

## Officer Report

Application No.	25/0057/FH
Site Address	66-68 Sandgate High Street, Folkestone, CT20 3AR
Officer Name	Andrew Byrne
Proposal	Demolition of garage and erection of 2 x 1 bed flats and 7 x 2 bed flats, parking and access.

## Recommendation

Report Number	RD-436864
Recommended Decision	Recommended to be Refused
Recommendation Date	26 March 2025

## Report

### 1. Reason for consideration under Delegated powers

1.1. The application was originally referred to Committee by Cllr Wimble. Following communication with the applicant, they have advised that they are content to receive a delegated refusal and Cllr Wimble has rescinded his referral to committee (see emails on file).

### 2. Site and Surroundings

2.1 The application site area extends to 0.04 hectares and is located on Sandgate High Street, immediately bounded by The Undercliff and Gough Road on either side and to the rear. The site is occupied by a single storey brick and rendered building previously used for car sales and as a repair/servicing garage, but now vacant. The building occupies most of the site, with a forecourt to the High Street frontage. The land rises to the rear, and a vehicle access / parking area exists on the rooftop of the building at road level with The Undercliff.

2.2 The site is located within the Sandgate High Street Conservation Area and is opposite 61-65 Sandgate High Street which contains a group of a Grade II listed buildings including The Ship Inn PH. This forms part of a wider group of listed buildings on the southern side of the High Street from No 39-65. A shop, masonic hall, and a block of flats are sited to the east of the site, and Sandgate Members Club to the west. A scout hut is located to the rear on higher ground, as are residential dwellings on Underhill. Underhill Cottage to the rear of the site is Grade II listed. The area is characterised predominantly by individual 2 and 3 storey buildings of Victorian age. Some larger and more modern infill is evident such as 50-54 High Street and Riveria Court. The area is in mixed commercial and residential use and the site forms part of the defined Sandgate Local Centre under Policy RL6 of the Local Plan.

2.3 The site falls within landslide classes B, D and E, meaning that slope instability problems are almost certainly present. The front part of the site is located within flood zones 2 and 3. The site also falls within an area of archaeological potential.

### 3. Proposal

3.1. Full planning permission is sought to demolish the existing building and erect a replacement building over 5 floors on the site, containing 2 x 1 bed flats and 7 x 2 bed flats. Due to the changes in levels, car parking would be provided to the rear on both the lower and upper ground floors. The lower floor parking would be fully enclosed and accessed via Gough Road, and the upper floor would be open level parking and accessed at street level via The Undercliff. 5 spaces would be provided at lower ground level and 3 and upper ground level. A bin store and bike racks would be provided within the lower ground parking area.

3.2 The building would contain three full storeys under the eaves level and the two uppermost floors contained within the roof structure incorporating a double hipped roof to the front when viewed from the High Street. Behind this front elevation and double hip section, the eaves step up to incorporate the fourth storey, with the top storey contained within a roof section comprised of steep pitched sides and a large flat top. From the north, the lower ground floor is hidden within the sloping land and the building appears as a 4 storey structure with the top floor contained within the roof.

3.3 The double hipped roof section contains two flat roofed dormers fronting Sandgate High Street, and two smaller dormers on the external face of each hip. The roof section behind this contains 3 x dormers windows on each side and rear elevation. A further dormer is proposed on the roof section between the two hipped roof sections and facing the High Street.

3.4 Pedestrian access to the building would be via a main entrance on Gough Road. Access is also available via the two parking areas.

3.5 The Design and Access Statement sets out that the proposal would be predominantly finished in facing bricks, with a contrasting fine render used for the ground floor, and a clay plain tiled roof. Windows would be large with vertical emphasis, set in recessed brickwork and with timber detailing to the side. Windows, doors, parapet wall cappings and rainwater goods would be in powder coated aluminium and dormers in a lead grey membrane with standing seam detailing.

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

#### Planning Statement

3.7 The statement incorporates a heritage assessment and identifies national and local plan policies, as well as the Sandgate Conservation Area Appraisal and the Sandgate Village Design Statement.

3.8 The planning statement sets out that the site is brownfield land, that the current building impacts negatively on the conservation area, and that the replacement would have a positive impact on the conservation area. It states that the design quality is exemplary and would contribute to the street scene in a positive way. Current local plan policies seek to protect existing B1 and B8 uses and retail uses only. The area is of mixed character and a residential scheme would not be out of keeping. The site is inherently sustainable with good public transport links and close to a range of facilities. The site is on the edge of but not within flood zone 3. There are high levels of on street

parking controls so low car residential use is appropriate and justified. No ecology is present on the site.

3.9 The statement concludes that the development is fully compliant with the NPPF and adopted planning policies.

#### Design and Access Statement

3.10 This statement sets out a description of the site and surroundings, noting that it is of poor design quality and identified as a detracting feature in the conservation area appraisal. It provides historic context to the site and surroundings, including images of the three-storey building that formerly occupied the site prior to the construction of the current garage in circa 1960. It also provides details of the previous permission for residential development (12 flats) of the site granted in 1990 and subsequently renewed in 1995, but never implemented. Although this was used as a start point for the current application, the statement sets out that the steep gable form and historic pastiche style was not considered to be an appropriate design, that split level flats would cause accessibility issues, that the flats previously permitted would not meet current space standards, and that the flats in the roof space would have limited headroom.

3.11 The statement sets out a series of design principles identified for the development, including reinstating the building line of the High Street, a three storey frontage rising to four at the sides and rear, simple arrangement of windows on upper floors, a contrast approach at ground floor level to reflect commercial shop fronts, use of existing vehicle access points, and use of high quality materials to provide a contemporary interpretation of traditional building form. Living spaces have been arranged to face the High Street, with windows positioned to avoid overlooking.

3.12 In terms of massing and scale, the statement sets out that the parapet on the main High Street frontage aligns with parapets on adjacent buildings, and the parapet steps up in height on the east and west flank elevations to respond to levels changes. This is consistent with buildings to the east of the site and on Gough Road, which are generally of larger scale than those on the High Street. The Chichester Memorial Hall is of smaller height and scale, but the separation provided by Undercliff mitigates these differences. Further articulation of the front elevation is provided through use of recessed brickwork panels, soldier courses and contrasting vertical timber panels that provide depth, detail and texture. The contrasting ground floor material and wide opening supported on columns makes visual reference to shopfronts on the High Street. Planting beds are provided to create defensible space and enhance the public realm. Flank and rear walls are simplified to reflect secondary status. The overall appearance is of traditional massing, scale and proportions, articulated in a restrained contemporary style and is an appropriate design response within the conservation area.

#### Surface Water Drainage Report

3.13 This sets out that surface water runoff will be stored in inspection chambers and slowly discharged to the existing sewer under controlled release.

#### Flood Risk Assessment

3.14 This identifies that the site is partially located within flood zones 2 and 3 and that it is necessary to apply the Sequential and Exception Test. It states that the Sequential Test and Part A of the Exception test are outside the scope of the FRA. The main aim of the FRA is to determine if the

development can pass Part B of the Exception Test. The site is at risk of coastal flooding, and mitigation measures are recommended. These incorporate the raising of internal floor levels above the design flood level, flood resistance and resilience measures to be incorporated into the design, use of the EA's Flood Warning Service, and the use of appropriate SuDS techniques. The report concludes that with such mitigation, the development can pass part B of the Exception Test and will meet the requirements of the NPPF.

#### Contamination Risk Assessment

3.15 This identifies that the site is located upon a Principal Aquifer, but not within a Groundwater Source Protection Zone. It advises that contamination may have arisen from the site's historical use as a fuel filling station, including fuel storage in underground tanks (which were decommissioned with concrete in 1997), and an unknown quantity of Made Ground. An intrusive investigation of the site is recommended, with moderate risks posed by ground contamination identified.

#### Slope Stability Report

3.16 This states that whilst the development is for a four storey building, the works will not involve significant excavations or changes to the large existing retaining wall at the rear of the property. The rear part of the building consists of an internal steel structure encased in concrete that will also be retained. Although the site is located in an area where slope stability can be a concern, the proposed works should not pose any stability risks to the slope.

#### 4 Relevant Planning History

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

89/1244/SH Demolition of petrol filling station and erection of 10 x 1 bed flats and 2 x 2 bedroom penthouses. Approved

94/0796/SH Renewal of planning permission 89/1244/SH for demolition of petrol filling station and erection of 10 x 1 bed flats and 2 x 2 bedroom penthouses Approved

#### 5 Consultation

Ward Member: Councillors Gary Fuller and Tim Prater - No comments received.

5.1 The consultation responses are summarised below.

#### Consultees

Sandgate Parish Council: No objection but makes a number of recommendations

- Use of landscaping / planters to soften the appearance of the building
- Dropped kerb to frontage should be removed.
- Need to mitigate impacts arising from blocked drains in area which cause flood risks
- Parking should be at least 1 space per unit
- Ground floor should be either a single flat to improve the internal space, or commercial use.
- Potential for a new boundary fence to scout building to enhance outlook of flats to the rear and secure the scout garden grounds
- Welcome removal of the defunct petrol tanks and further contamination testing.

[Officer Comment – the provision of new fencing for the scout site is not necessary to make the application acceptable, and is not reasonable. It is also not the responsibility of the applicant to maintain drains in the area].

KCC Highways and Transportation: No objection

Kent Fire and Rescue: No objection. Access requirements appear to have been met . If successful the scheme would be subject to a Building Regulations consultation where the access arrangements would be examined.

F&HDC Building Control: These comments relate to the Manson letter dated 20th Jan 2025.

The proposed works will require excavation in front of an existing retaining wall and the change in site loadings. The site that is at the base of a significant landslip zone. This area is known to have had significant historic land slip movement. Any increase or decrease in site loadings or works that may affect the stability of existing structures should be fully structurally analysed. The proposed works would appear to result in significant increase in site loading. It also appears to be a risk to the existing retaining structures. The design should therefore include, but not limited to, the analysis of longitudinal and rotation slip of both the completed works and stability of the site during construction. The application should have the standard Planning condition applied. This includes full ground works details, method statements, temporary support and a named 'Principal designer' to sign off all works relating to slope stability. This information should be in place before any works start on site.

Based on the information from Mansons there would appear to be no significant land slip reason why the proposed development cannot be constructed

Environment Agency: Originally raised objection as the scheme would fail the second part of the flood risk exception test on the basis that floor levels would be lower than 600mm above design flood levels, and the potential for increased flood risk elsewhere. The response also sets out that it is for the LPA to decide whether the sequential test has been satisfied and that the applicant should demonstrate to the LPA, with evidence, what area of search has been used.

Following amendments to floor levels and submission of a revised Flood Risk Assessment, the EA raise no objection subject to a condition to secure the minimum floor levels proposed.

KCC Archaeology: No objection subject to a condition to secure a Watching Brief.

Contamination Consultant: Advises that the contamination report submitted is of suitable scope and standard, and notes the presence of three single-skinned underground petrol and diesel storage tanks which were slurry filled in 1997 but remain on site. The report concludes that there is potential for significant contamination on the site and that intrusive investigation is required. Identify the need for sampling of any shallow groundwater or perched water that may be present, potential hydrocarbon vapours, and the need for a method statement to manage contamination risks. Advise that conditions can deal with the above.

Southern Water: States that it would refer to advice from the Environment Agency and Lead Local Flood Authority. The hierarchy of H3 of Building Regulations is supported. If connection to a surface water sewer, combined sewer or foul sewer is the only viable means of disposal, then it should be at a discharge rate set by the LLFA in consultation with Southern Water. Raise no objection to granting

planning permission, subject to imposition of the standard contamination condition, noting that part 1 of the condition has been satisfied and that it can apply to parts 2 onwards.

#### Public/Neighbour Consultation

5.2 94 neighbours directly consulted. 7 letters of objection, 1 letter of support received and 1 letter neither supporting nor objecting to the application.

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

#### Objections

- Height and scale of building not in keeping with surroundings and will dominate the High Street and surrounding buildings
- Does not comply with Sandgate Design Statement, specifically policies SDS5 and SDS6
- Any construction work should not cause noise before 8am to protect existing residents
- The proposal does not include a Daylight and Sunlight Assessment to analyse impacts on surrounding properties, particularly Underhill Cottage and those on Gough Road
- Inadequate parking provision
- Concern that the 3 spaces on the upper floor level will be difficult for vehicles to manoeuvre in and out, with reversing necessary onto the Undercliff very close to a blind bend. A safety audit should be produced.
- The 5 storeys proposed would be discordant in the street scene and is exacerbated by the level of the ground floor needing to be raised to address flood issues.
- The roof would be at odds with the local vernacular
- Poor visual relationship with Chichester Hall and other more modest buildings on the High Street
- Potential for overlooking
- Loss of light to Chichester Hall
- Lack of amenity space for residents
- Harmful to the conservation area and setting of listed buildings, and failure to comply with the Sandgate Conservation Area Appraisal
- Local utilities are already overstretched
- A sinkhole exists directly in front of the development
- The ground floor should be in commercial use to add to the vibrancy of the High Street and provide employment
- Highways safety concerns
- Conflict with use of Chichester Hall as a Members social club.
- Reference in the application to the heights of neighbouring buildings are misleading.
- The external materials do not represent those used in surrounding area
- Inappropriate proportions of building, particularly the roof.

#### Support

- Good to see brownfield land being proposed for housing
- Another floor should be added to deal with the housing crisis.

#### General Comments

- Access to the masonic hall must be maintained during construction for members and visitors, as well as for refuse and for refuse collection vehicles, and delivery / supply vehicles.

## 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  
HB3 - Internal and External Space Standards  
E2 - Existing Employment Sites  
RL6 - Sandgate Local Centre  
C3 - Provision of Open Space  
T2 - Parking Standards  
NE2 - Biodiversity  
NE6 - Land Stability  
NE7 - Contaminated Land  
CC1 - Reducing Carbon Emissions  
CC2 - Sustainable Design and Construction  
CC3 - Sustainable Drainage Systems  
HE1 - Heritage Assets  
HE2 - Archaeology

### Core Strategy Local Plan (2022)

SS1 - District Spatial Strategy  
SS2 - Housing and the Economy Growth Strategy  
SS3 - Place Shaping and Sustainable Settlements Strategy  
CSD5 - Water and Coastal Environmental Management

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

Supplementary Planning Guidance/Documents  
Sandgate Village Design Statement (VDS) 2013

6.4 Key design principles SDS1, SDS2, SDS3, SDS4, SDS5, SDS6, SDS8, SDS11.

6.5 The VDS sets out that there is considerable variety in the detailed design of buildings in the High Street Character Area, which coalesce into a cohesive whole with common building heights, forms, elevational details and building lines. Where buildings do not respect these characteristics the streetscene has been interrupted to its detriment. The High Street has a strong commercial

character with a range of building styles which contribute positively to the streetscape, including Chichester Hall and the Ship Inn. Shopfronts are a distinctive and important element of the streetscape. The key design characteristics for the High Street are specified as 3 and 4 storey terraced buildings, pitched roofs, some dormer windows, brick, render, stucco on brick, some weatherboarding and tile hanging, large sash windows, distinctive shopfronts and all properties opening onto the street.

#### Sandgate Conservation Area Appraisal

6.6 The appraisal states that the High Street has a wide range of interesting building types, styles and dates and is of a human scale of mainly two and three storeys. The linear layout of the conservation area offers a succession of interesting views along its length, as well as views looking out to the sea or into the hills to the north. The site falls within Character Area 1 – Sandgate East Core, strongly influenced by the High Street itself and the buildings which line and crowd close to it. Key views described are of an interesting mix of buildings along the High Street looking in east and west directions and against the backdrop of rising landscape, picturesque views down narrow streets and lanes and to the hillside, and views from Undercliff and towards the sea. The appraisal states that vistas in and out of the town are notable, and that in many of these, recent buildings of larger scale and bulk contrast unfavourably with those which give the CA its character.

6.7 The CAA identifies Chichester Memorial Hall (immediately to the west of the application site) as a key unlisted building. It identifies a range of traditional materials prevalent in the area, and states that interesting rooflines and roofscapes, including chimneys and pots, are a feature of the area. The application site is identified as a negative building in the CA

#### 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 12 – Status of development plan for decision-making

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

Paragraph 61 – Boosting the supply of homes

Paragraphs 112 and 113 – Parking Standards

Paragraph 116 – Preventing / refusing development on highways grounds

Paragraph 124 – Making effective use of land

Paragraph 125 – Weight to use of brownfield land

Paragraph 129 – Efficient use of land

Paragraph 131 – Creating high quality buildings

Paragraph 135 – Ensuring development functions well and adds to quality of area, is visually attractive, sympathetic to local character, creates a sense of place, and creates high standards of amenity for residents.

Paragraph 139 – Development that is not well designed should be refused

Paragraph 173-181 – Planning and flood risk

Paragraph 196-197 – Contamination and land stability

Paragraph 212-214 – Impacts on heritage assets

National Planning Policy Guidance (NPPG)

National Design Guide October 2019

Flood Risk and Coastal Change August 2022

Historic Environment July 2019

## 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 car sales business would have an unacceptable impact upon the Sandgate Local Centre or employment provision in general?
- c) Whether the proposal would cause unacceptable risks to land stability?
- d) Would the development would comply with Flood Risk policy?
- e) Whether the development would have an acceptable Impact on the character and appearance of the area, including Heritage Assets?
- f) Whether the proposal would harm residential amenity?
- g) Whether the proposal would harm highways safety?
- h) Would the proposal secure energy efficiency in construction?
- i) Would the proposal meet BNG requirements?

a) Whether the principle of development is acceptable?

7.2 The site is located within the Urban Area, defined as the focus for a range of development under policy SS1 of the Core Strategy. The proposal would represent the re-use of previously developed land as supported under this policy. The principle of development within the main urban area of the district is acceptable, subject to localised impacts considered below. It would deliver housing to help boost supply in accordance with paragraph 61 of the NPPF

b) Whether the loss of the car sales business would have an unacceptable impact upon the Sandgate Local Centre or employment provision in general?

7.3 The site is located within the Sandgate Local Centre designated under Policy RL6 of the Local Plan. The policy seeks to protect retail and town centre uses. The site was last in use as a car sales garage, and this ceased in September 2023. This use would fall as a sui generis use under the Use Classes Order. Although Policy RL6 permits appropriate sui generis uses within the local centre (e.g. takeaways), it does not protect them if not a town centre use. It is not considered that a car sales garage could be reasonably described as a town centre use and there would be no conflict with Policy RL6 of the Local Plan through the loss of this use.

7.4 Policy E2 of the Local Plan specifically protects employment sites for business purposes under classes B1 (now E) and B8. As the site has been in sui generis use for car sales, it is not protected under this policy. As such, there is no requirement to market or demonstrate that this site is no longer viable or required for commercial use.

c) Whether the proposal would cause unacceptable risks to land stability?

7.5 The site is located within landslide data classes B, D and E. Class D is defined as where slope instability problems are probably present or have occurred in the past, and that land use should specifically consider the stability of the site. Class E is where land instability is almost certainly present and may be active, with a significant constraint on land use.

7.6 Policy NE6 of the Local Plan states that permission will be granted in such locations only if investigation and analysis is undertaken by a competent accredited authority which clearly demonstrates the site can be safely developed. Where land instability is suspected, an application must be accompanied by a Phase 1 desktop land stability or slope stability risk assessment.

7.7 The application includes a slope stability report, which sets out the following

- The works will not involve significant excavation or changes to the large existing retaining wall to the rear of the property.
- The rear part of the existing building consists of an internal steel structure encased in concrete that will be retained.
- Aside from minor small pads under the building, no substantial excavation is planned.
- The proposed works should not pose any stability risks to the slope.
- Based on a recent visual inspection, structural repairs to the retaining wall are not necessary. However it would be prudent to establish the condition of this wall via a detailed assessment prior to work starting on site.

7.8 The Building Control team advise that based on the information from the structural engineer, there would appear to be no significant land slip reason why the development cannot be constructed, and recommend a planning condition is imposed to protect slope stability. On the basis of this and the report submitted by the structural engineer, the details are considered acceptable to demonstrate that the site can be safely developed in accordance with Policy NE6.

d) Would the development would comply with Flood Risk policy?

7.9 Paragraphs 173-179 of the NPPF set out the national approach to development and flood risk. This states that a sequential risk-based approach should be taken to individual applications in areas at risk now or in the future from flooding. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted or allocated if there are reasonably available sites in areas of lower risk. The sequential test should be used except in situations where a site-specific FRA 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 now or in the future. If, having applied the sequential test, it is not possible to locate development in areas at lower risk of flooding, then an exception test is applied and which must demonstrate that a) the development would provide wider sustainability benefits to outweigh flood risk and b) that development will be safe for its lifetime without increasing flood risk elsewhere.

7.10 Development must pass both the sequential test and the exception test.

7.11 Policy SS3 of the Core Strategy states that for developments located within zones identified by the EA as at risk from flooding, site specific evidence will be required through a detailed FRA to demonstrate that the site is safe and meets the sequential test within the applicable character area.

7.12 The site is partially located within flood zones 2 and 3, defined as being at medium and high risk from flooding. These zones cover the front part of the site. As the development would be built up to the site frontage, it would fall partially within these flood zones.

7.13 The application includes a Flood Risk Assessment (FRA) as described in paragraph 3.14 of this report. The report assesses that in 1 in 30 year flood event, the site would be located outside of the functional floodplain. In a design flood event (1 in 200) part of the site could flood to approx. 0.37m. Finished floor levels would be raised to 310mm above the design flood level, and sleeping accommodation 600mm above this level to mitigate this. On this basis the risk of flooding is calculated as being low. Residual risk of flooding is also identified as being low. Safe refuge from flooding is available at the rear of the site as the land naturally rises. Further flood resilience measures through construction are also proposed. Some SuDS features are proposed that could result in betterment to surface water drainage conditions compared to existing. Overall, the report sets out that with the mitigation measures proposed, the development can pass Part B of the exception test in the NPPF.

7.14 Following amendments to the scheme (increase in floor levels to the bedroom accommodation on the ground floor), the Environment Agency raise no objection. However, the EA advise that in accordance with the NPPF, development in flood risk areas should not be permitted if there are reasonably available alternative sites in areas at a lower risk of flooding, and that the sequential test establishes whether this is the case. The EA further advise that it is for the LPA to decide whether the sequential test has been satisfied.

7.15 The applicant's FRA sets out that a sequential test has not been undertaken. This is a requirement of both Policy SS3 of the Core Strategy and paragraphs 173-176 of the NPPF. The site is located within the Urban Area as identified in Figure 4.2 of the Core Strategy, one of three areas covering the District identified for the purposes of applying the sequential test. Being within the urban character area, there are potentially other reasonably available sites that should be considered within this character area. Although the FRA provides details of mitigation to make the development safe as part of the exceptions test, the sequential test has not been satisfied and this is in conflict with national and local flood risk policy.

e) Whether the development would have an acceptable Impact on the character and appearance of the area, including Heritage Assets?

7.16 Policy HB1 of the Local Plan seeks to ensure that development makes a positive contribution to its surroundings, respects existing buildings and land uses in terms of layout, scale, proportions, massing and form and creates places of character. Policy SS3 (d(i)) of the Core Strategy states that proposals should be designed to contribute to place-shaping and sustainable development by preserving, and where possible enhancing, listed buildings and conservation areas. Sections 66 and 72 of the Planning Act (Listed Buildings and Conservation Areas) place a duty on LPA's to have special regard to preserving listed buildings and their settings and preserving or enhancing conservation areas. Paragraph 212 of the NPPF makes clear that great weight should be given to the conservation of heritage assets. Paragraph 213 of the NPPF states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

7.17 The Sandgate Village Design Statement was adopted in 2019 and is a material consideration. Design Principle (DP) SDS4 sets out that development should conserve or enhance the conservation area and that applications should demonstrate how the Sandgate CAA has shaped the design. DP SDS5 states that development should be appropriate to the scale, materials, ridge heights, boundary treatments and detailing of its character area whilst not preventing or discouraging appropriate innovation. A confused application of architectural styles or historic imitation inappropriate to the

site will not be acceptable. Massing and orientation should prevent the closing of views to the sea of the wooded escarpment. Further detail of the VDS is set out in paragraph 6.5 of this report.

7.18 The Sandgate Conservation Area Appraisal (CAA) is also a material consideration and a summary of the relevant sections is set out in paragraph 6.6 of this report.

7.19 The existing building on the application site is identified as a negative building within the Conservation Area, and this is evidenced by its bland modern form, low scale and set-back from the road, which is in contrast to the prevailing form of historic, well detailed surrounding buildings with rich individual elevations and interesting roofscapes. Other more recent buildings in the area are also highlighted as negative buildings in the CAA, including Riveria Place, 50-54 High Street and at White Court, Gough Road. These are generally bland, lacking in interest and of poor architectural form, and of larger size / scale than other older buildings in the area.

7.20 The loss of the existing building on the application site would not in itself cause harm to the character and appearance of the conservation area, subject to any replacement building being of sufficiently high design quality and scale.

7.21 The application sets out that the proposed building would be a contemporary interpretation of a Victorian style building, utilising articulation in the form of casement windows, timber detailing, decorative panels and dentil courses. The ground floor front elevation has been articulated with a wider frame to visually reference the existing shopfronts on the High Street. The supporting documents state that the overall appearance is of traditional massing, scale and proportions, carefully articulated in a contemporary style and appropriate to the conservation area and village design statement. The document references examples of other similar developments at 127 Sandgate High Street and Encombe, although these are much smaller scaled buildings and it is difficult to draw comparisons with the application proposal. Whilst the Planning Statement incorporates a heritage section, this is limited in content and makes no reference to surrounding listed buildings. This is contrary to Paragraph 213 of the NPPF as detailed in Section 7.16 of this report

7.22 The building would be taller and of greater scale than the prevailing older buildings within the High Street and immediately surrounding the site. Although the streetscenes submitted reference comparisons in height with surrounding buildings, these pick up on chimney pot heights and eaves heights that do not reflect the impression of scale of immediately adjacent buildings on the High Street. As a result, the mass and scale of the building would be visible from key east to west viewpoints as highlighted in the Conservation Area Appraisal as being important. Whilst some efforts have been made to break the mass and scale of the building down on the front elevation, the double storey roof form and size and placement of numerous dormer windows including those at different levels on the front and side elevations is not in keeping with the streetscene and appears cluttered and confused in design and appearance. The steep pitch with the expanse of roof behind is designed to accommodate the top floor. However it creates an unrelieved mass to the upper part of the building that is in contrast to the interesting and varied roofscapes in the area and as referenced in the Conservation Area Appraisal as a positive characteristic – and which appear to be particularly prevalent in the area of the High Street around the application site. Given the height and scale of the building relative to surrounding buildings, this will be prominent and visible in the street scene.

7.23 Whilst some detailing is proposed on the flank and rear walls of the building, these do little to break up the scale and mass of the building on these elevations and are not consistent with detailing on existing buildings. The roof behind the front elevation section becomes more squat and top heavy, again due in part to the flat top design to accommodate the top floor as well as the number

of dormer windows proposed. As a result these lack interest and result in unrelieved elevations, in highly visible locations as roads wrap around all sides of the building.

7.24 The site is located opposite a Grade II listed group of buildings on the southern side of the High Street, which are of smaller, more intimate proportions, scale and individual design and detailing. Given the greater scale, mass and prominence of the proposed building, this would be harmful to the setting of these buildings. Underhill cottage is a Grade II listed building located to the north of the site, and set back behind Chichester Hall. Although on a higher level to the site and visible from the High Street, views of Underhill Cottage in relation to the site are more restricted, being primarily from The Undercliff and between Chichester House and the scout building. Although the development would result in a building of larger scale, the setting of Underhill Cottage viewed from The Undercliff would be largely maintained.

7.25 Overall, the height, scale and design of the building would be significantly at odds with the varied and interesting smaller scaled buildings in the surrounding area, harmful to the character and appearance the conservation area, the setting of the listed buildings opposite (which follow the varied and interesting scale and design referred to in the CAA), and the streetscene in general. This would be contrary to policies HB1 of the Local Plan and SS3 of the Core strategy, as well as the village design statement and conservation area appraisal.

f) Whether the proposal would harm residential amenity?

7.26 The proposal is surrounded by a number of buildings in various uses. Policy HB1 of the Local Plan states that proposals should not lead to adverse impacts on the amenity of future occupiers, neighbours or the surrounding area taking account of loss of privacy, light and outlook.

Existing living conditions

7.27 No.s 1, 3 and 5 White Court, Gough Road are flats contained within a larger building to the east and rear of the site. The flats are at first floor level and above. Windows in the flank elevation face towards the rear of the application site, but are obscure glazed and appear to serve bathrooms. The front elevation to White Court faces directly onto the rear of the neighbouring masonic hall building, with the application site further to the west. The closest windows in this elevation to the application site appear to serve kitchens, with windows to habitable rooms further away. Using BRE daylight and sunlight guidelines (in accordance with Policy HB8 of the Local Plan), the proposed flats would not obstruct a 45° line to these windows. As such, the proposal would not be likely to cause any significant loss of light or sunlight to these flats. Given the orientation of the buildings in relation to each other, the proposed windows in the west side wall and rear facing wall would be unlikely to cause any unacceptable overlooking. As the existing flats already directly face the masonic building at close quarters, and windows would be at an angle to the proposed development, the impact of the proposal would be unlikely to be of such scale to cause any significant loss of outlook.

7.28 Underhill Cottage is sited to the north and approximately 19 metres from the upper floors of the proposed building (excluding the lower ground floor which is at a much lower level than Underhill Cottage and would have no rear windows). The rear elevation of the cottage faces more

directly towards Chichester Memorial Hall and over the road at Undercliff, with the application site at a slight angle to the east. Due to the area topography, Underhill Cottage is on a much higher land level than the application site. Taking this into account and using BRE guidelines, the proposed flats would not obstruct a 25 degree line to the windows serving Underhill Cottage, and as such would be unlikely to result in any unacceptable loss of light. Given the topography, orientation and distance involved, although the proposed building would be visible from the rear of Underhill Cottage, it would be unlikely to cause any significant loss of outlook or unacceptable sense of enclosure. Given that the rear elevation to the proposed flats would be at a slight angle and would not directly face Underhill Cottage, I consider that a distance of 19m would be sufficient to maintain adequate privacy between the proposal and Underhill Cottage.

7.29 A scout hall is located immediately to the north. Given this non-residential use, no sensitive light, privacy or outlook issues would be likely to arise from the development. A shop unit and masonic hall are located to the east of the site and a members / social club to the west. Although the proposal would be clearly visible from these properties with potential impacts on existing outlook and light provision, it would be unlikely to cause substantial harm given the nature of these uses.

7.30 Some concern has been raised that noise and activity from social activities within these existing buildings would lead to conflict with future residents. Given the nature of both the Sandgate club and masonic hall as predominantly private members clubs, it is considered that such impacts would be relatively limited. In addition, potential occupants would be aware of the presence of the clubs in deciding whether to reside at the flats.

7.31 The Ship Inn is located on the other side of Sandgate Road. The proposal would not be likely to harm the amenity or functioning of this property given the separation afforded by the road. Given the pub would be on the opposite side of the main road through Sandgate which is well trafficked, any potential noise impacts or conflicts are considered to be limited.

#### Proposed living conditions

7.32 Each unit would exceed national space standard requirements for internal living space. Two upper ground floor units would benefit from a small terrace to the rear. However, this terrace would be adjacent to the upper rear parking area which would be at a higher level than the terrace and upper ground floor flats, with a retaining structure and guard rails between the space and the parking level. This would be likely to create a poor environment for residents to use. In addition, the adjacent parking area is an awkward shape with no space to turn a vehicle. It is likely that vehicles would have to make a difficult reversing manoeuvre to exit these spaces in close proximity to the external terraces and bedrooms to flat units 3 and 4, and vehicles parked at a higher level close to the terrace and bedroom windows would have an enclosing effect on light and outlook. I consider this to be a poor level of amenity for future residents of these flat units.

7.33 Three flats within the roof structure / upper two floors would be provided with outdoor terraced areas under the overhang of dormer windows on the roof. However, these would be 1.1m in depth and not the 1.5m balcony depth as required under policy HB3 of the Local Plan. Four other flats within the development would have no private amenity space. Policy HB3 states that on particularly constrained sites, as an exception, commuted sums may be paid to provide off-site amenity areas. However it has not been demonstrated on this site that an amended design could not provide further outdoor space.

7.34 The majority of flats would have front and rear facing windows to habitable rooms and this would provide reasonable levels of daylight, outlook and privacy. The lower ground floor flat units

would have windows on each side elevation serving bedrooms. The provision of light to these rooms would not meet the 25° BRE test given the close presence of Chichester Hall on one side and No. 60 / the Masonic Hall on the other. In addition, both bedroom windows would be sited very close to the pavement / road edge with no defensible space. Given the lack of any pavement, the bedroom window to unit 1 would be in very close proximity to moving vehicles using Underhill. As such I consider that this would result in poor levels of amenity to the ground floor flats.

7.35 Overall, I consider that the poor outlook and relationship with parking areas from the rear windows and terrace to the upper ground floor flats, the lack of outdoor amenity space in general to a number of flats, and the poor level of amenity to the bedroom window serving flat 1 would result in poor living conditions for future occupants, contrary to policies HB1 and HB3 of the Local Plan.

g) Whether the proposal would harm highways safety?

7.36 The proposal would provide 2 access points serving 8 parking spaces in total. KCC Highways do not raise objection in terms of the effect of the development on the local highway network. In further discussions with KCC, they advise that although the access to the upper parking area is limited and on a bend in the road, it is an existing access to a site with lawful use as a sales garage. When considered against this lawful use, the development would not result in a worsening of highways safety impacts.

7.37 Policy T3 of the Local Plan states that parking will be provided for schemes that provide sufficient resident and visitor parking and that parking standards will be use whilst also taking account of local context.

7.38 Sandgate is defined as a local centre with some facilities and services for local residents, and is located on a regular bus route. Parking is controlled on roads immediately around the site. Public parking is available in a nearby car park. Although the proposal would fall slightly short of providing 1 space per unit, the shortfall in this location taking into account local context is not considered to be so harmful that it would be in significant conflict with parking standards or Policy T3 of the Local Plan.

h) Would the proposal secure energy efficiency in construction?

7.39 The application does not provide any detail on energy efficiency. However a planning condition can be used to secure compliance with Policy CC2 of the Local Plan in relation to sustainable construction.

i) Would the proposal meet BNG requirements?

7.40 The site is entirely covered by buildings and hard surfaces. As such the development is exempt from biodiversity net gain requirements under the de-minimus exemption. Likewise, as the site is almost entirely covered by the footprint of a building, there are no ecological impacts that would arise from the development.

#### Environmental Impact Assessment

7.41 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

7.42 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.

7.43 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

7.44 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

7.45 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.

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

## Working with the applicant

7.47 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 would represent development of previously developed land in an urban location and would boost housing supply. However the replacement building proposed would be harmful to the character and appearance of the conservation area and setting of listed buildings, and would provide a poor standard of amenity for future residents. In addition, the site is partially located within flood zones 2 and 3 and a sequential assessment has not been submitted. The development would conflict with local and national planning policies and the harm would significantly outweigh the benefits of the development in the planning balance.

### **Recommended Refusal Reasons (3)**

1

The proposed development, by virtue of its height, mass, scale and design would be out of keeping with and harmful to the character and appearance of the area, the Sandgate Conservation Area, and the setting of listed buildings at 61-65 Sandgate High Street. This would be contrary to policy HB1 of the Places and Policies Local Plan, Policy SS3 of the Folkestone and Hythe District Council Core Strategy Review 2022, paragraphs 135, 139, and 212-215 of the National Planning Policy Framework, the Sandgate Village Design Statement and the Sandgate Conservation Area Appraisal.

2

The site is partially located within Flood zones 2 and 3 and is at risk from flooding. In the absence of a sequential test, the application fails to demonstrate whether there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. This is contrary to Policy SS3 of the Folkestone and Hythe District Council Core Strategy Review 2022, and paragraphs 173-177 of the National Planning Policy Framework.

3

The proposed development would fail to provide an acceptable level of amenity for future residents, by virtue of the lack of outdoor amenity space and inadequately sized outdoor terraces where provided; the poor relationship between the upper ground floor flats (3 and 4) and the upper floor parking area which would restrict light and outlook from the rear windows to these flats and external terraces and create noise and disturbance to these units through vehicle turning and maneuvering; and the living conditions to the lower ground floor flats due to combined likely poor levels of light, and outlook and amenity due to the very close proximity to the pavement and road edges with resultant lack of defensible space. This would be contrary to Policies HB1 and HB3 of the Places and Policies Local Plan

2020 and paragraph 135 of the National Planning Policy Framework.