amenities of the area.

10. The reserved matters application(s) to be submitted pursuant to condition 1 above shall include details of a scheme for any external building or ground mounted lighting/illumination and such lighting shall be in accordance with guidance from an ecologist to minimise impacts on wildlife. Such details shall be submitted for the written approval of the local planning authority and shall include luminance levels and demonstrate how any proposed external lighting has been designed and located to avoid excessive light spill/pollution. The submitted details shall also demonstrate how artificial illumination of important wildlife habitats is minimised/mitigated.

The lighting strategy shall;

- a) Identify those area/features on site that are particularly sensitive;
- b) Show how and where external lighting will be installed in accordance with the recommendations in section 6.1.6 of the Ecological Appraisal dated January 2019.

Thereafter any lighting erected as part of the development shall only be erected in accordance with the approved details.

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Reason: In order to minimise light pollution and protect wildlife.

11. A comprehensive design strategy for the Public Square shall be submitted to and approved in writing by the Local Planning Authority as part of the submission of the first reserved matters referred to in condition 1 above. The design strategy shall include:

- Traffic movements
- Public footpaths
- Details of soft landscaping
- Details of hard landscaping
- Indicative location and heights of buildings surrounding the square including plans and sections
- Public art
- Seating
- Lighting

The works shall be carried out in accordance with the approved details within Phase 1.

Reason: To ensure a high quality focal point for the development in accordance with Policy C1 of the Places and Policies Local Plan 2020.

12. Prior to the commencement of development, a comprehensive scheme for the provision of public art within the development and the phasing of its implementation shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To contribute to the quality of the built environment by creating identity and a sense of place in accordance with Policy C1 of the Places and Policies Local Plan 2020.

13. No construction work above slab level within each phase of the development shall take place until samples of the materials to be used in the construction of the external surfaces of the development in that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development and in the interests of visual amenity.

14. No construction work above slab level shall take place in each phase of the development until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the buildings are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and the amenity of residents.

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15. The reserved matters details referred to in condition 1 above, for each phase, shall include facilities for storage and collection of refuse and recyclables and the approved facilities shall be provided before each building is first occupied. Thereafter, the approved facilities shall be kept available for use by the occupants of the development.

Reason: To ensure adequate means of refuse and recycling collection in the interests of the amenities and residents and sustainability.

16. A Security Management Plan shall be submitted with each Reserved Matters application, for the prior written approval of the Local Planning Authority. The Security Management Plan must adhere to the requirements of Secure by Design to ensure protection from crime and anti-social behaviour. Upon approval, the Security Management Plan shall be carried out as approved and thereafter maintained.

Reason: To ensure the development is secure from crime in accordance with Local Plan Policy BE1 and on Secure by Design grounds.

17. No construction work above slab level in each phase of the development shall take place until full details of both hard and soft landscape works for that phase have been submitted to and approved by the Local Planning Authority, including an implementation programme and maintenance schedule. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, and hard surfacing.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

18. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of any phase of the development or in accordance with the implementation programme agreed by the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

19. Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the District Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

20. The reserved matters details referred to in condition 1 above for each phase shall show full details of the areas reserved for landscaping, open space and play facilities within each phase. The land shown on the approved plans as landscaping, open space and play areas shall be laid out, equipped, landscaped, contoured and

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surfaced in accordance with details to be submitted to and approved in writing by the Local Planning Authority and in accordance with the phasing requirements referred to in condition 6.

Reason: In the interests of public and visual amenity and in accordance with Policies D3 and C4 of the Places and Policies Local Plan 2020.

21. The proposed sewage disposal arrangements referred to in the letter dated 10 March 2021 from Camland Hythe Ltd shall have been implemented prior to the implementation of the development hereby approved.

Reason: To ensure proper sewage disposal and avoid pollution of the area in and surrounding the site.

22. Full details of any plant (including extraction and ventilation systems) associated with the commercial uses hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the approved systems implemented before any occupation of the commercial units or facilities. The approved systems shall thereafter be maintained in a functional condition.

Reason: in the interests of the amenities of nearby residents.

23. No deliveries shall be taken at or despatched from the proposed Local Centre outside the hours of 0700 hrs to 1900 hrs Monday to Saturday or at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenities of nearby residents.

24. The hours of operation for the employment use hereby permitted shall be 0800 to 2000 hours Monday to Saturday, 1000 to 1600 hours Sunday, with no working on Bank or Public Holidays.

Reason: In the interests of the amenities of nearby residents.

25. No external areas within the E(g) employment zone shall be used for the overnight parking of lorries with refrigeration units.

Reason: In the interests of the amenities of nearby residents.

26. The details to be submitted pursuant to condition 1 above shall include drawings showing existing and proposed ground levels and finished slab and floor levels together with the roof ridge lines and eaves levels of the proposed buildings in relation to the neighbouring buildings bordering the site. The finished floor levels shall be set no lower than 6.2m above Ordnance Datum (AOD). Such details as may be approved in writing by the Local Planning Authority, shall be undertaken fully in accordance with the approved plans and thereafter floor levels shall be maintained in accordance with the approved details.

Reason: In the interests of risk to life and property.

27. The development shall be carried out in accordance with the submitted Flood Risk Assessment and letter from SLR dated 2 July 2020.

Reason: In the interests of risk to life and property.

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28. Prior to the occupation of any dwellings or any other buildings hereby approved, the proposed estate road, footways, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, access, carriage gradients as appropriate, shall be constructed and laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. For this purpose plans and sections indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure the roads are constructed and laid out in a satisfactory manner.

29. Prior to the occupation of any dwelling hereby approved the following works between each dwelling and the highway shall be carried out:

- (a) Footways and/or footpaths, with the exception of the wearing course;
- (b) Carriageways, with the exception of the wearing course but including a turning facility, highway drainage, visibility splays, street lighting, street nameplates and highway structures (if any).

Reason: In the interests of highway safety and amenity.

30. (a) Construction shall not proceed beyond slab level until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving the development will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator.

(b) The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason In accordance with the requirements of policies CSD5 and SS3 of the Shepway Core Strategy Local Plan 2013 which identify Shepway as a water scarcity area and require all new dwellings to incorporate water efficiency measures.

Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings' <https://www.gov.uk/government/publications/the-water-efficiency-calculator-for-new-dwellings>

31. No development associated with the residential development hereby approved (with the exception of the approved demolition works, site clearance and the construction of foundations) shall take place until details of how the residential development as a whole will reduce carbon emissions by a minimum of 10 percent above the Target Emission Rate (as defined in the Building Regulation for England approved document L1A: Conservation of Fuel and Power in Dwellings) have been submitted to and approved in writing by the Local Planning Authority. Upon

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approval the measures shall be implemented as a greed and thereafter retained and maintained in perpetuity.

Reason: To support the transition to a low carbon future through the use of onsite renewable and low-carbon energy technologies.

32. The non-residential uses of the development hereby permitted shall be constructed to secure an overall minimum Very Good rating for BREEAM standards. Full details shall be submitted, for consideration, to a BRE trained and licensed independent assessor, these details and the assessors report shall then be submitted to and approved by the Local Planning Authority. The development shall then be constructed in accordance with the approved details before occupation.

Reason: To ensure the development contributes to the principles of sustainable development as outlined in Local Plan policy CC2.

33. No work above slab level on the construction of the buildings hereby permitted shall take place until a copy of formal confirmation has been supplied to the Local Planning Authority confirming that High Speed Fibre Optic that meets the Department for Culture, Media and Sport requirement that 'fibre to the premise' broadband connections are available to all premises of gigabit capacity will be provided to all dwellings. Prior to the first occupation of any of the dwellings hereby approved, confirmation shall be submitted to the Local Planning Authority that the infrastructure to allow 'fibre to the premise' broadband connections are available to all premises of gigabit capacity has been laid out in the site.

Reason: In order to ensure the future provision of superfast fibre optic broadband for occupants in accordance with emerging policy E8 of the Places and Policies Local Plan.

34. Prior to the commencement of any works above slab level hereby permitted, details of electric charging points shall be submitted to and approved in writing by the Local Planning Authority. The approved electric charging points shall be implemented in full accordance with the approved details and maintained as such thereafter.

Reason: In accordance with Local Plan policy T2 and to support the transition to a low carbon future.

35. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The Plan shall provide for:
- a) Working hours and arrangements for the delivery and storage of materials for the off-site highway works.
 - b) The parking and turning for on-site of vehicles of site operatives and visitors.
 - c) The loading and unloading of plant and materials.
 - d) The storage of plant and materials proposed to be used in the construction of the development.
 - e) The design, erection and maintenance of site perimeter fencing and security hoardings.

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- f) Details of working and delivery hours including details to avoid/minimise deliveries during peak hours and school opening/closing times.
- g) The display of contact details of the site manager.
 - h) Routes to be taken by vehicles carrying plant/materials to and from the site.
 - i) Measures to ensure that construction plant and vehicles and delivery vehicles do not impede access to nearby properties.
 - j) Details of wheel washing facilities and other measures to prevent the deposit of mud and debris on the public highway.
 - k) Details of any temporary traffic management/ signage to ensure delivery routes are adhered to.
- l) Details of piling methods and timings.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Reason: In the interests of the amenities of the area and highway safety and convenience.

36. Prior to the occupation of any dwelling or other building hereby permitted residential and commercial travel plans shall be submitted to and approved in writing by the Local Planning Authority. The travel plans shall include initial baseline targets based on the agreed trip rates for the site, measures to encourage sustainable transport to/ from the site and modal share targets for a 5 year period upon the last occupation on the site. The approved measures shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of sustainable development and highway safety and convenience.

37. No development shall take place until:

- a) the details required by Condition 1 above shall demonstrate that requirements for surface water drainage can be accommodated within the proposed development layout.
- b) a detailed sustainable surface water drainage strategy has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Proposed Sustainable Surface Water Management (SLR, Drawing 004 Rev 1, December 2019) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site can be adequately managed to ensure there is no pollution risk to receiving waters
- appropriate operational, maintenance and access requirements for each drainage feature or SuDs component are adequately considered, including

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any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

38. No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

39. Prior to works commencing in any phase (including any ground works, site and vegetation clearance), a detailed ecological mitigation and enhancement strategy for all protected species and habitat been identified on and around the site has been updated and submitted to and approved in writing by the local planning authority. The content of the method statement shall include:

- a) Updated Preliminary Ecological Appraisal;
- b) Updated specific species surveys if recommended;
- c) Purpose and objectives for the proposed works;
- d) Detailed design(s) and/or working method(s) necessary to achieve stated objectives;
- e) Extent and location of proposed works, including the identification of suitable receptor sites, shown on appropriate scale maps and plans;
- f) Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;

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- g) Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on site to undertake / oversee works;
- h) Use of protective fences, exclusion barriers and warning signs;
- i) Initial aftercare and long-term maintenance (where relevant);
- j) Details of on-going management until commencement of the LEMP.

The Ecological Mitigation and Enhancement Strategy will be reviewed and updated at the start of each development phase and the works shall be carried out in accordance with the strategy and shall be retained in that manner thereafter.

Reason: In order to ensure biodiversity within the site is preserved and enhanced.

40. A site wide Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall be updated at each phase to incorporate and review approved management plans for earlier phases, and upon development of the last phase shall provide a single LEMP for the entire development. The content of the LEMP shall include the following:

- Aims and objectives of the management plan of the site and surrounds
- Detailed enhancement strategies for all protected species recorded within the site
- Description and evaluation of features and habitats to be created, retained and managed
- Ecological trend and constraints on site that might influence management
- Appropriate management objectives for achieving the proposed aims and objectives
- Prescriptions for management actions clarifying how it fits in with the protected species mitigation
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period)
- Details of the body organisation responsible for implementation of the plan (reserved matters)
- Ongoing monitoring and revision of management plan

The LEMP shall also include an understanding of the legal mechanism(s) by which the long-term implementation of the plan will be secured by the developer. The works shall be carried out in accordance with the approved details of the LEMP and subsequent updates following on-going reviews and monitoring.

Reason: In order to ensure biodiversity within the site is preserved and enhanced.

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

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

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

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

Reason: It is necessary that any contamination likely to be present on the site is identified and measures put in place to prevent pollution of the environment before work commences on site in order to ensure the protection of the environment and human health against contamination and pollution, in accordance with Government advice contained in the National Planning Policy Framework.

43. Prior to development commencing in any phase, an up-to-date Noise Impact Assessment shall be submitted to and approved by the Local Planning Authority. The results of the Assessment will inform the detailed design of any subsequent Reserved Matters applications which will be required to demonstrate that any proposed mitigation measures are in place. Thereafter those measures will remain in place in perpetuity.

Reason: In the interests of the general amenity of the occupiers of the site.

44. Prior to development commencing, the highway works to provide access to the site approved under planning permission reference Y19/0540/FH shall be implemented and fully available for use.

Reason: In the interests of highway safety.

45. The development shall be carried out in accordance with the Earthworks Plan submitted with the application.

Reason: To ensure that the stockpiles are controlled to minimise impact on amenity and living conditions.

Informative

It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Appendices

Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

The application site is situated a minimum of 7km from the Dungeness, Romney Marsh and Rye Bay SSSI and Ramsar site, which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).

Dungeness, Romney Marsh and Rye Bay is a nationally important site by reason of a diverse range of biological and geological features, specifically the coastal geomorphology of Dungeness and Rye Harbour and the following important habitats: saltmarsh, sand dunes, vegetated shingle, saline lagoons, standing waters, lowland ditch systems, and basin fens.

These habitats and others within the site support a number of nationally and internationally important species of plants, moss, water voles, breeding birds, waterfowl, great crested newts, and invertebrates.

SPAs are protected sites classified in accordance with Article 4 of the EC Birds Directive. They are classified for rare and vulnerable birds and for regularly occurring migratory species. Article 4(4) of the Birds Directive (2009/147/EC) requires Member States to take appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds, in so far as these would be significant having regard to the objectives of this Article.

The proposal has potential to affect said site's features of interest, and an Appropriate Assessment is required to establish the likely impacts of the development. In considering the European sites' interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the European sites.

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However, the development does not impinge upon the designated sites and, subject to the conditions set out within the report, it is considered that the proposal is unlikely to have significant effects upon the integrity of these sites or the species which they contain.

The April 2018 judgement (People Over Wind v Coillte Teoranta, ref. C323/17) handed down by the Court of Justice of the European Union ruled that, when determining the impacts of a development on protected area, “it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.” The development therefore cannot be screened out of the need to provide an Appropriate Assessment.

However, the proposed development, in itself and in combination with other development, would not have an adverse effect on the integrity of the SPA, subject to the conditions set out within the report and it is not considered that off-site mitigation is required in this instance.

I therefore consider that there will be no adverse effect on the integrity of the SPA.