

**Application No:** 22/1639/FH

**Location of Site:** Land Adjoining Cold Harbour, Blackhouse Hill, Hythe, CT21 5UT

**Development:** Erection of eight detached dwellings, utilising the existing access from Blackhouse Rise.

**Applicant:** TG Designer Homes

**Agent:** Elizabeth Welch, Hobbs Parker, Romney House, Monument Way Orbital Park Ashford TN24 0HB

**Officer Contact:** Claire Dethier

## **SUMMARY**

This application is a resubmission of a similar application refused planning permission by the Planning & Licensing committee earlier this year for the erection of eight two-storey detached dwellings within an area of open land to the south and east of Blackhouse Hill. The proposals have been revised following the Planning Committee's refusal of a similar scheme earlier this year (22/1160/FH).

Following this refusal, this resubmission seeks to address these concerns by including additional biodiversity measures, providing additional tree planting and amendments to fenestration to overcome any perception of overlooking. The application site is located inside the defined settlement boundary but is also within the designated Kent Downs Area of Outstanding Natural Beauty. The site is, however, despite the designation immediately adjacent to established residential development and is bordered by dwellings on three sides. Existing boundary planting would remain, with additional landscaping and planting within and to the boundaries of the site. This application represents a low-density scheme that reflects the spatial pattern of neighbouring development and the site's edge of settlement location. The site is not readily visible from nearby public vantage points or in longer distance views from the seafront. The impact upon the landscape and AONB is considered minimal due to the existing surrounding development, the topography of the site, the design of the buildings and the proposed landscaping, and the scheme would not result in an unacceptable level of harm to the special landscape qualities of the Kent Downs Area of Outstanding Natural Beauty. It is considered that all other material considerations relating to design, layout, highways, amenity of existing or future occupiers, ecology and drainage are satisfactory, and it is considered that the scheme is acceptable with regards to local and national planning policy. The application is therefore recommended for approval.

## **RECOMMENDATION: APPROVAL**

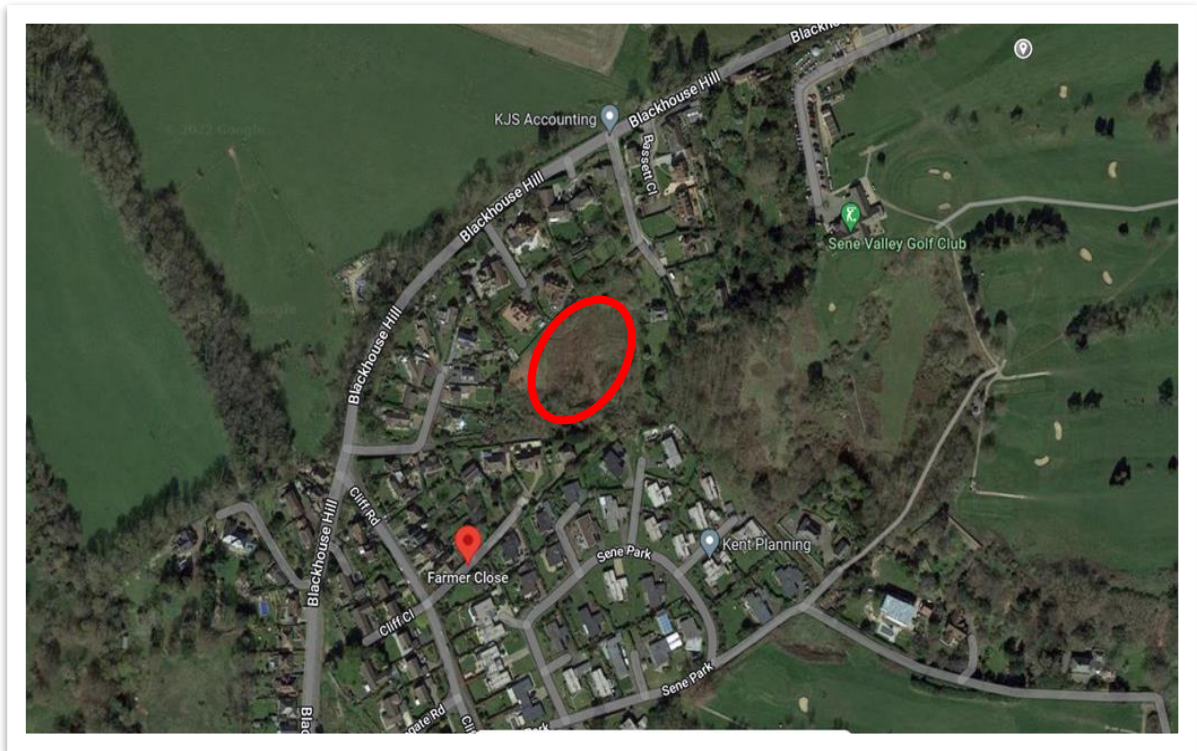
**That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing off-site affordable housing contribution and ecological enhancements, and that delegated authority be given to the Chief Planning Officer to 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 Planning & Licensing Committee because Hythe Town Council has objected to the application.

## 2. SITE AND SURROUNDINGS

- 2.1. The application site comprises an area of undeveloped land that lies to the north of the settlement of Hythe and within the built urban confines of Hythe as identified within the Development Plan and within the Kent Downs Area of Natural Beauty (as do the adjoining properties within Sene Park and Farmer Close).



- 2.2. The site lies to the north-east of Farmer Close and Blackhouse Rise, which are built up established residential streets that consists of single storey properties, chalet bungalows and full two storey dwellings. These two streets are no-through roads, with significant changes in topography.
- 2.3. To the south of the site are residential properties within Sene Park, which are flat roof, single storey dwellings, set within well landscaped grounds. To the north of the site is Blackhouse Hill, which has a number of residential properties running along its length. Sene Valley Golf Course lies further to the east of the site.
- 2.4. An image above shows the site outlined in red demonstrating that it is effectively an island of land within an established residential area.
- 2.5. The site is currently covered in some scrubland and tree planting and is relatively unkempt. The site falls from the north to the south and west, with some substantial tree planting along its boundary (to the south).
- 2.6. To the north of the site, two detached properties are under construction (planning application reference 20/0467/FH) and are being constructed by the same developer

as has submitted this planning application. These properties are of a very similar design, standard and materiality to those proposed under this application.

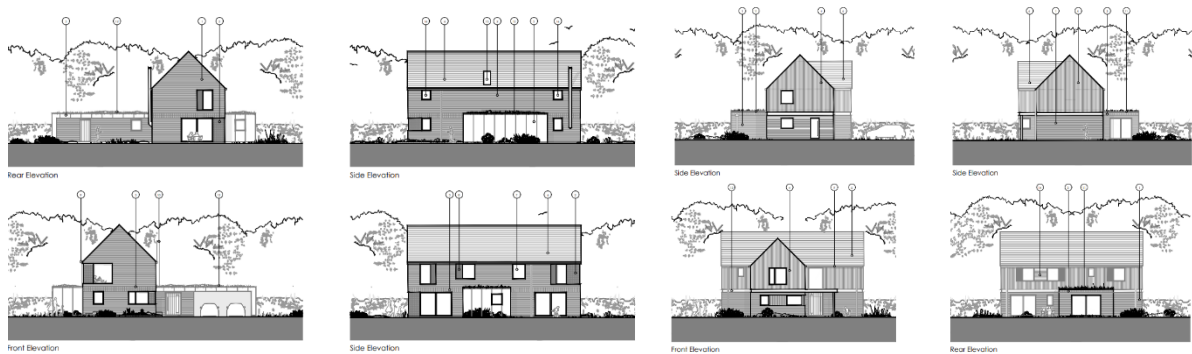
- 2.7. The site is approximately 0.9km from the centre of Hythe with a lit footpath provided along this route for those wishing to travel on foot. As such, the proposal is considered to be in a highly sustainable location.
- 2.8. In terms of constraints, the site contains a tree that is subject to a Tree Preservation Order (TPO No 06 of 2004), which is to be retained under this proposal.
- 2.9. A site location plan is attached to this report as **Appendix 1**.

### 3. PROPOSAL

- 3.1. Planning permission is sought for the erection of eight detached dwellings, that would be set around the site, responding to both the location of nearby properties as well as the topography.
- 3.2. The application is very similar to a previous submission on the site that was refused planning permission earlier this year. The key changes are as follows;
  - Addition of new trees along southern boundary to reinforce landscape buffer
  - Addition of a new feature tree within the garden of Plot 5
  - Changes to the east facing elevations of Plots 5 and 8 (specifically the removal of the previously proposed first floor landing window to each plot and their replacement with a rooflight to each house plus the inclusion of obscured glazing to the first floor bathroom and ensuite windows of each dwelling).
  - Submission of additional site sections illustrating relationships between the scheme and neighbouring houses/ gardens and their respective boundaries
- 3.3. Access into the site would be obtained through an existing opening at the east of a turning head in Blackhouse Rise. This access would be a two-way street, with pedestrian access on the southern side.



- 3.4. The properties would be set around the site within a relatively informal pattern, with a single road running through the centre of the site, and turning provision provided to ensure that refuse vehicles can enter and leave the site in a forward gear.
- 3.5. The applicant has shown an illustrative landscaping proposal, indicating that the access road would be tree lined, and that each property would be served with both a front and rear garden, as well as driveway.
- 3.6. No trees are to be removed as part of the development and additional planting is proposed along the southern boundary.
- 3.7. The proposed dwellings would be of a relatively traditional form, albeit with contemporary glazing incorporated. The elevations shown (below) are for plots 5 and 6 of the development. These show a pitched roof detached dwelling, constructed of yellow buff bricks, and will include vertical timber cladding, metal fascias and slate roofs.



- 3.8. The image below shows in more detail the materiality of the proposed dwellings, with the use of brick at ground floor level and metal cladding at first floor. The properties within the development are all proposed to be constructed of similar materials, albeit with slightly differing designs. These materials have been considered acceptable on the adjacent development and would see a continuation of that materiality through into this site.

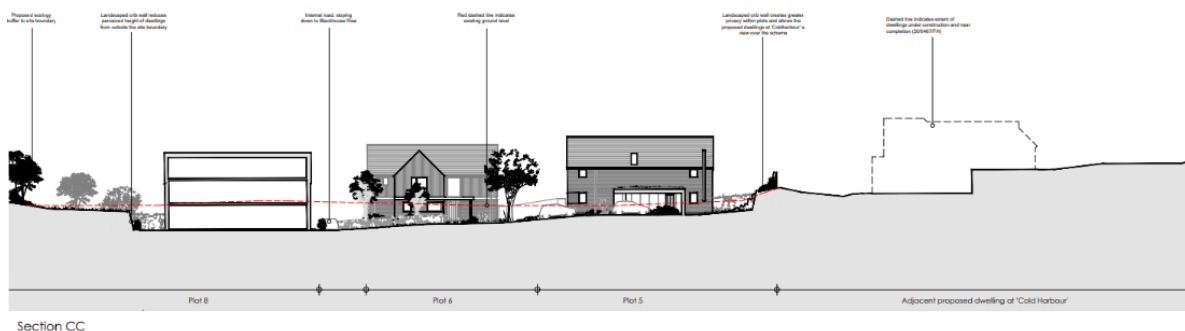




3.9. The Design and Access Statement sets out that the properties would include the following materials:

- Powder Coated Metal Fascias
- Sedum Roof
- Vertical Timber Cladding
- Feature Metal Panels
- Buff Yellow Bricks
- Slate Roof Tiles

3.10. The land falls within the application site, and the proposal has been designed to respond to this. The properties would be set at a lower level than those approved by virtue of planning application (20/0467/FH) which are currently under construction to the north of this site. The section (below) shows this relationship, and that the application site is significantly lower than these properties currently being erected.



3.11. The landscaping proposals would see the inclusion of additional tree planting within the application site to the southern boundary to reinforce the landscape buffer. Each property would be provided with a lawned front and rear garden.

3.12. The following reports were submitted by the applicant in support of the proposals:

Planning Statement

- 3.13. This describes the site and surrounding area, planning policy context and the information submitted with the application concludes that the development is acceptable. An additional covering letter has been submitted as part of this application providing the additional information in support of the application;

**Biodiversity Net Gain (BNG)**

- The Officer, in his report, noted that the original application was submitted prior to the Environment Bill gaining Assent in November 2021. A requirement for a mandatory 10% Biodiversity Net Gain (BNG) does not come into force until November 2023 (i.e. there is a two-year transitional period).
- Therefore, this revised application needs to have reference to National Planning Policy (see paragraph 179 of the Framework), and importantly the paragraph which follows in relation to applications being determined. Paragraph 180 part a) of the Framework states that “if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused” (emphasis added).
- In paragraph 7.26 of his report, the Officer recognises that the proposal will not cause harm to any protected species (as demonstrated through the supporting evidence to the application) but that measurable net gain cannot be provided.
- The scheme has been developed as part of this resubmission, and in line with the suggestion in paragraph 7.36 of the Officer Report for additional native hedgerow, the addition of trees alongside the southern boundary have been incorporated.
- It is worth noting that significant qualitative biodiversity enhancements have been incorporated into the design, which should be given considerable weight.
- These are detailed in the Ecology report which accompanies the application, but in summary, biodiversity will be enhanced within the site as follows:
  - Species-rich native hedgerow planting;
  - Native species tree planting;
  - Ornamental planting of wildlife value, particularly for nectar-seeking invertebrates;
  - Enhancements of the on-site pond for wildlife; • Creation of wildflower meadow around the pond;
  - New nesting/roosting site provision for birds, bats and insects;
  - New refuge and hibernation features for reptiles, amphibians and small mammals; and
  - SuDS in the form of green roofs.
- These net gain measures have been designed to enhance the site in a meaningful way for biodiversity, with a focus on enhancing the site for protected and notable species, known through extensive surveys to inform the development design, to be present in the locality.
- At a local level, the Council’s Places and Policies Local Plan (PPLP) Policy NE2 enables compensatory measures to be sought should an impact not be avoided or mitigated, with reference to allow for biodiversity offsets.
- However, crucially the Council has not yet developed such a scheme which applicants are allowed to contribute towards. Should such a scheme be developed during the lifetime of this application then the applicant would be willing to make a contribution. With the adoption of the Core Strategy Review in

March 2022 Policy CSD4 requires net gains in line with national policy (discussed above)

### **Impact on the AONB**

- The application is accompanied by a Landscape and Visual Assessment (LVA). It is helpful to reproduce the conclusions of this report –

“This [the development] will add to the existing landscape setting, where surrounding built form is already visible within the landscape, and the proposals will add to this. This is not out of character with the surroundings, but will add to the built form within the area. Where the site is visible and space allows, landscape mitigation is recommended to reduce the visibility of the site and soften the development from the neighbouring landscape, roads and existing dwellings and soften any impact the proposals may have on the surrounding landscape character.” The AONB unit has concluded that “the principle of residential development here could be acceptable in terms of AONB impact, subject to an appropriate design of development”, however, makes no reference to the conclusions of the LVA, where it is evident that once the mitigation planting and enhancement of the existing landscape will have matured it will result in an appropriate landscape to reflect the surroundings of the site.

### **Design and form relative to the site’s location in the AONB**

- The AONB Unit does not object in principle to contemporary design: Buildings need to adopt a design approach that fits with and complements the values, traditions, forms and patterns of the past, adopting a contemporary interpretation of local vernacular.
- We have documented a detailed site analysis within our accompanying Design and Access Statement. This sets out our conclusions on form, typologies, materiality and context. From this study we developed the proposals. The proposals are bespoke in plan and elevation and have been fundamentally designed to sit appropriately on this site alone.
- The design is contemporary in style but using materiality and form taken from the immediate context.
- The site lies within an area of Hythe where detached units predominate, and accordingly the site layout reflects its surrounding context.
- Furthermore, Policy CSD2 of the adopted Core Strategy Review (March 2022) only requires a range of sizes of new dwellings for 15 or more dwellings, which therefore does not apply to this site. With the richness and diversity of Hythe, there is ample opportunity to employ a range of materials on these buildings, however we have chosen a simple palette which will not degrade over time.
- We appreciate this is a sensitive setting and have designed these buildings to get better with age, as the timber will silver over time. The use of buff bricks and slate have been accepted by the Council on the former vegetable garden site, which is nearing completion and also within the AONB.

### **Other matters**

- There were several matters which were discussed as part of the discussion at Planning Committee. Cllr Jim Martin advised that the house was formerly a designed garden associated with Bassett House. Following our research, we have concluded that this was located further north than the application site, as

shown on the following two photographs from the 1940s. These two photos clearly demonstrate that, at least for the last 75 years, the application site has remained undeveloped and had the appearance of a field.

### Arboricultural Method Statement

- 3.14. The Arboricultural Method Statement details that no trees will be removed as part of the development. It further outlines the protection measures and actions which are to be taken to prevent damage from being caused to the retained trees on the adjacent site.

### Ecological Report

- 3.15. The ecological report submitted demonstrates that there would be no impact on protected species. A number of enhancement measures are recommended in order to enhance the value of the site for wildlife.

### Contamination Report

- 3.16. The contamination report concludes there is no evidence of significant ground contamination and the risks to human health, water resources, plants, and buildings and services is low.

### Landscape and Visual Assessment

- 3.17. The Landscape and Visual Assessment provides a full desk-top study of the surrounding area and an analysis of the surrounding views. The assessment concludes that the development would have a moderate impact during construction and once built, with this reducing to a low impact in 5 to 10 years.

## **4. RELEVANT PLANNING HISTORY**

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

|            |  |         |
|------------|--|---------|
| 21/1160/FH | Erection of eight detached dwellings, utilising the existing access from Blackhouse Rise | Refused |
|------------|--|---------|

- 4.2. Members may recall application ref. 21/1160, which was refused by the committee in July 2022 for the following reasons:

- 1. The proposed development would include the loss of habitat resulting in consequent harm to ecology and biodiversity, contrary to policy NE2 of the Places & Policies Local Plan and paragraphs 8,174, 179 &180 of the NPPF 2021.*
- 2. The proposed development, by virtue of its lack of architectural character and being out of context with the prevailing character of the area, would fail to preserve the locally distinctive features of the AONB resulting in unacceptable harm. The proposal is therefore contrary to policies HB1 and NE3 of the Places & Policies Local Plan and paras 174 & 176 of the NPPF.*



4.3. The following planning history relates to the nearby land/properties:

|            |   |          |
|------------|---|----------|
| 20/0467/FH | Erection of two residential detached dwellings, utilising the existing access, together with the provision of parking and landscaping | Approved |
|------------|---|----------|

4.4. That development is currently under construction by the applicant of this application.

## **5. CONSULTATION RESPONSES**

5.1. The consultation responses are summarised below:

### **Consultees**

#### **Hythe Town Council:**

Object on the grounds that the development, by virtue of its lack of architectural character and being out of context with the dominant character of the area, fails to preserve the locally distinctive features of the AONB resulting in harm which is not deemed to be acceptable.

#### **KCC Highways and Transportation:**

Has no objection subject to the imposition of a number of conditions relating to:

- Submission of a Construction Management Plan
- Completion and maintenance of the access.
- Provision and maintenance of the visibility splays
- Provision and permanent retention of the road sign and road markings on Blackhouse Hill.
- Provision of measures to prevent the discharge of surface water onto the highway.
- Provision and permanent retention of the vehicle parking spaces and/or garages
- Provision and permanent retention of the Electric Vehicle charging points
- Provision and permanent retention of the cycle parking facilities.

#### **KCC Ecology:**

Object to the proposal on the basis of the lack of 'net gain' across the whole site. Notwithstanding this, they have also suggested a number of conditions, which are included at the end of this report.

#### **KCC Flood and Water Management:**

No response received to date. It should be noted that no objection was made for the previous application ref. 21/1160.

**KCC Economic Development**

No objections, subject to the provision of contributions towards the following:

|                               | Per Dwelling | Total     |
|-------------------------------|--------------|-----------|
| Primary School Contribution   | £4,642       | £37,136   |
| Secondary School Contribution | £4,540       | £36,320   |
| Community Learning            | £16.42       | £131.36   |
| Youth Service                 | £65.50       | £524.00   |
| Library Bookstock             | £55.45       | £443.60   |
| Social Care                   | £146.88      | £1,175.04 |
| Waste                         | £183.67      | £1,469.36 |

**Natural England:**

No response received to date. It should be noted that no objection was made for the previous application ref. 21/1160 on the basis that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

**Environment Agency:**

No response received to date. (CPO comment: Given the location of the site, it is not considered necessary to have a response prior to the determination of the application).

**Kent Downs AONB Unit:**

Object on the grounds that the proposed residential development is not appropriately designed and in its current form would neither conserve nor enhance the local character and distinctiveness of the Kent Downs AONB.

It should be noted that in raising objection to this application the AONB unit have taken an inconsistent approach. The AONB unit did not raise objection to the previous application although raised very similar comments.

Their comments are summarised below:

- The AONB Unit consider the principle of residential development here could be acceptable in terms of AONB impact, subject to an appropriate design of development.
- The AONB Unit welcome the incorporation of steeply pitched roof forms to the main body of the proposed houses, however they consider the use of slate as a roof covering and buff brick as the principal elevation material to be inappropriate.
- The use of green roofs within the development is supported, however chalk grassland roofs are generally more appropriate than sedum in the Kent Downs,

as they relate better to the surrounding landscape, while sedum can take on a less natural reddish hue.

- The development proposes eight units all of a very similar scale and form. A mix of detached, semi-detached and terraced properties is usually more appropriate in new residential developments in the Kent Downs.
- The AONB Unit are also concerned at some of the proposed detailing. Using traditional local detailing in the design of new buildings is key to ensuring local distinctiveness.

### **Southern Water:**

No response received to date. It should be noted that no objection was made for the previous application ref. 21/1160.

### **Kent Fire and Rescue:**

No response received to date. It should be noted that no objection was made for the previous application ref. 21/1160.

### **Contamination**

No objections subject to a suitable condition.

### **Local Residents Comments**

- 5.2. 36 neighbours were directly consulted. 2 letters of objection have been received. I have read all the letters and the key issues are summarised below:

#### **Objections**

- Noise and disturbance from the proposed development.
- Impacts on neighbouring amenity.
- Loss of a view from existing properties.
- Concerns regarding drainage on and off site for foul water and surface water.
- Requirement for a Travel Plan
- Concern over the construction management.
- Design of houses out of character with surrounding development.
- The pitch of the roofs would be too steep and would be harmful to the character.
- The stability of the land is of concern.
- There may be details of archaeological interest under the site.
- The increase in traffic will be dangerous.
- The junction of Blackhouse Rise and the B2065 has poor sightlines.
- The proposal would harm the AONB.
- Concerns over felling of trees.

- It would be helpful to have 3D rendered images of the development.

5.3. 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 Review 2022.

6.2. The relevant development plan policies are as follows:-

### Folkestone and Hythe Core Strategy Review 2022

Policy SS1 District Spatial Strategy

Policy SS2 Housing and the Economy Growth Strategy

Policy SS3 Place Shaping and Sustainable Settlements Strategy

Policy CSD7 Hythe Strategy

### Places and Policies Local Plan 2020

Policy HB1 Quality Places through Design

Policy HB3 Internal and External Space Standards

Policy HB10 Development of Residential Gardens

Policy T2 Parking Standards

Policy T5 Cycle Parking

Policy NE2 Biodiversity

Policy NE3 Protecting the District's Landscapes and Countryside Policy NE6 - Land Stability

Policy NE7 Contaminated Land

Policy HE2 Archaeology

## **Supplementary Planning Guidance/Documents**

### Kent Downs AONB Management Plan

MMP2 Individual local authorities will give high priority to the AONB management plan vision, policies and actions in local Plans, development management decisions, planning enforcement cases and in carrying out other relevant functions.

SD1 Conserve and enhance the natural beauty of the Kent Downs AONB

SD2 Design, scale, setting and materials will preserve local character, qualities and distinctiveness of the Kent Downs AONB

## DCL/22/47

- SD3 New development or changes to land use will be opposed when contrary to need to conserve and enhance the natural beauty of the Kent Downs AONB
- SD7 Retain and improve tranquillity, including dark skies at night.
- SD8 Proposals which negatively impact on the distinctive landform, landscape character, special characteristics and qualities, the setting and views to and from the AONB will be opposed unless they can be satisfactorily mitigated.
- SD9 The particular historic and locally distinctive character of rural settlement and buildings of the Kent Downs AONB will be maintained and strengthened. The use of locally-derived materials for restoration and conservation work will be encouraged. New developments will be expected to apply appropriate design guidance and to be complementary to local character in form, setting, scale, contribution to settlement pattern and choice of materials.

### Government Advice

#### National Planning Policy Framework (NPPF) 2021

- 6.3. 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 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. |
| Paragraph 48         | Weight to be applied to emerging policies   |
| Paragraphs 104-108   | Transport and access  |
| Paragraphs 126 - 132 | Design  |
| Paragraphs 174-177   | Conserving and enhancing the natural environment  |
| Paragraph 179        | Habitats and biodiversity   |
| Paragraph 183        | Ground conditions and pollution   |

#### 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)

N3 Support rich and varied biodiversity.

## **7. APPRAISAL**

**7.1.** The main issues for consideration are:

- a) Principle of development and sustainability
- b) Design/layout/visual amenity
- c) Landscape impacts
- d) Residential amenity
- e) Ecology and biodiversity
- f) Protected trees
- g) Contamination
- h) Drainage
- i) Space Standards
- j) Highway safety
- k) Financial contributions and affordable housing

### **a) Principle of development and sustainability**

7.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that a planning application must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.3. As with the previous application, it has been established that the application site lies within the urban, built-up confines of Hythe and Core Strategy Policy SS3 directs development towards existing sustainable settlements in order to protect the open countryside and the coastline, which this application meets. Whilst the site does not consist of previously developed land, it is surrounded by existing residential development (to the north, west and south). Focussing attention on existing centres underpins not only the protection of the District's open countryside, but also ensures that development is sustainable.

7.4. The application site is located within the Kent Downs AONB, a matter which Members gave great weight to when considering the previous application on this site. Paragraph 177 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty of the AONB, which has the highest status of protection in relation to these issues. Policy NE3 of the Places and Policies Local Plan reinforces this position. Members were right to consider this as a very important material consideration in the determination of the previous application. The previous report did not clearly explain Officers' reasoning for why this particularly development was considered to be acceptable, despite the AONB location.



- 7.5. It is important to make clear that an AONB designation does not preclude development, it simply adds another layer of consideration in determining an application. In fact, there are many existing housing developments within AONB designations (including Hawkinge) and others allocated for housing development within the PPLP. Almost half of Folkestone & Hythe District is covered by this designation and in order to meet the needs of our residents in the coming years and our duty to meet both housing and employment need of the District, it will require on occasion for planning permission to be granted in these areas.

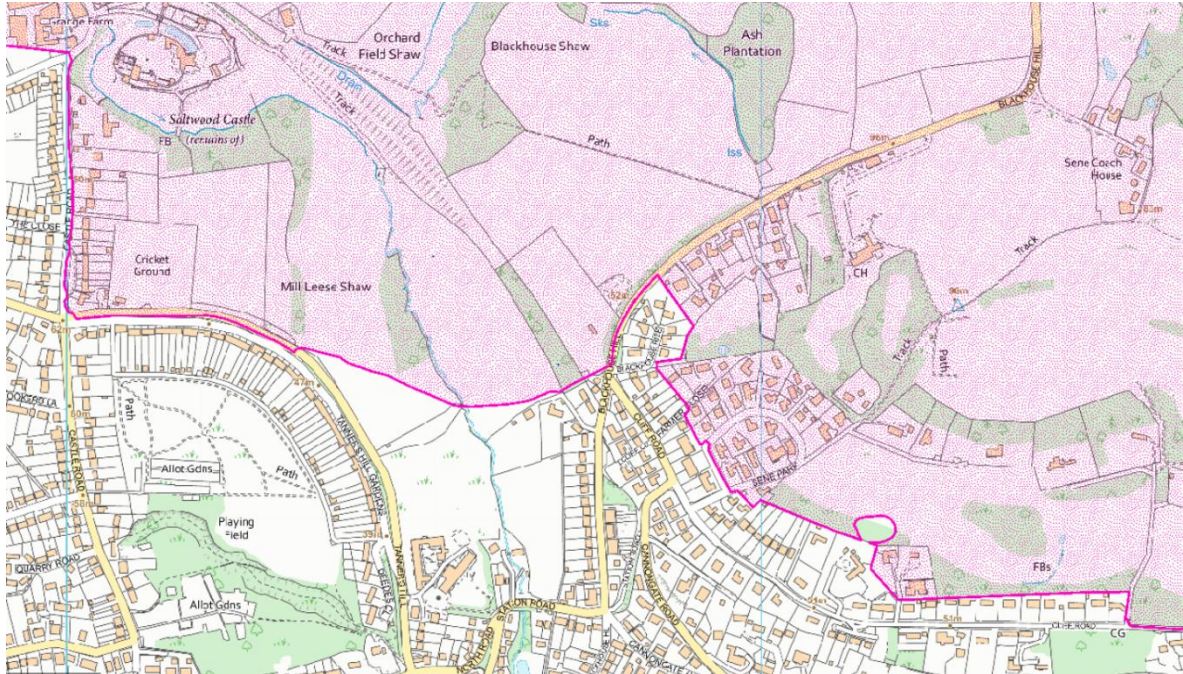


- 7.6. The general thrust of national and local planning policy is to secure sustainable patterns of development through the efficient use of land within the right locations, with development concentrated in accessible locations. With this site falling within the defined settlement boundary, the proposal is considered to accord with this objective of delivering sustainable development (in terms of its location). The development would also contribute to the Council's housing delivery, assisting in maintaining a healthy five-year supply of housing land. In conclusion, the principle of development at this site is considered acceptable subject to the material considerations below, and subject to the imposition of suitable safeguarding conditions that would ensure suitable mitigation from any potential harm.

**b) Design/Layout/Visual Amenity**

- 7.7. Paragraph 126 of the NPPF and Policy HB1 of the PPLP requires for 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. Design was a matter that Members were concerned with, in determining the previous application. In particular, there was concern with regard to the lack of 'architectural character.'
- 7.8. With this in mind, it is important to assess the context of the site itself. It is not just the application site that lies within this designation yet lies within an urban context on

the rural edge, but also the adjoining existing residential developments, alongside swathes of open countryside beyond the site which are designated as AONB (see image below). Therefore, in determining this application, the decision makers must consider the character of this part of the AONB and whether this development itself, which would be read in conjunction with adjoining residential sites, would harm the AONB within the context of the surrounding landscape.

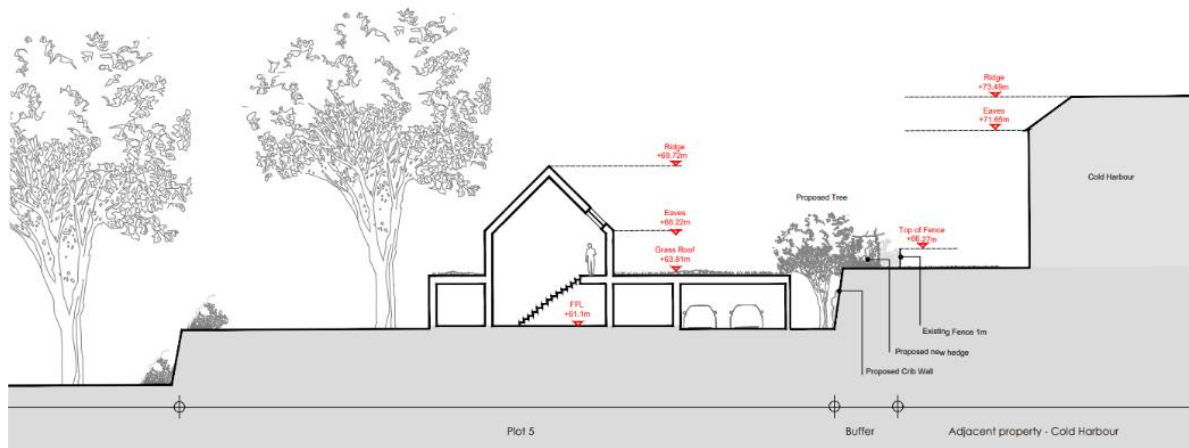


- 7.9. In this case, the site is wedged in between the residential developments of Sene Park, Blackhouse Rise and Blackhouse Hill and Bassett Close with small glimpses of rural land beyond to the South-East of the site. Therefore, whilst the site is located within the AONB, it is not a site that is located within an undeveloped, natural part of the AONB that is rural in nature. Therefore, when assessing what harm the proposal would cause, it must be assessed against the existing situation.
- 7.10. Members will note that the Kent Downs AONB Unit has objected to this proposal on the basis that the design of the properties fail to respond positively to the character and appearance of the AONB. Two neighbouring residents have also raised concerns regarding the design of the proposal, and in particular the steep pitched roofs proposed. It is important to note they have not objected to the principle of the development. The objection raised relates solely to the use of materials and lack of variety of dwelling types. These are all considerations that Officers are used to assessing when dealing with application such as this in the AONB. However, in this case I do not consider the AONB Unit have given suitable consideration to the location of this site within an urban context.
- 7.11. In terms of the individual design of the proposed buildings, Members will be aware that the area in which the site is surrounded is characterised by a significant variety of building styles. Within Blackhouse Rise, there are single storey properties, chalet bungalows and two storey dwellings, all of varied design. The properties on Blackhouse Hill have significant variety as well, with houses and bungalows (of differing ages) along its length. Properties within Sene Park are all single storey, flat roofed dwellings. As such, there is no prevailing character from which the architect can seek to respond to with regard to the individual dwellings (the layout itself does respond to the significant number of cul-de-sacs within the immediate locality). In

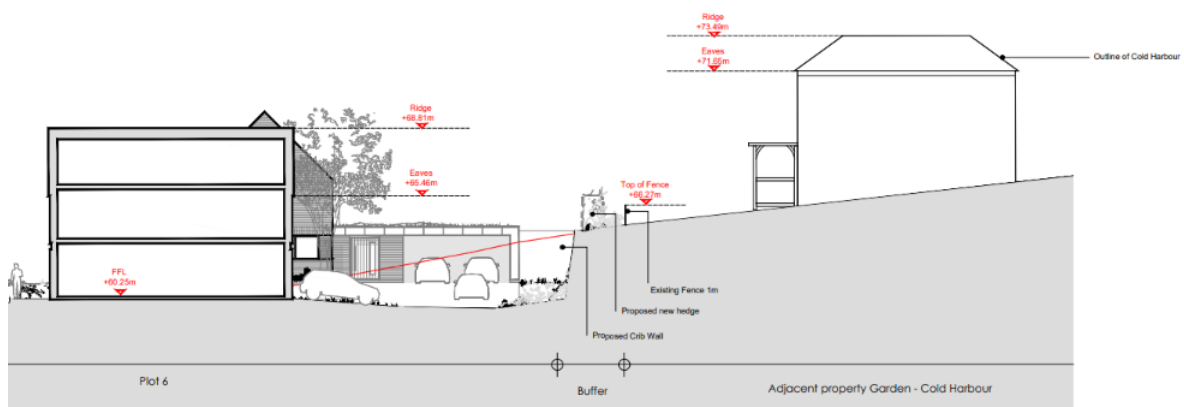


addition, it must be noted that despite this site being within the AONB, it is within an urban area and therefore the design and style that would normally be considered appropriate for a location within an AONB would likely not be appropriate in an urban or urban/ rural edge context.

- 7.12. It is also important to note the topography of the site and how this would impact on views from the surrounding area. The site essentially sits within a dip compared to the surrounding landscape. The housing surrounding the site all sit at much higher levels compared to the application site. The following site sections illustrate the difference in levels between the scheme and the adjacent dwellings at Coldharbour.



Section JJ



Section KK

- 7.13. As set out within the AONB Unit's comments, I concur that the provision of steep pitched roofs here is suitable, as it is as one would expect within a location such as this. Steep pitched roofs are commonplace across Kent, and I am therefore comfortable with this approach. Steep pitched roofs such as these will create a distinctive character, that will ensure that the rural context of the AONB is drawn into the development, whilst also complimenting the more urban character of the immediate surrounds. This design response is welcomed, and positively contributes to the overall design quality of the scheme.

- 7.14. Whilst the properties within the site have been individually designed, there is commonality between them, both through the use of materials and the manner in which the fenestration has been proposed. The use of stock bricks is considered appropriate here, and I also raise no objection to the inclusion of small areas of metal cladding. This cladding will help create layering of the buildings, and ensure that they do not have a uniformed, bland appearance. Whilst some of the fenestration is

## **DCL/22/47**

irregular, again no objection is raised. It is considered that this adds further interest to the properties and indicates further that the properties have been individually designed, responding to both the plot that they are sited in, and the views that they can therefore obtain.

- 7.15. All properties within the site are proposed to be detached properties, and whilst I note that the AONB Unit would prefer to see a greater variety of house types within the scheme, I am also mindful that when considering the pattern and grain of the locality, the prevailing character is that of detached properties, within relatively generous grounds. As such, whilst these comments are noted, in this instance I believe that the approach taken is acceptable. Whilst the applicant has not sought to amend the scheme significantly from that submitted, it is considered that the development would be acceptable in terms of appearance, when assessed in light of the properties within the vicinity.
- 7.16. In terms of the layout, due to the location of the access, the applicant has been constrained in terms of the form of the cul-de-sac. That said, it does respond positively to the character and appearance of other developments within the locality – of which there are a number of similar developments.
- 7.17. It is not considered that the development would represent an over-development of the site, with the properties all fitting comfortably within the plots, with their gardens being of a similar depth as a number of properties nearby. The proposed layout, as a result of amendments to the scheme following Members comments on refused application 21/1161/FH, also allows for the retention of the existing boundary planting and for additional supplementary planting along the southern boundary to reinforce the landscape buffer.
- 7.18. As such, despite the comments raised by the AONB unit, for the reasons as set out above, I am strongly of the opinion that the proposal would represent a good standard of design. The site, surrounded by development of varying age, reduces the need for a more rural context to be provided. I am also content that the additional landscaping, and minor alterations to plots 5 and 8 will assist to ensure that the development will assimilate into the local context more readily. As such, I am content that the design and materials used are acceptable in the location, given the specific circumstances.

### **c) Landscape Impacts**

- 7.19. The application site lies within the Kent Downs AONB, and as such careful consideration should be given to the impact of the proposal, not just to the immediate locality, but also to the wider area. The applicant has submitted a Landscape and Visual Appraisal as part of the evidence base that underpins the proposal.
- 7.20. Paragraph 177 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection, with policy NE3 of the PPLP identifying that the natural beauty and locally distinctive features of the AONB and its setting should be conserved and enhanced. The introduction of eight new dwellings into the AONB, where new development is specifically restricted to protect the visual amenity of the landscape, could potentially harm the character and visual amenity of the area.

7.21. The Landscape and Visual Impact Assessment highlights the area of 'theoretical visibility' (within a 2km radius) which identifies that the site could be visible from close proximity, as well as from higher ground to the west, and as the land falls towards the seafront area.

7.22. From my own site inspection, there would be limited visibility from outside of the site due in part to the topography, and in part due to the landscaping provision that currently exists.

7.23. The report concludes that whilst there would need to be some shrub clearance in order for the development to take place, once built the development would be obscured from most views into the site, causing little or no harm to the wider landscape. In any event, the proposed development would be of a scale and form that would respond positively to the character and appearance of the surrounding development and would not result in visual harm.



7.24. It is considered that notwithstanding the AONB designation, the proposed development would be well-related to the existing pattern and grain of development and would be of a scale commensurate with the area. It is considered that due to the high-quality design, and in particular the steep pitched roofs and contemporary approach, the proposal would meet the policy requirements (both local and national) and as such, no objection is raised with regards to the impact of the proposal both within the immediate context, and also within the wider area (and in particular the AONB) and would be read within the context of the urban edge setting.

### **d) Residential Amenity**

7.25. With regard to future occupants of the proposed development, Policies HB1 and HB3 of the PPLP require that consideration be given to their residential amenity and space standards. The proposed development ensures that all dwellings have suitably sized rooms with adequate light as well as outlook to all habitable spaces.

7.26. In terms of impact upon existing residents, concern has been raised with regards to the proximity of the properties to existing properties. The property that would likely be most affected, lies to the north of plot 3. It should be noted however, that this property sits elevated to the application site and that the proposed development would therefore sit significantly lower than this existing property.

7.27. Furthermore, as a result of Members comments on refused application 21/1160/FH, amendments have been made to the east facing elevations of Plots 5 and 8. This involves the removal of the previously proposed first floor landing window to each plot and their replacement with a rooflight to each house plus the inclusion of obscured glazing to the first-floor bathroom and ensuite windows of each dwelling. I would also draw Members attention to the submission of additional site sections which illustrate the appropriateness of the relationship between the scheme and neighbouring properties.

- 7.28. I am therefore content that the development would not give rise to any overlooking, overshadowing nor the creation of a sense of enclosure to the current occupiers of this property, or indeed to any of the existing residents in close proximity of the site.
- 7.29. Whilst the access into the site would see an increase in both vehicle and pedestrian movements for those properties within the southern part of Blackhouse Rise, because of the relatively small number of units proposed, this would not give rise to any significant harm to the current occupiers. Speeds would be low, and movements (across the day) relatively infrequent.

### **e) Ecology and Biodiversity**

- 7.30. A key element of the Core Strategy is that it seeks to support and improve green infrastructure by ensuring that development must avoid a net loss of biodiversity, and if possible, provide gains. Policy NE2 of the PPLP requires all new development to conserve and enhance the natural environment, including all sites of biodiversity value and all legally protected habitats and species.
- 7.31. As members will note, Kent County Council have raised concerns that the proposal would not bring about any net gain through the works being undertaken. Whilst the Environment Bill gained Royal Assent in November 2021, this is accompanied by a two-year transitional period, which will allow for the necessary guidance to be provided, to shape development in the future. These matters were raised as part of the previous application, and a ground for refusal was provided accordingly.
- 7.32. The applicant has provided a Biodiversity Net Gain Assessment, which sets out a series of mitigations, that would seek to address the impacts of the proposal. These are summarised below.
- 7.33. Reptiles and Slow Worms have been found on site, and there would be a requirement to translocate these to a suitable receptor site. Whilst ordinarily an area on site would be provided to enable these to be retained, due to the relatively constrained nature of the site, it is not considered that a suitably sized area could be provided, and as such an off-site provision is acceptable. A condition has been suggested to address this, as well as a requirement of any S106 agreement to ensure that the receptor site is maintained thereafter.
- 7.34. There is the potential for breeding birds to be located around the edge of the site, and as such recommendations have been made in terms of a suitable condition to ensure that any clearance takes place at a suitable time of the year. Furthermore, the provision of bird boxes around the perimeter of the site would be of benefit – details of these can be provided by condition.
- 7.35. In terms of bats, there is evidence of commuting along the boundary, and as such a condition is suggested to ensure that the lighting within the scheme is of a type that would not cause harm to these protected species.
- 7.36. In terms of mitigation, it is suggested that the following be provided:
- A new hedgerow is to be planted on the northern boundary as mitigation for foraging and commuting bats. This will take the form of a native species-rich



## DCL/22/47

hedgerow with scattered trees to increase foraging opportunities and habitat connectivity around the site for wildlife more generally.

- Two Bird Boxes (or suitable long-lasting alternative) will be installed onto retained suitably mature trees at least 3m above the ground, avoiding direct sunlight (not directly south-facing) and prevailing wind.
- One integrated house sparrow terrace will be installed within the eastern elevation of Plot 8, at least 3m high at the eaves. This will be located away from artificial lighting.
- Two Bat Boxes will be installed onto retained suitably mature trees. These will be installed at least 5m above the ground and faced in a southerly direction, so that they receive sun for part of the day.
- One integrated bat box (for example a Habitat box) will be installed within the southern elevation of Plot 8 at a height of at least 3m at the eaves and located away from artificial lighting.
- Two insect houses will be provided in sheltered, warm locations e.g. within any new flower beds within communal areas along the southern site boundary to provide over-wintering sites for beneficial insects such as ladybirds and lacewings, which typically prey on pest species.
- A wildflower area is to be created within the communal area around the proposed pond location in the south of the site.
- Two log piles will be installed near the pond, by creating a pile of wood from native hardwood species to provide reptile and amphibian refuge and hibernation opportunities.
- Two hedgehog houses will be located within the undisturbed areas away from estate roads.

7.37. It is considered with these mitigation measures that there would be the opportunity for biodiversity net gain within the application site. These measures should be controlled by condition in order to ensure that the mitigation suggested is provided, and in a timely fashion – in order to address the previous ground for refusal.

7.38. In summary, Councillor concerns with regards to ecology have been carefully considered, and the applicant has provided assurances that mitigation and enhancements can be provided on site. With regards to the lack of net gain as set out within the KCC Ecology response, this is not yet enshrined in policy, and given that this application was submitted prior to the Environment Bill gaining Royal Assent, I am content that this is acceptable, in particular with regard to the additional mitigation now proposed. As set out previously, whilst the preference should be for protected species to be retained on site, this might in itself prevent any meaningful development from taking place, so in this instance it is considered to be acceptable. For the reasons set out above, I am strongly of the opinion that this is not a matter than could be successfully defended on appeal and refusal on these grounds would put the Council at risk of costs.

### **f) Protected Trees**

7.39. The application is accompanied by an Arboricultural Method Statement (AMS) which confirms that no trees require removal or pruning to implement the proposed scheme.

7.40. The Statement also confirms that there will be no built form within the root protection area of the Horse Chestnut tree which is covered by a Tree Preservation Order (ref: TPO no. 06 of 2004) to the north of the site (see plan).



7.41. The retention of this tree has been carefully considered, and the design approach is appropriate, and should ensure that the tree will be protected during construction and will also not be under future pressure for removal once the site is occupied.

7.42. All other trees would be provided with suitable protective fencing to ensure that there is no damage to the roots during construction.

7.43. The new planting to be provided within the application site would provide a staggered avenue of native trees reinforced with mixed species native hedgerow. It is considered that this is an appropriate design response, that will assimilate the development into the wider area.

7.44. Precise details of the planting would be required by condition to ensure that the species were appropriate, and that the long-term maintenance of them can be secured.

### **g) Contamination**

7.45. The Contamination Report details the findings of the phase 1 Contamination Survey for the site comprising a desk-study and site walkover undertaken in July 2019.

7.46. The report concludes that the site would not be considered to be 'Contaminated Land' based on a residential end use.

### **h) Drainage**

7.47. The accompanying Drainage Statement details the surface and foul water drainage for the scheme. Given the area is served by public combined sewers the sloping topography of the site allows foul water to be drained to the combined sewer in Blackhouse rise by gravity.

7.48. In terms of surface water drainage this is also proposed to drain into the combined sewer. The strategy will be to attenuate surface water run-off and discharge it to the combined sewer. The greenfield runoff rate from the proposed impermeable area is 1.8 l/s under the 1 in 2-year rainfall event, 4.1 l/s under the 1 in 30-year rainfall event and 5.6 l/s under the 1 in 100-year rainfall event. A minimum discharge from the site of 2 l/s is proposed under the 2-year rainfall event.

- 7.49. The attenuation crates can be designed to limit run off from the developed site to below greenfield run off rates for all rainfall events up to and including the 1 in 100-year event with the allowance of 40% for climate change.
- 7.50. The proposed foul and surface water drainage strategy is therefore considered acceptable in this regard.
- 7.51. It is important to note that the site is on sloping ground but falls outside of the area identified as being at risk of land slippage (Policy NE6). However, because of the fall across the site, and the nearby policy designation, the impact of the attenuation tanks will need to be considered by a geotechnical/structural engineer to ensure that there is no harm to any nearby residential properties, or to the retained trees within the site. An informative is therefore suggested to ensure that the applicant is aware of this risk.

### **i) Space Standards**

- 7.52. The Council has set out their prescribed housing standards within the Appendix to Policy HB3 of Places and Policies Local Plan. This requires for all new housing to meet the nationally described technical housing space standards and also provides an area of open space for all new properties.
- 7.53. The proposal properties would all comply with the Council's space standards, with each property being in excess of the minimum requirements both for internal space and for garden provision. Officers are therefore satisfied that the development would provide an acceptable standard of accommodation and level of amenity for future occupants and as such complies with policy HB3 of the Places and Policies Local Plan.

### **j) Highway Safety**

- 7.54. Policy T1 of the Places and Policies Local Plan requires that the hierarchy of any development puts pedestrians first and private motor vehicles last. Here, the main access into the site is pedestrian (and cycle) only, with the vehicle accesses more subordinate and located to the rear and side of the development.
- 7.55. Policy T2 of the PPLP sets out the parking standards expected within new development within the District. This policy (through Interim Guidance Note 3) states that a minimum of two car parking spaces should be allocated for four bedroomed dwellings in a suburban edge/rural location such as this.
- 7.56. Concern has been raised by a number of local residents with regard to the highway safety impact of this proposal. In particular, the access point from Blackhouse Rise to Blackhouse Hill has been cited as a junction with poor visibility, where the development may lead to an increased risk to highway safety.
- 7.57. The applicant has provided plans which show the visibility splays from this junction, which demonstrate that splays of 2.4m x 43m can be achieved in either direction (north and south) which Kent County Council consider to be acceptable for this location. It is proposed however, that new road markings be introduced (southbound) in order to reinforce that traffic is moving into a more residential area, and care should be taken. With the suitable visibility on either side, together with the additional

signage, no objection is raised to the intensification of this junction from this development.

- 7.58. The access road into the site has been designed in such a way as to allow for two-way traffic along its length, on a shared surface for pedestrian use as well. Because of the straight nature of this highway, no concern is raised over the use of a shared surface – speeds will be low and visibility good in either direction. It is therefore considered that both vehicular and pedestrian access into the site is acceptable.
- 7.59. The proposal would see the provision of a double garage and independently accessible spaces to the front (two per property) which would accord with the requirements of Policy T2 of the PPLP. The application also includes five unallocated visitor spaces, as well as a van ‘drop off’ space, close to the main access of the site.
- 7.60. This level of parking is considered to be acceptable and is unlikely to result in over-spill to the surrounding areas, giving rise to highway safety concerns.
- 7.61. The site has been tracked, which demonstrates that a refuse vehicle can enter and leave the site in a forward gear. Again, this is considered acceptable, subject to safeguarding conditions that ensure this is not compromised.
- 7.62. In summary, whilst the concerns from neighbouring residents are noted, it is considered that safe access and egress to the site can be achieved, and that there would be no grounds to object to this proposal on either highway safety or lack of parking provision.

### **k) Financial contributions and Affordable Housing**

- 7.63. The Development Plan sets out the contributions expected from new development within the District.
- 7.64. This includes setting out the levels and types of affordable housing provision required, along with other infrastructure, such as that needed for education, health, transport, flood and water management, green and digital infrastructure.
- 7.65. In terms of contributions, this development has attracted a request from KCC for contributions required to mitigate the impact of the development on local services toward education, libraries, adult education, youth services, social care and waste. The figures for these are set out within section 3 of this report (consultation responses).
- 7.66. As Members are aware, the adopted CIL charging schedule should seek to directly mitigate the impact of new development, and until such time as the CIL infrastructure schedule has been revised, it is considered that the requested contributions should be met by the CIL payable for the development. As such, no additional contributions beyond the CIL payments are requested in this instance.
- 7.67. The applicant has sought to agree to make a commuted sum in lieu of making affordable housing provision on site. Negotiations have taken place with the Council’s Housing Officer. However, the Housing Officer has requested that this figure be fully reviewed once the applicant has provided more detail on the likely sales values of the properties. Given the volatile nature of the housing market at present, I would recommend that should Members be minded to resolve to grant planning permission

at this point in time, the final figure should be made in agreement with the Head of Planning, prior to the completion of any S106 agreement (to ensure that the Council is best placed to receive the optimum figure). Should a suitable figure thereafter be agreed, the proposal would accord with policy, and of course, if the figure be disputed, Members would be able to review their previous recommendation once more.

### **Environmental Impact Assessment**

- 7.68. In accordance with the EIA Regulations 2017, this development is an urban development project within the AONB where the usual thresholds are abandoned. As such the project will be screened for likely significant environmental effects.

### **Local Finance Considerations**

- 7.69. 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.
- 7.70. 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 £100 per square metre for new residential floor space.

### **Human Rights**

- 7.71. 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**

- 7.72. 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.

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

### **Working with the applicant**

- 7.74. 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 instance meetings took place with the applicant, and external consultees to seek to address initial concerns raised.

## **8. CONCLUSION**

- 8.1. The application site is located inside the defined settlement boundary but is also within the designated Kent Downs Area of Outstanding Natural Beauty. The site is, however, despite the designation immediately adjacent to established residential development and is bordered by dwellings on three sides. Existing boundary planting would remain, with additional landscaping and planting within and to the boundaries of the site. This application represents a low-density scheme that reflects the spatial pattern of neighbouring development and the site's edge of settlement location. The site is not readily visible from nearby public vantage points or in longer distance views from the seafront. The impact upon the landscape and AONB is considered minimal due to the existing surrounding development, the topography of the site, the design of the buildings and the proposed landscaping, and the scheme would not result in an unacceptable level of harm to the special landscape qualities of the Kent Downs Area of Outstanding Natural Beauty.
- 8.2. It is considered that all other material considerations relating to design, layout, highways, amenity of existing or future occupiers, ecology and drainage are satisfactory, and it is considered that the scheme is acceptable with regards to local and national planning policy. The application is therefore recommended for approval.

## **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 a suitable off-site affordable housing contribution, and to ensure that the long term maintenance of the off-site translocation site is provided; 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 must be begun within three years of the date of this permission.



## **DCL/22/47**

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out except in accordance with the details shown on the submitted plans:

20.097 101 Site Location  
20.097 102 Block Plan  
20.097 103 Existing Site Plan  
20.097 104 Proposed Masterplan  
20.097 105 Proposed Masterplan  
20.097 110 Plot 1  
20.097 111 Plot 2  
20.097 112 Plot 3  
20.097 113 Plot 4  
20.097 114 Plot 5  
20.097 115 Plot 6  
20.097 116 Plot 7  
20.097 117 Plot 8  
20.097 118 Carports  
20.097 119 Site Sections  
20.097 120 Site Sections  
20.097 121 Shed Plot 6  
20.097 122 Site Sections  
20.097 123 Site Sections

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

3. No work on the construction of the external surfaces of the buildings hereby permitted shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted 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.

4. 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 the Folkestone and Hythe Core Strategy which identify the District 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/thewaterefficiency-calculator-for-new-dwellings>

## **DCL/22/47**

5. Prior to first occupation of the dwellings hereby approved, a lighting scheme for biodiversity shall be submitted to, and approved in writing by the local planning authority. The lighting scheme shall be designed by a qualified lighting designer and shall include the type, level of illumination and locations of all external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting shall be installed in accordance with the specifications of the lighting scheme, the lighting shall be retained as approved and no additional lighting shall be installed thereafter.

Reason: In the interests of protecting protected species and habitats in accordance with NPPF paragraph 175 and Places and Policies Local Plan policy NE3.

6. No construction work above the foundation level of any building on site shall take place until a hard and soft landscaping scheme for the site, including an implementation programme and maintenance schedule, shall be submitted to the Local Planning Authority for approval in writing. The landscaping scheme shall be carried out in accordance with the approved details and implementation programme unless an alternative timescale has first been agreed in writing with the Local Planning Authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

Reason: In order to protect and enhance the appearance of the area.

7. The parking and cycle parking shown on the approved plans shall be provided in full prior to the first occupation of any dwelling or dwellings hereby approved and shall thereafter be kept available for parking in connection with the development at all times.

Reason: It is necessary to make provision for adequate off street parking to prevent obstruction of the highway and to safeguard the amenities of adjoining areas, with secure, covered cycle parking required in order to encourage means of travel other than the private motor vehicle.

8. No construction work above the foundation level of any building on site shall take place until details have been submitted to and approved in writing by the Local Planning Authority of the boundary treatments to be erected, with such details as approved, implemented in accordance with the approved plans, prior to the first occupation of the dwellings.

Reason: In the interests of visual amenity.

9. No construction work above the foundation level of any building on site shall take place until details have been submitted to and approved in writing by the Local Planning Authority of foul and surface water drainage to serve the development, with such details as approved, implemented in accordance with the approved plans, prior to the first occupation of the dwellings.

Reason: In the interests of safeguarding the amenities of adjoining areas and sustainable water resource management.

10. Construction of the development shall not commence until details of the proposed means of surface water run off disposal in accordance with Part H3 of Building Regulations hierarchy as well as acceptable discharge points, rates and volumes have been agreed by the Lead Flood Authority, in consultation with Southern Water.

11. 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 Local Planning Authority.

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

12. 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 Local Planning Authority, and within whatever planting season is agreed.

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

13. No development shall take place until a Construction Management Plan has been submitted to the Local Planning Authority and thereafter approved prior to the commencement of any development on site. This shall include:

- (a) Routing of construction and delivery vehicles to / from site
- (b) Parking and turning areas for construction and delivery vehicles and site personnel
- (c) Timing of deliveries
- (d) Provision of wheel washing facilities
- (e) Temporary traffic management / signage

Reason: In the interests of highway safety.

14. The development hereby permitted shall not be occupied prior to the completion of the proposed access road. Details of the long term maintenance of the access road shall be submitted and approved in writing prior to occupation

Reason: In the interests of highway safety.

15. The development hereby permitted shall not be occupied until the provision of the visibility splays shown on the submitted plans 27-007 C10 (with no obstructions over 1.05metres above carriageway level within the splays) has been made. Such splays shall be maintained thereafter.

Reason: In the interests of highway safety.

16. Prior to the commencement of the development hereby permitted above slab level, details of the provision and permanent retention of the road sign and road markings on Blackhouse Hill shall be submitted to and approved in writing by the

## **DCL/22/47**

Local Planning Authority. Such details as are agreed in writing shall be provided thereafter and maintained unless otherwise agreed in writing.

Reason: In the interest of highway safety.

17. Prior to the commencement of the development hereby permitted, details of the provision of measures to prevent the discharge of surface water onto the highway shall be submitted to and approved in writing by the Local Planning Authority. Such details as are approved shall be implemented prior to the first occupation of any unit and thereafter maintained.

Reason: In the interests of highway safety.

18. The proposed development shall incorporate the provision and permanent retention of the vehicle loading/unloading and turning facilities as shown on the submitted plans 21-007\_SKC01 Rev A prior to the first occupation of any unit.

Reason: In the interests of highway safety.

19. Prior to the first occupation of any unit, provision of the Electric Vehicle charging points shown on the submitted plans 20.097 05 Rev A shall be made. These units shall be thereafter maintained, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure a sustainable form of development.

20. 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 Local Planning Authority.

Reason: In the interests of residential amenity.

21. (A) No development shall take place until a desk top study has been undertaken and submitted to and approved in writing by the Local Planning Authority. The study shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall also be included.

(B) If the desk top study shows that further investigation is necessary, an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. It shall include an assessment of the nature and extent of any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

A survey of the extent, scale and nature of contamination;

(ii) An assessment of the potential risks to:

- Human health;
- Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- Adjoining land,
- Ground waters and surface waters,
- Ecological systems,
- Archaeological sites and ancient monuments; and

(iii) An appraisal of remedial options and identification of the preferred 1 option(s). All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

(C) If investigation and risk assessment shows that remediation is necessary, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works, site management procedures and a verification plan. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out in accordance with the approved terms including the timetable, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

(D) No development shall take place until a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation has been 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.

(E) 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 Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be

## DCL/22/47

carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22. The trees shown on the plans hereby approved as "existing trees to be retained" shall be retained and maintained. Any trees removed, dying, being severely damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity and biodiversity.

23. All trees to be retained must be protected by suitable fencing of a height not less than 1.2m at a distance as specified in Table 1 or Figure 2 of BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those area shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To safeguard the existing trees to be retained and to ensure a satisfactory setting and external appearance to the development.

24. The development hereby permitted shall be carried out in accordance with the mitigation and biodiversity enhancements proposed within the Landscape Strategy and Biodiversity Enhancement (May 2021, Issue 3), and there shall be no occupation of the units until this mitigation has been provided. The approved details will be implemented and thereafter retained.

Reason: In the interest of enhancing ecology and biodiversity.

25. Development shall not commence in any phase 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 by Herrington Consulting (June 2019, Issue 2 Revision 1) 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 use can be adequately managed to ensure there is no pollution risk to receiving waters.
- Appropriate operational, maintenance and access requirements for each drainage feature of 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.

## **DCL/22/47**

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.

26. 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 cabinet' 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.

27. Prior to occupation, a lighting design plan for biodiversity will be submitted to, and approved in writing by, the local planning authority. The plan will show the type and locations of external lighting, demonstrating that areas to be lit will not disturb bat activity. All external lighting will be installed in accordance with the specifications and locations set out in the plan and will be maintained thereafter.

Reason: In the interest of ecology and biodiversity.

28. From the commencement of works (including site clearance), all mitigation measures for reptiles will be carried out in accordance with the details contained in section 5.6 of the Ecological Impact Assessment (David Harper Associates May 2021).

Reason: In the interests of ecology and biodiversity.

### **Informatives**

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Breeding bird habitat is present on the application site and assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
2. Your attention is drawn to the need to contact the Council's Street Naming and Numbering Officer on 01303 853418 in order to have the new properties formally addressed.
3. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Approved models are shown on the Office for Low Emission

## **DCL/22/47**

Vehicles Homecharge Scheme approved chargepoint model list:  
<https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>.

4. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
5. You are advised that this site lies close to an area that has been identified at risk of land slippage. As such, any attenuation tanks proposed must be designed and placed in such a way as to ensure that they will not result in any movement of earth that will harm nearby residential properties or tree planting.
6. Your attention is drawn to the requirements of the Building Regulations 2000 and the possibility of the need to obtain consent under such regulations. Prior to implementing this permission, you should seek advice from Building Control as to whether or not to make an application. Advice and application forms are available from the Civic Centre, Folkestone (telephone numbers 01303 853538). Alternatively, another building control body may be able to assist.