



Agenda

Meeting: **Planning and Licensing Committee**
Date: **15 July 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 3 - 4)**

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
www.folkestone-hythe.gov.uk

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 may 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 5 - 8)**

To consider and approve, as a correct record, the minutes of the meeting held on 17 June 2025.

4. **Minutes of the Licensing Act Sub-Committee (Pages 9 - 14)**

To consider and approve, as a correct record, the minutes of the Sub-Committee meeting held on 2 June 2025.

5. **23/1810/FH - Brick Kiln Fields, Cockreed Lane, New Romney (Pages 15 - 46)**

Outline planning application (with all matters reserved) for 2 chalet style 2 bedroom properties including car parking and widening of access road.

6. **24/1405/FH - The Cottage, School Hill, Bodsham, Ashford (Pages 47 - 64)**

Installation of one roof light to garage roof and the reorientation of the external staircase. Installation of PV panels to main house and garage. Erection of new garden shed.

7. **25/0232/FH - Middle Park, Green Lane, Lyminge, Folkestone (Pages 65 - 82)**

Erection of replacement dwelling.

8. **23/0782/FH - Land adjoining Pepperland Nursery, Straight Lane, Brookland (Pages 83 - 108)**

Erection of 3 dwellings together with new access.

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, 17 June 2025
Present	Councillors Tony Cooper, Laura Davison (In place of Nicola Keen), Gary Fuller, Clive Goddard, David Godfrey (In place of Mrs Jennifer Hollingsbee), Anita Jones, Adrian Lockwood, Jackie Meade (Chair), Rebecca Shoob, Jeremy Speakman (In place of Mike Blakemore), Paul Thomas (Chair) and John Wing (In place of Polly Blakemore)
Apologies for Absence	Councillor Mike Blakemore, Councillor Polly Blakemore, Councillor Mrs Jennifer Hollingsbee and Councillor Nicola Keen
Officers Present:	Andrew Byrne (Principal Planning Officer), Josie Frazer (Conservation and Heritage Officer), Sue Head (Strategic Development Manager (Interim)), Ellen Joyce (Democratic Services & Elections Officer), Llywelyn Lloyd (Chief Planning Officer) and Alex Stafford (Principal Planning Officer)
	(* for part of the meeting)

30. **Declarations of Interest and election of Chair for the meeting.**

Councillor Lockwood made a voluntary declaration in respect of application 25/0158/FH (Minute No 33) as he had worked for the owner of the site for 7 years. Councillor Davison also made a voluntary declaration in respect of the application as a member of Folkestone Town Council's Planning Committee.

Councillor Meade stated that she had previously expressed views on the application, and could be considered pre-determined, and she would therefore step down as Chair, and leave the meeting. As the Vice-Chair had given apologies, a Chair for the meeting needed to be elected.

Proposed by Councillor Jones,
Seconded by Councillor Cooper; and,

Resolved:

That Councillor Thomas be elected Chair of the meeting.

(Voting figures: 11 for, 0 against, 0 abstentions).

31. **Minutes**

The minutes of the meeting held on 20 May 2025 were approved as a correct record.

32. **Minutes of the Licensing Act Sub-Committee**

The minutes of the Sub-Committee meeting held on 4 April 2024 were approved as a correct record.

33. **25/0158/FH - Former Rotunda Amusement Park, Plots F1,F2,G1,G2 and H, Marine Parade, Folkestone**

This was an application for all 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), 21 (Wind Flow Mitigation), and 27 (Surface Water Drainage), pursuant to S73 outline planning permission Y17/1099/SH.

Local resident, Georgina Baker, spoke against the application.

Local resident ,Daniel Sangiuseppe, spoke in support of the application.

Cllr Chapman, Ward Councillor spoke on the application.

Paul Ellis, C/o the agent spoke on behalf of the applicant.

A Member raised concerns around flooding and the beach management plans, particularly in respect of Plot F. The Principal Planning Officer advised that under the conditions of the outline planning permission, Beach Management Plans would need to be submitted and approved prior to the commencement of each phase. The Chief Planning Officer would have delegated authority in respect of conditions as they would be technical conditions. However, the Ward Member would be able to call-in the application for consideration at Committee.

Proposed by Councillor Godfrey,
Seconded by Councillor Fuller; and

RESOLVED:

That the Reserved Matters 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.

In accordance with the committee procedure rule 19.4, five members present demanded a recorded vote.

FOR: Councillors Fuller, Goddard, Godfrey, Jones, Shoob, Speakman and Thomas (7).

AGAINST: Councillors Cooper and Davison (2).

ABSTENTIONS: Councillors Lockwood and Wing (2).

(Voting figures: 7 for, 2 against, 2 abstention).

Note: The Chief Planning Officer agreed to explore separately with the applicant the matter of how affordable housing secured in s106 may be delivered. He confirmed that this was not related to the acceptability or otherwise of the decision.

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Minutes

Licensing Act Sub-Committee

Held at: Council Chamber - Civic Centre Folkestone

Date: Monday, 2 June 2025

Present: Councillors Polly Blakemore, Jackie Meade and Paul Thomas

Officers Present: Alex Baker (Committee Services Officer), John Bickel (Licensing Officer), Alex Hanagan (Licensing Officer), Tim Hixon (Legal Officer) and Wai Tse (Environmental Protection Officer)

Others Present: Councillor Connor McConville (Folkestone & Hythe District Council), PC Alistair Pringle (Kent Police)

1. Election of Chair for the meeting

Proposed by Councillor Meade
Seconded by Councillor Thomas; and,

Resolved:

That Councillor Polly Blakemore be elected Chair of the meeting.

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

2. Declarations of interest

There were no declarations of interest.

3. Application for a Review of a Premises Licence in respect of: The Providence Inn.

The report outlined an application for a review of a premises licence in respect of The Providence Inn, 47-49 Sandgate High Street, Sandgate, CT20 3AH. The Licensing Sub-Committee were asked to determine the outcome for the application.

After the Licensing Officer introduced the report, relevant representations were received from the following responsible authorities and interested parties:

Kent Police

PC Alistair Pringle addressed the Sub-Committee on behalf of Kent Police and talked Members through the incident that occurred on March 7 2025, as set out in the report.

Exclusion of Public

Proposed by Councillor Thomas
Seconded by Councillor Meade; and,

Resolved:

To exclude the public for the following item of business on the grounds that it is likely to disclose exempt information, as defined in paragraph 2 of Part 1 of Schedule 12A to the Local Government Act 1972:

‘Information which is likely to reveal the identity of an individual.’

The Sub-Committee were shown bodycam footage relating to the incident in question, recorded on the night of March 7 2025.

Applicant

The Sub-Committee heard from Chris and Clare Frost, who explained the delays in changing the DPS and set out the steps they are taking to combat antisocial behaviour.

A full account of the representations made can be found in the decision notice, which has been published separately.

Members of the Sub-Committee asked the following questions of the applicant:

- When did you become the DPS (Designated Premises Supervisor) of the Providence Inn? Mr Frost advised he and Mrs Frost ran another pub from 2005-2016, and took over the Providence Inn in December 2024.
- What training did your staff receive? Mrs Frost advised a training handbook had been issued to all staff, and all staff members would obtain a personal license. Since the incident on March 7 2025, an incident book has also been put in place and CCTV has been installed.
- Were there any issues with your previous establishment? Mr Frost confirmed there were not and Mrs Frost advised the former member of staff had not been told to warn customers the police were coming.
- Could you explain the delay in putting the Police recommendations in place? Mrs Frost made reference to the difficult circumstances outlined in

their statement and Mr confirmed the situation became easier to manage once they had moved in upstairs.

- How effective do you believe the measures you have taken are? Mrs Frost advised they have door staff every Friday night and routine toilet searches. Their regular customers are aware of how seriously this is being taken by staff. Mrs Frost advised that opening hours are being enforced more strictly and warnings against antisocial behaviour have been posted on their social media.
- Have there been any previous licensing or police incidents at the premises? The Senior Licensing Officer confirmed there had been nothing of any real concern.

The Sub-Committee carefully considered and gave the appropriate weight to the following: -

- (i) The report presented by Licensing Officer Alex Hanagan
- (ii) The written representations from interested parties contained in the report
- (iii) The applicant's submissions.

Proposed by Councillor Meade
Seconded by Councillor Thomas; and,

Resolved to:

- 1. Note the contents of Report DC/25/09**
- 2. Issue an informal warning letter**

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

In arriving at the decision, the Sub-Committee considered the review application and all relevant verbal and written submissions presented at the hearing. The Sub-Committee considered the Licensing Act 2003 and the section 182 guidance issued by the Secretary of State, as well as Folkestone and Hythe District Council's Statement of Licensing Policy.

The full reasons for the decision can be found in the decision notice, which has been published separately.

4. Application for a Premises Licence in respect of: The Old Harp Club, Ground Floor, 11 Grace Hill, Folkestone, CT20 1HA

This report outlined the application made by Gail 1 Limited for a Premises Licence for The Old Harp Club. The Licensing Act Sub-Committee were asked to determine the outcome for the application.

After the Senior Licensing Officer introduced the report, relevant representations were received from the following responsible authorities and interested parties:

Environmental Health

- The Environmental Protection Officer advised they had concerns about the premises having a detrimental impact on neighbours and would ask for an acoustic noise assessment to be carried out before a license is granted. They also did not believe the proposed opening hours were appropriate.

Kent Police

- PC Alistair Pringle advised the Sub-Committee he had met with the applicant at the venue. Kent Police do not overly object to the application but concerns had been raised about the limited entry/exit space, as well as a need for the safe dispersal of customers.

Applicant

- Michael Dotchon, legal consultant for Gail 1 Limited, addressed the Sub-Committee and acknowledged the representations made by the other parties present. Also present were Mr Christopher Brown, the applicant and Designated Premises Supervisor, and Mr Dean-Saunders-Finch, the operations manager for Gail 1 Limited. A full account of the points made can be found in the decision notice, which has been published separately.

Neighbouring residents

The Sub-Committee heard from residents of Grace Court and other surrounding properties, who expressed concerns in relation to noise, litter, antisocial behaviour and public safety, as well as the upholding of the Council's licensing objectives.

Members of the Sub-Committee raised the following points/questions:

- Why do you need to open until 02:00? Mr Saunders-Finch advised that if the license was granted they would consider bringing the closing time forward to midnight, as creating a nightclub was not their intention. The application was about creating a music venue to cover all ages and groups of people, and was never about having loud live music 7 days a week. Mr Brown confirmed no glasses or plastic cups would be allowed outside and stated it is not his intention to upset residents. He confirmed they have agreed to carry out the acoustic noise report.
- The Environmental Protection Officer was asked if the prospect of reduced hours would affect their representation. The Officer advised that it would depend on a number of factors such as the results of the acoustic report, the level of music and the type of venue.

- We are being asked to make a decision before the soundproofing has been installed. Mr Brown reiterated that if the license were to be granted they would ask an independent specialist to conduct the report and would agree to follow their recommendations.
- Have you contacted the Planning department regarding changing the doors, and has Kent Fire & Rescue been consulted? Mr Brown clarified that the doors are already in place, but will be upgraded to fire doors to reduce noise. Mr Saunders-Finch confirmed the fire service were happy to sign off the upgraded doors.
- How will you manage the dispersal of customers? Mr Dotchon advised that SIA door supervisors would be put in place and would act as noise marshals. A dispersal policy would also be put in place.
- What are the proposals for a smoking area? Mr Saunders-Finch advised smoking would take place at the front of the building, but they would limit the number of people outside at one time.

The Sub-Committee carefully considered and gave the appropriate weight to the following: -

- (i) The report presented by Senior Licensing Officer John Bickel
- (ii) The written and oral representations from Wai Tse (Environmental Health)
- (iii) The written and oral representations from PC Alastair Pringle (Kent Police)
- (iv) The Applicant's written and oral submissions
- (v) The written and oral representations of local residents and those made on their behalf opposing the application
- (vi) The written and oral representations of local residents in support of the application

Proposed by Councillor Thomas
Seconded by Councillor Meade; and,

Resolved to:

- 1. Note the contents of Report DC/25/10**
- 2. Reject whole or part of the Application**

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

In arriving at its decision the Sub-Committee considered the application and all relevant oral and written submissions before them. The Sub-Committee considered the Licensing Act 2003, the Secretary of State's Guidance issued under section 182 of the Licensing Act 2003, and Folkestone & Hythe District Council's Statement of Licensing Policy.

The full reasons for the decision can be found in the decision notice, which has been published separately.

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Application Number	23/1810/FH
Location	Brick Kiln Fields, Cockreed Lane, New Romney, TN28 8TE
Application Description	Outline planning application (with all matters reserved) for 2 chalet style 2 bedroom properties including car parking and widening of access road
Applicant	Mrs T Latter
Agent	Mr J Smith
Officer Contact:	Danielle Wilkins

Recommendation

That outline 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 an objection received from New Romney Town Council

2. Site and Surroundings

- 2.1 The application site consists of a plot of land located outside the defined settlement boundary. The site lies within flood zones 2 and 3a, and is within an area at moderate and significant risk should flooding occur, as shown on the Council's current SFRA to 2115 accounting for climate change. The site is also within a Local Landscape Area.
- 2.2 The site is currently vacant, accessed via a private road that runs perpendicular to Cockreed Lane to the south. The site boundaries consist of a combination of close boarded fences to the south, and post and wire fencing, which separates the site from a smaller parcel of land to the north which in the same ownership. To the south, a mix of terraced, semi-detached and detached residential dwellings back onto the site, including their associated garaging and out-building structures. There is a larger detached dwelling opposite, featuring brick wall boundary treatment.
- 2.3 There are no trees within the site itself, but a number of mature trees, and established landscaping is found on the south and west boundaries of the

site, adjacent to the existing dwellings and marking the rear of the site preventing views towards the site from the wider open countryside.

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



Figure 1: Aerial photo centred on site

3. Proposal

- 3.1. Outline planning permission is sought for the erection of two chalet style two-bedroom dwellings including car parking and the widening of the access road with all matters reserved for future consideration.
- 3.2. Notwithstanding the above, this application seeks to secure the principle of the development with indicative drawings provided to demonstrate how the proposed number of dwellings could be accommodated on the site (fig.2). These drawings indicate the dwellings would be detached, single storey with a first floor in the roof space. It is proposed that each dwelling would incorporate a private garden of approximately 10m or more and off-street parking for two vehicles to the front of each dwelling.
- 3.3. Vehicular access is proposed via the shared track from Cockreed Lane, a vehicle passing/turning area is shown to the front of the proposed dwellings.
- 3.4. Open space is shown retained to the rear of the proposed dwellings.

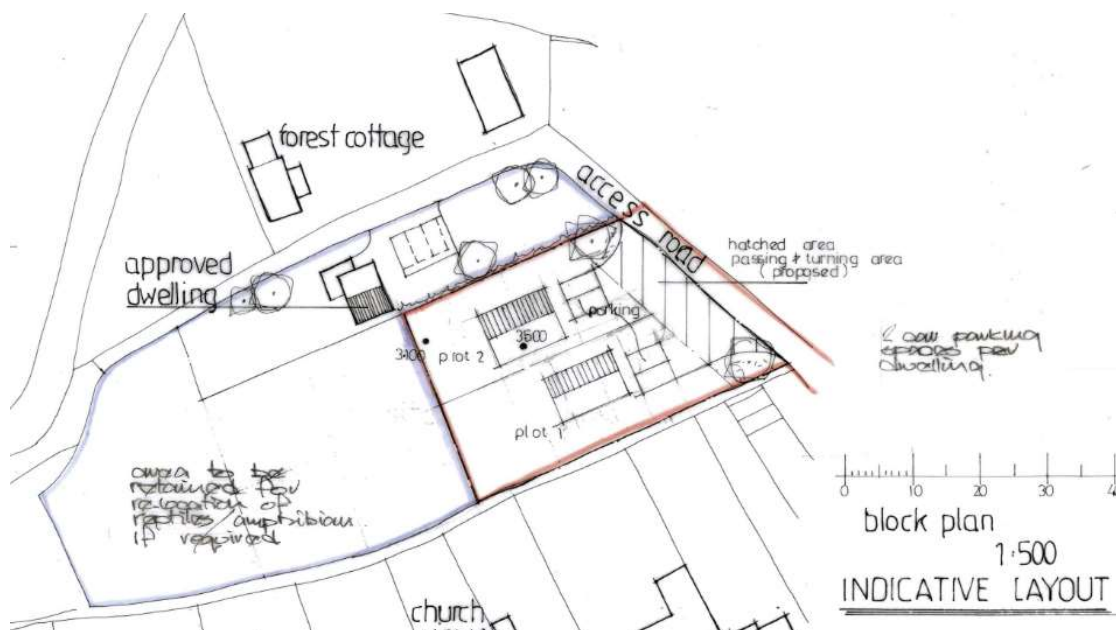


Figure 2: Indicative proposed layout

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

Design and Access Statement

- 3.6. A brief Design and Access Statement was submitted with the application, however this has not been amended following the reduction in the number of units proposed at the site. This report sets out that the site as existing is overgrown garden area for the existing mobile home (with planning permission for replacement dwelling). It states that the layout at the this point is indicative to demonstrate that the site can accommodate the number of units proposed while being able to provide adequate gardens, off-street parking and additional landscaping.

Flood Risk Assessment

- 3.7. This report acknowledges that the site is within flood zones 2 and 3 and states that existing land levels sit at between 1.8 meters and 2.3 meters Above Ordnance Datum (AOD). The report states that the main risk of flooding is from tidal sources, however owing to existing sea defences, and even when accounting for climate change, modelling shows that the site would not be at risk of flooding. In addition, the report states that internal finished floor levels of the dwellings would be raised above the maximum predicted flood level at approximately 3.5 meters AOD and that all sleeping accommodation would be located on the first floor. It goes on to recommend that all future occupiers should sign up to the EA's Flood Warning Service to receive forewarning of a potential flood.

The report concludes that, following the recommendations contained within the report, the occupants of the proposed dwellings would be safe, and the development would not increase flood risk elsewhere.

Ecological Impact Assessment

- 3.8. This report states that the sites habitats consist of scrub and a number of larger shrubs and small trees to the south with some bramble scrub mixed in, there is an area of grassland in the north which has some invasive bramble and in the centre of the site is a seasonally wet depression with a small reed bed.
- 3.9. The report adds that a seven-visit reptile survey was conducted between the months of May and July, together with transect walks among the grassland area of the site.

- 3.10. The investigations found two adult common lizards at the site during the reptile surveys. The report states that suitable mitigation measures will be required in order to relocate the reptiles found at the site prior to commencement of works.
- 3.11. The report states that the as the site is in an amber zone for Great Crested Newts and in close proximity to a red zone that they must be considered, however owing to the nature of the site and the quick draining pond, the site itself is unlikely to provide a suitable breeding habitat.
- 3.12. The report concludes that no other protected species or their habitats were observed on site with the exception of breeding birds, however subject to suitable mitigation measures outlined within the report that the impact of the proposal would be acceptable.
- 3.13. The report also sets out a number of biodiversity enhancement measures, such as bat and bird boxes, native species planting and sensitive lighting.

Reptile Mitigation Strategy

- 3.14. This report sets out the works required prior to the translocation of any reptiles found on the site, together with the methodology for the translocation and a plan of where the reptiles found will be translocated.

4. Relevant Planning History

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

21/2384/FH	Outline planning application (with all matters reserved) for proposed dwelling and parking.	Refused
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- 4.2 This application was refused on the grounds that insufficient information was submitted to demonstrate that the proposal would not result in adverse ecological impacts, including loss to the habitats of existing biodiversity on and around the site without acceptable mitigation.

- 4.3 In addition to the site history above, the site to the north has been subject to the following planning applications, which may be relevant to the consideration of this outline planning application

21/2385/FH	Erection of a replacement dwelling. Renewal of planning permission Y18/0386/SH	Approved with conditions
Y18/0386/SH	Erection of a two-storey dwelling	Approved with conditions

5. Consultation

Ward Members: Cllr Paul Thomas and Cllr David Wimble.
Cllr Paul Thomas is a member of the Planning and Licensing Committee.

5.1 The consultation responses are summarised below.

Consultees

New Romney Town Council:

Objection raised to the proposal on the grounds that the application has not met the ecological requirements contrary to policy NE2 of the PPLP and that the proposal would be contrary to policy HB1 of the PPLP.

KCC Highways and Transportation:

No comments to make on application

KCC Ecology:

No objections, stating that as the site consists of mostly poor-quality scrubland which is of low ecological value but could be suitable for reptiles. Recommended conditions include: reptile mitigation a verification report; evidence that the full Great Crested Newt District Level Licence conservation payment has been made to Natural England and licence issued; lighting plan for bats and; biodiversity enhancements plans. An informative is also recommended to ensure that should outline planning permission be granted works will not disturb breeding birds.

KCC Archaeology:

No objections however advises that the site lies adjacent to the site of a post-medieval brick works. Recommended condition to secure a Written Scheme of Investigation and subsequent preservation and recording of any artefacts

Environment Agency:

No objections subject to conditions, which secure details of flood resilience measures to be implemented within the development and minimum internal floor levels and first floor sleeping accommodation.

Romney Marshes Area Internal Drainage Board:

No objections and advised that any proposed surface water/treated foul connections to the Wallingham Sewer (Main River) will require a Flood Risk Activity Permit (FRAP). Confirmation that the RMAID is not the regulating body for this watercourse.

Southern Water:

No objections

Public/Neighbour Consultation

5.2 23 neighbours directly consulted. 2 letters of objection received.

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

Objections

- Access too narrow
- Potential impact to wildlife
- Concern regarding additional traffic
- Concern regarding additional noise
- Impact on character of the lane
- Potential for additional flooding

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 |
| HB3 | - | Internal and External Space Standards |
| T2 | - | Parking Standards |
| T5 | - | Cycle Parking |
| NE2 | - | Biodiversity |
| NE3 | - | Protecting the District's Landscapes and Countryside |
| NE7 | - | Contaminated Land |
| HE2 | - | Archaeology |
| CC2 | - | Sustainable Design and Construction |
| CC3 | - | Sustainable Drainage System (SuDS) |

Core Strategy Review (2022)

- SS1 - District Spatial Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation
- CSD8 - New Romney Strategy

- 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.

Paragraphs 173-182 – Flood risk, sequential and exceptions tests

Paragraphs 187 – Enhancing the natural environment

Paragraph 193 – Biodiversity

National Planning Policy Guidance (NPPG)

Flood risk and coastal 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 proposal would result in harm to the character of the area?
- c) Whether the proposal would harm neighbour amenity?
- d) Whether the proposals result in harm to Highway safety?
- e) Whether the proposal would result in harm to ecology and biodiversity?
- f) Whether the proposal would result in increased flood risk?

- g) Whether the proposal would result in harm to any matters of archaeological interest?
- h) Whether the proposal would result in any environmental concerns?
- i) Balancing exercise

a) Whether the principle of development is acceptable?

- 7.2 Whilst the site is not allocated within the local plan for housing development, the NPPF makes it clear that windfall sites can make an important contribution to housing delivery, stating that LPA's should support the development of windfall sites through their policies and decisions, giving great weight to the benefits of using suitable sites within existing settlements for homes. Likewise, policy SS1 of the Core Strategy seeks to direct development to existing settlements.
- 7.3 The NPPF generally supports non-isolated development in the countryside: 'Planning policies and decisions should avoid the development of isolated homes in the countryside' (Para 84).
- 7.4 In light of the above, whilst the NPPF seeks to restrict housing development in the countryside, in favour of locations within existing settlements, it makes it clear that extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes) are acceptable.
- 7.5 The application proposes a development of two residential dwellings on land that is in close proximity (56m) to the existing settlement. Further to this, the site is set amongst other houses to the northern, eastern and southern boundaries, including the recently approved replacement dwelling to the immediate north of the application site. The site is currently unused, vacant land which is surrounded on three sides by residential dwellings and therefore the proposal would not be regarded as a site encroaching further into open countryside. The site is located to the north of New Romney which is identified in the Core Strategy as a Strategic Town. Strategic Towns are important and well-served settlements are expected to be suitable for expansion from their current built limits (Core Strategy para. 4.78).
- 7.6 The application site itself is located approximately 610 metres from the High Street which is considered to be a reasonable walking distance to local services and public transport. Bus stops are located on the High Street with services between Dover and Rye via New Romney, Dymchurch, Hythe and Folkestone.
- 7.7 The site, although located on a private track, is considered to be well-connected for active travel via a footpath opposite the entrance to the lane on Cockreed Lane towards to the town centre. The site is considered to be

located close to shops and services and public transport, and is accordingly in a sustainable location.

- 7.8 It should also be noted that the Council is currently only able to demonstrate 3.1 years supply of deliverable housing sites and cannot therefore demonstrate a five year supply as required by the NPPF. This means the tilted balance is therefore engaged and Development Plan policies relating to the location of residential development in the countryside are considered “out of date” as a result. This includes the spatial strategy set out in the Core Strategy, which should now be afforded less weight in the decision-making process.
- 7.9 Having regard to the requirements of paragraph 11 of the NPPF, planning permission should only be refused where the adverse impacts arising from the proposal would “significantly and demonstrably” outweigh the benefits of the development. Therefore, limited weight should be given to the location of the application as lying outside of the defined settlement boundary.
- 7.10 Having regard to the above, it is considered that the site lies in a sustainable location, that the development would comply broadly with the NPPF, but that it would conflict with the settlement hierarchy and policy SS1 of the Core Strategy.
- 7.11 These matters are considered further in the balancing exercise set out below, but having regard to the above, it is concluded that the conflict with the development plan attracts limited weight in this respect and that the sustainable location of the site, and that it accords with the NPPF in so far as the NPPF does not preclude such development, attracts weight.

b) Whether the proposal would result in harm to the character of the area?

- 7.12 Policy SS1 of the Core Strategy seeks to protect the character of the countryside, landscape and villages from the adverse impacts of growth stating that development within the Romney Marsh Area must protect and enhance the coast and the many special habitats and landscapes. This is endorsed by policy NE3 of the P&PLP which states that proposals should protect or enhance the landscape character and functioning of Local Landscape Areas and states that the Council will not permit development proposals that are inconsistent with this objective unless the need to secure economic and social wellbeing outweigh the need to protect the areas local landscape importance.

- 7.13 The site is located within the Romney Marsh Local Landscape Area (LLA) which covers a large area including Dungeness and the coastal settlements, as well as extensive areas of drained farmland and several marshland villages and is characterised by low lying land interspersed with drainage ditches. However, the site itself is on the edge of the built up area, enveloped by residential dwellings.
- 7.14 The site itself comprises scrub land which was once the garden area for the existing mobile home to the north of the site. The site is largely undeveloped with the exception of the mobile home and a number of small sheds and outbuildings. Hedges and trees are located to the south and west boundaries of the site, however the majority of the site consists of low-lying scrub. There is built form surrounding the site to the south and a cluster of dwellings to the north and east. Therefore, although the application site is currently undeveloped, the site does not retain a strong rural character.
- 7.15 Visual impact would be largely confined to views from the private track to the east and potentially from a public footpath (HM123) approximately 140 meters to the west. That being said, views into the site from the public footpath are significantly obscured by the existing tree line at the boundary of the application site and by existing hedgerows along the Wallingham Sewer.
- 7.16 In order of the development to be flood resilient finished ground floor levels would need to be at least 3.5mAOD, which would result in the ground floor of the dwellings sitting approximately 1.5 above ground level (approximately 7 steps would be required to access the dwellings). As chalet bungalows are proposed and the first floor would be contained within the roofspace, the additional height required would not be so significant in visual impact terms that the dwellings would appear overly tall. Detailed design will be agreed at Reserved Matters stage to ensure that the ground floor elevations are sufficiently detailed.
- 7.17 For the reasons set out above, it is considered that the proposed development would sit sympathetically within the wider landscape, preserving its character.
- 7.18 Policy HB1(1) of the P&PLP requires development to be of a high quality and to make a positive contribution to its surroundings, respect existing buildings and in relation to layout, scale, proportions, massing, form, and materiality.
- 7.19 The application site measures approximately 1296 square meters and as set out above is surrounded on three sides by residential dwellings of a varying size, style and materiality. It is therefore considered that, having regard to the above, the site could comfortably accommodate the development of two chalet-style dwellings without causing harm to the character and appearance of the area.

- 7.20 For the reasons above, it is considered that the proposed development of the site would comply with the requirements of local plan policies.

c) Whether the proposal would harm neighbour amenity

- 7.21 Whilst layout is reserved for future consideration, the indicative layout plan suggests that satisfactory distances can be maintained between the proposed and adjacent dwellings.
- 7.22 I am satisfied that the development of the site could be achieved without causing harm to residential amenity through loss of light, privacy, immediate outlook or by having an overbearing presence. If permission were to be granted, officers would seek to ensure that the detailed design of the proposed dwellings at reserved matters stage, including locations of windows, safeguarded the amenities of existing and future occupiers of the site and surrounding dwellings.
- 7.23 The indicative layout plan suggests that gardens could be provided to a size which complies with the Council's external space standards, resulting in an acceptable level of private amenity space for future occupiers.
- 7.24 Given the above, I am satisfied that the development would not result in harm to the residential amenity of neighbouring or future occupiers and can comply with policy HB1 of the P&PLP which requires development to be designed in a way that protects residential amenity.

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

- 7.25 The indicative layout plan suggests that two off-street parking spaces would be provided to serve each dwelling which would be in accordance with plan policy.
- 7.26 KCC Highways have declined to comment on the proposal as it falls below their threshold for advice. However, the increase in vehicle movements from two dwellings is not considered to be so significant that it would result in any harm to highway safety. The site is located on an unadopted highway, which is unmade in places and therefore not the responsibility of the highway authority, and while the indicative drawings demonstrate that the lane would be widened to provide for a passing point which is not currently possible, members are advised that the use of this passing point on private land could not be required to be made available to all users of the lane, and as such conditions in this respect are not proposed. Notwithstanding this, the addition of two dwellings in this location would not give rise to so significant an increase in vehicle movements that the lack of a passing bay here would not give rise to significant harm to highway safety. The proposal would have no impact on visibility when existing the lane onto Cockreed Lane.

- 7.27 Having regard to the above, it is considered that the proposed development would not result in harm to highway safety and is therefore acceptable in this respect, in compliance with the Development Plan.

e) Whether the proposal would result in harm to ecology and biodiversity?

- 7.28 The submitted documents concerning ecology and biodiversity suggest the presence of protected species including bats, Great Crested Newt and other reptiles. The submitted Reptile Mitigation Strategy demonstrates that any reptiles found can be relocated to another section of the site. The county ecologist has confirmed this is acceptable. As much of the site would remain as greenspace, there is also opportunities for onsite biodiversity net gain.
- 7.29 The applicants have provided a countersigned Impact Assessment and Conservation Payment Certificate (IACPC) with Natural England to ensure that the Great Crested Newt Population is protected. KCC Ecology have confirmed that this is acceptable.
- 7.30 In line with the KCC Ecological advice conditions for a Landscape Management Plan and lighting design for biodiversity would be recommended to be submitted with any reserved matters application.
- 7.31 In light of the above, the proposed development is considered to secure ecological enhancements. Further, additional landscaping would help to provide enhanced habitats and wildlife corridors throughout the site. Therefore, in accordance with the advice of KCC Ecology and Biodiversity, I consider that ecological and biodiversity issues can be subsequently mitigated through planning conditions.

f) Whether the proposal would result in increased flood risk?

- 7.32 The site is identified to be within the Environment Agency's Flood Zones 2 and 3 and is at risk of 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 within an area at significant risk of flooding. The NPPF makes it clear that the presumption in favour of sustainable development does not automatically apply to sites in identified flood risk zones
- 7.33 The NPPF makes it clear that for all applications within areas at risk of flooding, now or in the future, a sequential risk-based approach should be taken when considering these proposals. The Sequential Test is to be

- undertaken in order to steer new development to areas at the lowest probability of flooding. The NPPG states in its section of sequential testing that “only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered.”
- 7.34 Under policy SS1 of the Core Strategy the site falls within the Romney Marsh Character Area, which seeks for new development to be accommodated at the towns of New Romney, Lydd, and the more sustainable villages while avoiding localities at most acute risk to life and property from tidal flooding. The adopted Core Strategy recognises that residential development within Flood Zones 2 and 3 will be necessary to support sustainable growth of the district subject to the principles of spatial strategy and national policy. It states that within this character area, if no reasonably available alternative sites are available, then consideration should be given to [considering applications for residential development while] minimising hazards to life and property.
- 7.35 The submitted Flood Risk Assessment states that the main risk of flooding is from tidal sources, however owing to existing sea defences, and even when accounting for climate change, modelling shows that the site would not be at risk of flooding. However, report is silent in respect of the Sequential Test.
- 7.36 Consideration has been given to whether there are other reasonably available sites for a proposal of this type and size elsewhere within the character area. In assessing consideration of the flooding vulnerability as set out within the SFRA for the year 2115 has been given, alongside similar sites within the character area with a valid planning permission or site allocation.
- 7.37 The Places and Policies Local Plan allocates fifteen residential sites in the Romney Marsh Area. The estimated capacity of the allocations ranges from 5 to 80 dwellings. There are currently five allocations which could be considered reasonable alternatives which are at a lesser risk of flooding. Those sites within Flood Zone 3 have been removed from this list as they would be no more preferable than the application site. At present there are five extant planning permissions in the Romney Marsh character area at a similar scale to the proposal (2 to 10 dwellings), however two of which are not considered more favourable to the application site as they are also situated within Flood Zone 3. These have been itemised below:

Places and Policies Local Plan Allocations

Policy RM1 Land off Cherry Gardens, Littlestone (10 dwellings) – planning permission granted on 02/02/2024 for 9 no. dwellings (23/0801/FH) – no works have commenced onsite

Policy RM6 Land adjacent to Ambulance Station, Kitewell Lane, Lydd (8 dwellings)

Policy RM7 Land South of Kitewell Lane, Lydd (9 dwellings)

Policy RM12 The Old Slaughterhouse, Brookland (5 dwellings)
Policy RM13 Land north of Rye Road, Brookland (remaining plots of land (15 dwellings)

Sites with Planning Permission

21/0358/FH Running Waters, Lydd Road, New Romney. 4 dwellings. FZ1, 2 & 3 – no more favourable than application site

21/0747/FH Sandbanks, Coast Road, Littlestone, 19 dwellings. FZ3. (under construction) - no more favourable than application site

22/1876/FH, North Unit Pepperland Nursery, Straight Lane, Brookland, 8 dwellings FZ1

23/0798/FH/PIP Middle House Nursery, Straight Lane, Brookland, 4-6 dwellings FZ1

23/1374/FH Widespan Nursery, Straight Lane, Brookland. 3-5 dwellings. FZ1.

- 7.38 The Environment Agency has confirmed that when comparing sites, a site that does not need to be defended (i.e. is not at risk of flooding) is preferable, however a site which relies on flood defences would be preferable to a site that is undefended but within the same flood zone. Therefore, when looking at the list of sites above, application 21/0358/FH (Running Waters) is no more preferable to the application site as both sites are defended and 21/0747/FH (Sandbanks) is less preferable to the application site as, even though defended, would remain at a higher risk of flooding.
- 7.39 It is therefore considered that there are a number of alternative sites at lesser risk of flooding available for development that are a similar scale of development to which the site could be compared to. As a result, it is concluded that the site would fail the sequential test and would conflict with the NPPF and policies of the development plan. However, it is considered that the Local Planning Authority should identify and consider harm that arises from such a position, so that it could, if needed, defend its decision at appeal.
- 7.40 The application has been submitted with a Flood Risk Assessment that has been assessed by both the Council and the EA. The EA have commented that while the site is projected to flood under the modelled undefended scenario, the submitted Flood Risk Assessment has identified that the site remains dry under the modelled defended scenarios, even in the most extreme flood events with climate change being taken into account. The EA also comments that while this site is projected to flood with predicted levels of 2.58 metres above Ordnance Datum, this is mitigated by the proposed finished floor level of 3.50 metres above Ordnance Datum, which is over 600mm above the maximum predicted flood level.

- 7.41 Essentially this means that in the most extreme predicted flooding scenario, the site remains dry as its finished floor level would be above the maximum predicted flood level.
- 7.42 In addition to this, the EA have confirmed that their own latest breach modelling places the proposed development outside of the maximum modelled flood event. Therefore, while the site fails the criteria of the sequential test and therefore fails the criteria of the NPPF and local policies, the most recent data available confirms that there would be no harm arising from the most extreme flooding event.
- 7.43 Officers have had regard to a recent appeal decision within the Swale district (APP/V2255/W/24/3350524), where the Inspector considered this issue and noted the conflict with policy. In paragraph 101, the Inspector states, *'Although the proposal has failed to perform the required sequential tests, there would be no real world effects after mitigation is taken into account. A 'strong' reason for refusal based on flooding must, to my mind, go beyond mere technical conflicts, even if they are important. There must be substantive risks and harms that go beyond policy. I do not, therefore, view this as a strong reason for refusing the development proposed.'*
- 7.44 It is therefore considered based on this decision, that the LPA can consider the fact that no 'real world' harm would arise from the development due to site circumstances and potential mitigation. It is acknowledged that this development was for significantly more houses than is being proposed in the current application, however the principle applied by the Inspector is still considered important to the determination of this case. It is considered that there would not be any *'substantive risks and harms'* arising from the development should it proceed and as such any reason for refusal would not be considered *'strong'* as it would only represent a *'technical conflict'* with the development plan.
- 7.45 The Sequential Test has therefore been applied to the proposal, and while there would be conflict with policy in that regard, the absence of 'real world harm' means that it is considered that defending an appeal on this basis would be difficult. As such it is considered that the Exceptions Test should now be applied.
- 7.46 With regard to the Exceptions Test, the site is outside of the settlement boundary, but within an area developed already for housing. The development of the application site is considered to be sustainable for the reasons set out within the principle section of this report (above). As such the proposal is considered to meet the first point of the Exceptions Test of the NPPF.
- 7.47 In addition, the application has been accompanied by a Flood Risk Assessment which has (in addition to the above) provided recommendations

on potential mitigation measures that would ensure the development would be safe.

- 7.48 The Environment Agency have raised no objections subject to conditions pertaining to floor levels and there being no ground floor sleeping accommodation the application is acceptable with regard to flood risk. Subject to these conditions, it is considered that the proposal would be acceptable in terms of the Exceptions Test and that the site would be safe throughout its lifetime.

g) Whether the proposal would result in harm to any matters of archaeological interest?

- 7.49 No archaeological information has been submitted with this application, however the county Archaeologist has confirmed that the site lies with an area of archaeological importance, adjacent to the of a post-medieval brick works. KCC Archaeology confirm that recent archaeological work to the south of Cockreed Lane revealed important evidence for medieval and post-medieval activity, outside of the historic core of New Romney. An archaeology condition is therefore recommended in line with the advice of the County Archaeologist to ensure that any finds can be appropriately protected/recorded.

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

- 7.50 Although it is unlikely given previous land uses that contamination would be found on the site, the submitted Desk Study recommends testing if made ground is encountered. The standard contamination condition is therefore recommended in line with technical advice received.

i) Balancing exercise

- 7.51 It is considered that the proposed development would not have a harmful impact on the appearance of the area, residential amenity or on ecology and biodiversity. It is also considered that the proposal would not harm highway safety.
- 7.52 The proposed development does not give rise to harm to the archaeological interest of the site. Issues in respect of surface water drainage and land contamination can be overcome by the imposition of planning conditions and the proposed dwellings would provide an acceptable standard of accommodation for future residents.

- 7.53 The site lies in a sustainable location, and would provide two additional dwellings, that would contribute to the supply of dwellings, and housing land, within the District, albeit to a minor degree. These are matters which weigh in favour of the proposed development.
- 7.54 The remaining issues are the location of the site outside the settlement boundary of New Romney and flood risk, particularly the Sequential Test. As set out above, the site is not isolated and the proposed development would be in broad accordance with the NPPF in this respect. It is considered, in the absence of harm arising from this conflict with planning policy, any refusal of planning permission on such a basis would be difficult to defend at appeal.
- 7.55 Paragraph 11 of the NPPF states that decision makers should apply a presumption in favour of sustainable development, which means that:
- “Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date , granting permission unless*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*
- 7.56 The footnote to paragraph 11 sets out that policies relating to housing development are to be considered out of date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.57 This is often referred to as “the tilted balance”. The balancing exercise is tilted from a neutral balance to one where there must be compelling reasons for permission to be withheld - where the protection of, for example the countryside or flood risk provides a **strong** (my emphasis) reason for refusal or where the adverse impacts of granting permission would **significantly and demonstrably outweigh** (my emphasis) any benefits.
- 7.58 The Council is currently only able to demonstrate 3.1 years supply of deliverable housing sites and cannot therefore demonstrate a five-year supply as required by the NPPF. This means the tilted balance is therefore engaged and Development Plan policies relating to the location of residential development in the countryside are considered “out of date” as a result. This

includes the spatial strategy set out in the Core Strategy, which should now be afforded less weight in the decision-making process.

- 7.59 Having given careful consideration to the key issues above, the proposed development would not cause harm to any area or asset of particular importance, other than the development being located in Flood Zone 3 as identified above. However, as also identified above, the absence of ‘real-world harm’ would not provide a ‘strong’ reason for refusal on this basis. The proposed development does not therefore meet the threshold of criterion i above. In my view planning permission should not be refused on this basis.
- 7.60 In respect of criterion ii, the lack of adverse impacts resulting from the failure to pass the Sequential Test means that it is not considered that any harm would **significantly and demonstrably** outweigh the benefits of two additional dwellings. The remaining adverse impact identified in this report is therefore the fact that the site lies outside the settlement boundary, and the conflict with policy SS1 of the Core Strategy Review.
- 7.61 However, this has limited weight in itself as it is considered that the proposed development would not give rise to material planning harm given its close proximity to the settlement boundary identified in the Local Plan. Furthermore, in my view, this conflict with policy would not in itself be of sufficient weight to warrant the refusal of planning permission in this instance, irrespective of the “tilted balance”.
- 7.62 Consequently, having regard to the requirements of paragraph 11 of the NPPF, I am firmly of the view that the limited harm arising from this policy conflict would not be sufficient to “significantly and demonstrably” outweigh the, albeit limited, benefits arising from the proposed development.
- 7.63 Accordingly, I conclude that the development proposed is acceptable and I recommend that planning permission is granted subject to the conditions set out below.

Environmental Impact Assessment

- 7.64 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

- 7.65 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.

- 7.66 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 £69.32 per square metre for new residential floor space.

Human Rights

- 7.67 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

- 7.68 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.
- 7.69 It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

- 7.70 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 application site would fall outside the confines of the existing settlement, however is not considered isolated in terms of location or access to services. Development of the site with two dwellings, subject to the approval of reserved matters and to the imposition of conditions, would not result in harm to the character of the area, nor would it result in harm to residential amenity concerns. The development would not harm matters of ecological interest, highway safety, heritage assets or result in occupiers being at risk of flooding, nor would it increase the risk of flooding elsewhere.

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 23/1810/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. Details relating to the layout, scale and appearance of the proposed building(s), the access thereto and the landscaping of the site shall be submitted to and approved by the Local Planning Authority before any development is commenced.

Reason: In pursuance of Section 92 of the Town and Country Planning Act 1990 as amended by 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 or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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. (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.

5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors.
 - ii. loading and unloading of plant and materials.
 - iii. storage of plant and materials used in constructing the development.
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - v. wheel washing facilities.

- vi. measures to control the emission of dust and dirt during construction.
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

6. No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings 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.

7. The development shall be carried out in accordance with the submitted flood risk assessment (ref: Amended Flood Risk Assessment; by: Herrington Consulting Ltd.; dated: August 2024) and the following mitigation measures it details:
- Finished floor levels shall be set no lower than 3.50 metres above Ordnance Datum (AOD)
 - There shall be no ground floor sleeping accommodation.

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.

8. 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.

9. No work on the construction of the buildings hereby permitted shall take place until details of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

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

11. The reserved matters application(s) to be submitted pursuant to condition 1 above shall include details of vehicular and cycle parking, including visitor parking, turning and passing facilities. The provision of vehicular and cycle parking and turning facilities as approved shall be implemented, in full, prior to the first occupation of the units they serve. These facilities shall be kept available for parking and turning purposes in connection with the units they serve at all times thereafter.

Reason: In the interests of highway safety and convenience

12. Prior to works commencing on site (including vegetation clearance) the translocation of Reptiles shall be undertaken in strict accordance with the approved details in the Outline Reptile Mitigation Strategy (Martin Newcombe Wildlife Management Consultancy, 18 December 2024). No development shall take place on site until a verification report has been submitted to and approved in writing by the Local Planning Authority confirming that the reptile mitigation has been completed.

Reason: In the interest of protecting ecology, biodiversity and protected species

13. Prior to works commencing (including site clearance), evidence that the full Great Crested Newt District Level Licence conservation payment has been made to Natural England and the licence issued, will be submitted to, and approved in writing by, the local planning authority.

Reason: In the interest of protecting ecology, biodiversity and protected species

14. Prior to occupation, a lighting plan which has been designed to minimise impacts on biodiversity shall be submitted to and approved in writing by the local planning authority. The plan will show how and where external lighting will be installed and provide commentary regarding how the Bat Conservation Trust/Institute of Lighting Professional's 'Guidance note 08/23: Bats and Artificial Lighting at Night' has been considered in the lighting design. It will be clearly demonstrated that areas to be lit will not impact protected species. All external lighting shall be installed in accordance with the specifications and locations set out in the plan and be maintained thereafter. No additional lighting shall be installed without the prior written approval of the Local Planning Authority.

Reason: In the interest of conserving and enhancing ecology and biodiversity

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

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

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

17. Prior to works above slab level, detailed plans showing how the development will enhance and maintain biodiversity, including establishment and management of planting and features, will be submitted to, and approved in writing by, the local planning authority. This will include details of native and wildlife-friendly planting, integrated bat and bird bricks and/or durable boxes, log piles, hibernacula, and hedgehog homes and holes in close board fencing. The approved measures will be implemented and retained thereafter.

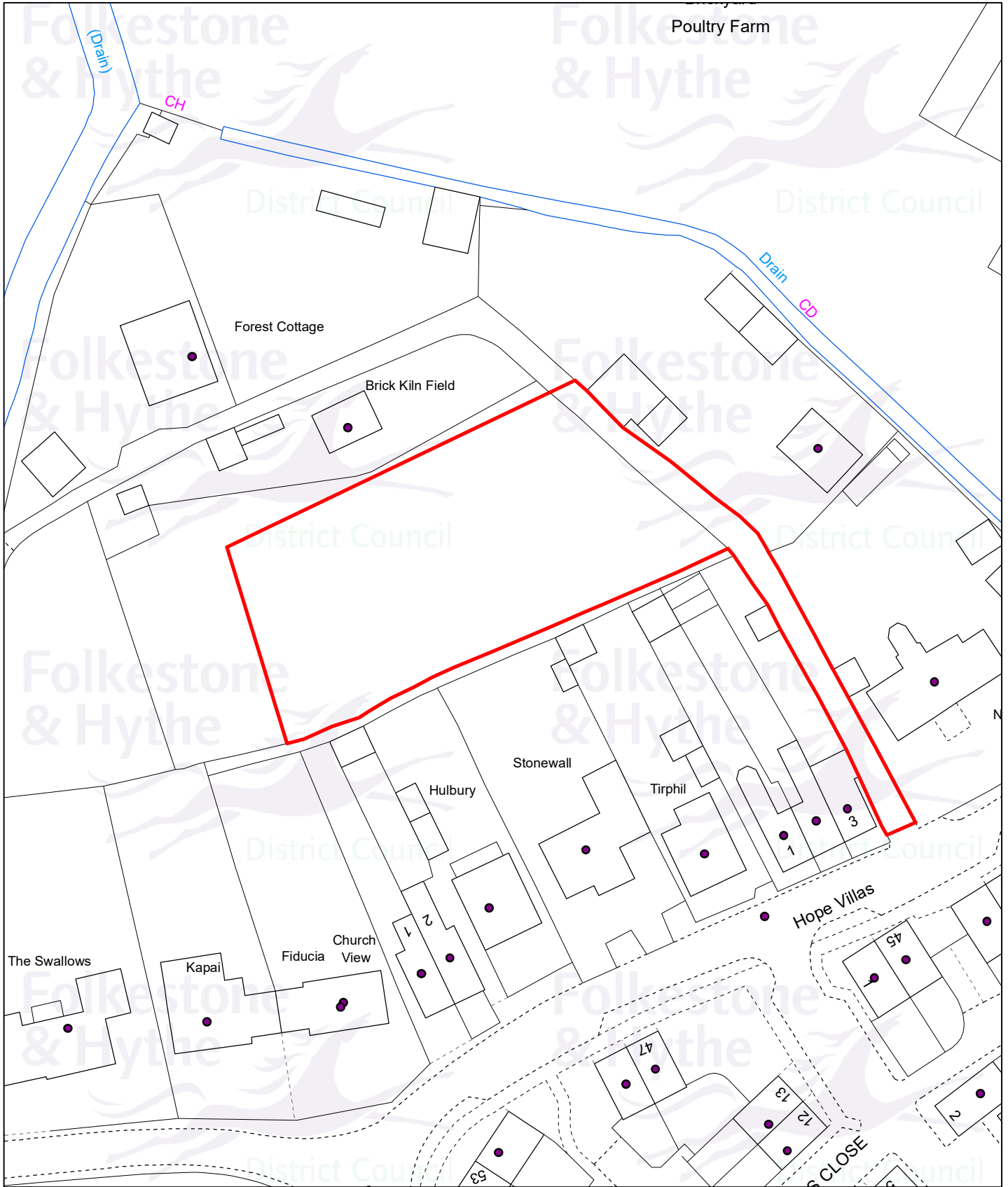
Reason: In the interest of protecting ecology and biodiversity.

Informatives:

1. The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Habitats are present on and around the site that provide opportunities for breeding birds. Any work to vegetation/structures that may provide suitable nesting habitats should be carried out outside of the bird breeding season (1st March to 31st August inclusive) to avoid destroying or damaging bird nests in use or being built. If vegetation/structures need to be removed during the breeding season, mitigation measures need to be implemented. This includes examination by a suitably qualified and experienced ecologist immediately prior to starting work. If any nesting birds are found, works must cease until after the birds have finished nesting.
2. Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

3. Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.
4. Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissionsand-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

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Planning Application:
23/1810/FH

Drawn date:
02 Jul 2025

Drawn by:
Carrie Stacey

Drawing ref:
0625/COP/LS

Llywelyn Lloyd
Chief Planning Officer

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Application Number	24/1405/FH
Location	The Cottage, School Hill, Bodsham, Ashford, TN25 5JQ
Application Description	Installation of one roof light to garage roof and the reorientation of the external staircase. Installation of PV panels to main house and garage. Erection of new garden shed.
Applicant	Mr Christopher Simon Gunn
Agent	N/A
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 at the request of Cllr Elaine Martin on the grounds of harm to the neighbouring occupiers' residential amenity.

2. Site and Surroundings

- 2.1 The application site is located in the village of Bodsham, outside of an identified settlement and therefore in the open countryside for the purposes of planning. The site is located in the Kent Downs National Landscape (NL) and sits adjacent to other residential dwellings near to the Timberbatts Public House and Bodsham Primary School.
- 2.2 The site itself comprises a detached dwelling, garage and gardens with timber shed in the southeast corner of the plot. The boundaries of the site are formed by hedges and established planting with openings to the west of the dwelling for pedestrian access and a separate drive to the north of the dwelling to serve the garage.
- 2.3 The house and garage are visible from the street via the driveway and front path.
- 2.4 To the immediate north of the site is the public highway which wraps around the dwelling to the east, with the Timberbatts Public House on the opposite

side of the road. To the south lies an open piece of land with The Vicarage beyond and Bodsham Primary School across the road. To the west lies a row of dwellings fronting Collette Close

- 2.5 The garage is detached from and sited to the north of the main dwelling. The garage is a more modern addition which has recently been extended.



Figure 1 - aerial photograph of the site

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

3. Proposal

- 3.1. Full planning permission is sought for the following
- Installation of one roof light to garage roof (retrospective)
 - The reorientation of the external staircase (retrospective)
 - The installation of PV panels to the garage roof (retrospective)
 - The erection of a new garden shed.

Retrospective elements of the proposal

- 3.2. One rooflight window has been installed to the west facing roof slope of the garage, it has been fitted with obscure glazing and serves a workshop on the first floor of the building. Four solar panels have also been installed on the west facing roof slope of the garage, on the same side as the roof light, however these are considered to constitute permitted development.
- 3.3. Planning permission was previously granted for the erection of a first-floor extension with external staircase, however this has not been constructed in accordance with the approved drawings. The staircase has been erected parallel with the garage as opposed to perpendicular to it as approved and includes a platform for access, measuring approximately 0.74m in depth and 2.7m in width, raised approximately 2m from ground level with a 0.9m high timber balustrade.

Non-commenced elements of the proposal

- 3.4. A new solar panel array is proposed to the roof of the main dwelling, on the west and south facing roof slopes, however, the installation of solar panels on these roof slopes is considered to constitute permitted development and has therefore been removed from the application proposal.
- 3.5. The proposed shed/outbuilding would be sited within the southeastern corner of the site, replacing an existing shed, in the same position. It would measure approximately 5.5m in width and 3.6m in depth with a height of approximately 2.4m.

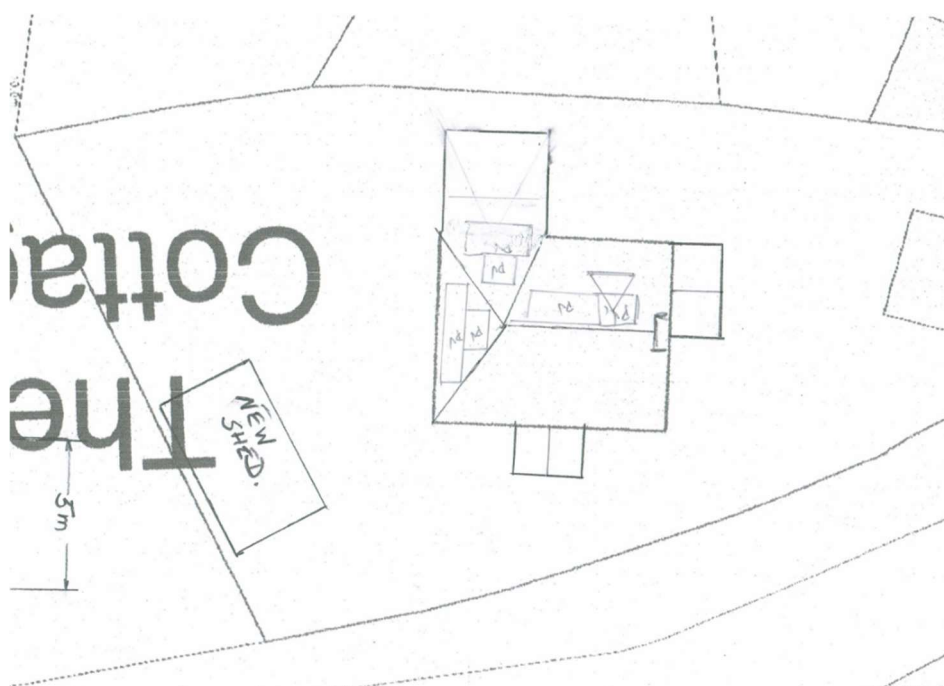


Figure 2 - proposed block plan showing proposed shed and solar panels on main dwelling

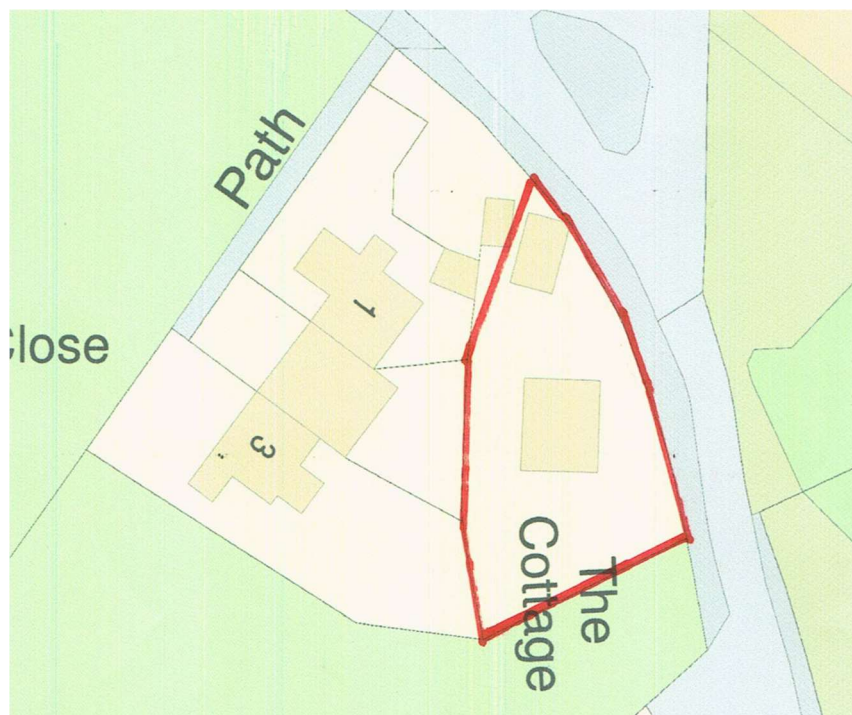


Figure 3 - block plan showing location of garage in relation to neighbouring dwellings

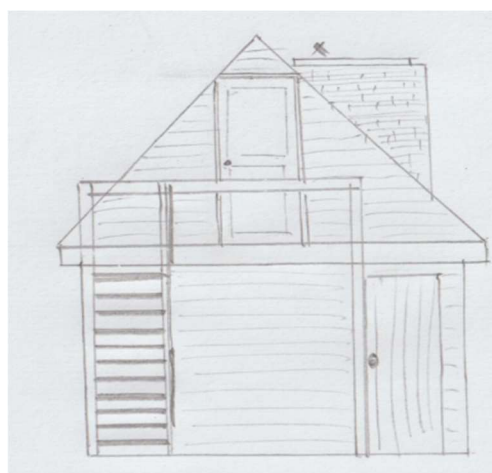
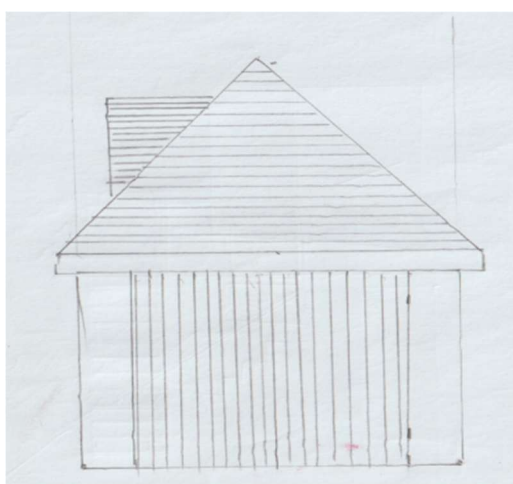


Figure 4 - proposed front and rear elevations

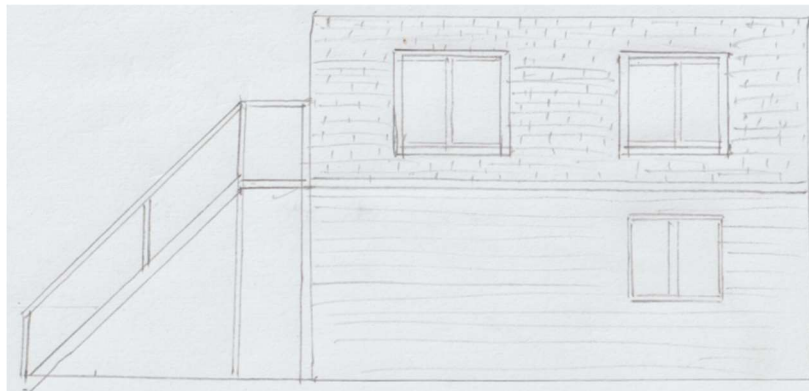


Figure 5 - proposed side (east) elevation

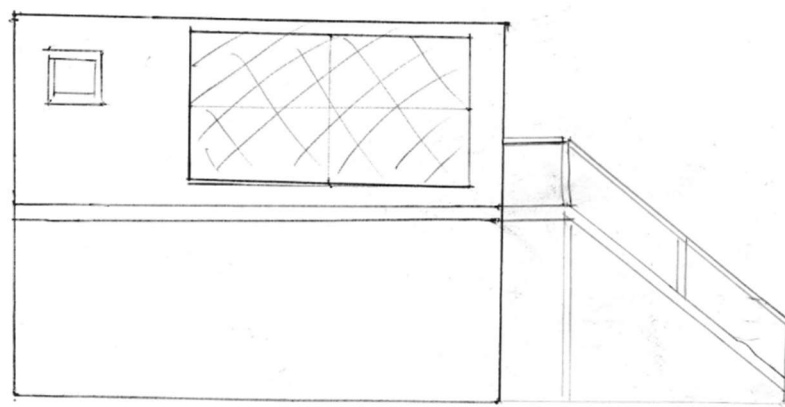


Figure 6 - proposed side (west) elevation



Figure 7 - photo of existing garage

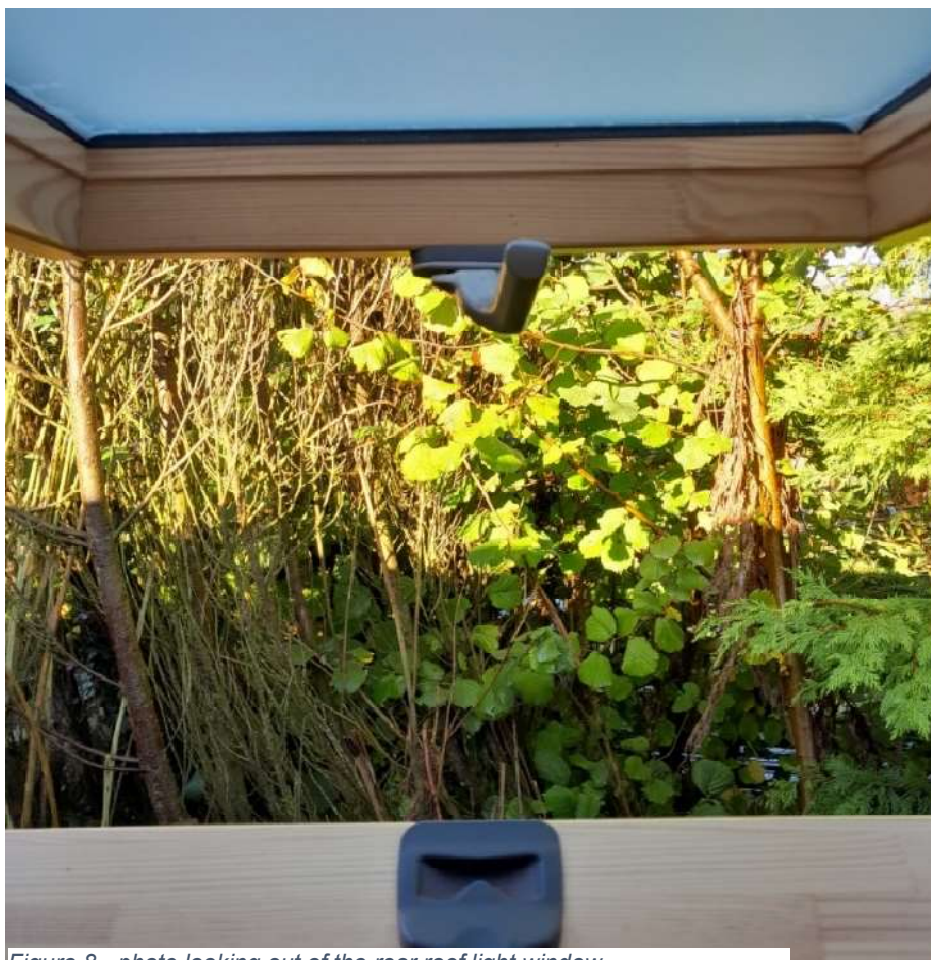


Figure 8 - photo looking out of the rear roof light window

4. Relevant Planning History

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

24/0904/FH/NMA Non-material amendment to 22/1524/FH to Refused
allow for addition of roof lights to western
side of roof and realignment of external
staircase

22/1524/FH Enlargement of existing garage to create Approved
workshop above

This application granted planning permission for the first-floor extension to create the workshop, it included the installation of two no. front facing dormer windows and an external entrance to the first floor. The staircase as approved as in a different orientation and no rear roof light windows were proposed.

5. Consultation

Ward Members: Cllr Mrs Jennifer Hollingsbee and Cllr Elaine Martin. Cllr Mrs Jennifer Hollingsbee is a member of the Planning and Licensing Committee. The application has been called in by Cllr Elaine Martin on the grounds of harm to the neighbouring occupiers' residential amenity.

5.1 The consultation responses are summarised below.

Consultees

Elmsted Parish Council: object for the following reasons:

- level of overlooking to neighbouring residents,
- the amount of development on the site
- retrospective nature of the application

Public/Neighbour Consultation

5.2 9 neighbours directly consulted. 3 letters of objection received.

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

Objections

- Loss of privacy
- Land instability
- Concern regarding replacement shed

- Impact on the listed building (**CPO Comment: the application building is not listed**)
 - Lack of detailing for proposed shed
 - Lack of details regarding solar panels proposed for main dwelling
- 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)

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 |
| NE3 | - | Protecting the District's Landscapes and Countryside |

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

Supplementary Planning Guidance/Documents

The Kent Downs National Landscape Management Plan 2021-2026

- | | | |
|------|---|---|
| MPP2 | - | Prioritising the AONB Management Plan vision, aims, principles and actions in Local Plans |
| SD2 | - | Conserving and enhancing the Kent Downs |
| SD5 | - | Renewable and sustainable energy initiatives |
| SD8 | - | Protecting the setting and views to and from the Kent Downs AONB. |

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 187 – Conserving and enhancing the natural environment

Paragraph 189 – Great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes

National Planning Policy Guidance (NPPG)

7. Appraisal

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

- a) Would the design and visual impact of the development be acceptable?
- b) Would the proposal conserve and enhance the scenic beauty of the National Landscape?
- c) Would the proposal result in harm to residential amenity?
- d) Are there any other issues that should be considered?

a) Would the design and visual impact of the development be acceptable?

7.2 The rear facing roof light is not overly visible from the public realm or from within the site and adjoining gardens due to the orientation of the garage/workshop building to the public highway. While the solar panels and the roof light window would occupy the majority of the rear roof slope, they are of a domestic scale and design that are not considered to be visually harmful. In addition, the roof light is timber framed and similar in appearance to the existing timber windows within the garage and main dwelling and are similar in appearance to those in the surrounding area.

7.3 The proposed installation of solar panels to both the rear facing roof slope of the garage and the south (side) and west (rear) facing roof slopes of the main dwelling are considered to constitute permitted development and therefore no objections are raised to their siting.

7.4 The proposed shed/outbuilding would be sited within the southeastern corner of the site, in the same position as an existing shed. While it is acknowledged that the proposed outbuilding would have a larger footprint, it would retain a domestic scale. It would have a simple rectangular planform with a flat roof, timber cladding and would sit comfortably within the spacious plot in a position not considered to be prominent.

7.5 Concern has been raised in regard to the size of the proposed outbuilding and it not being of a domestic scale. While it is acknowledged that the

proposed outbuilding is larger than the existing, it is considered to be acceptable for the reasons set out above.

- 7.6 Representation has also been received stating that the main dwelling is a Listed Building and that the proposed works would result in harm. However, the dwelling is not listed, nor is it considered to be a non-designated heritage asset. It is noted that the closest Listed Building to site is The Timberbatts Inn, directly opposite the application site. However, due to the minor nature of the proposals, the separation distance of approximately 32m and intervening features such as the public highway and car parking, it is not considered that the proposals would have any impact on the setting of this building.
- 7.7 It is therefore considered that the proposed works would not result in significant harm to the character or appearance of the host dwelling or wider street scene and would comply with policies HB1 and HB8 of the Places and Policies Local Plan.

b) Would the proposal conserve and enhance the scenic beauty of the National Landscape?

- 7.8 As previously noted, the application site is within the Kent Downs National Landscape and therefore, in accordance with paragraph 189 of the National Planning Policy Framework, great weight should be given to conserving and enhancing landscape and scenic beauty of National Landscapes and that the scale and extent of development within these designated areas should be limited.
- 7.9 The Levelling-Up and Regeneration Act 2023 amended the Countryside and Rights of Way Act, to place a much stronger duty on relevant authorities, which includes local authorities, to ensure that their actions and decisions seek to further the purpose of conserving and enhancing National Landscapes.
- 7.10 The proposed installation of solar panels to both the garage roof, together with the installation of one timber roof light window to the garage/workshop and the repositioning of the external staircase are all minor alterations to an existing residential dwelling that are considered to have no impact on the scenic quality or landscape National Landscape. The main visual impact of the staircase would be from within the application site, rather than from external views so this is not considered to result in any harm.
- 7.11 With regard to the erection of an outbuilding to the front of the main dwelling, as this would be a small-scale building, finished in timber, a material traditionally found in the National Landscape and would not be sited in a visually prominent location, it is considered that this too would have no impact on the scenic beauty or the landscape of the National Landscape..

- 7.12 The proposal as a whole is of a domestic scale and the impact of the development would be limited and acceptable within the National Landscape complying with the aims of paragraph 189 of the NPPF and policy NE3 of the Places and Policies Local Plan. The very minor scale of the proposals ensures that the site would remain in character with the surrounding area, and as such, taking a proportionate approach, measures to further the purpose of conserving and enhancing the scenic quality of the KDNL are considered unnecessary in this instance. The proposed development is considered acceptable in this respect.

c) Would the proposal result in harm to residential amenity?

- 7.13 This rooflight in the garage has been fitted with obscure glazed film and would serve as a secondary window to a workshop space (there are two dormer windows installed on the front roof slope). When opened, the rooflight does not currently offer views into the amenity space of the adjacent dwelling, no. 1 Collett Close, due to the existence of a tall, dense hedge on the boundary. Notwithstanding this and in order to prevent a loss of privacy to the residents of no. 1 Collett Close, it is considered reasonable to impose a condition that requires this rooflight be obscure glazed and fixed shut. Subject to this, the rooflight would not give rise to harm to residential amenity.
- 7.14 The proposed shed would be located within the southeastern corner of the site, a significant distance from neighbouring dwellings and it would be single storey. Concern has been raised in regard to the siting of the proposed shed and the impact this may have on the boundary with neighbouring dwellings, however, given the separation distance to the nearest neighbour, it is not considered that this element of the proposals would be harmful..
- 7.15 The approved staircase was positioned perpendicular to the garage with the staircase rising in a west to east direction, therefore when climbing the stairs views would have been directed to within the application site. The staircase as constructed has been built parallel with the existing garage/workshop rising in a south to north direction, therefore views would be available both to within the application site and west toward Collett Close. However, it is considered that these views would be limited and are not considered to result in any significant loss of privacy that would justify refusing the application on these grounds. When standing on the first-floor platform, views are available to the rear of no.1 Collett Close. It is recommended to impose a condition requiring a 1.8m high screen to be installed on the platform, to prevent any such overlooking. The provision of such a screen is not considered in itself to result in harm to residential or visual amenity..
- 7.16 Subject to the above conditions, it is considered that the proposals would not give rise to harm to residential amenity, and would comply with the requirements of policies HB1 and HB8 of the PPLP.

Environmental Impact Assessment

- 7.17 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.

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 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 proposed development is considered to be acceptable with regard to design, visual impact and the impact on the National Landscape. Subject to the imposition of conditions, the impact on residential amenity is also considered acceptable.

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 24/1405/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 add any other conditions that he considers necessary.

Conditions:

1. 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>Received</u>
Location plan	17/09/2024
Proposed block plan	09/09/2024
Proposed new shed elevations	09/09/2024
Garage elevations (north, south, east and west)	27/03/2025
Elevations new garden shed	09/09/2024
Garage roof plan	09/09/2024
Elevations (main dwelling)	09/09/2024

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.

2. The development hereby approved shall be carried out in accordance with the details of materials as specified in the application, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

3. Within three months of the date of this decision, details of a 1.8m high privacy screen (of a type that is impenetrable to sight) to be erected on the landing

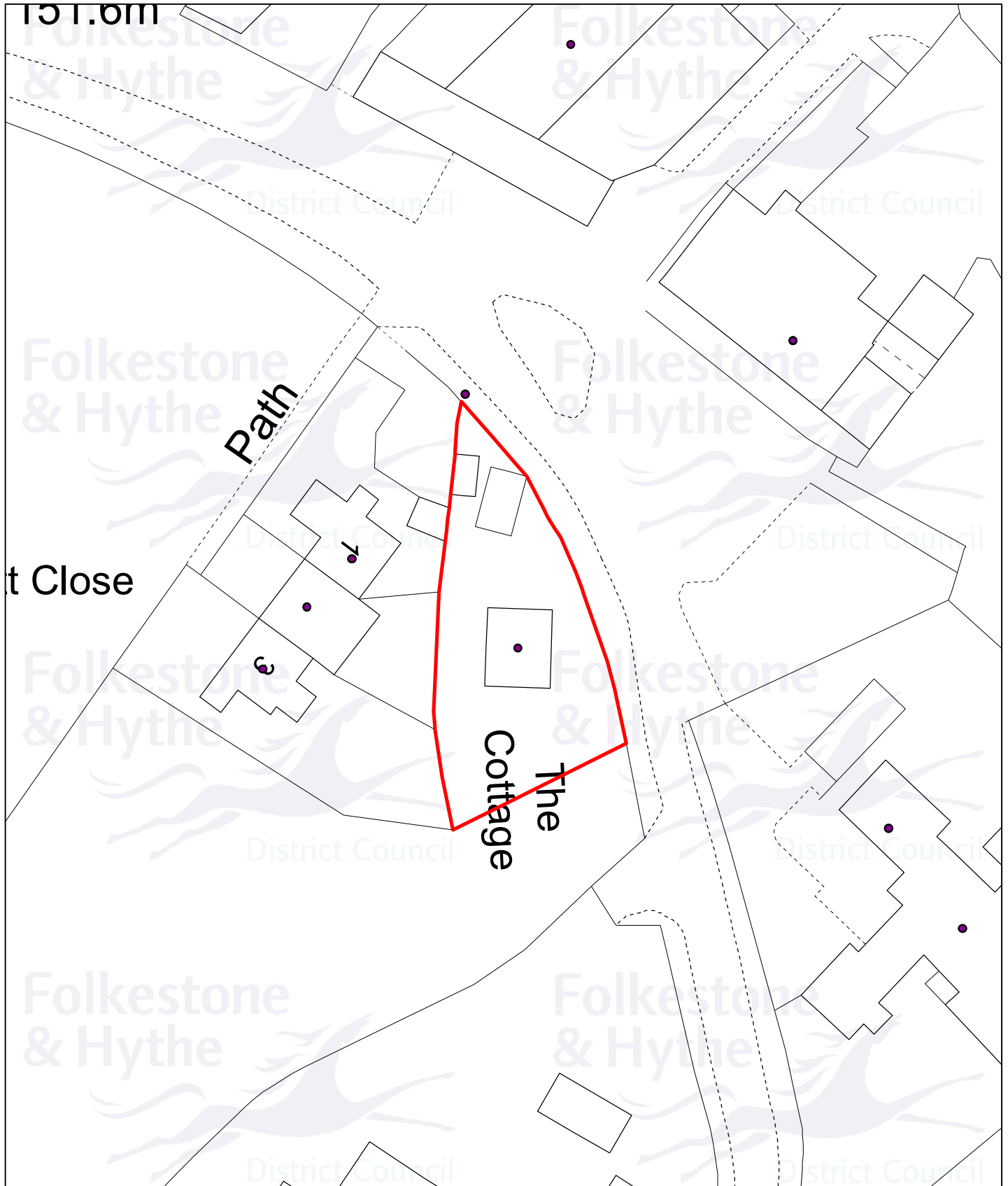
platform of the staircase hereby approved, shall be submitted for the written approval of the Local Planning Authority. The privacy screen shall be erected as approved, within six weeks of the date of the approval of these details and maintained in place at all times.

Reason: To minimise overlooking onto adjoining properties

4. Within three months of the date of this decision, the roof light window in the west facing garage roof slope shall be glazed with obscure glazing to not less than the equivalent of Pilkington Glass Privacy Level 3 and fixed shut. The rooflight shall be maintained as such thereafter.

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

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Planning Application:
24/1405/FH

Drawn date:
02 Jul 2025

Drawn by:
Carrie Stacey

Drawing ref:
1045/COP/LS

Llywelyn Lloyd

Llywelyn Lloyd
Chief Planning Officer

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Application Number	25/0232/FH
Location	Middle Park, Green Lane, Lyminge, Folkestone, CT18 8DN
Application Description	Erection of replacement dwelling
Applicant	Mr and Mrs Rampton
Agent	Mr Clague
Officer Contact:	Macey Douglas

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 the arboricultural survey was conducted by a member of Council staff.

2. Site and Surroundings

- 2.1 The application site comprises a two-bedroom bungalow situated within the Kent Downs National Landscape (KDNL) outside of the defined settlement boundary within a land of archaeological potential.
- 2.2 The plot itself measures approximately 0.53 ha, largely enclosed by mature dense hedgerow and deciduous tree planting to the northeastern, southeastern and southwestern boundaries with the northwestern boundary facing the highway featuring a sparser amount of planting allowing for glimpses into the site.
- 2.3 The northeastern corner of the site is occupied by two holiday lets, which received planning permission under reference 21/2490/FH.
- 2.4 The nearest residential property is situated over 180 metres to the south of the site.
- 2.5 Opposite the site, across the highway lies the ancient woodland.
- 2.6 The predominant character of the area consists of large two storey dwellings set in large plots with large separation distances between properties.
- 2.7 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 Georgian style two storey, three bedroom, dwelling and the demolition of the

existing bungalow. The dwelling would have a symmetrical appearance when viewed from the front northwestern elevation.

- 3.2. The replacement dwelling would be positioned approximately 15 metres to the southeast of the existing dwelling.
- 3.3. The dwelling would be constructed in red brick with red clay plain tiles to the roof and painted timber windows. The front entrance would feature a centrally located portico. A balcony is shown to serve the master bedroom at first floor level to the southeastern elevation. The southeastern roof slope would feature two flat roof dormer windows. All windows and doors would feature decorative brickwork lintel detailing.
- 3.4. Internally the dwelling would measure as follows:

No. of Bedrooms and People	Nationally Described Space Standards	Internal Floor Area
3 Bedroom - 6 Person	102 sq. metres	252 sq. metres

- 3.5. The rear garden would have a depth of 13.5 metres when measured from the rear building line to the southeastern boundary. Additional external amenity space would be provided to each side.
- 3.6. The existing vehicular access would be reconfigured to provide a circular gravel driveway to the front of the new property.
- 3.7. Parking would be provided in the northern most corner as shown on Figure 1 below, this would provide an area for more than 2 vehicular parking spaces.
- 3.8. The existing holiday lets positioned within the northeastern area of the site would remain.

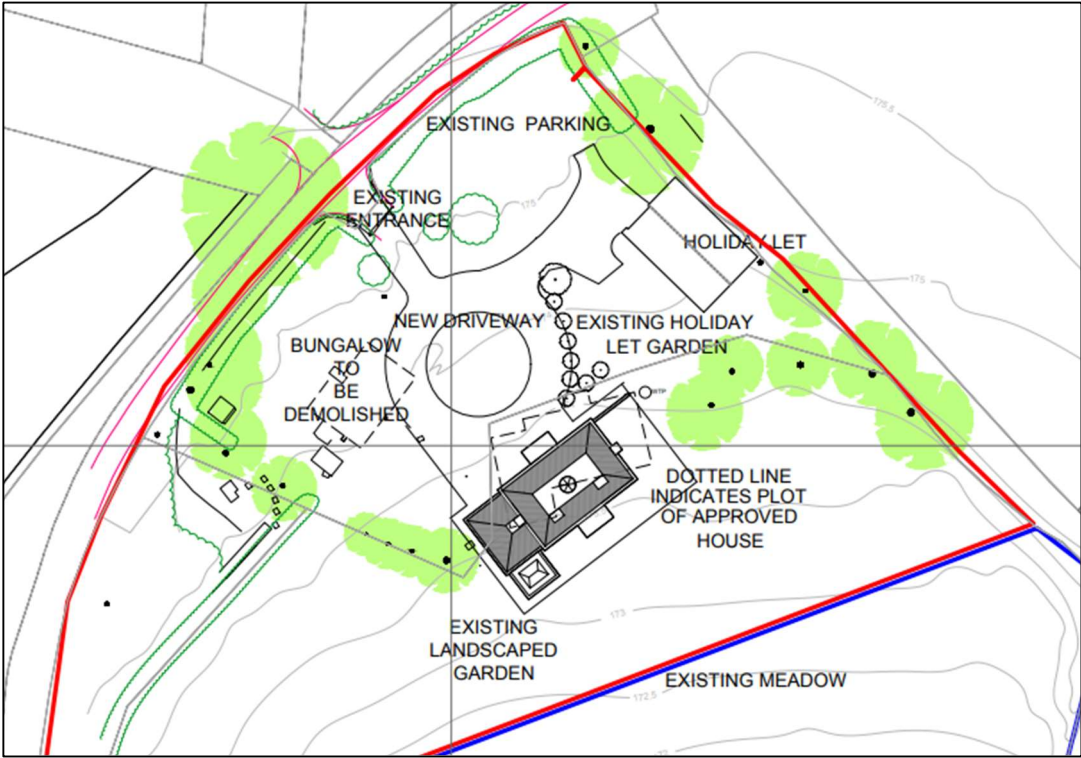


Figure 1: Proposed Block Plan



Figure 2: Elevations, Northwest and Southeast



Figure 3: Elevations Northeast and Southwest

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

Tree Survey (2025)

- 3.10. A tree survey accompanied the application which categorised the thirteen trees on site as ranging from category A-C. The report detailed that the arboriculture impact of the proposed scheme is considered to be low as all trees are to be retained. During the works protective fencing is proposed to be erected around all the retained trees, with any works required to be carried out in accordance with the 2010 revision of BS 3998 Recommendations for Tree Work.

Preliminary Ecological Appraisal (PEA) (2021)

- 3.11. PEA 2021 identified the following ecological features that were identified on site and suggested suitable mitigation measures, recommendations and enhancements.

- Confirmed roost for bats

- Potential for foraging and commuting bats
- Potential for nesting birds
- Potential for foraging and commuting badgers
- Potential for Dormice

Bat Mitigation Strategy (2021)

- 3.12. A bat mitigation strategy accompanied the application establishing the levels of foraging, commuting and roosting bats, confirming that the development would have no impact upon foraging and commuting bats, but would have an impact on roosting bats.
- 3.13. The mitigation strategy detailed mitigation and compensation measures.

KB Ecology Letter (2025)

- 3.14. To support the Preliminary Ecological Appraisal undertaken in 2021, an updated letter was submitted accompanying the application. The letter confirmed that whilst there were no bats found within the loft of the existing dwelling, evidence to suggest that there was the potential for roosting bats.
- 3.15. The letter also confirmed that no setts or signs of badgers were identified on site.
- 3.16. In light of this letter, it has been confirmed that updated bat emergence surveys will be required in accordance with best practice.

4. Relevant Planning History

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

Y04/0787/SH	Erection of agricultural store	Approved with Conditions
21/1429/FH	Erection of replacement dwelling	Approved with Conditions
21/2490/FH	Change of use of existing building to 2no. self-contained holiday lets with associated external alterations, parking and landscaping.	Self-Approved with Conditions

5. Consultation

- 5.1 No comments received from the Ward Members. Councillors J. Hollingsbee and E. Martin.
- 5.2 The consultation responses are summarised below.

Consultees

Lyminge Parish Council: No objection

KCC Highways and Transportation: No comment to make.

KCC Archaeology: No objection subject to condition requiring an archaeological watching brief for the area concerning the new driveway.

KCC Ecology: No objection subject to condition requiring bat mitigation measures.

Natural England: No objection

Environment Agency: No comment.

Southern Water: No objection subject to conditions

Environmental Health Officer: No objection subject to conditions

Public/Neighbour Consultation

5.3 The application was publicised by way of a site notice.

5.4 No responses were received during the consultation period.

6. Planning Policy

Development Plan

6.1 The Development Plan comprises the Core Strategy Review (2022), 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
- HB3 - Internal and External Space Standards
- HB5 - Replacement Dwellings in the Countryside
- T2 - Residential Parking
- T5 - Cycle Parking
- NE3 - Protecting the Districts Landscapes and Countryside

Core Strategy Local Plan (2022)

- SS1 - District Spatial Strategy
- SS2 - Housing and the Economy Growth Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- CSD1 - Balanced Neighbourhoods

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

Supplementary Planning Guidance/Documents

Kent Downs AONB Management Plan

- MMP2 - Material Considerations
- SD1 - Landscape Led Approach
- SD2 - Conserve and Enhance Local Character, Qualities and Distinctiveness
- SD3 - Cumulative Impact
- SD7 - Conserve and Enhance Tranquillity and Dark Night Skies
- SD9 - Maintaining and Strengthening Historic and Locally Distinctive Character
- LLC1 - Protection, Conservation and Enhancement of Special Characteristics and qualities

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 96-118 - Promoting healthy and safe communities.

Paragraph 131-141 - Achieving well-designed places.

Paragraph 161-186 - Meeting the challenge of climate change, flooding and coastal change.

Paragraph 187-201 - Conserving and enhancing the natural environment.

National Planning Policy Guidance

Biodiversity Net Gain

Natural Environment

Rural Housing

Countryside and Rights of Way Act (2000) Section 85

Duty is placed on authorities to seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape

7. Appraisal

7.1 The main issues for consideration are:

- a) Is the proposal well designed?
- b) Does the proposal meet residential space standards?
- c) Is the proposal acceptable in regard to residential amenity?
- d) Does the proposal provide sufficient parking?
- e) Would the proposal harm any trees?
- f) Would the proposal harm ecology and biodiversity?
- g) Other matters

a) Is the proposal well designed, and would it respect the rural landscape?

- 7.2 Replacement dwellings in the countryside and KDNL are acceptable as a matter of principle in accordance with Policy HB5 of the PPLP subject to other.
- 7.3 Policy HB1 of the PPLP requires development to make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density and materials.
- 7.4 Whilst the proposed dwelling is larger in height, scale and footprint it would reflect the predominant character of the area.
- 7.5 The proposed dwelling would be appropriately sited, away from boundaries, consistent with the typical pattern of development in the vicinity. This in turn, with the benefit of boundary landscaping would help assimilate the development into the landscape.
- 7.6 The proposed dwelling, owing to its appropriate proportions, high quality design and materials which are suitable for this KDNL location, would conserve and enhance the natural beauty of the National Landscape. It's scale and form are consistent with the surrounding character of properties in the local vicinity.
- 7.7 I would however recommend a condition be imposed to require details of the materials to be used in the construction of the property and details of both soft and hard landscaping to ensure that the proposed development would be of a high quality and would further enhance the natural beauty of the KDNL.

- 7.8 In seeking to conserve the scenic beauty of the KDNL it is considered reasonable to restrict permitted development rights associated with the property to enable the Local Planning Authority to consider the impact of any extensions to the dwelling on the character and appearance of the site and wider KDNL and a condition is recommended.
- 7.9 The imposition of conditions restricting further development and seeking improved landscaping is considered to meet the requirements of the duty to seek to further the purpose of conserving and enhancing the natural beauty of the KDNL.
- 7.10 In light of the above, I am satisfied that the proposals are well designed and would respect the rural landscape. Subject to the imposition of conditions, the development is considered to accord with Policies HB1, HB5 and NE3 of the PPLP.

b) Does the proposal meet residential space standards?

- 7.11 The dwelling would exceed the nationally described internal space standards and provisions set out under policy HB3 for a three-bedroom, six-person dwelling.
- 7.12 The proposed dwelling would benefit from a significantly large residential amenity space surrounding the property which meets the aims of policy HB3.
- 7.13 I am therefore satisfied that the proposals would accord with the Council's space standards.

c) Is the proposal acceptable in regard to residential amenity?

- 7.14 Given the separation distances to the nearest dwellings, it is not considered the proposal would result in harm to residential amenity.

d) Does the proposal provide sufficient parking?

- 7.15 The site, which is already a dwelling, would continue to benefit from a sufficient off-road parking which can be accessed via the existing access points.
- 7.16 I am satisfied that the proposals would not result in harm to highway safety.

e) Does the proposal impact any trees?

- 7.17 The proposed development as confirmed through the submitted Tree Survey carried out in 2025 would not lead to the loss of the trees on site or result in harm to their health.
- 7.18 Some mature landscaping is present on-site, and some has been outlined on the plan. None would be impacted by this development.

- 7.19 The proposed dwelling would be located a significant distance from, and on the opposite side of Green Lane to, the nearby ancient woodland. On this basis, it is considered that the proposal would have no impact in this respect.

f) Is the proposal acceptable in regard to ecology and biodiversity net gain?

- 7.20 The replacement dwelling is proposed to be a self-build development. The proposal would therefore be exempt from Biodiversity Net Gain and is not required to carry out any additional mitigation.
- 7.21 Members will note that KCC Ecology raise no objection, subject to conditions. The proposed development is considered acceptable in this regard.

g) Other Matters

- 7.22 The comments of KCC Archaeology are noted. A condition is recommended to be imposed in accordance with their representation.
- 7.23 Details relating to refuse storage and water calculations can be secured by condition.

Environmental Impact Assessment

- 7.24 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

- 7.25 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.
- 7.26 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 £173.31 per square metre for new residential floor space.

Human Rights

- 7.27 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

- 7.28 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.
- 7.29 It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

- 7.30 In accordance with paragraphs 39 of the NPPF (2024), 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 a replacement dwelling is acceptable, and it is not considered that the proposed dwelling would result in harm as mentioned above.

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 25/0232/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:

<u>Plan/Drawing Title</u>	<u>Drawing Number</u>	<u>Received</u>
Proposed Site Plan	27730_PL002	10/02/2025
Proposed NW and SE Elevations	27730_PL006	10/02/2025
Proposed NE and SW Elevations	27730_PL007	10/02/2025
Proposed Ground Floor Plan	27730_PL003	10/02/2025
Proposed First Floor Plan	27730_PL004	10/02/2025
Proposed Second Floor and Roof Plan	27730_PL005	10/02/2025
Design and Access Statement		10/02/2025
Preliminary Ecological Appraisal		10/02/2025
Biodiversity survey and report		10/02/2025
Bat Mitigation Strategy		10/02/2025
Tree Protection Plan	TPP001 Rev A	09/04/2025
Tree Survey		09/04/2025

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. 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. No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings 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.

6. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works for the whole site (including the location of the existing dwelling to be demolished) 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.

7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in full within three months of the first occupation of the replacement dwelling hereby approved.

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

8. 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.

9. Prior to demolition, a bat mitigation strategy must be submitted to the LPA for written approval. It must include the following:

- Bat emergence survey less than two years old
- Overview of Mitigation
- Detailed methodology to implement the mitigation
- Timings of works
- Details of who will implement the mitigation
- The plan must be implemented as approved

Reason: In the interest of wildlife and biodiversity

10. No further development otherwise permitted by Classes A, B, C and D, of 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) shall be carried out.

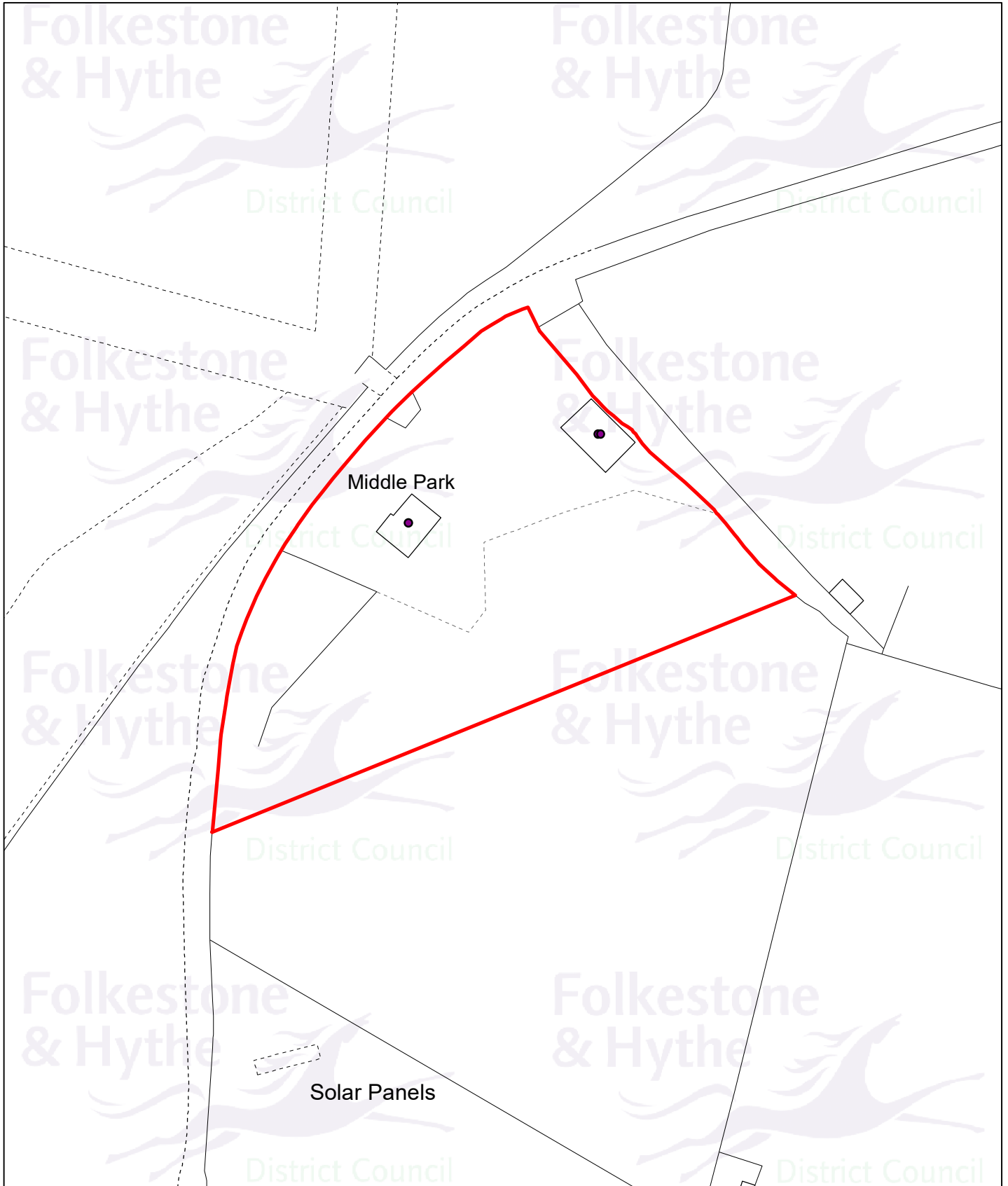
Reason: In the interests of the visual amenity and character and appearance of the Kent Downs National Landscape.

11. Written notification of the date of the first occupation of the replacement dwelling hereby approved shall be submitted to the Local Planning Authority within fourteen days of first occupation. The existing dwelling shall thereafter be demolished within six months of the first occupation date of the approved replacement dwelling and all resulting materials removed from the site.

Reason: The erection of a dwelling is only acceptable within this location on the basis that it replaces the existing dwelling on the site. The retention of two dwellings on this site would be contrary to Core Strategy policies SS1, SS3 and CSD3, Places and Policies Local Plan policy HB5 and the NPPF.

12. In the event that at any time while the development is being carried out contamination is found it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: 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.



Planning Application:
25/0232/FH

Drawn date:
02 Jul 2025

Drawn by:
Carrie Stacey

Drawing ref:
1342/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	23/0782/FH
Location	Land Adjoining Pepperland Nursery, Straight Lane, Brookland
Application Description	Erection of 3 dwellings together with new access
Applicant	Mr Obinna Orizu
Agent	Miss Tiziana Mori
Officer Contact:	Danielle Wilkins

Recommendation

That planning permission be refused for the reason(s) set out at the end of the report.

1. Reason for consideration by the Committee

- 1.1. The application is reported to Committee as the Chief Planning Officer believes it raise issues which should be considered by Members.

2. Site and Surroundings

- 2.1 The application site is an undeveloped strip of land of approximately 0.41 acres located between the former Pepperland Nursery and Lime Tree Farm on the south side of Straight Lane (A259).
- 2.2 The site is outside the settlement boundary and within a Local Landscape Area. The site is classified within Grade 1 Agricultural Land however it is vacant and not currently in use. The site is also within an Archaeological Notification Area and a Site of Special Scientific Interest impact risk zone. In addition, the site has been identified as a reptile receptor site in association with the approval granted for planning application 22/1786/FH.
- 2.3 The site has direct access to the A259, a national trunk road, restricted to the national speed limit of 60mph. There are no pedestrian footways.
- 2.4 It should be noted that the adjoining site to the southwest at Pepperlands Nursery has been granted permission for the erection of 8 detached dwellings. This is considered in more detail below.
- 2.5 Views into the site from the west/southwest are obscured by the existing greenhouses and agricultural buildings at the Pepperlands Nursery. Although it is acknowledged that under existing permissions, these building would be removed and replaced with dwellings. When observed from the east and

north, views into the site are relatively open, with scattered trees on the boundaries.



Figure 1 - aerial photo of the site

2.6 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 one detached dwelling and a pair of semi-detached dwellings with shared vehicular access from Straight Lane (A259).

Detached dwelling

3.2. The detached dwelling would be located to the front of the site, perpendicular to the highway, would be part single and part 2-storey and contain 4-bedrooms. Off-street parking would be provided with an integral car port. The rear garden would have a depth of approximately 9.8 metres and extend beyond the full width of the dwelling.

3.3. It has been designed to resemble a barn type structure with a two-storey 'wing' attached to the rear of the building. It would have a footprint of approximately 188sqm. Materials proposed consist of timber cladding to all elevations and a timber clad roof. Aluminium fenestration is proposed throughout.

Semi-detached dwellings

- 3.4. The pair of semi-detached dwellings, positioned to the rear of the site, would be 4-bed and two-stories high. Each dwelling would have a rear garden of a depth of between 9 and 14 metres. Off-street parking is proposed within integral car ports.
- 3.5. They would be predominantly two-storey with a flat roof mid-section linking both dwellings, a two-storey flat roofed front projection, and a pitched roof end section.
- 3.6. They would have a footprint of approximately 104.5sqm. Materials proposed consist of ragstone to the flat roofed elements and hanging clay tiles to the pitched roof sections with a clay tiled roof. Aluminium fenestration is proposed throughout.

Parking and Space Standards

- 3.7. The proposed site plan indicates that each of the semi-detached dwellings would be served by one parking space within the integral car ports, and the detached dwelling would have three parking spaces (two inside the car port/garage and one parallel with the driveway/dwelling. One visitor space is indicated on the plans.
- 3.8. The proposed Gross Internal Area for each dwelling has been set out below.

	GIA proposed (m2)	GIA required (m2)
Plot 1	217.71	124
Plot 2	206.27	124
Plot 3	206.27	124

- 3.9. The application form states that bin and bicycle store would be within the garage of each property.
- 3.10. The design and layout of the development is shown on the drawings below:



Figure 2 - proposed block plan



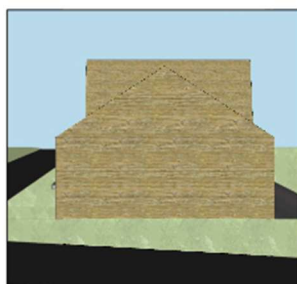
Figure 3 - Plots 2 and 3 proposed elevations



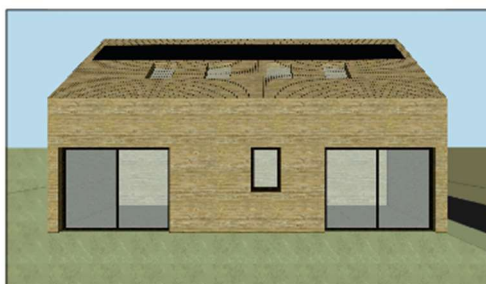
East elevation



West elevation



North elevation



South elevation

Figure 4 - Plot 1 proposed elevations

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

Design and Access Statement

- 3.12. The report sets out that the site is undeveloped and located between the former Pepperlands Nursery and Lime Tree. Farm. It adds that the site is covered in shrubbery and that all existing trees will be retained. The report acknowledges that the site is outside the settlement boundary, but that planning permission was approved at the Pepperlands Nurseries for residential development. The report adds that the project is designed sustainably through the use of renewable energy, landscape improvements and the creation of wildlife pockets.

- 3.13. The report sets out the design rationale for the development and that the proposal would keep an informal rural street scene, with the detached dwelling sitting at the front of the site with a single storey barn style block with a two storey block behind that, the two storey dwellings would be positioned to the rear of the site.

Preliminary Ecological Appraisal

- 3.14. This report details the potential ecological constraints at the site. It states that the site is predominantly improved grassland, consisting of dense nettles, creeping buttercup, broad-leaved dock, spear thistle, hemlock, ground ivy, common ragwort, hawthorne, cherry and elder with areas of disturbed ground with intensive rabbit grazing. Leylandii trees are present along the west boundary.
- 3.15. The report sets out that the site has the potential to provide habitat for protected species such as Great Crested Newts and hedgehogs and that a number of common Lizards were found on the adjoining site (Pepperlands Nursery) and there is therefore the potential for Lizards to also be present at the application site. No further surveys were conducted.
- 3.16. The report sets out that breeding birds and foraging bats may be present on the site.

Ecology Statement

- 3.17. This document sets out the recommended mitigation measures and ecological enhancements, including hedgehog holes in fencing and nesting log piles, swift bricks, new native species planting, climbing plants, wildflower plugs, grid mesh system with topsoil and seeding to parking area and establish Fruit Espaliers.

4. Relevant Planning History

- 4.1 There is no relevant planning history for the site, however it is considered that the planning history for adjoining sites is relevant to this case, as follows:

Application no.	Site address	Proposal	Approved/ Refused
Y16/0009/PA	Middle House Nursery, Straight Lane, Brookland	Determination as to whether the prior approval of the Local Planning Authority is required under Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of	Approved

		a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8 (storage and distribution), Class C1 (hotels) or Class D2 (assembly and leisure).	
Y18/0169/SH	Pepperland Nursery, Straight Lane, Brookland	Determination as to whether the prior approval of the Local Planning Authority is required under Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the building from light industrial (Class B1c) to four dwellinghouses (Class C3).	Approved
20/0351/FH	Pepperland Nursery (north unit) Straight Lane, Brookland	Planning permission for demolition of 3.3 metre section from building, reduction in eaves, conversion to hip end roof and external cladding further to permission granted on application Y18/0169/SH	Approved
21/0049/FH	Pepperland Nursery (north unit) Straight Lane, Brookland	Planning permission for external works including demolition of 3.3 metre section from building, reduction in eaves, conversion to hip end roof, and external cladding further to permission granted by application Y18/0169/SH.	Approved
21/0325/FH/PA	West Unit, Pepperland Nursery, Straight Lane, Brookland	Determination as to whether the prior approval of the Local Planning Authority is required under Class Q of the Town and Country Planning	Approved

		(General Permitted Development) (England) Order 2015 (as amended) for the change of use of the building from agricultural to residential with internal and external building operations.	
21/1792/FH/PIP	North Unit, Pepperland Nursery, Straight Lane, Brookland, TN29 9QU	Permission in Principle application made under the Town and Planning Country (Permission in Principle) Order 2017 for a low density residential (Use Class C3) development (6-9no. dwellings).	Approved
22/1876/FH	North Unit, Pepperland Nursery, Straight Lane, Brookland, TN29 9QU	Technical Details Consent application for 8no. new build dwellings at Pepperland Nursery (North Unit), Straight Lane, Brookland, Romney Marsh, Kent, TN29 9QU pursuant to Permission in Principle (PiP) granted under 21/1792/FH/PIP	Approved
The Reptile Survey and Mitigation Strategy submitted with this application sets out that the current application site would act as a receptor site for the reptiles to be removed and relocated.			
23/1374/FH/PIP	Widespan Nursery, West Unit, Straight Lane, Brookland	Permission in Principle for the redevelopment of 3-5 dwelling previously consented residential and commercial use.	Approved
23/1497/FH/PIP	Middle House Nursery, Straight Lane, Brookland	Permission in Principle for the development of 4-8 dwellings.	Approved
24/0198/FH/TDC	Middle House Nursery, Straight Lane, Brookland	Technical Details Consent for 4-8 dwellings pursuant to permission in Principle (PIP) granted under 23/1497/FH	Approved

5. Consultation

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

- 5.1 The consultation responses are summarised below.

Consultees

Brookland Parish Council: No objection

KCC Highways and Transportation: No comments to make

KCC Ecology: Concern was raised in regard to the potential for Great Crested Newts at the site and the omission of any further surveys. Concern was also raised in regard to the potential for the site to provide suitable reptile habitat but that the results of reptile survey carried out in support of application 22/1786/FH were still relevant to this application. However, this proposal raises concerns in regard to the proposed mitigation as approved under application 22/1786/FH which identifies the application site as a reptile receptor site.

Natural England: No comments received

Southern Water: Comment that there are no public foul or surface water drains in the area and advise the applicant to explore other means of foul disposal.

National Highways: No objection subject to conditions

Environmental Health: No objection subject to conditions

Public/Neighbour Consultation

- 5.2 6 neighbours directly consulted. 0 representations have been received.

- 5.3 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
HB3	-	Internal and External Space Standards
HB6	-	Local Housing Needs in Rural Areas
T2	-	Parking Standards
T5	-	Cycle Parking
NE2	-	Biodiversity
NE3	-	Protecting the District's Landscapes and Countryside
NE5	-	Light Pollution and External Illumination
CC1	-	Reducing Carbon Emissions
CC3	-	Sustainable Drainage System (SuDS)
HE2	-	Archaeology

Core Strategy Local Plan (2022)

SS1	-	District Spatial Strategy
SS3	-	Place-Shaping and Sustainable Settlements Strategy
CSD1	-	Balanced Neighbourhoods
CSD3	-	Rural and Tourism 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.

Paragraphs 131, 135 & 139 – Achieving well designed places

Paragraphs 173-182 – Flood risk, sequential and exceptions tests

Paragraphs 187 – Enhancing the natural environment

Paragraph 193 – Biodiversity

7. Appraisal

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

- a) Whether the principle of development is acceptable?**
- b) Has the proposal been well designed?**
- c) Would the proposal meet the internal and external space standards?**
- d) Whether the proposal would harm neighbour amenity?**
- e) Whether the proposals result in harm to Highway safety?**
- f) Whether the proposal would result in harm to ecology and biodiversity?**
- g) Whether the proposal would result in harm to any matters of archaeological interest?**
- h) Whether the proposal would result in any environmental concerns?**
- i) Balancing exercise**

a) Whether the principle of development is acceptable?

7.2 The site is not allocated for housing and while the NPPF makes it clear that windfall sites can make an important contribution to housing delivery, great weight should be given the use of sustainable sites within existing settlements, likewise, policy SS1 of the Core Strategy seeks to direct development to existing settlements.

7.3 The Settlement Hierarchy, as set out within the Core Strategy, provides a framework to concentrate development in selected locations so as to maximise efficient use of existing infrastructure and support business and community facilities. To maintain the character and integrity of the countryside and protect small rural places, the extent of settlements is defined through boundaries separating settlements from open countryside. The application site is outside of the defined settlement boundary and therefore within the countryside for the purpose of applying planning policy.

7.4 Brookland is identified as a primary village in the Core Strategy which are defined as “larger or better-served rural settlements within their character area, and as a group of locations there may be potential – subject to further examination of environmental impact – for modest expansion from their current built limits to meet rural development needs”. However, the Core Strategy notes that there is a contrast in size between the largest and smallest settlements identified as a primary village and that any growth should be proportionately limited in scale and well-related to the existing built environment and infrastructure.

7.5 There are two allocations within the Local Plan, one at Rosemary Corner and another at Pod Corner, both closer geographically to the village centre and located in areas with pedestrian access to the village. In addition, a number of planning permissions have been granted at the former Pepperlands

- Nursery (as outlined in the planning history section above), a brownfield site which also benefits from pedestrian access to the main village and included a new vehicular access from the section of Straight Lane that is not a classified road and where the speed is restricted to 30mph.
- 7.6 The application site is located to the northwest of the village centre, on the A259 where there are no pedestrian footways and a non-restricted speed limit, approximately 0.33km from the settlement boundary. Brookland has one bus stop located in front of St Augustine's Church, approximately an 8-minute walk from the application site, this is a limited service with four busses per day going to Ashford and three per day going to New Romney. It is therefore considered that, while the site is located a short distance from the village centre, due to the siting of the site on the A259 (a national trunk road) with no safe pedestrian routes into the main village that the future occupants of the dwelling would be highly reliant on private motor car, and the site is therefore considered unsustainable in this regard.
- 7.7 Notwithstanding the above, it is noted that the application site is adjacent to a site with planning permission for the erection of dwellings and is therefore not considered to be isolated.
- 7.8 It is therefore considered that the while the proposal would conflict with the aims of policies SS1 and SS3 of the Core Strategy, this would be a limited extend, immediately abutting sites with planning permission for housing.
- 7.9 Paragraph 11 of the NPPF states that decision makers should apply a presumption in favour of sustainable development, which means that:
- "Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*
- 7.10 The footnote to paragraph 11 sets out that policies relating to housing development are to be considered out of date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 7.11 This is often referred to as "the tilted balance". The balancing exercise is tilted from a neutral balance to one where there must be compelling reasons

for permission to be withheld - where the protection of, for example, valued landscapes, designated heritage assets or sites designated for their ecological interest provides a **strong** (my emphasis) reason for refusal or where the adverse impacts of granting permission would **significantly and demonstrably outweigh** (my emphasis) any benefits.

- 7.12 The Council is currently only able to demonstrate 3.1 years supply of deliverable housing sites and cannot therefore demonstrate a five year supply as required by the NPPF. This means the tilted balance is therefore engaged and Development Plan policies relating to the location of residential development in the countryside are considered “out of date” as a result. This includes the spatial strategy set out in the Core Strategy, which should now be afforded less weight in the decision making process.
- 7.13 Having regard to the requirements of paragraph 11 of the NPPF, planning permission should only be refused where the adverse impacts arising from the proposal would “significantly and demonstrably” outweigh the benefits of the development. Therefore, limited weight should be given to the location of the application as lying outside of the defined settlement boundary.

b) Has the proposal been well designed?

- 7.14 Policy SS1 of the Core Strategy seeks to protect the character of the countryside, landscape and villages from the adverse impacts of growth stating that development within the Romney Marsh Area must protect and enhance the coast and the many special habitats and landscapes. This is endorsed by policy NE3 of the PPLP which states that proposals should protect or enhance the landscape character and functioning of Local Landscape Areas and states that the Council will not permit development proposals that are inconsistent with this objective unless the need to secure economic and social wellbeing outweigh the need to protect the areas local landscape importance.
- 7.15 The site is located within the Romney Marsh Local Landscape Area (LLA) which covers a large area including Dungeness and the coastal settlements, as well as extensive areas of drained farmland and several marshland villages and is characterised by low lying land interspersed with drainage ditches.
- 7.16 The site itself comprises scrub land sited between the former Pepperlands Nursery and Lime Tree Farm. The site is undeveloped and is largely open to the countryside with boundary treatments consisting of post and rail and post and wire fencing with some scattered trees close to the boundaries. There are no existing dwellings immediately adjoining the site however it is acknowledged that planning permission has been granted on the former Pepperlands site for housing, although as stated above, those sites involved the redevelopment of a brown field site, as opposed to the current greenfield site.

- 7.17 Views into the site are long reaching due to the open nature of the wider area combined with the largely flat and undeveloped landscape, that is part of the character of the Romney Marsh.
- 7.18 Policy HB1 of the Places and Policies Local Plan emphasises that proposals should make a positive contribution to its location and surroundings, particularly with regard to layout, scale, proportions, massing, form, density and materiality.
- 7.19 The NPPF also places emphasis on the creation of high-quality, beautiful and sustainable buildings at paragraph 131.

Semi-detached dwellings

- 7.20 The design of the semi-detached buildings as set out in paragraphs 3.4 and 3.5 (above) is considered to constitute poor design, given the proposed bulky, square shaped and incohesive appearance. It is considered that their competing, varying roof forms and extensive flat roofed areas (exacerbated by the use of ragstone walls) and internal car ports with an oversailing first floor, would result in a top-heavy, poorly proportioned and incoherent appearance which would be at odds with and harmful to the local context, which is characterised by traditional dwellings with pitched roofs.
- 7.21 In addition, the proposed materials are not characteristic of the wider Romney Marsh, the use of Ragstone is only found on the Church rather than on dwellings in the area. Hanging tile is typically reserved for the Listed or historic buildings with the majority of the dwellings in the area being finished in brick or painted render. Further to my own observations, the Romney Marsh Landscape Character Assessment notes that domestic and agricultural buildings are constructed of brick, tile and weatherboarding, with no mention of Ragstone. The LCA states within the recommendations table for the Romney Marsh Proper Farmlands that “materials should be carefully chosen to blend with the existing built environment, and to minimise the visual intrusion of large structures”. However, the concern with the proposed dwellings is not simply the materials, but rather the form and design of the proposed dwellings as set out above.
- 7.22 The combination of all the above factors would result in an intrusive form of the development harmful to the entrance to Brookland and the wider landscape.

Detached dwelling

- 7.23 The detached dwelling would have a large footprint together with a large blank, flank elevation fronting the A259 highway. The asymmetric roof form of the two-storey element with eaves of differing heights would appear at odds

with the main single storey section of the building and does not reflect the character of the wider rural area.

- 7.24 Notwithstanding the use of timber cladding, the elevations are lacking in meaningful articulation and visual richness. The large expanses of solid walls present a poor window to wall void ratio, which in the absence of other articulation would give rise to a residential dwelling with a utilitarian, commercial appearance that is not reflective of the dwellings in the area to the detriment of the areas visual amenity. Section 12 of the NPPF seeks to ensure that all development is well-designed, with paragraph 135 requiring that development should add to the quality of an area and be 'visually attractive' as result of good architecture, further, paragraph 139 states that development that is not well designed should be refused.
- 7.25 The proposed development as a whole would be visible from the A259 in particular, which runs east to west directly in front of the site, providing views into the site from both directions, particularly from the east where the landscape is open. Views into the rear of the site from Boarmans Lane would be limited owing to the existing vegetation on the highway boundary. Views would be possible across the field directly opposite the site from Oldhouse Lane (to the north). Although the proposed dwellings would be seen against the backdrop or within the context of either the existing nursery or a neighbouring residential development, they would result in some landscape and localised visual harm which would not be fully mitigated by the landscaping.
- 7.26 It is therefore considered that the proposed dwellings by virtue of their form, mass, bulk, design and materiality, are not considered to constitute good design and would therefore result in harm to the character and appearance of the area. The proposal would therefore fail the criteria of policy HB1 of the PPLP and the aims and objectives of the NPPF.

c) Would the proposal meet the internal and external space standards?

- 7.27 In terms of internal space standards, the table in paragraph 3.8 of this report sets out the GIA required and proposed for each dwelling and illustrates that all dwellings meet and exceed the space standards required. In addition, habitable rooms would be served by appropriately sized windows which would provide suitable levels of natural light to the bedrooms and living spaces proposed, as well as a reasonable level of outlook.
- 7.28 One of the semi-detached dwellings meets the required external space standards and has a rear garden exceeding 10 metres in depth. The remaining semi-detached and detached dwelling would have gardens which fall short of the required 10 metres, however, it is considered that the width of the gardens would compensate for this shortfall. The application is therefore acceptable on these grounds and would satisfy the criteria of policy HB3.

d) Whether the proposal would harm neighbour amenity?

- 7.29 There are no existing dwellings within the vicinity of the application site.
- 7.30 As planning permission has been granted for the erection of residential dwellings on the adjoining site, consideration has been given to the impact of the proposal on these properties should they be constructed. The approved site plan has been appraised and a distance of least 14.5m would be retained between the closest approved dwelling and the dwellings proposed here. In addition, the existing boundary treatment to the southeast of the site would be retained which would obscure views from between the rear gardens. It is therefore considered that the proposal would not give rise to harm to the residential amenity of future occupiers of the Pepperlands development.
- 7.31 Rear balconies are proposed to serve the semi-detached dwellings; this would introduce a loss of privacy to the future occupiers of the dwellings as no privacy screen is proposed between the balconies. Had the application been otherwise acceptable, this detail could have been secured by condition.
- 7.32 In summary, it is considered that the proposal would safeguard neighbouring residential amenity and comply with policy HB1 in this respect.

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

Detached dwelling

- 7.33 Two cars can be parked at the site to serve this dwelling, this is acceptable and complies with policy.

Semi-detached dwellings

- 7.34 The proposed car barns do not meet the minimum internal standards as set out in Kent County Council's Parking Standards document. This requires that spaces within enclosed car barns allow at least 3.6m in width to allow car doors to open on both sides of the vehicle. The proposed car barns measure approximately 3.2m in width internally and therefore fail this requirement.
- 7.35 The submitted block plan demonstrates that there is additional space within the site, particularly in front of the car barns, which could be utilised for parking. However, it has not been demonstrated how this could be achieved. It is considered that a parking plan could be requested by condition if required.

Visitor parking

- 7.36 Policy T2 requires 0.2 visitor parking spaces on street per unit, in this case at least one space should be provided within the site. The visitor space provided does not meet the required width of a standard parking space, however there

is additional space surrounding the proposed visitor bay to accommodate a parking space of the correct size.

- 7.37 Had the application been acceptable in other regards, additional parking details could have been secured by condition as it is considered that the site has capacity to provide parking for the required number of cars.
- 7.38 National Highways have raised no objections to the proposed access subject to conditions. These would include highway access works, drainage, boundary treatments, lighting and the requirement for a Construction Environmental Management Plan.
- 7.39 The proposal is therefore not considered to result in any significant highway safety concerns subject to suitably worded conditions.

f) Whether the proposal would result in harm to ecology and biodiversity?

- 7.40 The PEA identifies the presence of protected species such as Great Crested Newts and other reptiles. These are addressed separately below.

Great Crested Newts

- 7.41 The application is supported by a countersigned Impact Assessment and Conservation Payment Certificate (IACPC) with Natural England. This consists of a payment to Natural England whereby developers pay for off-site compensation ponds instead of carrying out detailed surveys and applying for a mitigation licence. There are no objections to this given the agreement with Natural England.

Reptiles

- 7.42 The submitted Preliminary Ecological Appraisal shows that there is suitable reptile habitat on site that will be lost as a result of this proposal. However, the development of the site conflicts with the reptile mitigation proposed for planning application 22/1786/FH as the proposed reptile receptor site and mitigation is located within the site area of this application. An updated reptile mitigation plan that considers the reptile populations of both sites is required prior to determination.
- 7.43 Paragraph 193 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigate or as a last resort compensated for then planning permission should be refused. In the absence of additional surveys which consider the reptile populations of the application site and the adjoining site, the proposal fails to demonstrate that it would not result in significant harm to protected species and ecology and would therefore be contrary to national policy. The application is therefore unacceptable on these grounds.

Other protected species

- 7.44 Sufficient mitigation to ensure that no harm arises to other protected mammals can be ensured by condition as set out in the submitted PEA.
- 7.45 KCC Ecology have confirmed that there is habitat at the site which would provide opportunities for breeding birds, however subject to suitably worded conditions any potential impacts could be mitigated.

Biodiversity Net Gain

- 7.46 The application was submitted prior to 1st April 2024 and therefore the mandatory BNG requirement of 10% is not needed in this instance. There are though opportunities to enhance ecology and biodiversity and these can be secured by condition.
- 7.47 KCC Ecology have advised that should planning permission be granted that the recommendations for ecological enhancements set out in the PEA are secured by condition.

Protected Sites

- 7.48 The site is located within a SSSI impact risk zone due to its proximity to protected sites, however the closest of which is the Dungeness, Romney Marsh and Rye Bay SSSI, Ramsar and Special Protection Area approximately 1.29 miles to the south at Walland Marsh. This is followed by Fairfield Brack (SSSI, Ramsar and SPA) approximately 1.35 miles to the northwest and East Guldeford (SSSI and Ramsar) approximately 2.45 miles to the southwest.

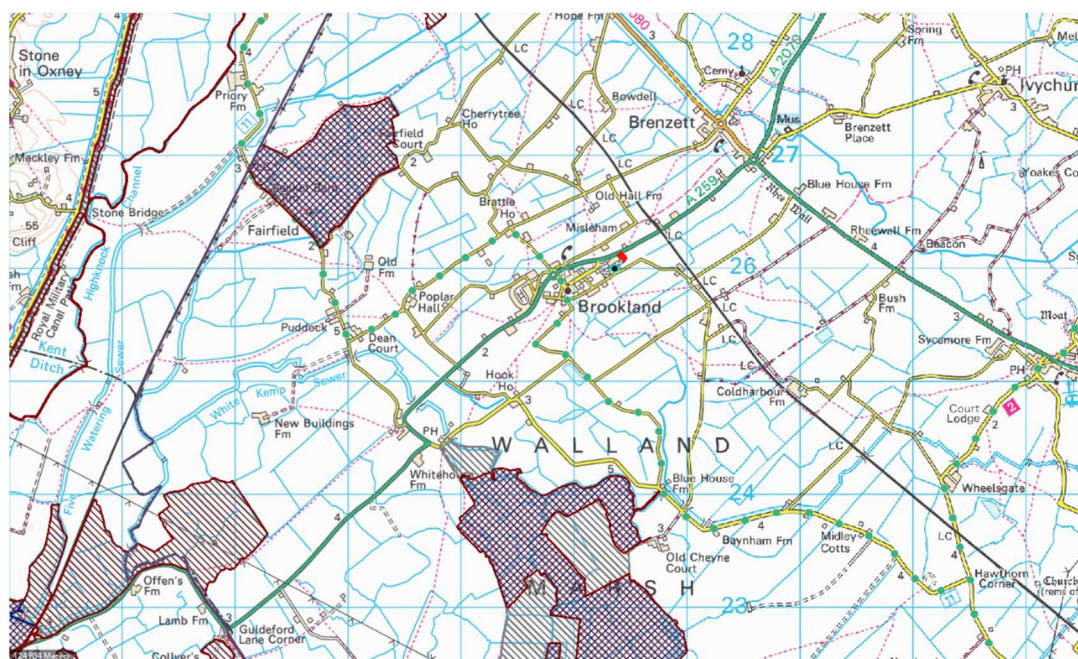


Figure 5 - location of protected sites relative to application site (application site in red)

- 7.49 Due to the distance between the protected sites and the application site, it is not considered that the proposal would result in any harm to these protected sites. In addition, any potential impact of additional footfall from the occupation of the proposed dwellings would be addressed through CIL payments which provide mitigation to alleviate impact on the SPA.
- 7.50 Given the concerns raised above with regards to the impact on reptiles and the use of the site as a receptor for another permission, it is considered that the proposal is unacceptable on these grounds and that it would fail the criteria of policy NE2 of the PPLP.

g) Whether the proposal would result in harm to any matters of archaeological interest?

- 7.51 The site is situated on land identified as having archaeological potential. However, it is considered that any necessary mitigation could be ensured by a suitably worded condition. There are therefore no objections on these grounds.

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

- 7.52 Although it is unlikely given previous land uses that contamination would be found on the site, the submitted Desk Study recommends testing if made ground is encountered. The standard contamination condition would therefore be recommended should the application had been otherwise acceptable. There are no objections on these grounds.

i) Balancing exercise

- 7.53 The site, while not isolated, is considered to be in an unsustainable location, whereby future residents would rely heavily on the use of private motor car. However, it is also acknowledged that the Council is currently unable to demonstrate a five year housing land supply, and as such, less weight can be afforded to policies that seek to restrict development in countryside locations. It is also notable that the application site lies adjacent to sites where the Council has granted permission in principle for residential development.
- 7.54 The proposed development does not give rise to harm to the archaeological interest of the site or harm to residential amenity or highway safety. Issues in respect of surface water drainage and land contamination can be overcome by the imposition of planning conditions.
- 7.55 It would provide three additional dwellings, which would contribute to the supply of dwellings, and housing land, within the District, albeit to a minor degree. This is considered to weigh in favour of the proposed development.

- 7.56 As set out above, the proposed dwellings are not considered to be well design, and would cause significant harm to the character and appearance of the streetscene and the visual amenity of the area. This weighs significantly against the grant of permission.
- 7.57 In addition, the site is required, in accordance with the permission in principle and technical details consent granted under references 21/1792/FH/PIP and 22/1876/FH to act as a receptor site for reptiles. The development of the site the subject of the current application, without an alternative receptor site being secured, would be likely to give rise to significant harm to protected species. This weighs significantly against the grant of permission.
- 7.58 Consequently, having regard to the requirements of paragraph 11 of the NPPF (as discussed in paragraphs 7.9 to 7.13 above), I am firmly of the view that the material planning harm arising from these conflicts with policy would be sufficient to “significantly and demonstrably” outweigh the benefits arising from the proposed development.
- 7.59 Therefore, I conclude that the development proposed is unacceptable and I recommend that planning permission is refused.

Environmental Impact Assessment

- 7.60 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

- 7.61 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.
- 7.62 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 £69.32 per square metre for new residential floor space.

Human Rights

- 7.63 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

- 7.64 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.
- 7.65 It is considered that the application proposals would not conflict with objectives of the Duty.

Working with the applicant

- 7.66 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

- a. Having regard to the development plan and all relevant material considerations, it is considered that the proposed development would have an unacceptable harmful impact on the character and appearance of the area, visual amenity and ecology and biodiversity. This harm significantly and demonstrably outweighs the benefits arising from the proposed development.
- b. I recommend that planning permission is refused.

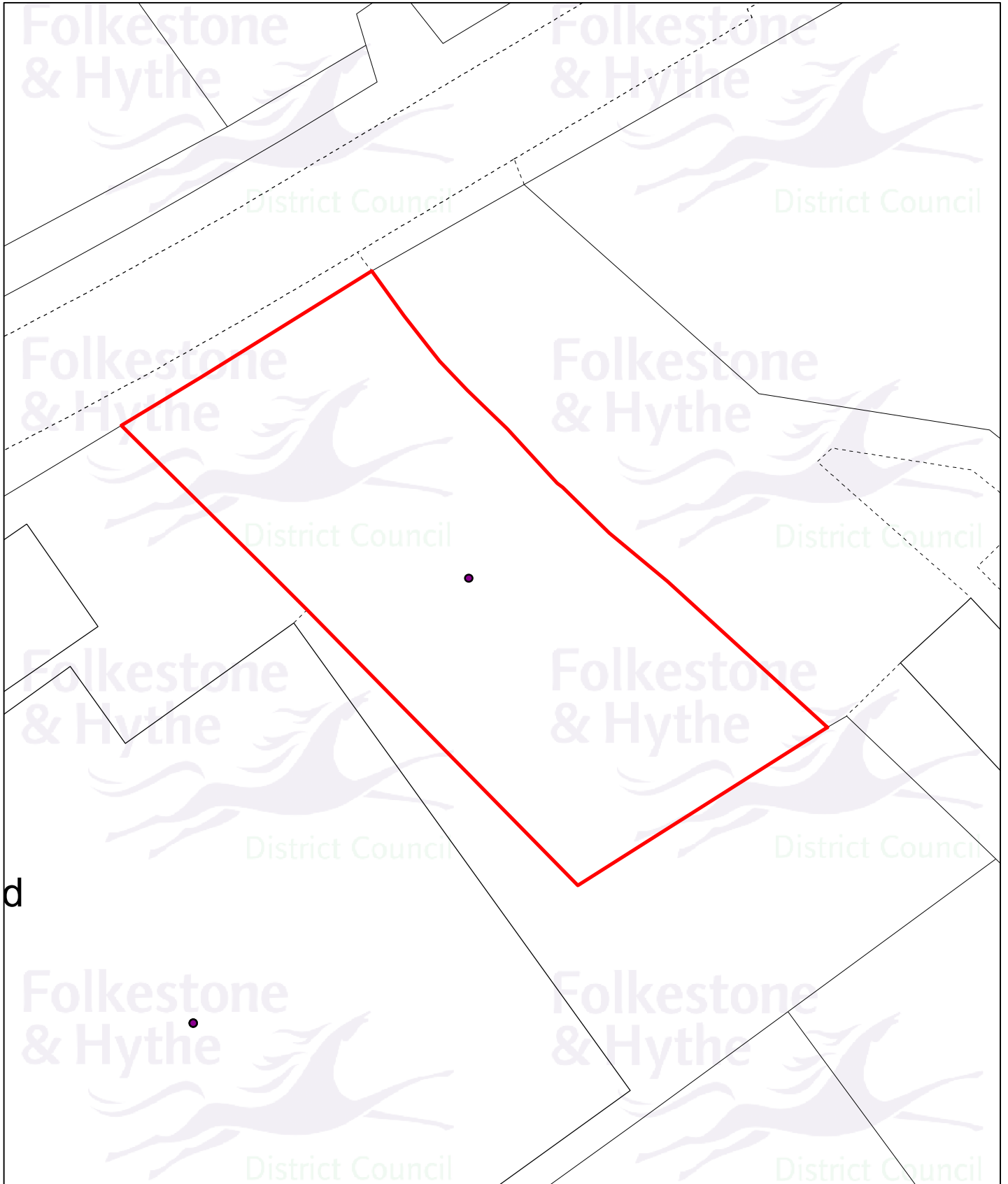
9. BACKGROUND DOCUMENTS

- a. 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 23/0782/FH)

10. RECOMMENDATIONS

That planning permission be refused for the following reasons:

1. The proposed dwellings, by virtue of their bulk, form, mass, siting and design, would appear as incongruous, poorly proportioned and prominent dwellings that would result in significant harm to the visual amenity of the streetscene and the character and appearance of the area, contrary to policy HB1 of the adopted Places and Policies Local Plan and the National Planning Policies Framework (2024).
2. The site currently serves as a reptile receptor site with the potential for further reptiles to be present, however no information has been submitted to demonstrate that the reptile populations of both sites have been accounted for by the proposal. In the absence of this information, the Local Planning Authority is unable to confirm that protected species would be safeguarded by the proposal and therefore it is contrary to paragraph 193 of the National Planning Policy Framework and policy NE2 of the adopted Places and Policies Local Plan 2020.



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Planning Application:
23/0782/FH

Drawn date:
02 Jul 2025

Drawn by:
Carrie Stacey

Drawing ref:
9926/COP/LS

Llywelyn Lloyd
Chief Planning Officer

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**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 15 July 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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