



Agenda

Meeting: **Planning and Licensing Committee**
Date: **21 March 2023**
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)**

Members of the committee should declare any interests which fall under the following categories:

Queries about the agenda? Need a different format?

Contact Sue Lewis – Tel: 01303 853265
Email: committee@folkestone-hythe.gov.uk or download from our
website: www.folkestone-hythe.gov.uk

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

3. **Minutes (Pages 5 - 8)**

To consider and approve, as a correct record, the minutes of the meeting held on 21 February 2023.

4. **22/13222/FH - The Stade, Folkestone Harbour, Folkestone, CT20 1QH (Pages 9 - 32)**

Temporary change of use of land for the stationing of an ice cream van for a three year period from 1st March to 30th September each year, between 2023 and 2026.

5. **22/0100/FH & 22/0147/FH - Ingles Yard, Jointon Road, Folkestone, CT20 2RY (Pages 33 - 64)**

22/0100/FH – Demolition and part retention of curtilage listed building comprising a former cart store and grain store (retaining staddle stones, steps & cladding materials) and replacement with new veterinary surgery comprising replica grain store (utilising existing staddle stones, steps & cladding material).

22/0147/FH – Listed Building Consent for the demolition and part retention of curtilage listed building comprising former cart store and grain store (retaining staddle stones, steps & cladding materials) and replacement with new veterinary surgery comprising replica grain store (utilising existing staddle stones, steps & cladding materials).

6. **22/0122/CM - Land opposite 2 Hoad Cottage, Hoad Road, Swingfield (Pages 65 - 90)**

Breach of Planning Control: Mixed use of land for residential use, holiday/tourism use, (including the keeping of alpacas and other animals) and car accessories business; the installation and siting of various structures, equipment and paraphernalia associated with those uses, including containers, solar panels, a prison van for use as a chicken house, alpaca shelter, hot tub, diesel tank and play equipment; the erection of timber fencing and gates; and the laying of hardsurfacing.

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.

This page is intentionally left blank

Minutes

Planning and Licensing Committee

Held at:	Council Chamber, Civic Centre, Folkestone
Date	Tuesday, 21 February 2023
Present	Councillors Mrs Ann Berry, Miss Susan Carey (In place of Mrs Jennifer Hollingsbee), Gary Fuller, Clive Goddard (Chairman), Anthony Hills (In place of John Collier), Nicola Keen, Jim Martin, Philip Martin (Vice-Chair), Jackie Meade, Ian Meyers and Georgina Treloar
Apologies for Absence	Councillor John Collier, Councillor Mrs Jennifer Hollingsbee and Councillor David Wimble
Officers Present:	Robert Allan (Principal Planning Officer), Rob Bailey (Development Management Lead Specialist), David Campbell (Development Management Team Leader), James Clapson (Case Officer (Committee)), Claire Dethier (Strategic Sites Lead Specialist), Ewan Green (Director of Place), Sue Lewis (Case Officer (Committee)) and Lisette Patching (CIL and Enforcement Team Leader)
Others Present:	

61. **Declarations of Interest**

Councillor Jim Martin declared a voluntary announcement in respect of minute 67 - Princes Parade, in that he is the ward councillor and would normally not take part in discussions relating to Princes Parade, on this occasion he remained in the meeting for discussions and voting on this item.

Councillor Nicola Keen declared a voluntary announcement in respect of minute 64 – The Stade, in that she is ward councillor. She remained in the meeting during discussion and voting on this item.

Councillor Jackie Mead declared a voluntary announcement in respect of minute 64 – The Stade, in that she is a KCC Member for Folkestone East. She remained in the meeting during discussion and voting on this item.

Councillors Tony Hills and Clive Goddard declared a voluntary announcement in respect of minute 65 - Dungeness, in that they are ward councillors. They remained in the meeting during discussion and voting on this item.

62. **Minutes**

The minutes of the meeting held on 13 December 2022 were submitted, approved and signed by the Chairman.

63. **Minutes of the Licensing Sub-Committee**

The minutes of the meeting held on 12 January 2023 were submitted, approved and signed by the Chairman.

64. **22/13222/FH - The Stade, Folkestone Harbour, Folkestone, CT20 1QH**

Temporary change of use of land for the stationing of an ice cream van for a three year period from 1st March to 30th September each year, between 2023 and 2026.

Beatrice Jones, local resident spoke against the application.
Town Councillor Mrs Mary Lawes spoke on behalf of Folkestone Town Council
Andrew Burgess, agent, spoke on the application.

Proposed by Councillor Ms Susan Carey
Seconded by Councillor Tony Hills and

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

(Voting: For 4; Against 6; Abstentions 1)
The vote was lost.

Proposed by Councillor Nicola Keen
Seconded by Councillor Jackie Meade and

Resolved:

That planning permission be refused on the following ground:

The proposed unit and the resultant activity and queuing around it would, by virtue of its siting on a promenade of restricted width, result in a visually cramped and cluttered appearance to this part of the promenade. This, due to its prominent siting within a conservation area, would be harmful to the character and appearance of the conservation area, contrary to policies SS3 and SS10 of the Core Strategy Review 2022, policy HB1 of the Places & Policies Local Plan 2020 and paragraphs 197 and 199 of the National Planning Policy Framework.

The proposed unit and the resultant activity and queuing around it would, by virtue of its siting on a promenade of restricted width, cause an obstruction to the free flow of pedestrian movement on the Public Right of Way (CFP – Coastal Footpath) in a manner harmful to the safety and amenity of pedestrians, contrary to policy SS3 of the Core Strategy Review 2022 and policy HB1 of the Places and Policies Local Plan 2020.

(Voting: For 6; Against 4; Abstentions 1)

65. **22/1932/FH - Dungeness A Power Station, Dungeness Road, Lydd, Romney Marsh, TN29 9PP**

Reprofiling and compaction of existing material in the Turbine Hall Basement, engineering works to ensure that groundwater within the structure is in equilibrium with the groundwater around it and infilling the remaining void with granular inert material to ground level.

Matt Gorven, applicant spoke on the application.

Proposed by Councillor Ms Susan Carey
Seconded by Councillor Tony Hills and

Resolved:

1. **That planning permission is 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.**
2. **The a further condition be added that the hours of work specified in the management plan take note that bank holidays are included as non working days.**
3. **An informative be added which asks the applicant to discuss the impact on the road with ward Councillors and the Parish Council and that the applicant provide local residents with a contact number to raise issues should any arise.**

(Voting: For 6 ; Against 5; Abstentions 0)

66. **22/1775/FH - Fair Deal, 4 Twiss Avenue, Hythe, CT21 5NU**

Proposed single storey side extension, first floor rear extension, 2 no side dormer windows and front porch.

S Haywood, local resident spoke against the application.
Tom Gray, agent, spoke on the application.

Proposed by Councillor Philip Martin
Seconded by Councillor Clive Goddard and

Resolved:

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

(Voting: For 6; Against 3; Abstentions 2)

67. **22/1634/FH/CON - Princes Parade Promenade Princes Parade Hythe CT21 6EQ**

Approval of details pursuant to conditions 21 (surface water drainage), 22 (maintenance of sustainable drainage) 24 (surface water outfalls) & 31 (discharge of surface water) relating to Phases 1, 2a and 2b only of planning permission Y17/1042/FH.

Proposed by Councillor Tony Hills
Seconded by Councillor Ms Susan Carey and

Resolved: That the conditions submission be approved in accordance with the details and documents provided. That the informatives included at the end of the report be attached to the approval, and authorisation is given to the Chief Planning Officer to amend the wording of these/ include additional informatives as he feels is appropriate.

(Voting: For 6; Against 3; Abstentions 2)

68. **22/1701/FH - 33 Julian Road, Folkestone, CT19 5HP**

Demolition of existing 3 bay garage block and erection of 2 x 3 bed semi detached houses with off road parking and gardens (re-submission of 22/0667/FH).

Proposed by Councillor Ms Susan Carey
Seconded by Councillor Tony Hills and

Resolved: That planning permission be granted subject to the conditions set out at the end of the report.

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

Agenda Item 4

DCL/22/56

Application No: 22/13222/FH

Location of Site: The Stade, Folkestone Harbour, Folkestone, CT20 1QH.

Development: Temporary change of use of land for the stationing of an ice cream van for a three year period from 1st March to 30th September each year, between 2023 and 2026.

Applicant: Mr. F Fernando.

Agent: Mr. Andrew Burgess, Andrew Burgess Planning

Officer Contact: Lisette Patching

SUMMARY

This application was considered at the meeting of the Planning and Licensing Committee on 21st February 2023 and Members resolved to refuse planning permission. In order to obtain clarification on the exact planning grounds for refusing planning permission, the application is being reported back to Committee. The officer's report that was considered at the meeting is appended at **Appendix 1a** and the recommendation remains as previously.

The application seeks temporary planning permission for the stationing of an ice cream van during March to September each year, for a period of three years. It remains the opinion of officers that, subject to conditions, the proposed use of the land would result in a neutral impact on the significance of the conservation area; it would not result in unacceptable impacts on residential or visual amenity or highway safety; would not result in increased risk of flooding to the site or neighbouring land and would result in economic and tourism benefits to the area. It is, therefore, recommended that planning permission be granted.

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. ADDITIONAL INFORMATION

1.1 The applicant has submitted a supporting statement with photographs in response to comments and concerns made at the Committee meeting on 23rd February. The statement is available in full on the planning file and the main points are summarised below:

- We have no connection to Folkestone Harbour Development Company other than them being our landlord;
- Do not run freezers. Do not need them as do not sell lollies;
- Operated for 28 days last year at busiest times with no safety issues;
- Hooked & Crooked have wider unit & have not had safety issues or accidents;

- Railings have been upgraded to a double chain;
- Visual intrusion is a personal opinion;
- Locating on Harbour Arm is no longer an available option;
- We have no connection to previously refused application;
- We do not take up 50% of the pavement;
- Propose barriers for queues, to run alongside serving hatch, to separate queues from pedestrians walking past, to mitigate safety concerns;
- Would be more space next to van than next to existing fish and chip unit;
- Multiple businesses selling the same products is usual in seaside towns & is not a planning consideration;
- It is not possible to run the van engine and be connected to electric;
- Viability of other businesses is not a reason to refuse permission;
- There will be no deliveries to the pitch site, vans are stocked off site;
- Sell ice creams only so no litter from 90% of sales;
- Will provide a bin & remove it each day;
- Many events have stalls along the length of The Stade that obstruct the PROW, in addition to the businesses already there;
- Vintage van is more in keeping with heritage than a pop up stall;
- Van will go in and out first thing in morning and late afternoon so will not cause congestion;
- Emergency vehicles would access area via the road not pedestrian area;
- Vintage van will be the only van to trade on this pitch & happy to accept a condition;
- Will be offering 3 jobs;
- No more risk than events held on The Stade;
- Residents' concerns about popularity of The Stade is not a reason to refuse permission;
- Harbour Company application has been withdrawn;
- Will cease trading between 5pm and 6pm and will not trade during bad weather or in cold months;
- If electrical points are not available we will not trade;
- Pitch is 15m (49 feet) from residents;
- Will be serving on to pedestrian area. Would be unsafe to serve onto road and carpark. Happy to accept a condition;
- This was trialled for 28 days last year and busiest days were picked. No reports of falls over the edge or incidents;
- I had a van opposite Rotunda lifts for 10 years and uncle had Gillhams Butchers in Folkestone for many years;
- Pay rates to the Council and rent to Harbour Company;
- Electrical connection is in the ground on the pitch and would be connected under the van so would not be a trip hazard;
- There is a busy pub next to residents;
- Vintage van less harmful than existing vehicles in the area;
- Take concerns for public safety seriously.

- 1.2 The agent has advised that the applicant is prepared not to trade when large events take place on The Stade and has undertaken to only use the heritage van on the pitch and to put up a barrier and signage each day to direct customers to queue, to keep the rest of the pavement free.

2. APPRAISAL

- 2.1 It may assist the Committee to consider the reasons for refusal for the previous application 21/1492/FH for six pitches and whether the current application for one pitch overcomes the previous reasons for refusal, as reasons 1 and 2 encapsulated Members main concerns when they considered this current application. A copy of the decision notice is appended at **Appendix 1b**.
- 2.2 The first ground for refusal related to increased activity on the promenade, including queuing and consumption of food, causing an obstruction to the free flow of pedestrian movement in a manner harmful to the safety and amenity of pedestrians and increase the potential for obstruction of traffic in a manner harmful to highway safety and amenity. Members are advised to consider whether the reduction from six units to one is sufficient to overcome this ground of refusal. The professional advice of officers is that it is sufficient and that, in the absence of any objection from KCC Highways, a ground for refusal relating to pedestrian and highway safety would not be reasonable or defensible at appeal.
- 2.3 The second reason for refusal related to harm to residential amenity from cooking smells. This would not be an issue with the proposed ice cream van as no cooking would be required. An additional condition is recommended, that the pitch be used by an ice cream van only.
- 2.4 The third ground for refusal related to harm to the character and appearance of the conservation area due to the number and prominent siting of the six food units proposed. Members are advised to considered whether the siting of one food unit only, overcomes this reason for refusal. The professional advice of officers is that, given the siting of the pitch immediately adjacent to well used and marked out parking spaces, it would be difficult to justify that one mobile unit would be any more harmful to the character and appearance of the conservation area than the daily use of those parking spaces.

Comments on applicant's supporting statement

- 2.5 The applicant has offered to put up a barrier and signage each day to ensure sensible queuing, not to trade on days when there are events and to restrict the vehicle that can use the pitch to the heritage van only. These are not included as proposed conditions as it is not considered they would meet the tests of Paragraph 57 of the NPPF, which makes it clear that conditions must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

- 2.6 Public safety is not a material planning consideration, as this is controlled by other legislation, so conditions requiring barriers and restricting trading on event days are not necessary to make the development acceptable in planning terms, so would not meet the test. In addition, the provision of barriers on land outside of the application site could not be required by condition as they would be on land not within the applicant's ownership or control. Therefore, such a condition would not be enforceable. Restricting the van that can be parked on the pitch to a particular vehicle would not be fairly and reasonably related in scale and kind to the development, as it is the use of the land that requires planning permission not the vehicle itself, as the vehicle is not development.

3. CONCLUSION

- 3.1 As previously concluded, it is considered that the proposed use of the land for the stationing of an ice cream van would be in keeping with the commercial and tourism uses of this harbourside location and constitutes sustainable development that is in accordance with national and local planning policy. It is not considered that it would detract from the visual amenity of the area and it would have a neutral impact on the significance of the conservation area. Given the tourism and other activity in the area the use would not result in a significant increase in noise and disturbance to local residents. There are no objections on highway or flooding grounds and it is considered that the proposal would result in economic and tourism benefits to the area. The proposal is considered to be in accordance with the development plan and it is therefore recommended that planning permission be granted.

4. RECOMMENDATION

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

Conditions:

1. The use hereby permitted shall cease on or before 30th September 2026 and the vehicle, together with any associated paraphernalia, such as litter bins, shall be removed from the site at the end of this period.

Reason: In order that the impact of the use on the amenity of the area and the conservation area can be reviewed at the end of the temporary period.

2. The approved use shall take place only from the private land owned by Folkestone Harbour and Seafront Development Company in the position marked on the site plan submitted on 10th January 2023.

Reason: For the avoidance of doubt.

DCL/22/56

3. The ice cream van shall only operate on the site between 1st March and 30th September each year and the van and any associated paraphernalia, such as litter bins, shall be removed from the site when trading finishes at the end of each day.

Reason: In the interests of the visual amenity of the streetscene and to preserve or enhance the special character of the conservation area.

4. The van engine shall be switched off and the van connected to mains electricity while the site is in use for the sale of ice cream. No diesel or petrol generators shall be stationed or used within the site.

Reason: In the interests of residential amenity and to preserve or enhance the special character of the conservation area.

5. The pitch hereby approved shall be used for the parking of an ice cream van only.

Reason: In order to prevent the use of the pitch by a unit cooking food, in the interests of the amenities of nearby residents.

This page is intentionally left blank

Application No: 22/13222/FH

Location of Site: The Stade, Folkestone Harbour, Folkestone, CT20 1QH.

Development: Temporary change of use of land for the stationing of an ice cream van for a three year period from 1st March to 30th September each year, between 2023 and 2026.

Applicant: Mr. F Fernando.

Agent: Mr. Andrew Burgess, Andrew Burgess Planning

Officer Contact: Lisette Patching

SUMMARY

This application seeks temporary planning permission for the stationing of an ice cream van during March to September each year, for a period of three years. It is considered that, subject to conditions, the proposed use of the land would result in a neutral impact on the significance of the conservation area; it would not result in unacceptable impacts on residential or visual amenity or highway safety; would not result in increased risk of flooding to the site or neighbouring land and would result in economic and tourism benefits to the area. It is, therefore, recommended that planning permission be granted.

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. INTRODUCTION

1.1. The application is reported to Committee because of an objection from the Town Council and at the request of Councillor Peter Gane.

2. SITE AND SURROUNDINGS

2.1. The application site forms part of a wide paved promenade along the northern edge of Folkestone Harbour. The promenade runs along the edge of the harbour to Sunny Sands beach. It is proposed that the ice cream van would be positioned on the promenade immediately in front of a row of District Council owned parking spaces and adjacent to a timber boarded building. Pedestrian access would be retained between the van and the harbour edge.

2.2. The site is within the Leas and Bayle Conservation Area; within flood zone 2 and adjacent to flood zone 3 (which approximately tracks the mean high water line along the harbour edge). The Council's SFRA identifies the site as being at no risk of flooding in 2115.

2.3. The proposed location is shown at Figure 1 below and a site location plan is attached to this report as **Appendix 1**. The site is also shown in the photograph at Figure 2 below.



Figure 1 – proposed location of ice cream van



Figure 2 – Photo of site

3. PROPOSAL

- 3.1 The application seeks planning permission to station an ice cream van on the site between 1st March and 30th September during 2023 to 2026.
- 3.2 The supporting information states that the ice cream van would be a Heritage Ice Cream Van and has been converted to run on an electrical hook up. It would be powered from an existing electric point.
- 3.3 It is stated that the engine would never be used to operate the vehicle and freezer once in situ. No physical works are proposed.
- 3.4 A picture of the proposed Heritage Ice Cream Van is included below at Figure 3. **[CPO Comment: The specific type of ice cream van could not be controlled by condition if planning permission is granted.]**



Figure 3 – Proposed Heritage Ice Cream Van

- 3.5 The ice cream van would create one full time job during the season. The van would be removed from the site at the end of each day. There is an existing litter bin next to the site and, in addition, the applicant would provide their own litter bin which would also be removed at the end of each day.
- 3.6 With regard to economic benefits, in addition to the full time position that would result, it is stated that the ice cream van would contribute to a vibrant harbourside and increase visitor numbers, to the wider benefit of Folkestone as a whole.

4. RELEVANT PLANNING HISTORY

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

21/1492/FH	Erection of 6 pitches to be used by mobile units along with electric cabinets for power supply.	Refused 11.07.22
22/0554/FH	Installation of 2 container style units & up to 8 timber frame beach hut units to operate as retail	Withdrawn

units & food & drink outlets, install new dedicated power supply, resurfacing of existing hardstanding and upgraded public realm.

22/1308/FH	Change of use of land for the stationing of two mobile food units on six flexible pitch positions up to 7 days a week during daylight hours on a seasonal basis and installation of electrical cabinets for power supply.	Under consideration
------------	---	---------------------

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Object on the following grounds:

- the location of the vehicle will cause queues, forcing people into road and cause obstruction to emergency vehicles.

Kent Highways & Transportation: No objection as ice cream van not sited on public highway.

Local Residents Comments

5.2 Publicised by neighbour letter, notice on site and press notice. At the time of writing 27 representations of objection, 32 representations in support, and a 47 signature petition containing objections have been received.

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

- Electrical units installed without planning permission, should not be used. [**CPO Comment:** As set out at 7.17 below, this is not a material planning consideration in this case]
- Will increase congestion on pavement & increases risk of accidents
- Already numerous ice cream outlets along The Stade
- Detrimental impact on existing businesses [**CPO Comment:** Commercial impact is not a material planning consideration]
- Nothing has changed since previous application refused
- Will encourage people to walk in road
- Detrimental to historic conservation area
- Over commercialisation of unique character of The Stade
- Visual intrusion to nearby properties
- Extra clutter
- Noise & air pollution and disturbance
- Increased litter
- Loss of space for fishermen and tourism

5.4 The key issues in support are summarised below:

- Gives the right atmosphere
- Van converted to run on electric motor rather than diesel
- Positive addition to local community & economy
- Area in need of 'pick me up'
- Accessible for those who can't walk far & wheelchair users
- In keeping with area

5.5 The submitted petition raises the following objections:

- Application does not include electrical boxes
- Residents' permit parking area will be reduced
- No public car park on The Stade
- Impact on existing ice cream businesses
- Spoil conservation area
- Existing litter bins inadequate
- Van is run on its diesel engines
- Not conservation led regeneration

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

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

Ward Member

5.7 Councillor Peter Gane has called the application to committee.

6. RELEVANT PLANNING POLICY

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

6.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan (2020)

HB1 - Quality Places Through Design
 HB2 - Cohesive Design
 E3 - Tourism
 HE1 - Heritage assets

Core Strategy Review (2022)

SS1 - District Spatial Strategy
 SS3 - Place-Shaping and Sustainable Settlements Strategy
 SS10 - Spatial Strategy for Folkestone Seafont

In support of policy SS10, paragraph 4.218 of the Plan states that:

The Harbour frontage provides a special waterside environment to attract new commercial investors. This would introduce new forms of activity to the area (complementing recent restaurant developments), extend the appeal of Folkestone, boost the local housing market and regenerate the area.

Figure 4.6 of the Core Strategy Review identifies The Stade as being within the Harbour area covered by the Folkestone Seafront Strategy site. It identifies The Stade as being an Active Frontage. Figure 4.6 is reproduced below as **Figure 4** of this report.

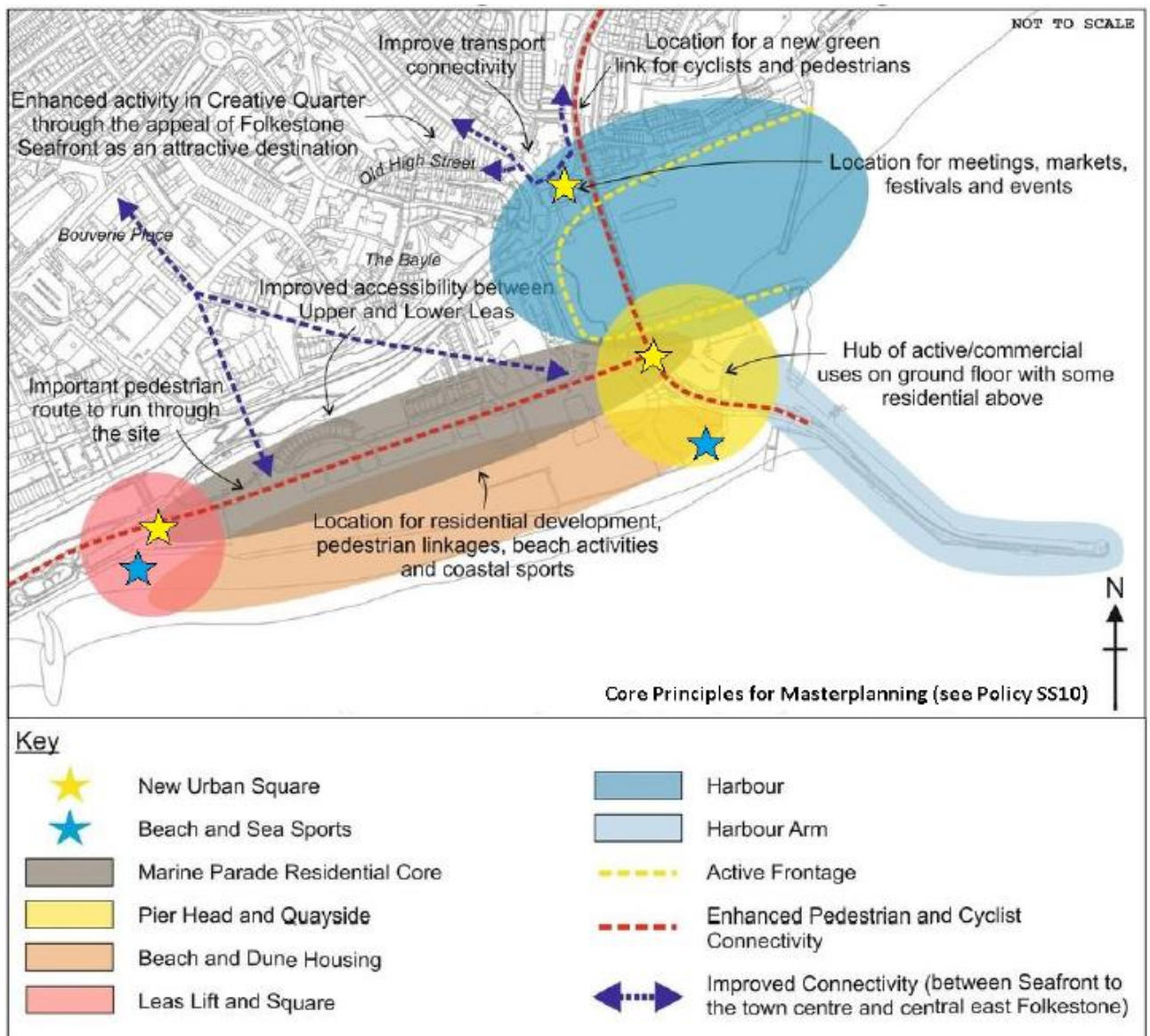


Figure 4: Folkestone Seafront Strategic Site and Surroundings

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

Government Advice

National Planning Policy Framework (NPPF) 2021

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 paragraphs of the NPPF are relevant to this application:-

11 – Presumption in favour of sustainable development.

47 – Applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

111 – Permission should only be refused on highways grounds if there is an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.

167 – 168 Ensure development does not increase flood risk off-site and changes of use should not be subject to sequential or exception tests.

194 to 202 – How to assess proposals affecting heritage assets.

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Flood risk
- c) Design/layout/visual amenity and impact on conservation area
- d) Residential amenity
- e) Highway safety and amenity
- f) Other matters

a) Principle of development and sustainability

7.2 In this location the proposed use would be tourism related. PPLP policy E3 seeks to direct tourism development to existing sustainable settlements. The application site lies within both within a strategic seafront location and in a highly sustainable urban location with good access both to Folkestone Town Centre and the mixed used seafront development currently under construction. Policy SS10 of the Core Strategy 2022 identifies The Stade as being part of the active frontage of Folkestone Harbour. It is therefore considered that the proposed use would constitute sustainable development that is in accordance with tourism and strategic polices and, as such, the principle of the proposed development is acceptable.

b) Flood risk

7.3 The application site lies within Flood Zone 2 (medium risk) and adjacent to Flood Zone 3 (high risk). However, the Council's SFRA identifies the site as being at no risk of flooding in 2115, when taking into account climate change. The proposal constitutes the change of use of the land and does not involve built development. The NPPF advises that it should not be necessary to undertake the sequential and exception tests when considering changes of use. The proposed mobile food unit is considered to be "less vulnerable" development under the Environment Agency's flood risk vulnerability classification (<https://www.gov.uk/guidance/flood-risk-and-coastal-change#Table-2-Flood-Risk-Vulnerability-Classification>), and the Agency's standing advice advises that the development is therefore acceptable in principle. There is no requirement to consult the Environment Agency directly and the National Planning Practice Guidance advises that planning authorities refer to the standing advice, as above.

7.4 The proposed mobile unit would not impede the flow of any water in the event of a flood, as it would be free to flow under and around the base of the unit if it was in place at the time of flooding. Therefore, the development would not increase flood risk on neighbouring land. The unit is also intended to be removed from the site each day and

is unlikely to be in position during the winter months when the risk of tidal flooding is highest. The development is therefore considered to be acceptable with regard to flood risk and unlikely to suffer from flooding events or result in additional flood risk to nearby properties.

c) Design/layout/visual amenity and impact on conservation area

7.5 As the site is within a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies. It requires that proposals in conservation areas pay special attention to preserving or enhancing the character or appearance of that area. The NPPF paragraph 197 sets out that account should be taken of

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness

The NPPF also requires that, when considering potential impacts, the level of harm to the significance of the heritage asset should be considered.

7.6 The Stade fronts onto a working harbour and is also a popular tourist location. As a harbour quayside it would traditionally have been a busy, highly active area. **Figure 5** below shows the historic layout of the Stade, which featured a number of structures along the frontage.

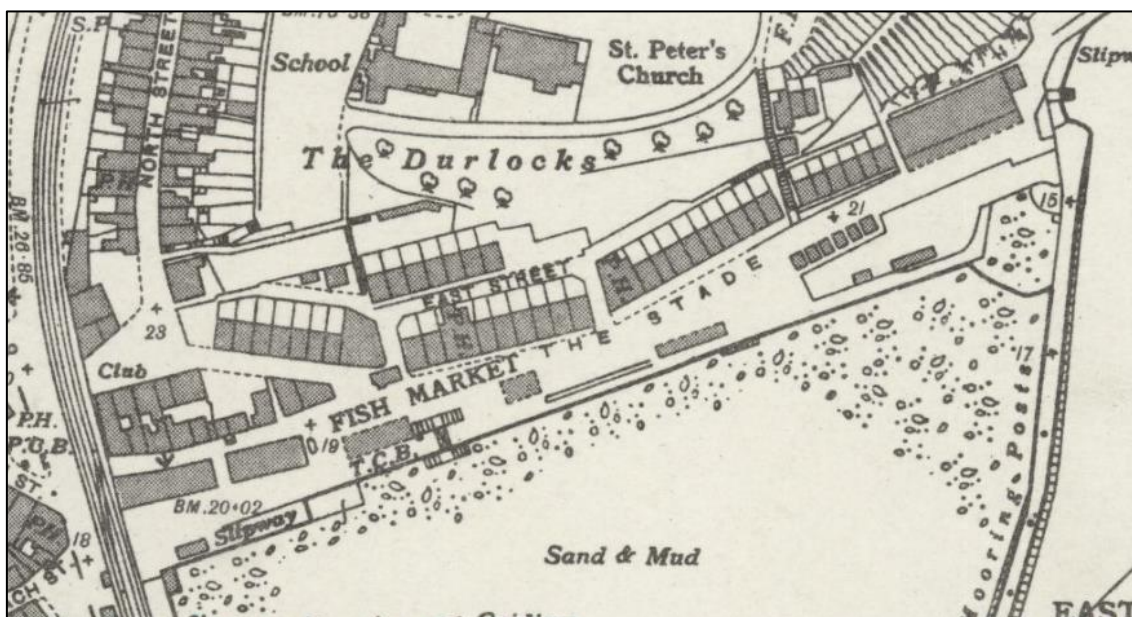


Figure 5 1946 - OS extract showing quayside structures.

7.7 Today, as well as being a residential area it also contains pubs, eating places and at least one gift shop. On the promenade area there is an existing mobile food unit, a permanent timber building and a kiosk selling seaside paraphernalia. Therefore, the character of the streetscene and this part of the conservation area is very much one of commercial and tourist activity. Set against this backdrop the stationing of an ice cream van would not appear out of place. There are parking spaces along the section of road fronting this part of the promenade and the van would be viewed in the context of the neighbouring timber building and parked cars. It is therefore considered that it would preserve the character and appearance of the conservation area. The promenade is

of sufficient width for the van to be parked without it appearing cramped or cluttered. In addition, historically there were structures along the promenade here, as shown in Figure 5 above.

- 7.8 Given the above it is considered that the proposal would have a neutral impact on the special character of the conservation area. As a tourist destination the Stade contributes to the economy of the district and the addition of an ice cream van would add to that, albeit in a minor way. For the reasons set out above it is considered that the proposal would preserve the character and appearance of this part of the conservation area. It is therefore considered that the proposed development meets the tests in the Listed Buildings and Conservation Areas Act and the NPPF and accords with policy HE1.
- 7.9 Conditions are proposed requiring the van to be removed at the end of each day and at the end of each season in the interests of protecting visual amenity when the van is not in use and during the quieter winter months, when one would expect to see fewer tourist/visitor concessions and a generally lower level of activity on the quayside.

d) Residential amenity

- 7.10 Policy HB1 of the PPLP seeks to ensure that proposals do not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area.
- 7.11 The site lies within a vibrant and busy urban/tourism location where one would expect there to be a certain degree of background noise and disturbance from vehicles, visitors, and use of the harbour and harbour side. There are residential dwellings facing the site but these are separated from it by the road and a well used parking area. Given the scale of the proposal and the separation distances between the proposed site and nearby residential properties, the proposed ice cream van would not have an overbearing or enclosing effect on them.
- 7.12 In terms of noise and disturbance, not only are the residential properties separated from the site by a road and parking area, there is also a pub in very close proximity to the application site. In addition, The Stade and harbour area are busy and commercial areas, particularly in the summer months. As a result the ambient noise levels would be higher than would be experienced in a quiet residential street. Any noise generated by customers to the ice cream van must be assessed in that context. Given the urban and commercial environment and the physical separation of the site from the dwellings the proposed use would not result in a significant increase in noise and disturbance to residents. However, it is accepted that running the van on its engine or a petrol/diesel generator could create unnecessary noise and a condition is recommended requiring the van to be connected to an electrical hook up and not to run on its engine or generators while stationary. Subject to the imposition of such a condition it considered that there would be no significant harm to residential amenity.

e) Highway safety and amenity

- 7.13 The proposed site for the ice cream van is not within the public highway nor on existing parking spaces. The site is close to a public car park at the bottom of Tontine Street and close to public transport connections. The proposed development is relatively small scale and would not generate significant travel movements in its own right. As such, the proposal would not generate traffic movements in excess of highway capacity, or highway safety. The promenade is of sufficient width to accommodate the

van and allow pedestrians to queue and walk past. In this regard there are no highway safety implications.

f) Other matters

- 7.14 There is a litter bin adjacent to the site and the applicant is also proposing to provide their own bin, which would be removed at the end of each day. This is considered sufficient to accommodate the limited litter from an ice cream van.
- 7.15 Commercial competition nor the price or quality of the product being sold are material planning considerations and cannot be given any weight in reaching a decision.
- 7.16 The issue of whether or not the operator has a street trading licence is not a material planning consideration as licensing legislation is separate to planning legislation. However, for clarification, the Council's Licensing Specialist has advised that the ice cream van does not need Street Trading Consent to trade in this location as it is private land. It has also been clarified that the policy restricting street trading in this area only prohibits trading on the highway.
- 7.17 The fact that the electric cabinet has already been installed without planning permission is not a material planning consideration in this case. The electric cabinets are outside the application site and do not form part of the application. If there is a condition requiring the van to connect to an electric hook up and the electric hook up is not available for any reason, the operator would be in breach of the condition if they continued to operate and formal action could be taken, if necessary.
- 7.18 Given the existing activity that takes place along this promenade, including the existing food units, it is not considered that the ice cream van would increase the likelihood of pedestrians falling into the harbour. In any event this is not a material planning consideration.

Environmental Impact Assessment

- 7.19 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

- 7.20 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

- 7.21 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

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

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

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

Working with the applicant

7.23 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 It is considered that the proposed use of the land for the stationing of an ice cream van would be in keeping with the commercial and tourism uses of this harbourside location and constitutes sustainable development that is in accordance with national and local planning policy. It is not considered that it would detract from the visual amenity of the area and it would have a neutral impact on the significance of the conservation area. Given the tourism and other activity in the area the use would not result in a significant increase in noise and disturbance to local residents. There are no objections on highway or flooding grounds and it is considered that the proposal would result in economic and tourism benefits to the area. The proposal is considered to be in accordance with the development plan and it is therefore recommended that planning permission be granted.

9. BACKGROUND DOCUMENTS

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

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

Conditions:

1. The use hereby permitted shall cease on or before 30th September 2026 and the vehicle, together with any associated paraphernalia, such as litter bins, shall be removed from the site at the end of this period.

Reason: In order that the impact of the use on the amenity of the area and the conservation area can be reviewed at the end of the temporary period.

2. The approved use shall take place only from the private land owned by Folkestone Harbour and Seafront Development Company in the position marked on the site plan submitted on 10th January 2023.

Reason: For the avoidance of doubt.

3. The ice cream van shall only operate on the site between 1st March and 30th September each year and the van and any associated paraphernalia, such as litter bins, shall be removed from the site when trading finishes at the end of each day.

Reason: In the interests of the visual amenity of the streetscene and to preserve or enhance the special character of the conservation area.

4. The van engine shall be switched off and the van connected to mains electricity while the site is in use for the sale of ice cream. No diesel or petrol generators shall be stationed or used within the site.

Reason: In the interests of residential amenity and to preserve or enhance the special character of the conservation area.

Appendix 1 – Site Location Plan

**NOTIFICATION OF DECISION OF
THE LOCAL PLANNING AUTHORITY**

Date of Decision: 11 July 2022



Email: planning@folkestone-hythe.gov.uk

Mr Ben Boyce
C/o Mr Giles Fitch
Blueprint Projects
Unit 12
Riverside Business and Craft Centre
West Hythe
CT21 4NB

TOWN AND COUNTRY PLANNING ACT 1990

Application Number: 21/1492/FH

Proposal: Erection of 6 pitches to be used by mobile units along with electric cabinets for power supply.

Site Location: Folkestone Harbour, Pedestrian Area, The Stade, Folkestone, CT20 1QH

DECISION: REFUSED in accordance with the planning application and plans.

REFUSAL REASONS

- 1 The proposed units, by virtue of their siting on the harbourside promenade with consequent increased activity including queuing and consumption of food, would cause an obstruction to the free flow of pedestrian movement on the Public Right of Way (ref. CFP – Coastal Footpath) in a manner harmful to the safety and amenity of pedestrians and would increase the potential for obstruction of vehicular traffic on The Stade in a manner harmful to highway safety and amenity. The proposal is therefore contrary to policy SS3 of the Core Strategy 2022; and policies HB1 and T1 of the Places and Policies Local Plan.
- 2 In the absence of information demonstrating that the proposed units would not give rise to harm to residential amenity by virtue of cooking smells and odours, the development would have the potential to cause unacceptable harm to the living conditions of nearby residential properties in a manner contrary to policies SS3 of the Core Strategy 2022; policy HB1 of the Places and Policies Local Plan; and the advice of paragraph 174 of the National Planning Policy Framework (2021).

- 3 The proposed mobile food units, by virtue of their number and prominent

Folkestone & Hythe District Council

Civic Centre, Castle Hill Avenue, Folkestone, Kent

Telephone: 01303 853538 · E-mail: planning@folkestone-hythe.gov.uk · www.folkestone-hythe.gov.uk

siting within the conservation area, would be harmful to the character and appearance of the conservation area. The application is therefore contrary to policies SS3 and SS10 of the Core Strategy 2022; policy HB1 of the Places and Policies Local Plan; and the advice of the National Planning Policy Framework (in particular paragraphs 197 and 199).

Informatives and notes

- 4 This application was determined on the basis of drawings 19.36.41, 19.36.45, 19.36.52, and the submitted cabinet details.

In determining this planning application, the Council has had due regard for all relevant matters and particularly the National Planning Policy Framework. This includes the duty to work positively with the applicant to resolve potential issues and seek acceptable solutions.

This decision relates ONLY to the requirements of Town and Country Planning Act 1990. Separate determinations are required for other aspects of the planning regime, building regulations and environmental legislation. Any other permissions must be obtained separately from the relevant body.



Issued by the Chief Planning Officer

This decision notice consists of 3 pages

NOTIFICATION TO APPLICANT

APPEALS TO THE SECRETARY OF STATE

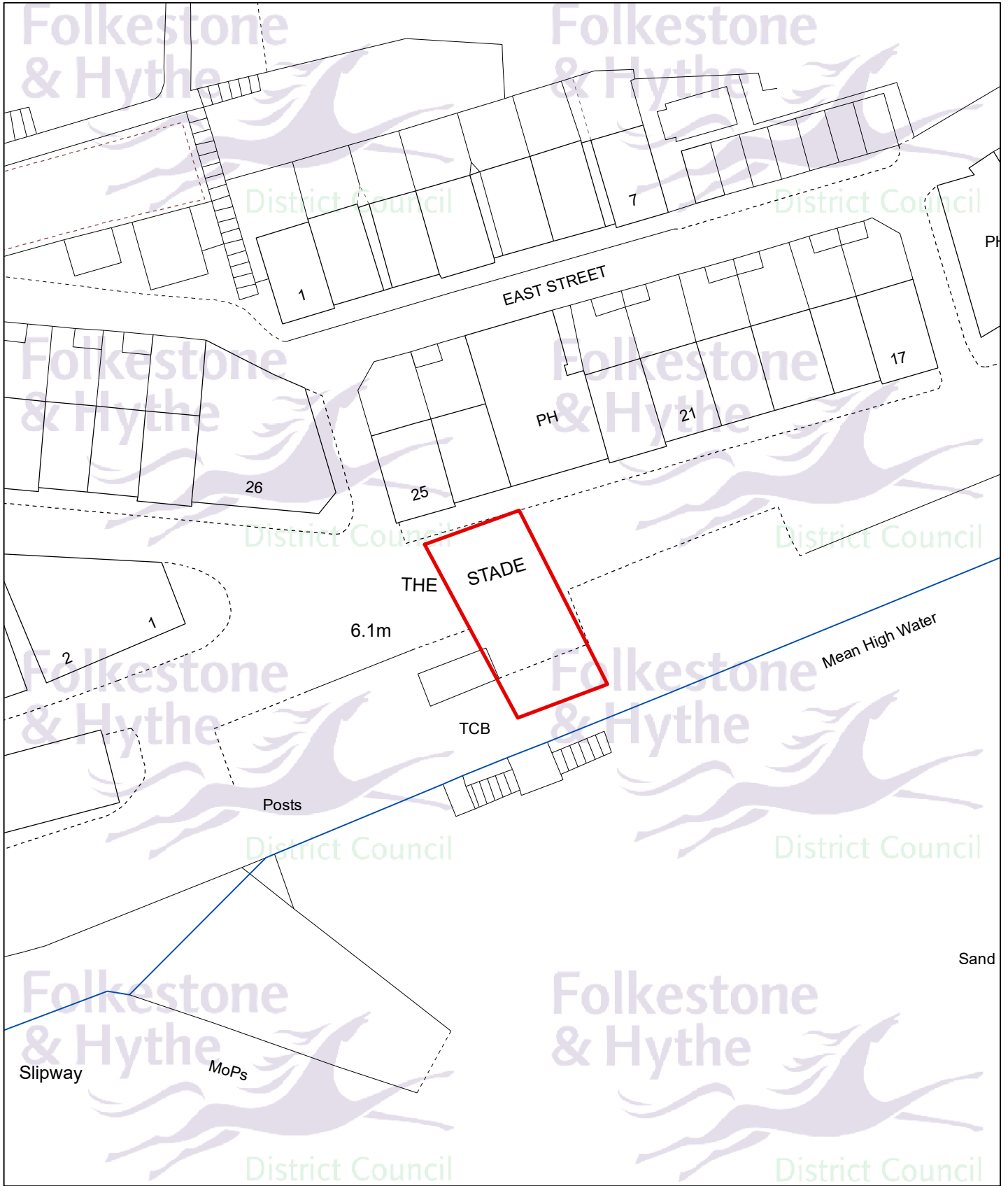
If you are aggrieved by the decision of your local planning authority then you may be able appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990. If you want to appeal, then you must do so promptly.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.gov.uk/government/organisations/planning-inspectorate.

The Inspectorate's website also gives details of timescales and the processes which would apply to this type of application.

This page is intentionally left blank

22/1322/FH - Folkestone Harbour, Pedestrian Area, The Stade, Folkestone, CT20 1QH



Planning Application:
22/1322/FH
Drawn date:
03 Feb 2023
Drawn by:
Holly Bradbury
Drawing ref:
2336/CO/LS

Llywelyn Lloyd
Llywelyn Lloyd
Chief Planning Officer

Contains Ordnance Survey data
© Crown copyright and database right
Folkestone & Hythe District Council 100019677 - 2023

Page 31

Meters
0 5 10 30 40 50



Drawn at 1:500 on A4

This page is intentionally left blank

Agenda Item 5

DCL/22/57

Application No: 22/0100/FH (planning application) & 22/0147/FH (LBC)

Location of Site: Ingles Yard, Jinton Road, Folkestone, CT20 2RY

Development: 22/0100/FH – Demolition and part retention of curtilage listed building comprising a former cart store and grain store (retaining staddle stones, steps & cladding materials) and replacement with new veterinary surgery comprising replica grain store (utilising existing staddle stones, steps & cladding material).

22/0147/FH – Listed Building Consent for the demolition and part retention of curtilage listed building comprising former cart store and grain store (retaining staddle stones, steps & cladding materials) and replacement with new veterinary surgery comprising replica grain store (utilising existing staddle stones, steps & cladding materials).

Applicant: Mr Danny Brook

Agent: Mr Chris Muspratt

Officer Contact: Katy Claw

SUMMARY

This report covers both the planning application and application for listed building consent for the erection of a new veterinary surgery within land at Ingles Manor.

The development would involve the part demolition and part retention of a curtilage listed former cart store and granary, the construction of a new flat-roofed single storey extension to the north and a 1.5-storey extension to the south. The development would result in a new veterinary surgery with reception/waiting area, consulting rooms, administrative offices treatment & theatre rooms at ground floor with staff areas at first floor.

The application includes the reconstruction of the granary building in replica, with the intention of salvaging and re-using original materials.

RECOMMENDATION:

That planning permission and listed building consent 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. INTRODUCTION

1.1. The application is reported to Committee because the applicant is a Folkestone & Hythe District Council Councillor.

2. SITE AND SURROUNDINGS

2.1. The application site is located off Jointon Road and comprises a cart store & granary, both curtilage listed due to their association with Ingles Manor, a Grade II Listed Building which was originally a farmhouse.

2.2. The curtilage listed buildings subject of this application would have originally been used as on of a number of farm buildings serving the main house. There are other remaining buildings within the remnants of the wider Ingles Yard site, outside the application site.

2.3. The surrounding area comprises mainly residential development, including the recently built houses on the former garden centre land to the north of the site, under reference Y17/0710/SH. To the immediate south lies 'Palting House', used for commercial and government purposes, and the Civic Centre. To the west lies Ingles Manor itself, originally a farmhouse but currently used as office space. Beyond Ingles Manor to the east is a further residential development constructed under phase 1 of the larger residential development for the former garden centre.

2.4. The site is located within the Folkestone Leas & Bayle Conservation Area, an area of Archaeological Protection and there are numerous trees on the southern border with the Civic Centre car park which are covered by Tree Preservation Order No.01 of 1971 as indicated on the extract below.



Fig.1 Extent of conservation area and TPO trees

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

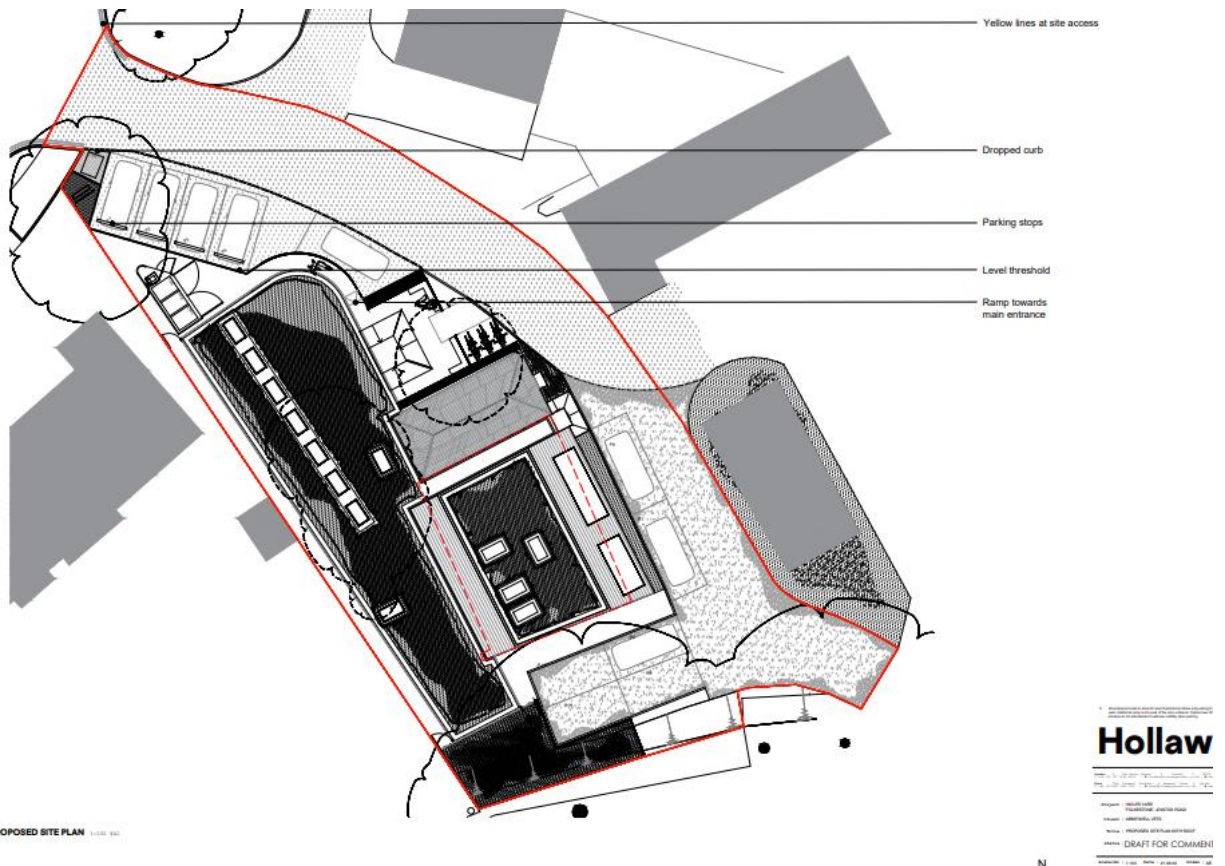


Fig.2 showing a block plan of the application site in red with the access at Jointon Road To the north. This shows the parking provision layout and the roof of the proposed building.



Fig.3 Front (west) elevation. Cart store (in foreground) with Granary building

attached. Entrance to site from Jointon Road in the background to the right of the photo.



Fig 4. Rear (east) elevation. Cart store (in foreground) with Granary building attached.



Fig 5 & 6 . West boundary wall with No.1 Jointon Road in background. Trees proposed to be removed (not subject to TPO).



Fig 7. Cart store & Granary to left of photo. Other curtilage listed buildings within Ingles Yard to right of photo with new housing development in background. (Former Garden Centre site). Trees in the background to remain with a new hedgerow to be planted facing the west boundary, as set out on page 23 of the DAS.



Fig 8. Entrance to Ingles Yard site from Jointon Road. New housing development to left and boundary fence/trees to right. Existing curtilage listed buildings outside the application site are shown in the background. The curtilage listed buildings subject of these applications are not readily apparent from the public highway during summer due to tree canopy.



Fig . 9 Photo taken in a similar position during winter months showing the granary the subject of these applications.

3. PROPOSAL

- 3.1 Planning permission and Listed Building Consent are sought for demolition and part retention of curtilage listed buildings comprising a former cart store and grain store (retaining staddle stones, steps and cladding materials) and the erection of a veterinary surgery comprising replica grain store (utilising existing staddle stones, steps & cladding materials).
- 3.2 The development would provide a reception area, cat & dog waiting areas, consulting rooms, operation rooms, treatment & preparation rooms, and rehabilitation kennels as well as staff rooms.
- 3.3 There are three elements to the proposal, the first being the formation of a replica grain store (serving as a waiting room), which would include the re-use of original, salvaged materials where possible, following the demolition works.
- 3.4 The second element proposes a 1.5-storey building with rooms in the roof, served by rooflights. This element would include retaining the southern ragstone wall and reusing the central ragstone spine wall to create external walls. This element would be clad in black weatherboarding.
- 3.5 The third element proposes a flat-roofed single storey addition which spans north to south, along the western boundary. This building would be the largest element in terms of ground floor area and this would link together with the replica grain store and the

1.5-storey element. The flat-roof on both the single-storey and 1.5 storey would be a 'green' roof and incorporate a number of rooflights in each.

- 3.6 Externally the site would provide visitor and staff parking provision shown as 10 individual spaces marked out on the proposed block plan, 4 spaces to the north, 4 spaces to the south and 2 spaces to the front of the building. A refuse area is shown to the north side of the building, all depicted on the drawing below.

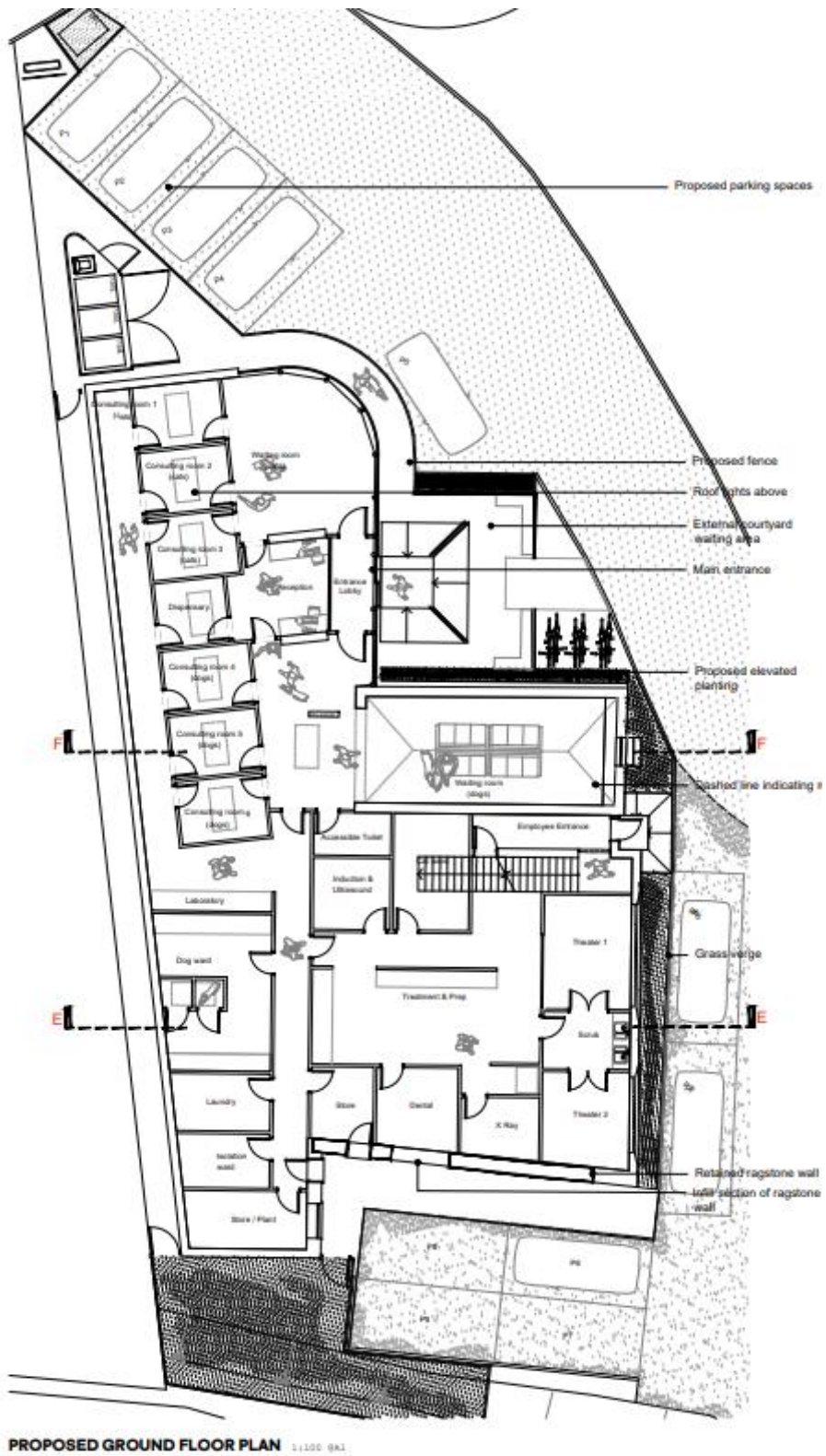


Fig.10 – block plan showing ground floor and proposed parking

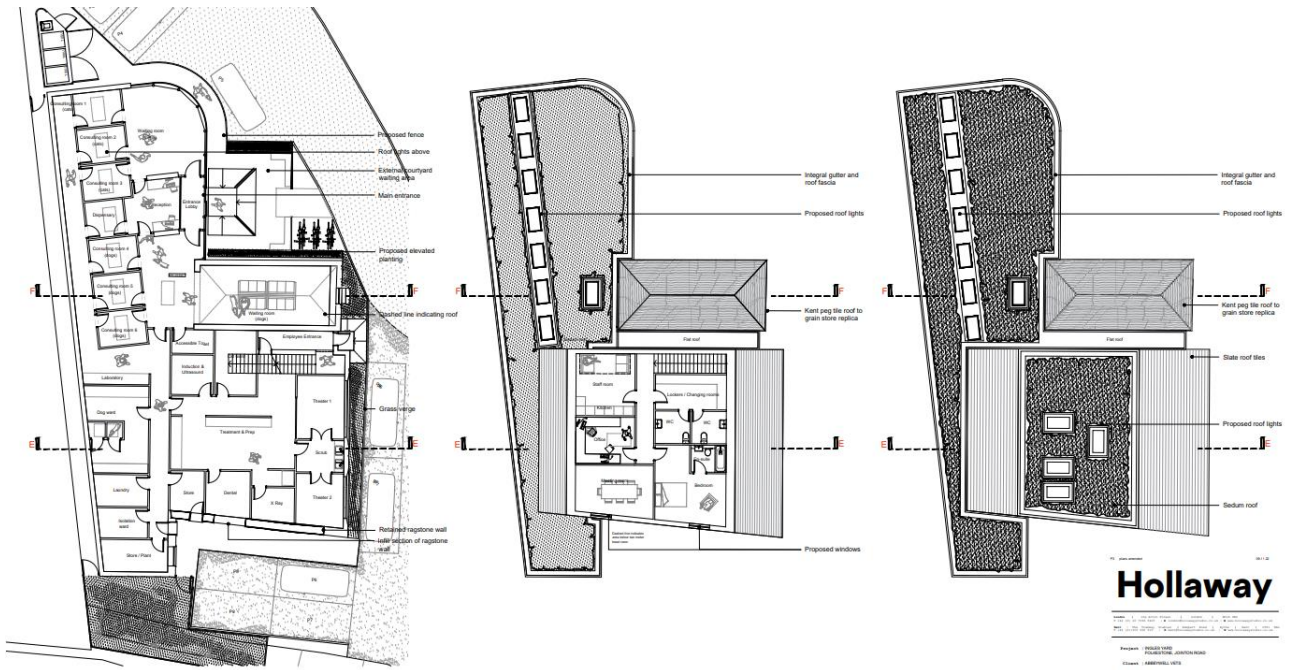


Fig. 11 Proposed floor and roof plans.

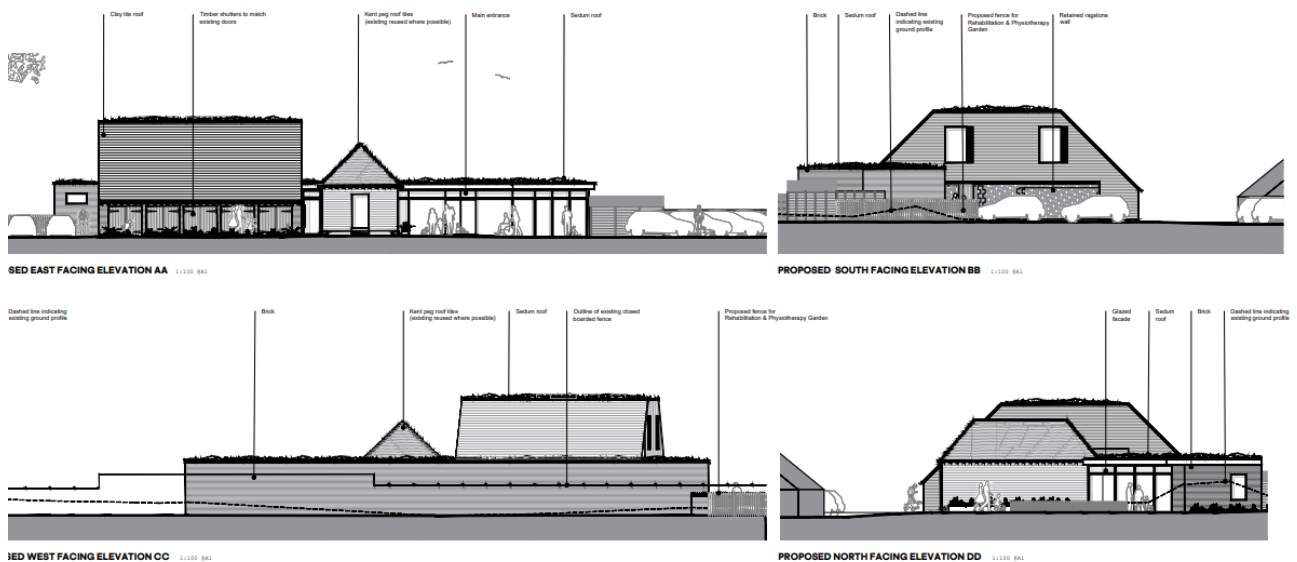


Fig. 12 Proposed elevations. Replica granary with pitched roof shown in the centre of the east facing elevation (top left).

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

Design and Access Statement (February 2022)

3.8 This statement provides a site analysis, design development and it sets out in detail the review of the scheme from initial stages to final concept. It also covers aspects relating to use & amount, design, layout, scale & appearance/landscaping. The report includes history of the site and illustrative images/ photos.

Heritage Statement (July 2021)

- 3.9 This document covers the curtilage listed buildings and their history in more depth, including historic maps and photos of the site and buildings. The report covers the significance of the buildings, referring to national and local planning policy guidance.

Transport Statement

- 3.10 This statement covers the different modes of transport that may be used when visiting the site, it also covers collision data taken over the last 3 years and includes pre-application advice from KCC Highways and Transport department. The report concludes that the proposal is in line with local and national transport policies.

Archaeological Desk Based Assessment

- 3.11 This statement sets out the archaeological significance of the site and its surroundings, including an assessment of historic data and images. The report concludes that a more-detailed impact assessment could be carried out and that a watching brief might be conditioned if the development receives planning approval.

Ecological Appraisal (September 2021)

- 3.12 This report surveys the site, the buildings and the trees for wildlife. It identifies that bats are present within the site as part of their foraging route but none were found roosting in the curtilage listed buildings. It also identifies that there are suitable nesting areas for birds in and around the site.
- 3.13 The report concludes that the impact on foraging bats would be negligible and provides suggestions for ecological enhancements.

Structural Survey (dated 26 August 2022)

- 3.14 This is a basic report which in part covers the current state of the curtilage listed buildings but the report only covers the external facades due to items currently being stored inside and the presence of Ivy growing on the outside, both of which limited full access/assessment. The report concludes that a full overhaul would be required to the structural fabric of the building, but that it may be uneconomical to do so.

Structural Appraisal (dated 23 January 2023)

- 3.15 This is a 7-page report which sets out in further detail the current of the outbuildings subject of this application. The report summarises that given the general integrity of the buildings and the lack of any effective lateral and longitudinal stability they consider the existing structure to be unfit for purpose and should be categorised as being severely compromised. Should the building be considered for incorporation within the proposed development scheme than extensive major reconstruction works, sectional demolition and rebuilding would need to be undertaken in order to restore both the structural integrity and overall stability of the building. This would also include the incorporation and construction of new foundations.

4. RELEVANT PLANNING HISTORY

4.1 There is no planning history relating directly to the two buildings on site, but the following applications are all relevant when considering the wider site, streetscene and the setting of these curtilage listed buildings.

91/0537/SH	Ingles Yard - Enlargement of existing access	Approved with conditions
96/0778/SH	Ingles Manor - Listed Building Consent for the siting of three mobile office units.	Approved with conditions
96/0777/SH	Ingles Manor – Siting of three mobile office units.	Approved with conditions
97/0275/SH	Ingles Cottage – Retention of use of the cottage as office accommodation	Approved with conditions
Y01/1163/SH	Land adjacent Ingles Manor - Erection of a business centre to include three detached office buildings and associated parking and landscaping.	Approved with conditions
Y02/0929/SH	The Barn, Ingles Manor – Listed building consent for demolition of existing building.	Approved with conditions
Y17/0710/SH	Ingles Meadow Garden Centre - Full planning application for the erection of 40no. dwellings with associated access, parking, landscaping and open space.	Approved with conditions

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

FHDC Environmental Health Officer: No objection subject to conditions in respect of opening hours and details of any extraction plant.

Folkestone Town Council: No objection but make the following comment:

- lack of clear information.
- Proposal looks very modern and out of character to the surrounding area.

KCC Highways and Transportation: No objection but make the following comment:

- No concern with regards to volume / movement of traffic in relation to impact on the wider highway network.
- Overspill parking cannot be presumed to be available on the highway due to proximity of railway station and town centre.
- Site is well located for bus and train access for staff.
- Satisfied that parking provision is sufficient.
- Dropped kerb is required to assist with kerb side refuse collections.
- A set of corner protection double yellow lines are required on Jointon Road either side of the access track into Ingles Yard.

KCC Ecology: No objection subject to ecological enhancements and conditions

Natural England: No Comments

Southern Water: No objections raised subject to conditions.

KCC Archaeology: No objections subject to condition as set out below.

The site lies within an area of multi-period archaeological potential. The re-built granary should seek to reproduce the timber framing so that it can be appreciated internally, using as much of the historic fabric as possible. The groundworks should be subject of an archaeological watching brief.

Arboricultural Manager: No objections to the development or loss of the small self-set Sycamore tree.

Historic England: Initial comments received raised concerns with regards to lack of supporting information on the structural integrity of the buildings. Following the receipt of the first Structural Survey (August 2022), Historic England set out that it would be desirable to retain the existing buildings in order to minimise harm to the significance of the listed manor house, and that further information should be submitted regarding the structural integrity of the buildings. They did though consider that the harm to the listed building resulting from the loss of the cart store and granary would be “at the low end of the range of less than substantial”.

A second Structural Report was submitted January 2023 and following further consultation, Historic England again concluded that the proposal to demolish both buildings would give rise to a low level of less than substantial harm. No comments on the content of the structural survey were provided, other than that it conflicted with the information previously submitted. Historic England requests that if it is concluded that the historic buildings cannot be retained and repaired, a condition recommending heritage interpretation and building recording should be attached to any permission granted.

Local Residents Comments

5.2 13 neighbours directly consulted. 2 letters of objection, 0 letters of support received and 1 letter neither supporting nor objecting to the application.

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

Objections

- Demolition and part retention of the granary
- Cart shed is over-dominant and results in loss of heritage
- Inaccurate documentation
- Practice should be built elsewhere on the Ingles Yard site
- Lack of privacy
- Noise
- Car parking / traffic issues / safety

General Comments

- No overlooking to direct neighbour
- Unsure of finished height or position of structures / excavation works
- Support green roof
- Restrictions on use are not clear
- Overgrown trees on site may be a hazard

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Core Strategy Review 2020.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

UA5	Ingles Manor [Site allocation policy]
HB1	Quality places through design
HB2	Cohesive Design
T2	Parking Standards
T5	Cycle Parking
NE2	Biodiversity
NE5	Light Pollution and External Illumination
RL8	Development Outside Town, District and Local Centres
NE7	Contaminated Land
CC2	Sustainable Design and Construction
HE1	Heritage Assets
HE2	Archaeology

Core Strategy Local Plan (2020)

SS1	District Spatial Strategy
SS3	Place Shaping and Sustainable Settlements Strategy
SS4	Priority Centres of Activity Strategy
CSD4	Green Infrastructure of Natural Networks, Open Spaces & Recreation
CSD5	Water and Coastal Environmental Management in Shepway
CSD6	Central Folkestone Strategy

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

Government Advice

National Planning Policy Framework (NPPF) 2021

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

Paragraph 11 - Presumption in favour of sustainable development.

Paragraph 47 - Applications for planning permission be determined in accordance with the development plan.

Paragraph 81 – Building a strong, competitive economy

Paragraphs 104-108 Transport and Access

Paragraphs 126-132 – Achieving well-designed places

Paragraph 183 – Ground conditions and pollution

Paragraphs 189, 194-197, 199, 200, 202, 204-208 – Conserving and enhancing the historic environment

National Planning Policy Guidance (NPPG)

Design: process and tools

Historic environment

Natural environment

National Design Guide October 2019

C1 - Understand and relate well to the site, its local and wider context

C2 – Value heritage, local history and culture

I2 - Well-designed, high-quality and attractive

N3 - Support rich and varied biodiversity

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Impact on the significance of Ingles Manor and the curtilage listed buildings
- c) Design/layout/visual amenity/conservation area/setting of the listed building
- d) Residential amenity
- e) Ecology and biodiversity
- f) Protected trees
- g) Archaeology
- h) Highway safety
- i) Other matters

a) Principle of development and sustainability

- 7.2 The site is located within the settlement of Folkestone, in an area with a mix of existing commercial and residential uses. The wider site is allocated for housing and commercial uses and the proposed development would be compatible with this. The proposed use is considered acceptable as a matter of principle.
- 7.3 Policy UA5 of the PPLP states that the curtilage listed buildings within the site, which includes the buildings the subject of this application, should be preserved or enhanced as part of the development of the wider site. Whilst the wording of this policy is noted, this does not preclude the approach taken here. The appropriate means of assessing the impact of the proposed development on the listed building and curtilage listed buildings, notwithstanding the wording of Policy UA5, is set out below.

b) Impact upon the significance of Ingles Manor and the curtilage listed buildings

- 7.4 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority, when making planning decisions, to have special regard to the desirability of preserving a listed building and its setting. Government guidance in the form of the NPPF and NPPG set out how it is expected that Local Planning Authorities will assess applications relating to designated heritage assets. Policy HE1 of the PPLP sets out in broad terms that the Council will grant permission for development which promote an appropriate and viable use of designated heritage assets.
- 7.5 The starting point here is to assess the significance of the buildings themselves and as part of the setting of the principal listed building at the site. Following on from this, an assessment must be made as to whether the proposed development would harm the significance any significance identified, and whether this amounts to substantial or less than substantial harm, as required by the NPPF. Finally, if harm arises from the development proposed, whether this is outweighed by public benefits arising from the proposed development.

Significance

- 7.6 The application site forms part of the wider historic farmstead of Ingles Manor, a Grade II Listed Building, which sits approximately 31m northeast of the application site. Together with the remaining curtilage listed buildings in the immediate vicinity of the application site, they are all single-storey and served as agricultural buildings, ancillary to the manor house.
- 7.7 In this case the granary and cart store derive their significance from their relationship with the main manor building .
- 7.8 The wider farmstead, which the application site historically formed part of, has been substantially developed over time with:
- the 'Folkestone Garden Centre',
 - the Civic Centre and Job Centre to the southeast and south, respectively.
 - commercial development to the east of the site on the site of a former barn

- substantial residential development (with approval of commercial development on the undeveloped land to the south east of the manor house).

7.9 The site is also allocated for development in the adopted Local Plan. Having regard to the above, it is clear that the wider setting of the listed building has been substantially degraded and its heritage significance is accordingly significantly reduced.

7.10 The remaining Ingles Yard site (including the site of these applications and the adjacent buildings) does still contain a number of historic structures. These structures are low level, in various states of repair and are now used for commercial purposes. The group value of these buildings has been eroded by the encroachment of modern development.

7.11 In this regard the historic significance of the site has been significantly reduced.



Fig.13 Aerial photograph showing development of the wider site

7.12 The significance of the buildings, subject of these applications, was previously derived from the relationship with the listed manor house and listed barn (now demolished after its destruction by a fire in the early 2000s) and is now derived solely from the relationship with the listed manor house and in their traditional means of construction, design and materials. Importantly, they are curtilage listed and whilst of some merit, are not so significant in historical or architectural terms to warrant listing in their own right.

7.13 Of the two buildings proposed to be demolished, the former cart store is of limited significance. It is of makeshift construction, with sawn timber extensively used for the roof and is propped up on a pre-existing boundary wall with the rear wall being otherwise constructed of boarding.

- 7.14 The former granary building is of more significance – dating from the 18th century, it is of timber construction, although the northern roof timbers have been replaced over time and are no longer original. Any internal plasterwork has been removed and the walls of the building now amount to the timber frame and weatherboarding only. The roof is tiled with Kent pegs. The building is partially collapsed due to a number of the staddle stones on which it sat being missing. It is in a poor condition.
- 7.15 In conclusion, the wider site has been extensively developed, with further commercial development having been granted permission, and allocated for further development, including commercial development close to the application site. The setting of the listed building is therefore considered to be compromised and the farm buildings the subject of this application are read in the context both of the listed manor but also in the context of the modern development in the vicinity, including the existing housing and public buildings to the south. The buildings are not listed in their own right, are small in scale and whilst the granary is of some merit, contributing in a limited way to the historic interest of the listed manor and wider site, the cart store is not. Overall, the significance of the buildings and application site is modest.

Harm

- 7.16 The proposed development would result in the loss of the cart store (although the wall to the rear would be retained) and the demolition and rebuilding of the granary. As the significance of the buildings and their contribution to the significance of the manor house is considered to be modest, the impact of their loss would also be modest. The loss of both buildings would, in the opinion of Historic England, give rise to a low level of less than substantial harm. This is considered to be an accurate assessment.
- 7.17 Having regard to the above, and the assessment of significance of the buildings, whilst the retention of the former granary is desirable, the submitted information, (including the structural information and heritage statement), make clear that a significant element of the original historic fabric of the building has already been replaced or lost entirely, and that the building is in such a condition that its retention for any purpose, but in particular for any viable use, would necessitate significant reconstruction, such that any historic interest would in any case be lost. This is considered to reduce the level of harm arising from the loss of the buildings accordingly.

Public Benefit

- 7.18 The NPPF sets out that, where less than substantial harm would arise, this has to be weighed against the public benefits of any scheme. In this case, the public benefits include that the use would contribute to the provision of employment floorspace within the district and would provide a service for the local community. In addition, Historic England identify that a condition in relation to heritage interpretation with regards the granary, cart store and the wider site would amount to a public benefit weighing in favour of approval. A condition requiring this is recommended below.
- 7.19 Having regard to the less than substantial harm arising from the loss of the buildings, it is considered that the public benefits set out above are sufficient to outweigh the impact on the significance of Ingles manor.

c) **Design/Layout/Visual Amenity/Conservation Area/setting of the listed building**

- 7.20 The proposal is for the complete demolition of the existing cart store and the redevelopment of the site with a new contemporary building, and re-build of the granary, to form a new vets practice. The orientation of the building has been determined by the position of the existing outbuildings and access to the street, which would serve the new business.
- 7.21 Amendments have been made to the design and appearance of the development in order to address initial concerns regarding visual bulk. The first-floor front (east) dormers have now been removed and the height of the eaves reduced. This, alongside the creation of a cat-slide roof, has successfully reduced its visual prominence, particularly from the front elevation. Further, the proposed 1.5 storey addition has been reduced in height by approximately 0.4m, from a maximum height of 6.9m down to 6.5m. This further assists in improving the development's overall visual presence from within, and outside the site.
- 7.22 Flat-roofed development is not a prevalent design feature in this location but the proposed design, when combined with the proposed finished materials (comprising of dark cladding as often found on rural Kentish barns/farmsteads, including the current Granary building to be reproduced in replica), together with more modern details such as the glazed link between the replica granary and 1.5 storey addition, would result in an acceptable contemporary appearance. This combined with the incorporated and retained historic elements from the original structure ensures that the development is both sensitive and sympathetic to its surroundings and to the history of the site. It enables the development to sit comfortably within the site, which has (over time) become a mix of old and new developments and will, if approved, become part of the site's history.
- 7.23 The use of a green roof across much of the flat-roofed area would assist in softening the appearance of the building and is supported. Policy HB8 PPLP also encourages the use of green roofs.
- 7.24 The wider Conservation Area setting includes the application site and the wider Ingles Yard land, including the Listed Building. The loss of the granary and cart store would not have a significant impact on the special character of the conservation area, and the rebuilding of the granary would mitigate any limited harm in this respect.
- 7.25 The siting of the building is such that views from across the wider Conservation Area would not be disrupted and so would not adversely impact upon the character of the area. The use of high-quality materials in the overall build would also assist in preserving the character of the Conservation Area, retaining an element of tradition within an otherwise contemporary and modern newbuild. The application site is considered sufficiently sized to accommodate the new development.
- 7.26 The design approach has been reached through the need for the development to be both practical and functional, and which would retain a degree of history to the site. The latter would come about in the form of the replica granary store, reflecting the historic interest of the site.

- 7.27 It is considered that the internal layout of the proposed veterinary practice would provide sufficient accommodation. Part of the first-floor accommodation would become a dedicated space for a member of staff to stay overnight in order for a level of care to be provided outside normal working hours. The layout of this area would provide a single room with en-suite which would be used for temporary overnight staff accommodation. The use of this area could be restricted by condition.
- 7.28 Whilst curtilage listed structures would be lost as part of this development, parts of the historic fabric and character would remain evident in the form of the replica grain store which would be constructed using salvaged materials and historically accurate construction methods. The proposed surrounding contemporary building works would ensure that there is a differentiation between old and new.
- 7.29 The layout of development would give rise to the loss of a limited area of soft landscaping. However – this is not considered to be significantly harmful in the context of the surrounding development.
- 7.30 In terms of the impact of the development on the setting of the listed building, this is considered acceptable. As set out above, the design is considered to be appropriate, and the reconstruction of the granary building would provide historic context to the building. Notwithstanding this, the setting of the listed building has been significantly compromised by existing development, such that in this context, the proposed building would contribute positively to the surrounding built development.
- 7.31 In conclusion, it is considered that the proposal amounts to a high quality design which would add an interesting element to the site, and immediate street scene, would have preserve or enhance the special character of the conservation area, and which would not give rise in itself to harm to the setting of the listed Ingles Manor. The proposed vets practice can be appropriately accommodated on the site and it is therefore considered to accord with policy HB1 of the Local Plan and section 12 of the NPPF.

d) Residential Amenity

- 7.32 The proposed development would be a sufficient distance from the nearest dwelling to not give rise to harm to residential amenity by virtue of overlooking, loss of outlook or being overbearing.
- 7.33 The use of the site for veterinary purposes is unlikely to generate noise levels that result in harm to neighbours of the site. The occasional barking animal during operational hours would not be materially harmful and the kennels are contained within the walls of the host building. It is common for veterinary surgeries to be accommodated within built-up residential/urban areas without harm, and it is notable that the Council's Environmental Health Officer does not raise objection in this regard. The development would be located within a wider site which is characterised by its use for commercial purposes. In that regard the use of the site is not objectionable on grounds of residential amenity.
- 7.34 Whilst the proposal would increase vehicle trips to and from the site which may increase ambient noise levels, combined with the hours of operation required by

environmental health I do not consider that the proposal would cause harm by means of increased noise.

7.35 Having regard to the above, it is not considered that the proposed development would give rise to harm to residential amenity.

e) Ecology & Biodiversity

7.36 Members will note that KCC Ecology do not raise objection and have requested a Bat Sensitive External Lighting Scheme be secured by condition, as well as a precautionary mitigation method with regards to reptiles and breeding birds. They have also requested an Enhancement Plan be secured by condition. It would also be appropriate to highlight the potential of nesting birds to the applicant and this can be done by use of a suitably worded informative attached to any planning approval.

f) Impact on protected trees

7.37 The position of the proposed building would result in the loss of self-seeded trees on the western boundary (as shown in the site photos above). The site lies within a Conservation Area but notwithstanding this, there is no objection to their loss as they offer little amenity value to the wider area, and Members will note that the Council's Arboricultural Officer does not object to the proposals. Given the confines of the site it would not be appropriate to condition replacement trees but low-level landscaping, bird/bat boxes and the green roofs can be secured by condition, in the interests of biodiversity.

7.38 The existing trees to the entrance of the site are shown to be retained as part of this proposal, however a condition requiring tree protection measures is recommended.

g) Archaeology

7.39 KCC Archaeology has raised no objection to the contents of the support archaeological report and has requested that a watching brief be secured by condition.

7.40 I am satisfied subject to conditions requested by KCC that the proposal would not result in harm to archaeological features.

h) Highway Safety

7.41 KCC Highways and Transportation raise no objection, having regard to the submitted transport assessment, proposed parking and access arrangements and the sustainable location of the site in relation to public transport. Vehicle movements associated with the use are likely to be low, amounting to a total of 8 movements per hour, excluding deliveries and staff arrivals/departures.

7.42 KCC Highways and Transportation do recommend a condition requiring the provision of parking restrictions at the access of the site onto Jinton Road. This is recommended below.

7.43 The proposed cycle parking as shown on the approved plans is recommended to be secured by condition.

7.44 In light of the above, subject to conditions, I am satisfied that the proposal would not result in harm to highway safety.

i) Other Matters

7.45 A condition are recommended to be imposed in respect of drainage details.

Environmental Impact Assessment

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

Local Finance Considerations

7.46 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

7.47 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This application is not liable for the CIL charge.

Human Rights

7.48 In reaching a decision on a planning application the European Convention on Human Rights must be considered. The Convention Rights that are relevant are Article 8 and Article 1 of the first protocol. The proposed course of action is in accordance with domestic law. As the rights in these two articles are qualified, the Council needs to balance the rights of the individual against the interests of society and must be satisfied that any interference with an individual's rights is no more than necessary. Having regard to the previous paragraphs of this report, it is not considered that there is any infringement of the relevant Convention rights.

Public Sector Equality Duty

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

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;

- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

Working with the applicant

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

8. CONCLUSION

8.1 The proposal seeks planning permission and Listed Building Consent for the demolition of the existing outbuilding structure, replica re-build of the granary structure and redevelopment of the site to provide a new veterinary practice. While objections to the proposals are noted, the scheme is considered to be acceptable in terms of design, layout, materials, impact on the Conservation Area and impact on the significance of the heritage asset, including setting of the Grade II Listed Ingles Manor as well as in regard to amenity impacts, highway safety, ecology and site drainage.

8.2 In light of the above, it is considered that the proposal accords with the adopted Development Plan subject to appropriate conditions. As such it is recommended that planning permission and Listed Building Consent be granted, subject to the conditions as set out below (subject to the Chief Planning Officer's delegated authority to agree and finalise the wording of the conditions and add any other conditions that he considers necessary).

9. BACKGROUND DOCUMENTS

9.1 The consultation responses set out at Section 5.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

10. RECOMMENDATIONS

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

Conditions:

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

Reason:

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

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

Site Location Plan – 001 – 19.01.2022

Proposed Block Plan – 002 P1 – 19.01.2022

Proposed Sections & Elevations – 007 P3 – 11.11.2022

Proposed Floor Plans – 006 P3 – 11.11.2022

Proposed Site Plan with Roof Plan – 005 P2 – 11.11.2022

Heritage Statement – 19.01.2022

Transport Statement – 19.01.2022

Reason:

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

3. No development beyond the construction of foundations shall take place until details in the form of samples of external finishing materials to be used in the construction of the development hereby approved 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:

To ensure the satisfactory appearance of the completed development in the interests of visual amenity, in the interests of preserving the setting of the listed building and preserving or enhancing the special character of the Conservation Area..

.

4. No development beyond the construction of foundations shall take place until detailed drawings at a suggested scale of 1:5 of all new external and internal joinery work and fittings together with sections through glazing bars, frames and mouldings 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 in the interests of visual amenity, in the interests of preserving the setting of the listed building and preserving or enhancing the special character of the Conservation Area..

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of an archaeological watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that groundworks are observed, and items of interest and finds are recorded. The watching brief shall be in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that features of archaeological interest are properly examined and recorded.

6. The roots of the trees to the north of the application site, shown retained on page 23 of the submitted Design & Access Statement shall be protected by suitable fencing of a height not less than 1.2m at a distance as specified in Table 1 or Figure 2 of BS 5837 (2012) 'Trees in Relation to Design, Demolition and Construction' before any equipment, machinery or materials are brought on to the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

Nothing shall be stored or placed, nor fires lit, within any of the area fenced in accordance with this condition and the ground levels within those area shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To safeguard the existing trees and to ensure a satisfactory setting and external appearance to the development and wider streetscene.

7. Prior to the first use of the development hereby approved, the secure bicycle storage spaces as shown on the approved plans shall be provided and made available for use.

Reason:

To ensure the provision and retention of adequate off street parking facilities for bicycles in the interests of highway safety and to encourage the use of sustainable modes of transport

8. The vehicle parking spaces as shown on the approved plans shall be provided and kept available for parking purposes in connection with the approved development prior to the first use of the development hereby approved, and at all times thereafter.

Reason:

In the interest

9. Facilities for the storage of refuse and recycling shall be provided in accordance with the approved plans. These facilities shall be provided prior to the first use of the development hereby approved and shall be maintained and retained thereafter.

Reason:

In the interests of visual and residential amenity and highway safety and convenience..

10. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

The Plan shall include the following:

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

Reason:

In the interests of highway safety and residential amenity

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

Monday to Friday 0800 – 1800 hours

Saturdays 0800 – 1300 hours

unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason:

In the interests of residential amenity.

12. No development shall take place until parking restrictions are in place at the junction of the access road with Jointon Road, extending 10 metres to the north and south of the junction.

Reason:

In the interests of highway safety and convenience.

13. No development above slab level shall take place until a lighting plan has been submitted to the Local Planning Authority for written approval demonstrating that the external lighting will not negatively impact foraging/commuting bats. The lighting plan must follow the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals.

Reason:

In the interests of biodiversity and ecology

14. No development above slab level shall take place until an ecological enhancement plan has been submitted to the Local Planning Authority for written approval. It must demonstrate that the ecological enhancement recommendations within Ecological Appraisal (Greenspace Solutions;

September 2022) will be implemented. The plan must be implemented as approved.

Reason:

In the interests of biodiversity and ecology

15. No dust or fume extraction or filtration equipment, or air conditioning, heating or ventilation equipment shall be installed until full details of its design, siting, discharge points and predicted acoustic performance have been submitted to and approved by the Local Planning Authority.

Reason:

In the interests of residential amenity.

16. The staff overnight accommodation space as shown on the approved plans listed under condition 2 above, shall remain ancillary to the operation of the business and shall at no time be converted to, used, rented, as a self-contained permanent unit of accommodation.

Reason:

In accordance with the terms of the application and as use a separate dwelling would amount to the creation of a substandard residential unit.

17. The replica granary building shall be constructed, in so far as is practicable and feasible, of materials salvaged from the original granary building which it is set to replace.

Details in the form of a written statement of works, shall be submitted to and approved in writing by the local planning authority, setting out how the demolition works will be undertaken and how materials will be salvaged, where these salvaged materials will be stored and how they will be re-used. The statement should also set out a method of construction and craftsmanship techniques so as to ensure that the replica building is constructed sensitively.

Reason:

To ensure the satisfactory appearance of the completed development in the interests of visual amenity, in the interests of preserving the setting of the listed building and preserving or enhancing the special character of the Conservation Area..

18. No development including any works of demolition shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of building recording to level 2 of Historic England's 'Understanding Historic Buildings. A Guide to Good Recording', in accordance with a written specification and timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of the special architectural or historic interest of the listed building.

19. No development, including any works of demolition, shall take place until details of a heritage interpretation scheme to be implemented at the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first use of the building or in accordance with a timetable submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interest of the special architectural or historic interest of the listed building.

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

Reason:

In order to prevent pollution of water supplies.

Informatives:

1. Planning permission does not convey any approval to carry out works on or affecting the public highway.
2. Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer.
3. Please view the Considerate Constructors Scheme at <http://www.ccscheme.org.uk/index.php/company-registration/how-to-be-veryconsiderate/company-code-of-considerate-practice>.

DCL/22/57

That Listed Building Consent be granted subject to the following conditions and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

Conditions:

1. The work specified above shall be begun within three years from the date of this notice.

Reason:

To comply with the requirements of Section 18 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

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

Site Location Plan – 001 – 19.01.2022

Proposed Block Plan – 002 P1 – 19.01.2022

Proposed Sections & Elevations – 007 P3 – 11.11.2022

Proposed Floor Plans – 006 P3 – 11.11.2022

Proposed Site Plan with Roof Plan – 005 P2 – 11.11.2022

Heritage Statement – 19.01.2022

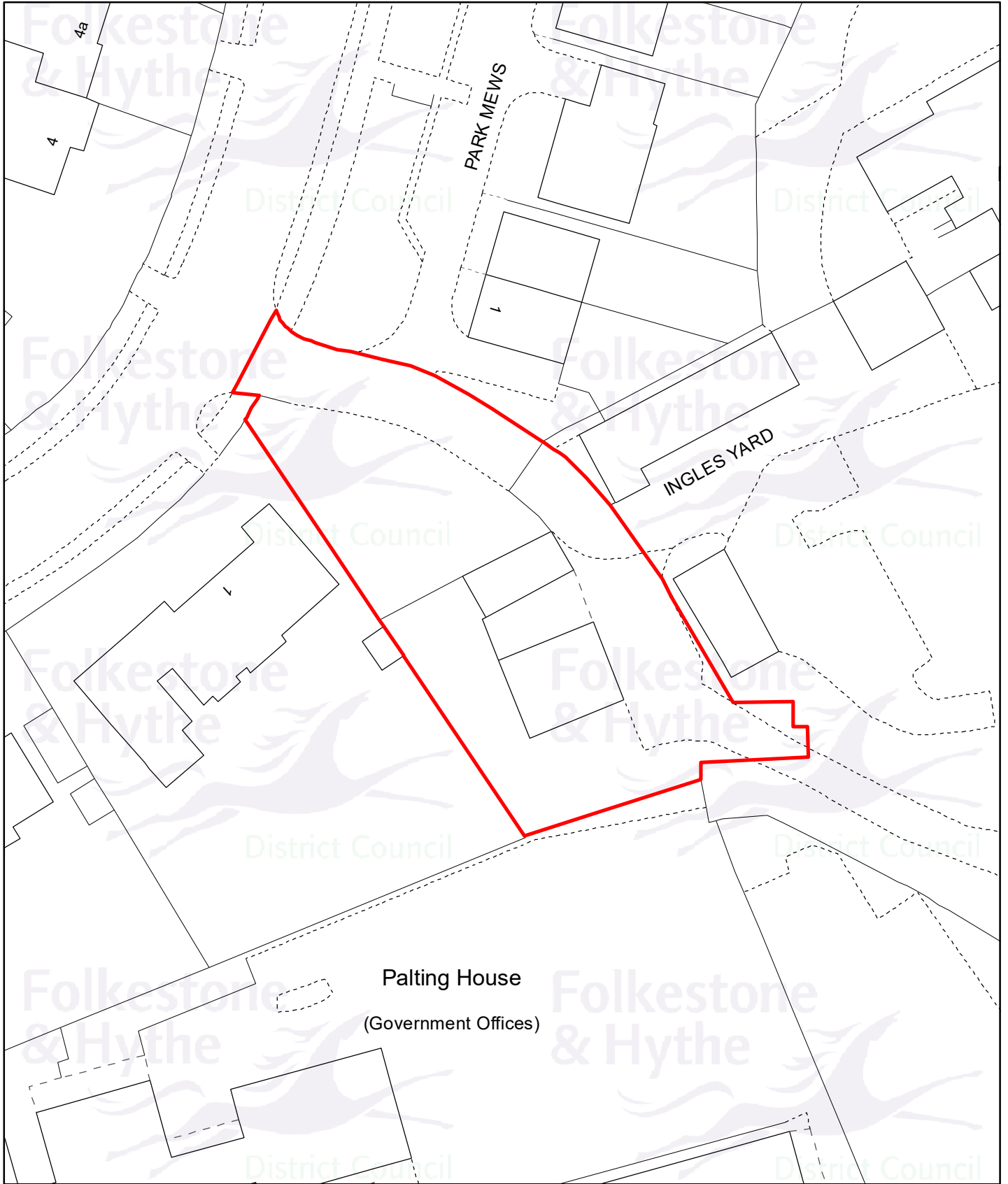
Transport Statement – 19.01.2022

Reason:

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

Appendix 1 – Site Location Plan

22/0100/FH - Ingles Yard, Jointon Road, Folkestone

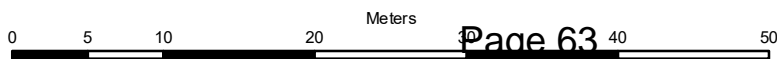


Drawn date:
10 Mar 2023

Drawn by:
Brian Harper

Drawing ref.:
2135/COM/TG

Contains Ordnance Survey data
© Crown copyright and database right
Folkestone & Hythe District Council 100019677 - 2023



Drawn at 1:500 on A4

This page is intentionally left blank

Agenda Item 6

DCL/22/58

Reference No: 22/0122/CM

Site Address: Land opposite 2 Hoad Cottage, Hoad Road, Swingfield

Breach of Planning Control: Mixed use of land for residential use, holiday/tourism use, (including the keeping of alpacas and other animals) and car accessories business; the installation and siting of various structures, equipment and paraphernalia associated with those uses, including containers, solar panels, a prison van for use as a chicken house, alpaca shelter, hot tub, diesel tank and play equipment; the erection of timber fencing and gates; and the laying of hardsurfacing.

SUMMARY

The breaches of planning control that have taken place on the site are the change of use of the land to a mixed use of residential, tourism and operation of a car accessories business; the installation and siting of various structures, equipment and paraphernalia associated with those uses, the erection of timber fencing and gates and the laying of hardsurfacing. The residential and tourism uses are considered to constitute unsustainable development in the countryside, result in the loss of best and most versatile agricultural land and be detrimental to the character and appearance of the countryside and the North Downs Area of Outstanding Natural Beauty and Special Landscape Area and it has not been demonstrated that the uses would not result in harm to occupants of the site from contamination or that the additional overnight accommodation would not result in harm to internationally designated sites. The tourism use is also considered to be detrimental to the amenity of nearby residents.

RECOMMENDATION

That an enforcement notice be issued requiring the use of the land for residential and tourism uses to cease and the removal of all associated buildings, structures and paraphernalia including solar panels, diesel tank and hot tub within 12 months of the notice taking effect.

1. SITE AND SURROUNDINGS

- 1.1 The site is located on the northwest side of Hoad Road, close to the junction with the A260 in Swingfield. Adjacent to the site on the north-western side are three relatively isolated cottages, which have no road frontage and are accessed via a track. Southeast of Hoad Road, opposite the site, is a wooded area. To the south-west of the site are open fields and the access road to the cottages. The location of the site is shown below outlined in red on **Figure 1**. The small triangle shaped area of land adjoining the site to the southwest is subject to an Enforcement Notice relating to an unauthorised change of use to a residential traveller site. The use of that land has now ceased.



Figure 1 – Site Location Plan

- 1.2 The site is located within the North Downs Area of Outstanding Natural Beauty and Special Landscape Area, outside of any settlement boundary. Prior to the unauthorised development taking place, the site comprised a grassed agricultural field surrounded on all four sides by trees and hedgerows, with a single field gate access on to the road. It is classified as Grade 2 agricultural land, and therefore constitutes Best and Most Versatile agricultural land (BMV) under the Agricultural Land Classification. The site is also within The Stour Operational Catchment, a KCC Archaeological notification area for 1 or more dwellings or major development and within a Site of Special Scientific Interest Impact Risk Zone. As the works that have been carried out on site do not appear to have involved any significant excavations there is unlikely to have been any impact on archaeology and the scale of the development is such that it is considered that it would not have any impact in respect of the SSSI risk zone.
- 1.3 The lawful use of the land is considered to be agriculture. The land prior to the recent development is shown at **Figures 2 and 3** below.



Figure 2 – Aerial photograph of the site in 2018.



Figure 3 – photograph of site prior to unauthorised development

- 1.4 A site location plan is attached to this report as **Appendix 1**.
- 1.5 In 2018 planning permission was refused for the 'Construction of a subterranean dwelling with associated landscaping, parking and access onto Hoad Road' (reference Y18/1242/FH). In August 2020, planning permission was granted for 'Construction of a new field access' (reference: Y19/1383/FH). The plans show a new timber field gate and the existing wire fencing to be extended to meet the

gate posts. In December 2021 planning permission was retrospectively granted for the formation of a bio-diversity pond and hardstanding' at the site (reference: 21/1592/FH).

2. THE BREACH OF PLANNING CONTROL

- 2.1 In early April 2022, the Council received complaints concerning structures installed on the land, the extension of hardstanding and the owner and his family living on the land. Photographs provided by a complainant appeared to show that structures had been brought on to the land, including shipping containers, timbers sheds and a lorry body. Further complaints advised that solar panels had also been installed on the land.
- 2.2 As a result of the complaints the Senior Planning Enforcement Officer visited the site on the 27th April 2022 and noted that a number of structures had been erected and brought on to the site and that close boarded fencing and gates had been erected at the site entrance. Figures 4 - 6 below show the development that had taken place on the site at the time of that visit and Figures 7 – 9 below show the site now.



Figure 4 – Photograph of site taken on 27th April 2022.



Figure 5 – Photograph of site taken on 27th April 202



Figure 6 – Photograph of the site taken on 27th April 2022.



Figure 7 – Photograph of site 1st March 2023



Figure 8 – Photograph of site 1st March 2023



Figure 9 – Fencing and gates at entrance to site.

- 2.3 A Planning Contravention Notice (PCN) was served on the owner of the land to obtain information in respect of the development taking place. In responding to the PCN, the Agent acting for the owner advised that the owner, his wife and their child were now living on the land and its intended use was as a registered small holding with rare breeds. It was stated that the alpacas would be impregnated at the end of May and it was imperative that there is a site presence

for this time and for the gestation period, including the birth of the young. The residential use of the land requires planning permission and no such planning permission has been granted

2.4 In responding to the PCN the agent also advised that the following had been installed on the site:

- A container for storage use
- A container for residential and office use
- A former prison van for use as a chicken house
- A diesel tank
- A hot tub
- An alpaca shelter
- Solar panels

There was also a stated intention to park a double decker bus on the land for use as a holiday let. The bus was not on the site at the time of a recent site visit. The completed PCN also stated that additional hardstanding has been installed in the form of a drive from the permitted hardstanding to the residential containers and a parking area adjacent to the gate. All of these require planning permission as there are no relevant permitted development rights for the structures or extension to the hardstanding

2.5 In June 2022 further complaints were received that the owner was operating a car accessories business from the land and that play equipment had been installed. As a result, a further PCN was served on the landowner. In responding to that PCN the agent for the owner advised that the owner of the property does own a car accessories business but that this is registered elsewhere. In response to a question about other businesses operating from the land the response was that in addition to the smallholding, an emerging business plan identifies rare breeds centre/educational facility/holiday let business. The agent of the owner also advised that the play equipment was not fixed and therefore temporary. However, although the play equipment may not in itself constitute operational development the use of the land for the purposes that that play equipment is required (in this case either the residential use or proposed or tourism/holiday use, does require planning permission. There was insufficient evidence at that time that the alleged car accessories business was taking place on the site.

2.6 At the beginning of August 2022, a complaint was received about a luxury camping site being advertised at the property. An internet search revealed two websites advertising the site, www.alpacaretreats.co.uk and www.pitchup.com These advertise retreats with a range of animals on site, including alpaca, goats, pigs and chickens. Bell tents, pitch your own and a bus (in the process of being renovated) are offered. A third PCN was served on the owner in respect of the camp site use and the operation of the car accessories business. In respect of the campsite use the responses were that it is being used as a campsite; that there is one shepherds hut and one bell tent and the rest are pitch your own; and that for 28 days of camping no planning is required. Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) Order 2015

does permit the temporary use of land, including use as a campsite, for not more than 28 days in any calendar year and the provision of any moveable structure on the land in connection with the temporary use. The response to the PCN listed 15 dates for bookings. However, the permitted 28 days is per site, not per use, so all of the unauthorised uses count towards the 28 days. The unauthorised uses of the site, when taken together, have exceeded the permitted 28 days and planning permission is required..

- 2.7 The responses to the PCN relating to the car accessories business were that a vehicle associated with the business is parked at the site; that work is undertaken in relation to the car accessories business at the site when childcare is limited; and that clients visit the site, and 'pricing up' is undertaken on the site in association with the car accessories business. The carrying out of this business from the site requires planning permission.
- 2.8 Although an Agent had been appointed by the landowner and he has indicated his intention to make a planning application for the development on the site, no such application has been submitted.
- 2.9 Despite being verbally advised not to continue to develop the site without planning permission, and the serving of three PCN's, the development of the land has continued unabated and has increased. Under section 171B (3) of the Town and Country Planning Act 1990 (as amended), immunity is given from formal enforcement action, such as against an Enforcement Notice, for changes of use of land and operational development subject to certain time limits. In this case the relevant period for the change of use of the land is 10 years and for the operational development it is 4 years. As the change of uses and operational development took place between April and August 2022, neither are immune from enforcement action.

3. RELEVANT PLANNING POLICY

- 3.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Review 2022.
- 3.2 The relevant Development Plan Policies are as follows:

Core Strategy Review 2022

SS1 - District Spatial Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

CSD3 – Rural and Tourism Development

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

Places and Policies Local Plan 2020

HB1 – Quality Places through Design

HB2 – Cohesive Design

HB7 - Dwellings to Support a Rural-based Enterprise

NE2 – Biodiversity

NE3 – Protecting the District’s Landscapes and Countryside
NE7 – Contaminated Land
E3 – Tourism
E5 – Touring and Static Caravan, Chalet, and Camping Sites
HE2 – Archaeology
HW3 – Supporting Healthy Lifestyles

3.3 The following are also relevant material considerations.

National Planning Policy Framework (NPPF) 2021

Paragraph 59 of the NPPF states:

Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Paragraph 8 & 11 - Presumption in favour of sustainable development.
Paragraphs 79 & 80 – Rural Housing
Paragraphs 174, 176, 177 - Protecting valued landscapes including best and most versatile agricultural land, biodiversity and protected habitats and giving highest status of protection of AONB
Paragraph 180 – Habitats & Biodiversity
Paragraphs 184 – 185 – Contamination
Paragraphs 194 – 202 – Proposals affecting heritage assets

National Planning Policy Guidance (NPPG)

Government guidance on enforcement is set out in the National Planning Policy Guidance relating to Enforcement and post-permission matters. It advises that

‘Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations’

and that *‘In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework (NPPF), particular paragraph 59.’*

APPRAISAL

Residential use

4.1 Core Strategy policies SS1, SS3 and CSD3 seek to direct new development to existing sustainable towns and villages, as identified in the settlement hierarchy.

The Council's Settlement Hierarchy seeks 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. Focusing development at these existing settlements underpins not only the protection of the district's open countryside but also seeks to achieve sustainable places.

- 4.2 The site is in open countryside outside of any settlement boundary. It is located to the west of the small cluster of built development that comprises part of Swingfield Minnis. It is also separated from main part of Swingfield Minnis by the A260 Canterbury Road. Swingfield Minnis does not have a defined settlement boundary nor is it included in the Core Strategy settlement hierarchy. As such, planning policies relating to the protection of the countryside are applicable. Both national and local planning policies seek to resist isolated and unsustainable residential development in the countryside. Whilst there is a Builder's Merchant and Garden Centre in Swingfield, there are no grocery shops or community facilities, with the nearest grocery shop being a newsagents in Densole. The closest supermarket is further away in Hawkinge. Although there is a nursey school in Swingfield, close to the site, the nearest secondary schools are in Canterbury and Folkestone, and the nearest primary schools are in Hawkinge and Selsted. The only accessible public transport is the bus route along the A260 between Folkestone and Canterbury. Therefore, in terms of the residential use of the site, occupants are predominantly reliant on their own private transport to access shops and local amenities in Densole and Hawkinge and further afield. Therefore, in terms of national and local planning policy it is considered that this site is in an unsustainable location for residential use.
- 4.3 Under policy CSD3 new residential development in such locations is only acceptable in principle if it meets the tests of rural exceptions affordable housing or is to provide for an essential need for a rural worker to live on or near their place of work. Apart from the response to the first PCN, which was that it was essential to live on site during the impregnation and gestation of the alpacas, no acceptable planning justification has been put forward as to why the occupant and his family need to live on site. There is not an established agricultural business on the site that would justify an agricultural worker's dwelling. An application for planning permission for a dwelling on the site by the current occupant had been refused on grounds of being contrary to policy prior to the residential occupation of the site taking place, so the owner was aware at the time he moved on to the site that residential use was unacceptable in principle. In the responses to the PCNs the proposed use of the site appears to have changed from a smallholding to a tourism use/retreat. In the absence of any supporting evidence or information to justify overriding planning policy, none of these uses justify a residential use of the site.

- 4.4 The site comprises a previously undeveloped green field on a quiet country lane with trees and hedgerows along the boundaries. The land is on the other side of the busy A260 from the main part of the small village of Swingfield Minnis.
- 4.5 The continued residential its associated paraphernalia introduces a domestication into the rural landscape, outside of the existing built area, which adversely impacts on the visual quality of the rural landscape. The unauthorised development has significantly changed the rural character and appearance of the site, to its detriment, from that of a grassed agricultural field to an urbanised appearance due to the extended area of hard surfacing, close boarded fencing and gates and a large number of structures that have been installed. The number of structures involved and their temporary nature and incoherent appearance results in a site that appears cluttered. All of these, together with the associated paraphernalia, have domesticated and urbanised the appearance of the site to the detriment of its rural character and appearance and have resulted in it becoming visually prominent and incongruous with the surrounding landscape character. As such, the development is considered to be detrimental to the character and appearance of the landscape, failing to preserve and enhance this part of the Area of Outstanding Natural Beauty and contrary to national and local planning policies which give priority to protecting the AONB over other material planning considerations.
- 4.6 The unauthorised change of use, if not addressed by way of enforcement action, would result in the loss of Grade 2 agricultural land. Grades 1, 2 and 3 are considered to be the best and most versatile agricultural. Paragraph 174 of the NPPF requires planning decisions to recognise the economic and other benefits of the best and most versatile agricultural land. In the interests of reducing the environmental impact of importing food, policy HW3 of the Places and Policies Local Plan seeks to ensure that development does not result in the loss of such land unless there is a compelling and overriding planning reason. No such reason is evident in this case.
- 4.7 The activity associated with residential use of the site by one household is unlikely to be having an unacceptable impact on the residential amenity of the occupants of the nearest dwellings at Hoad Cottages and Grace Cottage. The residential use is considered to be acceptable in this regard.
- 4.8 As no planning application has been submitted for the development, the Council has not received an ecological desktop study and therefore it has not been possible to identity any protected species or habitat on the site. Without this the impact of the development on protected species and biodiversity cannot be appropriately assessed. In addition, the site falls within the Stour Operational Catchment. This means that all applications for net new overnight accommodation, including residential accommodation, that will impact on waste water infrastructure will be subject to an appropriate assessment and that planning permission should only be granted where the development would not

have an adverse impact on the Stodmarsh Special Protection Area. Stodmarsh lies to the east of Canterbury and is a Special Protection Area (SPA) Ramsar site, Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI) and parts are a National Nature Reserve (NNR). During 2017/18, a review of the internationally designated sites at Stodmarsh identified that some of the lakes had raised nitrogen and phosphate levels, leading to eutrophication of the lakes which occurs when an excessive amount of nutrients within a water body are present, which makes it difficult for aquatic insects, invertebrates or fish to survive, in turn removing a food source from the food cycle. Natural England has issued advice all authorities in Kent, and it covers all areas within the Stour Valley River catchment, and which discharge to amongst others, Sellindge Wastewater Treatment Works. The consequence of this advice is to avoid the potential for any further deterioration in the water quality of the Stodmarsh European designated site pending further investigations as to the cause of the eutrophication. The water quality can be affected by ground water as well as water from treatment works. The advice applies to all types of development where a net additional population would be served by a wastewater system. In this case the residential use of the site results in additional overnight accommodation and there is no information on how the waste water is dealt with. Therefore, it cannot be confirmed that the use would not contribute to harm to the designated sites at Stodmarsh.

- 4.9 Under the Conservation of Habitats and Species Regulations (2017 as amended), there are significant responsibilities conferred on the Council as “competent authority”. Mainly, it requires the Council only to approve new development if there is no likelihood of a significant effect on any European designated nature conservation site. A significant effect could be caused by a number of potential impacts including direct or indirect habitat loss, air pollution, water quality, increase in recreation, light pollution or construction activity. In order to assess whether this development would lead to a “likely significant effect” an Appropriate Assessment would need to be carried out which the Council would consult Natural England on. As this is unauthorised development the Council does not have sufficient information for an appropriate assessment to be carried out and it is not possible for the Council to be satisfied that there would not be an impact on the SPA. As such the development is contrary to policies NE2 and CC3 of the PPLP.
- 4.10 Given the previous agricultural use of the land there is potential for ground contamination resulting from that use. A requirement for a valid planning application in such cases is the submission of a desktop contamination report to identify previous uses and the likelihood of ground contamination that could be harmful to human health. The unauthorised residential use of the site exposes the potential for harm to users of the site from cultivation of the ground, children being exposed to soil while playing etc, contrary to policy NE7.

Tourism Use

4.11 Policy CSD3 relates to rural tourism development as well as residential use. It seeks to resist rural tourism development unless, if a rural location is justified, there are no sites available within settlements, the development is proportionate in scale/impact and it is accessible by a choice of means of transport. This is expanded upon in PPLP policy E3 Tourism, which seeks to direct new tourism development to in or on the edge of centres in the settlement hierarchy. Tourism development in the countryside will be permitted in exceptional circumstances where it can be demonstrated that:

- i) an open countryside location is needed;
- ii) there are suitable buildings in the locality that could be converted;
- iii) the development is viable and will have significant economic and other benefits to the locality to outweigh the harm; and
- iv) where the development is located in the AONB it does not constitute major development.

4.12 In the absence of a planning application no justification has been put forward as to why the camping site and alpaca retreat need to be on this site. Neither is there any evidence as to whether there are any suitable sites available within, or on the edge of, sustainable settlements. It is difficult to assess whether the use will be proportionate in scale and impact as there is no business model available and no information on likely visitor numbers. It is also not possible to assess whether or not the tourism development is viable and will have significant economic benefits. The site is not easily accessible by a choice of means of transport. There is a bus route between Canterbury and Hawkinge/Folkestone with bus stops on the A260 close to the junction with Hoad Road access to it is along the unlit Hoad Road, which is a country lane and has no footpaths. Visitors to the campsite/retreat will be predominantly reliant on their own private transport to access shops and local amenities in Densole and Hawkinge and further afield. Therefore, it is considered that this site is in an unsustainable location for tourism accommodation and is not supported by local or national planning policy in this respect as there would likely be other sites in more sustainable locations. As such, the tourism use of the site is considered to be contrary to Core Strategy policies SS1, SS3 and CSD3 and policy E3 of the PPLP.

4.13 The number of structures involved in the tourism use, particularly when seen in conjunction with the structures associated with the residential use, and their temporary nature and non-coherent appearance is visually harmful and results, again, in a cluttered appearance. The additional hardstanding and addition of the structures to the site has changed its character and visual appearance to the detriment of the rural character of the area and resulted in it becoming visually prominent and incongruous with the surrounding landscape character. As such, the development is considered to be detrimental to the character and appearance of the landscape, failing to preserve and enhance this part of the Area of Outstanding Natural Beauty and Special Landscape Area and contrary

to national and local planning policies which give priority to protecting the AONB over other material planning considerations.

- 4.14 The absence of a planning application for the tourism use means that anticipated visitor numbers and the level of activity on the site is unknown. However, given the quiet rural location and the proximity of the site to the nearest dwellings, the use of the site by visitors camping and on holiday has potential to generate significant noise and disturbance. The lack of a planning application means that it is not possible any conditions to control the use, were it considered acceptable. It is considered that an unrestricted tourism use on the site would be likely to be detrimental to the amenities of nearby residents.
- 4.15 As with the residential use of the site, the tourism use of the site results in new overnight accommodation that has potential to impact on water quality at Stodmarsh. As such the issues set out a paragraphs 3.7 and 3.8 apply to the tourism use and the development is considered contrary to policies NE2 and CC3 of the PPLP
- 4.16 Given the previous agricultural use of the land the issues set out at paragraphs 3.5 and 3.9 above equally apply to the tourism use in respect of loss of best and most versatile agricultural land and contamination.

Car Accessories Business

- 4.17 According the website for Incar installations the business appears to be based at Smersole Farm Lydden Road Dover. In response to the latest PCN, the landowner has stated a vehicle associated with his car accessories business is parked at the site; that work is undertaken in relation to the car accessories business at the site when childcare is limited; and that clients visit the site, and 'pricing up' is undertaken on the site in association with the car accessories business. There have been several complaints about the business on the Hoad Road site after customers called at neighbouring properties looking for the site. However, there is no evidence at this stage that the level of use is such that, on its own it would be unacceptable. It appears that the reason there is business use on the site is because the operator of the business lives on the site. The cessation of the residential use would likely result in the cessation of the business use.

Human Rights

- 4.18 In determining whether to take enforcement action in relation to this unauthorised development, 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. In this

case it is stated in response to a PCN that there is one child under the age of 18 living on the site. In taking a decision which may affect children the decision maker should understand and take proper account of the best interests of the child involved. Article 8 of the European Convention of Human Rights requires respect for family and private life.

4.19 The best interests of the child are “a primary consideration” (see Supreme Court judgment in *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4). In *ZH (Tanzania)* (and subsequent judgments on planning matters that have applied it), it was accepted or determined on the facts, that Article 8 of the ECHR was engaged, as the child’s best interests would not be served by the public authority in question acting in the manner complained of. The best interests of the child is not a trump card to defeat all other harm identified. It is a “primary consideration” but not “the primary consideration or the paramount consideration”: *Dear v Secretary of State for Communities and Local Government and Doncaster Metropolitan Borough Council* [2015] EWHC 29 (Admin) at para 42. It is considered that giving a compliance period of 12 months for the occupants to find alternative accommodation would enable the best interests of the child to be sufficiently protected.

4.20 Having regard to the harm identified above, it is considered that the interference with the rights of the individual under Articles 1 & 8 is proportionate and in the public interest, having regard to the material considerations set out above, and the material planning harm identified.

Public Sector Equality Duty

4.21 In considering this matter 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.

4.22 It is considered that the proposed enforcement action would not conflict with objectives of the Duty.

CONCLUSION & RECOMMENDATION

5.1 The residential and tourism uses taking place on the site constitute unsustainable development in the countryside contrary to national and local plan policies SS1,

SS3 and CSD3. The buildings and structures, the close boarded fencing and gates and the additional hard surfacing has resulted in a cluttered and untidy appearance to the site and has domesticated and urbanised the site to the detriment of the character and appearance of the Area of Outstanding Natural Beauty and Special Landscape Area, contrary to national policy and local plan policy CSD4 that give priority to the preservation of such protected landscapes over other material planning considerations.

- 5.2 The residential and tourism uses of the site have resulted in the loss of Best and Most Versatile Agricultural Land without any compelling or overriding planning reason and mitigation, contrary to policy HW3.
- 5.3 In the absence of a contamination report the Council cannot be satisfied that the site is not contaminated from previous use and that the residential and tourism uses would not result in harm from contamination to uses of the site. As such the development is contrary to policy NE7.
- 5.4 In the absence of information about how waste water is being disposed of and information to enable an appropriate assessment to be carried out it is not possible to ascertain that the uses on the site are not having an adverse impact on the Stodmarsh Special Protection Area. As such the development is contrary to policies NE2 and CC3 of the PPLP.
- 5.5 Anticipated visitor numbers and the level of activity on the site resulting from the tourism use is unknown. Given the quiet rural location and the proximity of the site to the nearest dwellings, the use of the site by visitors camping and on holiday has potential to generate significant noise and disturbance. The lack of a planning application means that it is not possible any conditions to control the use, were it considered acceptable. It is considered that an unrestricted tourism use on the site would be likely to be detrimental to the amenities of nearby residents. As such the continued tourism use of the site is contrary to policy HB1 which seeks to safeguard the amenity of neighbours.
- 5.6 It is therefore recommended that an Enforcement Notice pursuant to the provisions of Section 172 of the Town and Country Planning Act 1990, as amended, be issued as follows:

Reasons for serving the Notice

1. The site is located outside of any defined settlement boundary and its use for tourism and residential purposes constitutes unacceptable and unsustainable residential development in the countryside. No special justification has been given as to why a rural location is essential and as such the development is contrary to policies SS1, SS3 and CSD3 of the Core Strategy Review 2022.

2. The site is located in the countryside, within the nationally designated Kent Downs Area of Outstanding Natural Beauty and locally designated Special Landscape Area. The residential and tourism uses of the land, as a result of the number of associated buildings, structures, hardsurfacing, close boarded fencing and gates and residential and non-residential paraphernalia on the site have resulted in a cluttered, urbanised, incongruous and visually harmful site, significantly harmful to the character and appearance of the countryside and which fails to conserve or enhance the scenic beauty of the Area of Outstanding Natural Beauty (AONB). As such the development is contrary to policies CSD4 of the Core Strategy Review 2022 and NE3 of the Places and Policies Local Plan 2020 which seek to conserve and enhance the natural beauty and locally distinctive features of the AONB and its setting and paragraph 176 of the National Planning Policy Framework that requires that great weight be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which are given the highest status of protection in relation to these issues.
3. It has not been possible to demonstrate by means of an appropriate assessment, as required under Conservation of Habitats and Species Regulations (2017 as amended), that the residential and tourism uses would not adversely affect the Stodmarsh Special Protection Area. As such the development is contrary to policies CSD4 of the Core Strategy Review 2022 and NE2 of the Places and Policies Local Plan 2020 which requires that development safeguards all sites of European and global importance.
4. The site comprises Best and Most Versatile agricultural land and its development would amount to an unnecessary and materially harmful loss of this nationally scarce resource, contrary to policy HW3 of the Places and Policies Local Plan 2020 and to the NPPF.
5. Due to the previous agricultural use of the land there is potential for ground contamination resulting from that use which could be harmful to human health. The unauthorised residential and tourism uses of the site expose the potential for harm to users of the site from associated activities such as cultivation of the ground and children playing. As such the residential and tourism uses are contrary to policy NE7.

Requirements of the Notice

1. Cease the residential use of the land.
2. Cease the tourism/holiday use of the land.

3. Remove all building and structures on the land.
4. Remove all vehicles and paraphernalia associated with the residential and tourism uses from the land including solar panels, diesel tank and hot tub.
5. Remove the hardstanding not permitted under Y19/1383/FH
6. Remove the close boarded fencing and gates at the front of the site.
7. Restore the land to its previous condition.

Period for compliance with the Notice

12 months of the Notice taking effect.

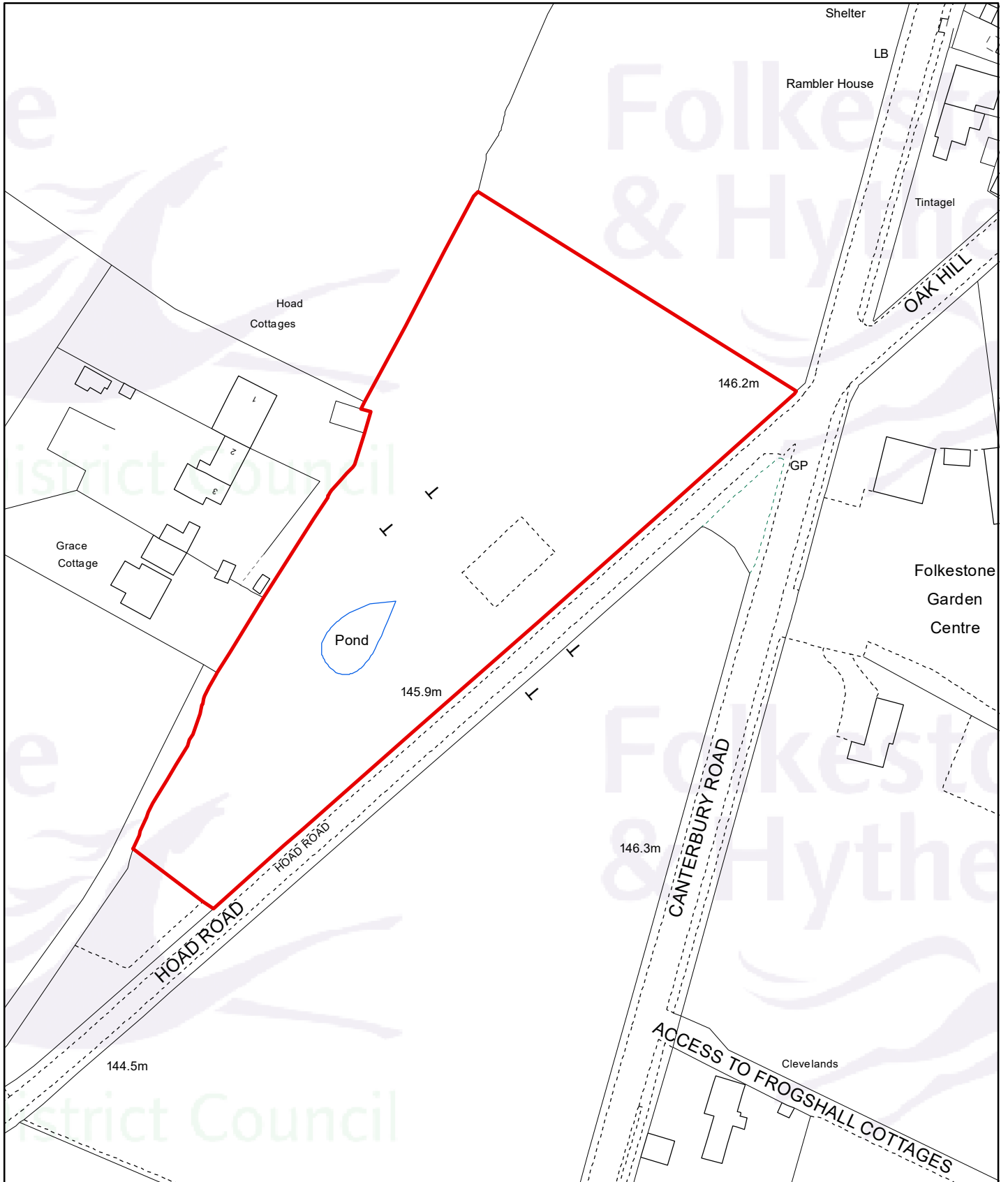
- 5.7 It is further recommended that the Chief Planning Officer and the Assistant Director - Governance, Law & Regulatory Services be authorised to prepare and serve the necessary documentation, including the precise wording thereof to give effect to this decision, and to take such steps as are necessary including legal proceedings to secure compliance with the Notice.

The following background documents have been used in the preparation of this report:

None

This page is intentionally left blank

Land Opposite 2 Hoad Cottages



Planning Application:
22/0122/CM

Drawn date:
02 Nov 2022

Drawn by:
A.Gheorghita

Drawing ref:
2143/PE/CS

Llywelyn Lloyd
Chief Planning Officer

Contains Ordnance Survey data
© Crown copyright and database right
Folkestone & Hythe District Council 100019677 - 2022



This page is intentionally left blank

**FOLKESTONE & HYTHE DISTRICT COUNCIL
PLANNING AND LICENSING COMMITTEE – 21 MARCH 2023**

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.

This page is intentionally left blank