



Agenda

Meeting: **Planning and Licensing Committee**
Date: **18 March 2025**
Time: **7.00 pm**
Place: **Council Chamber, Civic Centre, Folkestone**

To: **All members of the Planning and Licensing Committee**

The committee will consider the matters, listed below, at the date, time and place shown above. The meeting will be open to the press and public.

Members of the committee, who wish to have information on any matter arising on the agenda, which is not fully covered in these papers, are requested to give notice, prior to the meeting, to the Chairman or appropriate officer.

This meeting will be webcast live to the council's website at <https://folkestone-hythe.public-i.tv/core/portal/home>.

Although unlikely, no guarantee can be made that Members of the public in attendance will not appear in the webcast footage. It is therefore recommended that anyone with an objection to being filmed does not enter the council chamber.

Please note there will be 37 seats available for members of the public, which will be reserved for those speaking or participating at the meeting. The remaining available seats will be given on a first come, first served basis.

1. **Apologies for Absence**
2. **Declarations of Interest (Pages 5 - 6)**

Queries about the agenda? Need a different format?

Contact Alex Baker – Tel: 01303 853498
Email: committee@folkestone-hythe.gov.uk or download from our
website
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Members of the committee should declare any interests which fall under the following categories:

- a) disclosable pecuniary interests (DPI);
- b) other significant interests (OSI);
- c) voluntary announcements of other interests.

Members can make any declarations of lobbying online at <https://fhdcformassembly.tfaforms.net/f/declarations-of-lobbying>. Hard copies will also be made available at the meeting.

3. **Minutes (Pages 7 - 18)**

To consider and approve, as a correct record, the minutes of the meetings held on 21 January 2025 and 11 February 2025.

4. **24/0653/FH - The Log Cabin, Dungeness Road, Dungeness, Romney Marsh (Pages 19 - 68)**

A replacement dwelling with retention and restoration of existing railway carriages.

5. **24/1650/FH - Bus Station, Bouverie Square, Folkestone, CT20 1BA (Pages 69 - 100)**

Change of use of existing Bus Station to outdoor park, including construction of new surfaces, seating areas and hard and soft landscaping.

6. **21/0553/FH - Land opposite 24 Station Road, Hythe CT21 5PW (Pages 101 - 200)**

Outline planning permission for the erection of 40 no. dwellings with associated access, parking and open space (matters of landscaping reserved for future consideration).

7. **24/1769/FH - 5-6 Shakespeare Terrace, Folkestone, CT20 2DX (Pages 201 - 214)**

Change of use from hotel to a to sui generis house in multiple occupation (HMO) with 17 rooms for up to 19 persons.

8. **24/1315/FH - 41 The Parade, Greatstone, New Romney, TN28 8SU (Pages 215 - 242)**

Proposed outbuilding housing a swimming pool, gym, sauna and lounge and alterations to the rear elevation of the dwelling to include conversion of existing hipped roof projection to a gable and new flue.

9. **25/0002/FH - 111 Canterbury Road, Hawkinge, Folkestone, CT18 7BS (Pages 243 - 256)**

Full planning permission for the retention of the existing building formally used as a children's centre and a change of use, to use class E (commercial, business and service)

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Declarations of Interest

Disclosable Pecuniary Interest (DPI)

Where a Member has a new or registered DPI in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Other Significant Interest (OSI)

Where a Member is declaring an OSI they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

Voluntary Announcement of Other Interests (VAOI)

Where a Member does not have either a DPI or OSI but is of the opinion that for transparency reasons alone s/he should make an announcement in respect of a matter under consideration, they can make a VAOI. A Member declaring a VAOI may still remain at the meeting and vote on the matter under consideration.

Note to the Code:

Situations in which a Member may wish to make a VAOI include membership of outside bodies that have made representations on agenda items; where a Member knows a person involved, but does not have a close association with that person; or where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position. It should be emphasised that an effect on the financial position of a Member, relative, close associate, employer, etc OR an application made by a Member, relative, close associate, employer, etc would both probably constitute either an OSI or in some cases a DPI.

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Minutes

Planning and Licensing Committee

Held at:	Council Chamber - Civic Centre Folkestone
Date	Tuesday, 21 January 2025
Present	Councillors Mike Blakemore, Polly Blakemore, Tony Cooper, Laura Davison (In place of Jackie Meade), Gary Fuller, Mrs Jennifer Hollingsbee, Anita Jones, Nicola Keen, Paul Thomas and Belinda Walker
Apologies for Absence	Councillor Clive Goddard and Councillor Jackie Meade
Officers Present:	Rob Bailey (Development and Enforcement Manager), Alex Baker (Committee Services Officer), Macey Douglas (Planning Officer), Ewan Green (Director of Strategy and Resources), Jake Hamilton (Committee Services Officer), Sue Head (Strategic Development Manager (Interim)), Ellen Joyce (Democratic Services & Elections Officer), Llywelyn Lloyd (Chief Planning Officer) and Alex Stafford (Principal Planning Officer)

67. **Declarations of Interest**

Councillor Davison made a declaration as a member of Folkestone Town Council's Planning Committee.

Councillor Keen declared that she would step down as Chair of the meeting due to speaking as a Ward Member on application 24/0505/FH (Minute 68).

Proposed by Councillor Mike Blakemore
Seconded by Councillor Fuller; and,

Resolved:

That Councillor Jones be elected Chair of the meeting.

A second nomination was put forward to elect Councillor Thomas as Chair, proposed by Councillor Walker and seconded by Councillor Cooper, however this received fewer votes from Members and was therefore lost.

68. **24/0505/FH - Former Rotunda Amusement Park, Plots F1, F2, G1, G2 and H, Marine Parade, Folkestone, CT20 1SU**

The application sought approval of reserved matters (layout, access, scale, appearance, and landscaping) of Phases 5 and Phase 6 comprising Plots F1, F2, G1, G2, and H and the harbour public realm for the erection of residential dwellinghouses, commercial space, associated car and cycle parking, landscaping, playspace, public realm and associated services, amenities and plant and the discharge of conditions 8 (public open space), 9 (water use) 20 (biodiversity) and 21 (wind flow mitigation), pursuant to S73 outline planning permission Y17/1099/SH.

The Strategic Sites Development Manager advised the Committee of 3 further representations that had been received, which made the following points:

- The increased height around the station
- An updated viability assessment should be made public
- Little has changed as a result of community engagement
- The scale is not accepted as having been determined by the minimum and maximum parameters established in the outline permission
- The omission of Plot G2 and its replacement with public space does not comply with approved parameter plans
- The question of why a beach sports centre is not included
- Lack of dedicated cycle lanes around the development
- Compliance with certain policies and NPPF paragraphs

The Strategic Sites Development Manager advised that with regards to viability reports, the case law changed in 2020, after which viability reports had to be made public, which is why viability reports considered before 2020 were not published. In any event, the Reserved Matters application was not submitted with a viability report and that viability isn't relevant to consideration of the application.

Anna Galandzija, local resident, spoke against the application.

Cllr Smith, on behalf of Folkestone Town Council, spoke on the application.

Cllr Nicola Keen, ward member, spoke on the application.

Sir Roger De Haan, of Folkestone Harbour (GP) Limited, applicant, spoke in support of the application.

After discussions between Members and officers, the meeting was briefly adjourned.

On recommencement of the meeting, two motions were considered.

The original recommendation put forward by officers was as follows:

That reserved matters be approved subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add/delete/amend any other conditions that he considers necessary.

Proposed by Councillor Mrs Jennifer Hollingsbee
Seconded by Councillor Fuller

(Voting: 4 For, 6 Against, 0 Abstentions)

The motion was therefore lost.

After the first vote, the meeting was adjourned for an extended period to allow for officers to consider framework wording encapsulating the reasons for refusal put forward by members, to assist in their wording of the second motion proposed.

On reconvening the meeting, officers sought clarification from members on aspects of the proposed motions, including parking, provision of homes, heritage, and setting.

Proposed by Councillor Davison
Seconded by Councillor Mike Blakemore; and,

Resolved:

That the application be refused in accordance with the planning application and plans.

REFUSAL REASONS

1. The proposal would result in a significant loss of public parking spaces which would lead to severe road congestion in the local area, giving rise to substantial harm to the amenity of existing residents, future occupiers of the development and visitors, contrary to Policy HB1 of the PPLP 2020.
2. The proposed housing mix would not provide for the housing needs of existing residents, key employees and families and would not therefore meet the needs of residents, nor would it meet the identified affordable housing needs within the District, contrary to the aims of Policy CSD1 of the Core Strategy 2022.
3. The proposed development, by virtue of the height, scale, presence and design of Blocks F1 and G1, would give rise to substantial harm to the setting of the former railway station building and the architectural treatment proposed for the former railway station would give rise to substantial harm to the historic significance of the non-designated

heritage asset contrary to the provisions of paragraph 216 of the NPPF 2024.

4. The proposed development, by virtue of its contemporary design, would be in stark contrast to, and would therefore give rise to harm to the setting of, designated and non-designated heritage assets contrary to the provisions of 210, 215 and 216 of the NPPF 2024.
5. The proposed development, by virtue of its design, would be harmful to the visual amenity of the area, and out of keeping with and significantly harmful to the character and appearance of the harbour area and wider settlement, contrary to Policy HB1, HB2 and C1 of the PPLP 2020.

In accordance with the council procedure rule 17.5, five members present requested a recorded vote.

For:

Councillors Mike Blakemore, Cooper, Davison, Shoob and Walker (5)

Against:

Councillors Fuller, Mrs Jennifer Hollingsbee, Jones and Thomas (4)

Abstentions:

Councillor Polly Blakemore (1)

69. **22/2168/FH - Plot E1, Former Rotunda Amusement Park, Marine Parade, Folkestone**

The application sought the approval of Reserved Matters (layout, access, scale and appearance, public realm, landscaping, and play space) of Phase 4 (Plot E1) and Marine Parade, pursuant to section 73 outline planning permission Y17/1099/SH for the erection of a 5-storey residential building comprising flats and townhouses, associated car and cycle parking, landscaping and associated services, amenities and plant.

The Strategic Sites Development Manager provided a clarification to the Committee in respect of paragraph 7.72 on the supplementary sheet, and confirmed 112 parking spaces would still have active EV charging, in compliance with Local Plan policy. 143 spaces are being provided in total, and it is only the remaining 31 spaces that would have passive EV charging.

Sir Roger De Haan, of Folkestone Harbour (GP) Limited, applicant, spoke in support of the application

Proposed by Councillor Mrs Jennifer Hollingsbee
Seconded by Councillor Fuller; and,

Resolved:

That reserved matters be approved subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add/delete/amend any other conditions that he considers necessary.

(Voting: 7 For, 3 Against, 0 Abstentions)

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Planning and Licensing Committee

Held at:	Council Chamber, Civic Centre, Folkestone
Date	Tuesday, 11 February 2025
Present	Councillors Abena Akuffo-Kelly (In place of Belinda Walker), Mike Blakemore, Polly Blakemore, Tony Cooper, Gary Fuller, Mrs Jennifer Hollingsbee, Anita Jones, Nicola Keen (Vice-Chair), Jackie Meade (Chair), Rebecca Shoob and Paul Thomas
Apologies for Absence	Councillor Clive Goddard and Councillor Belinda Walker
Officers Present:	Robert Allan (Principal Planning Officer), Rob Bailey (Development and Enforcement Manager), Alex Baker (Committee Services Officer), Ellen Joyce (Democratic Services & Elections Officer), Ross McCardle (Principal Planning Officer) and Helena Payne (Development Management Team Leader)

70. **Declarations of Interest**

There were no declarations of interest.

71. **Minutes**

The minutes of the meeting held on 7 January 2025 were approved as a correct record.

72. **24/0719/FH - Ash Wells, Pilgrims Way, Postling, Hythe, CT21 4EY**

This application concerned a proposed barn for the stabling of horses (to consist of six stables, two tack rooms, and one wash room), following demolition of existing stables.

Tracy Roman, applicant, spoke on the application

Proposed by Councillor Fuller
Seconded by Councillor Keen; and,

Resolved:

That planning permission be granted subject to conditions preventing commercial use of site and requiring the submission of a lighting scheme, and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

(Voting: 11 For, 0 Against, 0 Abstentions)

73. **21/0077/FH - 21 Station Road, Lyminge, CT18 8HQ**

This was an application for the demolition of existing garages and erection of a new dwelling (re-submission of 20/0465/FH).

Christopher Hendy, local resident, spoke against the application
Chani Sanger, on behalf of Lyminge PC, spoke on the application

Proposed by Councillor Shoob
Seconded by Councillor Polly Blakemore; and,

Resolved:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

(Voting: 5 For, 2 Against, 4 Abstentions)

74. **24/1749/FH - Seapoint Canoe Centre, Princes Parade, Hythe**

The application sought the retention of 8 existing temporary containers (retrospective).

Proposed by Councillor Fuller
Seconded by Councillor Thomas; and,

Resolved:

That temporary planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to

the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

(Voting: 11 For, 0 Against, 0 Abstentions)

75. **23/2061/FH - Land Opposite Kinross, Rectory Lane, Lyminge, CT18 8EG**

This was an application for the erection of 3no. detached dwellings with carports.

The Planning Officer provided an update to the committee in response to drainage concerns raised. They advised the statutory consultee, Southern Water, has not objected to the development, and that if members were minded to approve the officer recommendation a condition would be imposed requiring details of foul and surface water drainage prior to first occupation. The agent has agreed to accept such a condition in the event that permission be granted.

Richard Duce, local resident, spoke against the application

Chani Sanger, on behalf of Lyminge PC, spoke on the application

Hannah Garlinge, agent, spoke on the application

The original recommendation put forward by officers was as follows:

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Proposed by Councillor Shoob

Seconded by Councillor Polly Blakemore

(Voting: 4 For, 5 Against, 2 Abstentions)

As the initial votes for and against were tied, the Chair had to use their casting vote and voted against the application. The motion was therefore lost.

A further motion was tabled by members:

To refuse planning permission on grounds that, by virtue of the scale and design of the proposed development, and the location of the site, that the proposal would fail to conserve or enhance the special character and scenic quality of the national landscape and that by virtue of their scale

and design that the dwellings would be harmful to the character and appearance of the street scene.

Proposed by Councillor Meade
Seconded by Councillor Keen

(Voting: 4 For, 5 Against, 2 Abstentions)

The motion was therefore lost.

A third motion was then tabled by members.

Proposed by Councillor Thomas
Seconded by Councillor Cooper; and,

Resolved:

To defer consideration of the application to allow officers to seek amendments to the scheme to reduce the impact of the development on the character and appearance of the street scene and the scenic quality of the national landscape.

(Voting: 10 For, 0 Against, 1 Abstentions)

76. 24/2016/FH/PA - Land Adjoining 1 The Coppice, New Road, Saltwood

The application sought determination as to whether the prior approval of the Local Planning Authority is required under Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use and conversion of an agricultural building and associated land (as identified) into one (Class C3) dwelling.

The Planning Officer introduced the report to the Committee and highlighted that this is not an application for planning permission, but for prior approval. Where applications for planning permission are weighed against relevant policies and material considerations, applications for prior approval refer to certain forms of permitted development, and the council can only consider specifically defined matters. This application is therefore materially different from previous refusals of planning permission on the site, as the permitted development order has already granted consent for the scheme.

The Planning Officer also advised of an additional objection that had been received from an existing objector, relating to congestion, highway safety, site

access and development on a greenfield site. These issues have been addressed in the report.

Proposed by Councillor Thomas
Seconded by Councillor Mrs Jennifer Hollingsbee; and,

Resolved:

That prior approval be granted subject to the condition(s) set out at the end of the report.

(Voting: 11 For, 0 Against, 0 Abstentions)

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Application Number	24/0653/FH
Location	The Log Cabin, Dungeness Road, Dungeness, Romney Marsh, TN29 9ND
Application Description	A replacement dwelling with retention and restoration of existing railway carriages.
Applicant	Mr Sam Cox
Agent	Hollway Studio
Officer Contact:	Danielle Wilkins

Recommendation

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. Reason for consideration by the Committee

- 1.1. The application is reported back to Committee after consideration of the item was deferred at the Meeting on 7th January this year to allow for further publicity to take place.

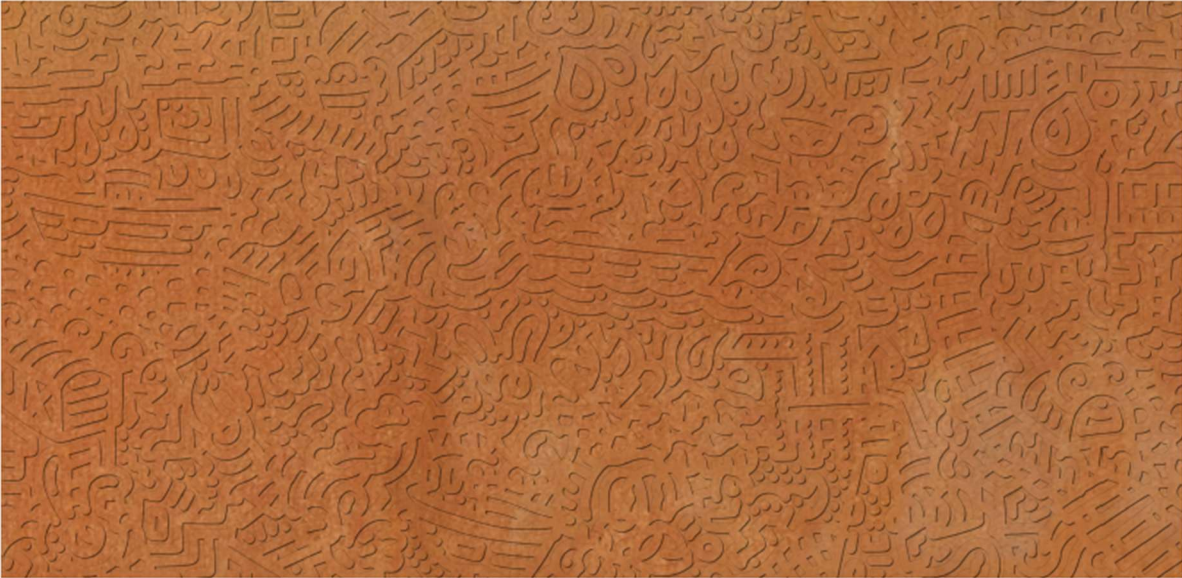
2. Background Information

- 2.1 The report to the 7th January meeting of the Planning and Licencing Committee is attached at Appendix 2. The issues for consideration in this report are a result of the additional publicity for the application, carried out since that meeting.
- 2.2 Additional CGI images have been submitted which seek to show the pattern proposed to the Corten steel. These are provided in figures 2-7 below:



Figure 1 – close-up sample doodles

Perforated Cladding Screen



De-bossed Solid Cladding

Figure 2 - perforated cladding screen & de-bossed solid cladding examples



Figure 3 - close-up view of front elevation



Figure 4 - close-up view of front elevation



Figure 5 - close-up view of rear elevation



Figure 6 - close-up view of rear elevation

3. Additional Consultation

3.1. Following the meeting an additional two site notices were posted adjacent to the application site on either side of the highway. 30 additional representations have been received, all raising objection. These have been read and summarised below:

- Demolition of the existing dwelling not justified
- Set precedent for larger replacement houses with external artwork
- Incongruous materials and design
- Harmful to conservation area/landscape/history of railway carriages
- Increased litter/intrusion/trespassing/ noise from tourists/visitors
- Highway safety
- Harm to residential amenity and ecology arising from increased tourism

4.3 The following issues were raised but are not considered to be material considerations and have been given no weight in the consideration of this application.

- Proposal should include change of use for art installation/ advert
- Solar panels will not function behind the cladding
- Inadequate initial public consultation and incorrect site history
- Applicant's fame/ social media followers/ comparisons to Banksy
- Proposal is a vanity project/ artwork lacks political/ social engagement
- Impact on views from other dwellings
- Letter sent to Councillors was not discussed at Committee
- Town Council objection triggered committee referral, not objections
- Decision taken at pre-application stage without consideration of statutory/public demands including Article 4 and ecological designations
- Same architects as four other dwellings on the Dungeness Estate

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

[Planning Register](#)

5 Appraisal

5.1 In light of the above the issues for consideration, in addition to those set out in the original committee report, are the design of the proposals and the impact on the conservation area, potential increase in activity in the area, and highway safety.

Design of the proposals and impact on the conservation area

- 5.2 The applicant has provided additional CGI images, showing the designs of the “doodles” themselves and the materials proposed. It is considered that while the specific detail would be visible to those standing near the building, they would be more subtle when viewed from further away, where most views of the building would be taken from. It is not therefore considered that the doodles themselves would appear overly large or add clutter to the elevations, to the extent that they would detract from the character and appearance of the conservation area or the visual amenities of the wider area.
- 5.3 The materials proposed are also considered to be acceptable and would add to the variety of dwellings in the area while at the same time respecting the historic significance of the railway carriages, materials found locally, and the form of architecture in the area, complying with policy HB1 of the PPLP and the NPPF in respect of the impact of development on heritage assets.
- 5.4 The maximum height of the building would increase from approximately 3.6 metres to 5 metres when measured to the top of the tallest ridge of the pitched roof. The dwelling as proposed would though feature varying roof forms and heights, and the eaves height would remain at approximately 3.4 metres. The increase in height of part of the dwelling is not considered to be harmful in itself, and would not be out of character with other dwellings in the area. A comparison can be seen in figure 1 below.



Figure 7 - existing and proposed street scene

Increased activity in the area

- 5.5 Concern has been raised that the proposed development would attract a number of visitors to the area and increase the risk of tourists and visitors walking through private property resulting in noise and disturbance to existing residents and harm to the ecology of the wider area.
- 5.6 Issues relating to trespass are a legal matter and do not amount to a material planning consideration. The Dungeness Estate already attracts visitors to the

area due to its unique landscape and style of architecture and tourism in the area is broadly encouraged by the Council. Members will recall that Natural England do not raise objection to the proposed development and consider the impact on ecology to be acceptable.

- 5.7 A replacement dwelling on this site would not give rise in itself to noise and disturbance in excess of what might normally arise from a dwelling.
- 5.8 The proposed development is considered acceptable in this regard, in compliance with the Development Plan and the NPPF.

Highway Safety

- 5.9 The application site is located on a private estate where there are no public footways, however there is 20mph speed limit in force throughout the estate. Given the access already serves the existing dwelling, it is not considered that the proposal would give rise to an increase in vehicle movements, demand for on street or off street parking spaces nor an impact on pedestrian safety. There is nothing inherent in this scheme which would prejudice the movement of emergency service vehicles across the wider area or in the vicinity of the site.
- 5.10 Accordingly it is considered that the proposed development would be acceptable in respect of highway safety, in compliance with the Development Plan.

6 CONCLUSION

- 6.1 For the reasons set out above and in the previous committee report, it is considered that the proposal would result in a sustainable form of development, in compliance with adopted policy and it is therefore recommended that planning permission is granted.

7 RECOMMENDATIONS

That Members agree and adopt the appended Habitats Regulations Assessment; that planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions 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. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

<u>Plan/Drawing Title</u>	<u>Drawing Number</u>	<u>Received</u>
Site location plan	100.00-P1	01/05/2024
Site plan – BNG habitats	100.05-P2	11/10/2024
Site plan – CEMP	100.06	11/10/2024
Proposed ground floor plan	300.00-P1	01/05/2024
Proposed roof plan	300.01-P1	01/05/2024
Proposed elevations AA-BB	300.02-P1	01/05/2024
Proposed elevations CC-DD	300.03-P1	01/05/2024
Proposed sections	300.04-P1	01/05/2024

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

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

Reason: In the interest of preserving and enhancing the character and appearance of the conservation area

4. No further development, whether permitted by Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: To enable the Local Planning Authority to retain control over future development, to ensure any additions reflect the architectural detailing of the permitted dwelling and do not detract from the visual character of the surrounding conservation area.

5. Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interest of preserving and enhancing the character and appearance of the conservation area

6. The parking area shown on the submitted plan shall be provided and made available prior to the first occupation of the any of the dwelling hereby approved, 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 (other than the erection of a private garage or garages) 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: In the interests of highway safety and convenience.

7. Prior to the first occupation of the dwelling hereby permitted, the electric vehicle charging point which provides for at least 7KW shall be installed in the location set out in the approved plans. The charging point shall be retained in working order in perpetuity.

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

8. No development shall take place until the mitigation measures set out within the submitted Construction and Environmental Management Plan (CEMP) have been implemented. The CEMP shall accord with the measures outlined in Construction Environment Management Plan reference 100.06 (dated July 2024).

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated.

9. The development shall be carried out in accordance with the submitted flood risk assessment (RAB 3143_FRD) and in particular the following mitigation measures it details:

- Finished floor levels shall be set no lower than 5.88 metres above Ordnance Datum (AOD)

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

10. Prior to first occupation details including a sensitive external lighting scheme to avoid light spill into the Dungeness statutorily designated sites shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the siting and design of any lighting together with the spread and intensity of the lighting. These measures will thereafter be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. No additional external lighting shall be installed at the site without the prior written approval of the Local Planning Authority.

Reason: To limit the impact of light pollution from artificial light on Dungeness statutory designated sites

11. 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 carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

12. No development beyond the construction of foundations shall take place until details to demonstrate that the dwelling hereby permitted shall use no more than 110 litres of water per person per day have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as agreed.

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

13. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works, including boundary treatments (inclusive of colour, materials) have been submitted to and approved in writing by the Local 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 amenity of the area and encouraging wildlife and biodiversity.

14. 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.

15. 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.

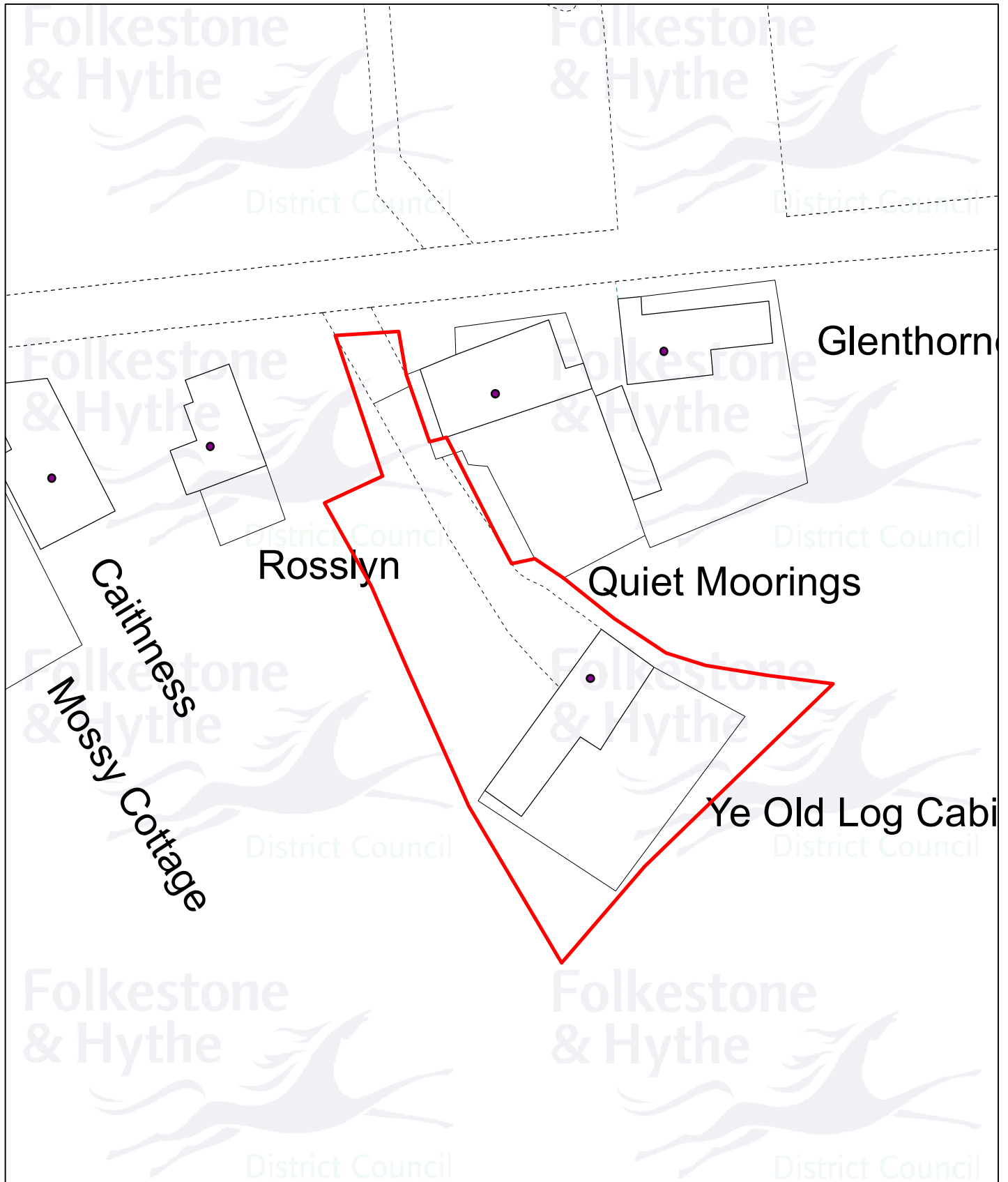
16. Prior to works above slab level an ecological enhancement plan must be submitted to and approved by the Local Planning Authority. The plan must demonstrate how the site will enhance biodiversity through planting which will benefit pollinators, and/or native species planting and ecological enhancement features within the buildings and site. The plan must be implemented as approved

Reason: In the interest of biodiversity and ecology.

Informatives:

1. It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

24/0653/FH - THE LOG CABIN, DUNGENESS ROAD, DUNGENESS,
ROMNEY MARSH, TN29 9ND



Planning Application:
24/0653/FH
Drawn date:
05 Mar 2025
Drawn by:
Carrie Stacey
Drawing ref:
1996/COP/LS


Llywelyn Lloyd
Chief Planning Officer

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Application Number	24/0653/FH
Location	The Log Cabin, Dungeness Road, Dungeness, Romney Marsh, TN29 9ND
Application Description	A replacement dwelling with retention and restoration of existing railway carriages.
Applicant	Mr Sam Cox
Agent	Hollaway Studio
Officer Contact:	Danielle Wilkins

Recommendation

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. Reason for consideration by the Committee

- 1.1. The application is reported to Committee due to an objection received from Lydd Town Council.

2. Site and Surroundings

- 2.1 The application site comprises a single storey detached dwelling known as The Log Cabin located within Dungeness, which falls outside any of the district's settlement boundaries and as such, is located within the open countryside in policy terms. The site is located within the Dungeness Conservation Area which has a unique special open plan and rustic character, displaying a sporadic form of development with long views across the landscape. The application building itself is set back from the road to the rear of a cluster of dwellings which front onto Dungeness Road.
- 2.2 The application site is located within a Site of Special Scientific Interest (SSSI), the Special Area of Conservation and the designated Dungeness National Nature Reserve and Ramsar site.
- 2.3 The application site is partially within Flood Zones 2 and 3. The site is on land covered by an Article 4 Direction which restricts the erection of boundary treatments and other householder related development which would normally not require planning permission.
- 2.4 The existing dwelling appears to be timber framed and encompasses a number of original train carriages which have been over-boarded externally with a shallow pitched felt roof covering the entirety of the dwelling.

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

3. Proposal

- 3.1. Full planning permission is sought for the erection of a replacement dwelling and associated landscaping. The new dwelling would have a maximum width of 19.6m, a depth of 8.9m and a maximum height of 5.2m. The original train carriages would be restored and their curved roofs displayed.
- 3.2. The replacement dwelling would be constructed within the footprint of the existing hardstanding, set back from the road by approximately 38m.
- 3.3. The replacement dwelling would have a contemporary design, utilising laser cut metal panels which would envelope the building, used in combination with solid metal shutters and roof panels. The metal would have a rusted finish and be red/brown colour.
- 3.4. An air source heat pump is proposed which would be sited within the external cladding, hidden from view.
- 3.5. A detached bin and bike store with EV charger is proposed to the front (north) of the dwelling sited on the existing driveway. Parking would be retained for a number of vehicles on the existing driveway. Timber sleepers are proposed to form a level path from the parking area to the main entrance of the dwelling.

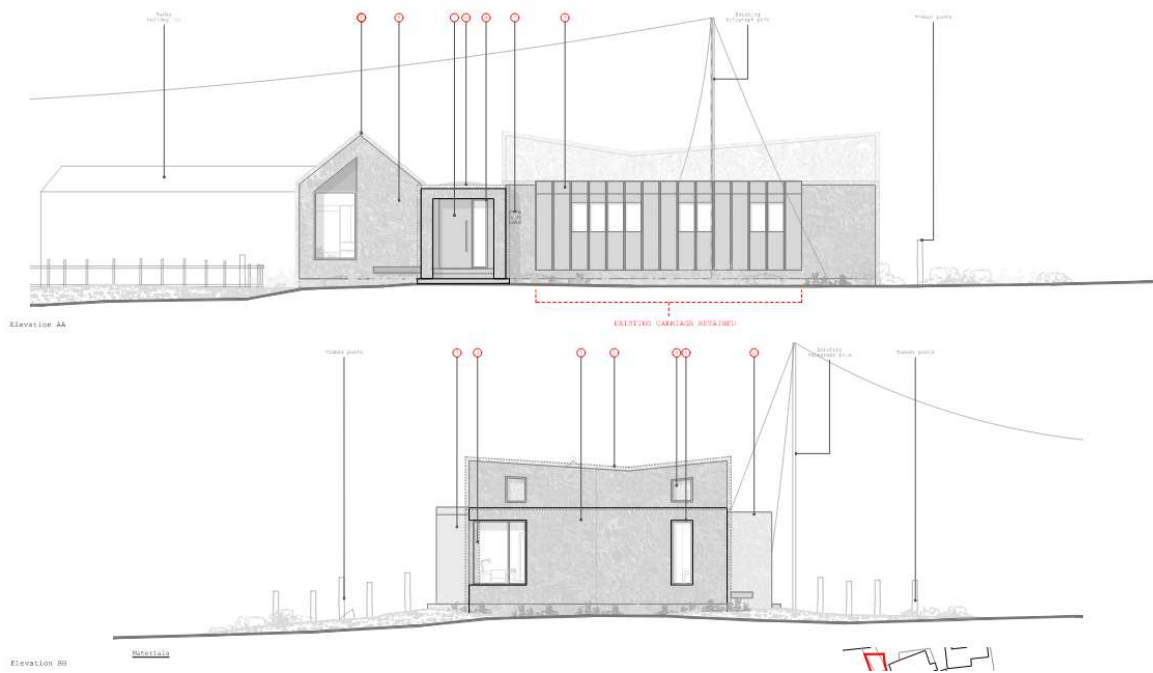


Figure 1 - proposed front and side elevations

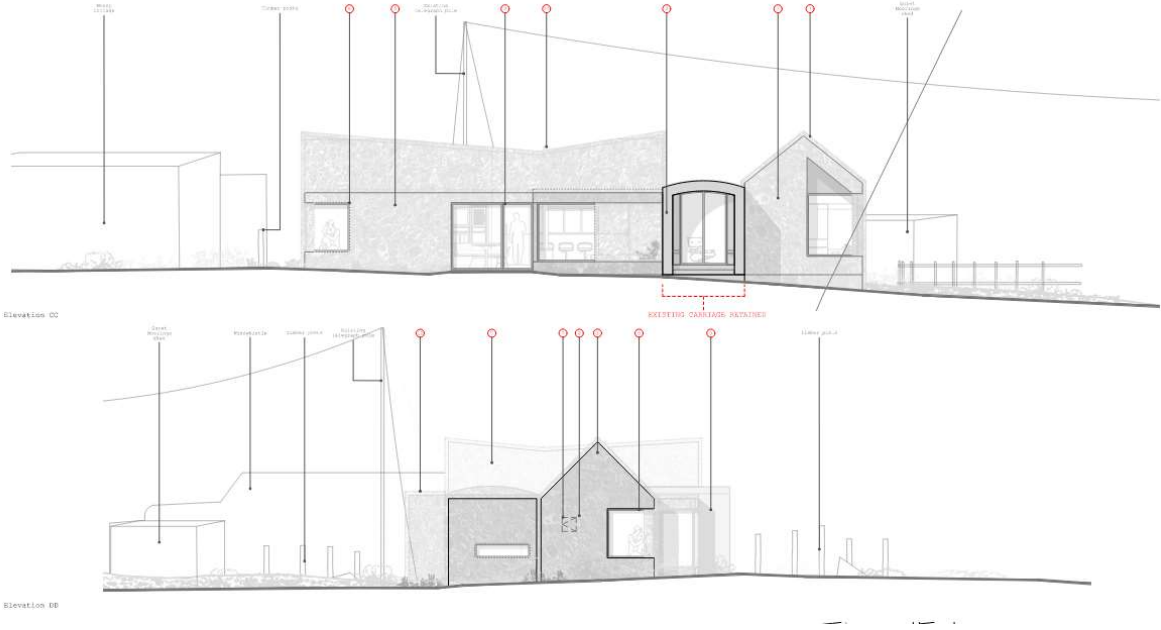


Figure 2 - proposed rear and side elevations



Figure 3 - proposed front elevation – Artists impression



Figure 4 - proposed rear elevation

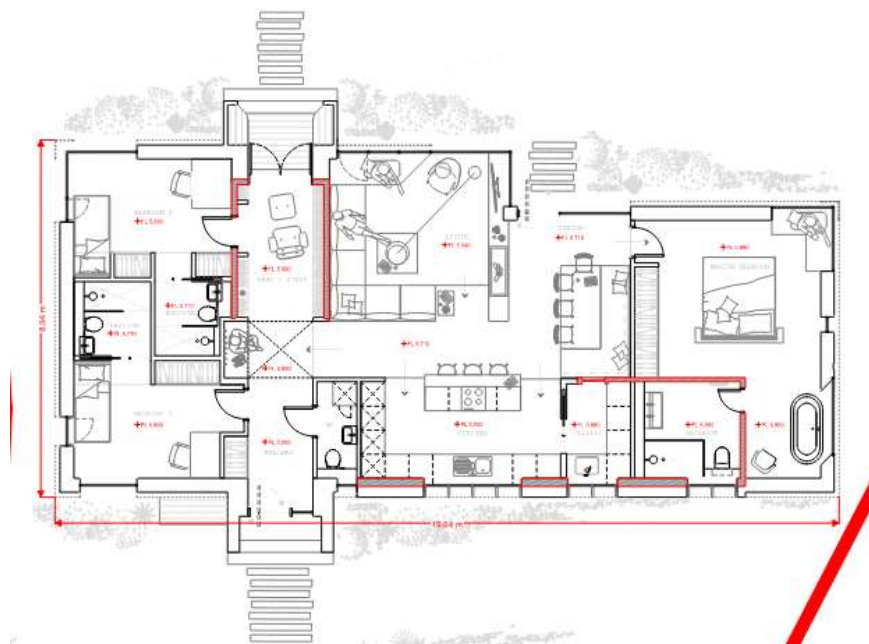


Figure 5 - proposed ground floor plan

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

Design and Access Statement

- 3.7. A site analysis was undertaken, which included surrounding land uses and designations, architectural and historical vernacular, material palettes and the historical features of the existing dwelling. The Design and Access Statement describes how there were originally two train carriages on the site that had been joined together with extensions to create a building and enveloped under one roof form, the carriage like appearance is therefore not currently visible externally. It adds that this application seeks to restore the carriages by waterproofing the exterior, insulating and cladding the exterior in doodle-embossed metal outer skin.

Heritage Statement

- 3.8. This document provides reasonings behind providing a suitable replacement dwelling at the application site. The report summarises that the design has been influenced by the character of the local area. The report concludes that the proposed replacement building would not negatively impact on the setting of the Conservation Area or nearby heritage assets and that the design of the building would reaffirm its core as railway carriages, increasing its historical intelligibility. It adds that the use of the proposed ironwork would add to the existing character of the area, reinforcing Dungeness's unique character.

Preliminary Ecological Assessment

- 3.9. This report states that due to the location of the site and the number of international and national designations there are a number of sensitivities. It concludes however that the proposal would have a minimal impact to the surrounding vegetated shingle habitat, It suggests that with an appropriately worded Construction Environmental Management Plan (CEMP) it should be possible to avoid any significant impacts to the designated sites.
- 3.10. It adds that there are opportunities through the redevelopment of the site to remove non-native species and introduce sensitive, native species planting and include features for insects.

Flood Risk Assessment

- 3.11. This report acknowledges that the application site is partially sited within flood zones 2 and 3. The report states that flooding is likely to be a result of waves overtopping the flood defences, rather than a breach of the defences, it adds that as the site is located on the beach surrounded by shingle, standing water is unlikely to occur. It states that there would be no risk to neighbouring occupiers through increased flood risk and that as proposed floor levels within the sleeping accommodation at ground floor would be set at 5.88mAOD, which is an improvement on the existing dwelling.
- 3.12. The report concludes that, with the flood risk management measures proposed, the proposed dwelling should be considered a betterment from the existing situation.

Archaeological Desk-Based Assessment

- 3.13. The report summarises that the application site lay offshore until the mid to late medieval period, when it was formed by seasonal deposits of shingle. The report concludes that there is unlikely to be archaeological remains within the development area.

4. Relevant Planning History

- 4.1 There is no planning history for the site.

5. Consultation

Ward Members: Cllr Clive Goddard and Cllr Alan Martin
Cllr Clive Goddard is a member of the Planning and Licencing Committee.

- 5.1 The consultation responses are summarised below.

Consultees

Lydd Town Council: Objection raised to the proposal on the grounds that the proposed metal façade would not be in keeping with the historical value of Dungeness and that the proposal could impact the environmental value of the area.

KCC Highways and Transportation: No comments to make

KCC Ecology: No objection subject to conditions

KCC Archaeology: No objection

Natural England: Comments are awaited further to the councils Habitats Regulations Assessment

Environment Agency: No objection subject to a condition regarding finished floor levels.

Office for Nuclear Regulation: No objection

Southern Water: No objections.

Heritage Consultant: No objection subject to conditions pertaining to the siting of the proposed solar panels, samples of proposed materials and further landscaping details.

Environmental Protection Officer: No objection subject to a contaminated land condition

Public/Neighbour Consultation

5.2 14 neighbours directly consulted. 11 letters of objection, 2 letters of support received and 2 letters neither supporting nor objecting to the application.

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

Objections

- Doodle pattern constitutes an invasive and damaging intervention
- Concern raised regarding wildlife becoming trapped in the 'doodles'
- Number of visitors to artwork and impact on protected sites and public interest in the proposed dwelling
- Loss of existing dwelling on environmental grounds
- Cladding the carriages would result in loss of their character
- Loss of privacy to existing homes through increased visitor activity
- Out of keeping with Dungeness
- Car parking issues through increased visitor activity

- Ecological impacts to land outside of the site

Support

- The design and materials provide a reference to objects within the Dungeness Landscape
- High quality design
- Railway carriages are expressed and exposed

5.4 The following issues were raised but are not considered to be material considerations and have been given no weight in the consideration of this application.

- Safety concern regarding visiting children to the site being injured on the corten steel

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

[Planning Register](#)

6. Planning Policy

6.1 The Development Plan comprises the Core Strategy Review (2022), the Places and Policies Local Plan (2020), the St Mary in the Marsh Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).

6.2 The relevant development plan policies are as follows:

Places and Policies Local Plan 2020

HB1	-	Quality Places Through Design
HB2	-	Internal and External Spaces
HB5	-	Replacement Dwellings
T2	-	Parking Standards
T5	-	Cycle Parking
NE1	-	Enhancing and Managing Access to the Natural Environment
NE2	-	Biodiversity
NE3	-	Protecting the District's Landscapes and Countryside
NE7	-	Contaminated Land
NE9	-	Development Around the Coast

Core Strategy Review 2022

SS1	-	District Spatial Strategy
SS2	-	Housing and Economy Growth
SS3	-	Place-Shaping and Sustainable Settlements
CSD3	-	Rural Development

CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

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

Government Advice

National Planning Policy Framework (NPPF) 2024

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 48 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 176 – Flood risk.

Paragraphs 207-210, 212-215 – Proposals affecting heritage assets.

The Planning (Listed Buildings and Conservation Areas) Act 1990

Sections 16 & 72

7. Appraisal

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

- a) Whether the principle of development is acceptable?
- b) Whether the visual impact of the development acceptable?
- c) Whether the proposal would result in harm to any heritage assets?
- d) Whether the proposal would harm neighbour amenity?
- e) Whether the proposal would meet residential space standards?
- f) Whether the proposals result in harm to highway safety?
- g) Whether the proposals would result in harm to ecology or biodiversity?
- h) Whether the proposal is acceptable in terms of flooding?
- i) Whether the proposal would result in any environmental concerns?

a) Whether the principle of development is acceptable?

7.2 Policy CSD3 of the Core Strategy states that proposals for new development in locations outside of the settlements identified in the settlement hierarchy may be allowed if a rural or coastal location is essential, or to protect or enhance green infrastructure assets in line with Policy CSD4. Development

in these locations will be acceptable in principle subject to meeting one of the specific provisions: a. – k. listed within the policy. Of relevance in this case is part (f) which states that replacement buildings on a like-for-like basis (in terms of physical structure and use) are acceptable in principle.

- 7.3 The existing dwelling has a floor area of 142.1sqm. The proposed replacement dwelling would have a floor area of 160.9sqm, the proposed bin and bike store would have a floor area of approximately 4.6sqm. The overall footprint increase equates to approximately 23.4sqm or 16.5%. This increase is considered to be of a minor scale on a site that is large enough to accommodate it. In addition, this increase would be accommodated within the existing hardstanding on the site. The dwelling would be comparable in size to the existing dwelling and neighbouring dwellings. Therefore, the proposed increase in size is considered to be acceptable, and any impact would not be significant on the surrounding area. Further, the replacement dwelling would be single storey in scale and the design would be simple in its form, similar to the existing dwelling.
- 7.4 It is considered that the proposed development would comply with Policy CSD3 of the Core Strategy Review 2022.

b) Whether the visual impact of the development acceptable?

- 7.5 The proposed development would be of a similar scale to the existing building, retaining much of the rectangular footprint of the existing dwelling. It is noted that while the style and form of the replacement dwelling is more contemporary in nature, it would see the reintroduction of the railway carriages into the façade of the dwelling. The modern, pitched roofs would contrast with the curved roofs of the exposed railway carriages and add visual interest to the proposed development, the pitched roofs in particular appear to have been inspired by the predominating roof form of the Dungeness Estate.
- 7.6 The proposed materials palette is considered to be of a high quality and appropriate for the site. It is acknowledged that the materials would have a modern appearance in contrast to the those on the site as existing and to the immediate neighbouring dwellings, however it is clear that inspiration has been taken from the Dungeness landscape, where rusted metal ships and debris can be found scattered along the beach. The proposed materials are considered to be durable and would help to ensure the longevity of the proposed dwelling given the exposed location.
- 7.7 It is noted that the 'doodle' pattern proposed within the corten steel is unusual and not a typical finishing style for dwellings, however it is considered that this would appear fairly subtle from a distance and would have the appearance of rusted metal.

- 7.8 It is therefore considered that the design approach has been influenced by the character of the local area and would represent a visual improvement as a result by reintroducing the previously hidden railway carriages and through the improved roof forms and materiality which would represent a high-quality form of development.
- 7.9 The proposed dwelling would be sited in the same location on the plot as the existing dwelling and would be well set back from the road, maintaining the existing build lines on this side of Dungeness Road where the majority of dwellings are significantly set back from the highway.
- 7.10 The landscape in the wider area is flat and open with long range views. The impact of the proposal is minimal due to its small scale combined with the spaciousness of the landscape.
- 7.11 In addition to the above, the site also lies within the Dungeness Shingle Landscape Character Area, which has been designated as such due to its unique landform and coastal and climatic influences with significant views inland toward Lydd. The Landscape Assessment prepared by KCC sets out that proposals within this LCA should conserve and restore the landscape, paying special attention to open views, wildlife habitats, restoring simple views by removing landscape clutter and restoring simplistic highway characteristics.
- 7.12 The proposal is considered to comply with the aims above, no fencing is proposed that would add clutter to the landscape, a simple driveway would be retained to access the site and owing to the small scale of the proposed development there would be no impact to the long range views.
- 7.13 It is considered that the development would not result in harm to the visual amenity of the street scene and would not be prominent addition to the landscape. In addition, it is considered that the design and siting of the replacement dwelling would be compatible with the character of the Landscape Character Area. Should planning permission be granted, conditions would be imposed regarding samples of materials, landscaping and boundary treatments.
- 7.14 It is therefore considered that the proposal is acceptable in terms of its design and would conform to the criteria of policies HB1 and NE3 of the PPLP

c) Whether the proposal would result in harm to any heritage assets?

- 7.15 The Dungeness Conservation Area (CA) Appraisal states:

'Dungeness is a unique combination of stark, open, coastal landform, the world's largest expanse of shingle, a protected nature reserve of some 8000

acres and of course a large and varied collection of characteristic 'beach house' type buildings. Superficially, few of these buildings - nearly all of them houses - have intrinsic architectural interest in a conventional sense. Instead, they endow this natural canvas with the physical manifestations of 'individualists' escaping the torments of the outside 'civilised' world,' a quirky, sometimes charming evocation of eccentric, independent ideas, and healthy disrespect for authority.

The small, often fragile, transient-looking buildings represent a singular response to the social and economic forces of a short period in the early C20. They are the reason for Dungeness being a CA, which would otherwise be unnecessary and inappropriate for the protection of the natural environment. The special interest is thus made up of this unique combination of natural and built environment, the latter being a particularly interesting expression of a historically significant socio-economic movement`.

- 7.16 It is considered that the proposed design approach aligns with the Conservation Area Appraisal, As stated above, the proposed replacement dwelling would marginally extend beyond the existing footprint but would be of similar proportions, introducing a variety of roof forms and a material palette that is representative of the beach-front environment, which is littered with rusted steel and abandoned fisherman's and sea-going paraphernalia.
- 7.17 It is considered that the replacement dwelling, while contemporary in design, would not result in any harm to the significance of the conservation area. As such I consider that the character and appearance of the Dungeness Conservation Area would also be preserved.
- 7.18 It is considered reasonable to remove some permitted development rights to enable an assessment of any future additions or alterations and their impact on the conservation area. An appropriately worded condition would secure this should planning permission be granted.

d) Whether the proposal would harm neighbour amenity?

- 7.19 The closest residential dwellings are positioned approximately 21m and 35m to the north and northwest of the application building respectively, one additional dwelling is sited to the southeast of the application site, approximately 58m away.
- 7.20 The proposed new dwelling would occupy the same location within the site as the existing dwelling and would be single storey. As such it is not considered that the proposed dwelling would give rise to harm to residential amenity.
- 7.21 Concern has been raised a resident in regards to the loss of privacy to neighbouring residents through a potential increase in visitors to the site, however, as the proposal seeks planning permission for a replacement

dwelling, it is not considered that there would be a significant increase in the number of visitors to the site.

e) Whether the proposal would meet residential space standards?

7.22 The gross internal floor area and each of the three bedrooms meet the space standards as set out in Policy HB3 of the PPLP.

7.23 The rear garden would measure between 10.4m and 12m in depth, in excess of the standard required by Policy HB3.

7.24 I am therefore satisfied that future occupiers of the dwelling would have adequate living space and the proposals are acceptable in this regard.

f) Whether the proposals result in harm to Highway safety?

7.25 Sufficient parking can be provided on site in accordance with the Council's parking standards, at least 7 parking spaces would be retained onsite. The site would be accessed via an existing 6m wide access (shared with Rosslyn to the northwest) in which there is visibility to the north and south onto Dungeness Road.

7.26 Concern has been raised by residents in regards to additional visitors to the area as a result of the replacement dwelling that would impact upon the parking demand in the area. However, as discussed above the application seeks planning permission for a replacement, private dwellinghouse, and therefore the parking required can be accommodated within the application site.

7.27 One electric vehicle charging point has been shown on the plans, located adjacent to the bin and bike store on the east side of the driveway which would comply with policy T2 of the PPLP.

7.28 Cycle parking for three bicycles has also been shown on the plans located within a cycle storage building to the east of the driveway which would comply with policy T5 of the PPLP.

7.29 I am therefore satisfied that the proposal would not result in harm to highway safety and would comply with policies T2 and T5 of the PPLP.

g) Whether the proposal would result in harm to ecology or biodiversity?

7.30 The site lies within the Dungeness, Romney Marsh and Rye Bay SSSI, the Dungeness SAC, Ramsar site and the Dungeness National Nature Reserve and is approximately 200 metres from the Dungeness, Romney Marsh and Rye Bay Special Protection Area (SPA) to the south.

- 7.31 Dungeness, Romney Marsh and Rye Bay is an internationally 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 designated site support a number of nationally and internationally important species of plants, moss, water voles, breeding birds, waterfowl, great crested newts, and invertebrates.
- 7.32 Dungeness SPA is a protected site classified in accordance with Article 4 of the EC Birds Directive. SPAs 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 Dungeness SPA is important for breeding and wintering waterbirds, birds of prey, passage warblers and breeding seabirds.
- 7.33 Dungeness SAC is designated under Article 4 (4) of EC Directive (92/43/EEC for its large areas of intact shingle ridges and has the most diverse and most extensive examples of stable vegetated shingle in Europe.
- 7.34 The accompanying HRA screening (appendix 2) supported by the Construction Environmental Management Plan (CEMP) has identified that there would be no net loss of vegetated shingle habitat as a result of the development. Further, the footprint of the proposed dwelling and the construction zone / works area would be located entirely within the areas of existing hardstanding and degraded shingle including the bike/bin/Air Source Heat Pump (ASHP) store. Therefore, there will be no permanent impact from the development on the shingle habitat within the site. The HRA screening does identify potential temporary impacts to the shingle habitat but concludes that this would be mitigated for by following a detailed method statement and mitigation strategy during the construction phase which would include the use of fencing and signage. It is therefore considered that a likely significant impact will not occur as there will be no net loss of habitat and the risk of physical damage during construction would be mitigated.
- 7.35 These effects are set out in detail in Appendix 2 to this report (Habitat Regulations Assessment and Appropriate Assessment).
- 7.36 Concern has been raised by a resident in regards to wildlife becoming trapped within the doodles, however this concern has not been shared by with the County Ecologist or Natural England, it is therefore considered that there would be a minimal risk in this regard.
- 7.37 Concern has also been raised by residents in regards to the potential for the replacement dwelling to attract tourists and additional visitors to the site, however as the proposal seeks a replacement, private dwelling it is not

anticipated that there would be a significant increase in the number of visitors to the immediate site.

- 7.38 I am therefore satisfied that, in accordance with the advice of KCC Ecology and Biodiversity and subject to any further comments from Natural England , that the ecological and biodiversity issues can be subsequently mitigated through planning conditions.

h) Whether the proposal is acceptable in terms of flooding?

- 7.39 The site is identified to be within the Environment Agency's flood zones 2 and 3 and is at risk to tidal flooding, should major breaches or over topping of the sea defences occur. As shown in the revised Strategic Flood Risk Assessment, based on year 2115 and taking into account climate change and sea level rise, the application site is shown to be outside of an area of flood risk. The NPPF makes it clear that the presumption in favour of sustainable development does not automatically apply to sites in identified flood risk zones, and the risk of developing in this area needs to be fully considered, however as the application seeks planning permission for a replacement dwelling the sequential test does not apply in this instance.

- 7.40 The application has been accompanied by Flood Risk Assessment, which concludes that the proposed development can be deemed appropriate, provided that the recommendations included in the report are adhered to. The recommendations include incorporating finished floor levels at a minimum of 5.88mAOD which is 200mm above the floor levels of the existing dwelling, that the occupiers should register to receive Environment Agency Flood Warnings and that full port non-return valves be installed on any ground floor toilet. The report also states that all electrical circuitry for the building should be installed at a minimum of 1.2m above the ground floor slab level.

- 7.41 The Environment Agency have no objections to the proposal subject to the imposition of condition (9) below, which requires the development to be carried out in accordance with the submitted flood risk assessment and in particular the mitigation measures related to the finished floor levels.

- 7.42 Subject to the imposition of this condition, it is considered that the proposed development would be acceptable in this regard, complying with Policy

i) Whether the proposal would result in any environmental concerns?

Contamination

- 7.43 The applicant has not submitted any information in relation to contamination. While comments have not yet been received from the Councils Geotechnical

consultant it is considered reasonable to recommended further contamination/verification details which can be secured via a condition. There are therefore no objections on these grounds.

Drainage

- 7.44 Southern Water has not objected to the proposal, however they have advised that there should be no discharge of foul/surface water sewerage from the site to the public system until offsite drainage works to provide sufficient capacity to cope with additional flows are complete. These comments are noted however the applicant has confirmed within the submitted application form that foul drainage would drain to a septic tank onsite and not to the public sewer. It is therefore considered that the application is acceptable with regard to foul drainage.

Environmental Impact Assessment

- 7.45 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

- 7.46 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.
- 7.47 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 £0 per square metre for new residential floor space.

Human Rights

- 7.48 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

7.49 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.

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

Working with the applicant

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

8. CONCLUSION

8.1. The principle of development in this location is considered acceptable, alongside the visual impact upon the character and appearance of the street scene and the impact upon the Conservation Area. The impacts upon neighbouring residential uses are considered to be acceptable, with amenities of future occupants also considered safeguarded. Considerations relating to parking, sustainable modes of transport and ecological constraints at the site have all been made and found to be acceptable, subject to appropriate mitigation being secured via condition.

8.2. Overall, it is considered that the proposal would result in a sustainable form of development, in line with adopted policy and it is therefore recommended that planning permission is granted.

9. BACKGROUND DOCUMENTS

9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating

specifically to this application may be found on the View applications on line pages under planning application reference 24/0653/FH)

10. RECOMMENDATIONS

That Members agree and adopt the Habitats Regulations Assessment; and that planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions 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. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

<u>Plan/Drawing Title</u>	<u>Drawing Number</u>	<u>Received</u>
Site location plan	100.00-P1	01/05/2024
Site plan – BNG habitats	100.05-P2	11/10/2024
Site plan – CEMP	100.06	11/10/2024
Proposed ground floor plan	300.00-P1	01/05/2024
Proposed roof plan	300.01-P1	01/05/2024
Proposed elevations AA-BB	300.02-P1	01/05/2024
Proposed elevations CC-DD	300.03-P1	01/05/2024
Proposed sections	300.04-P1	01/05/2024

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

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

Reason: In the interest of preserving and enhancing the character and appearance of the conservation area

4. No further development, whether permitted by Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order) or not, shall be carried out.

Reason: To enable the Local Planning Authority to retain control over future development, to ensure any additions reflect the architectural detailing of the permitted dwelling and do not detract from the visual character of the surrounding conservation area.

5. Notwithstanding the provisions of Class A, Part 2, Schedule 2, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any order revoking and re-enacting that Order, no fences, gates walls or other means of enclosure shall be erected within the application site.

Reason: In the interest of preserving and enhancing the character and appearance of the conservation area

6. The parking area shown on the submitted plan shall be provided and made available prior to the first occupation of the any of the dwelling hereby approved, 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 (other than the erection of a private garage or garages) 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: In the interests of highway safety and convenience.

7. Prior to the first occupation of the dwelling hereby permitted, the electric vehicle charging point which provides for at least 7KW shall be installed in the location set out in the approved plans. The charging point shall be retained in working order in perpetuity.

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

8. No development shall take place until the mitigation measures set out within the submitted Construction and Environmental Management Plan (CEMP) have been implemented. The CEMP shall accord with the measures outlined

in Construction Environment Management Plan reference 100.06 (dated July 2024).

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated.

9. The development shall be carried out in accordance with the submitted flood risk assessment (RAB 3143_FRD) and in particular the following mitigation measures it details:
- Finished floor levels shall be set no lower than 5.88 metres above Ordnance Datum (AOD)

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

10. Prior to first occupation details including a sensitive external lighting scheme to avoid light spill into the Dungeness statutorily designated sites shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the siting and design of any lighting together with the spread and intensity of the lighting. These measures will thereafter be implemented and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. No additional external lighting shall be installed at the site without the prior written approval of the Local Planning Authority.

Reason: To limit the impact of light pollution from artificial light on Dungeness statutory designated sites

11. 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 carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

12. No development beyond the construction of foundations shall take place until details to demonstrate that the dwelling hereby permitted shall use no more than 110 litres of water per person per day have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as agreed.

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

13. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works, including boundary treatments (inclusive of colour, materials) have been submitted to and approved in writing by the Local 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 amenity of the area and encouraging wildlife and biodiversity.

14. 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.

15. 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.

16. Prior to works above slab level an ecological enhancement plan must be submitted to and approved by the Local Planning Authority. The plan must demonstrate how the site will enhance biodiversity through planting which will benefit pollinators, and/or native species planting and ecological

enhancement features within the buildings and site. The plan must be implemented as approved

Reason: In the interest of biodiversity and ecology.

Informatives:

1. It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

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Habitat Regulation Assessment (HRA) Screening Matrix

IMPORTANT NOTE: Undertaking the HRA process is the responsibility of the decision-maker as the Competent Authority for the purpose of the Habitats Regulations¹. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete this process.

Application reference:	24/0653/FH
Application address:	The Log Cabin Dungeness Road Dungeness Romney Marsh Kent TN29 9ND
Application description:	A replacement dwelling with retention and restoration of existing railway carriages.
Lead Planning Officer:	Danielle Wilkins
HRA Date:	December 2024

Part 1 – Details of the plan or project

European site or sites potentially impacted by planning application, plan or project:	Dungeness SAC, Dungeness, Romney Marsh and Rye Bay SPA, Dungeness, Romney Marsh and Rye Bay Ramsar site and Dungeness, Romney Marsh and Rye Bay SSSI
Is the planning application directly connected to the management of the site?	No

¹ All references in this document to the 'Habitats Regulations' refer to the Conservation of Habitats and Species Regulations 2017

Part 2 – HRA Screening Assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant should provide evidence to allow a judgement to be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/ SAC/ Ramsar site.

Following the CJEU ruling, avoidance or mitigation measures cannot be taken into account as part of the application if they are included to mitigate impacts on European designation, and must be considered under an Appropriate Assessment stage of the HRA in part 3 of this document.

Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI), Ramsar, Dungeness Special Area of Conservation (SAC)

Dungeness, Romney Marsh and Rye Bay SSSI has been designated under article 4(4) the EU Habitats Directive.

- The site hosts the protected habitats listed in Annex I including; annual vegetation drift lines and perennial vegetation of stony banks (Coastal shingle vegetation outside of the reach of waves).
- The site hosts species listed within Annex II including Great Crested Newt *Triturus cristatus*

The Dungeness SAC has been designated under the EU Habitats Directive for the presence of the following habitats listed in Annex I of the Directive.

- Annual vegetation drift lines
- Perennial vegetation of stony banks

The area also qualifies under Annex II of the directive as it hosts species such as Great Crested Newt *Triturus cristatus*

Natural England has stipulated that, when considering any residential development within 6km of the SPA the council must pay due regard to the potential impact of the proposed development on the SPA.

The Dungeness, Romney Marsh and Rye Bay SPA is designated under the EU Birds Directive for supporting nationally important wintering populations of the following Annex I species protected under Article 4.1 of the Directive.

- Bewick's Swan *Cygnus columbianus bewickii*;
- Bittern *Botaurus stellaris*;
- Hen Harrier *Circus cyaneus*;
- Golden Plover *Pluvialis apricaria*;
- Ruff *Philomachus pugnax*;
- Aquatic Warbler *Acrocephalus paludicola*;
- Marsh Harrier *Circus aeruginosus*;
- Avocet *Recurvirostra avosetta*;

- Mediterranean Gull *Larus Melancephalus*;
- Sandwich Tern *Sterna Sandvicensis*;
- Common Tern *Sterna Hirundo*; and
- Litter Tern *Sterna Albifrons*.

The area also qualifies under Article 4.2 of the EU Birds Directive by supporting nationally important wintering populations of the following migratory species:

- Shoveler *Anas Clypeata*.

The area also qualifies under Article 4.2 of the EU Birds Directive as it is regularly used by waterbirds (waterbirds as defined by the Ramsar Convention) supporting an important assemblage of breeding species associated with wetland habitat, including:

- Bewick's swan *Cygnus Columbianus Bewickii*;
- European White-Fronted Goose *Anser Albifrons Albifrons*;
- Wigeon *Anas Penelope*;
- Gadwall *A. Strepera*;
- Shoveler *A. Clypeata*;
- Pochard *Aythya Ferina*;
- Little grebe *Tachybaptus Ruficollis*;
- Great Crested Grebe *Podiceps Cristatus*;
- Cormorant *Phalacrocorax Carbo*;
- Bittern *Botaurus Stellaris*;
- Coot *Fulica Atra*;
- Golden plover *Pluvialis Apricaria*;
- Lapwing *Vanellus Vanellus*;
- Sanderling *Calidris Alba*;
- Ruff *Philomachus Pugnax*;
- Whimbrel *Numenius Phaeopus*; and
- Common sandpiper *Actitis hypoleucos*.

The site is also used by breeding bittern and Kingfisher *Alcedo Atthis*, both are species listed in Annex I of the EC Birds Directive.

Dungeness, Romney Marsh and Rye Bay Ramsar qualified under the following Ramsar criteria:

- Criteria 1: the site contains representative, rare or unique examples of natural or near-natural wetland types
- Criteria 2: the site supports threatened ecological communities, supports vulnerable, endangered or critically endangered species
- Criteria 5: the site regularly supports 20,000 or more waterbirds
- Criteria 6: the site regularly supports 1% of the individuals in the populations of Mute Swan *Cygnus Olor* and Shoveler *Anas Clypeata* in any season.

Background information

The application seeks planning permission for demolition of an existing dwelling and erection of one replacement detached dwelling, the access, parking and amenity space would remain as existing. The submitted block plan (drawing ref: 100.02 Rev P1) demonstrates that the proposed dwelling would be constructed within the confines of the existing building.

Potential significant impacts of the development on the integrity of the European Designations

The first stage involves screening for likely significant effects in the absence of any mitigation measures. Potential significant impacts are set out below.

Construction Phase

Direct physical damage during construction:

Direct physical damage (trampling, crushing and compaction) to habitats within the European Sites could arise from construction activity if construction personnel, vehicles or machinery gained access, intentionally or accidentally, into the European Sites near to the construction site.

Water quality effects during construction:

Pollutants within site drainage or runoff could affect the European Sites' qualifying features in the absence of mitigation.

Dust deposition during construction:

Dust arising from the site during dry weather conditions could settle on vegetation within the European Sites and affect their qualifying features.

Introduction and spread of invasive non-native plant species during construction:

Non-native invasive species could be accidentally introduced to the site during construction and then spread to nearby European Sites, where it could affect the qualifying habitats and supporting habitats.

Disturbance of qualifying wintering birds during construction:

Some species that comprise the qualifying wintering bird assemblage of the SPA and Ramsar site could be disturbed during construction.

Disturbance of Great Crested Newts during construction:

The population of the Great Crested Newts could be disturbed during construction.

Residential/Occupation Phase

Direct physical damage of habitats during habitation

Increased direct physical damage (trampling, crushing and compaction) to habitats (shingle and shingle vegetation) within the European Sites could arise from greater numbers of occupiers/visitors to the dwelling within the European Sites. This would primarily affect the qualifying vegetation of the SAC and Ramsar site.

Introduction of invasive non-native plant species during habitation:

Non-native invasive species could be introduced to the site during habitation and then spread to nearby European Sites where it could affect the qualifying habitats and supporting habitats.

Disturbance of qualifying wintering birds during habitation:

Increased visitor activity within and adjacent to the site in winter could lead to an increase in disturbance of the SPA and Ramsar qualifying wintering bird assemblage.

Although the site is an existing residential dwelling, the demolition and rebuilding of the dwelling is likely to result in additional footfall and traffic to the site throughout the construction phase.

Occupational/Residential Phase

The site contains an existing residential dwelling used year round, the replacement dwelling would be used in a similar way.

Are there any other plans or projects that together with the planning application being assessed could result in a likely significant effect when considered in-combination? NO

Would the proposal lead to a likely significant effect on European site integrity, without mitigation measures? YES (if yes, continue to part 3)

Part 3 – Appropriate Assessment

Appropriate Assessment under Regulation 63(1) – if there are any potential significant impacts, the Applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

As above, HRA Screening has identified several likely significant effects of the proposed development. These are therefore considered at the Appropriate Assessment stage.

Appropriate Assessment

The Appropriate Assessment (AA) is required in accordance with the Conservation of Habitats and Species Regulations 2017.

The AA has been undertaken with regard to, the information provided by the applicant, and the comments of Natural England and the Kent County Council Ecologist.

The objective of the AA is to determine whether there won't be an adverse effect on the integrity of a European site. The AA should look at the likely significant effects of the project and the nature of these effects on the European sites qualifying features and conservation objectives in greater detail than carried out in the HRA screening stage.

The Appropriate Assessment should consider potential mitigation measures, including any which may already form part of the project specification, to determine whether, for example, the likelihood, magnitude, extent, frequency and duration of the effect will be reduced. Mitigation measures should be deliverable and have a high degree of certainty of effect.

Mitigation must enable a conclusion of no adverse effect on European Site integrity, which may mean removing the effects altogether, or bringing them below a threshold where it undermines a European Site's conservation objectives and threatens site integrity (i.e., to where they are no longer 'adverse').

Construction Phase

Direct physical damage during construction:

The risk would be fully mitigated by measures specified in the Construction Environmental Management Plan (CEMP), the contents of which would be secured by planning condition, and would be monitored on site by an Ecological Clerk of Works (ECoW).

The boundary of the construction site, which is within the European Site, would be restricted to areas of previous development (such as the existing dwelling, areas of hard standing and landscaping) and would be fenced off from the undisturbed shingle to prevent construction activity including access. This would be with temporary 'Heras' style fencing.

All construction personnel would have a mandatory 'tool-box talk' from the ECoW before starting work on the site, and this will include information on the site boundary and the ecological sensitivities beyond.

Full details of the measures have been provided within the submitted CEMP.

With the above mitigation in place, no adverse effect on European Sites from direct physical damage is predicted during the construction phase, alone or in combination with other plans and projects.

Water quality effects during construction:

The risk would be mitigated by measures specified in the CEMP. The proposed works would adhere to standard best practice pollution prevention for the construction industry. The CEMP submitted states that water run-off will be monitored during the construction phase and should it become apparent that these matters need addressing then appropriate measures shall be put in place.

With this mitigation in place, no adverse effect on European Sites from polluted water is predicted during the construction phase, alone or in combination with other plans and projects.

Dust deposition during construction:

This risk would be fully mitigated by measures specified in the CEMP and monitored by the ECoW.

Standard good practice dust suppression methods would be used on site when conditions become dry enough for dust to mobilise significantly.

With this mitigation in place, no adverse effect on European Sites from dust is predicted during the construction phase, alone or in combination with other plans and projects.

Introduction and spread of invasive non-native plant species during construction:

This risk would be fully mitigated by measures specified in the CEMP, which would be secured through a planning condition, and monitored by the ECoW.

Best-practice biosecurity measures would be required of contractors and those supplying and delivering materials to site. This would involve a strict protocol for checking, cleaning, and drying all plant equipment, tyres, hand tools, and footwear prior to entering the construction site. Incoming vehicles would be inspected at a designated quarantine area. This inspection would ensure that the delivered plant item has been thoroughly cleaned and any aggregate or organic materials being supplied are unlikely to contain reproductively viable invasive plant material. Should the item of plant be deemed to be inadequately cleaned or at risk of carrying infected material, it would be refused entry. Contained wheel washing and boot-washing facilities would be provided near vehicle and pedestrian entrances to the site. Any wastewater from such cleaning would be kept apart from the rest of the site and the nearby European Sites and appropriately disposed of away from the site.

Any plants or seed to be brought onto the site for soft landscaping would be reviewed in advance by an ecologist and only native and non-invasive species may be introduced to the site. The production of a sensitive planting schedule and landscaping scheme to remove risks of invasive non-native species would be secured through planning condition.

With this mitigation in place, no adverse effect on European Sites from non-native invasive species is predicted during the construction phase, alone or in combination with other plans and projects.

Disturbance of qualifying wintering birds during habitation:

This risk would be fully mitigated by adhering to strict seasonal working arrangements whereby no construction phase works would take place between November and February inclusive, which is the main overwintering period for birds. This would be confirmed in the CEMP.

With this seasonal ban on works, no adverse effect on European Sites from disturbance is predicted during the construction phase, alone or in combination with other plans and projects.

Occupational/Residential Phase

The application seeks a replacement dwelling, built to the same footprint and retaining the existing area of 'garden' to the rear which is currently made-up neutral grassland. The rear garden is a good size and there is no requirement for future occupiers to access the shingle. The existing vehicular access is to be retained that provides access from Dungeness Road directly to the dwelling, this is currently an artificial unvegetated unsealed surface which is to remain throughout construction and be used by future occupiers of the dwelling for access and parking. The risk is therefore no higher than the existing situation.

The Council's Sustainable Access and Recreation Mitigation Strategy (SARMS) 2017 is aimed at mitigating impacts from increased recreational pressure. It is paid for from the

money the Council collects in CIL contributions. Therefore, it is considered that while there may be some very minor additional impacts associated with the development, given that mitigation is already provided through the SARMS, it is not considered that the scheme would cause harm to the international sites or be required to make a financial contribution in this respect.

Part 4 – Summary of the Appropriate Assessment - To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Subject to implementation of mitigation measures as proposed, it is considered that the project will have no adverse effect on the integrity of the European sites in view of the sites' conservation objectives, either alone or in-combination with other plans and projects.

Having made this appropriate assessment the authority may now agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 and adopt this Appropriate Assessment.

Natural England:

Summary of Natural England's comments:

The application could have potential significant effects on Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) and Ramsar, and Dungeness Special Area of Conservation (SAC). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Clarification on whether the proposed development will be located entirely over land that is already developed (i.e. will there be any increase in the built footprint, and therefore a loss of designated site).
- A complete Habitats Regulations Assessment from your authority.

Signed: D Wilkins

Danielle Wilkins
Planning Officer
FHDC

Application Number	24/1650/FH
Location	Bus Station, Bouverie Square, Folkestone
Application Description	Change of use of existing Bus Station to outdoor park, including construction of new surfaces, seating areas and hard and soft landscaping
Applicant	Folkestone and Hythe District Council
Agent	Martello Building Consultancy
Officer Contact:	Andrew Byrne

Recommendation

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. Reason for consideration by the Committee

- 1.1. The application is reported to Committee because the Council is the applicant.

2. Site and Surroundings

- 2.1 The application site area extends to approximately 0.35 Hectares and is a roughly rectangular shaped plot of land, in longstanding use as a bus station. The site is located between the Asda store and Bouverie Place shopping centre to the north east, the bus station offices to the south west (which do not form part of the application site), Middelburg Square to the north west and the Royal Mail sorting office to the south east.
- 2.2 The site is flat and laid almost entirely with a concrete hard surface. It contains a series of bays and bus shelters on raised concrete platforms, related to the operational use as a bus station. The existing station is bounded by a series of low road railings/barriers on most sides, including a low ragstone wall with railings above fronting Middelburg Square.
- 2.3 The site falls within the defined town centre. It is not located within a conservation area, nor are there any listed buildings in immediate proximity to the site.
- 2.4 A site location plan is attached to this report as **Appendix 1**.

3. Proposal

3.1. Planning permission is sought for the change of use of the site to an outdoor park. To facilitate this, the existing concrete surface, enclosures and bus paraphernalia would be removed, and new surfaces, seating and hard and soft landscaped areas would be constructed. This detail would include:

- The installation of granite paving through the park. This would be generally laid out in a series of paths leading to a square in the centre of the park. The paving would be arranged in a patterned effect utilising different sizes and colours of granite blocks.
- A soft landscaped area adjacent to Middelburg Square, incorporating a central mounded grassed area and bordered by trees and shrubs.
- A soft landscaped area to the north east, incorporating a lawned area, tree and shrub planting, and a rubber surface for future use as a playground (the playground equipment is not specified and does not form part of the application).
- A series of seating walls and seating areas throughout the park.
- An area of shrub planting to the south east of the park
- Provision of lighting columns, cycle stands, bollards and bins.

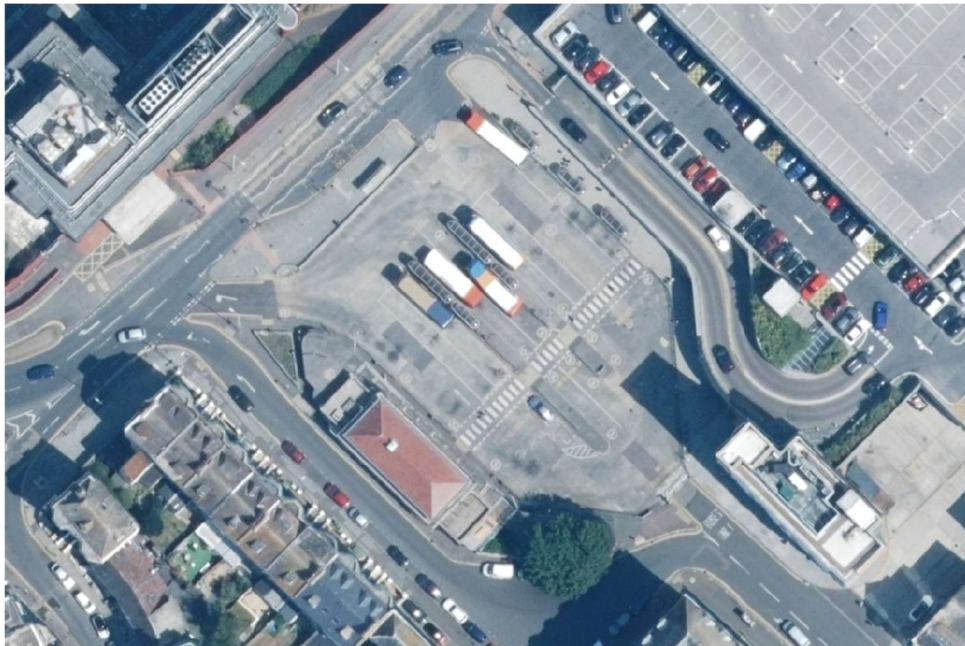


Figure 1 - Aerial image of existing bus station site

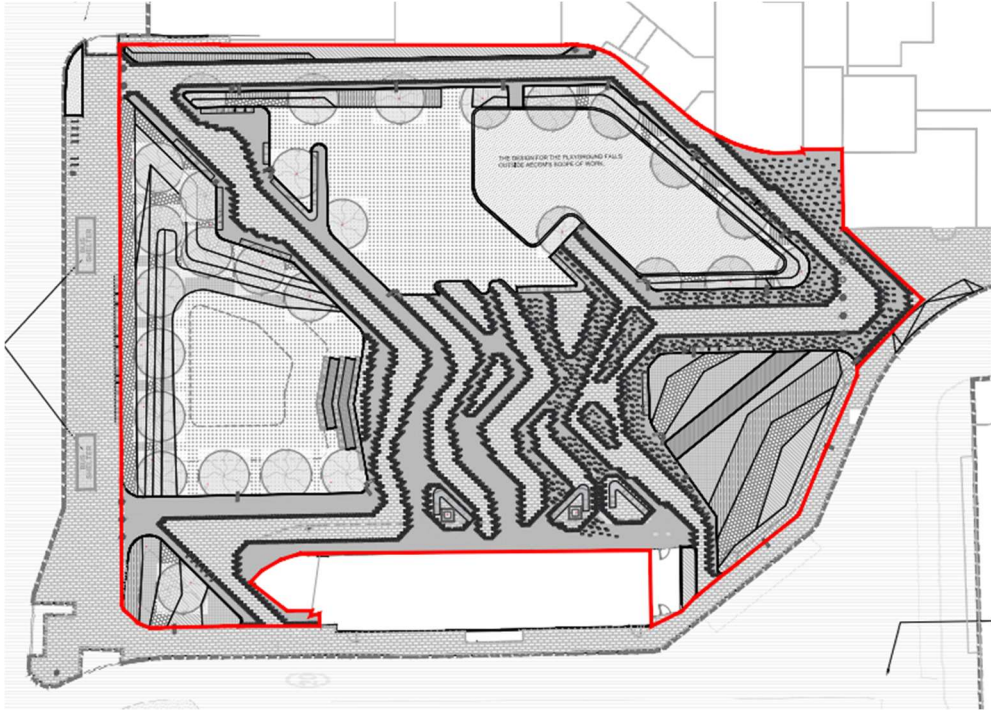


Figure 2 - Layout of proposed park

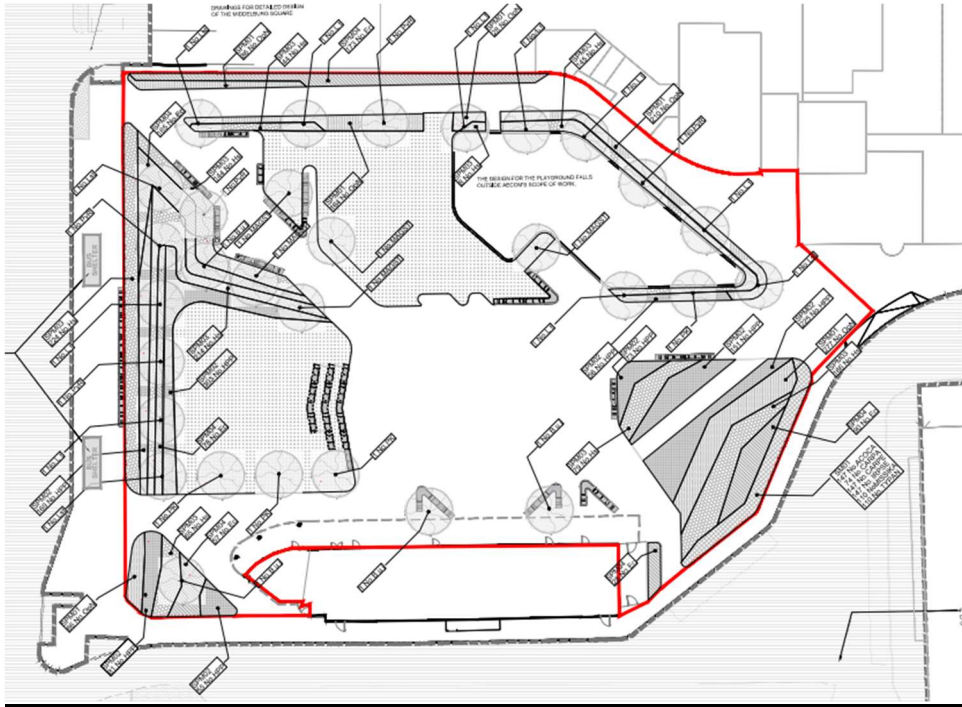


Figure 3 - Soft landscaping plan



Figure 4 - CGI images of proposed park

3.2 Alternative bus stopping facilities and shelters would be installed along Shellons Street and Middelburg Square, as part of a scheme of works to the public highway, including widening of the footway. These works do not require planning permission as they relate to works either excluded from the definition of development under the Planning Acts, or amount to “permitted development” under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Although outside the red line of the application site, drawings have been submitted to show where the new bus stopping facilities would be provided. A overview plan of this is set out below.

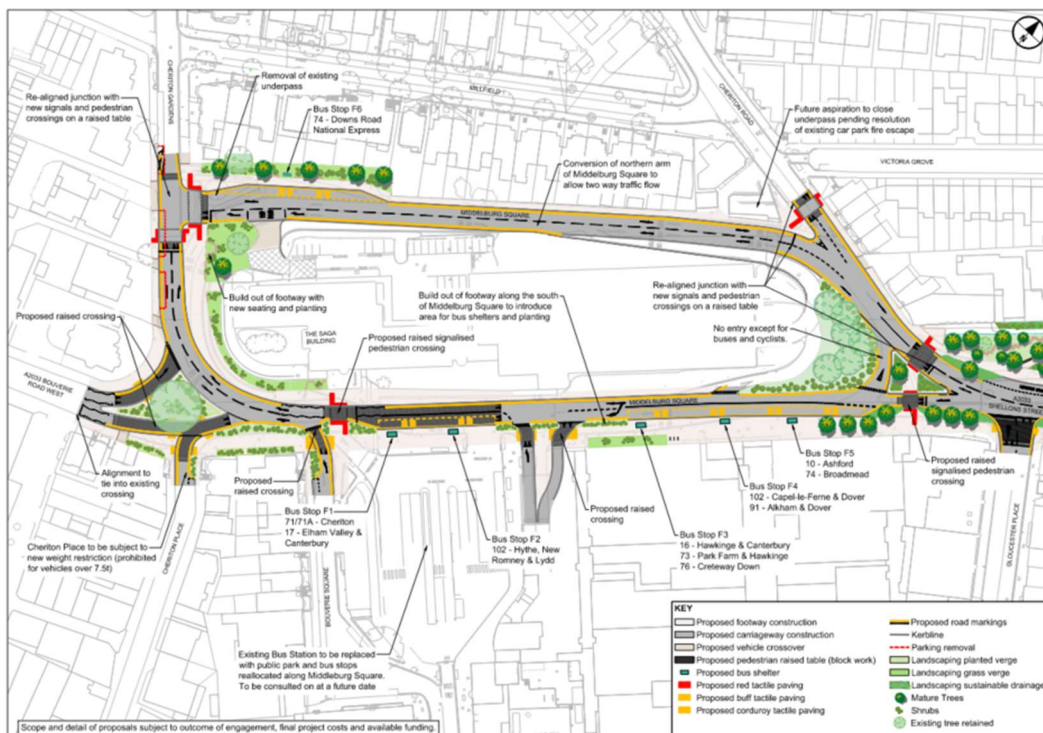


Figure 5 – overview of wider highways works and replacement bus stops

3.3 The proposal forms part of wider plans promoted by the Council to improve the town centre environment under the Folkestone Place Plan and Folkestone - A Brighter Future project, including improvements to the approach between Folkestone Central Station and the town centre and harbour area for pedestrians and cyclists, and public realm improvements within the town centre. These wider plans have been subject to a successful Levelling Up Fund bid. Members of the Planning Committee will be aware that the availability of funding is not in itself a material consideration in the assessment and determination of this planning application – which must be determined on its planning merits. However the grant was awarded on the basis that it would fund improvement and regeneration of the town centre, which are relevant planning considerations, and are considered further in the appraisal section below.

- 3.4 The following reports were submitted by the applicant in support of the proposals:

Supporting Statement

- 3.5 This sets out the background to the application, forming part of a range of proposals to improve the town centre under the Folkestone Place Plan. The site has been identified for redevelopment to create an open green space and reinstate a green square that existed on the site prior to the bus station. Significant public engagement took place as part of this process, and feedback during the consultation was that the town centre lacks open space of significant size, that young people are discouraged from spending time in the town, and that the space would provide a safe, child friendly place to visit every day. The space has been designed to provide a mix of landscaping, event space and a play area. The patterned design of the hardscaping is derived from the geology, geometry, patterns and shapes of the rock formations found in and around Folkestone. The open space would create a new green heart for the town and can be used as event space as well. The provision of bins, seating, cycle parking, bollards, lighting, CCTV, and power supply have been carefully considered and included as part of the design.
- 3.6 The statement sets out that the bus facilities would be relocated to provide new stopping facilities in a linear arrangement along Middelburg Square. New bus stops and shelters would be provided. The new linear bus stops on the road would remove problems with the existing space, which requires a banksman to guide larger buses out of the station, and would better accommodate people with accessibility needs. Similar linear layouts work well in other towns such as Dartford and Gravesend. Although Middelburg Square is on a gradient of 4%, this falls well within acceptable levels for a footpath. The furthest proposed bus stop location would be 140m from the existing bus station, although this would be closer to Bouverie Shopping Centre which could also reduce walking distances for visitors using the centre.

Archaeological Impact Assessment

- 3.7 This report identifies that the site lies within an area with potential for archaeological remains. Although the site consists of made ground to a depth of 0.55-0.65m, the proposed works to create the park would include deeper excavations, including excavations for tree pits / tree planting, rain garden works, and an underground infiltration tank. The report recommends that these works should be considered as part of a programme of targeted geoarchaeological evaluation to be undertaken prior to construction. A written scheme of investigation should consider each confirmed location to determine the scope of the evaluation, which should comprise a series of test pits to the base of the proposed impact depth. Further mitigation may be required depending on the results of this.

Biodiversity Net Gain Report

- 3.8 This report identifies that existing habitat is limited to sparse vegetation within two raised planter beds and of low distinctiveness, valued at 0.02 habitat units. Proposed habitat would incorporate 30 individual trees, shrub and modified grassland, resulting in 0.64 units and a 3600% gain in biodiversity.

4 Relevant Planning History

- 4.1 There are no specific recorded applications of relevance relating to the site. From historic aerial photographs, it is evident that the bus station was built at some time in the 1950's, presumably with planning permission at the time. Prior to this, it was a formal square / garden surrounded by residential buildings. The buildings to the south west of the site remain, however those to the north east and north west have been demolished and are now occupied by Middelburg Square and the retail development at Bouverie Place.

5 Consultation

Ward Member: Councillors Abena Akuffo-Kelly, Laura Davison and Liz McShane

- 5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: On balance the Committee support this application, however the following concerns are raised –

- Impact on people with mobility issues transferring between buses due to gradient
- The road acts as a wind tunnel
- Facilities for bus drivers and members of the public
- Use of bus station building
- Lack of detail relating to play space.
- Greater public consultation should take place with regard to what the public would like to see in the space
- Further consideration to type of seating and furniture

KCC Highways and Transportation: Raise no objection to the change of use of the bus station to a park. Advise that this would result in the displacement of buses, with new 2 bus stops on Middelburg Square and 3 bus stops to the east. A National Express stop is proposed to the north of

Middelburg Square. The relocation of the bus stops has been agreed in consultation with Stagecoach. Whilst outside of the red line application site boundary, KCC Highways have provided the following comments on the wider highway works –

- As the proposed highway improvement are to be implemented by KCC and F&HDC as part of 'A Brighter Future' scheme, a separate Section 278 Agreement will not be required for adoption purposes. However, the works still follow the same auditing process, where a Stage 1 and Stage 2 Road Safety Audit have been conducted.
- The Audits have not raised any issues in relation to highway safety that cannot be easily altered at this stage.
- The north east corner of the Middelburg Square centre island will be maintained for access for buses, taxis, cyclists and access to the town centre car parks. The north west side of the two lane gyratory will be converted for two way traffic between Cheriton Road and Cheriton Gardens, thus facilitating the introduction of bus stops along the south east side of Middelburg Square. This section of Middelburg Square is proposed to be realigned to form a signal controlled junction with Cheriton Gardens.
- Shellons Street is proposed to be converted to a two way traffic. Signal controlled crossing on flat topped road humps are proposed across Cheriton Road and Shellons Street.
- A new bus lane is proposed along the south east side of Middelburg Square to accommodate the new bus stops. Access and egress to the shopping centre car park is to be retained.
- The signal controlled crossing opposite the bus station is to be relocated south west to accommodate the bus lane and stops.
- While outside of the redline plan, it is considered that the highway improvements will deliver a safer environment for pedestrians, where 'A Brighter Future' seeks to encourage greater active travel.
- The bus shelters along Middleburg Square are maintained by F&HDC or Clearway, where details of signage and orientation will be required as part of the detailed design.

KCC Highways raise no objection subject to a condition preventing development on the bus station site until implementation of the bus stops on Middelburg Square is completed.

KCC Ecology: No comments received

Planning Arboriculture Officer: No objection. Following amendments the tree species proposed are acceptable. Recommends a condition to secure

further lighting details to ensure that trees do not conflict with lighting and surveillance.

KCC Archaeological Officer: No objection raised. Advises that some parts of the development (excavations over 500mm) may impact archaeological remains and should be covered by a watching brief to be secured via a planning condition.

IDOM Contamination Consultant: Past use as a bus station could have been potentially contaminative and uses before this are not stated. Given the introduction of soft landscaping and sensitive receptors in a park-style usage, an assessment of contamination is appropriate. Recommend that any permission includes a standard land contamination condition.

Kent Police: Do not support or object to the application but make the following comments in respect of crime prevention through design –

- Tree species should be tall and slender and not planted close to street lighting. Hedges should be no taller than 1m height.
- Play areas should have a self-closing gate, be vandal and (depending on material) fire resistant, and not provide areas of concealment
- Bollard lighting should be avoided.
- Site security is required for the construction phase.

[CPO comment – Kent Police also make comments with regard to security measures to the bus station building, although as this does not form part of the application site it is not relevant to the consideration of the planning application].

Stagecoach: Have no comments to make on the application for the change of use of the bus station site. However Stagecoach do have concerns about the design and layout of the proposed on street stopping arrangements, primarily around the positions and configurations of the shelters and compliance with disabled access requirements, and with proposed raised speed tables. Advise that discussions with KCC Highways to resolve these issues are ongoing.

Public/Neighbour Consultation

- 5.2 158 neighbours directly consulted, and a site notice displayed. 13 representations and a petition containing 49 signatures have been received to date objecting to the scheme. 1 representation has been received in support of the scheme. 1 representation received neither objecting or supporting the scheme, but providing general comments.

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

Objections

- The park will be unsafe resulting in anti-social behaviour, alcohol / drug use etc
- There are many parks nearby. Another is not necessary.
- The park will be desolate and empty in winter.
- Additional costs in time and resources to prevent public nuisance offences
- The relocated bus stop facilities will be unsafe
- This is contrary to policies to encourage the use of public transport
- Increased crash risks and congestion from buses stationed / pulling out onto road
- The relocated bus stop facilities are on a slope which would not be accessible for people with mobility issues or illnesses, or prams / pushchairs
- Bus timetables should be revised to serve a wider area
- The road acts as a wind tunnel and is unsafe for people waiting to use buses
- Access to and from the Asda car park would be more difficult
- Lack of facilities for bus drivers
- The current bus station is safe, easy to use for connections and less confusing
- Bus passengers were not fully consulted, and the consultation questions were loaded to achieve the answers needed to facilitate this scheme.
- A large number of buses will be queuing to use just 5 stops.
- The current station would be better used for retail and social activities.
- More emissions from vehicles stuck behind buses on road.
- The pavement is very slippery in bad conditions
- Money should be spent on improving the existing station or bus services
- Increased risks of pedestrian accidents
- Lack of provision for buses to be parked when out of service
- The roads could be reconfigured to create a safer and larger bus stop facility next to the proposed park.
- Who will pay to set up, maintain and manage the park?

Support

- The park will provide a welcome entry point for visitors to the town

- The development, together with proposed refurbishment of Folca and the restoration of the lift to The Leas and Lower Leas will enhance the town for residents, tourists and businesses, and will recreate part of the original square on the site.
- Relocating the bus stops to Middleburg Square and Shellons Street is an excellent idea and will help reduce the dividing / isolating effect of the roads.
- The scheme has been subject to public consultation for nearly 4 years and should be implemented

General Comments

- No results of the public consultation have been given.
- A lot of opposition has been raised to relocating the bus station
- The new location is challenging for those with mobility issues and detrimental to elderly and disabled bus users.
- Public opinion is being ignored and a scheme is being forced on local people because the funding is there.
- Large coaches have used the site for decades with no issues. Parking close to the kerb as proposed is more awkward to achieve than at the bus station.
- There is no detail about the use of the bus station building, or the proposed play area
- Concern regarding anti-social behaviour
- The new facilities are not more convenient or safer. Passengers at the current road stop step out in the road to check what bus is approaching.
- Unclear where drivers will go for a rest break.
- The site is reasonably undisturbed and there is a suggestion that a bomb shelter exists under the former toilet block. There is an opportunity for community archaeology , and it is a shame this is being overlooked and a Watching Brief is the only proposed archaeological works.

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

[Planning Register](#)

6 Planning Policy

6.1 The Development Plan comprises the Core Strategy Review (2022), and the Places and Policies Local Plan (2020).

6.2 The relevant development plan policies are as follows:

Core Strategy Review (2022)

- SS1 - District Spatial Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- SS4 - Priority Centres of Activity Strategy
- CSD6 - Central Folkestone Strategy

Places and Policies Local Plan 2020

- HB1 - Quality Places Through Design
- RL2 - Folkestone Main Town Centre
- C1 - Creating a Sense of Place
- T1 - Street Hierarchy and Site Layout
- NE2 - Biodiversity
- NE5 - Light Pollution and External Illumination
- NE7 - Contaminated Land
- CC3 - Sustainable Drainage Systems
- HW4 - Promoting Active Travel
- HE2 - Archaeology

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

Supplementary Planning Guidance/Documents

The Folkestone Place Plan - This was approved by the FHDC Cabinet in September 2021. It is not an adopted development plan or an adopted Supplementary Planning Document, and as such carries limited weight.

Government Advice

National Planning Policy Framework (NPPF) 2023

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 48 - Applications for planning permission to be determined in accordance with the development plan.

Paragraph 90 – Taking a positive approach to the role, management and adaptation of town centres

Paragraph 96 – achieving healthy, inclusive and safe places

Paragraph 98 – planning positively for the provision and use of community facilities, and safeguarding against the unnecessary loss of existing valued facilities and services particularly where this would reduce the ability to meet day to day needs of a community.

Paragraph 101 – working positively to deliver public service infrastructure

Paragraph 102 – promoting public safety and security

Paragraph 103 – provision of open space to meet identified needs

Paragraph 109 – Identifying transport solutions to deliver well designed , sustainable and popular places, ensuring transport considerations are integral to the design of schemes, realising opportunities from existing or proposed transport infrastructure, and identifying/pursuing opportunities to promote walking, cycling and public transport use.

Paragraph 117 – facilitating access to high-quality public transport, addressing the needs of people with disabilities and reduced mobility, and creating places that are safe, secure and attractive, responding to local character and design standards.

Paragraph 128 – Taking a positive approach to applications for alternative uses of land where this would help meet identified development needs.

Paragraph 131 – Creating high quality and beautiful buildings and places

Paragraph 135 – Ensuring that development functions well and adds to the quality of an area, is visually attractive, sympathetic to local character and history, establishes or maintains a strong sense of place, supports local facilities and transport networks, and creates safe, inclusive and accessible places.

Paragraph 164 – use of green infrastructure and sustainable drainage systems to avoid increased vulnerability to impacts arising from climate change.

7 Appraisal

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

- a) Whether the principle of development is acceptable?
- b) Whether the loss of the bus station is mitigated by alternative proposals for bus facilities in the town centre?
- c) Whether the proposal would improve the character and appearance of the area?
- d) Whether the proposal would harm neighbour amenity?

- e) Whether the proposals result in harm to Highway safety?
- f) Whether the proposal would cause harm to biodiversity and/or meet BNG requirements?
- g) Other Matters

a) Whether the principle of development is acceptable?

- 7.2 The site is located within a prominent town centre location and on previously developed land. Policy SS1 of the Core Strategy identifies the role of Folkestone as a sub-regional centre which benefits from sustainable transport links and a good choice of employment, retail, cultural/leisure and public services for the whole of the district. Policy SS3 of the Core Strategy states that the principle of development is likely to be acceptable on previously developed land within defined settlements, provided it is not of high environmental value. Policy CSD6 of the Core Strategy states that new development in central Folkestone should deliver investment in the daytime and evening economy through a mix of uses and contribute to public realm improvements that enhance the physical environment, sense of security and connectivity both to and within the town centre. It further states that there are opportunities for development that contributes to the wider regeneration of Folkestone, particularly at the bus station site. The supporting text to the policy identifies that the bus station site provides the opportunity for a mixed-use development that could include new retail units, restaurants, bars and leisure uses, which could enhance the leisure offer in the district.
- 7.3 Policy RL2(3) of the Local Plan supports proposals for retail and other town centre uses in the area around and including the bus station, provided that a suitable alternative location for the bus station can be provided.
- 7.4 The Folkestone Place Plan sets out the Council's vision for the improvement of Folkestone Town Centre. This includes a key strategy to improve the sense of arrival into the town. The report identifies that Middelburg Square, Shellons Street and the bus station form a series of hostile and traffic-focused environments that act as a barrier to pedestrian movement to the north of the town, particularly when approaching from the train station. Bouverie Place offers the only recognisable landmark of arrival into the town centre, but has poor visual appeal, with no central public square or welcoming entrance. It identifies the bus station site as a key location for public space, as part of a series of wider proposals to improve connections, wayfinding and the public realm in the town centre, and the relocation of existing bus facilities to Middelburg Square. The Folkestone Place Plan is not an adopted policy and as such holds less weight than the adopted development plans. It has been subject to extensive consultation with the local community and stakeholders including public webinars, focused workshops, targeted groups and survey and email responses. It should be regarded as a material consideration, albeit of limited weight, although the proposals within the plan do tie in with the

development plan policies referenced above that promote public realm improvements and the potential redevelopment of the bus station site.

7.5 Whilst the development plan policies make reference to potential mixed or retail development to come forward on the bus station site, Policy CSD6 of the Core Strategy refers to opportunities for development that will contribute to the wider regeneration of Folkestone, whilst Policy RL2 of the Local Plan also specifies that other town centre uses will be permitted. As such, it is considered that public realm improvements to improve the town centre environment can reasonably fall under other uses supported by these policies.

7.6 Subject to the above policy considerations, the principal of development is acceptable under the Core Strategy and Local Plan.

b) Whether alternative proposals are provided for bus facilities in the town?

7.7 The existing site forms a central hub within the town centre for bus services. Taking into account that sustainable development represents a “golden thread” running through the NPPF, it is clearly important that appropriate bus facilities are retained within the town, in economic and social terms to provide access to employment, shops and facilities within the town centre and wider area, and to meet the needs of persons reliant on such services, and in environmental terms to meet sustainable transport objectives and provide alternative choices to the private car. As such, it represents an important form of transport infrastructure. Policy RL2 of the Local Plan does make clear that redevelopment of the bus station site is dependent on the provision of an alternative facility.

7.8 The Folkestone Place Plan and Folkestone – A Brighter Future project have been developed by the Council, in partnership with Kent County Council, to relocate the existing bus station facilities onto Middelburg Square as part of wider highways improvement works. The proposals are also supported by Stagecoach who state that the relocated facilities will overcome a number of operational challenges which exist with the current configuration of the bus station and will greatly improve the pedestrian experience in the area (as set out in the Stagecoach letter dated May 2022 submitted with the application). The plans are at an advanced stage and funding secured for the works. As such, there is a high likelihood that these works will take place and that the bus station site will be redundant in the near future, whatever the outcome of this application.

7.9 These works do not form part of the planning application, being located outside of the application site and on the public highway and would be carried out by Kent County Council under its powers as the Highways Authority, or

as permitted development. Although not part of the application, plans have been submitted showing the works to Middelburg Square and Shellons Street to facilitate this, and an overview of these works is shown in Figure 5 earlier in this report. The works are described in detail in the KCC Highways consultation response as set out in section 5.1 of the report. The works include:

- Widening of footway on south side of Shellons Street between St Eanswythe Way and Gloucester Place, and provision of bus stopping area and bus shelter in similar location to the existing shelter
- Widening of footway and provision of bus stopping area and three bus shelters on Middelburg Square, on either side of the entrance to Bouverie Place shopping centre.
- Provision of bus stopping area and two bus shelters on Middelburg Square to the north of the existing bus station.
- Provision of bus stop and shelters on the north side of Middelburg Square

- 7.10 KCC Highways raise no objection to the application itself. Their comments state that relocation of the bus stops has been agreed in consultation with Stagecoach and that Road Safety Audits have been undertaken with no issues raised in relation to highways safety that cannot be easily overcome.
- 7.11 KCC Highways advise that the wider highway improvements will deliver a safer environment for pedestrians.
- 7.12 Stagecoach (the bus operator) has advised that there are outstanding issues of concern with regard to the new bus stops, primarily regarding the position and configuration of shelters, compliance with disabled access requirements and proposed raised speed tables. Discussions are ongoing with KCC Highways to resolve these.
- 7.13 Objectors have raised concern that the alternative facilities would not be as accessible or to the same standard as at the existing bus station. The furthest new bus stops would be located approximately 140m from the existing bus station. However some of the new stops would be located closer to shopping facilities such as Asda and the Bouverie shopping centre and Lidl, as well as connecting routes to Sandgate Road and other parts of the town and therefore the stops would remain well located to the town centre. Although Stagecoach has identified some outstanding matters relating to access requirements, there is no objection to the principle of relocating the bus facilities onto Middelburg Square. The detailed outstanding matters are being discussed with Kent County Council who, as a public authority, must also meet the Public Sector Equality Duty under the Equality Act 2010, when exercising any of their functions or taking decisions. It is considered that as the relocated bus facilities do not require permission from FHDC and fall under the control of Kent County Council as a responsible public authority,

that appropriate safeguards are in place to ensure that the outstanding matters identified will be resolved. On this basis it is considered that a scheme for alternative bus facilities is at a very advanced stage.

- 7.14 Whilst the works to provide these alternative facilities do not in themselves require planning permission, it is recognised that the bus station should not be redeveloped until the alternative facilities are provided for bus users. As such it is recommended that a Grampian planning condition is imposed to prevent development of the bus station commencing until the alternative facilities are provided. This would ensure that appropriate facilities for bus users would be in place prior to closure of the existing bus station, in accordance with Policy RL2 of the Local Plan.

c) Whether the proposals would improve the character and appearance of the area?

- 7.15 Policy CSD6 of the Core Strategy states that new development in central Folkestone should contribute to public realm improvements that enhance the physical environment/ sense of security and improve connectivity both to and within the Town Centre in line with Policies SS4 and SS5. Policy HB1 of the Local Plan states that new development should make a positive contribution to its location and surroundings, create places of character, facilitate circulation and ease of movement for all users, promote active forms of travel with natural surveillance, and create / enhance areas of public open space green infrastructure and biodiversity. The Folkestone Place Plan identifies that the bus station site should be reinstated as a square and arrival space / focal point, incorporating SuDS, greenery, play space and trees.
- 7.16 The existing bus station is utilitarian in both design and use and creates an unattractive, albeit functional, edge to the town centre. The proposed park would be visually more attractive and would create a welcoming space to use and enjoy or provide access to the main town centre. It would improve the public realm within the town centre through the creation of green space, use of high-quality granite hardsurfacing materials as proposed, and the tree and shrub planting proposed. It would also provide an area for childrens play, although the full details of equipment have not been submitted with the application. In normal circumstances and once the park has been opened, the Council would benefit from permitted development rights to install play equipment under certain specifications without the need to apply for planning permission. However, given the high-quality public realm proposed, it is considered appropriate to control the nature and design of the equipment, in which case a planning condition could be imposed to remove permitted development rights and bring this under the further control of the council in its capacity as the local planning authority.
- 7.17 Following review by the Council's Arboricultural Officer, some changes to the proposed tree species have been made to provide more native species and respond to comments made by Kent Police. In addition, it is recommended

that further details of lighting are provided, to demonstrate that landscaping and tree cover will not obstruct any lighting columns. This can be secured via a planning condition.

- 7.18 Overall the park would enhance the immediate appearance of the site and the wider character and appearance of the area, in accordance with policies CSD6 of the Core Strategy and HB1 of the Local Plan.

d) Whether the proposal would cause any harm to neighbouring amenity?

- 7.19 Policy HB1 of the Local Plan states that development proposals will be permitted where this does not lead to an adverse impact on the amenity of future occupiers, neighbours or the surrounding area, taking into account loss of privacy, light and outlook.

- 7.20 The physical alterations to the site, through removal of the hard surfaces and bus related paraphernalia, and replacement with a square, new pathways and hard and soft landscaping, would be unlikely to cause any harm to outlook, privacy or light. In fact the outlook and setting of surrounding buildings would likely be considerably improved by the softer greener characteristics of the proposed park.

- 7.21 The park would potentially attract a range of users and associated activity. Given the characteristics of the bus station, with associated vehicle movements and activity generated by users of the service, the activity within the proposed park would be unlikely to be significantly greater. Some objectors have expressed concern that the park would attract anti-social behaviour. This is clearly not the intended reasonable purpose of the park, although it is important to ensure that the design minimises such potential. The layout includes various footpaths and access / exit points, 2 x CCTV cameras and a number of lighting columns. It is noted that Kent Police do not object to the application. The planning system has a role in designing out potential for crime, and the park would contain the above safety measures as well as natural surveillance from surrounding buildings and likely footfall through the park.

- 7.22 The site is surrounded by the flank wall to the Asda store and car park to the north east, with a Sandwich shop (Subway) built into this elevation. The park would offer a more attractive outlook from this premises when compared to the existing bus station. Other surrounding commercial uses include offices at Bouverie House and the post office sorting building to the south and south west, as well as the building currently occupied by Stagecoach immediately next to the site. It is unlikely that the proposed park would cause detriment to these existing uses.

- 7.23 A number of dwellings are located within the terrace on the opposite side of Bouverie Square and to the south west of the site. These are partially

screened from the site by the existing bus station building as well as being separated by the road. Given these factors, the proposed use as a park would be unlikely to cause harm to the living conditions of these properties.

7.24 Middelburg House is a large vacated office building to the north west of the site and on the other side of Middelburg Square. It benefits from prior approval (under the Town and Country Planning (General Permitted Development) Order 2015 to be converted into flats. Given the intervention of the road between the application site and Middleburg Square, it is unlikely that the park would have any undue impact on future residents were the conversion to be implemented.

7.25 On this basis the proposal is not considered to cause any unacceptable impacts to amenity, and would comply with Policy HB1 of the Local Plan.

e) Whether the proposal would cause any harm to highways or pedestrian safety?

7.26 The park would be entirely pedestrianised with removable bollards to enable vehicle access to the space for events or maintenance. The layout of the park incorporates multiple access points for legibility and connects to surrounding footways. There are no highways safety issues associated with the proposed park.

7.27 A number of objectors have raised concern that the alternative location of the bus facilities on Middleburg Square would be unsafe. Whilst this does not form part of the planning application, the alternative facilities would be provided on the public highway. KCC Highways have provided detailed comments as set out in section 5.1 of this report, and do not identify any highways safety issues. Road safety audits for the highway works have been undertaken and found to be acceptable, subject to minor changes. KCC Highways conclude overall that the wider highway improvements around Middelburg Square will deliver a safer environment for pedestrians.

f) Whether the proposal would cause any harm to ecology and biodiversity?

7.28 Policy NE2 of the Local Plan seeks to ensure that all new development conserves and enhances the natural environment and enhances biodiversity as part of good design and sustainable development. The Environment Act 2021 sets a duty that new development (with some specified exceptions) must deliver a minimum 10% gain in biodiversity.

7.29 The application site is in an urban location, with very little existing biodiversity present on the site. This is limited to two planter beds on either side of the bus station building. Otherwise, the site is entirely devoid of any soft landscaping, planting or biodiversity.

- 7.30 The application would introduce significant areas of soft landscaping into the site, including 30 No. trees, shrub planting and lawned areas. This would substantially increase the biodiversity value of the site.
- 7.31 As a result, it can be concluded that the proposal would bring about a substantial increase in biodiversity in accordance with Policy NE2, and would exceed the mandatory 10% biodiversity net gain requirement.

g) Other matters

- 7.32 Consultation – the proposals were subject to significant consultation as part of the development of the Folkestone Place Plan and Folkestone – A Brighter Future project. Details of this are available on the Council's website.
- 7.33 Heritage – the site is located within an area of archaeological potential and the KCC Archaeologist has recommended a Watching Brief during works. It is noted that the existing bus station site was developed in the 1950's, and that there are limited proposed works for deep excavations. This is considered to be a proportionate response to the likely presence of archaeological remains.
- 7.34 Ongoing maintenance – the majority of the site is owned by the Council and would be maintained in accordance with the Council's usual responsibilities for parks and gardens. In addition Biodiversity Net Gain places a requirement to manage the site for a period of at least 30 years, and this will be subject to a condition securing habitat management and monitoring.

Environmental Impact Assessment

- 7.35 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

- 7.36 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 (CIL).
- 7.37 This application is not liable for the CIL charge as it is a change of use to a park.

Human Rights

- 7.38 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

- 7.39 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.
- 7.40 It is considered that the application proposals would not conflict with objectives of the Duty. The replacement bus facilities would be provided on the public highway and not within the application site. Whilst concerns have been raised about accessibility, Kent County Council as a public authority would also be subject to the Public Sector Equality Duty in determining the suitability of these facilities.

Working with the applicant

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

8 CONCLUSION

- 8.1 The proposal would significantly improve a key entrance into Folkestone Town Centre and enhance the public realm. This would accord with policies CSD6 of the Core Strategy and RL2 of the Local Plan relating to development in Folkestone Town Centre. The provision of replacement bus facilities on Middelburg Square has already been agreed by the Council under The

Folkestone Place Plan. There is no conflict with the development plan and planning permission should be granted.

9 BACKGROUND DOCUMENTS

- 9.1 All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications on line pages under planning application reference 24/1650/FH)

10 RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below; 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. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

Location Plan 3278-01 dated 11/12/24

General Arrangement Plan 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3110 Rev C02, dated 14/01/25

Softworks Landscape Plan 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3121 Rev C03 dated 28/02/25

Hardworks Landscape Plan 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-313 Rev C02 dated 14/01/25

Key Plan 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3102 Rev C02 dated 14/01/25

Setting out Plan 1 of 3 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3150 Rev C02 dated 14/01/25

Setting out Plan 2 of 3 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3151 Rev C02 dated 14/01/25

Setting out Plan 3 of 3 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3152
Rev C02 dated 14/01/25

Landscape Section 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV 3160 Rev
P01 dated 27/02/24

Landscape Section NE-SW 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-31
Rev P01 dated 19/11/24

Contour Plan 60702364-ACM-HGN-S2_ZZ_ZZ_ZZ-DR-CH-0144 Rev P01
dated 26/06/24

Drainage Infiltration Tank details 60702364-ACM-HDG-ALL_ZZ_ZZ_ZZ-DR-
CD-0514-A1-C01 dated 21/10/24

Drainage Plan layout 13 of 13 60702364-ACM-HDG-S2_ZZ_ZZ_ZZ-DR-
CD-0513-A1-C01 dated 21/10/24

Seat wall layout 1 of 3 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3175
Rev C02 dated 14/01/25

Seat wall layout 2 of 3 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3176
Rev C02 dated 14/01/25

Seat wall layout 3 of 3 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3176
Rev C02 dated 14/01/25

Seat wall details 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3174 Rev P01
dated 14/06/24

Site furniture details 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3171 Rev
P01 dated 21/05/24

Softworks Schedule 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3120 Rev
C02 dated 28/02/25

Softscape details 1 of 2 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3172
Rev P01 dated 13/06/24

Softscape details 2 of 2 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3173
Rev P01 dated 31/05/24

Hardscape details 60702364-ACM-ELS-S2_ZZ_ZZ_ZZ-DR-LV-3170 Rev
P01 dated 31/05/24

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

3. The development hereby approved shall be carried out in accordance with the hardsurfacing materials and hard landscaping details as specified in the application, unless otherwise agreed in writing by the Local Planning Authority, and such works shall be completed prior to the first opening of the park to the public.

Reason: In the interests of visual amenity.

4. To ensure that features of archaeological interest are properly examined and recorded during development works:
 - A) Prior to any development works the applicant (or their agents or successors in title) shall secure an archaeological watching brief so that excavations and other development groundworks are observed and heritage assets with archaeological interest are recorded. The watching brief shall be undertaken by an archaeologist approved by the Local Planning Authority and in accordance with a Specification which has been submitted to, and approved in writing, by the Local Planning Authority.
 - B) The archaeological watching brief, recording, post excavation assessment, analysis and reporting shall be carried out in accordance with the agreed Specification.
 - C) Within 6 months of the completion of the watching brief a Report shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded in accordance with local and national planning policy

5. (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:
 - (i) 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 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 carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

6. No development shall be commenced until the off-site replacement bus stopping facilities on Middelburg Square, (as shown indicatively on the unnumbered / untitled works plan for Middelburg Square submitted to the local planning authority on 27/02/25) have been completed and made available for use by the bus operator and public.

Reason: To ensure that appropriate alternative facilities for bus services are provided, to avoid the unacceptable loss of such services.

7. No play equipment or associated paraphernalia, including enclosures, shall be installed or erected within the area shown on the approved General Arrangement Plan as a playground, until full details and specifications of such equipment and associated paraphernalia 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: In the interests of visual amenity.

8. Prior to first opening or use of the park, a Habitat Management and Monitoring Plan (the HMMP)], shall be prepared in accordance with the approved Biodiversity Gain Plan (see informative 1) and shall be submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:

(a) the roles and responsibilities of the people or organisation(s) delivering the HMMP;

(b) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;

(c) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and

(d) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority,

The habitat creation and enhancement works as set out in the HMMP shall be completed prior to first opening of the park to the public and shall

thereafter be managed and maintained in accordance with the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site.

9. Notwithstanding the submitted details and prior to first opening of the development to the public, an external lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the external lighting proposed together with details of tree planting proposals (including future growth of trees), and an Isolux diagram to demonstrate predicted illuminance levels across the proposed park, taking into account the location of proposed trees. The lighting shall be installed in accordance with the approved details prior to first public use of the park.

Reason: To ensure that lighting proposals take into account any shadowing or obstruction by trees, to provide a safe environment.

10. The hard and soft landscape works shall be carried out in accordance with the details as shown on the approved plans. The works shall be carried out prior to the first opening of the development to the public, 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.

11. 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.

12. 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.

Informatives:

1) IMPORTANT - Biodiversity Gain Condition

The development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Folkestone & Hythe District Council.

Further information about the BNG status of this application and how to comply with this statutory condition are set out below within the notes.

Biodiversity Net Gain Condition

Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 states that planning permission is deemed to have been granted subject to the “biodiversity gain condition” which means development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

This permission will require the submission and approval of a Biodiversity Gain Plan before development is begun.

For guidance on the contents of the Biodiversity Gain Plan that must be submitted and agreed by the Council prior to the commencement of the consented development please see the link: Submit a biodiversity gain plan - [GOV.UK](https://www.gov.uk) (www.gov.uk)

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at <https://www.gov.uk/guidance/biodiversity-net-gain>.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where -

(a) a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”), and

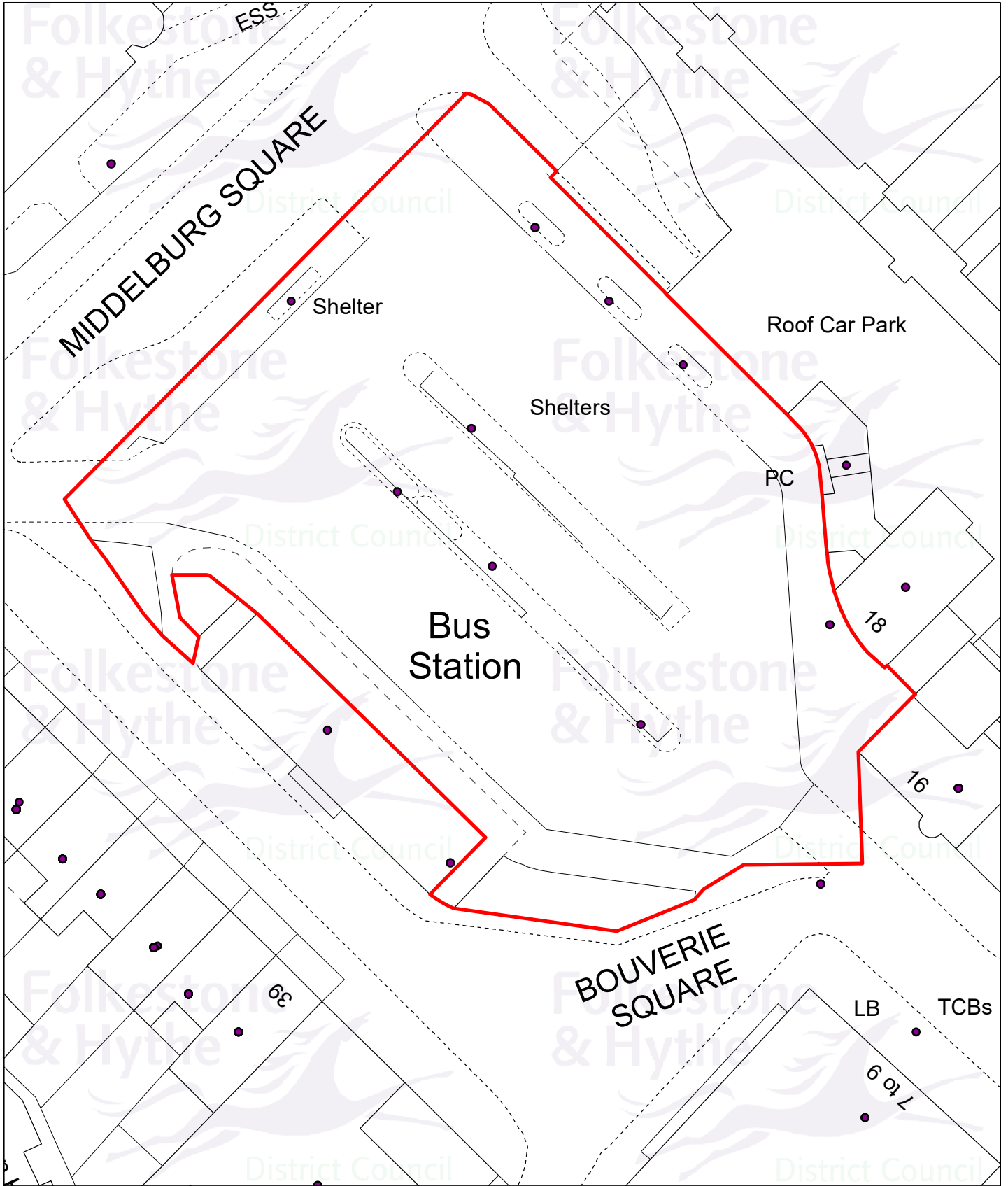
(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

24/1650/FH - BUS STATION, BOUVERIE SQUARE, FOLKESTONE, CT20 1BA



Planning Application:
24/1650/FH
Drawn date:
05 Mar 2025
Drawn by:
Carrie Stacey
Drawing ref:
2235/COP/LS


Llywelyn Lloyd
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2025



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Application Number	21/0553/FH
Location	Land Opposite 24, Station Road, Hythe
Application Description	Outline planning permission for the erection of 40 no. dwellings with associated access, parking and open space (matters of landscaping reserved for future consideration)
Applicant	Kingston Homes
Agent	Lee-Evans Partnership LLP, St John's Lane, Canterbury, CT1 2QQ
Officer Contact:	Alex Stafford

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 obligations as set out in Table 1 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/remove any other conditions that he considers necessary.

1. Reason for consideration by the Committee

1.1. This application was previously considered by the Planning and Licensing Committee on the 7th January 2025. Members of the committee deferred the decision instructing officers to seek additional information and to discuss potential amendments with the applicant. The resolution of the committee was recorded as follows:

- 1. Provide further information clarifying how the overshadowing and overlooking of Holly Bank has been assessed.*
- 2. Provide further details of the viability assessment and how it was appraised*
- 3. Provide further information relating to the how the proposed clawback mechanism for affordable housing in the S106 would work and what the potential clawback could be.*
- 4. Request that the applicant considers removing or reducing the size of the flat block.*

1.2. In line with this resolution and following the receipt of amended plans the application is reported back to the Planning Committee for determination.

2. Site and Surroundings

2.1. Refer to 7th January 2025 Planning Committee Report (which is appended as annexe 2 to this report).

3. Proposal

3.1. Outline planning permission comprising 40 dwellings with associated access, parking and open space. The application seeks detailed approval for layout, scale, appearance and access. Matters relating to landscaping are reserved for future consideration.

3.2. In the main the development remains the same as the proposals previously considered at the 7th January 2025 with the exception of changes to the apartment block in respect of the design and scale. The amendments are as follows:

- Eaves height reduced by 0.5m;
- Ridge height reduced by 0.5m;
- Second gable replaced with flat roof to further reduce visual impact on street scene with additional solar PVs provided; and
- Second floor stepped back to further reduce scale of apartment block.

3.3. The number of 2 bedroom apartments (12) within the block would remain unchanged.

3.4. **Figures 1 and 2** below highlight the differences between the amended plans and the previous proposal showing as a side by side comparison of the design of the apartment block from the south and the east elevation where the design changes would be most apparent.

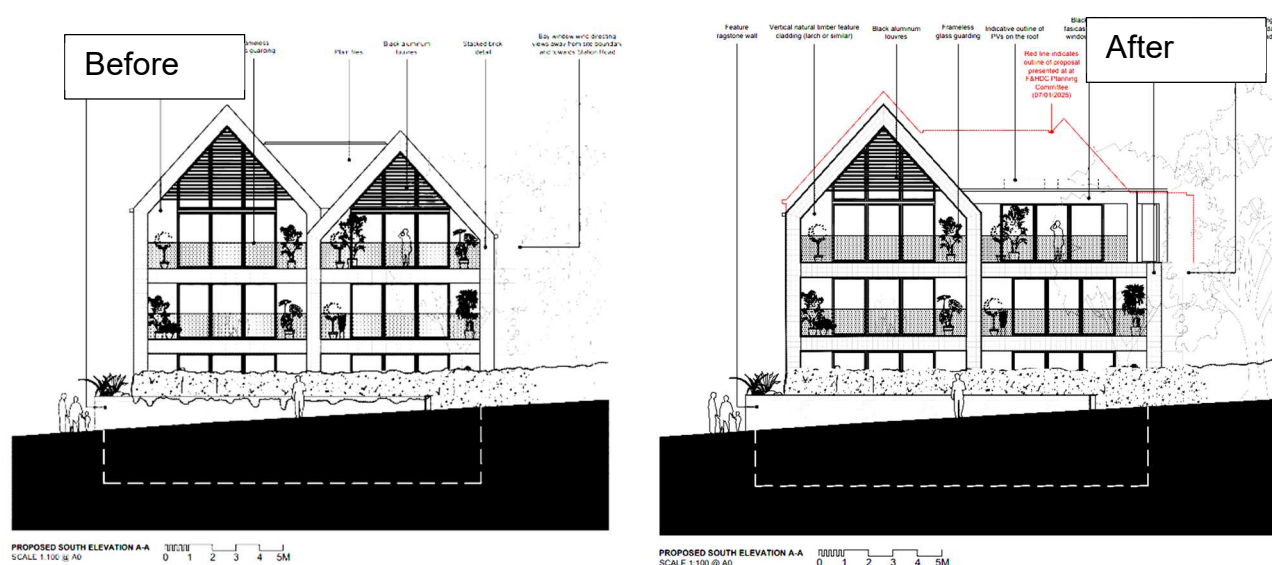


Figure 1: Previously proposed and amended south elevation

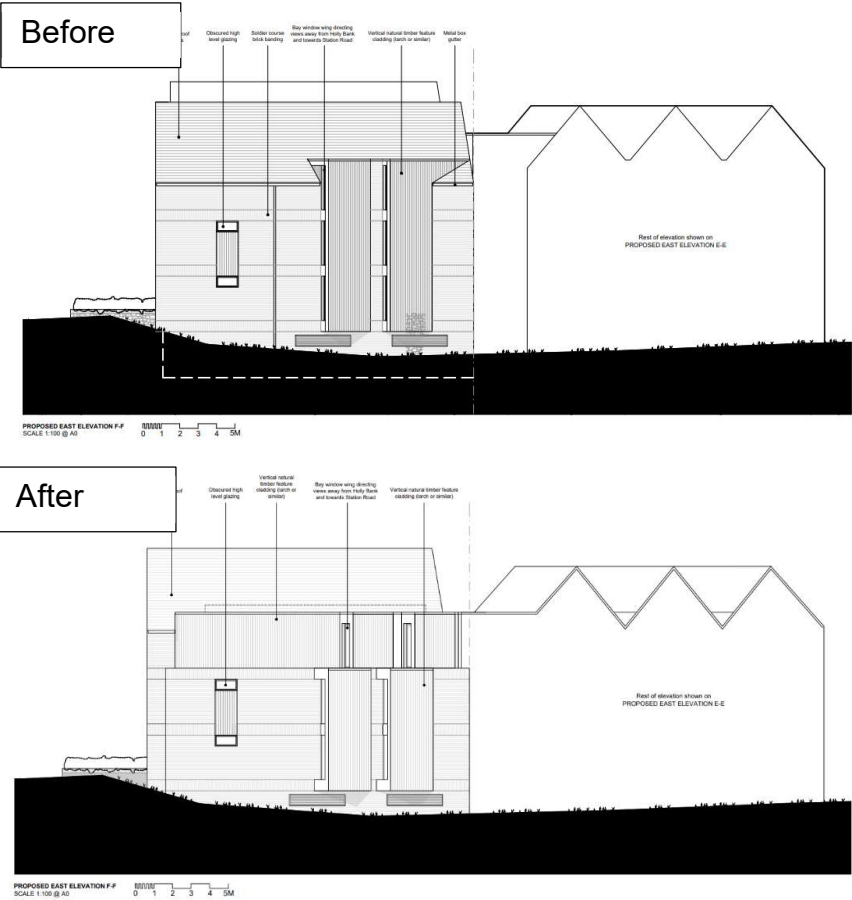


Figure 2: Previously proposed and amended east elevation

3.5. **Figures 3 and 4**, provide a comparison between the previously proposed and subsequently amended second floor plan. These drawings show the set back now proposed.

Submitted design presented at Planning Committee on 07/01/2025

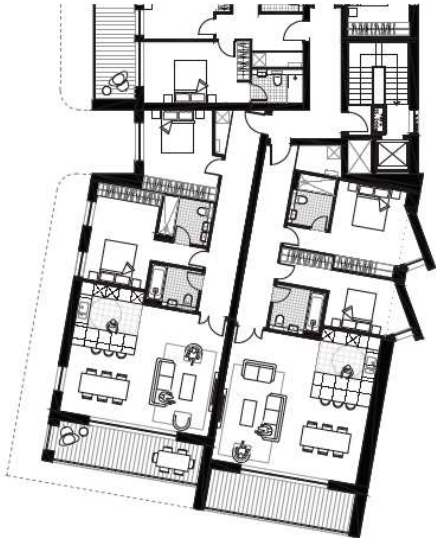


Figure 3: Previously proposed second floor plan

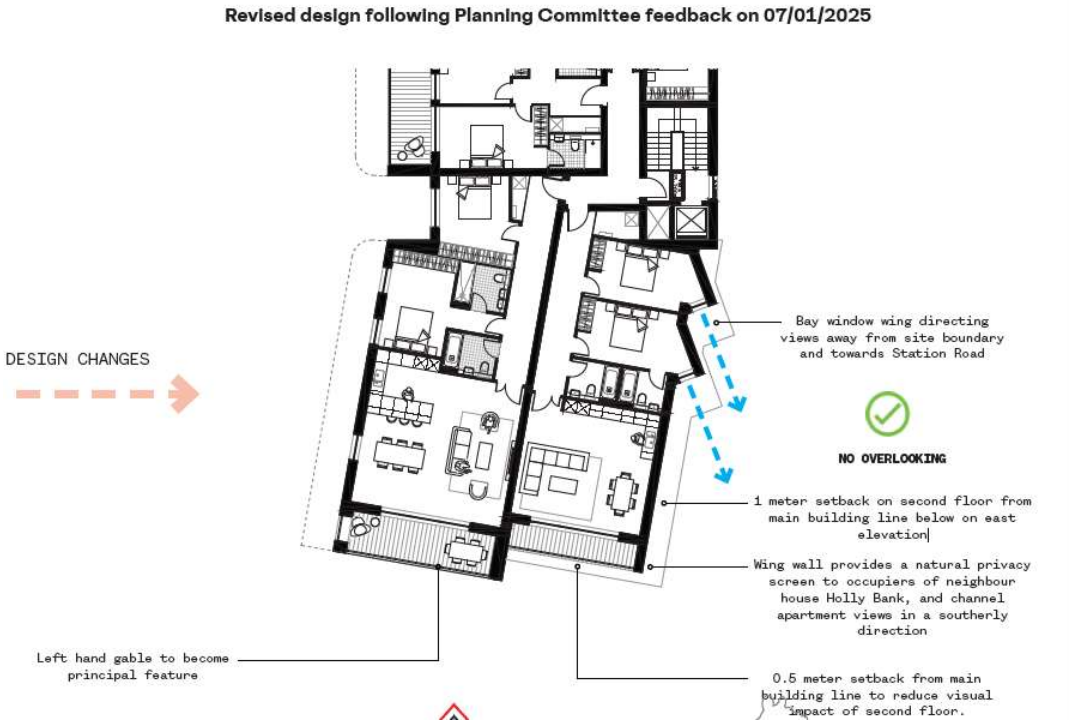


Figure 4: Proposed amended second floor plan with setback

3.6. **Figure 5** shows the proposed amended layout of the development and **Figure 6** shows an image of how the apartment block would be located in terms of its relationship with the existing dwelling ‘Holly Bank’ to the east.

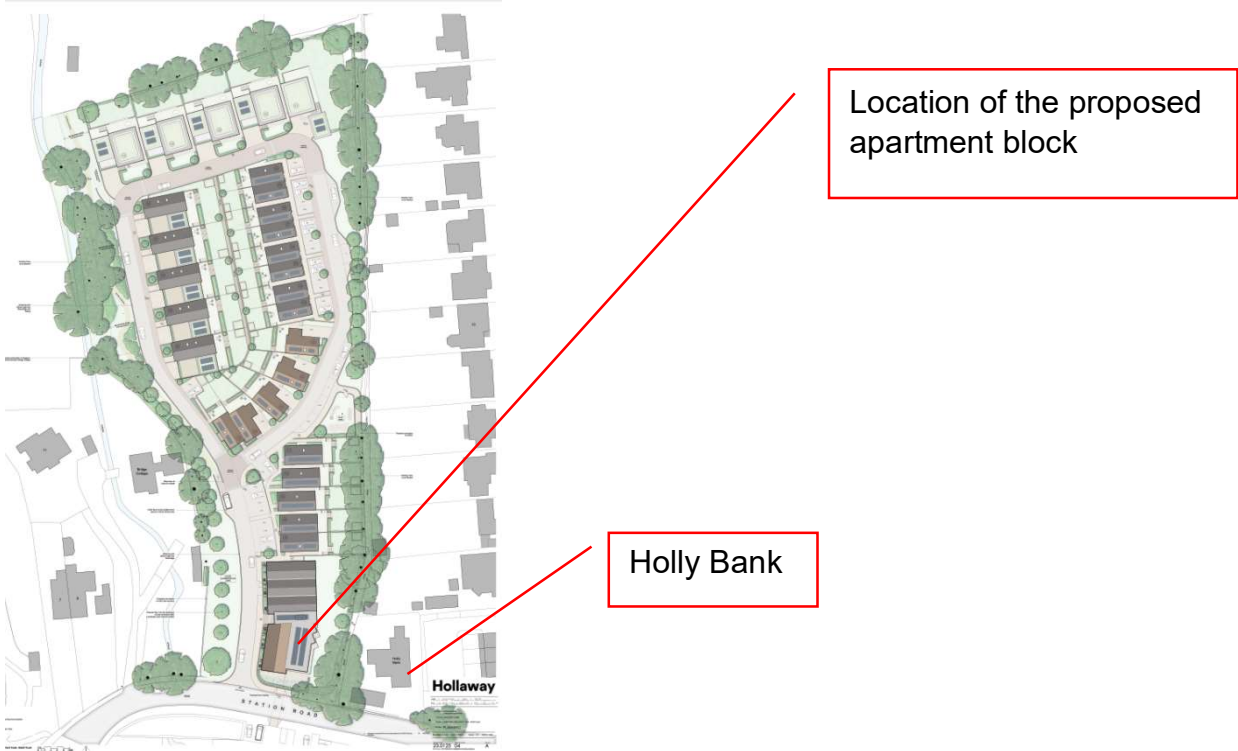


Figure 5: Proposed site layout and relationship of apartment block with Holly Bank



Figure 6: Proposed location of apartment block and relationship with Holly Bank

3.7. The applicant has submitted an amended street scene plan showing the proposed changes from Station Road to the south. **Figure 7** below shows the amended proposal whilst **Figure 8** shows the original proposal from the same viewpoint.

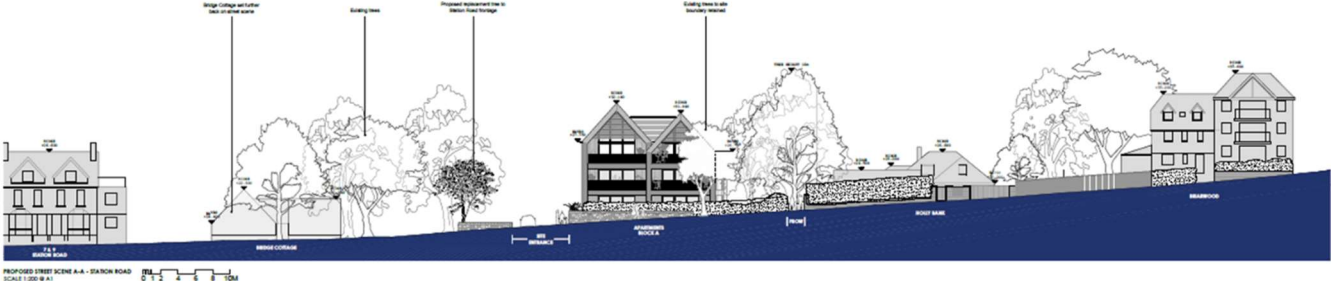


Figure 7: Proposed streetscene view from Station Road – previously proposed

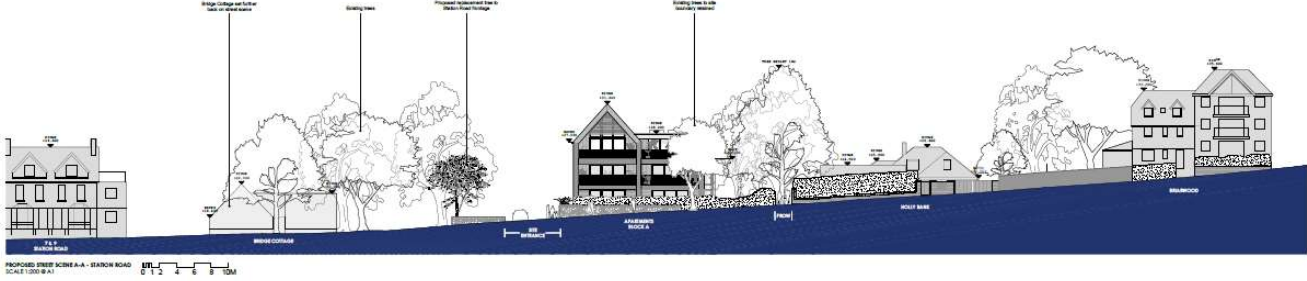


Figure 8: Proposed streetscene view from Station Road - amended proposal

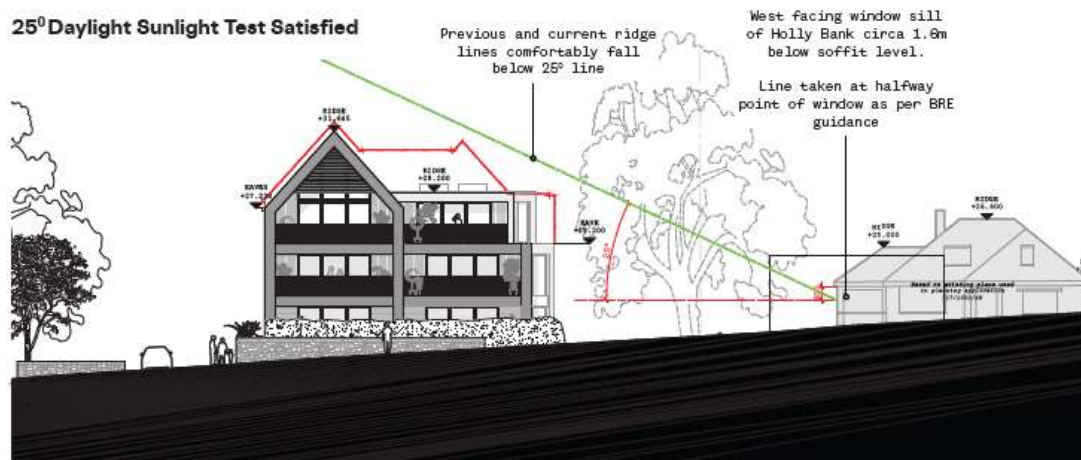


Figure 9: CGI showing the proposed entrance into the site and the amended apartment block from Station Road

- 3.8. In support of the amended proposal and in response to both the discussion between Members that took place at the 7th January 2025 Planning Committee as well as the reasons for the deferral as set out in section 1 of this report, the applicant has submitted an addendum to the Design and Access Statement. This is summarised as follows:

Design an Access Statement Addendum (2025)

- 3.9. The design of the apartment block has been amended in order to reduce the overall scale of the building. The design changes include a reduction in ridge and eaves height, a replacement of one of the gables roof forms with a flat roof and a stepped back second floor from the main façade.
- 3.10. Daylight/Sunlight - In line with the requirements of the PPLP which requires the development to be tested against the 25 degree test, the development would pass. The applicant has submitted the drawing below to illustrate this point:



The above diagrams clearly illustrate that the proposed design passes the '25 Degree' rule set out in the BRE's document.

Figure 10: Daylight/Sunlight - applicants 25 degree test

- 3.11. In relation to the number of dwellings proposed the applicant states that whilst policy UA14 states that the site could accommodate an estimated 30 dwellings, the supporting text sets out that a density of 30 dwellings per hectare (dph) would be appropriate and that this was agreed by the Local Plan Inspector during the examination. Based on the site area of 1.43 hectares this guideline of 30 dph would equate to 43 units. As such the applicant considers that the proposed density would be in line with the approximate policy expectations.
- 3.12. Whilst policy UA14 states the dwellings should be mostly family sized dwellings, this does not preclude the inclusion of flats which could accommodate smaller families. In addition, the applicant states that the local area includes a mix of housing types, including flats and that it is best practice to include a mix of property types and sizes within new housing schemes, which is supported by policy CSD2.
- 3.13. The majority of the TPO trees are proposed to be retained, including along the boundary, between the apartments and Holly Bank. The TPO trees to be lost are almost all confined to the access point which is the only practical place for it to be located, as agreed with Kent Highways. Therefore, the applicant considers that as an allocated housing site, the loss of these trees is considered unavoidable.
- 3.14. The landscape masterplan shows that substantial new tree planting would augment the retained trees, providing a significant net gain.
- 3.15. Measures to promote biodiversity net gain are also proposed by the ecologist which are proposed to be secured by condition. These measures would include:

- The provision of a range of bird and bat boxes;
 - The provision of log piles for invertebrates;
 - The provision of bumble bee nest boxes and pollinator resources;
 - Provision for some of the species on the Kent BAP species list where applicable to the site and conditions; and
 - A scheme of native species landscaping and similar measures.
- 3.16. The development would make a significant contribution in s106 payments and so provide a positive contribution towards the provision of local services and infrastructure. This would total £1,108,552 and would include:
- CIL = £891,430;
 - Education = £182,562;
 - NHS = £34,560.
- [CPO Comment:** The applicants CIL figure does not take account of the year 9 CIL charging schedule adopted in January 2025 and as such this figure may be higher. For clarity the level of CIL payment has not influenced officer assessment of this scheme].
- 3.17. The applicant states that although it was not possible to make all the changes suggested by neighbours, significant amendments have been made, including a reduction in the number of flats from 15 to 12 and following the planning committee, further revisions have been made, including a significant reduction in the roof height.
- 3.18. Other objections relate to an objection to the principle of development, or to highways matters however the applicant emphasises that this is an allocated site and that all criteria in the allocation policy have been considered and detailed in the submission.
- 3.19. In response to concerns raised by residents during the meeting concerning the applicability to the traffic survey given it was carried out during Covid, the applicant states that the purpose of the survey was to measure vehicle speeds rather than volumes and there is no evidence to suggest that vehicles travelled slower at this time.
- 3.20. The applicant states that the survey is considered valid by the technical consultee (Kent Highways & Transportation) who have been consulted throughout the allocation process and the planning application. The applicant highlights that KCCH&T have raised no objection.
- 4. Relevant Planning History**
- 4.1. Refer to 7 January 2025 Planning Committee Report (which is appended as annexe 2 to this report).

5. Consultation

5.1 The councils Statement of Community Involvement (2022) states that if there are any significant amendments to a planning application before a decision is made, any relevant consultees will be notified. In this case it is considered that the amendments submitted are minor and as such there is no requirement for a full reconsultation to take place. Notwithstanding this, the Town Council and the residential properties located close to the proposed apartment block have been notified of the amended plans.

5.2 Additional comments received since the application was deferred are summarised below:

Consultees

Hythe Town Council: Object, comments summarised below:

- Planning application is in excess of the local plan.
- The height of the dwellings remains out of keeping with the street scene and there remains a loss of privacy.
- The development would be over development and oppressive.
- Highway safety concerns.
- Loss of trees.
- Not enough attention has been paid to biodiversity.
- The development provides no affordable housing.
- The development will put increased demands on the local infrastructure.

KCC Developer Contributions (updated request):

The following financial contributions should be secured by S106 agreement:

Secondary Education: £165,207.40; and
Special Education Needs & Disabilities (SEND): £17,354.76.

FHDC assigns 35% of its CIL receipts from the strategic pot towards KCC (non-education) infrastructure as listed below:

- Community Learning and Skills;
- Libraries;
- Registration and Archives Service;
- Adult Social Care; and
- Waste.

Public/Neighbour Notification

- 5.3 15 letters of objection received at the time of writing this report, since the Planning Committee meeting of the 7th January 2025.
- 5.4 I have read all of the letters received. No new issues have been raised. For the ease of readers, I have summarised the key issues below:

Objections

- Loss of privacy.
- Number and height of dwellings is unacceptable.
- Concerns of noise from pumping station.
- Impact on trees.
- Traffic survey is put of date.
- Noise and disruption during construction.
- Impact on ecology/questions the validity of the Ecology Survey results.
- New housing should be built on brownfield sites.
- Concerns relating to land stability.
- Concerns related to road safety/history of accidents.
- Apartment building is unacceptable in principle.
- Impact on visual amenity.
- Dwellings are too big.
- The applicants consultation event was exclusively online which meant that some residents were excluded.
- The local plan allocation for this site should be reviewed.
- Flood risk.
- The development would not address housing need.
- Impact on schools and infrastructure.
- Loss of open space.
- Loss of on street parking.
- Contamination of the stream.
- The apartment block should be removed.
- Apartment block would fail the 25 degree test. Detailed daylight and sunlight assessment by a firm of qualified surveyors/consultants should be commissioned, to include sun-path analysis and shadow plan.
- There are limited trees along the boundary between the apartment block and Holly Bank.
- The proposed changes do not go far enough and make the apartment block look uglier.
- Residents have commissioned a traffic survey (February 2025). Over the course of 7 days in excess of 34,000 vehicles passed along this stretch of road with 14.8% travelling over the speed limit. This is over 5,000 potential accidents over the course of a week. The developer has conducted their own traffic survey following the residents survey; however, residents

consider that the cables have been laid out incorrectly and therefore speed data collected will be inaccurate.

- Trees to be removed are located on Council land.
- The development would devalue neighbouring dwellings.

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

[Planning Register](#)

6. Planning Policy

6.1 Refer to 7 January 2025 Planning Committee Report (which is appended as annexe 2 to this report).

7. Appraisal

7.1 The application was deferred by the Planning Committee on the 7th January 2025 to seek further information and for clarification on a number of points. As such the only matters for consideration are as follows:

- a) Provide further information clarifying how the overshadowing and overlooking of Holly Bank has been assessed.
- b) Provide further details of the viability assessment and how it was appraised.
- c) Provide further information relating to the how the proposed clawback mechanism for affordable housing in the S106 would work and what the potential clawback could be.
- d) Request that the applicant considers removing or reducing the size of the flat block.

7.2 Deferral reasons a) and d) relate specifically to the impact of the proposed southern apartment block and therefore these reasons are considered together below.

- a) Provide further information clarifying how the overshadowing and overlooking of Holly Bank has been assessed and request that the applicant considers removing or reducing the size of the flat block.**

7.3 Policy HB1 of the PPLP seeks to ensure high quality design and to ensure that it would not lead to an adverse impact on the amenity of future users as well as neighbours. It states that in relation to assessing the potential impact

of new build development on neighbouring dwellings, the same guidelines will apply as those relating to alterations and extensions as set out in Policy HB8.

- 7.4 Policy HB8 whilst seeking to ensure development would not be detrimental to the street scene also aims to protect the residential amenity of the occupants of neighbouring properties by ensuring that development would not result in unacceptable overlooking and inter-looking.
- 7.5 As set out on page 234 of the PPLP the Building Research Establishment's (BRE's) document '*Site Layout Planning for Daylight and Sunlight: A guide to good practice*' (2011) sets out two tests for determining the acceptability of development in terms of its potential impact on neighbouring dwellings. These are known as the 25 and 45 degree tests. The purpose of these tests is to establish the impact of proposed development on existing properties with regards to obstructing daylight to existing windows/rooms.
- 7.6 The 25 degree test is used where development is opposite a window according to the diagram below.

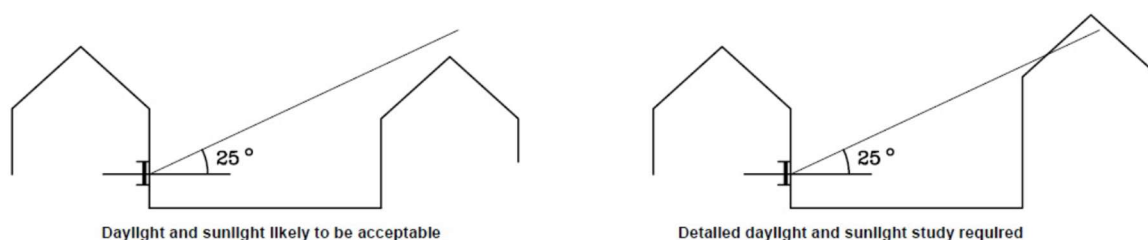


Figure 11: 25 degree test

- 7.7 In applying the 25 degree test, the centre of the lowest habitable room window is used as the reference for the test. If the whole of the proposed development falls beneath a line drawn at 25 degrees from the horizontal, then there is unlikely to be a substantial effect on daylight and sunlight.
- 7.8 The 45 degree test is used for extensions or new development proposals that are perpendicular to a window and is not therefore relevant in this case.
- 7.9 The councils adopted local validation checklist sets out when a daylight/sunlight assessment is required to be submitted with a planning application stating that it is required for planning applications of new residential development or new build development adjacent to existing residential properties which fail the basic BRE tests as set out in policy HB8 of the PPLP (45 degree and 25 degree tests).
- 7.10 Based on professional experience and site visits, officers were satisfied that the development given its height, the land levels and the separation distances, would not breach the 25 degree line.

- 7.11 As set out above, in response to member debate the applicant has submitted an assessment of the 25 degree test in line with the aforementioned BRE guidance. This assessment is attached as annex 3 to this report.
- 7.12 The submitted assessment demonstrates that the proposed apartment block in both its previously proposed and subsequently amended form would pass the 25 degree test when considering its relationship to Holly Bank and therefore no further assessment is required.
- 7.13 Members should note that the proposed apartment block would be located due west of Holly Bank and therefore Holly Bank will continue to benefit from high levels of daylight.
- 7.14 There are two habitable rooms facing the development. The living room is served by an external glazed double door facing south. It also has additional windows facing north. The second room is a dining room with an additional window facing south.
- 7.15 These glazed openings provide these rooms with open outlook to the north and to the south.
- 7.16 In light of the above there are no reasonable grounds to conclude that the development would result in an unacceptable loss of residential amenity to the occupiers of Holly Bank as a result of overbearing development.
- 7.17 The proposed apartment block would be located approximately 16.9 metres from Holly Bank with the PROW and existing and proposed landscaping in between. The distance between Holly Bank and the proposed apartment block would be the equivalent of more than the width of a typical street and it is noted that design guidance within the government's 'Manual for Streets' states that the distance between frontages in residential streets typically ranges from 12 to 18 metres. The apartment block would also be located at a lower level given the topography of the site which would further reduce the impact on Holly Bank.
- 7.18 Following initial concerns raised about the relationship of the development with Holly Bank, during the original consideration of the application, the apartment block was significantly amended in terms of its size and scale, and it was located further away from the eastern boundary.
- 7.19 Following the deferral of the application by the Planning Committee, the design on the apartment block has been further amended which has seen a reduction in the overall eaves and ridge height of the building by 0.5 metres and the removal the gable roof form closest to the eastern boundary of the site. The gable has been replaced with a flat roof that would further reduce the overall scale and massing of the building. In addition, the applicant has

- proposed setting part of the southern building line back by an additional 0.5 metres and the second floor is also proposed to be set back an additional 1 metre on the eastern elevation.
- 7.20 The eastern elevation of the apartment block would incorporate angled windows ensuring that views out would only be possible in a southerly direction towards Station Road. There would be no harmful overlooking as a result towards Holly Bank.
- 7.21 Architecturally, I consider that the design quality of the apartment building when considered in the context of a landmark building would be diluted as a result of the proposed changes by removing the double gabled roof design which was a key element of the design rationale. Notwithstanding this, the overall contemporary design approach to the development of the site includes flat roof elements so the proposed approach to the amendments would not be out of keeping with the overall character and design. In addition, the proposed materials and external detailing would remain of a high quality which is supported. As a result, I consider that the proposed apartment building in its amended form would represent an acceptable high quality design and would not be harmful to the visual amenity of the street scene.
- 7.22 As a result of the above, the impact of the proposed apartment block has been fully considered in light of the impact on the residential amenity of Holly Bank in respect of overlooking and overshadowing and the design changes would ensure that the development would comfortably pass the 25 degree test in accordance with the BRE guidance and planning policies HB1 and HB8 of the PPLP.

b) Provide further details of the viability assessment and how it was appraised.

- 7.23 The proposed development would make financial contributions of £165,207.40 towards secondary education and £17,354.76 towards special education needs & disabilities (SEND). A further £34,560.00 would be secured for the provision of healthcare improvements. These contributions which are the full amount requested by KCC and the NHS would be secured through a S106 legal agreement. In addition to this, the development would be liable for CIL at a rate of £138.65 per sqm which would equate to a CIL payment of £913,467.80.
- 7.24 Policy CSD1 of the Core Strategy requires the provision of 22% affordable housing. Based on this proposed development of 40 dwellings, 9 affordable dwellings are required for the scheme to be policy compliant. Notwithstanding this, the policy does state that this is required wherever practicable and subject to viability.

- 7.25 The economic viability of development is important in terms of supporting delivery in both plan making and when determining planning applications. The council has accounted for the cumulative impact of its policy requirements on development viability as part of the evidence base supporting the Local Plan however this tested the viability of key allocated sites which would deliver 50 or more dwellings only.
- 7.26 National Planning Policy Guidance (NPPG) advises that where up to date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. The guidance states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.
- 7.27 As such, proposals should be designed in a way that accords with planning policies, including for the provision of affordable housing. Notwithstanding this, in some exceptional circumstances, a proposal may generate insufficient value to support the full range of developer contributions. In instances where, in the opinion of the applicant, a scheme cannot meet policy requirements, applicants are required to robustly demonstrate that the site is unviable by submitting a Viability Assessment.
- 7.28 Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. Any viability assessment should follow the government's recommended approach to assessing viability as set out in the National Planning Policy Guidance (NPPG).
- 7.29 In such cases that a Viability Assessment is submitted with a planning application, the council will scrutinise the evidence with advice from a suitably qualified external consultant. This process considers whether the approach adopted, and inputs used are appropriate and adequately justified by evidence and will determine whether the level of planning obligations and other development plan requirements proposed by the applicant are the maximum that can be viably supported or whether further obligations and/or a greater level of policy compliance can be achieved.
- 7.30 In terms of methodology, the Residual Land Value methodology is a tool to determine whether a scheme will proceed or not. It determines the 'residual' value that is left available to pay a landowner for their land, once the costs of development (and a reasonable profit for the developer) are deducted from the gross development value (GDV) generated by the development. If a proposal generates sufficient positive land value after also supporting a suitable level of profit as well as necessary development costs and planning obligations, it will generally be capable of implementation from a viability point of view.

- 7.31 Any additional land value provided by a development over and above the value of the site in its existing use, is dependent on the grant of planning permission, the basis of which is compliance with the Development Plan.
- 7.32 The Residual Land Value methodology is the most appropriate to use in this context and is consistent with the longstanding principle that policy requirements associated with securing planning permission are development costs that influence the level of any uplift in land value from the grant of planning permission. Applied properly this approach is therefore appropriate for assessing viability as part of the planning process given that the purpose of the planning system is to achieve sustainable development.
- 7.33 The NPPG confirms that current (or existing) use value provides an appropriate basis for comparison with a residual land value to determine whether this incentivises a land owner to release a site and achieves a competitive return.
- 7.34 Benchmark land values (BLV), based on the existing use value or alternative use value of sites, are key considerations in the assessment of development viability as they indicate the threshold for determining whether a scheme is viable or not. A development is deemed to be viable if the residual land value is equal to, or higher than the benchmark land value.
- 7.35 Following the submission of an amended Development Viability Report (DVR) dated March 2024 (Bespoke Property Consultants), the council commissioned Dixon Searle Partnership (DSP) to carry out an independent review.
- 7.36 The applicants position as set out in the submitted development appraisal has been run in a way which takes account of the benchmark land value of the site and assesses the level of additional residual potentially available in excess of that after allowing for a fixed developer's profit (placed at 20% of gross development value on the market housing). Therefore, an approach has been taken that sets out to consider, in the applicant's view, the maximum supportable contribution for affordable housing. The 100% market housing appraisal as presented produces a negative residual land value of -£2,650,889. When compared to the submitted BLV this indicates a deficit of -£3,000,889. The DVR concludes that: 'the development does not generate a surplus over the BLV to fund affordable housing on site. However, it is estimated to make a profit of 9% which the applicant advises they will seek to improve by value engineering.'
- 7.37 Having reviewed the submitted DVR, DSP raised no concerns with the approach taken in terms of the applicants viability review methodology. DSP provided advice to the council in July 2024 within which it queried the gross development value (GDV) and the submitted build costs and carried out sensitivity testing based on assuming a more typical profit level of 17.5% GDV

- (compared to the stated target of 20% GDV). DSP noted that the scheme, as submitted only returned a developer profit of around 9% of GDV.
- 7.38 In respect of the build costs, DSP's view was that the submitted cost estimate was high when benchmarked against the Build Cost Information Service (BCIS) data. DSP therefore tested the viability of the scheme against the BCIS Upper Quartile rate for the relevant housing types. When doing so, the scheme produced a surplus of c. £1.8m when also assuming a target profit of 17.5% GDV. DSP therefore concluded that the submitted build costs were impacting the scheme's viability and recommended a cost consultant review of the submitted build costs.
- 7.39 Following DSP's advice, ERMC were commissioned on behalf of the council to undertake an independent review of the RIBA Stage 2 Cost Plan, dated March 2024, which forms part of the submitted financial viability assessment. The submitted cost estimate prepared for the applicant indicated a total build cost for the scheme of £20,874,000 including contingency. ERMC have reviewed the submitted costs and concludes that the submitted costs have been overstated. This second opinion results in a reduced total construction cost of £20,476,000 including contingency or a difference of £380,000.
- 7.40 DSP having taken account of EMRC's cost review analysis have subsequently provided the council with further expert advice and state that when applying EMRC's cost estimate into their trial appraisal, the scheme produces a deficit of -£1,614,908. When the scheme deficit is deducted from the target profit, the scheme produces an actual profit equivalent to around 12% GDV. In conclusion therefore, DSP state that having taken the appropriate viability in planning review to its conclusion, the scheme is unable to support a contribution towards affordable housing.
- 7.41 In light of the above, following the independent review of both the applicants Development Viability Review and the associated build cost assessment, I am content that the applicant has satisfied both the requirements of the National Planning Policy Guidance (NPPG) in respect of the approach to the viability appraisal and planning policy CSD1 which acknowledges that the requirement to provide policy compliant affordable housing is subject to viability considerations. The applicants approach to viability has been interrogated by the councils expert consultants and the view that the development cannot support contributions towards affordable housing as a result is accepted.
- c) Provide further information relating to the how the proposed clawback mechanism for affordable housing in the S106 would work and what the potential clawback could be.**
- 7.42 Property markets have experienced significant changes in recent years and the viability of a scheme may therefore be notably different by the time of implementation due to changes in market conditions. As such, the practice of

- viability review to ensure that proposals are based on an accurate assessment of viability at the point of delivery has become increasingly well established.
- 7.43 Whilst the council has no specific local plan policy requiring developers to agree to further viability reviews being carried out for schemes that have demonstrated that they are unviable at the time permission is granted, the applicant has agreed to the provision of a claw back mechanism to be included within the S106 agreement, that would take into account future higher than expected sales values. I consider this approach to be an appropriate way forward in this case, as an alternative to considering refusal of the scheme because it cannot meet full policy compliance.
- 7.44 As stated in the previous committee report, there remains a strong expectation, particularly at Central Government level, that housing development should continue. This particular site is allocated for residential development. It is in a sustainable location and its development would benefit Hythe through increased footfall and spend. In addition, if planning permission is granted, the development would be liable for CIL and would provide financial contributions towards education, SEND and healthcare. Therefore, there is a strong strategic case to allow its development.
- 7.45 The proposed claw back mechanism would require the applicant to undertake a further viability assessment which would be secured through the planning obligations set out within the S106 legal agreement. This review would determine whether the development is capable of providing affordable housing contributions deemed unviable at the planning application stage, the purpose being to determine whether greater or full compliance with the Development Plan can be achieved to accord with the councils duty to deliver and implement its plan. Therefore, any additional obligations would be capped based on the terms of the Local Plan with the aim of securing the provision of policy requirements that were previously determined not to be deliverable. If and after any outstanding policy requirements are met, any additional surplus would be retained by the developer as additional profit.
- 7.46 It is proposed that the claw back mechanism would secure 50% of any additional profit to be paid to the council towards off site affordable housing delivery, up to the equivalent contribution value of 22% off site affordable housing (plus indexation). This approach to securing deferred contributions has been previously accepted by the council at other sites within the district and is considered to be a fair and reasonable approach.
- 7.47 It is proposed that the viability review would be completed at an advanced stage of the construction of the development which would enable the assessment to be based on up to date, accurate information.
- 7.48 Based on the proposed development, the Councils Housing Manager has confirmed that in order to meet the councils planning policy requirements of

22% affordable housing, an offsite commuted sum of £1,195,350.00 would need to be secured. This would be the maximum amount that could be clawed back and would be used to provide additional affordable housing elsewhere within the local area.

- 7.49 The clawback provisions will allow both the council and the developer to benefit from uplifts in sales values, if these accrue, yet allowing development to proceed in the meantime.

Environmental Impact Assessment

- 7.1 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

- 7.2 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. The CIL levy in the application area is charged at £138.65 per square metre for new residential floor space.

Human Rights

- 7.3 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

- 7.4 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.

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

Working with the applicant

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

8. CONCLUSION

8.1. The site is allocated for development by Policy UA14 of the PPLP. The site is located within the settlement boundary of Hythe, identified as a strategic town by the adopted Core Strategy.

8.2. This application seeks planning permission for 40 dwellings. Whilst this exceeds the estimated capacity of 30 dwellings identified by Policy UA14, the uplift in housing numbers is supported by national policy whereby LPA's are required to give great weight to the benefits of using suitable sites within existing settlements for homes.

8.3. The council can currently demonstrate a 5-year supply of housing; however, this application would make a valuable contribution towards the council's housing supply.

8.4. The application site is in a sustainable location and is not isolated in terms of its location, benefitting from good access to public services. Further, the amount of development is not considered to be disproportionate to the scale of the existing town.

8.5. The layout, design and appearance of the proposed development has been significantly amended and is considered to be acceptable. The additional dwellings can be accommodated without having a detrimental impact upon the visual amenity of the wider locality or the setting of the NL.

8.6. The development would provide a good level of amenity for existing and future residents and would comply with internal and external residential space standards. The design of the apartment block has been further amended to reduce the impact upon the neighbouring dwelling and would pass the 25 degree test in respect of daylight/sunlight. Parking provision would be acceptable to serve residents and visitors to the development.

- 8.7. Whilst detailed landscaping is a reserved matter, the layout shows that the amount of public open space and recreation facilities would be acceptable.
- 8.8. The proposed development would provide for offsite highway improvements with the provision of a new crossing point and the impacts on the road network would not be severe. The development would not be harmful to highway safety.
- 8.9. Matters relating to surface and foul water drainage are considered to be acceptable.
- 8.10. Matters relating to ecology, contamination and archaeology are considered to be acceptably mitigated.
- 8.11. The applicant has demonstrated through the provision of a viability appraisal and cost assessment that a contribution towards affordable housing cannot be provided. The viability appraisal and costs assessment has been independently reviewed by external consultants on behalf of the council. The applicant has agreed to a clawback mechanism to be secured by a S106 legal agreement which would allow all parties to benefit from uplifts in sales values, if these accrue, yet allowing development to proceed in the meantime. This is considered to be acceptable and is in accordance with both planning policy and the NPPG.
- 8.12. Overall, it is considered that the proposed residential development of the site would be acceptable and that any residual impact can be mitigated through the imposition of suitable planning conditions. In balancing the environmental, social and economic impacts arising from the proposal, I conclude that it would present a sustainable form of development, which is at the heart of the NPPF. It is therefore recommended that planning permission be granted subject to conditions and completion of a s106 legal agreement.

9. BACKGROUND DOCUMENTS

- 9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications on line pages under planning application reference 21/0553/FH.

10. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and the applicant entering into a S106 legal agreement securing the details set out in Table 1; 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. Details relating to the landscaping (reserved matters) of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. The development shall be carried out in accordance with the following plans and documents:

23.0125 01 Site location plan
23.0125 02 A Existing and proposed block plan
23.0125 03 Existing site layout plan
23.0125.04 Roof plan
23.0125 05 Ground floor plan
23.0125 06 A Apartments floor plan
23.0125 07 A Apartments elevations and sections
23.0125 08 Plots 13 & 14 floor plans and elevations
23.0125 09 Plots 15 & 16 floor plans and elevations
23.0125 10 Plot 17 floor plans and elevations
23.0125 11 Plots 18 & 19 floor plans and elevations
23.0125 12 Plots 20 - 22 floor plans and elevations
23.0125 13 Plots 23 - 30 floor plans and elevations
23.0125 14 Plot 31 floor plans and elevations
23.0125 15 Plots 32 - 34 floor plans and elevations
23.0125 16 Plot 35 floor plans and elevations
23.0125 17 Plot 36 floor plans and elevations

23.0125 18 Plots 37 - 39 floor plans and elevations
23.0125 19 Plots 40 floor plans and elevations
23.0125 20 proposed bike stores
23.0125 21 A Proposed street scenes 01
23.0125 22 Proposed street scenes and site sections
23.0125 23 A Proposed phasing plan
5588-LLB-XX-XX-DR-L-0001 P08 Landscape masterplan
5588-LLB-XX-XX-DR-Ab-0002 P03 Tree protection plan
0001 P01 - Site access visibility splay
0002 P01 – Refuse tracking (access)
0002 P01 – Refuse tracking (loop)
0003 P01 – Fire tender tracking (access)
0003 P01 – Fire tender tracking (loop)
Planning Statement – Lee Evans Partnership, March 2024
Design and Access Statement – Holloway Architects, March 2024
5588- LLB-R P- L -0003 LVA Addendum
5588-LLB-SH-L-0001 Landscape Management Strategy
5588-LLB-RP-AB-0001Arboricultural Impact Assessment
Viability Report – Bespoke, March 2024
Cost Plan Rev C, BM, Mach 2024
Flood Risk Assessment and Drainage Strategy Report Rev C
Transport Statement, Stantec, March 2021
Transport Technical Note, Stantec, March 2024
Phase 1 Geo-Environmental Assessment
Ecological Survey, Newcombe, M. (August 2023)
Ecological Scoping Survey, Newcombe, M. (July 2020)

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

5. No construction above slab level shall take place in any identified phase or subphase until samples of the external materials to be used in the construction of the external surfaces of the building(s) hereby approved and within that phase or subphase, 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.

6. No development beyond the construction of foundations shall take place in any identified phase or subphase, (unless specified to the contrary), until the relevant details set out below have been submitted to and approved in writing by the Local Planning Authority for that phase or sub-phase. Development of the relevant plot shall only be carried out in accordance with the approved details unless agreed otherwise by the Local Planning Authority in writing. Where relevant, the following details should be provided on drawings at an

appropriate scale of 1:50 (where detail needs to be considered contextually related to a façade) and at 1:20 in other cases:

- (a) full details of glazing and external doors, including all external joinery and framing methods and external colour (1:20),
- (b) 1:20 horizontal and vertical cross sections through typical sections of each of the facades sufficient to show the relationship between the façade and those elements of detail to be embedded within the façade as well projecting from it (such as the extent of recessing of glazing and doors in openings created in the façade, the consequential treatment of window reveals, the details of cills and the extent of projecting elements from the façade),
- (c) prior to installation - Details of rainwater goods, eaves, fascia and entrance canopies (including materials and finish, details of any supporting posts and related brick plinths and roofing materials),
- (d) prior to installation - details of vents, louvres, extractor vents, external pipes, meters etc (these should not be located as far practicable on prominent elevations).
- (e) prior to installation - Details of balconies/terraces including balustrades
- (f) mortar colour(s)

Reason: Further details are required to ensure that the external appearance and fine detailing are of an appropriate high quality.

7. Before the development (including site clearance) is begun on any identified phase or subphase, all tree protection measures as set out in the approved Arboricultural Method Statement 5588-LLB-RP-AB-0001 Rev P04 dated 27/03/24 (Lloyd-Bore) shall be undertaken and installed. At least five days' written notice shall be given to the Local Planning authority of the tree protection measures being installed on site.

The hereby approved tree protection measures shall be retained in position at all times until the completion of individual plots, and the land so enclosed shall be kept clear of all contractors' materials and machinery. The existing soil levels around the boles of the trees shall not be altered.

Reason: To ensure that the trees are not damaged during the period of construction.

8. 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.

9. The details submitted pursuant to condition 1 shall include the following:
- i) A Play Space Strategy for the site, providing details of the provision of all play space and equipment on the site.

Reason: In order to ensure appropriate mitigation against the effects of the development.

10. Prior to the installation of any lighting on site, a detailed lighting scheme and assessment of impacts shall be submitted to the Local Planning Authority which includes details of:
1. How the lighting follow's the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'
 2. Light spill plans to demonstrate any impact on neighbouring sites.
 3. The proposed hours of use including timers, so they are dimmed/not operational when not in use.

Details should include: - A statement of the proposed frequency of the use and the hours of illumination demonstrating that the lights are on timers so they are; dimmed/not operational when not in use; A site plan showing the area to be lit relative to the surrounding area, demonstrating that light spill to the adjacent cliffs would be minimal; Follows the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting' (or subsequent updates); The type, number, mounting height and alignment of the luminaries; An Isolux diagram showing the predicted illuminance levels at critical locations on the boundary.

The lighting must be used, maintained and managed in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development and in the interests of ecological protection and amenity

11. Prior to works commencing on site (including site/vegetation clearance), a precautionary ecological mitigation strategy will be submitted to the local planning authority and approved in writing. The strategy will detail how the vegetation within the site will be cleared to avoid killing and/or injuring protected and priority species. The strategy must be implemented as approved.

Reason: In the interests of ecological protection.

12. Within three months of works commencing on site a detailed ecological enhancement plan will be submitted to the local planning authority and approved in writing. The plan will detail how the landscaping will be designed and managed to enhance and benefit biodiversity and include details of ecological enhancement features to be incorporated into the dwellings (e.g., bird and bat boxes aimed at species of conservation concern). The plan must be implemented as approved.

Reason: In the interests of biodiversity.

13. Construction of the development shall not commence until details of the proposed means of foul sewerage have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Reason: To ensure adequate provision of foul drainage to serve the development.

14. Development shall not begin 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 and Drainage Strategy Report Revision D by the Alan Baxter Partnership 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 [within the curtilage of the site] without increase to flood risk on or off-site. [The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths 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 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.

15. 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 that the drainage system constructed is consistent with that which was 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 175 of the National Planning Policy Framework.

16. The development shall be carried out in accordance with the submitted flood risk assessment (by: Alan Baxter Partnership LLP; ref: K838 / September 2020; updated: 27 March 2024) and the document titled "Response from applicant to EA comments (R)" (by: Alan Baxter Partnership LLP; dated: 3 April 2024) and the following mitigation measures it details:
 - Finished floor levels shall be set no lower than 17.700 metres above Ordnance Datum (AOD)
 - The bund shall be formed by the proposed excavations. There shall be no land raising within the floodplain.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

17. 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 in the next planting season with trees or shrubs of the same species/size as approved within the landscaping scheme unless any variation has been agreed in writing with the Local Planning Authority.

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

18. 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 carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

19. No development shall take place, including any works or demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction. The statement shall provide for:
- (a) Routing of construction and delivery vehicles to / from site
 - (b) The parking and turning for the vehicles of site operatives and visitors
 - (c) Loading and unloading of plant and materials
 - (d) Storage of plant and materials used in constructing the development
 - (e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - (f) Wheel washing facilities
 - (g) Measures to control the emission of dust and dirt during construction
 - (h) A scheme for recycling or disposal of waste resulting from construction works
 - (i) Timing of deliveries
 - (j) Temporary traffic management and signage
 - (k) Confirmation that the developer has signed up to the Considerate Constructors Scheme

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

20. Prior to the commencement of the development and following completion of the development highway condition surveys for highway access routes should be undertaken and submitted to the Local Planning Authority along with a commitment provided to fund the repair of any damage caused by vehicles related to the development in consultation with Kent County Council Highways and Transportation.

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

21. The approved vehicle parking spaces as shown on the submitted plan (23.0125.04) shall be provided prior to the first occupation of each dwelling as to which the parking spaces serve. Thereafter the parking spaces shall not be used for any purpose other than for the parking of private motor vehicles associated with the residential occupation of the property.

Reason: To ensure adequate provision for vehicle parking in the interest of highway safety, and in the interest of visual amenity.

22. Prior to the first occupation of each individual dwelling hereby approved, an electric vehicle charging point shall be fully installed within that plot /parking space and shall be retained and maintained as such thereafter. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wi-Fi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

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

Reason: In the interests of promoting sustainable methods of transport.

23. Prior to the first occupation of each dwelling the cycle parking facilities as shown of submitted plan (23.0125.04) shall be provided.

Reason: To secure a sustainable form of development and to reduce reliance upon the private motor vehicle.

24. No dwelling shall be occupied until the access identified on drawing (23.0125.04) has been provided in accordance with these approved details. The access shall thereafter be permanently maintained.

Reason: In the interest of highway safety.

25. Prior to the first use of the access the visibility splays identified on drawing (49402_5501_001 Revision B) (with no obstructions over 0.6 metres above carriageway level within the splays) shall be provided in accordance with the approved details. The visibility splays shall thereafter be retained in accordance with the approved plans and the area within the visibility splays shall be permanently maintained.

Reason: In the interest of highway safety.

26. Prior to the first occupation, the following works shall be laid out and constructed in accordance with the approved details:

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

Reason: In the interests of highway safety and convenience.

27. The carports (plots 31-40) hereby approved shall be kept available in its entirety for the parking of vehicles at all times, and notwithstanding the provisions of Class E, Part 1 of schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) no doors, shutters nor any other means of enclosing the carports shall be erected or constructed on site and no 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 site, in such a manner or in such a position as to preclude vehicular access to the garages/carports.

Reason: In the interests of highway safety and convenience.

28. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of

- i) archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and
- ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

29. Prior to the commencement of dwellings within each phase, details of the design of boundary treatments, to include gates, boundary walls, retaining walls and fences, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided prior to the first occupation of any part of the development to which they relate in accordance with the approved details.

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

30. Construction above slab level shall not commence within any phase of the development hereby permitted until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving that all the dwellings in the phase will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator. No phase of the development hereby permitted shall be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that all in the dwellings in that phase have 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.

Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings'

<https://www.gov.uk/government/publications/the-water-efficiencycalculator-for-new-dwellings>

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

31. No development beyond the construction of foundations shall take place within any phase until details demonstrating the development within that phase or subphase 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, (or any document which supersedes or updates that document) 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.

32. 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 0800 – 1900 hours
Saturdays 0800 – 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.

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

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

34. Prior to the occupation of the apartment block, the windows to the east elevation identified on drawing number 23.0125 07 as being obscure glazed shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened except for a high level opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

35. Prior to the first occupation of plot 40, details of the privacy screen shown on drawing number 23.0125 19 shall be submitted to and approved in writing by the local planning authority. The privacy screen shall be implemented in accordance with the approved details prior to first occupation, and thereafter be maintained in position in perpetuity.

Reason: In the interests of residential amenity.

36. Land Stability:
(a) Prior to commencement of the development the applicant shall obtain, from a suitably qualified engineer, a written slope stability report advising on the effect the development will have on the stability of the site and all adjoining land and properties. The report is to include, but need not be limited to, the types of proposed foundations, the effect that any excavations into sloping ground will have, types of retaining structures necessary, surface and foul drainage, the effect of any increase/decrease of site loadings, the possible effect to the stability of any adjoining properties, and any other factors needed

to ensure the stability of the site and all adjoining land, properties and associated services.

The report should also include a method statement which indicates measures to be adopted during the construction phase to ensure that development does not cause instability to adjoining retaining walls, land and buildings. No development shall take place until this report has been submitted to and approved in writing by the Local Planning Authority.

(b) No works other than those approved shall be carried out unless details of these have first been submitted to and approved by the Local Planning Authority.

(c) All works recommended in the approved slope stability report and method statement (and any alternative works approved) shall be carried out as set out in the approved documents and upon completion confirmation from a suitably qualified engineer that the approved works have been carried out in full shall be submitted to the Local Planning Authority prior to the building being occupied.

Reason: The site lies within, or within the influence of an area identified as being subject to soil instability as detailed on the Ordnance Survey Geological Survey and it is necessary to ensure that appropriate works are carried out in order to ensure the stability of the site and the development and the adjoining land and buildings.

Informatives:

1. The applicants attention is drawn to the informatives included within the consultation response of Kent Highways and Transportation dated 10 July 2024.
2. The applicants attention is drawn to the information set out in the consultation response of Southern Water dated 06 May 2024.
3. Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and the applicant is urged to contact the LLFA prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.
4. Public Rights of Way:

- No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority
- There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
- Planning consent does not confer consent or a right to disturb or unofficially divert any Public Right of Way at any time without the express permission of the Highway Authority.
- No trees or shrubs should be planted within 1.5 metres of the public right of way.

Table 1 – s106 Obligations

Draft s106 obligations

Obligation No.	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts(s)	Trigger Points(s)	
1.	<p>Affordable Housing: 22% of the total dwellings. Off-site commuted sum to the value of 1,195,350.00</p>	<p>Contributions for the cost of provision of the units not being supplied, to be deferred and paid only as lump sums following any increase in sales values. Deferred contribution to the value of 1,195,350.00</p>	<p>Payable if sale values rise in accordance with the deferred contributions mechanism below.</p>	<p>Necessary as would provide housing for those who are not able to rent or buy on the open market pursuant to CSD1 of the Core Strategy Review (2022) and guidance in the NPPF. Directly related as the affordable housing would be provided on-site in conjunction with open market housing. Fairly and reasonably related in scale and kind as based on a proportion of the total number of housing units to be provided.</p>
2.	<p>Open Space: On site open space to be delivered in 2 phases. To be managed and maintained by a management company</p>	<p>On site</p>	<p>Phase 1 open space to be provided prior to the occupation of 85% of all dwellings located within phase 1. Phase 2 open space to be provided prior to the occupation of the final dwelling.</p>	<p>Necessary as open space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand pursuant to policy C3 of the PPLP and guidance in the NPPF. Directly related as occupiers will use open space and the facilities to be provided would be available to them. Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained.</p>
3.	<p>Play Space:</p>	<p>On site</p>	<p>Prior to the commencement of Phase 2</p>	<p>Necessary as open space is required to meet the demand that would be generated and must be maintained in order to continue to meet that demand</p>

Table 1 – s106 Obligations

Obligation No.	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts(s)	Trigger Points(s)	
	On site provision To be maintained and managed by a management company			Pursuant to policy C3 of the PPLP and guidance in the NPPF. Directly related as occupiers will use open space and the facilities to be provided would be available to them. Fairly and reasonably related in scale and kind considering the extent of the development and the number of occupiers and the extent of the facilities to be provided and maintained.
4.	Secondary Education SEND: Project: Towards the expansion of selective and non-selective secondary schools in FHDC Project: Towards the provision of additional SEND places and/or additional SEND facilities to serve this development within FHDC.	£165,207.40 £17,354.76	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 75% of the dwellings	Necessary as there is a significant deficit of secondary education places when all proposed and consented developments are taken into account and pursuant to policy SS5 of the Core Strategy Review and KCC's 'Development and Infrastructure – Creating Quality Places' and guidance in the NPPF. Directly related as children of occupiers will attend primary school and the facilities to be funded would be available to them. Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has taken into account the estimated number of pupils and is based on the number of dwellings.
5.	Healthcare: Towards refurbishment,	£34,560.00	Half the contribution upon occupation of 25% of the dwellings and balance on occupation of 50% of the dwellings.	Necessary to increase capacity to meet the demand that would be generated by the development pursuant to policy SS5 of the Core Strategy Review and guidance in the NPPF.

Table 1 – s106 Obligations

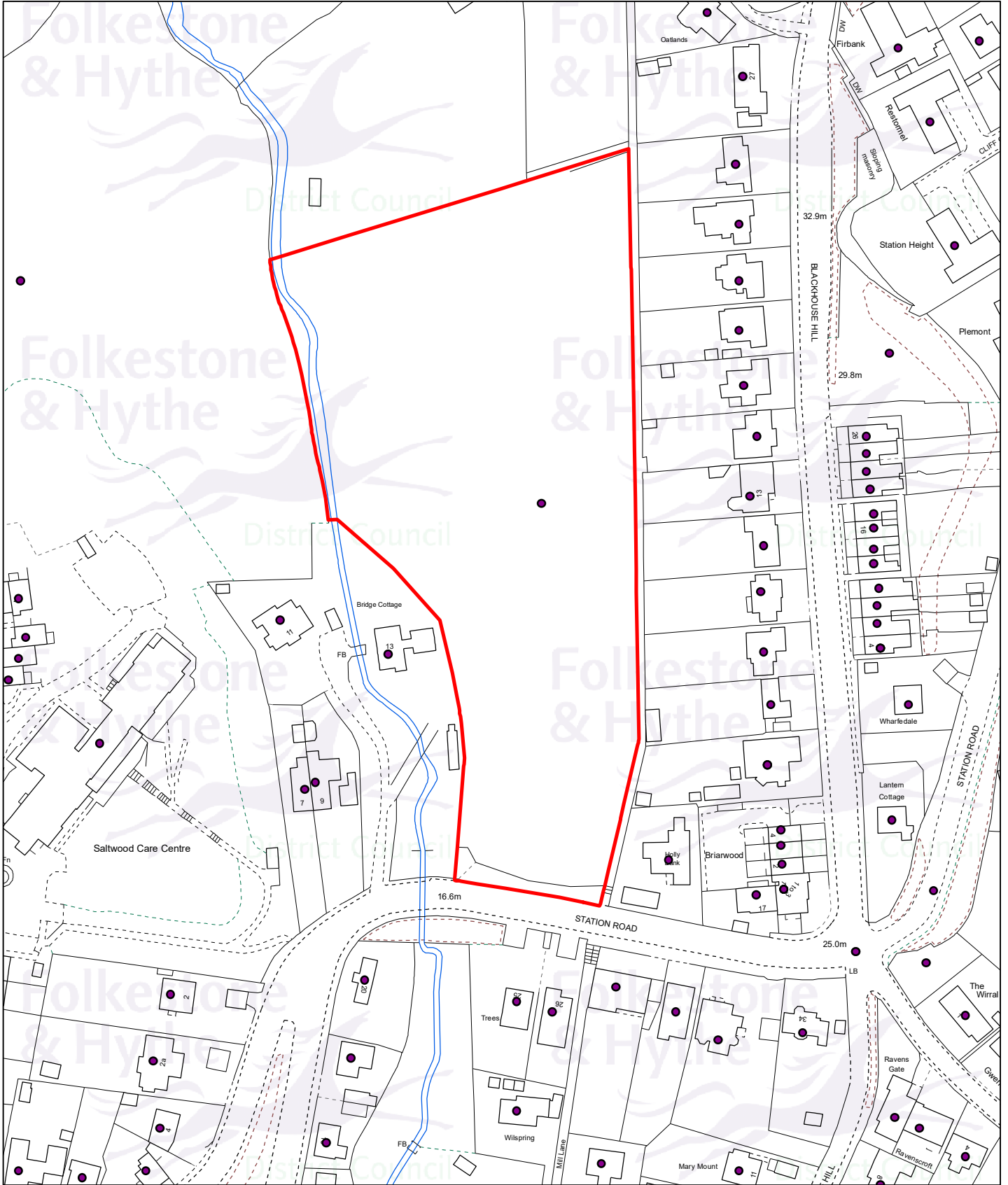
Obligation No.	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts(s)	Trigger Points(s)	
	reconfiguration and/or extension of existing general practice and other healthcare premises covering the area of development or new premises for general practice or healthcare services provided in the community in line with the healthcare infrastructure strategy for the area.			<p>Directly related as occupiers will use healthcare facilities and the facilities to be funded will be available to them.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and because the amount has been calculated based on the estimated number of occupiers.</p>
6.	<p>Deferred payments mechanism:</p> <p>Mechanism to monitor sales values to ensure that 50% of any rise in values is paid to the Council towards those contributions above that are deferred, in accordance with a scheme to be agreed.</p> <p>The developer is to pay the council's</p>	Up to the value of all deferred contributions (indexed).	To be paid if the circumstances prevail.	As above

Table 1 – s106 Obligations

Obligation No.	Planning Obligation			Regulation 122 Assessment
	Detail	Amounts(s)	Trigger Points(s)	
	costs for viability review.			
7.	Monitoring Fee: Contribution towards the Council's costs of monitoring compliance with the agreement or undertaking	£1,000	Commencement of development	<p>Necessary in order to ensure the planning obligations are complied with.</p> <p>Directly related as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations to be monitored.</p>
<p>Notices must be given to the Council at various stages in order to aid monitoring. All contributions are index linked in order to maintain their value. The Council's legal costs in connection with the deed must be paid by the applicant.</p> <p>If an acceptable deed is not completed within 6 months of the committee's resolution, the application may be refused.</p>				

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21/0553/FH - Land Opposite 24, Station Road, Hythe CT21 5PW



Planning Application:
21/0553/FH
Drawn date:
05 Mar 2025
Drawn by:
Carrie Stacey
Drawing ref:
1635/COP/LS


Llywelyn Lloyd
Chief Planning Officer

Contains Ordnance Survey data
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Folkestone & Hythe District Council AC0000821403 - 2025



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Application Number	21/0553/FH
Location	Land Opposite 24, Station Road, Hythe
Application Description	Outline planning permission for the erection of 40 no. dwellings with associated access, parking and open space (matters of landscaping reserved for future consideration)
Applicant	Kingston Homes
Agent	Lee-Evans Partnership LLP, St John's Lane, Canterbury, CT1 2QQ
Officer Contact:	Alex Stafford

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 as set out in Table 1 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. Reason for consideration by the Committee

- 1.1. The application is reported to Committee because an objection has been received from Hythe Town Council.

2. Site and Surroundings

- 2.1. The application site comprises a rectangular shaped piece of land approximately 1.4 hectares in size. It is bordered by a public right of way HB22 and the houses on Blackhouse Hill to the east, Station Road to the south, existing dwellings to the south west, and the Saltwood Care Home and open fields to the west. To the north beyond an area of trees are open fields. The land is largely open, covered in scrub growth, and generally slopes downwards to the west and southwest. The site perimeter is marked by mature trees, and a stream (the Saltwood and Mill Lease, a designated major watercourse) runs along part of the western boundary. The site slopes steeply with a level difference of approximately 14m from the north east corner and the south west corner.
- 2.2. The surrounding area is characterised by residential dwellings of various designs and sizes lining the valley, beyond which are contemporary modern housing developments. The land to the north is undeveloped agricultural / grazing / equestrian land and the National Landscape is located approximately 94 metres to the north of the site beyond existing dwellings.

- 2.3. The site lies within the defined settlement boundary and is allocated for residential development under adopted Local Plan Policy UA14.
- 2.4. Whilst the majority of the site is located within floodzone 1 which has the lowest probability of flooding, the western edge of the site (roughly tracking the stream) is located within flood zones 2 and 3.
- 2.5. The site is wholly within land stability zone D; the higher risk zone indicating slope stability issues are likely to be present.
- 2.6. The site is within a designated Local Landscape Area. The trees along the eastern and western boundaries, and within land to the north are covered by Tree Preservation Orders (no.05 of 1990, no.07 of 1993, and no.11 of 1996).
- 2.7. The site is located approximately 0.2 miles north east of the High Street in Hythe which is the districts second settlement and classed as a strategic town within the district settlement hierarchy.
- 2.8. The site location plan is detailed below and is attached to this report as **Appendix 1**.

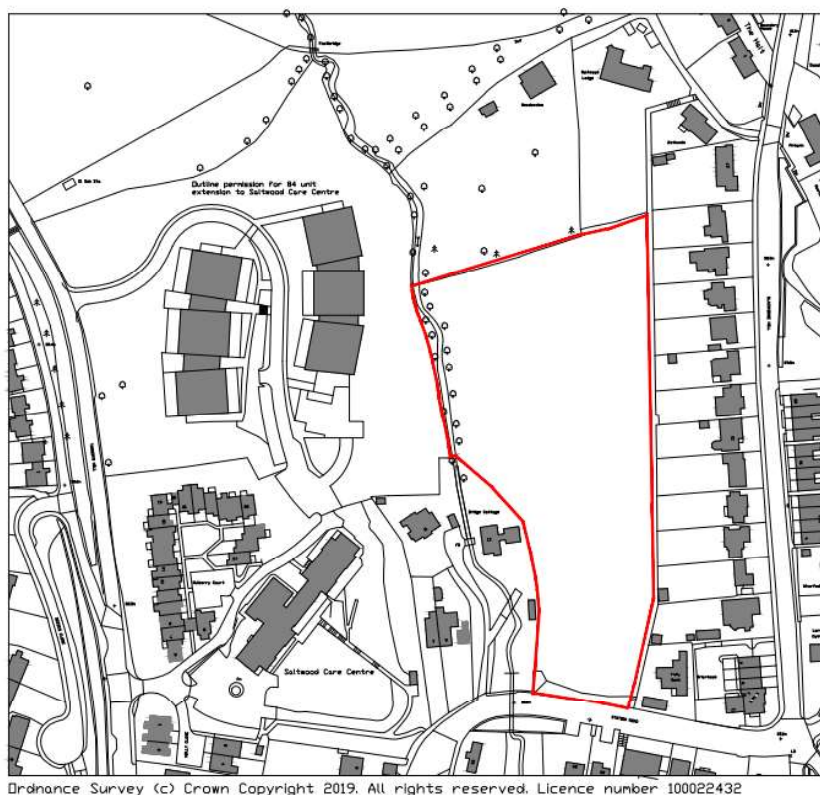


Figure 1: Site location plan

3. Proposal

- 3.1. Outline planning permission including details of layout, scale, appearance and access is sought for a residential development, comprising 40 dwellings with associated access, parking and open space. Matters relating to landscaping are reserved for future consideration.
- 3.2. The application has been significantly amended since it was originally submitted following advice from officers and taking account of consultation responses. Prior to the submission of amended drawings, a consultation event was held in early 2023. These amendments have resulted in the following changes being made to the proposed development.
- A reduction of the number of dwellings proposed by 6;
 - Deletion of 2no apartment blocks to the northern part of the site;
 - The introduction of a loop road;
 - The relocation of the dwellings within the central area of the site;
 - The repositioning of buildings away from the east and west boundaries;
 - A simplified contemporary architectural approach and palette of materials.
- 3.3. The proposals comprise a mix of two bed apartments and detached, link-detached and semi-detached three, four and five bed dwellings. All dwellings are proposed to be market dwellings with no on site affordable housing proposed. The scheme would equate to 28 dwellings per hectare.

Housing Mix	
2 bedroom apartments	12
3 bedroom house	13
4 bedroom house	10
5 bedroom house	5
total	40

- 3.4. A total of 93 parking spaces are proposed including 8 visitor spaces, which will be located throughout the site. Every house with a driveway is proposed to be provided with an electric vehicle charging point.
- 3.5. Cycle parking is proposed to be provided in accordance with the Council's standards at a rate of 1 space per bedroom. This would be in the form of secure and covered cycle storage within the communal areas for the apartment building and within garages and rear gardens for the dwellings.
- 3.6. Figure 2 below shows the proposed layout of the development. Figure 4 shows the original layout and highlights how the layout has evolved during the course of the application.



Figure 2: Proposed layout



Figure 3: Proposed layout as originally submitted

- 3.7. Architecturally the development would be contemporary and has been designed to take inspiration from the form of buildings located within the area whilst applying detailing and features to give the development an architectural identity in its own right. Strong gables at a consistent 48 degree pitch across the majority of house designs are proposed together with repetition of window styles across housetypes and the apartment building are proposed to help to create a coherent scheme.
- 3.8. A single apartment block would be located at the front of the site intended to create a frontage onto Station Road, and a focal point at the entrance to the development. This would comprise of 3 storeys of accommodation set above an undercroft parking floor (partially sunken into the ground). The scale of the apartment block seeks to reflect upon the scale of recent nearby development, such as that at Briarwood which is located at the corner of Station Road and Blackhouse Hill to the east.
- 3.9. This apartment building has been redesigned during the course of the application to provide a more consistent appearance and form with feature gables addressing Station Road. The building has also been set back from Station Road and repositioned away from the eastern boundary and the existing trees.

- 3.10. The lower portion of the site would front onto the access road, with a mix of detached and semi-detached units on a raised level set back from the road. These are proposed to be arranged in a ribbon layout to reflect the built context of the area such as those properties on Blackhouse Hill and would be 3 storeys in height with the 3rd floor set partially within a gabled roof form.
- 3.11. The central area of the site proposes a loop road with dwellings arranged with their gardens back to back in response to the sites sloping topography. These are proposed to be predominantly semi-detached or link detached housetypes with a small number of detached dwellings. The loop road configuration differs from the originally submitted scheme intended to allow for greater ease of vehicle movements. Plot 18 is proposed to be a landmark building due to its prominent location within the site with architectural details such as gable glazing and a feature bay window proposed at ground floor level.
- 3.12. To the north of the site, larger detached dwellings are proposed which would be 3 storeys in height with the upper floor set back with a flat sedum roof. The arrangement of these dwellings would step with the sloping topography of the new access road. These dwellings would incorporate a split level to utilise the level change with private rear gardens and first floor terraced areas.
- 3.13. The revised design of the dwellings seeks to incorporate a consistent palette of high quality materials throughout the development incorporating vertical timber cladding, red brickwork, grey ragstone, feature metal panels, slate pitched roofs, flat roofs with sedum/green roof and dark coloured windows, fascia's and rainwater goods.
- 3.14. Whilst landscaping is a reserved matter, the applicant has provided a landscape strategy which sets out that the existing trees on the site would be retained with the exception of those that would be removed to create the access and necessary visibility splays. A further 4 category B/C trees would be lost within the site however tree planting is proposed to mitigate this loss including the planting of large specimen trees. Street trees are proposed throughout the development together with infilling along existing boundaries with native species trees, shrubs and groundcover. In addition, the western side of the site which is located within floodzones 2 and 3 would remain undeveloped with an area of landscaped public open space provided containing a pedestrian footpath.
- 3.15. A play area is proposed to the eastern boundary, overlooked by plots 20 – 22 to provide natural surveillance. A connection would be provided to the public right of way at this point.
- 3.16. It is proposed that the development would be delivered in two phases with plots 1-22 falling within phase 1 and plots 23-40 in phase 2.

- 3.17. In terms of sustainability the applicant proposes the use of air source heat pumps to provide primary heating and hot water. Roof mounted solar PV panels with a battery storage system are also proposed to provide enhancement beyond Part L of the Building Regulations.
- 3.18. In addition, materials with a high thermal mass are proposed to reduce heat loss and enhance temperature control. The use of green roofs is also proposed to boost thermal performance, reduce heat loss and enhance ecological values.
- 3.19. A pedestrian crossing would also be provided east of the proposed site access junction to allow residents to cross Station Road from the existing footway provision to connect with the proposed internal site footways. This crossing is proposed to be formed of tactile paving and dropped kerbs.
- 3.20. Figures 4, 5 and 6 shows CGI images of the proposed development showing the architectural design approach across the site and figure 7 shows a street scene view and proposed site sections.



Figure 4: Proposed view of the access and apartment building fronting onto Station Road



Figure 5: Proposed dwellings facing west facing onto the public open space and stream



Figure 6: Proposed detached dwellings to the north of the site

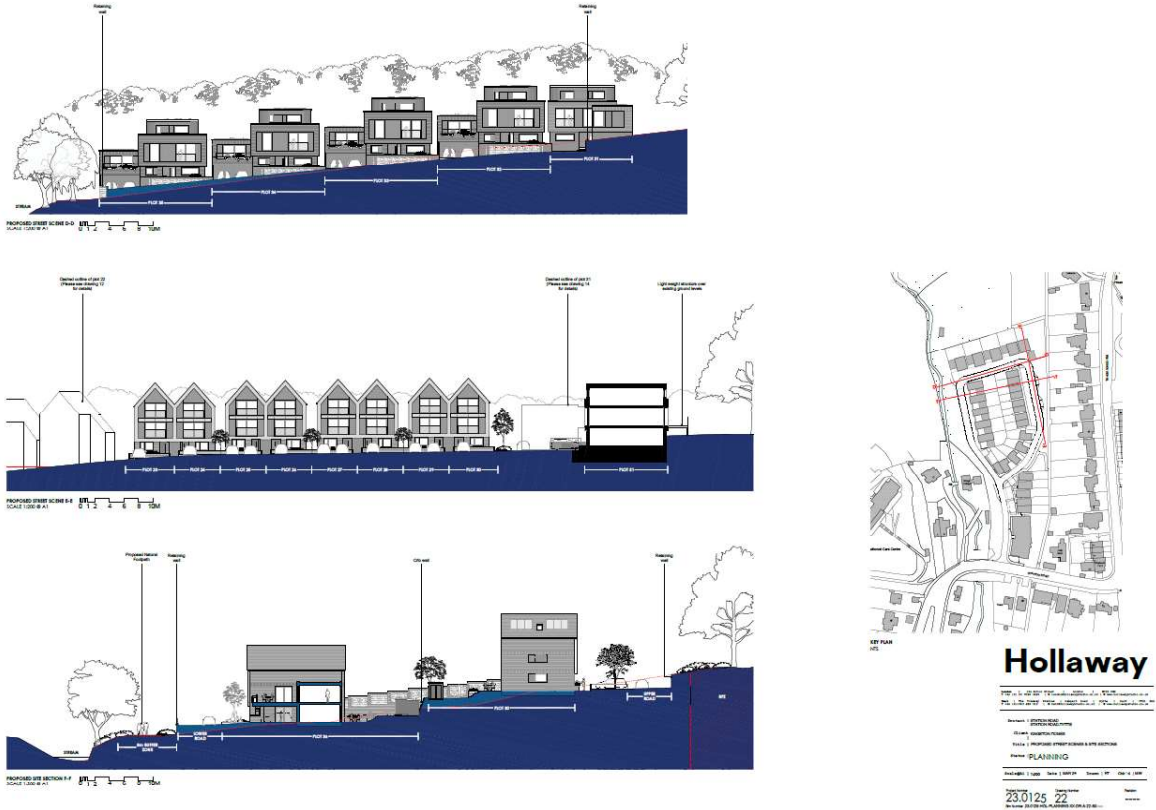


Figure 7: Street scenes and site sections

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

Planning Statement (updated March 2024)

- 3.22. The Planning Statement assesses the proposals in the context of the requirements of the local policy and guidance, the NPPF and other material considerations.
- 3.23. The development would represent an effective and efficient use of land in a sustainable manner and location. The site is located within the built confines of Hythe as defined by the Local Plan and would be supported by allocation Policy UA14.
- 3.24. The design approach has been carefully considered in light of the surrounding natural and built context, and environmental, landscape and visual value of the site and surrounding area. The proposed development would be appropriate in terms of scale, density, layout and character/appearance, and would be of high quality and enhance the immediate and wider setting, whilst protecting views from and towards the National Landscape.
- 3.25. The development would deliver a good mix of housing type and size, in accordance with Local Plan requirements.
- 3.26. The development would be in accordance with local and national policy interests in relation to neighbour and resident amenity, highways and parking, flood risk and drainage, trees, ecology and biodiversity and energy efficiency.
- 3.27. The development will make contributions towards local infrastructure where it is shown to be necessary to make the scheme acceptable in planning terms. However, for evidenced viability reasons, it would not be able to deliver affordable housing.
- 3.28. The development would meet the requirements of planning policies set out in Government guidance, as well as local Development Plan policies, including the criteria outlined in Policy UA14, and should benefit from the presumption in favour of sustainable development outlined in the NPPF.

Design & Access Statement – Holloway Architects

- 3.29. The Design & Access Statement (D&A) sets out the strategy and rationale behind the proposals for 40 dwellings on the application site. It also highlights how these designs have evolved over the course of the application and takes account of a wide range of considerations and constraints. The key aspects of the design proposals are summarised as follows:
- Designs have been developed to reflect the local vernacular, whilst using contemporary applications of materials and glazing to create high quality and highly sustainable housing.

- The site layout and designs have been carefully considered to ensure that the scale and massing of the scheme is appropriate. In particular, with reference to the site's topography and within its valley as illustrated within the submitted site section drawings.
 - A variety of housing designs are proposed to provide high quality space with varied layouts to meet modern demands and standards.
 - The existing boundary trees would be predominantly retained, and a green landscape zone would be provided to the western side of the main access road providing a spacious visual corridor through the site.
 - The scheme would include a designated play area and a new pedestrian crossing from the site across Station Road.
- 3.30. The proposals as re-submitted reflect the local planning policy (including the site's allocation for residential development - Policy UA14), as well as wider National Planning Policy Framework policies.
- 3.31. The proposals have been developed through further to consultation with various parties including Folkestone & Hythe District Council (various pre-application meetings and meeting throughout the application process), Kent County Council (Drainage and Highways) and Local Councillors and residents (public consultation). The applicant and design team believes that the re-submitted proposals represent a well-considered proposal for this allocated and highly sustainable site close to Hythe town centre.

Arboricultural Impact Assessment

- 3.32. The report relates to trees on and adjacent to the site. It is concerned with the impact the development may have on nearby trees and the effect retained trees may have on the development.
- 3.33. The development would require the removal of 15 trees (T18, T23, T24, T25, T27, T52, T53, T54, T55, T56, T57, T58, T60, T61 and T62) and 3 groups of trees (G19, G29, G39). Group G20 would require partial removal. Trees T38, T43 are proposed to require pruning. The majority of the trees to be removed are category C trees, 4 trees are category B and 2 are category A.
- 3.34. The RPA's of 7 trees and 1 group of trees would be impacted by the development. In all instances, the extent of the incursion is very minor and always at the very outer edge of the RPA and as such, it is considered that they will have a negligible impact on the future vitality of all trees affected.
- 3.35. In relation to the protection of retained trees an arboricultural method statement secured by a planning condition can be used to ensure that trees are successfully retained on a development.
- 3.36. New tree planting is proposed as part of the scheme, some of which will act as a direct replacement for those trees lost in order to facilitate its

construction. Additional tree planting to provide a long term enhancement of the site's tree stock is also proposed as part of the landscape masterplan and it is considered that this will more than compensate for the proposed

Geo-Environmental Assessment

- 3.37. The anticipated geology is likely to comprise Alluvium and/or Landslip Debris/Colluvium over soils of the Atherfield and Weald Clay Formations.
- 3.38. Based on the geological hazard assessment it is likely that the majority of structures will need to be supported on a deep foundation solution, i.e. piles. It is considered likely that suspended floor slabs will be required.
- 3.39. From the results of numerous studies on the Lower Greensand escarpment the main slope failure mechanisms that may impact the site would be creep movement along pre-existing shear surfaces located within superficial Landslip Deposits and deep seated translational and rotational failure within the Atherfield Clay stratum.
- 3.40. Based upon this site's geological setting Landslip Debris/Colluvium is likely to be found with soils of the Atherfield Clay Formation likely to be encountered in the north eastern corner of the site.
- 3.41. The slope angles across the site are relatively gentle with the majority of slopes between 6 and 7°. These slope angles are typical of long-term stable slopes in clay soils and therefore the risks of mobilising creep movement along pre-existing shear surfaces in either the landslip deposits/Colluvium or underlying Atherfield/Weald Clay Formations is considered to be low.
- 3.42. There are localised banks where slope angles up to 20° were observed which represent a low to moderate risk of ground movement from shallow translational slippage.
- 3.43. With regards to the risk from deep seated translational and rotational failure within the underlying Atherfield Clay, shown in outcrop in the north eastern part of the site only, this is considered to be moderate however the risks can be mitigated by transferring introduced loads from any development in this area to either piled foundations into the underlying Weald Clay Formations or by using compensation raft so there is no net increase in ground loading from the development.
- 3.44. Given the topography of the site and the nature of proposed development layout the development will require retaining walls. For the significant walls, the form of construction is likely to be formed by locally embedded retaining structures such as contiguous piled walls.
- 3.45. Based upon the findings of the Phase 1 study, by adopting the mitigation measures outlined, the risk of ground instability from land slipping, both on the site and the neighbouring land, is considered low.

- 3.46. No soakaways of any size should be constructed on site as this affects the natural water content of the soil, which can increase the risk of landslip occurring.
- 3.47. The site is located above Unproductive Strata and is not located within a Source Protection Zone.
- 3.48. From the historical map search the site has not been developed upon since at least the 1870's.
- 3.49. Surrounding land has been predominantly residential since at least late 1870's.
- 3.50. No potential sources of significant contamination were identified on site during the historical map search and site walkover.
- 3.51. The risks posed to workers involved in any future redevelopment of the site are not considered significant providing standard health and hygiene practices are adopted.
- 3.52. The risk to plants and buildings and services on site is considered to be low.
- 3.53. The risks to human health are considered to be low.
- 3.54. The risks to groundwater in the Unproductive Strata are considered to be low due to the lack of any potential sources of significant mobile organic contamination observed on the site.
- 3.55. Any surplus soil material to be removed off site would require waste classification testing prior to removal from site. Any surplus soil material to be removed off site would require waste classification testing prior to removal from site.
- 3.56. It is recommended that a watching brief be implemented on this site during enabling works and should any contamination or potentially contaminative sources be discovered during the proposed enabling works all site works would cease, and suitably competent consultants/engineers would attend site.

Flood Risk Assessment and Drainage Strategy

- 3.57. The site is currently greenfield. The greenfield equivalent run-off rate for the proposed impermeable area (0.7654ha) has been calculated to be 12.2l/s for the 100 year storm.
- 3.58. The British Geological Survey (BGS) records for this area indicate the site is underlain by a Weald Clay Formation - Mudstone. Therefore, infiltration of surface water runoff into the ground is not considered to be feasible.

- However, at detailed design infiltration testing may be undertaken to determine the percolation rates for the existing ground.
- 3.59. The NPPF recommends that any development is to be in Flood Zone 1 where possible. With reference to the EA's Risk of Flooding from Rivers and Sea Map the majority of the site is located within Flood Zone 1 (Low Probability), and some of the site in Flood Zone 2 (Medium Probability), and a very minor part of the site within Flood Zone 3 (High Probability). The development has been designed to minimise incursion into Flood Zones 2 and 3, and ensure all proposed dwellings are within Flood Zone 1.
- 3.60. A comprehensive drainage strategy has been designed which aims to avoid increasing flood risk elsewhere and reduce flood risk overall. This is through the provision of a robust drainage system. Notwithstanding this, residents would be advised to register with the Environment Agency's Flood Warning service before occupying the dwelling.
- 3.61. The additional surface water runoff produced by the proposed impermeable areas on site would be collected using a combination of underground storm crates and pervious pavements. Collection of surface water from roofs would be undertaken using rainwater pipes and the hard-paved areas, such as roads and paths, would be drained by gullies and permeable pavements where necessary. Where possible, the driveways and vehicle parking bays incorporate permeable paving, which would provide some additional attenuation and treatment of the water in areas most vulnerable to a pollution incident.
- 3.62. A series of large, underground attenuation tanks, coupled to subbase storage would be provided. These will attenuate the impermeable areas, with flow controls used to restrict the discharge rates. The flows at the point of discharge to the adjacent watercourse would be restricted so that the total discharge rate for the site as a whole does not exceed the existing greenfield rate of 12.2/s during a 100-year storm (allowing for an increase of 45% due to climate change). This means that the risk of flooding as a result of development would not be increased.
- 3.63. A combination of Hydrobrakes and orifice plates would be used to ensure that the discharge during the 2-year and 30- year storms do not exceed that of their respective Greenfield rates. The surface water would then be conveyed by gravity to a final headwall discharge point into the existing water course on the west of the site. This would be subject to approval by the LLFA. Design of the network and attenuation systems would also account for a 45% additional flow due to Climate Change for 1 in 100-year storms. The combination of pervious pavements, catchpits and gullies would form an overall treatment process to improve the quality of surface water runoff.
- 3.64. Foul water would be collected and transported via traditional gravity pipes to an on-site pumping station. From there it would be conveyed via a rising

main to a final new manhole in the south-east corner of the site. From this manhole the foul waste will be discharged into the existing Southern Water sewer south of the site via a new connection. This would be subject to approval from the appropriate bodies.

- 3.65. A portion of the development site resides within an area shown by the Environment Agency as being at risk from river flooding. Therefore, in order to prevent an increased risk of river flooding associated with the development, it has been necessary to provide a volume of flood compensation adjacent to the existing watercourse. This would be in the form of suitably excavated ground on the east side of the existing water course, so that in the event of a river flood event, the river water will be able to fill up the area that has been excavated and would therefore not flood any of the proposed roads or houses.
- 3.66. Calculations have been undertaken to determine what amount of volume is required to compensate for the proposed development. From these calculations, which are based on ground contours and the Environment Agency mapping and have been confirmed by a detailed flood risk report from the Environment Agency, approximately 273m³ of flood volume compensation will be required. The proposals would provide 286m³ of flood plain storage, meaning the development would actually provide a net gain in storage volume over the existing site. As part of the ongoing planning process and the evolution of the development proposals, the EA have been consulted and have agreed in principle regarding the flood plain compensation proposals. Whilst this approval principal was based around the previous scheme design, the updated design still provides a net benefit in terms of flood plain versus the current situation for all flood situations.
- 3.67. Based on the proposed drainage systems which would be incorporated into the development, the risk of flooding from this development is considered to be low.

Landscape and Visual Appraisal

- 3.68. The LVA includes photographic analysis of the local landscape character showing views from within and around the site.
- 3.69. With regard to visual effects, these have been examined through desktop work and site investigation. In most views the site is contained by surrounding development and vegetation. It is predicted that much of the development would be hidden or would present as elements of parts of roofs and upper elevations, because it would be glimpsed between existing buildings and trees and located within a valley location set down below the level of adjacent land.
- 3.70. The architectural design of the proposed scheme is of a high visual quality, responding positively to the site's topography. A harmonious range of high

- quality materials is proposed, reflecting the visual qualities of local architecture.
- 3.71. The main changes in public views would be in those gained westwards from the PROW HB22, and from Station Road viewing north. From the PROW lateral views can be gained through vegetation into a currently undeveloped site. This would be changed with the introduction of new buildings and boundary fencing and is assessed as an adverse change. The view northwards from Station Road would be opened up as a result of vegetation removal to create sight lines and access the site, revealing new built form on the site. Although these changes are assessed as adverse, the proposed architecture presenting to Station Road will be of a high quality, and predicted adverse effects are capable of being satisfactorily mitigated through high quality landscape treatment and detailing.
- 3.72. Some minor adverse visual effects are also predicted for residential views from properties on Blackhouse Hill and Bridge Cottage, although retained site vegetation would mitigate these effects. Small elements of the proposed development might just be glimpsed in more distant views from properties on Tanners Hill Gardens, although in these views substantial retained woodland interposes between these views and the site.
- 3.73. The high architectural quality of the proposed scheme will be complemented by a landscape design that involves planting of large street trees. These would grow to provide large canopy forms between buildings and above roof lines, offering long-term visual mitigation.
- 3.74. Adverse effects are predicted on vegetation, topography and TPOs. These effects are the product of site development processes. Adverse effects on vegetation are predicted to become neutral in the long term, as the new landscape develops. The site is located outside the NL. Neutral effects are predicted on the setting of the Kent Downs 'Postling Vale / Saltwood' LCA. Although adverse effects are predicted on the county LCA 'Saltwood: Postling Vale' and the local 'Hythe and Saltwood Wooded Valleys' LCA, these are assessed to be minor. The site's development would not fundamentally change key characteristics of these LCAs.
- 3.75. Mitigation is usually described in terms of primary, secondary and tertiary. Primary mitigation is embedded in the design of a given proposal, to address anticipated (adverse) impacts identified during the design process. Secondary mitigation is introduced in situations where primary mitigation has not fully addressed predicted adverse impacts and is often secured through planning conditions or obligations. Tertiary mitigation might be imposed as a result of legislative requirements and/or standard practice, to avoid theoretical impacts.
- 3.76. Embedded primary mitigation has developed throughout the design process, involving inputs from the client and specialist technical advisors, including the project arboriculturist and ecologist. It is also derived from

- involvement of the local planning authority and their specialist advisors in pre-application discussions, as well as public consultation exercises.
- 3.77. Primary mitigation with respect to the appraisal scheme would include the following: A high quality architectural design, form, scale and materials, that responds positively to the site's character and setting, including its topography. Ecological and arboricultural recommendations based on professional site survey work, incorporated into design. Landscape masterplan proposals incorporating planting of large canopy trees and street trees, which might be native or cultivars of native species, protection of retained trees and reinforcement planting on site boundaries.
- 3.78. Secondary mitigation would relate to planning conditions that the planning authority would attach to a planning permission. This might include a requirement for detailed planting plans, softworks specifications and landscape management plans to be submitted to the planning authority for approval, to ensure delivery of a high quality development and landscape, properly managed into the future. Planning conditions might also address issues such as noise or dust control for the construction phase.
- 3.79. Tertiary mitigation would relate to the British Standards and Codes of Practice that govern delivery of landscape work and its long-term management, addressing elements such as plant material, topsoil, workmanship and maintenance. Tertiary mitigation would also relate to compliance with building regulations and DDA requirements. The assessment is based on predicted impacts at the time the construction phase is completed, and the operational phase has just commenced. At this stage the soft landscape works will have only just been completed / planted, so the assessment is based on a 'worst case' situation. Planting would develop progressively thereafter to maturity under long term management, during which time predicted adverse effects would tend to be mitigated, and potentially yield long term benefits. This would happen at the same time as those familiar with the landscape become habituated to the changes brought about by the development. This will have a tendency to balance out initial adverse effects, tending towards a neutral effect in the long term.

Transport Technical Note

- 3.80. Through discussions with FHDC, the site promotor and architect have worked on an alternative proposal. These changes are not substantively different from a transport perspective.
- 3.81. The broad layout remains similar (e.g. access points unchanged) with the key change being there is now a looped road for the northern end of site.
- 3.82. In terms of parking the development would be in accordance with site seeks to KCC Interim Guidance Note 3 (IGN3). 2.5m by 5m (perpendicular) or 6m(parallel) spaces are provided. Where spaces abut a feature or more space is required for parallel visitor spaces 2.7m widths are provided.

- 3.83. The flats (plots 1-12) would have undercroft parking. In this parking area 16 spaces are provided at 1 space per flatted dwelling and 4 additional/visitor spaces. One space is designed as disabled parking.
- 3.84. Plots 13-17 would have 2 parking spaces each, in side-by-side arrangements adjacent to the dwellings. One visitor space would be provided close to these dwellings.
- 3.85. To the eastern side of the loop road plots (plots 18-30) the dwellings would have 2 parking spaces each. 9 of these (unit 18 and units 23 to 30) would have a side by side parking arrangement within the curtilage. The other 4 units would have one space within the curtilage and an allocated / marked space on the road. 3 visitors spaces would be provided nearby.
- 3.86. The 5 detached dwellings to the north of the site would be provided with an overprovision of parking. 4 of these units would have, 4 spaces (2 car barn spaces and 2 external parking spaces). The remaining dwelling would have 2 car barn spaces and 1 external space.
- 3.87. The link detached units located to the western side of the loop road would also have an overprovision of parking space in policy terms. This would comprise of 4 space (2 car barn spaces and 2 external spaces) for 4 of the units here with the remaining dwelling being provided with 2 on site spaces.
- 3.88. Secure and sheltered cycle parking would be provided in accordance with the adopted standards, with the flatted development having storage in the undercroft parking (25 spaces) and the houses having space for cycles in garden sheds or integrated bike and bin stores. Plots 13-17 would have 4 secure cycle spaces per dwelling in a shed in the garden, plots 18-30 would have 3 secure cycle spaces per dwelling in a shed in the garden, plots 31-35 would have 4 secure cycle spaces in an integrated bike and bin store, and plots 36-40 would have 4 secure cycle spaces in a shed in the garden.
- 3.89. The internal roads are not proposed to be adopted.
- 3.90. At the southern end of the site, the access from Station Road and the 'initial' access road, passing the flatted developments and first five house has been designed to an adoptable standard, albeit the intention is that it remains private. A pedestrian footway, in excess of the 1.8m width requirements, is proposed to be provided for transition from the external network into the site.
- 3.91. The northern end of the site which comprises a looped road arrangement is designed as a shared space. Pedestrian movements would transition from the established initial footway into the shared space areas.
- 3.92. Full tracking has been carried out which confirms that refuse vehicles and a fire tender can successfully manoeuvre within the site.

- 3.93. The amended scheme has seen the number of residential units decrease which would result in a reduction in the number of trips generated by the site. A new trip generation exercise has therefore not been carried out as the trip generation set out within the Stantec TS can be considered as a worst-case scenario.
- 3.94. The pedestrian crossing point has been considered in detail and agreed with KCC Highways at pre-application stage. During the public consultation process, some neighbours have asked if an alternative location could be considered, but the proposed location is the likely practicable location that achieves the required sight lines for safety of pedestrians. The proposal is therefore to leave the crossing point location unchanged from that agreed with KCC Highways. The location of the crossing is shown on the updated visibility splay drawing replicating the location of the tactile paving (2.4m width).

Transport Statement

- 3.95. The TS demonstrates how the proposed development would accord with national and local planning policy. The main topic throughout the policies is that there are sustainable travel options available for the site users in terms of sustainable transport. The site has well serviced bus stops in the vicinity of the site entrance which provides frequent connections to the wider area and elsewhere so there is a high propensity for commuter journeys to and from the site to be made by public transport. The site is also within reasonable walking/cycling distance to Hythe town centre which provides a sustainable transport option for prospective residents further afield.
- 3.96. A speed survey was conducted for the site and determined that the 85th percentile speeds on Station Road, in the vicinity of the site, is 31.6mph northbound and 28.7mph southbound. Therefore, visibility splays of 43mph as outlined within Manual for Streets has been deemed appropriate for the site access junction design.
- 3.97. The proposed development has been shown to provide adequate vehicle parking when considered against local and regional policy.
- 3.98. The proposed development will accord to regional standards for cycle parking provision.
- 3.99. The trip generation from the proposed development has been assessed using the TRICS data base. This assessment has demonstrated that the development would generate 23 vehicles in the AM peak hour and 24 vehicles in the PM peak hour. This will result in less than 1 vehicle every 2 minutes arriving or departing from the site and will be imperceptible in the local highway network in practice. On this basis, no detailed modelling has been required.

- 3.100. It is concluded that the development proposals should not give rise to any objections on transport or highway grounds.

Ecological Survey

- 3.101. The plant list was typically poor, which was most probably largely due to the past management of the site. There were no unusual or uncommon or protected plant species within the site and the habitat types were common ones which are widespread under the same conditions throughout the country.
- 3.102. Apart from fieldfare, no notable species of birds were recorded at the site.
- 3.103. There was no risk of any reptiles being affected by the proposed development, simply because of lack of suitable habitat; the tall ruderal vegetation dominated by rank stinging nettles prevented sunlight from reaching the soil surface and there were no places where reptiles could bask. Even where the spring lines occurred, the ground was too shaded or else waterlogged.
- 3.104. There were no ponds on site that were suitable for great crested newts; there were only two ponds within 500 metres of the survey site; one is an online duck pond 87 metres south of the survey site, whilst the other is a small pond that is 269 metres north – east. Both are separated from the survey site by the busy Station Road / Tanners Hill roads and are therefore unlikely to be part of a metapopulation which includes the survey site. The survey site is within an amber great crested newt risk zone, although part of the northern part of the survey site is in a green zone. Although newts have been recorded about 1.1 kilometres to the north – east of the site on the same side of the Tanners Hill Road, it is felt that the location of the site and the intervening habitat effectively prevents newts from reaching it and therefore there is likely to be no impact upon the species.
- 3.105. The habitat of the site was unsuitable for dormouse³³ since it lacked adequate habitat or habitat connections with other habitat containing dormice in the area.
- 3.106. There were no badger signs and no badger setts on site.
- 3.107. There was no suitable habitat on site for water voles of the type described by Strachan and Moorhouse (2006); the stream course was densely covered in scrub and tall ruderals throughout its length. In addition, the upper reaches of the stream above the survey site, which are more suitable habitat, have been studied by the author of this report for some years and no water vole evidence has ever been collected there either.
- 3.108. Except in times of spate, the flow of the stream is low, and although this does not preclude the presence of otter, it is unlikely to form any more than a transitory habitat for the species. There are very few fish species in the

- stream; minnows have been recorded further upstream, and bullhead may also occur, but larger fish are absent.
- 3.109. Some of the trees on the eastern boundary were considered to have some potential for roosting bats, as were the large trees on the south - western corner of the site alongside the road. However, although a few of these are being removed, these were inspected for the second report and were found to have no bat potential, either because of lack of suitable features like those described by Andrews (2018) or because of lack of ivy³⁸. In addition, although no bat roosts were found in this area, the trees generally have most of their branches and twigs facing to the west, and forming, in places, dense tangles of branches, twigs and boughs which in places mesh with bramble, nettle and other tall ruderals, to effectively prevent any bats from getting through them, thereby effectively providing an extensive area of unsuitable habitat. The east side of the trees, by contrast, has far less 'clutter' and forms a narrow tunnel with the fences and walls of dwellings located to the east; it was considered to be surprising, during the second survey, that no foraging bats used this area, but pipistrelle have been observed foraging in this area since then. As a result of these factors, though, there is no impact upon any roosts in this area and no requirement for mitigation.
- 3.110. The trees by Station Road in the south – western corner of the site also failed to hold any bat roosts, as the emergence surveys revealed. These trees were also carefully scrutinised from the ground on more than one occasion including during the recent survey and continued to show no suitable features; the emergence surveys demonstrated that no bats emerged from them.
- 3.111. In light of the above the biodiversity value of the site will be protected under the proposals but to deliver enhancements mitigation alongside new habitat is recommended. The survey concludes on this as follows
- 3.112. In summary, as a result of the survey, there is no potential for protected species at the site. However, it is strongly recommended that, in order to provide some overall biodiversity mitigation, and to comply with national government guidance, some wildlife conservation measures should be incorporated into any proposed development by means of a biodiversity plan for any completed development. Such measures could include:
- The provision of a range of bird and bat boxes.
 - The provision of log piles for invertebrates.
 - The provision of bumble bee nest boxes and pollinator resources.
 - Provision for some of the species on the Kent BAP species list where applicable to the site and conditions.
 - A scheme of native species landscaping and similar measures.

The above measures could be secured by condition and would conserve and enhance the ecology values across the site, delivering a net biodiversity gain, in line with Local Plan Policy NE2.

Viability Appraisal

- 3.113. The applicants viability appraisal is summarised as follows:
- 3.114. A viability appraisal was previously carried out in February 2021. Since that date the scheme has been amended reducing the number of units to 40 in total.
- 3.115. A viability assessment using the HCA Development Appraisal Tool has been carried out. The made assumptions are set out in Section 6 of the VA and are generally in line with industry norms, reflective of the site characteristics and the local market.
- 3.116. The benchmark land value of the site has been determined based on the investment value of the existing open land, thus giving the Existing Use Value (EUV) in accordance with para 14 of the NPPG.
- 3.117. It is normal to add a landowner premium of between 10% and 14% to provide an incentive for the landowner to sell (see para 16 of the NPPG). In this instance, as the value of open land is very low (circa £10,000 to £15,000 per acre), we have treated the benchmark land value as ten times the agricultural value. Ten times agricultural value is a benchmark that has been suggested by Homes England for this type of land. We have therefore considered it appropriate to use a benchmark land value of £350,000 (BLV) which equates to a value of circa £100,000 per acre.
- 3.118. Based on the proposed scheme of 40 units the residual land value derived by the toolkit is negative -£2,650,889 (See Appendix A). This is £3,000,889 below the Benchmark Land Value. No allowance has been made for any CIL/S.106 contributions.
- 3.119. The Viability Appraisal has been informed by a Cost Plan produced by quantity surveyors Betteridge & Milsom. The report elaborates on the anticipated abnormals.
- 3.120. A cost plan has been produced on a m2 basis for the residential units based on the RICS Building Cost Information Service (BCIS) analysis of other estate housing and apartment projects. The cost is based on current costs, rebased to the Shepway area (see Appendix D).
- 3.121. We have used the Upper Quartile of the BCIS £/m2 gross internal floor area due to the high quality bespoke designs and higher quality of materials; thus this is a more appropriate figure to estimate the residential construction costs.

- 3.122. We have included a separate percentage allowance for the uplift to comply with the June 2022 building regulations; at this stage, this is a developed risk allowance based on a previous exercise we had undertaken, as we have not yet completed any projects that have complied with these regulations.
- 3.123. The external works have been measured and costed as detailed in Appendices A and B.
- 3.124. Appendix B contains a detailed breakdown of costs, however, it is important to note the inclusion of allowances for abnormal cost items within the scheme, as listed below:
- Land Instability – The site is located in an area of potential land instability. The Ground and Environmental Services' Phase 1 geoenvironmental assessment for the site concludes that the majority of structures will likely require deep foundations (i.e. piles) and suspended floors.
 - Retaining walls – Due to the sloping nature of the site a large number of retaining walls are required including some of the buildings themselves which are also likely to require damp proofing. There are also a large number of external retaining walls and stair structures.
 - Site access – Due to level differences at the site entrance a large retaining wall structure and support structures to the bell-mouth and entrance road are required.
 - Pumping station and rising main – A pump and rising main will be necessary to removal foul sewage from the site due to the site levels.
 - Forming site contours and adjustment of levels – Due to the sloping nature of the site a lot of work is required to create the proposed levels for the scheme.
 - Flood compensation area – To reduce the risk of flooding from the adjacent river a flood compensation area must be created.
 - Electric vehicle charging – All plots to have a dedicated electric vehicle charging point.
 - Photovoltaic cells – Allowances have been made for the apartment block and all dwellings to have PV cells installed.
 - Recessed balconies – The apartments and a number of the dwellings benefit from recessed balconies, which are not accounted for within the GIFA. Therefore, separate allowances have been included.
 - Car ports – Plot 31 has a stand-alone car port and plots 32-40 have integrated car ports. Separate allowances have been included for the car ports.

- Sedum roofs – A number of the houses benefit from sedum roofs and an extra over allowance has been included for them.
- 3.125. The NPPF also reflects upon viability, and the importance of such to the delivery of development within the overarching presumption in favour of sustainable development. In this case, it is submitted that sufficient and robust evidence is provided, in an open book format, to enable the Council to assess the viability position and consider the balance of benefit versus harm in this scheme.
- 3.126. The viability assessment concludes that the development does not generate enough surplus over the Benchmark Land Value to fund affordable housing.

4. Relevant Planning History

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

96/0654/SH	Outline planning application for the erection of a 24 bed hospice with day care facility.	Approved – not implemented.
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5. Consultation

Ward Members: No comments.

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council:

Comments provided August 2024. Object, comments summarised below:

- Concerns that that the proposed pedestrian crossing did not align with the existing public right of way on the east side of the site and on both the north and south sides of Station Road. General concerns relating to visibility/junctions and crossing points.
- Concerns that some of the cycle stores are located at the bottom of gardens.
- Concerns that some of the gardens are not large enough.
- Parking – is there enough?
- Semi mature trees should be included.
- Concerns relating to the scale of the apartment building.
- Plot 18 is too close to Bridge Cottage to the west.

- Policy UA14 referred to approximately 30 family sized dwellings. 40 dwellings are proposed which exceed the space standards. Issues relating to scale and proximity to other dwellings could be addressed by revising the design with smaller dwellings/fewer dwellings.
- Concerns relating to scale, form and materiality.
- Viability is not a planning matter.

Comments provided May 2024: Object, comments summarised below:

- Traffic, sight lines, access issues.
- More dwellings than are allocated in the local plan policy are proposed.
- The height of the dwellings and apartment block would be out of keeping with the street scene.
- Impact on residential amenity.
- Impact of trees.
- Increased demand on the local infrastructure.
- Impact of ecology.
- Lack of affordable housing.

Comments provided 04 April 2022: Object, comments summarised below:

- Traffic, sightlines and accesses concerns.
- 44 dwellings would exceed the number of dwellings set out in the local plan policy (30 dwellings).
- The height of the dwellings would be out of character with the street scene.
- Impact on residential amenity.
- Public consultation event was based upon 30 dwellings.
- Impact on local infrastructure.
- Impact on ecology.
- Lack of affordable housing.

Saltwood Parish Council (June 2021):

Objects raising concerns about traffic and highway safety, overdevelopment, design, scale and loss of open space.

KCC Highways and Transportation: No objections. Comments that the internal roads are not proposed to be adopted by KCC. Requests a number of planning conditions.

KCC Ecology: Suggests conditions relating to lighting, a precautionary mitigation strategy and ecological enhancement measures.

KCC Flood and Water Management: No objection following the submission and review of additional information. Requests conditions relating to the submission of a detailed drainage strategy, implementation schedule and verification report.

Kent Fire and Rescue: No objection stating the following:

The emergency access requirements for the fire and rescue service, under the above Act, would be met. However, as a prelude to Building Regulations fire service access requirements, please ensure that the road loop meets the minimum typical fire service vehicle access route specifications. Applicants should be aware that in the event of planning permission being granted the Fire and Rescue Service would require emergency access, as required under the Building Regulations 2010, to be established. Fire Service access and facility provisions are a requirement under B5 of the Building Regulations 2010 and must be complied with to the satisfaction of the Building Control Authority. A full plans submission should be made to the relevant building control body who have a statutory obligation to consult with the Fire and Rescue Service.

[CPO comment: A tracking exercise has been carried out for a fire tender].

Environment Agency: No objection subject to conditions.

NHS: No objection subject to a s106 legal obligation securing a financial contribution towards healthcare services to be provided in the community.

KCC Developer Contributions: No objection subject to a S106 legal obligation securing education contributions.

KCC Public Rights of Way Officer: No objection subject to informatives.

County Archeologist: No objections subject to a condition requiring a programme of field evaluation to be followed by agreement on any mitigation. Comments are summarised as follows:

The site lies within a wider area of multi-period archaeological potential but there are no records on the Kent HER of recent discoveries on or close to the site apart from the record of a post-medieval copper alloy coin found within the site. The lack of specific archaeological records would appear to be a

reflection of the lack of recent archaeological investigations in the surroundings of the site, which lie within a valley running generally south towards the coast. I note Section 7.9 of the Planning Statement and that no Archaeological Desk-Based Assessment has been undertaken. It should be normal practice for such an assessment to be undertaken to inform decisions about the site. In this case, however, given the lack of specific archaeological information but taking account of the favourable nature of the site for past activity within the valley linking the coast with the higher ground to the north, there is a risk that development may impact on below-ground archaeological remains.

Southern Water: No objection. Comments are summarised below:

Investigations indicate that SW can facilitate foul sewerage disposal to service the proposed development. A formal application for a connection to the public sewer to be made by the applicant or developer.

A condition is also requested requiring full details of foul and surface water drainage to be submitted prior to commencement in consultation with SW.

Contamination Consultant: No objections subject to the imposition of part 5 of the council's standard contamination condition which would secure a discovery strategy and reporting protocol should any unexpected contamination be encountered during the works.

Public/Neighbour Consultation

5.2 88 neighbours directly consulted. 77 letters of objection received.

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

Objections

- Highway safety and amenity;
- Pollution from additional vehicles;
- Disruption from construction.
- Historic applications refused on highways considerations;
- No need for additional housing.
- Affordable housing should be provided as per policy requirements;
- Impact on character and appearance of area;
- Harm to character and amenity of the countryside;
- Impact on views from the adjacent footpath;
- Over-intensive development (exceeds policy allocation);
- Scale and design;

- Will not be affordable to local people;
- No affordable housing provision;
- Do not meet Building Regs part M (access and use)
- Overlooking / loss of privacy;
- Noise and disturbance;
- Light pollution;
- Lack of infrastructure to accommodate additional residents in Hythe;
- Loss of trees / impact upon TPO trees;
- Impact on wildlife, ecology, and protected species;
- Impact on local drainage;
- Water pollution;
- Potential damage to existing properties; and
- Land stability.
- Landscaping should not be a reserved matter.
- Loss of green space.
- Flood risk
- Development would be overbearing.
- Impact on the National Landscape.
- Regardless of the changes to the application the development is inappropriate.
- No need for additional housing.
- Design is unacceptable.
- Objection to the principle of building on the site.

The Hythe Civic Society objects for the following reasons:

- Highway safety and amenity;
- Exceeds scale of development within policy allocation;
- Over-intensive development;
- Overlooking and loss of privacy;
- Out-of-keeping;
- Impact upon the NL.

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

[Planning Register](#)

6. Planning Policy

6.1 The Development Plan comprises the Core Strategy Review (2022), the Places and Policies Local Plan (2020), the St Mary in the Marsh Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).

6.2 The relevant development plan policies are as follows:

Places and Policies Local Plan 2020

UA14 -	Land at Station Road, Hythe
HB1 -	General Criteria
HB2 -	Cohesive Design
HB3 -	Space Standards
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
NE1 -	Enhancing and Managing Access to the Natural Environment
NE2 -	Biodiversity
NE3 -	Protected Landscapes and Countryside
NE5 -	Light Pollution and External Illumination
NE6 -	Land Stability
CC1 -	Reducing Carbon Emissions
CC2 -	Sustainable Design and Construction
CC3 -	SuDS
HE2 -	Archaeology

Core Strategy Review 2022

SS1 -	District Spatial Strategy
SS2 -	Housing and Economy
SS3 -	Place-shaping and Sustainable Settlements
CSD1 -	Balanced Neighbourhoods
CSD2 -	District Residential Needs
CSD4 -	Green Infrastructure, Open Space, and Recreation
CSD7 -	Hythe Strategy

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

Supplementary Planning Guidance/Documents

Kent Design Guide

Government Advice

National Planning Policy Framework (NPPF) 2024

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:

Paragraph 11 - Sustainable development.

Paragraph 35 – Development contributions.

Paragraph 61 - Significantly boosting the supply of homes.

Paragraph 124 – Making effective use of land.

Paragraph 131 - Achieving well-designed places.

Paragraph 170 – Planning and flood risk.

Paragraph 187 - Conserving and enhancing the natural environment.

Paragraph 189- Conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty (NL) which have the highest status of protection.

National Planning Policy Guidance (NPPG) and the Technical Housing Standards – Nationally Described Space Standards are also of relevance to this application.

7. Appraisal

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

- a) Whether the principle of development is acceptable?
- b) Whether the design, layout and visual impact are acceptable?
- c) Whether the development would result in harm to highway safety?
- d) Whether the development would result in harm to the residential amenity of existing and future occupiers?
- e) Whether the development would be acceptable in relation to flood risk and drainage?
- f) Whether the development would be acceptable in relation to ecology and biodiversity?
- g) Whether the approach to archaeology is acceptable?
- h) Whether the approach to contamination is acceptable?
- i) Whether the approach to affordable housing provision and viability is acceptable?
- j) Whether planning obligations are necessary?

a) Whether the principle of development is acceptable?

- 7.2 Central Government guidance set out within the NPPF states that Local Planning Authorities (LPA's) should support the Government's objective to significantly boost the supply of homes and that housing applications should be considered in the context of the presumption in favour of sustainable development.
- 7.3 Policy SS1 of the Core Strategy seeks to direct development to existing settlements. Hythe is identified within the settlement hierarchy as a strategic town which is classed as an existing important location and a well-served settlement that is able to accommodate significant development and is suitable for expansion from its current built limits.
- 7.4 The site is allocated for residential development in the Places and Policies Local Plan (PPLP), subject to a number of criteria, by virtue of Policy UA14. The site is located within the settlement boundary of Hythe. The proposed development would comprise the erection of 40 dwellings at the site including a mixture of houses and apartments.
- 7.5 The application site is located within reasonable walking distance of the centre of Hythe being approximately 0.19 miles from the high street via Station Road to the junction with High Street. Hythe is a moderately sized urban centre comprising a wide range of services including schools, shops, restaurants and public houses, play areas and professional services. The site is also located within a reasonable walking distance of bus stops providing regular bus services to the urban area of Folkestone and beyond.
- 7.6 Policy UA14 sets out 7 criteria that development proposals should meet which are listed below. Each of these criteria are considered in more detail in the subsequent sections of this report.

Places and Policies Local Plan Policy UA14

The site is allocated for residential development with an estimated capacity of approximately 30 family-sized dwellings.

Development proposals will be supported where:

1. The development is designed to a high standard and would not have a harmful impact on the character and setting of the nearby Kent Downs National Landscape;
2. An appropriate pedestrian crossing point, in the form of dropped kerbs and tactile paving, is provided;
3. Existing trees and hedgerows within and around the perimeter of the site

are retained and enhanced;

4. Ecological and arboricultural investigations are undertaken and adequate mitigation measures identified to ensure development does not have an adverse impact on protected trees or protected species;
5. Appropriate and proportionate contributions are made to the expansion of Oaklands Health Centre through a Section 106 agreement;
6. They are accompanied by a Site-specific Flood Risk Assessment with development directed to sequentially preferential locations within the site in terms of flood risk; and
7. The archaeological potential of the land is properly considered and appropriate archaeological mitigation measures are put in place.

7.7 Whilst the total number of dwellings proposed would exceed the estimated capacity of 30 dwellings identified by Policy UA14 of the PPLP, the uplift in housing numbers is supported by national planning policy with the NPPF making it clear that LPA's should give great weight to the benefits of using suitable sites within existing settlements for homes and making efficient use of land. Further, policy UA14 does not preclude an uplift as a matter of principle with the figure in the policy being indicative.

7.8 The site would provide a reasonably significant contribution towards the council's housing land supply requirement. Ensuring an adequate supply of housing land is one of the principal reasons for allocating sites under the local plan process as it ensures an identifiable supply of sites rather than a reliance on windfall applications.

7.9 As set out above, the location of the application site cannot be considered to be physically isolated or out of the way from local services, which are extensive. The amount of development proposed, when considered in the context of the scale of the existing town, is not considered to be disproportionate. The cumulative impact of the development upon existing service provision (also considering its allocated status) would not compromise the ability of services to meet the day to day needs of the local community and would likely enhance their ongoing viability, as supported by the provisions of the NPPF. The principle of residential development on this allocated site, at the strategic town of Hythe is therefore considered to be acceptable and in accordance with Core Strategy Policy SS1.

b) Whether the design, layout and visual impact are acceptable?

7.10 Achieving good design is about creating places, buildings and spaces that work well for everyone, are attractive, long lasting and will adapt to the needs of future generations. Good design responds in a practical and creative way

to both the function and identity of places. Furthermore, good design has intrinsic benefits to health and wellbeing.

- 7.11 Policy CSD4 of the Core Strategy seeks to conserve and enhance the landscape and scenic beauty of the Kent Downs National Landscape, which is given the highest status of protection stating that development within the setting of the NL should be sensitively located and avoid or minimise adverse impacts. Likewise, policy NE3 of the PPLP protects the district's landscapes and countryside, and states that proposals should not detract from the distinctive character and special qualities of the NL and should not undermine the integrity of the predominantly open and undeveloped, rural character of the NL and its setting.
- 7.12 Policy UA14 criteria 1 requires development proposals on this site to be designed to a high standard and to ensure that there would not be a harmful impact on the character and setting of the nearby NL.
- 7.13 Policy HB1 of the PPLP sets out the councils approach to ensuring the creation of quality places through design stating that planning permission will be granted where the proposal:
1. Makes 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, materiality and mix of uses so as to ensure all proposals create places of character;
 2. Facilitates circulation and ease of movement within the locality for all users, promoting low vehicle speeds, integrated resident and visitor parking and prioritising active forms of travel with roads, footways and paths appropriately located to allow for natural surveillance while maximising legibility;
 3. Creates, enhances and integrates areas of public open space, green infrastructure, biodiversity and heritage and other public realm assets;
 4. Does not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook. In assessing the potential impacts of new build residential development on neighbouring dwellings, the Council will apply the same guidelines as for alterations and extensions set out in Policy HB8;
 5. Provides a clear definition between the public and private realm, incorporating high quality hard and soft landscaping, boundary treatments, public open spaces and lighting, including details of future maintenance and management; and

6. Complies with other relevant policies within the development plan and responds positively to the design policies and guidance contained within relevant Town and Village Design Statements and Neighbourhood Plans.
- 7.14 In addition, policy HB2 of the PPLP relates to cohesive design principles and sets out that a high standard of layout, design and choice of materials will be expected for all new development and that materials should be sympathetic to those predominating locally in type, colour and texture.
 - 7.15 The above policies are consistent with the NPPF which attaches great importance to the design of the built environment stating that planning policies and decisions should respond to local character and reflect the identity of local surroundings whilst not preventing or discouraging appropriate innovation or change (such as increased densities). Further, the NPPF seeks to ensure high standards of design and the raising of design standards more generally, stating that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
 - 7.16 The layout of the scheme has been shaped by the context of the site and the surrounding development, the location of the on-site open space and play space and to provide connectivity to the PROW and surrounding streets via a single access point onto Station Road. In addition, during the course of the application, officers have worked with the applicant to ensure that a high quality form of development could be achieved, including negotiating a reduction in the number of dwellings and flat blocks proposed, to provide an improved layout, increasing the variety of different house types with enhanced detailing and variety/quality of materials to create distinct character areas.
 - 7.17 The development would comprise a mixture of 2, 3, 4 and 5 bed apartments and houses, this mix is deemed to be suitable to meet the demands of the area and offers a variety of different house designs with in built flexibility to cater for different forms of family living. In terms of overall density, the proposals are in line with the requirements of policy UA14 which in the pre-ambles states that a density of approximately 30 dwellings per hectare would be appropriate. The development would equate to 28.4 dwellings per hectare.
 - 7.18 The scale of the proposed development is considered to be appropriate when compared to the surrounding context. The proposed dwellings would vary from 2 storey to 3 storeys in height with the top floor partially set within the gabled roof space. The apartment building would be located at the entrance to the site, set back from the road, providing a frontage to Station Road. The amended design which would be 4 storeys in height with the ground floor partially sunken into the ground behind a feature ragstone wall is considered appropriate for this location and would create a sense of arrival and a landmark building.

- 7.19 The lower part of the site would see a transition between higher and lower densities, with a mix of detached and semi-detached units on a raised level set back from the street. The central section of the site would see properties located within the loop road in a back to back arrangement. The amended layout has meant that the proposed new dwellings in this section would be located further from existing properties and rear gardens would be moved away from the eastern site boundary. This would also avoid future pressure on the TPO trees as these would remain as part of the public realm. The provision of the loop road also avoids the need for turning heads and has meant that dwellings would front onto the road resulting in both natural surveillance and an active streetscape, which would in my view be acceptable.
- 7.20 The design of dwellings is a combination of familiar domestic building forms and contemporary designs. I support this approach. Architecturally the development would take inspiration from the high quality buildings in the surrounding context in respect of form, whilst applying contemporary detailing and features to give the scheme a strong architectural identity in its own right. Strong gables at a consistent pitch across the majority of house designs on the site would help to create a clear identity for the scheme.
- 7.21 Materials are proposed to be varied and would include the use of vertical timber cladding, red bricks, grey ragstone, feature metal panels, slate / plain tiles to pitched roofs, sedum/ green roofs and dark coloured windows, fascia's and rainwater goods. I consider that the materials palette would be acceptable and of a high quality.
- 7.22 The details of the landscape proposals are a matter for future reserved matters consideration however, the layout sets the broad principles and includes both areas of open space and a play area. In terms of hard landscaping, the road through the site and the main footpath in front of the apartments is intended to have a tarmac finish. A change in surface treatment is proposed for the shared surface footpath, which runs in front of the remainder of the dwellings. A change of surface material is also proposed for the private driveways. Ragstone walls are proposed to low level retaining walls across the site, the western elevation of the undercroft parking of the apartment building and the front boundary walls of some of the plots. The use of ragstone would help to provide a unifying element throughout the site and is a high quality finish, traditionally found within the surrounding area.
- 7.23 Trees are proposed to be largely retained along the site boundaries with the exception of those that are proposed to be removed to provide the required access and visibility splays. Additional tree planting is also proposed within the street which is in accordance with the NPPF which states that planning decisions should ensure that new streets are tree lined.

- 7.24 The western section of the site is proposed to become a natural landscape buffer including feature trees between the new road and the site boundary. The existing stream would be integrated with the landscape proposals and would include informal paths for pedestrian use with a mix of low level planting. The retaining wall of the road would further be softened through higher level planting and shrubs immediately adjacent to it.
- 7.25 The application is supported by a Landscape and Visual Assessment which has been updated to take account of the amended layout and design of the development. The LVA concludes that the majority of the impacts would remain as a long term Nil or Neutral impacts from the development, however, topography and TPO's are considered to receive an adverse impact. These are inevitable consequences of the allocation of the site and its development for residential use.
- 7.26 Notwithstanding this, by virtue of the mitigation measures outlined above, including boundary retention and enhancement and ensuring that the design of the proposed development would be of a high quality using suitable materials and detailing it is concluded that the site, its immediate surroundings and wider landscape context can accommodate the development without risk of adverse impact upon the landscape. Further, taking into account the distance of the development from the NL together with the intervening trees and vegetation it is not considered that the development would unacceptably impact on the character and setting of the NL.
- 7.27 I accept the conclusions of the LVA and recognise whilst there would be changes as a result of the development, that the landscape and visual capacity of the site to accommodate development has been confirmed. Whilst there would be some minor impact upon local views, overall, the development is considered to be of a type, scale, massing and appearance that would be suitable for its setting and importantly would not cause any notable adverse change in the prevailing landscape and visual characteristics of the area, including the NL.
- 7.28 In light of the above, I consider that the proposed development in terms of layout, appearance and approach to landscaping would be of a high design quality, and I am confident that the proposal would represent an appropriate form of development that would sit sympathetically within the setting of the NL. Therefore, in my view, the design of the scheme is in accordance with the requirements of UA14 and the NPPF.

c) Whether the development would result in harm to highway safety?

- 7.29 Paragraph 115 of the NPPF states that in assessing specific applications for development, it should be ensured that:

- a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance,
- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.

- 7.30 In addition, it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.
- 7.31 Criteria 2 of UA14 requires that an appropriate pedestrian crossing point, in the form of dropped kerbs and tactile paving, is provided.
- 7.32 Access into the site would be via a single access point from Station Road. The main road would be 6m wide with a 1.8m wide designed pedestrian footpath zone which would be delineated with a change of surface. A new footpath would also run along part of the southern boundary to allow a safe point for pedestrians to cross. This crossing point has been agreed with KCC Highways and Transportation who raise no concerns in this respect and the provision of this crossing point would be in accordance with the requirements of policy UA14 criteria 2 which is considered to be acceptable.
- 7.33 With regards to parking, 93 spaces are proposed in total, and all of the proposed dwellings would benefit from allocated parking in accordance with policy T2. A total of 17 visitors spaces would be provided throughout the development in dedicated spaces that have been designed into the street. This approach is welcomed as it helps to reinforce the rules of the street and prevent inconsiderate parking. One electric vehicle charging point is also proposed to be provided for each dwelling with a drive which is appropriate.
- 7.34 The applicant also proposes the provision of cycle storage facilities in accordance with policy T3 and it is proposed that this would be secured by a planning condition. Every house would also have a side access of sufficient width to allow bikes to be easily moved from the rear garden to the street.
- 7.35 The application has been subject to consultation with KCC Highways and Transportation who raise no objections to the development in terms of highway safety subject to conditions. I therefore conclude that the proposed development would not be harmful to highway safety and would accord with policies T2 and T3 of the PPLP and the NPPF.

d) Whether the development would result in harm to the residential amenity of existing and future occupiers?

- 7.36 Policy HB1 of the PPLP requires consideration be given to the residential amenities of both neighbouring properties and future occupiers of a development, with particular reference to loss of privacy, loss of light and poor outlook.
- 7.37 A number of existing residential properties would back onto the site to the east, however given the amended layout which has seen the proposed new dwellings moved further away from this boundary, these would be a significant distance away from the development and would be screened from it by the mature boundary treatment.
- 7.38 Whilst 25 and 26 Station Road would be located opposite the proposed apartment building, these dwellings are located on the opposite side of the road and there would be a separation distance of over 30m between the building front facades and these properties.
- 7.39 Holly Bank, the bungalow situated to the east of the site boundary, would be located approximately 16.9 metres from the proposed apartment block with the PROW in between. Following initial concerns raised about the relationship of the development with this dwelling, the apartment block has been significantly amended in terms of size and scale, and it has been located further away from the boundary. Following the Planning Committee meeting of the 7th December, the
- 7.40
- 7.41 The amended design incorporates a double gabled form facing Station Road which ensures that the height of the ridge is kept lower and the pitched roof form of the building means that the sloping roof faces east, reducing the mass and height of the building facing Holly Bank. A new hedgerow is also proposed to the site boundary to enhance screening and through the design development process, angled windows have been incorporated into the eastern (side) elevation of the apartment building. These windows are serving bedrooms to the proposed apartments at first, second and third floor. The inclusion of the angled windows ensures that views from these bedroom windows are directed in a southerly direction towards Station Road and prevents views to the east. The eastern ridge height of the apartments has also been reduced by 1.45m and the western ridge reduced by 0.35m to further mitigate any impacts.
- 7.42 To the west of the application site lies Bridge Cottage. This existing dwelling would be located approximately 13.9 metres away from plot 18 with the

landscape buffer and new access road in between. Due to the differences in levels, careful consideration has been given to the relationship between these dwellings and as such the revised design and layout has seen a number of changes proposed to ensure that the residential amenity of the occupiers of this dwelling is not unacceptably harmed. These measures include the provision of additional landscaping and the principal facades of plot 18 have been orientated in a southerly and northerly direction. In addition, the design of the terrace to plot 40 would incorporate a 1.8m high etched glass (obscured) privacy screen to the south facing side of the terrace to prevent overlooking.

- 7.43 Whilst the proposal would potentially result in some noise and disturbance to neighbouring dwellings as a result of the change in land use and additional comings and goings associated with residential use, this would be such that it would be unlikely to generate levels of movement to the detriment of residential amenity.
- 7.44 All dwellings would be provided with a rear garden of at least 10 metres for the width of the dwelling and all apartments would benefit from a balcony of at least 1.5m in depth. The development also comprises areas of open space for communal use, including a play area. The internal accommodation proposed would similarly comply with or exceed the National Space Standards and would be acceptable.
- 7.45 Given the above, I am satisfied that the development would not result in harm to the residential amenity of neighbouring or future occupiers. The development is therefore in accordance with the NPPF.

e) Whether the development would be acceptable in relation to flood risk and drainage?

- 7.46 The majority of the site is located within Flood Zone 1 which has the lowest probability of flooding. A small area of the site to the western boundary is located within Flood Zone 2 (medium probability of flooding) and Flood Zone 3 (high probability of flooding).
- 7.47 The NPPF states that inappropriate development in areas at risk of flooding should be avoided. Criteria 6 of policy UA14 requires that development proposals are accompanied by a site-specific Flood Risk Assessment with development directed to sequentially preferential locations within the site in terms of flood risk.
- 7.48 Paragraph 175 of the NPPF states that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the

- future. Further, where planning applications come forward on sites allocated in the development plan, applicants need not apply the sequential test again.
- 7.49 A Flood Risk Assessment has been submitted with the application which states that the risk of flooding from this development is considered to be low and it is not anticipated that there will be any detrimental impacts to flood risk for this site, or the area as a whole.
- 7.50 In this instance it is acknowledged that a small part of the site falls within Flood Zones 2 and 3 but given the site's allocation in the adopted Local Plan, the sequential test has already been applied during the Local Plan process. Notwithstanding this, the development has been laid out so that no accommodation would be located within Floodzones 2 or 3 which would be appropriate and in accordance with criteria 6 of UA14.
- 7.51 A portion of the site is an area at risk from river flooding. Therefore, to prevent an increased risk of river flooding associated with the development, it has been necessary to provide a volume of flood compensation adjacent to the existing watercourse. This would be in the form of excavated ground on the east side of the water course and would mean that in the event of a river flood event, the river water would fill up this additional excavated area and would not flood any of the proposed roads or houses on the site, nor increase the risk to other properties. Calculations have been undertaken to determine the volume of compensation required which identifies that approximately 273m³ of flood volume compensation is necessary. The proposals provide compensation on a level up to the 1000 year storm. Furthermore, by excavating down from the existing ground levels in the area near to the western boundary of the site to provide additional storage volume will provide a greater storage volume at the 'lower' flood levels (i.e., those which could be considered more likely to occur). Additionally, a bund would be created along the site boundary which would act as protection for the adjacent property during the vast majority of storms. The proposals would provide a total of 286m³ of flood plain storage, meaning the development would provide a net gain in storage volume. The excavation and bund would therefore not only provide greater flood storage at a lower storm levels, but it will also separate the flood plain area from the adjacent property in all but the most extreme of flooding events which is considered to be a significant benefit. As a result of the above and taking into account the comments of the Environment Agency and the LLFA I am satisfied risk of flooding from the development is considered to be low.
- 7.52 In terms of foul water, it is proposed that this would be collected and transported via traditional gravity pipes to an on-site pumping station. From there it would be conveyed via a rising main to a final new manhole in the south-east corner of the site which would then be discharged under gravity into the existing Southern Water sewer south of the site via a new connection. Southern Water raise no objections stating that investigations indicate that

they would be able to facilitate foul sewerage disposal to service the proposed development subject to a formal application.

7.53 In addition to the above the development poses to collect and attenuate surface water runoff which would be discharged at a controlled rate to the existing surface water course to the west. Due to the size of development and levels changes across the site, multiple storm crate systems and permeable pavements have been proposed to provide sufficient attenuation before final controlled discharge into the existing water course.

7.54 In light of the above I am satisfied that foul and surface water would be appropriately mitigated subject to conditions.

f) Whether the development would be acceptable in relation to ecology and biodiversity?

7.55 Core Strategy Policy CSD4 aims to achieve net gains in biodiversity and positive management of areas of high landscape quality. PPLP policy NE2 aims to safeguard and protect European, National and Local Sites, together with protected species, requiring that all new development will be required to conserve and enhance the natural environment, including all sites of biodiversity or geodiversity and all legally protected or priority habitats and species.

7.56 The application is accompanied by supporting documents including an Ecological Impact Assessment which identifies that the existing site provides suitable habitat for roosting bats, in addition, there is suitable habitat within the site for breeding birds and the occasional presence of reptiles cannot be ruled out.

7.57 As a result of this and in accordance with the comments of the County Ecologist it is proposed that planning conditions are imposed to ensure that the impacts from artificial lighting on the trees is minimised and that a precautionary mitigation strategy is submitted.

7.58 Further, it would also be appropriate to secure by condition, the submission and approval of an ecological enhancement plan.

7.59 In light of the above I am satisfied that the applicant's approach to biodiversity and ecology is acceptable.

g) Whether the approach to archaeology is acceptable?

7.60 The site lies within a wider area of multi-period archaeological potential. The Country Archeologist has reviewed the application and recommends that if planning permission is granted a condition is imposed requiring a programme of archaeological field evaluation work. I am satisfied that the imposition of this condition is sufficient to ensure matters relating to archaeology are satisfactorily mitigated.

h) Whether the approach to contamination is acceptable?

7.61 In respect of contamination, a phase 1 study has been completed and concludes that the potential for contamination at the site is low. This view is endorsed by the council's Environmental Health Officer who recommends a condition is attached to any grant of planning permission which would secure a discovery strategy and reporting protocol should any unexpected contamination be encountered during the works. I consider such a condition to be reasonable to mitigate any concerns.

i) Whether the approach to affordable housing and viability is acceptable?

7.62 Policy CSD1 of the Core Strategy requires the provision of 22% affordable housing on development sites at any location within the district of 15 or more dwellings (or land >0.5ha) with 70% of these comprising of units for affordable rent. Based on this proposed development of 40 dwellings, 9 affordable dwellings are required for the scheme to be policy compliant. Notwithstanding this, the policy does state that this is required wherever practicable and subject to viability.

7.63 Viability considers whether the value generated by a development is more than the cost of developing it. The applicant has submitted a viability appraisal which has been informed by a cost plan which sets out that due to a number of construction anomalies the development is not able to deliver affordable housing in line with the policy requirements.

7.64 The viability statement and supporting information submitted by the applicant has been analysed by Dixon Searle and ERM consultants on behalf of the council. They have re-run the appraisals, correcting a number of matters where necessary, and concluded that having explored and sensitivity tested, it is demonstrated that having taken the appropriate viability in planning review to its conclusion, the scheme is unlikely to support a contribution towards affordable housing.

7.65 Officers therefore agree with these recommendations and are suggesting a claw-back mechanism in a S106 Agreement, that would take into account future higher than expected sales values (paying an appropriate percentage as deferred contributions). Officers believe that this is an appropriate way forward in this case, as an alternative to considering refusal of the scheme because it cannot meet the full S106 requirements, or just accepting lower contributions. There remains a strong expectation, particularly at Central Government level, that housing development should continue. This particular site is allocated for residential development. It is in a sustainable location and its development would benefit Hythe through increased footfall and spend. Therefore, there is a strong strategic case to allow its development, even when house prices are not strong enough to fund the required policy-compliant 22% level of affordable housing.

7.66 The clawback provisions will allow all parties to benefit from uplifts in sales/rental values, if these accrue, yet allowing development to proceed in the meantime. The clawback would seek to recover unmet contributions plus indexation up to the original level requested after the normal developer profit and then cease.

j) Whether planning obligations are necessary?

7.67 Regulation 122 of the Community Infrastructure Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

7.68 I recommend that the planning obligations in Table 1 below be required should the Committee resolve to grant planning permission. In summary these are:

- Education contributions
- 22% affordable housing
- Provision and maintenance of on-site open space and play.
- NHS contributions
- Clawback mechanism

Environmental Impact Assessment

7.69 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

- 7.70 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 £135.10 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.

8. CONCLUSION

- 8.1. The site is allocated for development by Policy UA14 of the PPLP. The site is located within the settlement boundary of Hythe, identified as a strategic town by the adopted Core Strategy.
- 8.2. This application seeks planning permission for 40 dwellings. Whilst this exceeds the estimated capacity of 30 dwellings identified by Policy UA14, the uplift in housing numbers is supported by national policy whereby LPA's are required to give great weight to the benefits of using suitable sites within existing settlements for homes.
- 8.3. The council can currently demonstrate a 5-year supply of housing; however, this application would make a valuable contribution towards the council's housing supply.
- 8.4. The application site is in a sustainable location and is not isolated in terms of its location, benefitting from good access to public services. Further, the amount of development is not considered to be disproportionate to the scale of the existing town.
- 8.5. The layout, design and appearance of the proposed development has been significantly amended and is considered to be acceptable. The additional dwellings can be accommodated without having a detrimental impact upon the visual amenity of the wider locality or the setting of the NL.
- 8.6. The development would provide a good level of amenity for existing and future residents and would comply with internal and external residential space standards. Parking provision would be acceptable to serve residents and visitors to the development.
- 8.7. Whilst detailed landscaping is a reserved matter, the layout shows that the amount of public open space and recreation facilities would be acceptable.
- 8.8. The proposed development would provide for offsite highway improvements with the provision of a new crossing point and the impacts on the road network would not be severe. The development would not be harmful to highway safety.
- 8.9. Matters relating to surface and foul water drainage are considered to be acceptable.
- 8.10. Matters relating to ecology, contamination and archaeology are considered to be acceptably mitigated.
- 8.11. The applicant has demonstrated through the provision of a viability appraisal and cost assessment that a contribution towards affordable housing cannot be provided, the applicant has agreed to a clawback mechanism which would allow all parties to benefit from uplifts in sales values, if these accrue, yet

allowing development to proceed in the meantime. This is considered to be acceptable.

- 8.12. Overall, it is considered that the proposed residential development of the site would be acceptable and that any residual impact can be mitigated through the imposition of suitable planning conditions. In balancing the environmental, social and economic impacts arising from the proposal, I conclude that it would present a sustainable form of development, which is at the heart of the NPPF. It is therefore recommended that planning permission be granted subject to conditions and completion of a s106 legal agreement.

9. BACKGROUND DOCUMENTS

- 9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications on line pages under planning application reference 21/0553/FH.

10. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and the applicant entering into a S106 legal agreement securing the details set out in Table 1; 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. Details relating to the landscaping (reserved matters) of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced and the development shall be carried out as approved.

Reason: To comply with the provisions of Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters referred to in Condition (1) above must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. The development shall be carried out in accordance with the following plans and documents:

23.0125 01 Site location plan
23.0125 02 Existing and proposed block plan
23.0125 03 Existing site layout plan
23.0125.04 Roof plan
23.0125 05 Ground floor plan
23.0125 06 Apartments floor plan
23.0125 07 Apartments elevations and sections
23.0125 08 Plots 13 & 14 floor plans and elevations
23.0125 09 Plots 15 & 16 floor plans and elevations
23.0125 10 Plot 17 floor plans and elevations
23.0125 11 Plots 18 & 19 floor plans and elevations
23.0125 12 Plots 20 - 22 floor plans and elevations
23.0125 13 Plots 23 - 30 floor plans and elevations
23.0125 14 Plot 31 floor plans and elevations
23.0125 15 Plots 32 - 34 floor plans and elevations
23.0125 16 Plot 35 floor plans and elevations
23.0125 17 Plot 36 floor plans and elevations
23.0125 18 Plots 37 - 39 floor plans and elevations
23.0125 19 Plots 40 floor plans and elevations
23.0125 20 proposed bike stores
23.0125 21 Proposed street scenes 01
23.0125 22 Proposed street scenes and site sections
23.0125 23 Proposed phasing plan
5588-LLB-XX-XX-DR-L-0001 P08 Landscape masterplan
5588-LLB-XX-XX-DR-Ab-0002 P03 Tree protection plan
0001 P01 - Site access visibility splay
0002 P01 – Refuse tracking (access)
0002 P01 – Refuse tracking (loop)
0003 P01 – Fire tender tracking (access)
0003 P01 – Fire tender tracking (loop)
Planning Statement – Lee Evans Partnership, March 2024
Design and Access Statement – Holloway Architects, March 2024
5588- LLB-R P- L -0003 LVA Addendum
5588-LLB-SH-L-0001 Landscape Management Strategy
5588-LLB-RP-AB-0001Arboricultural Impact Assessment
Viability Report – Bespoke, March 2024
Cost Plan Rev C, BM, Mach 2024
Flood Risk Assessment and Drainage Strategy Report Rev C
Transport Statement, Stantec, March 2021
Transport Technical Note, Stantec, March 2024

Phase 1 Geo-Environmental Assessment
Ecological Survey, Newcombe, M. (August 2023)
Ecological Scoping Survey, Newcombe, M. (July 2020)

Reason: To ensure the development is carried out in accordance with the approval and to ensure the quality of development indicated on the approved plans is achieved in practice.

5. No construction above slab level shall take place in any identified phase or subphase until samples of the external materials to be used in the construction of the external surfaces of the building(s) hereby approved and within that phase or subphase, 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.

6. No development beyond the construction of foundations shall take place in any identified phase or subphase, (unless specified to the contrary), until the relevant details set out below have been submitted to and approved in writing by the Local Planning Authority for that phase or sub-phase. Development of the relevant plot shall only be carried out in accordance with the approved details unless agreed otherwise by the Local Planning Authority in writing. Where relevant, the following details should be provided on drawings at an appropriate scale of 1:50 (where detail needs to be considered contextually related to a façade) and at 1:20 in other cases:

(a) full details of glazing and external doors, including all external joinery and framing methods and external colour (1:20),

(b) 1:20 horizontal and vertical cross sections through typical sections of each of the facades sufficient to show the relationship between the façade and those elements of detail to be embedded within the façade as well projecting from it (such as the extent of recessing of glazing and doors in openings created in the façade, the consequential treatment of window reveals, the details of cills and the extent of projecting elements from the façade),

(c) prior to installation - Details of rainwater goods, eaves, fascia and entrance canopies (including materials and finish, details of any supporting posts and related brick plinths and roofing materials),

(d) prior to installation - details of vents, louvres, extractor vents, external pipes, meters etc (these should not be located as far practicable on prominent elevations).

(e) prior to installation - Details of balconies/terraces including balustrades

(f) mortar colour(s)

Reason: Further details are required to ensure that the external appearance and fine detailing are of an appropriate high quality.

7. Before the development (including site clearance) is begun on any identified phase or subphase, all tree protection measures as set out in the approved Arboricultural Method Statement 5588-LLB-RP-AB-0001 Rev P04 dated 27/03/24 (Lloyd-Bore) shall be undertaken and installed. At least five days' written notice shall be given to the Local Planning authority of the tree protection measures being installed on site.

The hereby approved tree protection measures shall be retained in position at all times until the completion of individual plots, and the land so enclosed shall be kept clear of all contractors' materials and machinery. The existing soil levels around the boles of the trees shall not be altered.

Reason: To ensure that the trees are not damaged during the period of construction.

8. 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.

9. The details submitted pursuant to condition 1 shall include the following:
 - i) A Play Space Strategy for the site, providing details of the provision of all play space and equipment on the site.

Reason: In order to ensure appropriate mitigation against the effects of the development.

10. Prior to the installation of any lighting on site, a detailed lighting scheme and assessment of impacts shall be submitted to the Local Planning Authority which includes details of:
 1. How the lighting follow's the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting'
 2. Light spill plans to demonstrate any impact on neighbouring sites.
 3. The proposed hours of use including timers, so they are dimmed/not operational when not in use.

Details should include: - A statement of the proposed frequency of the use and the hours of illumination demonstrating that the lights are on timers so they are; dimmed/not operational when not in use; A site plan showing the area to be lit relative to the surrounding area, demonstrating that light spill to the adjacent cliffs would be minimal; Follows the Bat Conservation Trust's 'Guidance Note 8 Bats and Artificial Lighting' (or subsequent updates); The type, number, mounting height and alignment of the luminaries; An Isolux diagram showing the predicted illuminance levels at critical locations on the boundary.

The lighting must be used, maintained and managed in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the completed development and in the interests of ecological protection and amenity

11. Prior to works commencing on site (including site/vegetation clearance), a precautionary ecological mitigation strategy will be submitted to the local planning authority and approved in writing. The strategy will detail how the vegetation within the site will be cleared to avoid killing and/or injuring protected and priority species. The strategy must be implemented as approved.

Reason: In the interests of ecological protection.

12. Within three months of works commencing on site a detailed ecological enhancement plan will be submitted to the local planning authority and approved in writing. The plan will detail how the landscaping will be designed and managed to enhance and benefit biodiversity and include details of ecological enhancement features to be incorporated into the dwellings (e.g., bird and bat boxes aimed at species of conservation concern). The plan must be implemented as approved.

Reason: In the interests of biodiversity.

13. Construction of the development shall not commence until details of the proposed means of foul sewerage have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.
Reason: To ensure adequate provision of foul drainage to serve the development.

14. Development shall not begin 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 and Drainage Strategy Report Revision D by the Alan Baxter Partnership 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 [within the curtilage of the site] without increase to flood risk on or off-site. [The detailed drainage scheme will also be required to demonstrate that any existing surface water flow paths 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 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.

15. 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 that the drainage system constructed is consistent with that which was 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 175 of the National Planning Policy Framework.

16. The development shall be carried out in accordance with the submitted flood risk assessment (by: Alan Baxter Partnership LLP; ref: K838 / September 2020; updated: 27 March 2024) and the document titled "Response from

applicant to EA comments (R)” (by: Alan Baxter Partnership LLP; dated: 3 April 2024) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 17.700 metres above Ordnance Datum (AOD)
- The bund shall be formed by the proposed excavations. There shall be no land raising within the floodplain.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme’s timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

17. 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 in the next planting season with trees or shrubs of the same species/size as approved within the landscaping scheme unless any variation has been agreed in writing with the Local Planning Authority.

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

18. 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 carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

19. No development shall take place, including any works or demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction. The statement shall provide for:

- (a) Routing of construction and delivery vehicles to / from site
- (b) The parking and turning for the vehicles of site operatives and visitors

- (c) Loading and unloading of plant and materials
- (d) Storage of plant and materials used in constructing the development
- (e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (f) Wheel washing facilities
- (g) Measures to control the emission of dust and dirt during construction
- (h) A scheme for recycling or disposal of waste resulting from construction works
- (i) Timing of deliveries
- (j) Temporary traffic management and signage
- (k) Confirmation that the developer has signed up to the Considerate Constructors Scheme

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

20. Prior to the commencement of the development and following completion of the development highway condition surveys for highway access routes should be undertaken and submitted to the Local Planning Authority along with a commitment provided to fund the repair of any damage caused by vehicles related to the development in consultation with Kent County Council Highways and Transportation.

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

21. The approved vehicle parking spaces as shown on the submitted plan (23.0125.04) shall be provided prior to the first occupation of each dwelling as to which the parking spaces serve. Thereafter the parking spaces shall not be used for any purpose other than for the parking of private motor vehicles associated with the residential occupation of the property.

Reason: To ensure adequate provision for vehicle parking in the interest of highway safety, and in the interest of visual amenity.

22. Prior to the first occupation of each individual dwelling hereby approved, an electric vehicle charging point shall be fully installed within that plot /parking space and shall be retained and maintained as such thereafter. All Electric Vehicle chargers provided for homeowners in residential developments must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wi-Fi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list:

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

Reason: In the interests of promoting sustainable methods of transport.

23. Prior to the first occupation of each dwelling the cycle parking facilities as shown of submitted plan (23.0125.04) shall be provided.

Reason: To secure a sustainable form of development and to reduce reliance upon the private motor vehicle.

24. No dwelling shall be occupied until the access identified on drawing (23.0125.04) has been provided in accordance with these approved details. The access shall thereafter be permanently maintained.

Reason: In the interest of highway safety.

25. Prior to the first use of the access the visibility splays identified on drawing (49402_5501_001 Revision B) (with no obstructions over 0.6 metres above carriageway level within the splays) shall be provided in accordance with the approved details. The visibility splays shall thereafter be retained in accordance with the approved plans and the area within the visibility splays shall be permanently maintained.

Reason: In the interest of highway safety.

26. Prior to the first occupation, the following works shall be laid out and constructed in accordance with the approved details:

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

Reason: In the interests of highway safety and convenience.

27. The carports (plots 31-40) hereby approved shall be kept available in its entirety for the parking of vehicles at all times, and notwithstanding the provisions of Class E, Part 1 of schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) no doors, shutters nor any other means of enclosing the carports shall be erected or constructed on site and no 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 site, in such a manner or in such a position as to preclude vehicular access to the garages/carports.

Reason: In the interests of highway safety and convenience.

28. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of
- i) archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - ii) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate assessment of the archaeological implications of any development proposals and the subsequent mitigation of adverse impacts through preservation in situ or by record.

29. Prior to the commencement of dwellings within each phase, details of the design of boundary treatments, to include gates, boundary walls, retaining walls and fences, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be provided prior to the first occupation of any part of the development to which they relate in accordance with the approved details.

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

30. Construction above slab level shall not commence within any phase of the development hereby permitted until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving that all the dwellings in the phase will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator. No phase of the development hereby permitted shall be occupied until written documentary evidence has been submitted to, and approved by, the local planning authority, proving that all in the dwellings in that phase have 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.

Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings'

<https://www.gov.uk/government/publications/the-water-efficiencycalculator-for-new-dwellings>

Reason: In accordance with the requirements of policies CSD5 and SS3 of the Core Strategy Local Plan 2013 which identify the district as a water

scarcity area and require all new dwellings to incorporate water efficiency measures.

31. No development beyond the construction of foundations shall take place within any phase until details demonstrating the development within that phase or subphase 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, (or any document which supersedes or updates that document) 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.

32. 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 0800 – 1900 hours
Saturdays 0800 – 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.

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

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

34. Prior to the occupation of the apartment block, the windows to the east elevation identified on drawing number 23.0125 07 as being obscure glazed shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3, and these windows shall be incapable of being opened

except for a high level opening of at least 1.7m above inside floor level and shall subsequently be maintained as such.

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

35. Prior to the first occupation of plot 40, details of the privacy screen shown on drawing number 23.0125 19 shall be submitted to and approved in writing by the local planning authority. The privacy screen shall be implemented in accordance with the approved details prior to first occupation, and thereafter be maintained in position in perpetuity.

Reason: In the interests of residential amenity.

Informatives:

1. The applicants attention is drawn to the informatives included within the consultation response of Kent Highways and Transportation dated 10 July 2024.
2. The applicants attention is drawn to the information set out in the consultation response of Southern Water dated 06 May 2024.
3. Any feature capable of conveying water can be considered to fall under the definition of an 'ordinary watercourse' and the applicant is urged to contact the LLFA prior to undertaking any works that may affect any watercourse/ditch/stream or any other feature which has a drainage or water conveyance function. Any works that have the potential to affect the watercourse or ditch's ability to convey water will require formal flood defence consent (including culvert removal, access culverts and outfall structures). Please contact flood@kent.gov.uk for further information.
4. Public Rights of Way:
 - No furniture may be erected on or across Public Rights of Way without the express consent of the Highway Authority
 - There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
 - Planning consent does not confer consent or a right to disturb or unofficially divert any Public Right of Way at any time without the express permission of the Highway Authority.
 - No trees or shrubs should be planted within 1.5 metres of the public right of way.

Daylight Sunlight Assessment - 25° Test Passed

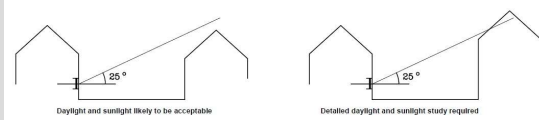
Places and Policies Local Plan Adopted September 2020

The 25 Degree and 45 Degree Tests

The Building Research Establishment's (BRE's) document 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' (2011) sets out two helpful tests for determining the acceptability of an extension in terms of its potential impact on neighbouring dwellings: the 25° and 45° tests.

The 25 Degree Test

The 25° test is used where development is opposite a window according to the diagram below.



The 25 Degree Test

If the whole of the proposed development falls below a line drawn at 25° from the horizontal (above left), then there is unlikely to be a substantial effect on daylight and sunlight. However, if the proposed development would be above the 25° line (above right), further assessment will be required.

Page 199

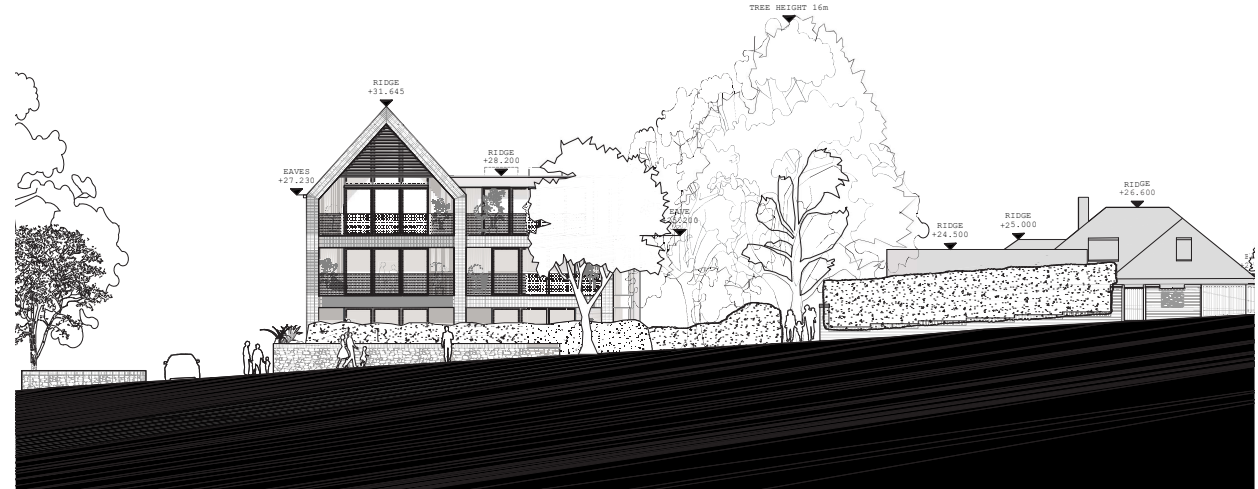
Extract taken from 'Folkestone & Hythe District Places and Policies Local Plan Adopted 2020, Page 236

<https://www.folkestone-hythe.gov.uk/downloads/file/3598/places-and-policies-local-plan>

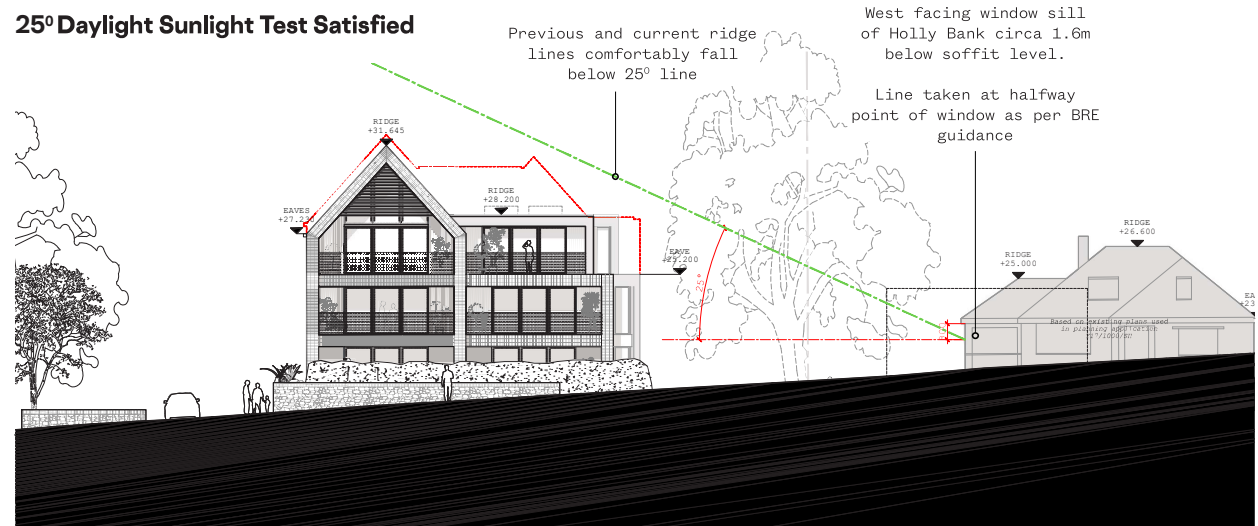
Key Plan

 25 Degree line based on neighbouring window

Proposed Street Scene



25° Daylight Sunlight Test Satisfied



The above diagrams clearly illustrate that the proposed design **passes the '25 Degree' rule** set out in the BRE's document.

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Application Number	24/1769/FH
Location	5-6 Shakespeare Terrace, Folkestone, CT20 2DX
Application Description	Change of use from hotel to a to sui generis house in multiple occupation (HMO) with 17 rooms for up to 19 persons.
Applicant	Dr. Peter Le Feuvre
Agent	N/A
Officer Contact	Robert Allan

Recommendation

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. Reason for consideration by the Committee

- 1.1. The application is reported to Committee at the request of Councillor Belinda Walker.

2. Site and Surroundings

- 2.1 The application site is within the defined settlement boundary of Folkestone and outside of, but adjacent to, the defined town centre. It is within the Leas and Bayle Conservation Area.
- 2.2 The property is a five-storey, mid-terrace, Victorian property, with a lawful use as a hotel. Access is from Shakespeare Terrace, with the rear of the property facing onto a private car park.
- 2.3 There are three trees to the rear of the application site protected by TPO no. 15 of 1989, with one of these appearing to be within the curtilage of the property.
- 2.4 A site location plan is attached to this report as **Appendix 1**.

3. Proposal

- 3.1. Full planning permission is sought for the change of use of the property from a hotel to a house in multiple occupation with 17 rooms for up to 19 persons. No physical alterations to the exterior of the building are proposed.

- 3.2. The application is made by the Folkestone Rainbow Centre (FRC), a charity that works with adult homeless people (18+) who are rough sleepers or at risk of rough sleeping. FRC does not work with children and certain other groups where statutory responsibility is held by local authorities.
- 3.3. There will be a resident concierge and support staff will visit from the Rainbow Centre offices, which are approximately 300metres away from the application site. For emergency accommodation, there would be provision of breakfast and an evening meal (if required) and clients would generally leave the accommodation during the day if they are not working or training. For transitional accommodation, relevant support would be provided whilst clients move to a more normalised structure with a short-term tenancy or licence agreement.
- 3.4. The current model for the charity involves the use of churches and subsequently B&B winter provision, with the aspiration to be move to an all year round supported housing offer.
- 3.5. Access to the building would be via the existing front access, with bin storage proposed to the front of the property, as currently takes place.
- 3.6. The following reports were submitted by the applicant in support of the proposals:

Design & Access Statement

- 3.7. This document sets out the aim of the proposal, outlines the experience of the applicant in the field and describes the curtilage around the property, how access is achieved, and sets out that there will be no parking provided. It also clarifies that there will be a resident concierge, and that support staff will visit from the Rainbow Centre offices.

Heritage Statement

- 3.8. This document provides a brief history of the application site, referencing the Folkestone and Hythe District Heritage Strategy. It details that the property retains bay windows and wooden sash windows to the front elevation, although the rear elevation has double glazed uPVC windows, and entrance doors are stated to be modern replacements. It further states that the site is not within the views and vistas listed in the Folkestone Conservation Area Appraisal and confirms that there will be no alterations to the exterior of the building.

Folkestone Rainbow Centre (FRC) Homelessness Strategy

- 3.9. The document sets out the aim of charity in seeking to have a significant positive impact on the prevention and alleviation of homelessness in the Folkestone and Hythe District by providing both Emergency and Transitional accommodation, year-round, to alleviate some of the crisis homelessness that occurs and focus on a process taking clients from homelessness, or at risk of homelessness, to secure accommodation by addressing many of the

contributing factors that make many of the clients vulnerable to homelessness. The facility would also provide transitional accommodation to give support where clients are ready to move into supported accommodation, but insufficient is available locally. It states that the FRC will secure accommodation either via purchase, rental or building to deliver this transformative process.

Supporting Evidence

- 3.10. This document provides a range of evidence to support the application. There is commentary from the Chair of the Folkestone, Hythe & District Hotel & Catering Association that the loss of the hotel would not negatively impact the tourism position of the district; statement that there is no desire to increase the number of hotel beds in the Folkestone area based upon the assertion that there have been no other recent applications for the creation of hotels in central Folkestone; evidence of limited marketing; details of a similar approved application for the loss of visitor accommodation; evidence of the need for emergency and supported accommodation for homeless people in Folkestone and how this aligns with the FHDC Homelessness Prevention Strategy.

4. Relevant Planning History

- 4.1 There is no relevant recorded planning history for the site.

5. Consultation

Ward Member: The ward members for Folkestone Central are Councillor Abena Akuffo-Kelly, Councillor Laura Davison, and Councillor Liz McShane.

- 5.1 The key consultation responses are summarised below.

Consultees

Folkestone Town Council: No objection.

KCC Highways & Transportation: Outside of consultation protocol.

Strategic Housing Manager: The Council's Housing Options Team fully supports the provision of a supported housing project in this district to assist people who are currently rough sleeping or who are at risk of rough sleeping. There is currently no such provision in the district..

Public Consultation

- 5.2 110 neighbours directly consulted. 2 letters of objection received.

5.3 I have read the correspondence received. The key issues are summarised below:

Objection

- The Leas is the hub of Folkestone for tourists
- Southcliffe Hotel already houses homeless
- Inappropriate development in residential area
- Safety concerns
- Antisocial behaviour

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

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

6. Planning Policy

6.1 The Development Plan comprises the Core Strategy Review (2022) and the Places and Policies Local Plan (2020).

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

- HB1 - Quality Places Through Design
- HB13 - House in Multiple Occupation (HMOs)
- E4 - Hotels and Guest Houses
- T2 - Parking Standards
- T5 - Cycle Parking

Core Strategy Review (2022)

- SS1 - District Spatial Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy

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

Government Advice

National Planning Policy Framework (NPPF) December 2024

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 paragraphs of the NPPF are relevant to this application: -

- 11 - Presumption in favour of sustainable development
- 39 - Decision-making
- 48 - Applications for planning permission be determined in accordance with the development plan
- 116 - Promoting sustainable transport
- 124 - Making effective use of land
- 135 - Achieving well-designed places
- 207 - Proposals affecting heritage assets

7. Appraisal

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

- a) Is the principle of development acceptable?
- b) Is the visual impact of the development acceptable including upon the designated heritage asset?
- c) Would the proposal harm residential amenity?
- d) Would the development safeguard highway safety?
- e) Would the development be acceptable regarding arboricultural impacts
- f) Would the development have adequate bin storage?

a) Is the principle of development acceptable?

7.2 The site is within the defined settlement boundary of Folkestone and in a sustainable location within walking distance of shops and services. This accords with the principles of Core Strategy Review policies SS1 and SS3, which direct development toward existing sustainable settlements with opportunity for increased densities. The broad principle of the proposed development in this location is acceptable subject to all other material planning considerations.

7.3 The development plan resists the loss of visitor accommodation where this would be detrimental to the tourist economy, with Policy E4 of the Places and Policies Local Plan setting out that:

Applications for the change of use or redevelopment of hotels, guest houses or self-catering units which would result in a loss of visitor accommodation will only be permitted where:

- 1. The standard and type of accommodation that is, or could be provided at reasonable cost, is unsuited to meet visitor demands; or*
- 2. In the case of hotels and guest houses, the premises or site are poorly located in relation to the areas of main tourist activity or tourist routes, and uses in the immediate vicinity are predominantly unrelated to tourism or incompatible with the continued tourist use of the premises; and*
- 3. In addition to the above, it has been demonstrated that the business has been marketed at a reasonable rate and for a period of 12 months.*

7.4 The preamble to the policy sets out that in the operation of this policy, the Council will have regard to available evidence from local hotel and tourist organisations concerning tourist demands and requirements.

7.5 The applicant has not directly addressed criterion 1 of policy E4, instead utilising a statement from the Chair of the Folkestone, Hythe and District Hotel and Catering Association, which states that; *“Due to recent shifts in customer demand towards either budget or luxury accommodation, particularly favouring branded properties, along with the rapid growth of Airbnb, traditional mid-market hotels & guesthouses with fewer than 30 bedrooms have faced significant struggles”* implying that the 2-star accommodation offered by The Hamlet Hotel is in low demand. The statement concludes that the loss of the hotel would not negatively impact the overall tourism position of the district and asserts that customer demand for hotels has shifted.

7.6 In relation to criterion 2, the property is close to the centre of Folkestone and the seafront so would appear to be in a good location for tourism. The neighbouring uses in Shakespeare Terrance appear to consist of residential properties and, further north, businesses and retail. To the south, along The Leas, there are hotels and further residential properties. The surrounding uses would not be incompatible with the continued use as a hotel.

7.7 Turning to criterion 3, this requires that there should be evidence that the property has been marketed at a reasonable rate and for a period of 12 months. The supporting evidence states that the lease on the property was on the market from June 2021 until “...at least...” October 2022, but there was little interest. This was over two years ago, although the policy does not specify how recently the exercise would need to be undertaken, and the evidence does not specify what rates this was advertised at. The supporting evidence continues to state that the property has not been marketed as a hotel since that time.

7.8 The application does not, therefore, adequately address all the criteria in Policy E4.

- 7.9 Also within the supporting evidence are details of an email from Zsofia Imre, Rough Sleeping Adviser to the MHCLG, supported by a subsequent email from Eve McCallam, Grants Manager, Housing Justice, which identify that local supported housing provision previously funded by Kent County Council has been closed (St Johns and Willow Lodge) leaving no emergency accommodation for single men and women. Further, it is stated that *“the housing options and the rough sleeping service have experienced a higher demand on their services in recent months and have reported that the needs of their single homeless cohort are increasingly complex”*.
- 7.10 Folkestone & Hythe District Council Homelessness Prevention Strategy 2020 - 2025 has several strategic priorities, two of which are:
- Continue to develop an early intervention support service for those with no accommodation to go to, such as care leavers, people leaving prison & hospitals, to reduce the number of new rough sleepers.
 - Work with partners and agencies to increase the range of housing solutions & support available to rough sleepers, including development of a Housing First Project.

The applicant states that the project will support both priorities.

- 7.11 The Council's Strategic Housing Manager has commented on the application to state that:

“The Rainbow Centre is a key partner to Council, enabling us to deliver our Homelessness Prevention Strategy and our priorities for addressing and preventing rough sleeping in the district. Over the last 18 months, there has been a significant increase in the number of people rough sleeping in the district. The official rough sleeping count completed on 26 November 2024, identified 9 people rough sleeping in the district. During the summer of 2024, 16-24 people were verified as rough sleeping at various points in time.”

- 7.12 They confirm that, following withdrawal of funding by Kent County Council, approximately 20 units of supported housing have been lost in the district and that the proposed accommodation will help to address the needs of this vulnerable client group, helping those affected by homelessness to move to a more settled way of life and access longer-term accommodation and support services.
- 7.13 It is therefore evident that whilst the proposal fails to meet all the requirements of policy E4, there are wider issues relevant to the delivery of Council services that carry significant weight in the consideration for this proposal.
- 7.14 Turning to the accommodation proposed, policy HB13 covers houses in multiple occupation and seeks to ensure that proposals for HMOs will only be permitted where they would not result in an unacceptably harmful impact upon:

1. Residential amenity, caused by increased noise and disturbance;
2. The character or appearance of the street scene or neighbourhood;
3. The character or appearance of the building, including from inappropriate or insufficient arrangements for storage, including for refuse and bicycles; and
4. Highway safety, caused by insufficient on-site parking provision thereby resulting in an unacceptable increase in on-street parking.

These issues will be addressed in subsequent sections.

b) Is the visual impact of the development acceptable including upon the designated heritage asset?

- 7.15 The proposal requires no physical external changes to the building or the grounds. It is proposed to store bins to the front of the property, as is the current arrangement, so there would be a neutral impact upon the street scene and designated conservation area.

c) Would the proposal harm residential amenity?

- 7.16 Concern has been raised regarding the potential for noise and disturbance. There is a perception that the proposal would lead to an intensification of the use over the existing hotel use, which has a similar number of bedrooms. This is acknowledged, but it is unlikely that there would be a significant detrimental impact upon the neighbouring occupants in the surrounding area. A condition could reasonably be imposed on any grant of planning permission, limiting the number of persons residing at the premises.
- 7.17 The space standards referred to in policy HB3 are only applicable to the creation of new dwellings. Consequently, they cannot be applied here. The licensing of HMOs is controlled via separate legislation and does not form part of the consideration of this proposal.
- 7.18 Concerns have been raised regarding alleged anti-social behaviour taking place at the property now and in the future. This is noted, but the control of activities of future occupants is outside of the scope of the planning system and is dealt with by separate legislation and by separate bodies, with the current application considered not to affect these issues, as there is nothing inherent in the use of HMOs that lends them to antisocial behaviour.
- 7.19 Overall, there would be no detrimental impact upon residential amenity for the existing occupants of the neighbouring dwellings in accordance with Places and Policies Local Plan policies HB1.

d) Would the development safeguard highway safety?

- 7.20 No parking spaces are proposed in association with the development and the current hotel use has no associated parking. The site is considered edge of centre, with maximum parking standards of one space per unit, although it is noted that the adopted standards are silent on HMO provision. There are on-street parking controls which limit parking.
- 7.21 Whilst the apparent lack of parking to serve the development is acknowledged, and representations regarding this are also noted, the proposal would fall within the scope of adopted policy. The site is located within walking distance of shops and services with good access to public transport (bus stops) and pedestrian footways. Any increased demand for parking would be mitigated by the sustainable location and regulated via the controlled parking (permits) and double-yellow lines.
- 7.22 No cycle storage is shown to be provided, with limited space within the curtilage for such a facility given the need to continue to utilise the front garden area for bin storage.
- 7.23 The advice within the NPPF at paragraph 116 is noted where “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
- 7.24 Overall, the proposal would have no significant detrimental impact upon highway safety or amenity from the lack of on or off-street parking and would be in accordance with the aims of Places and Policies Local Plan policy T2. The lack of cycle parking would conflict with policy T5.

e) Would the development be acceptable regarding arboricultural impacts?

- 7.25 The presence of a protected tree to the rear of the property is noted. There are no external alterations to the property proposed and the tree would not be impacted in any way by the proposed change of use.
- 7.26 Consequently, the protected trees and the visual amenities of the area in accordance with Places and Policies Local Plan policy HB1.

f) Would the development have adequate bin storage?

- 7.27 A bin store area is proposed to the front of the property, which aligns with the current bin collection arrangements. There is no evidence to suggest that this would not be adequate to serve the needs of the development, and no issue is presented in this regard.

Environmental Impact Assessment

- 7.28 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

- 7.29 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.
- 7.30 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.

Human Rights

- 7.31 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

- 7.32 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.
- 7.33 It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

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

8. CONCLUSION

- 8.1. The proposal would result in the loss of visitor accommodation, with the information submitted to support this considered to fall short as regards successfully addressing adopted policy. However, there is a demonstrated gap in the provision of services within the district in relation to supported housing, as supported by the Council's Strategic Housing Manager and external bodies, with the proposal identified as being one that would be able to fill this shortfall, in line with the Folkestone & Hythe District Council Homelessness Prevention Strategy 2020 – 2025, which is considered a significant material consideration in favour of the proposal.
- 8.2. There are no detrimental impacts upon the visual character or appearance of the street scene, the designated heritage asset of the conservation area, or regarding the amenity of neighbouring uses and occupiers, with no significant impacts upon highway safety or amenity in relation to car parking, which together are considered to have a neutral impact upon the planning balance. The lack of dedicated cycle parking is considered to carry minimal weight against the proposal.
- 8.3. Taking the above into account, it is considered that the impact upon visitor accommodation within the district is outweighed by the service that the proposal would provide and is therefore recommended for approval, subject to conditions, including restricting the use of the premises to the Folkestone Rainbow Centre only.

9. BACKGROUND DOCUMENTS

- 9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications online pages under planning application reference 25/0035/FH.

10. RECOMMENDATION

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions 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. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

Proposed floor plans dated received 26 November 2024

Location plan dated received 11 November 2024

Block plan dated received 11 November 2024

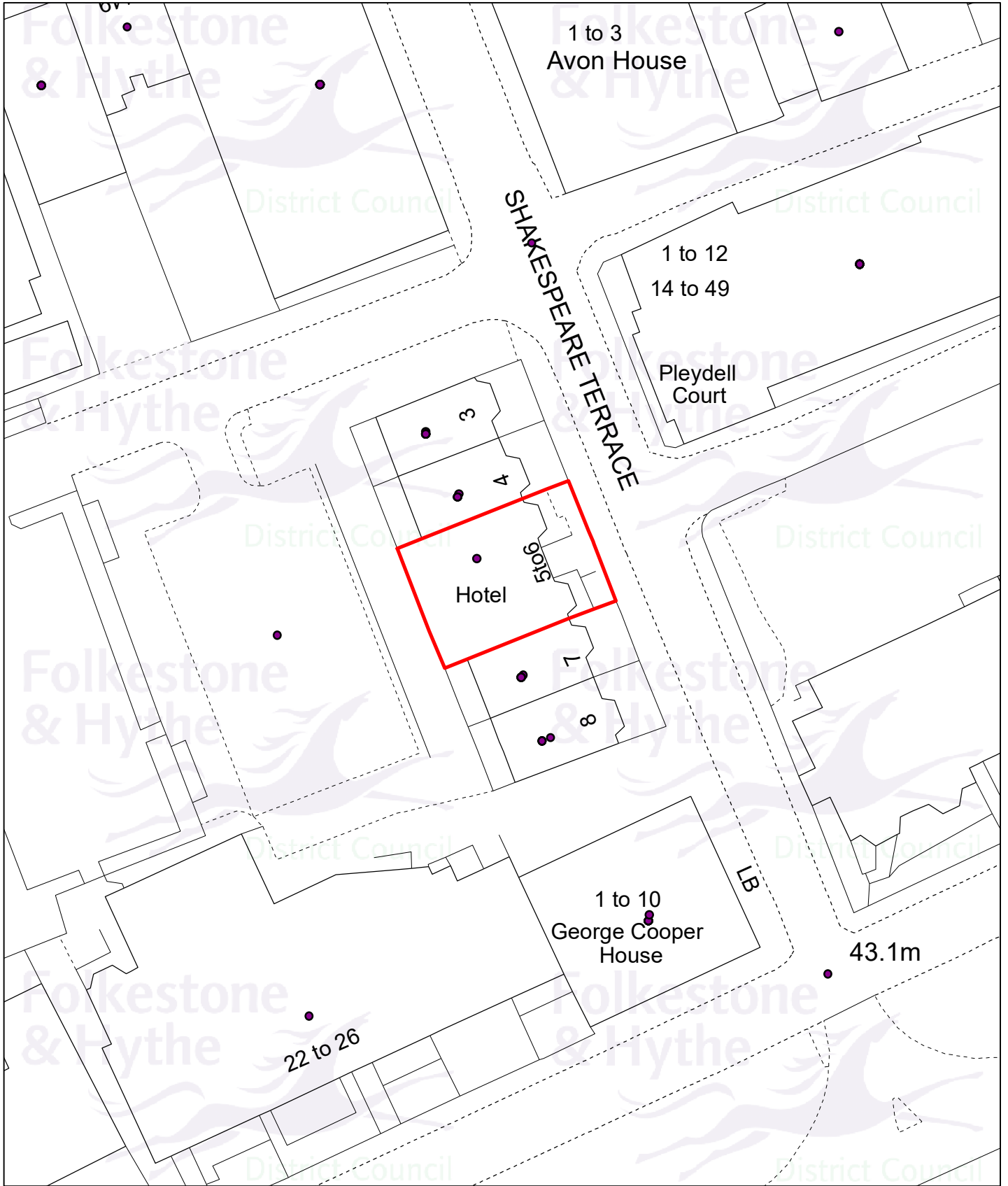
Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

3. The premises used as an HMO (House in Multiple Occupation) shall only be occupied by a maximum of nineteen persons.

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

4. This permission shall enure solely for the benefit of the Folkestone Rainbow Centre and for no other persons.

Reason: As permission has only been granted in recognition of the specific need that is being met.



Planning Application:
24/1769/FH

Drawn date:
05 Mar 2025

Drawn by:
Carrie Stacey

Drawing ref:
2235/COP/LS

Llywelyn Lloyd
Chief Planning Officer

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Folkestone & Hythe District Council AC0000821403 - 2025



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Application Number	24/1315/FH
Location	41 The Parade, Greatstone, New Romney, TN28 8SU
Application Description	Proposed outbuilding housing a swimming pool, gym, sauna and lounge and alterations to the rear elevation of the dwelling to include conversion of existing hipped roof projection to a gable and new flue
Applicant	Mr Mike Adams
Agent	Mr Ian Upton
Officer Contact:	Elizabeth Nash

Recommendation

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. Reason for consideration by the Committee

- 1.1. The application is reported to Committee by Cllr Wimble on the basis of land ownership issues and the impact that the proposal could have on the Romney Marsh and Rye Bay Site of Special Scientific Interest.

2. Site and Surroundings

- 2.1 The application site consists of a detached chalet bungalow with dormer windows within the roof slope. The rear of the dwelling has been extended to create a two-storey gable projection with a metal balcony. In addition to the above the rear elevation also includes a roof terrace over an existing rear projection and a conservatory.
- 2.2 The garden to the rear consists of shingle with grasses and other marine planting. A small area of lawn is located close to the rear elevation of the dwelling with a patio adjacent to the conservatory. This paving links to two timber outbuildings located along the northern boundary of the site. The boundary treatment to the rear and side is a white rendered wall, approximately 1.5 metres in height.
- 2.3 The application site lies within a residential area within the settlement boundary. Dwellings here are a mix of styles and design. Similarly, the rear gardens of dwellings on the east side of The Parade are also varied with some

- reflecting the dunes to the east and others consisting of hard landscaping devoid of vegetation.
- 2.4 The land to the east of the site opens out to sand dunes and Greatstone beach. This land is designated as part of the Romney Marsh and Rye Bay Special Area of Conservation (SCA), Romney Marsh and Rye Ramsar, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI) and Dungeness Special Area of Conservation and a Special Protection Area (SPA) The application site shares its rear boundary with the above designations however, the garden itself does not fall within these areas.
- 2.5 The application site falls within a Site of Special Scientific Interest Impact Risk Zone, Archaeological Notification Area and Flood Zone 2.
- 2.6 A site location plan is attached to this report as **Appendix 1**.

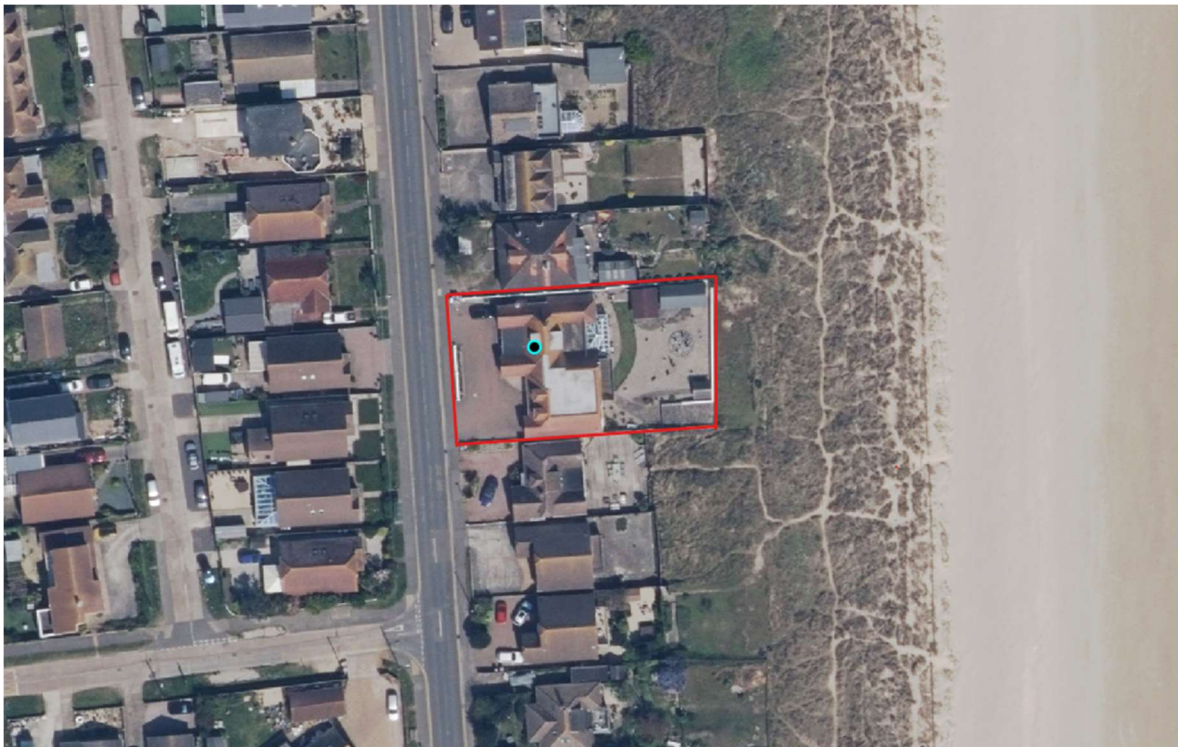


Figure 1: Aerial Image



Figure 2: View towards site from dune footpath



Figure 3: View from Greatstone beach towards site

3. Proposal

- 3.1. Planning permission is sought for the erection of a single storey outbuilding and the conversion of the existing hipped roofed projection to the rear of the dwelling to a gable with a new flue, following the expiration of the 2021 (21/2118/FH) permission for an outbuilding and alterations to the rear elevation of 41 The Parade.
- 3.2. The proposed L shaped outbuilding would be located along the rear and northern side boundaries of the site. It would house a swimming pool, gym, changing room, sauna and lounge/games room. The wing located along the northern boundary would have a pitched roof with the wing along the rear boundary having a flat roof with a glazed link between. Windows within the elevations of the building would face into the site, with three skylights within the flat roofed section and a further skylight on the north facing roof slope of the pitched section. The facing materials would consist of aluminium powder coated windows and doors, timber cladding throughout both the roof and elevations of the buildings and a brick plinth.
- 3.3. The proposed alterations to the dwelling would see an existing rear facing hipped roof replaced by a gable with a central window. All materials would match the existing.

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

Design and Access Statement

- 3.4. This document states that the proposal is a re-submission of the approved 2021 application 21/2118/FH for 'a new outbuilding containing ancillary living space and to replace existing garden structures' and lists all of the submitted drawings.

Construction and Environmental Management Plan

- 3.5. This document sets out measures to be taken during construction to minimise the impact of active construction on the designated sites to the rear of the proposal site.
- 3.6. It sets out how the site would be managed, with clear working hours, complaints register, contact details of managers and display boards showing the layout of the site and any other relevant information. The document goes on to detail how noise, vibration and the production of dust would be minimised and avoided where possible to protect air quality and the surrounding designated sites.

- 3.7. In addition to the above measures the document confirms the type of foundations to be used for the outbuilding to avoid undermining the existing boundary wall and impacting the Dunes. These foundations would be a concrete raft no more than 450mm thick to minimise excavation. The proposed pool would be a concrete 'bath' formed within the raft no more than 1.5 meters deep.

4. Relevant Planning History

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

21/2118/FH	Proposal for a new outbuilding containing ancillary living space and to replace existing garden structures	Approved with Conditions
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5. Consultation

Ward Members: Cllr Clive Goddard and Cllr Alan Martin

- 5.1 The consultation responses are summarised below.

Consultees

Lydd Town Council: Object on the following grounds:

- Substantial change to description from previous proposal
- Overdevelopment impact on neighbours
- Effect the build will have on the dunes

KCC Ecology: No Objection subject to the Construction and Environmental Management Plan being followed.

Natural England: No Comment.

Public/Neighbour Consultation

- 5.2 7 neighbours directly consulted. No letters of objection, No letters of support received, but 2 letters neither supporting nor objecting to the application from the same commenter have been received.
- 5.3 I have read all of the letters received. The key issues are summarised below:

General Comments

- Building is not a like for like replacement
- Parallel to sand dunes
- Restriction on development of more than 50% of plot
- Plot has been extended into the dunes
- Request to consult Romney Marsh Countryside Partnership regarding dunes
- Fence erected between neighbouring dwellings

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

[Planning Register](#)

6. Planning Policy

6.1 The Development Plan comprises the Core Strategy Review (2022), the Places and Policies Local Plan (2020), the St Mary in the Marsh Neighbourhood Plan (2019) and the Kent Minerals and Waste Local Plan (2016).

6.2 The relevant development plan policies are as follows:

Places and Policies Local Plan 2020

- HB1 - Quality Places Through Design
- HB8 - Alterations and Extensions to Buildings
- NE2 - Biodiversity

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

Government Advice

National Planning Policy Framework (NPPF) 2024

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the

policies above if they are in conflict with the NPPF. The following sections of the NPPF are relevant to this application:-

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 131 to 141 – Achieving well-designed and beautiful places

Paragraph 187 to 201 – Conserving and enhancing the natural environment

7. Appraisal

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

- a) Whether the design and appearance of the proposed development is acceptable?
- b) Whether the proposal would harm residential amenity?
- c) Would the proposal result in harm to ecology?
- d) Is the existing extent of the dwellings garden lawful?

a) Whether the design and appearance of the proposed development is acceptable?

7.2 The application has two elements the alterations proposed to the rear of the main dwelling and the erection of the detached outbuilding.

7.3 The proposed alteration to the dwelling would be small in scale and would be of a traditional design which would not harm the character and appearance of the dwelling or the wider area.

7.4 The proposed outbuilding would consist of a single storey and occupy the rear portion of the exiting garden. There would remain an appropriate amount of amenity space left open to the occupants of the dwelling. The proposal would also be replacing existing outbuildings located along the northern boundary of the site of a similar scale to the northern portion of the proposal therefore it is considered that the addition would not result in the overdevelopment of the site and as such would be acceptable. Furthermore, given the single storey nature of the outbuilding it would not be widely visible from the publicly accessible beach to the east due to the sand dunes. Therefore, the proposal is not considered to result in an overly dominant or excessive addition to the site when viewed against the context of the main dwelling.

7.5 The proposal would have a contemporary design with a consistent pallet of material that reflects its coastal location. The roof pitch is asymmetrical to reduce its prominence from the public beach to the rear. Further to the above by continuing the timber cladding over onto the pitched roof form with a dark colour would result a low-profile addition that is consistent with other outbuildings within the surrounding area. In light of the above the design of the proposal is considered to be reflective of the surrounding area while being of good quality. Given the importance of materials to the design it is appropriate to impose a condition should planning permission be granted to require the submission of material details.

7.6 It is considered that the proposal would amount to a well-designed addition to the site that is of an appropriate scale, that complies with HB1 and HB8 of the Places and Policies Local Plan.

b) Whether the proposal would harm residential amenity?

7.7 The proposed alterations to the rear of the main dwelling is considered to be a minor amendment to the existing roof form with no alteration to the footprint of the existing projection. The proposal would be located approximately 2.20m from the side elevation of 39 The Parade and is not considered to have any impact on the residential amenity of the neighbouring occupants.

7.8 Turning to the proposed outbuilding, within the rear garden of 39 The Parade is a single storey outbuilding located along the same boundary as the proposal located close to the rear elevation of this dwelling. Further to this the proposal would replace existing outbuildings within the proposal site and would not result in a significant change to residential amenity over and above the existing impacts.

7.9 The application site shares its southern boundary with 43 The Parade. This dwelling is set further forward within its plot and has a shorter garden depth than the proposal site. The proposed outbuilding would be located further to the east of the rear boundary of 43 The Parade. While the proposed outbuilding would, due to the large amounts of glazing in its western elevation, provide views towards the rear elevation of the neighbouring dwelling, these views are already possible from within the rear garden of 41 The Parade. It is not therefore considered that the proposal would result in a loss of privacy or increase in overlooking that would harm the residential amenity of the neighbouring occupants of 43 The Parade.

7.10 In light of the above the proposal is not considered to result in harm to the residential amenity of neighbouring occupants and would comply with HB1 and HB8 of the Places and Policies Local Plan and the NPPF.

c) Does the proposal result in harm to ecology?

- 7.11 The proposal site shares its eastern rear boundary with SSSI, Ramsar, SCA, and SPA, with the garden itself being within a SSSI Impact Risk Zone. KCC Ecology have provided comment on the information submitted and confirmed that they raise no objections to the application subject to the submitted Construction and Environmental Management Plan being implemented and an appropriate assessment being undertaken. A draft HRA has been completed and sent to consultation with Natural England, who have not commented on the HRA as the development does not meet their requirements to provide comment. It is therefore considered appropriate to impose a condition on the planning permission should it be granted to ensure that the submitted CEMP is followed.
- 7.12 Within KCC Ecologies comment they highlight that the lack of windows to the rear of the development would prevent light spill from the site that could have an impact on the designated sites to the rear. Therefore, it is recommended that should planning permission be granted that a condition be imposed removing permitted development rights from the outbuilding, to control any future development of the outbuilding.
- 7.13 Considering the above the proposal would be consistent with paragraph 187-201 of the NPPF.

d) Is the existing extent of the dwellings garden lawful?

- 7.14 The lawfulness of the rear garden has been highlighted within comments received on the application. However, from the council's aerial photography available the rear garden appears to have been used as such since at least 2008. The works to level the rear garden, install a shingle garden and the existing boundary walls appears to have been completed between 2006 and 2008. Therefore, in planning terms the application site has had continuous use as the rear garden of 41 The Parade for a period exceeding 10 years and has therefore become lawful over time.
- 7.15 Considering the above the proposal would be consistent with the lawful use of the site as residential garden and the ownership of the land is not considered to be material to this planning application. However, notice has been served on the owner (Folkestone and Hythe District Council) of the land to the rear of the property.

Environmental Impact Assessment

- 7.16 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

- 7.17 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

- 7.18 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

- 7.19 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.
- 7.20 It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

- 7.21 In accordance with paragraphs 39 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. Considering the above the proposal would be a well-designed and appropriate addition to the rear garden of 41 The Parade, that would not impact the residential amenity of neighbouring occupants or the designated sites to the rear. The proposal is therefore consistent with HB1 and HB8 of the Places and Policies Local Plan and paragraphs 187-201 of the NPPF.

9. BACKGROUND DOCUMENTS

- 9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications online pages under planning application reference 24/1315/FH.

10. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out below and that delegated authority be given to the Chief Planning Officer to agree and finalise 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 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. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

<u>Plan/Drawing Title</u>	<u>Drawing Number</u>	<u>Received</u>
Proposed Site Plan	02520_41-PL-125	21/08/2024

Existing & Proposed Rear House Elevations	02520_41-PL-326	21/08/2024
Proposed Elevations	02520_41-PL-325	21/08/2024
Proposed Ground Floor Plan	02520_41-PL-225	21/08/2024
Proposed Roof Plan	02520_41-PL-226	21/08/2024
Construction and Environmental Management Plan		18/11/2024

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

3. 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 Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity

4. The Construction and Environmental Management Plan (Construction and Environmental Management Plan (received: 18/11/2024) hereby approved shall be complied with in full throughout the construction period.

Reason: In the interest of the amenity of the area and to protect statutorily protected nature conservation sites.

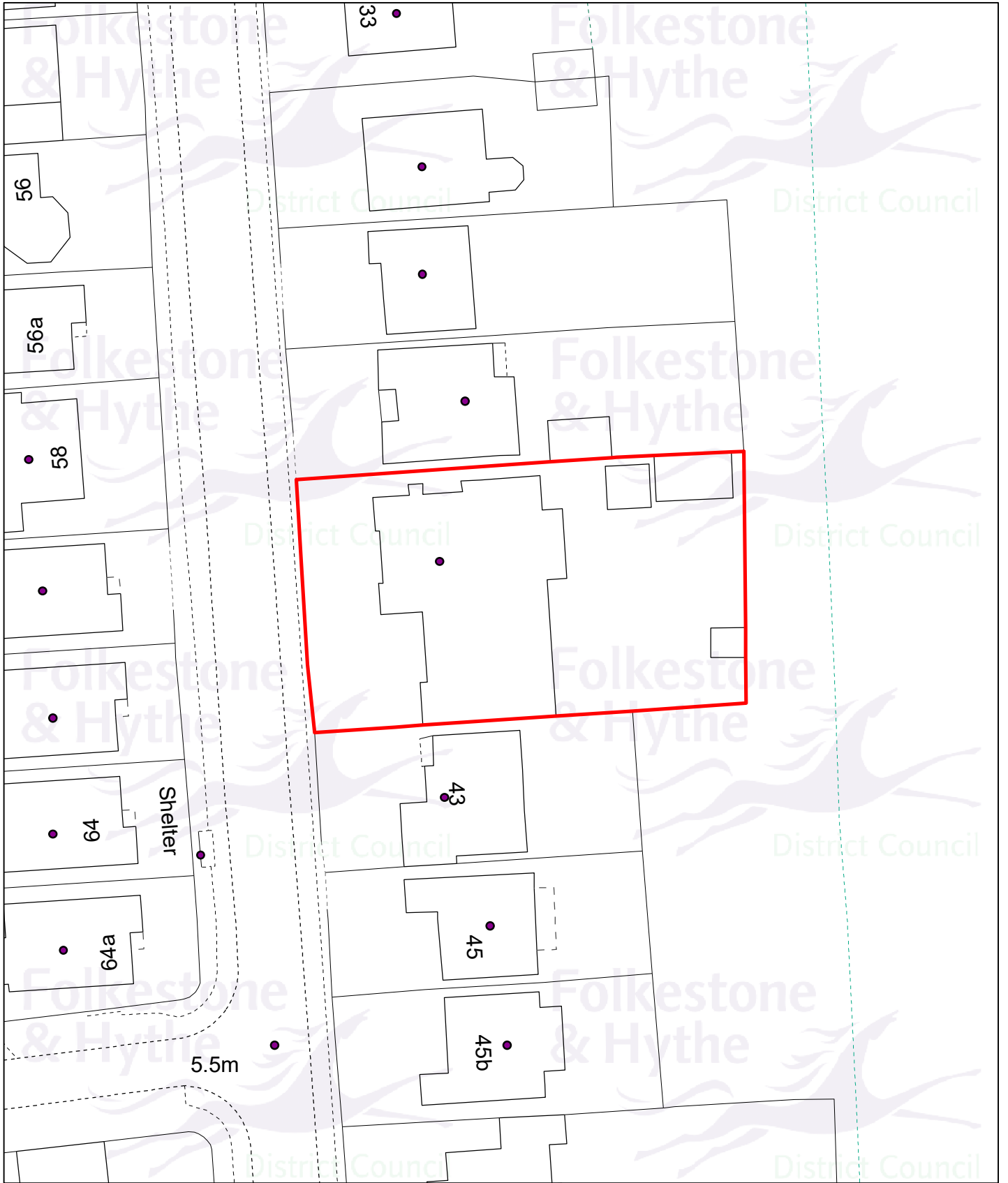
5. No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the eastern rear elevations wall or roof of the outbuilding hereby permitted.

Reason: To prevent additional light spill into the statutorily protected nature conservation sites.

6. The outbuildings hereby approved shall be used for purposes ancillary and/or incidental to the enjoyment of the main dwelling house known as 41 The Parade and shall at no time be converted to, used or sold as a self-contained residential unit.

Reason: To ensure that the development is not used as a separate dwelling, in the interests of residential amenity.

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Planning Application:
24/1315/FH
Drawn date:
05 Mar 2025
Drawn by:
Carrie Stacey
Drawing ref:
0822/COP/LS


Llywelyn Lloyd
Chief Planning Officer

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Habitat Regulation Assessment (HRA) Screening Matrix

IMPORTANT NOTE: Undertaking the HRA process is the responsibility of the decision-maker as the Competent Authority for the purpose of the Habitats Regulations¹. However, it is the responsibility of the applicant to provide the Competent Authority with the information required to complete this process.

Application reference:	24/1315/FH
Application address:	41 The Parade, Greatstone, New Romney, TN28 8SU
Application description:	Proposed outbuilding housing a swimming pool, gym, sauna and lounge and alterations to the rear elevation of the dwelling to include conversion of the existing hipped roof projection to a gable and new flue
Lead Planning Officer:	Elizabeth Nash
HRA Date:	January 2025

Part 1 – Details of the plan or project

European site or sites potentially impacted by planning application, plan or project:	Romney Marsh and Rye Bay SPA, Romney Marsh and Rye Bay Ramsar Site, Dungeness, Romney Marsh and Rye Bay SSSI, Dungeness Special Area of Conservation
Is the planning application directly connected to the management of the site?	No

¹ All references in this document to the 'Habitats Regulations' refer to the Conservation of Habitats and Species Regulations 2017

Part 2 – HRA Screening Assessment

Screening under Regulation 63(1)(a) of the Habitats Regulations – The Applicant should provide evidence to allow a judgement to be made as to whether there could be any potential significant impacts of the development on the integrity of the SPA/ SAC/ Ramsar site.

Following the CJEU ruling, avoidance or mitigation measures cannot be taken into account as part of the application if they are included to mitigate impacts on European designation, and must be considered under an Appropriate Assessment stage of the HRA in part 3 of this document.

Dungeness, Romney Marsh and Rye Bay Site of Special Scientific Interest (SSSI), Ramsar, Dungeness Special Area of Conservation (SAC)

Dungeness, Romney Marsh and Rye Bay SSSI has been designated under article 4(4) the EU Habitats Directive.

- The site hosts the protected habitats listed in Annex I including; annual vegetation drift lines and perennial vegetation of stony banks (Coastal shingle vegetation outside of the reach of waves).
- The site hosts species listed within Annex II including Great Crested Newt *Triturus cristatus*

The Dungeness SAC has been designated under the EU Habitats Directive for the presence of the following habitats listed in Annex I of the Directive.

- Annual vegetation drift lines
- Perennial vegetation of stony banks

The area also qualifies under Annex II of the directive as it hosts species such as Great Crested Newt *Triturus cristatus*

Natural England has stipulated that, when considering any residential development within 6km of the SPA the council must pay due regard to the potential impact of the proposed development on the SPA.

The Dungeness, Romney Marsh and Rye Bay SPA is designated under the EU Birds Directive for supporting nationally important wintering populations of the following Annex I species protected under Article 4.1 of the Directive.

- Bewick's Swan *Cygnus columbianus bewickii*;
- Bittern *Botaurus stellaris*;
- Hen Harrier *Circus cyaneus*;
- Golden Plover *Pluvialis apricaria*;
- Ruff *Philomachus pugnax*;
- Aquatic Warbler *Acrocephalus paludicola*;
- Marsh Harrier *Circus aeruginosus*;
- Avocet *Recurvirostra avosetta*;

- Mediterranean Gull *Larus Melancephalus*;
- Sandwich Tern *Sterna Sandvicensis*;
- Common Tern *Sterna Hirundo*; and
- Litter Tern *Sterna Albifrons*.

The area also qualifies under Article 4.2 of the EU Birds Directive by supporting nationally important wintering populations of the following migratory species:

- Shoveler *Anas Clypeata*.

The area also qualifies under Article 4.2 of the EU Birds Directive as it is regularly used by waterbirds (waterbirds as defined by the Ramsar Convention) supporting an important assemblage of breeding species associated with wetland habitat, including:

- Bewick's swan *Cygnus Columbianus Bewickii*;
- European White-Fronted Goose *Anser Albifrons Albifrons*;
- Wigeon *Anas Penelope*;
- Gadwall *A. Strepera*;
- Shoveler *A. Clypeata*;
- Pochard *Aythya Ferina*;
- Little grebe *Tachybaptus Ruficollis*;
- Great Crested Grebe *Podiceps Cristatus*;
- Cormorant *Phalacrocorax Carbo*;
- Bittern *Botaurus Stellaris*;
- Coot *Fulica Atra*;
- Golden plover *Pluvialis Apricaria*;
- Lapwing *Vanellus Vanellus*;
- Sanderling *Calidris Alba*;
- Ruff *Philomachus Pugnax*;
- Whimbrel *Numenius Phaeopus*; and
- Common sandpiper *Actitis hypoleucos*.

The site is also used by breeding bittern and Kingfisher *Alcedo Atthis*, both are species listed in Annex I of the EC Birds Directive.

Dungeness, Romney Marsh and Rye Bay Ramsar qualified under the following Ramsar criteria:

- Criteria 1: the site contains representative, rare or unique examples of natural or near-natural wetland types
- Criteria 2: the site supports threatened ecological communities, supports vulnerable, endangered or critically endangered species
- Criteria 5: the site regularly supports 20,000 or more waterbirds
- Criteria 6: the site regularly supports 1% of the individuals in the populations of Mute Swan *Cygnus Olor* and Shoveler *Anas Clypeata* in any season.

Background information

The application seeks planning permission for the erection of two large, detached outbuildings connected via a glazed walkway, within the rear curtilage of the dwelling following the demolition of the existing outbuildings. The buildings would include a pool, gym, sauna, lounge/games room and changing room and be located adjacent to the rear elevation of the site. The submitted block plan shows the proposed location of the outbuildings (drawing reference: 02520_41-PL-125 – Proposed Site Plan) and sets out that the proposed structures sit within the existing site boundary.

In addition to the above the proposal also includes alterations to the rear elevation of the main dwelling, consisting of the conversion of the hipped roofed projection to a gable with the addition of a large area of glazing to the rear.

Potential significant impacts of the development on the integrity of the European Designations

The first stage involves screening for likely significant effects in the absence of any mitigation measures. Potential significant impacts are set out below.

Construction Phase

Direct physical damage during construction:

Direct physical damage (trampling, crushing and compaction) to habitats within the European Sites could arise from construction activity if construction personnel, vehicles or machinery gained access, intentionally or accidentally, into the European Sites to the rear of the construction site. The foundations of the outbuildings and pool could result in the undermining of the existing rear retaining wall resulting in damage to the dunes.

Dust deposition during construction:

Dust arising from the site during dry weather conditions could settle on vegetation within the European Sites and affect their qualifying features.

Introduction and spread of invasive non-native plant species during construction:

Non-native invasive species could be accidentally introduced to the site during construction and then spread to nearby European Sites, where it could affect the qualifying habitats and supporting habitats.

Disturbance of qualifying wintering birds during construction:

Some species that comprise the qualifying wintering bird assemblage of the SPA and Ramsar site could be disturbed during construction due to increased noise levels.

Disturbance of Great Crested Newts during construction:

The population of the Great Crested Newts could be disturbed during construction.

Residential/Occupation Phase

Direct physical damage of habitats during habitation

Increased direct physical damage (trampling, crushing and compaction) to habitats (shingle and shingle vegetation) within the European Sites could arise from greater numbers of occupiers/visitors to the dwelling within the European Sites. This would primarily affect the qualifying vegetation of the SAC and Ramsar site.

Introduction of invasive non-native plant species during habitation:

Non-native invasive species could be introduced to the site during habitation and then spread to nearby European Sites where it could affect the qualifying habitats and

supporting habitats.

Disturbance of qualifying wintering birds during habitation:

Increased visitor activity within and adjacent to the site in winter could lead to an increase in disturbance of the SPA and Ramsar qualifying wintering bird assemblage.

Although the site is an existing residential dwelling and the proposal would be constructed within the existing residential curtilage, the demolition of the existing outbuildings and new outbuildings is likely to result in additional footfall and traffic to the site throughout the construction phase.

Occupational/Residential Phase:

The site contains an existing residential dwelling with existing outbuildings located along the northern boundary of the site that are occupied year-round. The proposal would result in buildings located along the rear (eastern) boundary of the site; it should be noted that the outbuildings are not within the designated areas as these finish at the rear boundary of the site. The outbuildings would be of a scale that far exceeds the existing, however the proposal would remain incidental to the main dwelling and is considered to be used in a similar way to the existing outbuildings. The proposed alteration to the rear elevation would not result in any change to the existing use of the dwelling and would not significantly alter the existing level of accommodation provided.

Are there any other plans or projects that together with the planning application being assessed could result in a likely significant effect when considered in-combination? NO

Would the proposal lead to a likely significant effect on European site integrity, without mitigation measures? YES (if yes, continue to part 3)

Part 3 – Appropriate Assessment

Appropriate Assessment under Regulation 63(1) – if there are any potential significant impacts, the Applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

As above, HRA Screening has identified several likely significant effects of the proposed development. These are therefore considered at the Appropriate Assessment stage.

Appropriate Assessment

The Appropriate Assessment (AA) is required in accordance with the Conservation of Habitats and Species Regulations 2017.

The AA has been undertaken with regard to, the information provided by the applicant, and the comments of Natural England and the Kent County Council Ecologist.

The objective of the AA is to determine whether there won't be an adverse effect on the integrity of a European site. The AA should look at the likely significant effects of the project and the nature of these effects on the European sites qualifying features and conservation objectives in greater detail than carried out in the HRA screening stage.

The Appropriate Assessment should consider potential mitigation measures, including any which may already form part of the project specification, to determine whether, for example, the likelihood, magnitude, extent, frequency and duration of the effect will be reduced. Mitigation measures should be deliverable and have a high degree of certainty of effect.

Mitigation must enable a conclusion of no adverse effect on European Site integrity, which may mean removing the effects altogether, or bringing them below a threshold where it undermines a European Site's conservation objectives and threatens site integrity (i.e., to where they are no longer 'adverse').

Construction Phase

Direct physical damage during construction:

The risk would be fully mitigated by measures outlined in the Construction Environmental Management Plan (CEMP), the contents of which would be secured by a planning condition. This includes the appointment of a suitable person(s) on site responsible for compliance with the CEMP.

The site itself does not sit within the designated areas, rather the boundary of Romney Marsh and Rye Bay SPA, Romney Marsh and Rye Bay Ramsar Site, Dungeness, Romney Marsh and Rye Pay SSSI and Dungeness Special Area of Conservation all run to the rear of the application site. As such the CEMP has highlighted that the proposed works would all take place within the curtilage of the dwelling which is separated from the area to the rear by a retaining wall of approximately 1.5m.

To prevent the undermining of the rear boundary walls which could result in damage to the sensitive ecological areas to the rear, the outbuildings would be a concrete raft no more than 450mm thick to minimise excavation and the proposed pool would utilize a concrete 'bath' within the raft of no more than 1.5m thick.

Full details have been provided within the submitted CEMP.

With the above mitigations, no adverse effect on the European Sites from direct physical damage is predicted during the construction phase, alone or in combination with other plans and projects.

Dust deposits during construction:

The risks associated with dust deposits during construction would be mitigated by the measures outlined in the CEMP. This includes the appointment of a suitable person(s) on site responsible for compliance with the CEMP.

These measures include that; any equipment used to cut paving hard materials e.g. paving blocks shall be operated with a water suppression attachment or dust filter, engines will be turned off when not in use; stored materials shall be dampened down and covered with tarpaulin or otherwise contained; skips, chutes and conveyors shall be covered and if necessary enclosed to ensure dust does not escape; all vehicles carrying dust shall be securely covered and water suppression used when needed.

With the above mitigations in place, no adverse effect on the European Sites or the SSSI from dust is predicted during the construction phase, alone or in combination with other plans and projects.

Introduction and spread of invasive non-native plant species during construction:

Given that the proposed site is not within any of the designated sites that proposal would contain all works within the site boundary.

This risk would be fully mitigated by measures specified in the CEMP, which would be secured through a planning condition, and monitored by the ECoW.

With this mitigation in place, no adverse effect on the protected Sites from non-native invasive species is predicted during the construction phase, alone or in combination with other plans and projects.

Disturbance of qualifying wintering birds during construction:

The risks to wintering birds would be fully mitigated by adhering to the CEMP. The proposed works would be contained within the application site with measures to minimise noise disturbance included within the CEMP. These include; the fitting of proper and effective silencers and shall be maintained in good working order; all plant and machinery capable of generating significant noise will be kept to a minimum; all compressors shall be noise reducing models fitted with properly lined and sealed acoustic covers; wherever possible mains electricity and battery powered equipment shall be used; no stereos or amplified devices shall be audible beyond the site boundary.

The above measures to reduce noise and disturbance to a minimum and are predicted not to have an adverse effect on European Sites from disturbance during the construction phase.

Occupational/Residential Phase

The application seeks to demolish the existing outbuildings and replace them with two larger buildings joined via a glazed link, these would be located along the rear boundary of the site. Much of the existing shingle garden and hard landscaping are proposed to be retained and offer little benefit to the adjacent sites. While the proposed buildings would represent an intensification in the use of the site, as proposed once completed all windows and doors would face towards the main dwelling or neighbouring properties. No new access is proposed to the rear of the site and as such there is not considered to be an increase in footfall into the designated areas. The proposed alterations to the rear elevation of the main dwelling would not increase the footprint of this building as such there would be no result in an increase in the level of accommodation or number of residents.

Considering the above the proposal would not result in an increased level of risk to the designated areas than that posed by the existing dwelling and outbuildings.



Part 4 – Summary of the Appropriate Assessment - To be carried out by the Competent Authority (the local planning authority) in liaison with Natural England

Subject to implementation of mitigation measures as proposed, it is considered that the project will have no adverse effect on the integrity of the European sites in view of the sites' conservation objectives, either alone or in-combination with other plans and projects.

Having made this appropriate assessment the authority may now agree to the project under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 and adopt this Appropriate Assessment.

Natural England:

Summary of Natural England's comments:

Natural England is not able to provide specific advice on this application and therefore has no comment to make on its details.

Signed: E Nash

Elizabeth Nash
Planning Officer
FHDC

Application Number	25/0002/FH
Location	111 Canterbury Road, Hawkinge, CT18 7BS
Application Description	Full planning permission for the retention of the existing building formally used as a children's centre and a change of use, to use class E (commercial, business and service).
Applicant	Folkestone & Hythe District Council
Agent	Lian Kaczykowski
Officer Contact	Robert Allan

Recommendation

That planning permission be granted subject to the conditions set out at the end of the report and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. Reason for consideration by the Committee

- 1.1. The application is reported to Committee as Folkestone & Hythe District Council are the landowner and applicant.

2. Site and Surroundings

- 2.1 The application site is within the defined settlement boundary of Hawkinge, within the Kent Downs National Landscape and North Downs Special Landscape Area (SLA). The site is on the southwestern side of Canterbury Road with the Hawkinge District Centre extending away to the southeast, containing a range of shops and services, and residential development to the northwest and the wider area. The Hawkinge Community Centre and car park are located to the south, with a playing field to the west. A dental surgery and school are located to east, on the opposite side of the road, among other residential development.
- 2.2 There is a footpath along the northeastern edge which provides a pedestrian link through from Canterbury Road to residential properties to the west and the Hawkinge Community Centre site to the south. A bus stop is located immediately to the front of the site.
- 2.3 The structure is a modular sectional single storey building with a floor area of 150 sqm. To the rear, is a garden area, enclosed by a close-boarded fence.
- 2.4 A site location plan is attached to this report as **Appendix 1**.

3. Proposal

- 3.1. This application seeks planning permission to retain the existing structure in-situ, for a use falling within Class E of The Town and Country Planning (Use Classes) Order 1987 (as amended). No physical changes are proposed to the structure or site.
- 3.2. Class E, which was introduced by the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, covers the following uses:
- a) Shop other than for the sale of hot food
 - b) Food and drink which is mostly consumed on the premises
 - c) the following kinds of services principally to visiting members of the public:
 - i. financial services
 - ii. professional services (other than medical services)
 - iii. any other services which it is appropriate to provide in a commercial, business or service locality
 - d) Indoor sport and recreation (not swimming pools, ice rinks or motorised vehicles or firearms)
 - e) Medical services not attached to the residence of the practitioner
 - f) Non-residential creche, day centre or nursery
 - g) i) office ii) the research and development of products or processes or iii) any industrial process, (which can be carried out in any residential area without causing detriment to the amenity of the area.)
- 3.3. The applicant has advised that they do not wish to seek approval for part b) of Class E, which could encompass a restaurant use.
- 3.4. As the previous use (see section 4 below) was permitted on a temporary basis with the 'life' of that permission limited through the imposition of a condition, following the expiry of the temporary period on 01 October 2024, in planning terms, the application site does not have a lawful, established use.

4. Relevant Planning History

- 4.1 The relevant planning history for the site and surrounding areas is as follows:

Y17/0669/SH	Retrospective application for the retention of the existing temporary building for use in conjunction with the Hawkinge and Rural Children's Centre (Use Class D1).	Approved with conditions
Y09/0347/SH	Retention of temporary building to provide office accommodation in connection with Hawkinge Neighbourhood Management Partnership.	Approved with conditions
Y04/1108/SH	Change of use of land including siting of a temporary building to provide office accommodation in connection with Hawkinge Neighbourhood Management Partnership.	Approved with conditions

5. Consultation

Ward Member: The ward members for North Downs East Ward are Councillor James Butcher, Councillor David Godfrey, and Councillor Stephen Scoffham.

5.1 The key consultation responses are summarised below.

Consultees

Hawkinge Town Council: No objection.

KCC Highways & Transportation: Outside of consultation protocol.

Environmental Health: No objection.

Kent Downs National Landscape: We will not normally provide bespoke comments on more minor applications such as this. This does not imply support for, or objection to, the proposal.

Public Consultation

5.2 Nine neighbours directly consulted. No representations received.

5.3 Consultation responses are available in full on the planning file on the Council's website:

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

6. Planning Policy

6.1 The Development Plan comprises the Core Strategy Review (2022) and the Places and Policies Local Plan (2020).

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

- HB1 - Quality Places Through Design
- NE3 - Protecting the District's Landscapes and Countryside
- T2 - Parking Standards

Core Strategy Review (2022)

- SS1 - District Spatial Strategy
- CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

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

Government Advice

National Planning Policy Framework (NPPF) December 2023

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 paragraphs of the NPPF are relevant to this application: -

- 11 - Presumption in favour of sustainable development
- 47 - Applications for planning permission be determined in accordance with the development plan
- 135 - Achieving well-designed places
- 189 - Conserving and enhancing the historic environment

7. Appraisal

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

- a) What is the background to the proposal?
- b) Would the proposal result in the loss of social and community facilities?
- c) Is the visual impact of the development acceptable?
- d) Would the proposal be harmful to amenity?
- e) Would the proposal be acceptable regarding highway safety and amenity?
- f) Would the proposal have an acceptable impact upon ecology?

a) What is the background to the proposal?

7.2 This site has been the subject of three previous temporary planning permissions as set out in section 4 above, with the last permission having expired in October 2024.

7.3 This application permission to retain the building in perpetuity and to allow its use within Class E, which encompasses the uses as described in section 3 above.

b) Would the proposal result in the loss of social and community facilities?

7.4 The building was previously used for a children's centre providing services which included day-care facilities, a clinic, and parent-child meeting groups and activities.

7.5 Whilst the National Planning Policy Framework and Local Plan policy protect social and community facilities, the use has ceased and as set out in paragraph 3.3 above, the planning permission has expired, leaving the site and premises without a lawful planning use.

7.6 Consequently, the relevant national and local plan policies safeguarding social and community facilities cannot be applied, in this case.

c) Is the visual impact of the development acceptable?

7.7 The building is a modular structure that sits lower than the adjoining buildings, with limited impact in the street scene and the wider area generally, having become integrated into the surrounding development over time. The building has little architectural merit, but its presence has been considered acceptable, it is currently in an acceptable condition, and it is not creating an adverse impact upon the visual character of the area. However, given the temporary nature of the structure, it is considered reasonable to restrict the permission to a temporary one for a period of 10 years, in order to allow review of the physical condition of the structure at the end of the permission period.

7.8 Whilst Hawkinge is within the designated National Landscape, the immediate area has a strongly urbanised and developed character, with built development

of various styles and ages fronting onto a main road. The building has no detrimental impact upon the wider landscape designation and its retention would not affect this position.

- 7.9 Overall, there would be no detrimental impact upon the visual character of the area, or the designated National Landscape, as a consequence of the proposal.

d) Would the proposal be harmful to amenity?

- 7.10 The impact of the building upon neighbouring uses has previously been assessed and found to be acceptable regarding overbearing presence and overshadowing, owing to its single storey scale and flat roof, and the separation distance from the dwelling to the northwest. The single storey scale of the building, and the screening around the site, also prevent any overlooking and loss of privacy. This would not change under the current proposal.

- 7.11 Noise and disturbance arising from the previous use was also considered acceptable, given the nature of the use, the mixed use environment of the Tesco convenience store operating into the evenings, the community centre car park, and the playing field, with an additional control added via a condition restricting the use to between the hours of 0900 and 1700 only, with no use on Sundays or Bank Holidays. The use was also restricted to that of a children's centre only, with no change to other uses within the same use class (then D1) without permission from the Local Planning Authority.

- 7.12 Having regard to the range of uses permissible under Class E, it is considered reasonable to restrict the permitted uses to omit part b) which would encompass a restaurant use, to maintain control over potential odour issues.

- 7.13 Further, and in consideration of the adjacent residential use, it is considered reasonable to restrict hours of use via condition, as was previously done, to safeguard residential amenities. The applicant has proposed hours of 0800 to 1800 between Monday and Friday only, which are considered acceptable.

- 7.14 The proposed use Class E would allow a range of uses (see section 3) although it is considered that it would be reasonable to restrict this range as was done with Class D1 previously, in order to safeguard the residential amenity of the adjacent residential use..

- 7.15 Overall, it is considered that there would be no detrimental impact upon neighbouring amenity arising from the proposal, subject to the restrictions identified above.

e) Would the proposal be acceptable regarding highway safety and amenity?

- 7.16 The site is situated in a sustainable location, being on a main road that is accessible by a range of transport options, including car, bicycle and foot, with

a bus stop located directly outside the premises. Kerbside parking is available along Canterbury Road and there is car parking available immediately to the south of the site.

7.17 As such it is considered that there would be no highway issues arising from the proposal.

f) Would the proposal have an acceptable impact upon ecology?

7.18 The site is not designated for the presence of protected/notable species or habitats and in this regard, KCC Ecological Advice Service were not consulted. There is no further requirement for additional ecological information.

7.19 In respect of Biodiversity Net Gain, the application is subject to the de minimis exemption. BNG does not therefore apply and overall, there are no detrimental issues associated with ecology and biodiversity.

Environmental Impact Assessment

7.20 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

7.21 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.

7.22 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 is not applicable to this proposal.

Human Rights

7.23 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

7.24 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.

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

Working with the applicant

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

8. CONCLUSION

8.1. The proposal would result in the retention of an existing structure within the defined settlement boundary of Hawkinge. There is considered to be no detrimental visual impact, or any identified harm upon amenity for neighbouring uses, subject to a condition restricting hours of use, with no impact upon highway safety or amenity, or ecological value as a consequence of the proposal.

8.2. Overall, it is considered that the proposal would result in a sustainable development, in line with adopted policy and is recommended for approval.

9. BACKGROUND DOCUMENTS

9.1. All papers referred to in this report including the consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended), are published on the Folkestone & Hythe District Council (www.folkestone-hythe.gov.uk). Those papers relating specifically to this application may be found on the View applications online pages under planning application reference 24/1356/FH.

10. RECOMMENDATION

That planning permission be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The building hereby permitted shall be removed and the site restored in accordance with details to be submitted to and approved in writing by the Local Planning Authority, prior to its removal, on or before 25 March 2035.

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

2. The development hereby permitted shall not be carried out except in complete accordance with the following approved drawings and documents:

Site location Plan CantRd.001
Existing Building CantRd.002
Existing Site Block Plan CantRd.003

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of Places and Policies Local Plan.

3. The use of the premises hereby permitted shall not take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0800 – 1800 hours

Reason: In the interests of residential amenity.

4. No plant or machinery shall be installed at the premises until full details of its design, siting, discharge points (where relevant) and predicted acoustic performance have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

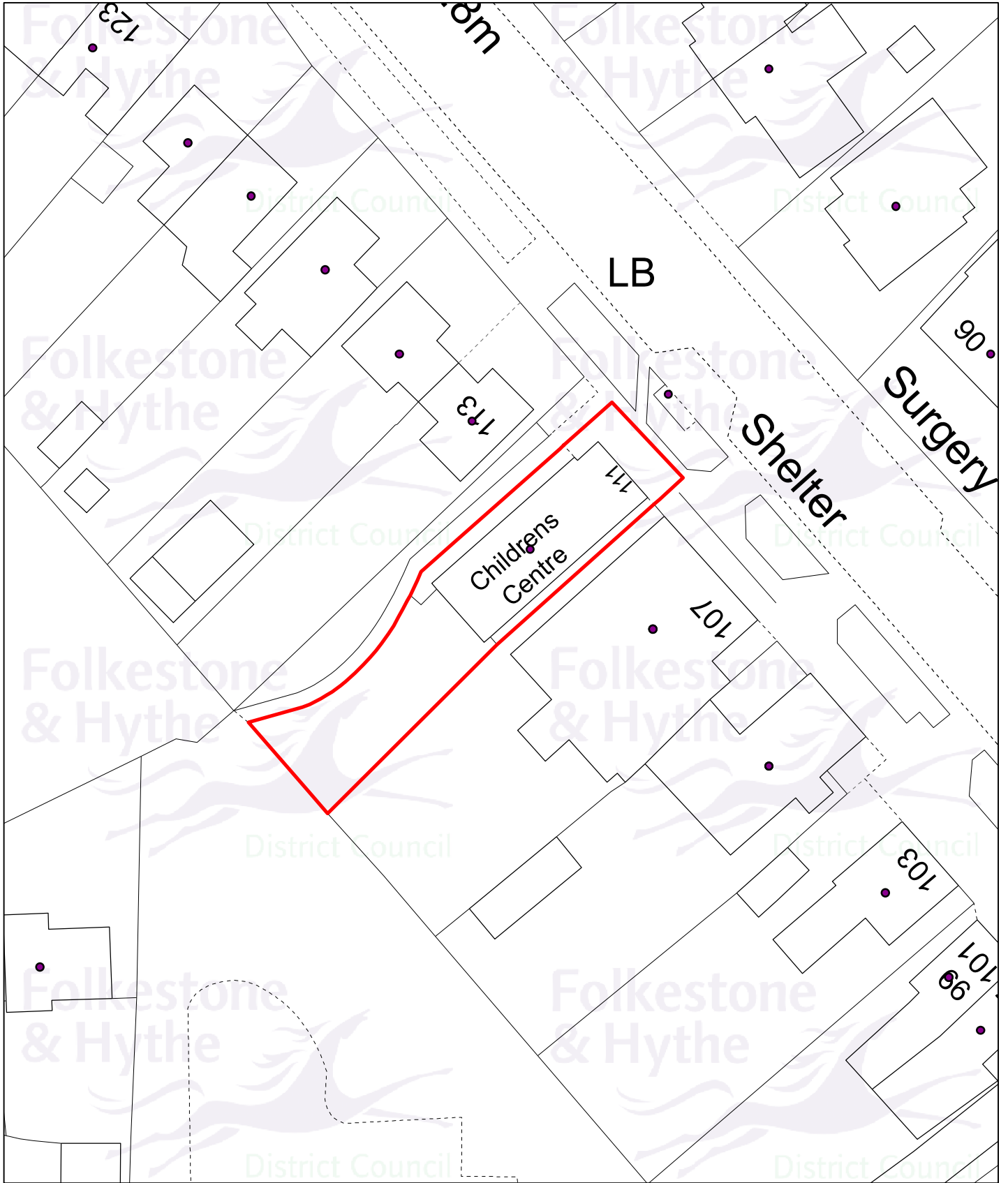
5. The land and building the subject of this permission shall be used for purposes within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) only, excluding part b) and for no other purpose whatsoever, including any other use whether permitted by the Town and

Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.

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

6. Prior to first use of the land and/or buildings for any of the uses hereby permitted, details of facilities for the storage and collection of refuse and recycling shall have been submitted to the local planning authority and approved in writing, with such details as approved implemented in full and thereafter retained in accordance with the use.

Reason: In the interests of visual and residential amenity.



Planning Application:
25/0002/FH

Drawn date:
05 Mar 2025

Drawn by:
Carrie Stacey

Drawing ref:
2139/COP/LS

Llywelyn Lloyd
Chief Planning Officer

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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 18 March 2025**

Declarations of Lobbying

Members of the Committee are asked to indicate if they have been lobbied, and if so, how they have been (i.e. letter, telephone call, etc.) in respect of the planning applications below:

Application No:	Type of Lobbying

SIGNED:

Councillor Name (in CAPS)

When completed, please return this form to the Committee Administrator prior to the meeting.

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