

Application No: 21/0747/FH

Location of Site: Sandbanks, Coast Road, Littlestone, New Romney, TN28 8RA.

Development: Conversion of the existing care home to 13no. 1 and 2-bed residential flats; erection of a new building to contain 6no. 2-bed flats; and associated landscaping works.

Applicant: Mr Leo Griggs

Agent: Guy Hollaway, The Tramway Stables, Rampart Road, Hythe, CT21 5BG.

Officer Contact: Ross McCardle

SUMMARY

This application seeks planning permission for change of use and erection of an extension to convert the existing Sandbanks care home to 19 one- and two-bed residential flats with associated parking. It is a resubmission of application ref. 20/0690/FH which was refused permission earlier this year for failing to demonstrate that the existing care home facility was not required.

The care home no longer meets the minimum standard required by the Care Quality Commission or the KCC Accommodation team; its sister care home (Madeira Lodge, nearby) has been extended and upgraded to absorb the residents from Sandbanks (and to provide additional bedroom capacity) within a modern, fit-for-purpose structure.

The proposed extension is of a traditional design that would sit comfortably within the context of the area and which would be acceptable in respect of impact on residential and visual amenity and on the special character of the nearby conservation area.

While there has been a significant level of local objection the proposal is considered to meet local and national policy requirements, and there are no material considerations which would indicate that planning permission should be refused. The application is therefore recommended for approval

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 affordable housing and contributions towards open space and play equipment, and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported to Committee because it is recommended for approval contrary to the Town Council's objection.

2. SITE AND SURROUNDINGS

- 2.1. Sandbanks is a detached, two-storey care home situated on the corner of Coast Road and St Andrew's Road within the defined built up area of Littlestone.

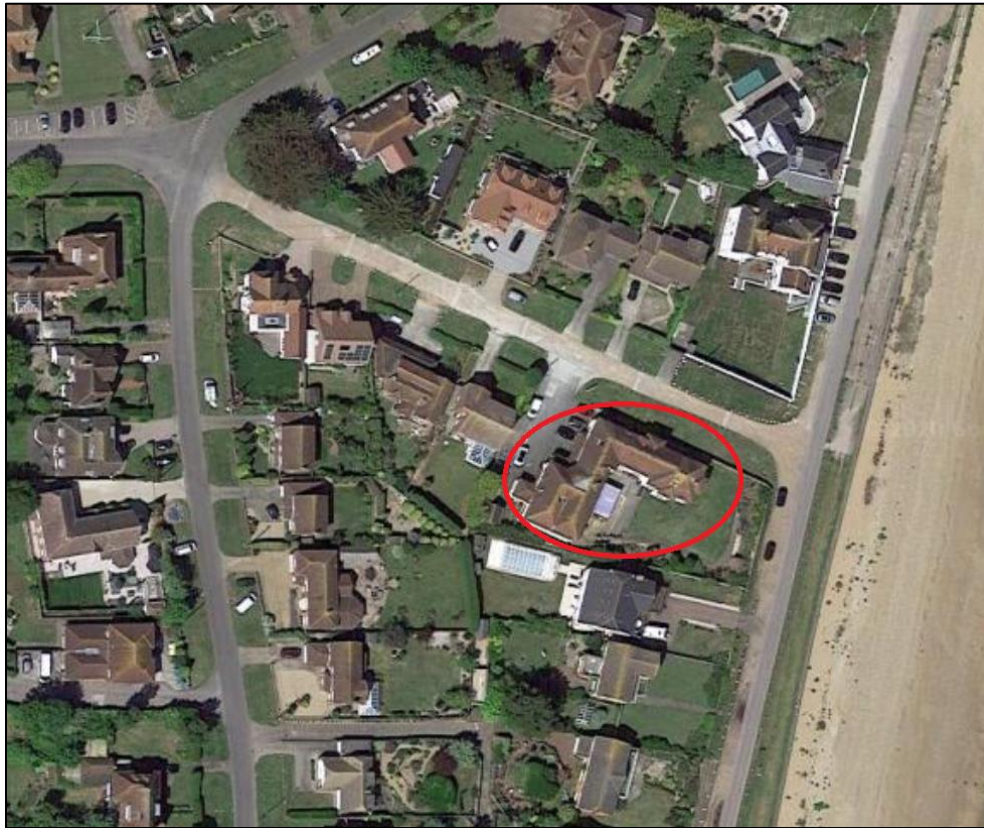


Fig.1 Location of Sandbanks

- 2.2. It is of a largely unremarkable contemporary design with an L-shaped footprint, rendered walls, and concrete roof tiles. The building is set back from Coast Road and, due to sloping land levels, roughly a metre down from road level. The flank of the building lies close to St Andrew's Road and roughly at the same level as the highway. The site is enclosed by a low brick wall set to the rear of a grassed verge, with a garden area to the front (Coast Road) and a parking area to the rear (adjacent to Juanda) accessed from St Andrew's Road. Internally Sandbanks provides 17 bedrooms with associated amenity facilities.
- 2.3. The wider area is mixed in character, with a mix of older and contemporary buildings of varying scales and designs. The neighbouring dwellings to the south are detached houses of relatively standard contemporary design, featuring brick and render and each with a first-floor balcony to the front. Foreshore, on the opposite corner of the junction, is a large detached Victorian-style house currently in use as a boarding house / B&B. The houses on St Andrew's Road are generally detached and of a simple '80s/'90s design with red brick and tile hanging.
- 2.4. There are a number of larger, multi-storey flat developments further to south on Marine Parade, but these are somewhat detached from the street scene on Coast Road.



Fig.2 Four-storey developments to the south, facing towards Sandbanks

- 2.5. The site is within flood zone 3, and identified as being at moderate risk up to 2115 under the Council's adopted Strategic Flood Risk Assessment. The site borders but is not within the Littlestone conservation area, which runs northwards from St Andrew's Road. The seafront opposite is designated SSSI / SPA / Ramsar, and both Coast Road and St Andrew's Road are private roads not adopted by KCC Highways.



Fig.3 Sandbanks (behind black car) within Coast Road street scene



Fig.4 Junction of Coast Road and St Andrew's Road



Fig.5 View from St Andrew's Road



Fig.6 Flank view from balcony of The Coast House (to south)

3. PROPOSAL

3.1 This application seeks planning permission for:

- Change of use of the existing care home to 13no. one- and two-bed residential flats;
- Erection of an extension to the front of the existing building to provide six no. two-bed flats; and
- Associated parking and landscaping works.

- 3.2 The existing care home does not meet current Care Quality Commission or KCC Accommodation standards and is proposed to be converted to 13 residential flats. An extension is proposed to the front of the building (projecting towards Coast Road) to provide a further six flats, for a total of 19 across the development. (One unit has been removed since the original submission).

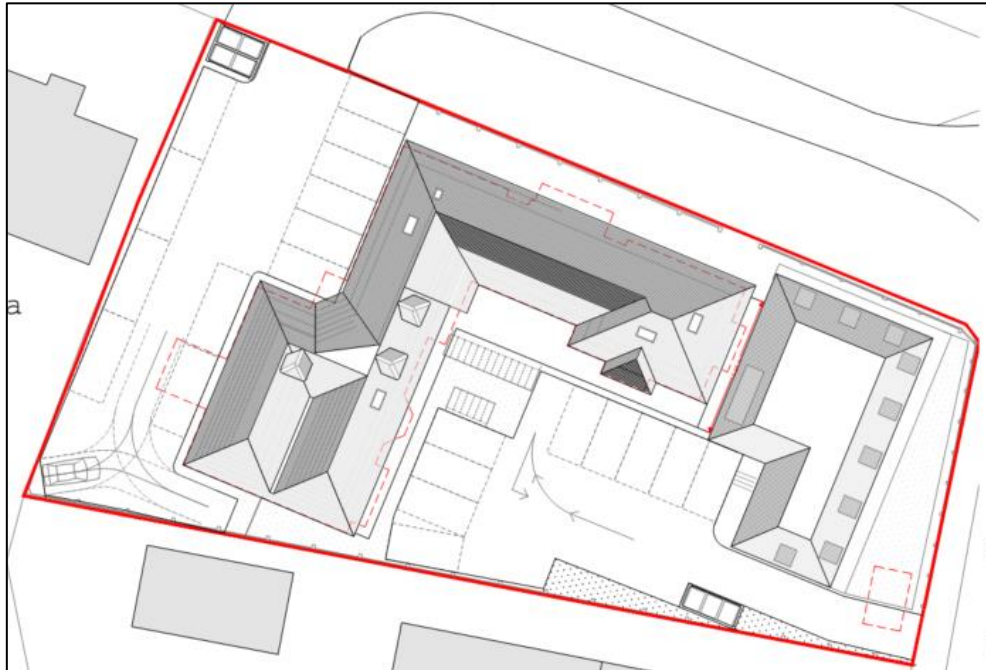


Fig.7 Proposed site layout

- 3.3 The proposed extension measures a maximum of 11.2m deep x 18m wide x 9.7m tall to the ridge (6.2m to eaves). The proposed structure is of a traditional Georgian-type design, featuring brick walls with contrasting stone quoins, a tiled roof, timber dormer windows to the front and side elevations, and generous windows set at regular intervals and below prominent arches. Each of the ground floor units in this part of the building would have doors opening on to the frontage area. The extension features a steeply-pitched roof with a central area of flat roof (required to keep the height low and the pitch steep).

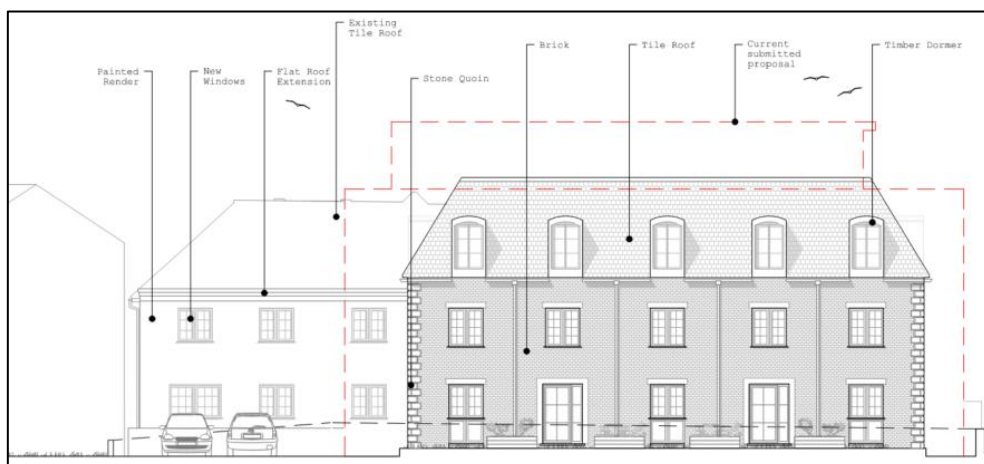


Fig.8 Proposed extension frontage elevation (original scheme shown dotted)



Fig.9 Side elevation onto St Andrew's Road



Fig.10 Section through existing building, facing towards seafront

- 3.4 A small flat-roofed section measuring 1m deep x 9.7m wide links the extension to the existing building, and provides a break between the Georgian style extension and the plain, contemporary existing building. This flat-roofed element wraps around the southern and eastern elevations of the existing building to provide a new landing / hallway access for the proposed flats.

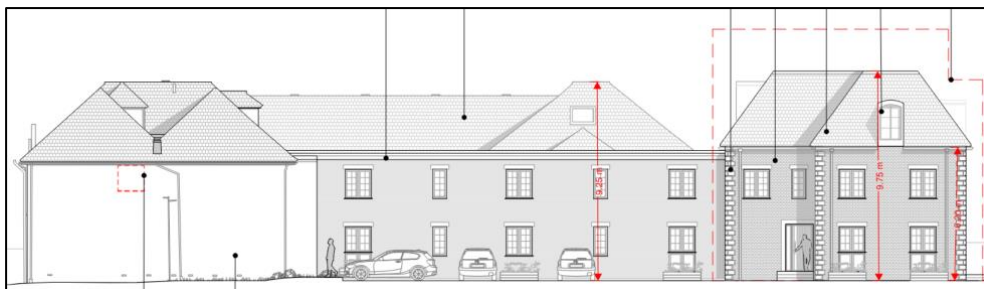


Fig.11 Proposed side elevation showing flat-roofed linking/hallway extension

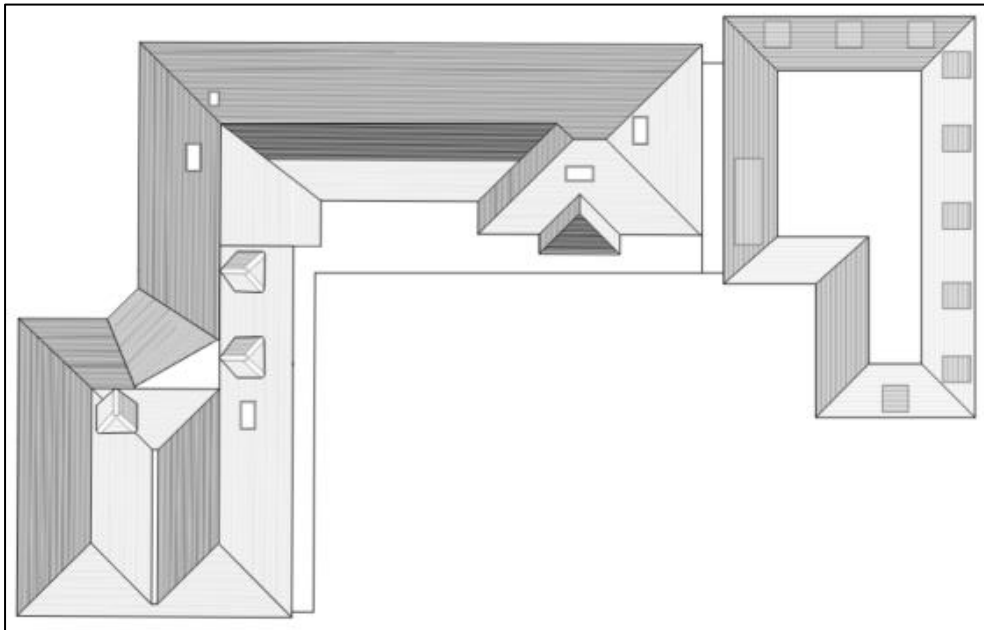


Fig.12 Proposed roof plan

- 3.5 On the western side a small two-storey projection would be removed to produce a flat elevation.
- 3.6 Internally the resulting building would be converted to provide a total of 19no. one and two-bed flats, including 5 affordable units. Twelve units would be two-bed and 7 would feature one-bed. Each unit will feature open-plan kitchen/lounge/diner, separate bedrooms, and a bath or shower room. All of the units exceed the minimum internal floorspace required by the national standard (39sqm for one-bed, 61sqm for two-bed), and feature square or rectangular proportioned rooms.
- 3.7 Externally a new vehicle access would be provided from Coast Road leading to a parking area set within the courtyard area to the south of the building. Cycle parking and communal bin stores would also be provided in this area. The existing parking area to the west of the building would provide further parking spaces and bin storage area. A total of 21 parking spaces would be provided within the site.
- 3.8 In the interests of transparency, the applicant is in discussions with the Council's social housing team in regards to the possibility of purchasing the units for the Council for use as affordable housing stock. This has no bearing on the material planning considerations as set out below.
- 3.9 The application is supported by a letter from Belmont healthcare, the owners/operators of Sandbanks (and nearby Madeira Lodge). It is worth reproducing parts of that letter here for context and clarity:

"In 2014 the CQC guidance was updated along with KCC and District Council's own data, forming an Accommodation Strategy, to identify the care-home need going forward. These official bodies regulate our care-home registrations, which has subsequently been further updated in 2019.

Care-home requirements post 2021 are guided to be of a size above 40 bedrooms, and ideally over 57 bedrooms. Smaller care-homes are financially non-viable to offer increased standards of quality and care.

This includes, but is not limited to, modern facilities and minimum design standards. An example of which is, bedroom sizes of 12 square metres and all to have en-suite facilities - both Sandbanks and Madeira Lodge do not have this.

Following this guidance, both Sandbanks and Madeira Lodge in their current form are not fit for purpose and are too small to be financially viable to upsize individually. They have received minimal upgrades since 1998.

We made the decision to amalgamate both homes into a new home at Madeira Lodge, upgraded, modernised, future-proofed and extended to 48 bedrooms.

Therefore I can confirm that Sandbanks and Madeira Lodge are not required or viable in their current configuration. Without this amalgamation both care-homes would be forced to close with the loss of 47 bedrooms to the local area.

The Madeira Lodge construction works are close to completion due for opening in May 2021.

The plans are for all staff and residents that currently reside in Sandbanks care-home to move across to the new site therefore not only retaining jobs but providing much improved and future proofed care facilities for those currently living within the home. All people receiving care in Sandbanks Care Home will be invited to move to the new future proof, fit for purpose site in New Romney which is just walking distance away.

The sale funds of Sandbanks care-home are part funding this construction – which will deliver improved facilities to existing Madeira Lodge residents (and Sandbanks residents when they move in). The expansion and upgrading of Madeira Lodge gives a net increase in bedrooms across the two existing care homes, whilst ensuring the future of these bed numbers with future proofed facilities.

The delay to the planning permission is not welcomed to the final construction of Madeira Lodge.

We have also been asked to make comments on the 12 month marketing period. I can confirm that Sandbanks was marketed from March 2019.

Our solicitors have made comments that Policy HB11 does not apply in this instance because it does not reference our situation of amalgamating two care-homes - ie no care-home is effectively 'being lost'.

We also note the current sale and purchase by Livingstone Homes Ltd has enabled borrowing against the sale of Sandbanks, to progress the redevelopment of Madeira Lodge and ensure no interim void period of the 48 bedrooms.

It is very often the case nationally, a care-home closes for redevelopment but never re-opens, due to the cost of this closure period. The scheme proposed to you has prevented this and in effect saved all 47-48 bedrooms offering care in the area.”

4. RELEVANT PLANNING HISTORY

- 4.1. Planning permission for conversion of the existing dwelling to a nursing home was granted in 1988 under ref. 88/0765/SH.
- 4.2. Application Y18/0084/SH granted planning permission for the erection of a two-storey extension to the front of the existing building (facing on to Coast Road) and internal renovation to provide an additional 12 rooms (total 29). This planning permission has not been pursued by the site owner as the resultant building would be below the minimum operational size requirements for modern care homes (min. 40 bedrooms, ideally 60+ bedrooms), but does give weight to the principle of erecting an extension to the front of the building.



Fig.13 Extension approved under Y18/0084/SH

- 4.3. Y17/1562/SH granted consent for erection of single-storey and two-storey extensions at Madeira Lodge Nursing Home (on Madeira Road) to modernise facilities and provide an additional 14 bedrooms, together with additional parking provision.
- 4.4. Y19/0362/FH granted planning permission for demolition of Romney Cottage care home (also on Madeira Road) and erection of three dwellings. The loss of the care home was not considered to impact the district's care provision, and the CQC raised no objection.
- 4.5. Most recently, application ref. 20/0690/FH sought permission for an identical redevelopment scheme. That application was refused by Members at the May planning committee meeting for the following reason:

The proposed development in the absence of a viability report has failed to sufficiently demonstrate that the existing building is not required for nor suitable for the continued provision of elderly care and as a result would result in the loss of important elderly care provision within the New Romney area. The proposal is therefore contrary to policies DSD and SS3(f) of the adopted Core Strategy 2013; SS3(f) of the emerging Core Strategy (February 2020 Submission Draft); and HB11 of the adopted Places and Policies Local Plan 2020.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

New Romney Town Council: Object for the following reasons:

1. No viability statement as required by policy HB11 has been provided
2. The application would result in a loss of rooms

KCC Economic Development: request contributions towards secondary education, community learning, youth services, library stock, adult social care, and waste, but **[CPO Comment:** Members should note that these items are wrapped up within the required CIL contribution.]

KCC Highways and Transportation: comment that “*as both Coast Road and St Andrew’s Road are private roads, it would appear that this development does not meet the criteria for involvement from the Highway Authority.*” They do suggest a standard informative, as set out below but have not objected to the application.

KCC Ecology: Raise no objection subject to conditions requiring bat surveys to be carried out and mitigation measures to be implemented if necessary. **[CPO Comment:** The required surveys were received during consultation, and further comments are awaited at the time of writing. I will update Members at the meeting.]

KCC Social Care: in a letter submitted as part of the application the KCC accommodations team set out that they have no objection to the closure of the existing care home, confirming it no longer conforms to the required standards:

“The Accommodation Strategy reviewed existing provision which identified that the average care home in Kent has 40 beds, with homes made up of 60 beds being more sustainable and operationally effective. Moving forward, new care homes would need to meet the minimum design standards of 12 square metre bedrooms all with en-suite.

Therefore, I can confirm that Sandbanks, as a care home, would not be required in its current configuration in the future.”

In subsequent follow-up email (dated 28.05.21) with planning officers the KCC Strategic Commissioning officer has set out that current and forecasted demand for care home places is decreasing with people instead choosing to remain in their own homes with care or moving into extra care flats with background support. There is still and will continue to be a need for residential homes for people with a high care requirements, but due to the impacts of Covid there “*are still a significant number of vacant care home beds in the county.*” The officer also sets out that “*when a residential home closes, people and their relatives or friends are given a choice of alternative homes that can meet their needs and have the option of moving to other areas to be near family members etc.*”

KCC Lead Local Flood Authority: Raise no objections and request a condition requiring details of surface water management to be submitted prior to commencement of development.

KCC Archaeology: No Comment.

[CPO Comment: No objection was received on the previous and identical application]

Care Quality Commission: do not have any comments or concerns, and also note that the relevant applications in relation to the extension / expansion of Madeira Lodge have been approved without any objections or requested changes.

NHS Clinical Commissioning Group: confirm they are not seeking any contributions from this development.

Natural England: No objection.

Environment Agency: Raise no objection, subject to a condition to secure the finished floor levels set out in the submitted FRA (5.15mODN); this is set out below.

Southern Water: No objection subject to conditions

Kent Police: Raise no objection, and provide comments on a number of anti-crime measures which could be incorporated into the scheme, such as access control, window standards, installation of wall anchors for motorbikes, etc.

Office for Nuclear Regulation: No comment.

Contamination Consultant: No objection.

Arboricultural Manager: No objection.

Local Residents Comments

5.2 7 adjoining neighbours directly consulted, site notice posted, and advert placed in the local newspaper. 57 letters of objection (many of which are duplicates from the same addresses) and 1 letter of support have been received.

5.3 I have read all of the letters received. The key issues are summarised below:

Objections

- Scheme is identical to refusal under 20/0690/FH;
- Should be refused due to the level of local objection;
- Proposed building would be out of scale and out of character with the area;
- Amounts to overdevelopment of the site;
- The site is not sustainable;
- Doesn't accord with policy, HB11 in particular;
- No viability report has been submitted;
- Impact on highway safety and amenity (additional traffic, inadequate parking, condition of local roads, maintenance of private roads, etc.);
- Impacts on residential amenity (noise, disturbance, overlooking, loss of privacy, overshadowing, overbearing, etc.);
- Noise and disturbance during construction;
- Harm to the character and appearance of the neighbouring conservation area;
- Will add to pressures on local services and amenities (school places, doctor's places, etc.);
- Will reduce number of care home beds [HoP comment: as set out in the report, the development funds and enables expansion/modernisation of Madeira Lodge

Care Home; no bed spaces will be lost, and quality of care will be upgraded/modernised];

- Where will existing Sandbanks residents be placed;
- This isn't required to meet housing targets;
- The previous application to extend and expand the care home indicates it was viable;
- Local sewers and drainage will need to be upgraded to serve the development; and
- Are the Council and developer working together / is there a conflict of interest.

Support

- Will bring investment to the area;
- Supports/enables expansion of Madeira Lodge, and ensures continued local care provision; and
- Will provide affordable homes.

Many people have stated they "object for the same reasons as the previous application." Therefore, for the sake of clarity and to avoid the potential for anyone's views to be missed I have set out the comments received on application 20/0690/FH in full below:

Objections:

- Highway safety and amenity concerns from additional traffic;
- St Andrew's Road is an unmade road, and should be tarmacked to improve access and prevent further deterioration;
- Noise and disturbance from use of parking area;
- Inadequate parking;
- Lack of amenity space for future occupants;
- Over-development of the site;
- Would project beyond the established building line;
- Too tall, local buildings mostly two-storey;
- Overbearing and oppressive for neighbouring properties;
- Overlooking and loss of privacy from balconies and new windows;
- Loss of light to neighbouring properties;
- Increased noise and disturbance from residential use compared to care home;
- Design contrary to local character;
- Harmful to the adjacent conservation area;
- Do not like the design;
- Insufficient doctors, school places, and services locally;
- Not near to local shops or services, residents will be reliant on cars;
- No need for new housing in the area;
- The development will not benefit local people;
- No guarantee the dwellings will be affordable social housing;
- Care home should be retained;
- No viability report justifying loss of the care home;
- No marketing exercise has been carried out to justify the loss of the care home;
- Shortage of care homes in the county;
- Loss of jobs;
- Will be over-priced;
- The marsh should not be developed to help retain its peaceful character;
- Will deter tourists;
- Loss of value for existing properties;

- Will change demographic from retirement area to more families;
- Will set a precedent for more development;
- Potential ownership disputes over use of driveways;
- Local drainage won't be able to cope;
- Flood risk to ground floor units;
- Will reduce water pressure for existing properties;
- Insufficient local notification and no site notice [NB: a site notice was posted on the street pole directly opposite the site, and letters sent to neighbours in accordance with the national requirements];
- Insufficient information about the proposed use;
- Not enough time to properly comment;
- "It is a done deal already and the neighbours are just wasting their time" and "the application has already gone through";
- Too much weight given to the letters of support;
- The application should be determined by the planning committee;
- Inadequate parking;
- Wear, tear, and damage to the unmade roads;
- Not sustainable or environmentally friendly;
- Flood risk;
- Impact on local water supply and drainage;
- "Would disrupt wind flow along the coast";
- Projects beyond building line;
- Overdevelopment of the site;
- Overbearing and out of scale with neighbouring properties;
- Would be larger than the previously approved extension;
- Overlooking and loss of privacy for existing residents;
- Design out of keeping with area;
- Old buildings should be retained;
- Increased traffic;
- Noise and disturbance from parking area;
- Increased light pollution;
- Impact on local schools, GPs, and infrastructure;
- Insufficient employment locally for new residents "making much of the property unoccupied and open to crime";
- Loss of care home, and a need for care homes nationally;
- Application doesn't demonstrate compliance with PPLP policy HB11;
- Application should be refused due to weight of local opposition;
- "Worse than the previous application";
- "Opportunistic attempt" to expand upon 2018 permission for extension;
- The site notice wasn't displayed prominently enough;
- Neighbouring residents have not been adequately consulted;
- The application should be determined by planning committee; and
- Request a committee site visit.

Support:

- More housing is needed in the area;
- Will help to regenerate the area;
- New Romney will not prosper without investment/development;
- More residents will help to bring new services into the area (through additional tax/es.106 funding/etc.);
- Local residents should not resist change;

- The existing care home is not suitable and “good to see residents being moved to an upgraded and modernised care home”;
- Will enable upgrade of Madeira Lodge care home;
- Re-use of the site for housing is sensible; and
- Like the design.

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the saved policies of the Places and Policies Local Plan (2020) and the Shepway Core Strategy Local Plan (2013).

6.2 The Places and Policies Local Plan has been through a formal review and was formally adopted by the Council in September 2020. The policies therein can be given full weight.

6.3 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made ‘sound’ by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan’s spatial strategy and overall approach to the district’s character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors’ outline of main modifications required.

6.4 The relevant development plan policies are as follows:

Shepway Local Plan Core Strategy (2013)

DSD (Delivering Sustainable Development)
SS1 (District Spatial Strategy)
SS3 (Sustainable Settlement Strategy)
SS5 (District Infrastructure Planning)
CSD1 (Balanced Neighbourhoods)
CSD2 (District Residential Needs)
CSD5 (Water Efficiency)

Places and Policies Local Plan (2020)

HB1 (quality places through design)
HB2 (cohesive design)
HB3 (space standards)

HB8 (extensions and alterations)
HB11 (loss of residential care homes)
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)
T3 (residential garages)
T5 (cycle parking)
NE2 (biodiversity)
CC2 (sustainable design and construction)
HE1 (heritage assets) are relevant.

Policy HB11 states:

Planning permission will be granted for the conversion of a residential care home or institution (C2) to residential (C3), hotel or bed and breakfast (C1) or non-residential institution (D1) use, or the demolition of the building or buildings and new build development for these uses, if the following are satisfied:

1. *The applicant has provided a viability report demonstrating that:*
 - i. *A residential care or institutional use in the current building is not economically sustainable;*
 - ii. *Extension or adaption is not viable; and*
 - iii. *The property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offers have been made;*
2. *Design and layout take account of the design and sustainable construction policies within this plan, as far as is reasonably practical;*
3. *It can be demonstrated that levels of traffic movements can be successfully accommodated on the local road network and that parking can be provided in accordance with the requirements of Policy T2;*
4. *Development does not result in increased noise or disturbance which impacts on neighbouring residential amenity; and*
5. *In the case of redevelopment for residential (C3) use, the development provides affordable housing in accordance with Core Strategy Policy CSD1: Balanced Neighbourhoods.*

The Council will resist the demolition of a residential care home or institution that is a heritage asset or where the building is within a Conservation Area.

Core Strategy Review Submission draft (2019)

SS1 (district spatial strategy)
SS2 (housing and economy growth)
SS3 (place-shaping and sustainable settlements)
SS5 (district infrastructure planning)
CSD1 (balanced neighbourhoods)
CSD8 (New Romney strategy).

CSD8 sets out that *“New Romney should develop as the residential, business, service, retail and tourist centre for the Romney Marsh... The future development of the town should support the retention of existing businesses and the attraction of new employment opportunities through the provision of an adequate supply of employment land to meet future need and through the provision of a sufficient level of new residential development to maintain an adequate labour supply.”*

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

Government Advice

National Planning Policy Framework (NPPF) 2019

- 6.6 Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The following paragraphs of the NPPF are relevant to this application:

Para. 8 sets out the three main strands of sustainable development: economic, social, and environmental. Para. 11 then sets out that to achieve these aims development proposals that accord with an up-to-date development plan should be approved “without delay” but excludes identified flood risk areas from the automatic presumption in favour of development. Para. 12 clearly sets out that the starting point for decision-making is the development plan.

Para. 20 requires Councils to have strategic policies that make sufficient provision for housing, infrastructure, and community facilities in appropriate locations, while ensuring conservation of natural and historic environments. Para. 22 then sets out that such strategic policies should look ahead over a minimum of 15 years (hence the lengthy span of the adopted and emerging Local Plans).

Section 5 of the NPPF requires Councils to deliver a sufficient supply of homes, of varying types and tenures, to meet an identifiable need. Para. 67 requires Councils to have an identifiable supply of specific and deliverable housing sites to meet demand for at least 5yrs hence, and para. 72 advises Councils to identify and allocate sites to meet this need.

Para. 109 states that *“development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

Para. 117 encourages best, most productive use of land to meet the need for homes, while safeguarding the environment and ensuring safe and healthy living conditions. Para. 122 encourages development at appropriate densities, taking into account the character of the site and the need for different types of housing.

Section 12 aims to achieve well-designed developments and places.

Para. 170 requires planning decisions to protect and enhance the natural environment; to protect valued landscapes; minimise impact upon and provide net gain for biodiversity; and mitigate and remediate despoiled land and pollution. Para. 175 deals with biodiversity in particular, and sets out that developments which give rise to significant harm in this regard should be refused.

Section 14 seeks to ensure development meets the challenges of flooding and climate change.

Para. 150 requires developments to avoid increased vulnerability and to ensure risks can be managed through suitable adaptation measures. Para. 155 directs “inappropriate” development away from areas of flood risk, but advises that where development is necessary in such areas it needs to be made safe for its lifetime without increasing risk elsewhere. Paras/. 157 to 159 require the sequential and exceptions tests to be applied to development within flood risk areas, and para. 161 stipulates that both parts of the exceptions test must be met for development to be permitted. Para. 163 requires submission of site-specific flood risk assessments, and incorporation of mitigation measures within new development.

6.7 The National Design Guide and Nationally Described Space Standards are also relevant.

7. APPRAISAL

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

- a) Principle of development.
- b) Loss of the existing care home / previous reason for refusal.
- c) Flood risk.
- d) Scale, design, and visual amenity.
- e) Residential amenity.
- f) Highways and parking.
- g) Contributions.
- h) Ecology.
- i) Other matters.

a) Principle of development

7.2 The application site lies within the defined built up area boundary where the principle of residential development is generally acceptable under adopted local and national policies.

7.3 Core Strategy policy CSD8 particularly identifies New Romney – including Littlestone (as set out at emerging Core Strategy para. 4.68) – as a principal location for development, with para. 5.124 of the emerging Core Strategy setting out that “*as the primary strategic centre for Romney Marsh, New Romney town should develop a critical mass of businesses and services, underpinned by expanded tourism facilities and new homes.*” Furthermore: Core Strategy policies SS1 and SS3 also direct residential development to the identified built up areas of the district (in accordance with the settlement hierarchy at para. 4.68).

- 7.4 The site lies within a sustainable location approximately 2.2km from the shops and services on New Romney High Street, 1.6km from the Marsh Academy, and 900m from the Spar at the junction of Grand Parade and Clark Road. Bus stops on Grand Parade (Queens Road stop, 479m to the south) and Littlestone Road (Madeira Road stop, 630m south-west) provide regular services towards Ashford and Dover.
- 7.5 Development here would also contribute towards the Council's five-year housing supply and the supply of affordable housing overall. Members should also note that five-year housing supply targets are a *minimum* target for the Council (set by central Government).
- 7.6 With regard to the above, the principle of residential development here is considered to be acceptable

b) Loss of the existing care home / previous reason for refusal

- 7.7 The tests of Policy HB11 (1) are set out above, but repeated here for ease of reference:

The applicant has provided a viability report demonstrating that:

- i) A residential care or institutional use in the current building is not economically sustainable;*
- ii) Extension or adaption is not viable; and*
- iii) The property has been actively marketed at a reasonable rate for a period of at least 12 months and no reasonable offers have been made;*

- 7.8 This application is not accompanied by a viability report and as such, the development is, on the face of it, contrary to this policy. As set out above the application now seeks to demonstrate why such a report is not required in this instance, given the very specific circumstances at this site and its sister site. In light of this, Members are required to have regard to this information and my consideration of the issues follows.
- 7.9 Firstly, it is clear that Sandbanks, in its existing configuration, and Madeira Lodge, in its previous configuration, did not meet current standards for care home provision either nationally or locally. The majority of rooms were undersized, some lacked en-suite facilities, and each care home was not of sufficient size, in KCC's opinion, to be able to be operationally viable. As such, I am firmly of the view that criterion (i) above is met.
- 7.10 Secondly, with regards extension or adaptation, planning permission has been granted for the extension of Sandbanks. However the substantial works proposed would have only resulted in a care home with 29 bedrooms – well below the number of rooms KCC consider to be viable. In my view, whilst a larger extension to the care home might be possible, it would still fall well below the 40-60 figure provided by KCC. Adaptation of the existing building would result in the loss of bed provision and the previously existing total was 19 – well below what KCC would expect. In my view the second criterion is met.
- 7.11 Finally, with regards marketing, the application is accompanied by limited information. However – in my view Members should approach criterion iii) with a degree of caution. In my view, if the first two criteria are met (i.e. the business is not economically sustainable in the existing building and extending or adapting it would not make it so) then undergoing a marketing exercise offering the business for sale as a going

concern is most unlikely to be successful, as referred to above by the owner. In the circumstances here, where the site is clearly not suitable in its current form for use as a care home, and as extensions and/or adaptations are most unlikely to bring it up to an acceptable and viable standard, refusal of planning permission on such a basis would be challengeable.

- 7.12 Development Plan Policies are intended to address broad scenarios which may well come forward during the life of the plan. However – they are not intended to, and should not be applied rigidly regardless of the specific circumstances of each site. Indeed, the basis of the planning system is that applications should be determined in accordance with the policies of the Development Plan *unless material considerations indicate otherwise*. In my view, whilst the application particulars submitted here do not demonstrate strict accordance with criterion HB11(1), the circumstances at the site as evidenced by the application, together with the information provided by KCC and the CQC, amount to significant material considerations that indicate that the scheme should be considered acceptable in this regard.

Concerns raised about loss of care home facilities as a result of this development are understandable. The thrust of policy HB11 is to protect loss of capacity without careful consideration, but it does not require there to be no net loss of such facilities. Having regard to the fact that this application does not strictly comply with Policy HB11, as set out above, it is in my view useful to consider whether the proposal would cause harm to care provision in the vicinity. As set out in the proposal section and replicated below for ease the bed spaces lost as the result of Sandbanks closing have already been re-provided at Madeira Lodge, by the same operator.

Care home bedroom provision prior to this application/extension of Madeira Lodge

Site	No. of bedrooms
Madeira Lodge	27
Sandbanks	19
Total	46

Care home bedroom provision with closure of Sandbanks & extension and reconfiguration of Madeira Lodge

Site	No. of bedrooms
Madeira Lodge	48
Sandbanks	0
Total	48

- 7.13 Madeira Lodge care home is located on Madeira Road, to the rear of Sandbanks (see fig.14 below). It has been extended and upgraded to bring it in-line with current CQC required standards (in terms of bedroom sizes, amenity provision, etc.); to provide capacity to absorb the existing residents from Sandbanks; and to provide sufficient bedrooms such that it is operationally viable under current KCC requirements (where 60-bed care homes are the preferred operational minimum). Planning permission for these works was granted in 2017 (ref. Y17/1562/SH) and those works are now largely

complete (the development having been forward-funded in anticipation of the closure of Sandbanks) with residents and staff starting to move across from Sandbanks in April this year.

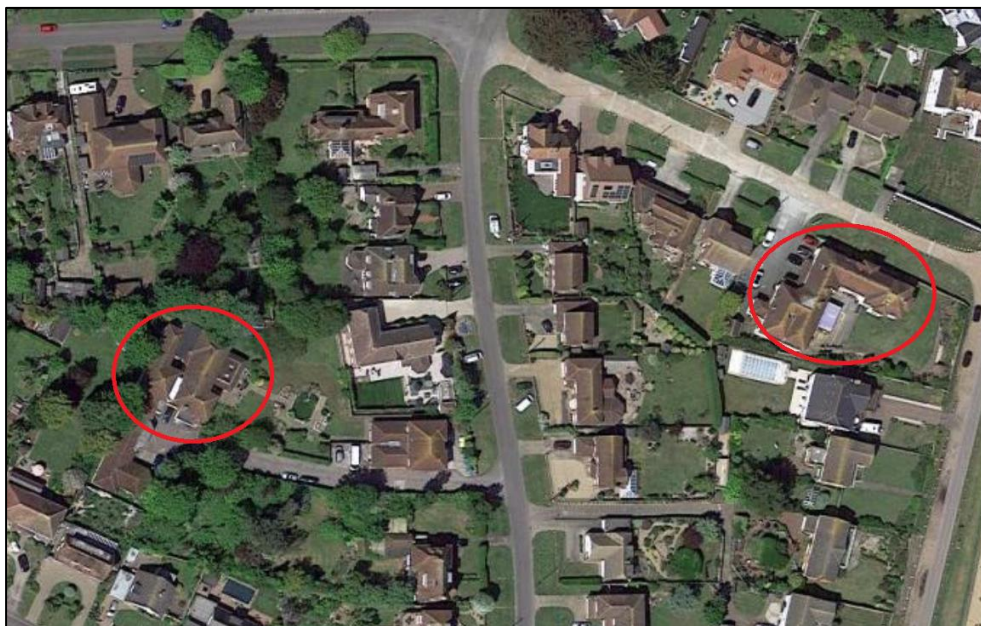


Fig. 14 Location of Madeira Lodge (left) and Sandbanks (right)

- 7.14 Also of considerable weight is the letter from KCC in which they confirm that Sandbanks is no longer suitable to meet modern standards and have no objections to its closure. They particularly note that, from an operational standpoint, Sandbanks – even with the previously approved extension – would be significantly below the 40-60 beds most modern care homes provide to meet operational viability requirements (no. of staff vs. residents, etc.).
- 7.15 Further to this the operators of Sandbanks and Madeira Lodge, Belmont Healthcare, have provided a statement to clarify their position. This explains (my emphasis in **bold**):

“Care home requirements post-2021 are guided to be of a size above 40 bedrooms, and ideally over 57 bedrooms. Smaller care homes are financially non-viable to offer increased standards of quality and care.

Following this guidance, both Sandbanks and Madeira Lodge in their current form are not fit for purpose and are too small to be financially viable to upsize individually. They have received minimal upgrades since 1998.

*We made the decision to amalgamate both homes into a new home at Madeira Lodge, upgraded, modernised, future-proofed and extended to 48 bedrooms... **Without amalgamation both care homes would be forced to close with the loss of 48 bedrooms to the local area.***

*The Madeira Lodge construction works are close to completion due for opening in May 2021. The plans are for **all** staff and residents that currently reside in Sandbanks care home to move across to the new site therefore not only retaining jobs but providing much improved and future proofed care facilities for those currently living within the home...*

The sale funds of Sandbanks care home are part funding this construction...

- 7.16 In conclusion on this issue, whilst the proposal does not strictly comply with Policy HB11, I consider that it meets the strict tests within the policy in terms of demonstrating that the existing building does not warrant retention as a care home. I consider the scheme acceptable in this regard. Furthermore, although Policy HB11 does not seek to require replacement of facilities elsewhere, the extension and reconfiguration of Madeira Lodge means that there would be no net loss of bedrooms in the vicinity.
- 7.17 I am therefore firmly of the view that the proposal amounts to an acceptable loss of such a facility.

c) Flood risk

- 7.18 The application site lies within Flood Zone 3, and is identified as being at moderate risk (primarily from wave overtopping of the sea wall) up to 2115 under the Council's Strategic Flood Risk Assessment (SFRA).
- 7.19 The submitted Flood Risk Assessment (prepared by Herrington Consulting) concludes by stating that *"the analysis has demonstrated that the risk of flooding to the development is low from all sources with the exception of flooding as a result of waves overtopping the defence infrastructure adjacent to the site."* It then suggests a number of flood resilience measures to be incorporated into the build, including setting floor levels no lower than existing; using reinforced glass and/or protective shutters on the front elevation to resist any wave force; signing up to the EA's flood warning system; and considering site drainage.
- 7.20 The FRA was been amended during the course of the previous application. Version 3, which is resubmitted with this application, has interrogated the flood data to a much deeper level than the original submission, and concludes that the finished floor level (FFL) of the building (5.15m AODN) will be marginally (30mm) *above* the maximum modelled flood level event (5.12m AODN). The applicant's flood risk consultant is therefore confident that development of the site as proposed would not give rise to any serious risk to future occupants. The agent for the scheme has further confirmed that the FFL will be raised by an *additional* 150mm internally (with no impact upon the proposed external elevations), and an amended drawing has been received to show this. The future residents would also be able to access higher ground within the site in the scenario of a flood event, if necessary.
- 7.21 Despite the finished floor levels not being as high as the Environment Agency would normally expect to allow a buffer for any inadequacies within the data, the EA do not object, noting that the development (partly) involves conversion of an existing building and that an extension to the care home had previously been approved in the same location as the current proposed extension. They also recognise that planning officers consider the scheme to pass the sequential and exceptions tests (as below), but have stressed that their comments are site-specific (with regard to the history of the property) and should not be used to establish a precedent for development in other areas at risk of flooding.
- 7.22 In considering the acceptability of development within the identified flood zone it is necessary to consider the predicted modelled flood level as set by the Council's strategic flood risk assessment (SFRA), the Sequential test, and the Exceptions Test.

7.23 The site is identified by the Council's SFRA (also prepared by Herrington Consulting) as being at medium risk up to 2115. Sites at extreme risk are normally excluded as a matter of course, but sites at medium risk can still be brought forward for development. As set out above, the updated FRA submitted in support of the application concludes that the proposed development would be above the level of any flooding. Para. 5.1 of the FRA states (emphasis as per original document):

“The results of the modelling for this scenario show that the maximum flood level varies across the site, from 5.12m AODN where the building and proposed extension are to be located, falling to 4.39m AODN at the western end of the building. The sloping surface indicates that floodwater will not pool at the site, but instead will flow across the site in a westerly direction, following the natural topography. Comparing the maximum flood level of 5.12m AODN to the floor level of the existing building and proposed extension (5.15m AODN) it can be seen that the floor level is elevated above the maximum flood level. As a consequence, the building will remain dry during the design flood event.”

7.24 The agent has also confirmed that the internal upstand is to be raised by 150mm (without affecting the external form of the building); which further raises the development above modelled flood levels and is considered to be acceptable.

7.25 Turning to the sequential test: the site lies within an area in which policy CSD8 outlines a strategy which seeks to support (amongst other development) residential development in the interest of controlled, sustainable growth of New Romney as a primary local centre. Core Strategy policy SS3 explains that Littlestone is a Strategic Town for the District, and it has a role to accommodate significant development. Paragraph 4.72 of the Core Strategy also explains that (emphasis added) *“residential development within Flood Zones 2&3 **will be necessary** to support the sustainable growth of the district....If no suitable site outside of Flood Zone 2 or 3 is available, then consideration should be given to minimising hazards to life and property utilising Shepway's SFRA. This identifies and grades large parts of the central and western Romney Marsh area where flood hazards exist, but the threat posed in a flooding event is less than extreme.”* Planning Policies are assessed against the SFRA during their evolution and in that regard the issue of development here has already been considered at a strategic, forward-planning level as required by the NPPF (paras. 155 to 158 in particular).

7.26 The sequential test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding, and other potential sites need to be considered before progressing to develop those of lesser preference / greater risk (in flood risk terms). When considering other potential development sites the geographic range is limited to those within the same character area, which in this instance would be the Romney Marsh Character Area. Where other sites at no/lesser risk are not available within the character area local planning authorities can consider sites within identified flood risk areas, which cover substantial parts of the district due to land levels. There are no comparable sites in the Romney Marsh character area that could accommodate development of this scale. Current, live, unimplemented permissions amount to:

- i. Y19/0724/FH, which granted permission for ten flats at 8 Littlestone Road, Littlestone; and

- ii. Y19/0254/FH, which granted permission for 21 two-storey houses on land adj. Fairlight Terrace, Lydd Road, New Romney.

Neither of these are similarly comparable to the 19 flats proposed (the first being of different scale/ fewer units and the latter a different type of dwelling that prevents direct like-for-like comparison) under the current application to allow officers to direct the developer to those sites instead.

- 7.27 As such, it is considered that the sequential test has been met as there are no reasonably similar alternative sites available within the Romney Marsh character area.
- 7.28 The NPPF acknowledges that it is not possible to locate all development outside of areas of flood risk and, in situations where the Council has a planning-based argument for a development to proceed (i.e the sequential test), it is necessary for the Exceptions Test to be applied. The Exceptions Test has two parts:
- a) *It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risks; and*
 - b) *A site-specific FRA must demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.*
- 7.29 In the case of the current proposal I consider that part a) – the wider sustainability benefits – is addressed through the inclusion of the site within the defined built up area boundary; the settlement hierarchy (core strategy policy SS3) identifying the wider area for residential development; (as above) identifying the wider area as a priority centre for residential development to meet the aims of supporting New Romney/ Littlestone as a primary local centre. Residential development here would contribute to the broader aim of sustainable development within the district and reduce any pressure on the Council to consider development proposals on greenfield sites elsewhere. It should further be recognised that this is previously developed, “brownfield” land which is recognised under the NPPF as being a preferred location for new development in general.
- 7.30 Part b) therefore remains. In this regard the applicant has submitted a site-specific FRA which concludes that (as above) the site is suitable for the proposed development without serious risk (either on or off-site), and that the development would be set above the maximum predicted flood level. The site-specific FRA is prepared by the same consultants that produced the SFRA, and they are therefore critically aware of local circumstances and technical considerations.
- 7.31 In most circumstances officers would, ideally, prefer to see finished floor levels set higher than proposed to provide a more substantial buffer against flood risk (and in accordance with the EA’s 600mm upstand recommendation), but in this instance it is recognised that the works involve conversion of an existing building and that planning permission has previously been granted for an extension in this exact location, which both give considerable weight to consideration of this application. As such, whilst a more significant buffer would have been ideal, as the finished floor levels exceed the maximum flood event levels, it is considered to meet the requirement of being safe from flooding. I therefore consider the scheme to be acceptable in this regard, but recognise the EA’s position in that their lack of objection on this particular scheme does not form a basis on which to support other developments in areas of flood risk.

d) Scale, design, and visual amenity

- 7.32 The existing building is not considered to be of any architectural merit. From the site history it appears that the original dwelling was extended and converted to a care home in the late '80s, and the design of the existing building is plain and wholly reminiscent of the era. While it doesn't necessarily detract from the character of the area it does not make a significantly positive contribution to the street scene or to the fringes of the adjacent conservation area. There is scope for the site to be improved.
- 7.33 I note local concern in regards to the proposed design. Earlier submissions proposed a contemporary built form. Officers raised concerns about the approach and relationship with the retained element. Consequently the current scheme proposed a more traditional design approach, with a Georgian influence. Utilising traditional features such as a steeply-pitched roof, facing brick, and a regular window pattern.
- 7.34 The existing building stands approximately 9.2m tall to the ridge while the proposed building stands approximately 9.7m tall; a difference between the two of approximately 500mm. This difference is considered to relate well to the existing building and as a result neighbouring properties. In terms of scale it would sit comfortably on the existing site and, due to a slight drop in land levels on the site (compared to the road or neighbouring properties) and use of the roof space as the second floor it would not be significantly taller than surrounding buildings in general.
- 7.35 I consider that the traditional design of the building would sit comfortably against the boundary of the conservation area, and would preserve its character and appearance. In that regard I also note that the proposed traditional design takes cues from other properties in the conservation area, such as Sandcroft (to the north), and The Old Green (Madeira Road).



Fig. 15 Sandcroft, to the north of the application site



Fig. 16 The Old Green, Madeira Road

- 7.36 A number of objections refer to the extension projecting beyond the building line on Coast Road. There is a clear building line set by the four houses immediately south of Sandbanks (circled in the diagram below), but these are an anomaly within the wider building line along Coast Road (see diagram below) and generally set back from the predominantly frontage development along the road (although I accept a number of older properties to the north are set back, within large plots). In this regard I do not consider that the extension would be contrary to the pattern of development within the area or harmful to visual amenity in that context.



Fig. 17 Building line (drawing oriented with east to the top)

- 7.37 Few physical changes are proposed to the outward-facing elevations of the existing building, and there would consequently be little additional visual impact.
- 7.38 I therefore consider the proposed development to acceptable in terms of scale and design, subject to conditions as set out below to secure materials details prior to construction.
- 7.39 With regard to the above I am satisfied that the site is clearly capable of accommodating the proposed development without it appearing cramped or harmful to the character and appearance of the wider area.

e) Residential amenity

- 7.40 The impact of the proposed development on the residential amenity of existing, neighbouring residents is considered acceptable. The proposed extension would be set well away from common boundaries and, due to its position, would be very unlikely to give rise to any overshadowing, loss of light, or loss of outlook.

- 7.41 Windows on the southern elevation of the extension would provide oblique views across the frontage of neighbouring dwellings, The Coast House in particular. These frontage balconies are though already entirely overlooked by any passers-by along on Coast Road; they are not private nor secluded spaces. In that regard I do not consider that additional overlooking of these frontage areas is would result in an additional loss of privacy.
- 7.42 The southern windows in the central section of the building face onto the blank southern elevation of The Coast House, and there are no windows in the southern elevation of the rearmost part of the existing structure (there were in the original submission, but the amended drawings have removed these) and I therefore consider that the amenity of the those neighbouring residents will be protected. There is a proposed dormer window above the existing part of the building which would face south, but this is positioned within a roof valley and situated so far back from the building edge that views downwards into neighbouring gardens are not likely to be possible in my opinion.
- 7.43 There are several windows on the western flank of the building which would face over the rear of Juanda, the immediate neighbouring dwelling to the west. This flank elevation will be a minimum of 9.3m from the common boundary, and there is considerable potential for overlooking of the rear garden of Juanda. However it must be noted that there would have been a degree of overlooking from the existing bedroom within the care home which must be taken into consideration. Proposed first floor windows in this location will serve two bedrooms, a shower room, and a lounge area. A condition to secure obscure glazing to the lower half of these windows (in perpetuity) would minimise potential for direct overlooking of that neighbour's rear garden, and the existing rear conservatory at Juanda will provide some screening to the private amenity area to the rear of the house. Existing coniferous boundary planting will also help to obscure views between the two properties.
- 7.44 On balance I am of the view that the proposal is acceptable in this regard.
- 7.45 There would be no significant impact on the residential amenity of the occupiers of dwellings not immediately adjoining the site due to the intervening distances, which greatly minimise the potential for any significant negative impacts.
- 7.46 Officers have asked the agent to reconsider the position of the proposed bin store on the southern boundary, to move it away from the balcony area of The Coast House. I await an amended drawing and will update Members at the meeting.
- 7.47 There is some potential for noise and disturbance to neighbouring dwellings from the proposed parking areas. The area to the west, however, is a direct replacement for the existing care home car park and unlikely to generate levels of movement significantly worse than the existing situation. The new parking area to the south side of the building would not project significantly beyond the blank flank elevation of The Coast House, and potential for noise and disturbance to those residents will therefore be limited. I would anticipate vehicle movements from a development such as this to primarily be at peak morning and evening rush hours, with fewer vehicles accessing the site during the remainder of the day.
- 7.48 The internal floorspace of all flats exceeds the minimum required by the national standard. Whilst the loft flat above the existing building would have a long, thin living

room area, the space is a minimum of 2.8m wide which is more than sufficient to accommodate a couch / other furniture and retain circulation space.

- 7.49 External amenity space within the site is limited for the number of flats proposed, but the site lies directly opposite the beach and I am therefore satisfied that residents will have good access to outdoor space. The seafront playground area (with children's play equipment and adult exercise machines) is roughly 700m to the south, and can be accessed on foot.

f) Highways and parking

- 7.50 The development provides 21 on-site parking spaces (to serve 19 flats). This is in accordance with adopted Kent Vehicle Parking Standards IG3; Residential Parking, which requires a *maximum* of 1 unallocated space per one- or two-bed flat in all locations (town centre through to rural). The proposed parking layout also provides sufficient turning space in each of the two parking areas. Additional parking is also available on-street.
- 7.51 I note that Coast Road and St Andrew's Road are private streets. Rights of access and maintenance issues would therefore be a private legal matter between the owners.
- 7.52 I consider the proposal acceptable in this regard. I am satisfied that the visitor parking needs of this development of 4 spaces can be accommodated within the existing street as it would for the current lawful use.
- 7.53 Kent Highways and Transportation raise no objection on highway safety grounds.
- 7.54 In light of the above I am satisfied that the development would result in harm to highway safety.

g) Contributions

- 7.55 The development sits within Romney Marsh CIL zone B, and is liable for CIL at £59.04 per sqm.
- 7.56 The development has also attracted a request from KCC for contributions towards local secondary education, libraries, adult education, youth services, social care, and waste, totalling £1602.92 *per applicable dwelling*. Affordable units (x5) are excluded from this, and one-bed flats of less than 56sqm gross internal area (x5) are not liable for secondary education contributions (as they are not likely to house children). The total for the development therefore amounts to £16,765.88. However, following discussions with KCC, they recognise that the scheme is also CIL liable for which they receive receipts. As such, it is not considered reasonable or in accordance with the tests for applying S106 to seek these contributions as they are already being met through CIL.
- 7.57 Contributions will also be sought towards the enhancement of local open space (£23,680.20) and children's play equipment (£10,426.00). These funds are to be split between three local play areas to secure maintenance and additional facilities; currently identified as Greatstone Car Park; Station Road Play Area; and Fairfield

Recreation Ground, but this will be reviewed and clarified as necessary by the Council's open spaces team as the development comes forward / money is paid.

- 7.58 These contributions will be secured by a legal agreement under section 106 of the Planning Act. The draft is currently being agreed between the Council's and the developer's solicitors, and there are no disputes as to its requirements. The s.106 will also secure the affordable units in perpetuity.
- 7.59 These measures will contribute to local services and amenities, and provide tangible local benefits. In this regard I do not agree with local objections suggesting the development would overburden existing facilities, and I have note the letter of support which suggests the community needs to expand to reach the tipping point of being eligible for / attracting more investment into the local community.
- 7.60 The applicant has agreed to meet all necessary contributions.

h) Ecology

- 7.61 The submitted bat survey notes the presence of a single bat within the roof space. KCC Ecology have no objections to the application subject to further surveys and consideration of mitigation measures if necessary; these are secured by condition below. The applicant has already carried out the further surveys and these are being reviewed by KCC at the time of writing. Members will be updated on this at the Committee Meeting.
- 7.62 Given the existing use, the development is not likely to affect the SSSI / SPA / Ramsar designations and Natural England have no objections.
- 7.63 The site lies close to (~16 miles) the Dungeness, Romney Marsh and Rye Bay SSSI and Ramsar site (i.e. the beach), which is designated for its biodiversity and ecology. I do not consider that the proposed development would give rise to any significant impacts upon the designated area over and above those associated with the existing recreational use of the beach by the surrounding residential dwellings and visitors to the area, and I note that Natural England does not object to the development. Subject to the general conditions set out within the report I do not consider that the development will significantly affect these protected areas, and I have set out an appropriate assessment under the Habitat Regulations in appendix 1, below.

i) Other matters

- 7.64 The conditions below secure sustainability measures within the development will result in 10% betterment over building regulations and contribute to meeting carbon reduction.
- 7.65 The development is not likely to give rise to significant levels of light pollution over and above existing use of the site or the wider residential area of Littlestone.
- 7.66 I note the weight of local objection but consider that the substantive concerns have been addressed through the above assessment. It must also be noted that a number of issues raised (such as impact on property prices or maintenance of the unmade roads) are not material planning considerations that can be given weight here.

Environmental Impact Assessment

7.67 In accordance with the EIA Regulations 2017, this development has been considered in light of Schedules 1& 2 of the Regulations and it is not considered to fall within either category and as such does not require screening for likely significant environmental effects.

Local Finance Considerations

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

7.69 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 £59.09 per square metre for new residential floor space with the exception of the affordable housing units which are exempt.

Human Rights

7.70 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

7.71 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

Working with the applicant

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

8. CONCLUSION

8.1 This application proposes change of use and extension of the Sandbanks Care Home to provide 19 one- and two-bed flats. Loss of the care home is considered acceptable because the nearby sister facility (Madeira Lodge) is being extended and renovated to accommodate residents from Sandbanks as part of a merger and improvement process. The proposed development is considered to be of an appropriate scale and design, and no serious amenity impacts are envisaged.

8.2 Therefore, while local objections are appreciated and understood, the proposed development is considered to be acceptable and is therefore recommended for approval subject to the conditions set out at the end of the report; any additional conditions recommended by statutory consultees or considered necessary by the Head of Planning; and the completion of a s.106 legal agreement to secure contributions towards open space and play equipment and the provision of affordable housing.

8.3 I therefore recommend that planning permission should be approved.

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).

1. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and the applicant entering into a S106 legal agreement securing affordable housing and contributions towards open space and play equipment; and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary:

Conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place other than in accordance with drawings 20.023 – 200 030 rev. 4, 031 rev. 3, 032 rev. 3, 033 rev. 3, 040 rev. 5, 041 rev. 4, 042 rev. 1, 043 rev. 1, and the details set out within the submitted Herringtons Flood Risk Assessment.

Reason: For the avoidance of doubt.

Pre-commencement / foundation level

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the District Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v. wheel washing facilities
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

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

4. No development shall take place until a detailed bat mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. Such a strategy shall include the following:
- Updated building assessment and bat emergence survey;
 - Overview of required mitigation;
 - Maps demonstrating the existing, retained, and proposed bat roosting features;
 - Detailed methodology for implementation of mitigation measures;
 - Timings of works; and
 - Details of who will be implementing the works.

All works shall be carried out in accordance with the agreed details.

Reason: In the interest of minimising potential for harm to protected species.

5. No development shall take place until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment Rev 1 by Herrington Consulting Ltd dated October 2020 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):

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

6. 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.

7. No development beyond the construction of foundations shall take place until full details of the method of disposal of foul and surface waters have been submitted to and approved by the District Planning Authority. The approved details shall be implemented before the first use of the development hereby permitted.

Reason: In order to prevent pollution of water supplies.

8. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the District Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

9. No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings hereby permitted shall use no more than 100 litres of water per person per day have been submitted to and approved in writing by the District Planning Authority. The details shall be implemented as agreed.

Reason: In the interest of sustainable development and minimising water consumption.

10. No development beyond laying of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority for the installation of a High Speed wholly Fibre broadband To The Premises (FTTP) connection to the dwellings hereby permitted. Following approval the

infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process, and be available for use on the first occupation of the dwellings unless otherwise agreed in writing by the Local Planning Authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and alternative provisions that been made in the absence of FTTP).

Reason: To ensure that the new development is provided with high quality broadband services.

11. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the District Planning Authority. 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, hard surfacing materials, and an implementation programme.

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

12. No development beyond the construction of foundations shall take place until details of how the 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 approval the measures shall be implemented as agreed and thereafter retained and maintained in perpetuity.

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

During development

13. No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

14. If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the District Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the District Planning Authority, details of how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with the approved details in the interests of protection of Controlled Waters.

Landscaping

15. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the District Planning Authority.

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

16. 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.

In perpetuity

17. The car and cycle parking spaces shown on the approved drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

18. The lower half of the west facing first-floor windows of the development hereby permitted shall be obscure glazed (to not less than Pilkington Glass Privacy Level 3) prior to first occupation of the dwellings hereby permitted and shall subsequently be maintained as such in perpetuity.

Reason: To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers.

19. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the south or west facing first floor walls or roof slope hereby permitted.

Reason: To prevent the overlooking of adjoining properties and to safeguard the privacy of their occupiers.

20. Prior to the first occupation of any dwelling hereby permitted one electric vehicle charging point per dwelling shall be provided, in accordance with specifications and in location(s) that have been submitted to and approved in writing by the Local Planning Authority.

Following installation the charging points shall thereafter be retained available in a working order by the respective owners / individual or company responsible for long term governance.

Reason: In the interest of sustainable development and reducing carbon emissions.

21. Finished floor levels shall be set no lower than 5.15mODN, and the flood resilience measures set out at section 6 of the submitted Herrington's Flood Risk Assessment) shall be implemented in full prior to first occupation of any of the dwellings hereby permitted.

Reason: To minimise the risks associated with a flood event.

INFORMATIVES

1. 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.

Appendix 1 - Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017

The application site is situated a minimum of 16m 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. 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. C-323/17) 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.

Appendix 2 – Site Location Plan