

Application No: 21/2035/FH

Location of Site: Fairfield Court Farm, Brack Lane, Brookland, TN29 9RX

Development: Demolition of existing buildings, removal of soil business and areas of hardstanding and construction of 3 dwellings, together with gardens, parking and use of existing accesses to Brack Lane., reconfigured larger garden area and associated strategic landscaping and biodiversity enhancements.

Applicant: Mr Scott Balcomb

Agent: Mr Ashley Wynn, Greenhayes Planning, Greenhayes Studio, 106 Hastings Road, Battle, TN33 0TW

Officer Contact: David Campbell

SUMMARY

This application seeks planning permission for the demolition of the existing buildings, removal of the soil business and for the erection of three dwellings. The proposed dwellings are of an acceptable scale and design, well sited and would not cause any unacceptable harm to local residential or visual amenity, the public highway or ecology. It is also considered that the removal of the soil business would be a benefit to the area in terms of visual impact, highway safety, noise and dust. The permanent cessation of the existing bad neighbour use is a material consideration and one that outweighs the objection to residential development in this area as a matter of principle.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of this report and the applicant entering into a S106 legal agreement securing contributions towards education and a requirement to extinguish the current lawful use of the site and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

1. INTRODUCTION

1.1. The application is reported back to Committee after being deferred for submission of amended plans at the meeting on 11 July 2023. The printed minutes state that the items was to be deferred:

1. *For officers to discuss reducing the scale/ size and appearance of the proposed dwellings with the applicant.*
2. *To bring the report back to committee following those discussions.*

1.2. The application was originally presented to committee the application represents a departure from the development plan. The Parish Council have also requested the application be reported to committee given the comments from neighbouring residents.

2. BACKGROUND

- 2.1. Full planning permission is sought for the demolition of existing buildings which would remove the existing soil business, including the areas of hardstanding, and to construct 3 dwellings. The application also proposes residential gardens for the new properties, parking and the use of the existing accesses to Brack Lane. The existing property on site is to be retained with a larger garden area than existing as well as associated strategic landscaping and biodiversity enhancements for the wider site.
- 2.2. A detailed description of the proposed development (including drawing extracts) and the site and its surroundings (including photographs), the relevant planning history for the site, a list of consultation responses, and a list of the relevant planning policies are set out in full within the original report to committee, attached here as **Appendix 1**. However, this report sets out the situation since committee including additional comments received in consultation.
- 2.3. As set out above, Members voted to defer determination of the application from the July 2023 meeting to enable the officers and the applicant to have discussions on reducing the size of the buildings.

3. REVISED PROPOSALS

- 3.1 The drawings below are the revised plans submitted by the applicant after committee:

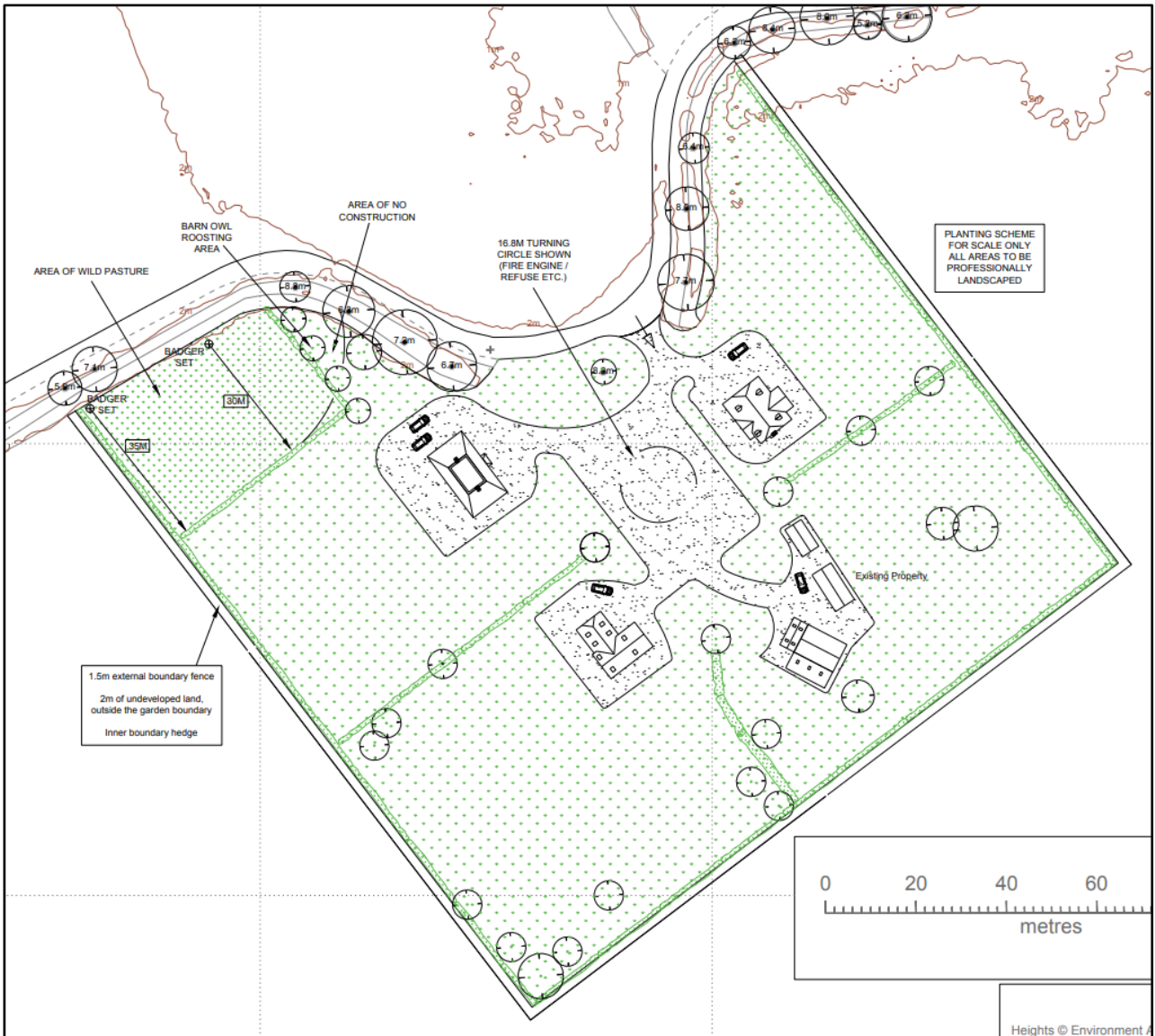


Figure 1: Revised Site Layout Plan

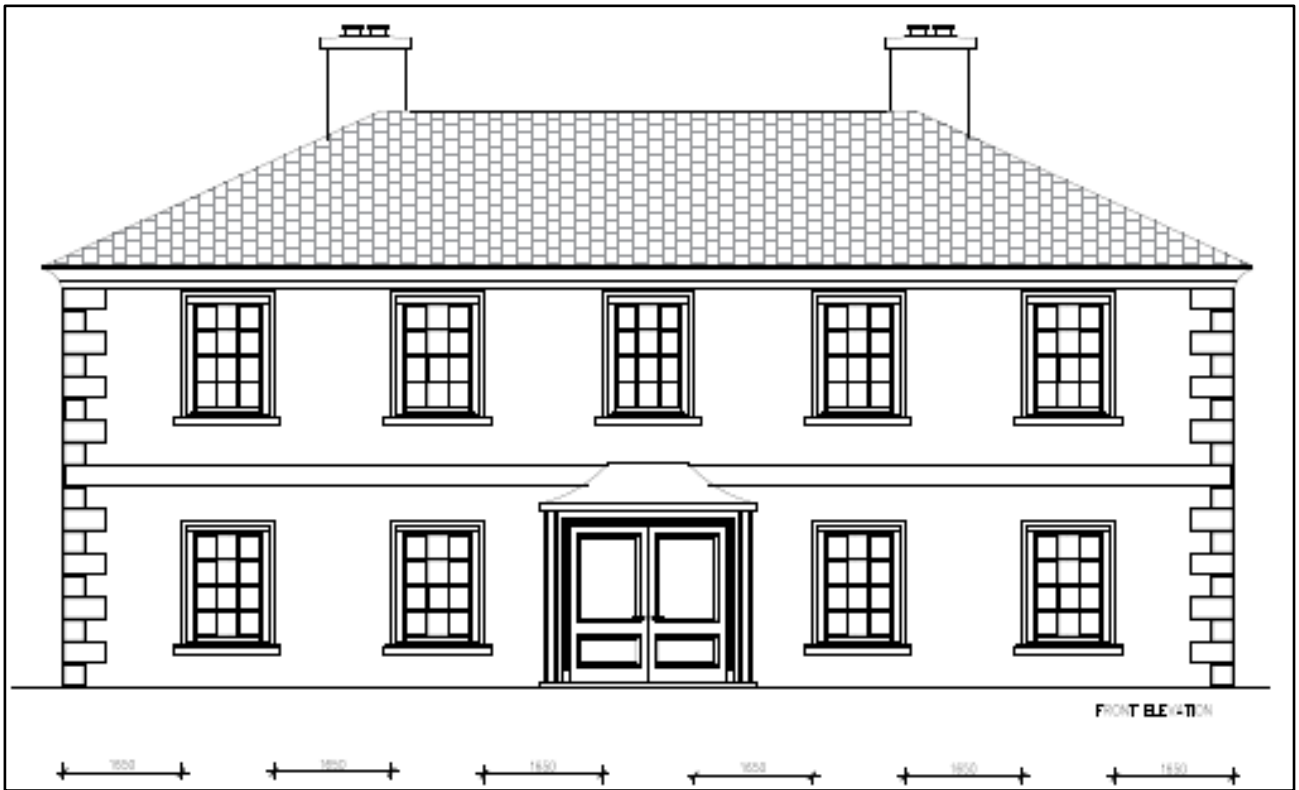


Figure 2: Fairfield Court Proposed Front Elevation



Figure 3: The Barn Front Elevation



Figure 4: The Cottage Front Elevation

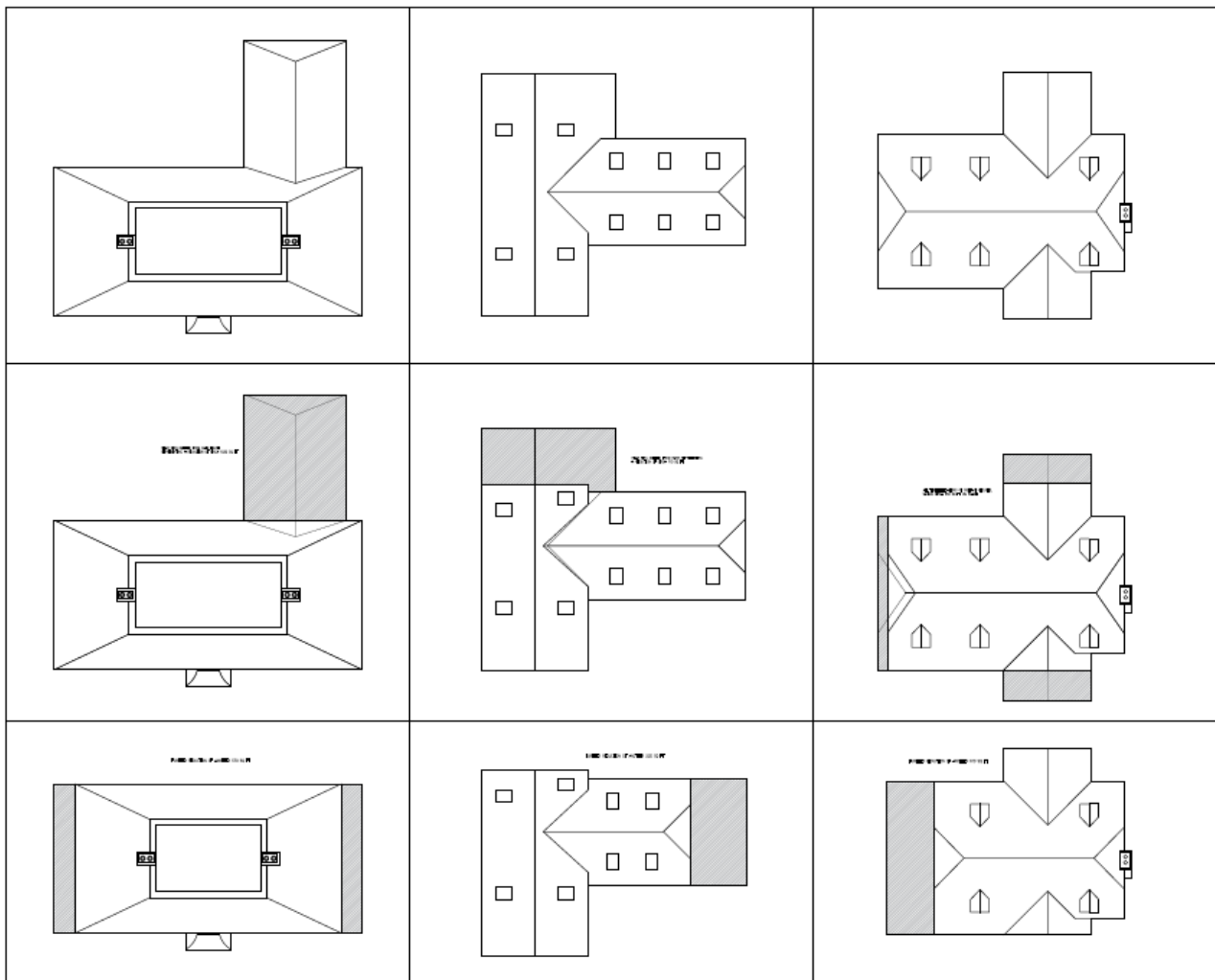


Figure 5: Design evolution since the previous committee. (Grey areas have been removed.)

- 3.2 The revised drawings show the two-storey rear projection has been removed from the scheme following the committee meeting and the width has been reduced in accordance with Figure 5 above. The measurements would now be as follows:

| Measurement (m) | Previous Committee | Revised Scheme |
|-----------------|--------------------|----------------|
| Length | 19 | 16.3 |
| Width | 17 | 8.9 |
| Height | 8.3 | 8.2 |

Figure 6: Fairfield Court Measurements

- 3.3 In terms of the Barn, this has been reduced in terms of the length and width of the projections (see figure 5 above) and would now be in accordance with the following measurements.

| Measurement (m) | Previous Committee | Revised Scheme |
|-----------------|--------------------|----------------|
| Length | 16.2 | 13 |
| Width | 14.8 | 11.4 |
| Height | 7.2 & 7.6 | 7.2 & 7.6 |

Figure 7: The Barn Measurements

- 3.4 The Cottage has been reduced in terms of the projecting gables and in length, (please refer to Figure 5 above). The measurements would now be as follows.

| Measurement (m) | Previous Committee | Revised Scheme |
|-----------------|--------------------|----------------|
| Length | 15 | 11.9 |
| Width | 15.1 | 9.5 & 11.6 |
| Height | 7.6 | 7.3 |

Figure 8: The Cottage Measurements

4. CONSULTATION RESPONSES

- 4.1 Four additional responses have been received, all by existing objectors. The consultation responses are summarised below.

Local Residents Comments

- Minor changes only/ not following committee recommendations
- Previous comments still stand.
- Too large, visually harmful and out of keeping with landscape/ rural character
- The fallback/ bad neighbour argument is legally flawed
- Traffic and road safety
- Impact on SSSI, SPA, RAMSAR, wildlife, biodiversity and nature
- Light pollution
- Harm to heritage assets
- Other examples provided are different context and transport links
- The soil business/ bund have to be removed anyway

5. APPRAISAL

- 5.1 All the material planning considerations associated with this project are discussed within the original report attached at Appendix 1. Members voted that the item be deferred solely for the reason set out at 1.1 above, i.e. further information in regards the marketing exercise carried out. Therefore, in light of this, the issues for consideration under this report are limited to the amended drawings only.
- 5.2 The applicant has reduced the size of the dwellings following the previous scheme presented to committee. Officers remain of the view that given the size of the existing buildings on site, the proposed development remains acceptable in this respect. As stated in the previous report, the existing buildings are not of any architectural merit so there would be no objection to their replacement with a high-quality scheme.
- 5.3 It is considered that in visual terms the dwellings would be an improvement to the structures and soil heaps that are on site now. As such, on balance, are no objections to the application on these grounds on the basis that the proposal would be an improvement on the existing situation. Details such as materials, landscaping and lighting could all be secured by condition to ensure that the scheme is high quality.
- 5.4 Officers therefore maintain their recommendation that the application should be approved subject to the conditions set out below.

Environmental Impact Assessment

- 5.5 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. The scheme has been assessed under the Habitat Regulation Assessment, in consultation with Natural England, and has been found to have an acceptable impact on the designations in the area.

Local Finance Considerations

- 5.6 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.
- 5.7 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area.

Human Rights

- 5.8 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

5.9 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.

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

Working with the applicant

5.11 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.

6. CONCLUSION

6.1 The proposed dwellings are of an acceptable scale and design, well sited and would not cause any unacceptable harm to local residential or visual amenity, the public highway or ecology. It is also considered that the removal of the soil business would be a benefit to the area in terms of visual impact, highway safety, noise and dust. The permanent cessation of the existing bad neighbour use is a material consideration and one that outweighs the objection to residential development in this area as a matter of principle.

6.2 The application is therefore recommended for approval subject to the conditions set out below.

7. BACKGROUND DOCUMENTS

7.1 The consultation responses set out at Section 5.0 of the original report (attached as Appendix 1) are background documents for the purposes of the Local Government Act 1972 (as amended).

8. RECOMMENDATIONS

That planning permission be granted subject to the conditions set out at the end of this report and the applicant entering into a S106 legal agreement securing contributions towards education and a requirement to extinguish the current lawful use of the site and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and the legal agreement and add any other conditions that he considers necessary.

Conditions:

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

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

2. No development shall take place other than in accordance with the following reports and drawings:

Drawings:

FC-EX.SITE-PLAN-001 EXISTING SITE PLAN Rev: A

FC-SITE-PLAN-002 PROPOSED SITE PLAN Rev: A

FC-COT-003 COTTAGE 1ST & 2ND FLOOR PLANS Rev: A

FC-COT-004 COTTAGE FRONT AND REAR ELEVATION Rev: A

FC-COT-005 COTTAGE SIDE ELEVATIONS Rev: A

FC-BARN-006 BARN 1ST & 2ND FLOOR PLANS Rev: A

FC-BARN-007 BARN FRONT AND REAR ELEVATION Rev: A

FC-BARN-008 BARN SIDE ELEVATIONS Rev: A

FC-COURT-009 PRINCIPLE HOUSE 1ST & 2ND FLOOR PLANS Rev: A

FC-COURT-010 PRINCIPLE HOUSE FRONT & SIDE ELEVATIONS Rev: A

FC-COURT-011 PRINCIPLE HOUSE SIDE & REAR ELEVATIONS Rev: A

Reports:

Planning and Design Statement by Greenhayes Planning

Traffic Generation Statement Rev: 02 dated January 2023 Ref: PCD-425-EN-RP-02

Letter from Fairfield Soils

Landscape and Visual Statement Rev: A dated 23 August 2021 by Furse Landscape Architects

Flood Risk Assessment from Herrington Consulting Ltd dated September 2022

Preliminary Ecological Appraisal from The Ecology Partnership dated September 2021

Reptile Survey from the ecology Partnership dated September 2021

Response to KCC Ecology Comments

Response to Natural England from Herrington Consulting Ltd

Reason: For the avoidance of doubt.

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

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- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

4. No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.

Reason: In the interest of promoting energy efficiency and sustainable development.

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

Reason: In the interest of visual amenity and the character and appearance of the adjacent conservation area.

6. No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, an implementation programme, and a programme of long-term maintenance for the green roof.

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

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

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

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

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

9. 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.

10. Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning authority. The detailed drainage scheme shall demonstrate that due consideration has first been given to the possibility of utilising infiltration techniques and that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of within the curtilage of the site without increase to flood risk on or off-site. Should the use of infiltration prove to be beyond being reasonable practical then any surface water leaving site shall be restricted to greenfield runoff levels where possible, unless agreed otherwise. The drainage scheme shall also demonstrate that silt and pollutants resulting from the site use and construction can be adequately managed to ensure there is no pollution risk to receiving waters.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding.

11. No building on the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

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

12. Prior to the commencement of works above slab level on the construction of the houses hereby permitted, the existing soil heaps shall be removed from the site to the satisfaction of the Local Planning Authority.

Reason: In the interests of the visual amenities of the area.

13. Prior to the commencement of works, including site clearance, all mitigation measures for reptiles shall be carried out in accordance with the details in sections

4.7 through to 4.15 of the Reptile Survey report by The Ecology Partnership dated September 2021.

Reason: To safeguard protected species.

14. Prior to the occupation of any of the dwellings hereby approved, a plan for the future management of the wildlife area shown on the approved plans shall be submitted to be approved in writing by the Local planning Authority. Development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To safeguard protected species.

15. Details of how the development will enhance biodiversity shall be submitted to, and approved in writing by, the Local Planning Authority. These measures shall include a native species-only planting. The approved details will be implemented and thereafter retained.

Reason: To improve and enhance biodiversity on site.

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

- i. archaeological field evaluation works in accordance with a Written Scheme of Investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority; and

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

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

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

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

- (i) A survey of the extent, scale and nature of contamination;

- (ii) An assessment of the potential risks to:

- Human health;
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Ground waters and surface waters,
 - Ecological systems,
 - Archaeological sites and ancient monuments; and
- (iii) An appraisal of remedial options and identification of the preferred option(s).

All work pursuant to this condition shall be conducted in accordance with the DEFRA and Environment Agency document Model Procedures for the Management of Land Contamination (Contamination Report 11).

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

(D) No development shall take place until a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation has been submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include details of longer-term monitoring of pollutant linkages and maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

(E) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

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

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

18. No development shall commence until a strategy to deal with foul water drainage is submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and be retained as such thereafter.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

19. Prior to the first occupation of any dwelling hereby permitted, an FTTP Statement for the development shall have been submitted to and approved by the local planning authority in writing for the installation of a high speed wholly FTTP connection to each dwelling within the development, unless otherwise agreed in writing by the local planning authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and where relevant, details of alternative provision for superfast broadband in the absence of FTTP).

The FTTP infrastructure or alternative provision for superfast broadband in the absence of FTTP shall be laid out in accordance with the approved FTTP Statement or approved details at the same time as other services during the construction process and be available for use on the first occupation of each dwelling hereby approved.

Reason: To ensure that the new development is provided with high quality broadband services.

20. No development shall take place until details on levels in the form of proposed and existing cross-sectional drawings through the site have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

Reason: In order to secure a record of existing site levels in order to ensure a satisfactory form of development having regard to the sloping nature of the site.

21. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

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Reason: In the interests of biodiversity, residential and visual amenity.

Informative(s)

1. The applicant and agent are reminded that as per the countersigned District Level Licence enquiry form, prior to the commencement of works (including site clearance), full conservation payment needs to be made to Natural England with regards to Great Crested Newts.

Appendix 1 – Report presented to committee on 11 July 2023.