

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 to Committee because 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. SITE AND SURROUNDINGS

2.1. The application site is located within the rural parish of Snargate within the Romney Marsh countryside. The site is located on Brack Lane, a narrow rural land surrounded by agricultural fields and farmland outside of any settlement boundary and in an isolated location. The site's wider location and its proximity to Brookland is shown below in Figure 1.



Figure 1: Site Location Plan

- 2.2. The site is a former farmyard consisting of several old farm storage buildings, a large area of hardstanding and a two-storey farmhouse with associated outbuildings. The site is referred to as Fairfield Court Farm but is no longer in agricultural use. In 1995 planning permission was granted for use of the site and adjacent land to the west for the grading and distribution of topsoil and sand. In terms of size, the largest building on site is 47m long, 11m wide and 11m high, the building in the south-west part of the site is 11.5m long, 9.6m wide and 7.6m high and the final building is 18.5m long, 12m wide and 9.6m wide. The buildings have a combined footprint of 953m².
- 2.3. The site itself is not located within any ecological designation, however the Dungeness, Romney Marsh and Rye Bay SPA, Ramsar and SSSI is located 130m west of the site and the Dungeness SAC is located approximately 8.6km to the southeast.
- 2.4. The site has a total area of 2.4 hectares which is shown below in Figure 2.

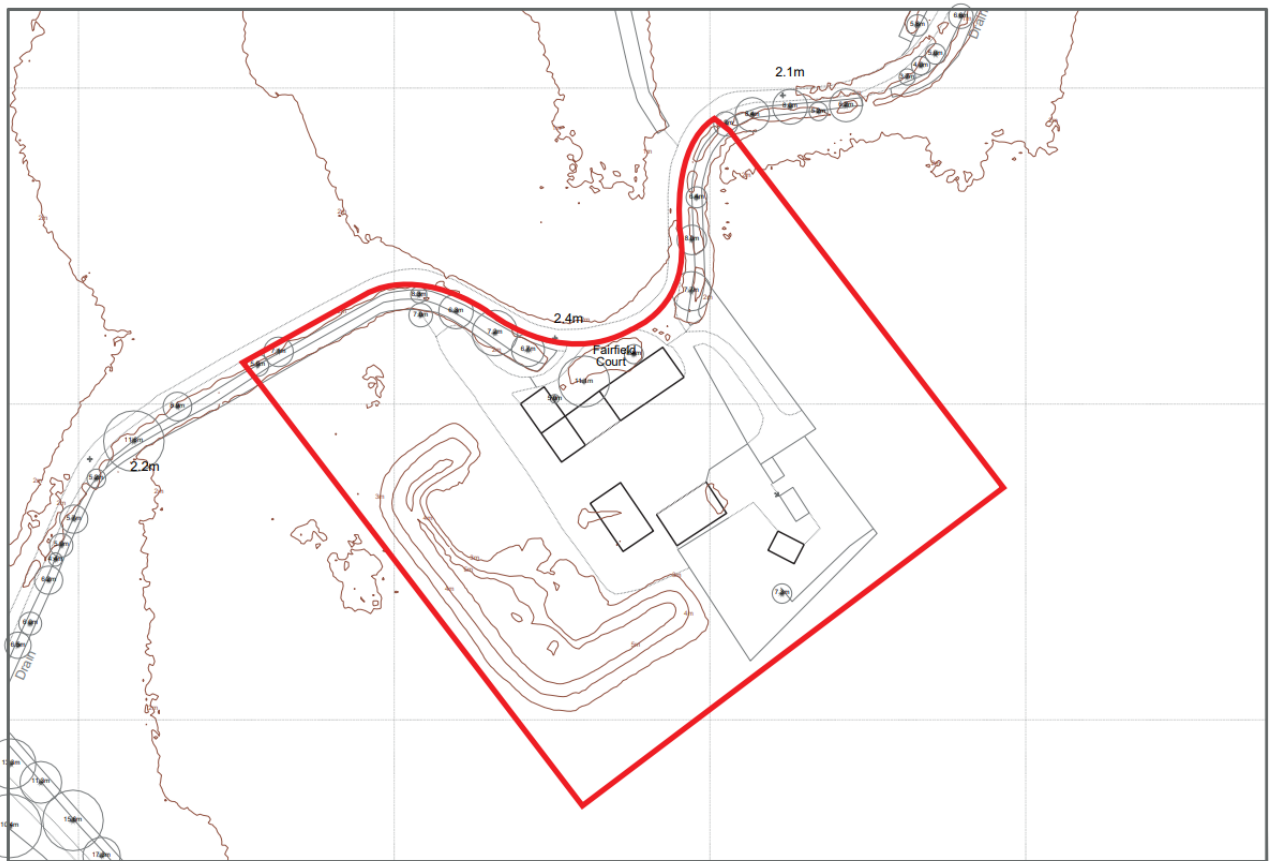


Figure 2: Current Site Layout Plan

- 2.5. An aerial photograph is provided in Figure 3. This shows the existing buildings, the farmhouse and the soil piles as well as the access from Brack Lane.



Figure 3: Aerial Photograph

2.6. The site is visible from a number of locations in the surrounding area. Figure 4 below shows the site from Brack Lane where the roof of the existing barn can be seen.



Figure 4: View from Brack Lane

2.7. Below are a series of photographs taken within the site. It should be noted that works have been taking place on the soil heaps and so the appearance and form of the mounds, including their height change over time.



Figure 5: The soil heap close to the site boundary
2.8. The photographs below show the existing courtyard of the site.



Figure 6: View of the existing courtyard.



Figure 7: View of the existing courtyard.



Figure 8: View of the existing courtyard towards the site entrance.

2.9. As can be seen from the photographs, the site currently has three large modern agricultural buildings, which amount to over 1500sqm in footprint and measure over 7.2m in height, the largest of which (seen in Figure 7) backs onto Brack Lane. These buildings surround a large central yard and flank Brack Lane which runs to the east of the site. The large spoil heap which has varied in height over the last few years is located to the north and occupies almost a third of the site. The residential property within the wider site and its garden are located to the east and a small, grassed paddock is located to the south. The land, which does have vegetation providing screening along the boundaries, can still be seen from glimpsed views. The land is largely surrounded by arable farmland.

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

3. PROPOSAL

- 3.1 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.
- 3.2 The existing site contains the house, the existing outbuildings and the mound of soil as shown in the Figure 9 below. These would all be removed as part of the application as well as the soil heaps.

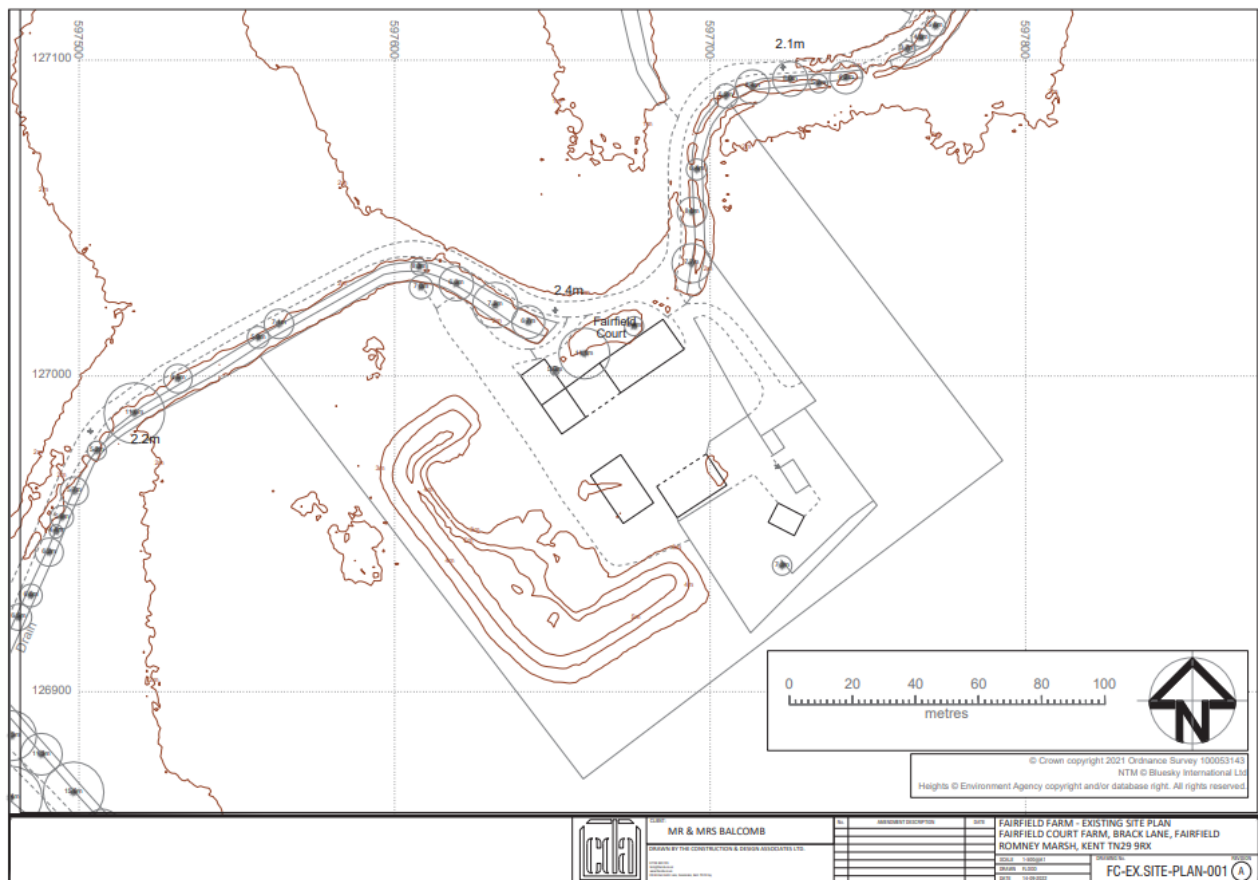


Fig.9: Existing Site Layout Plan

- 3.3 The proposed site plan shows the properties arranged around a central courtyard, with the design approach following a farmstead style development, with the three new properties designed to appear as part of a farmstead consisting of a main house, a cottage and a barn. The scheme has been significantly amended since it was first submitted, which has seen changes to the design of the houses, but also to the layout on site. The properties have been brought closer together to minimise their impact on the landscape. There is also an area to the north of the site which has been removed from the proposed residential curtilage to ensure that it remain suitable for wildlife. The boundaries would be a mixture of fences and hedges. This is shown in Figure 10.

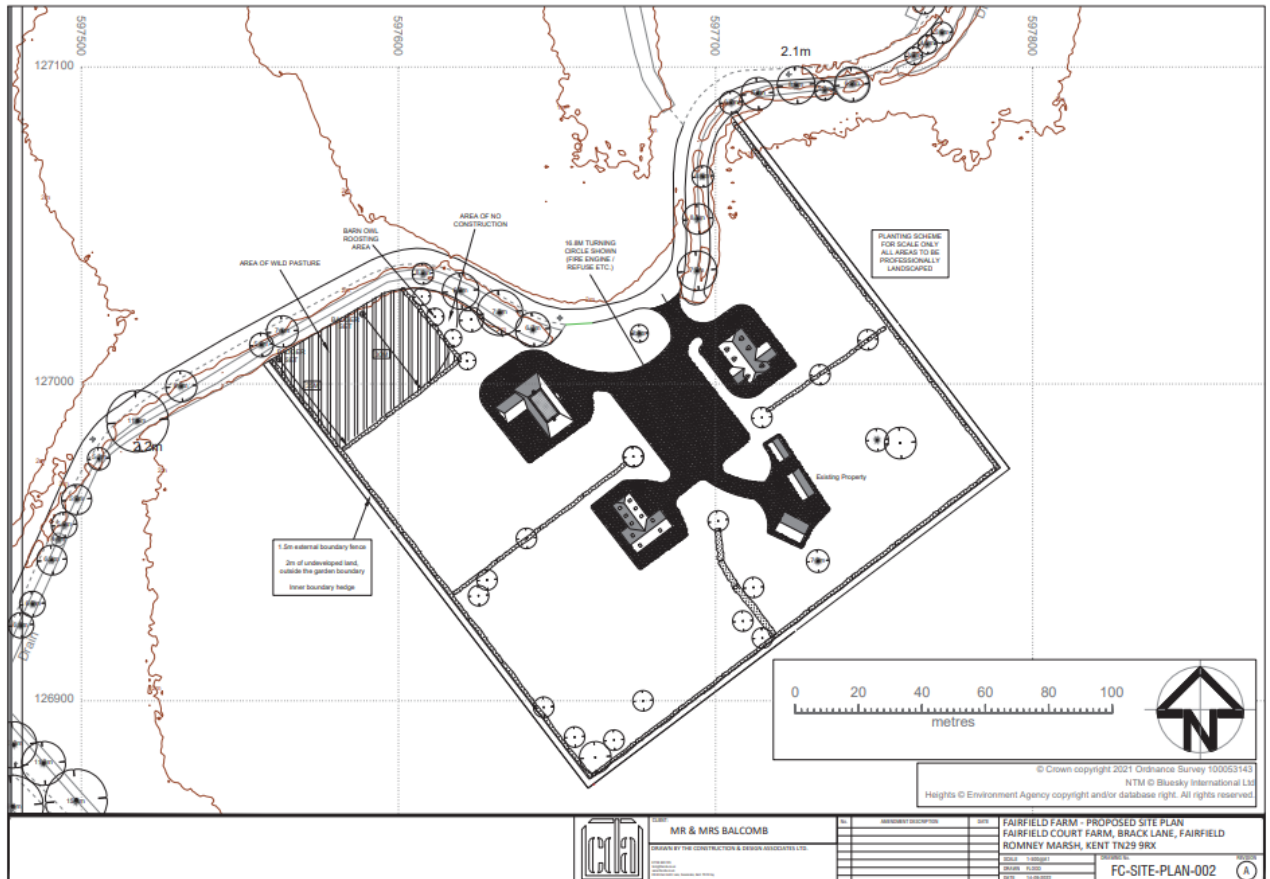


Fig.10: Proposed site plan

- 3.4 The largest property on the site would be the main house which is referred to as Fairfield Court in the submission drawings. The elevations for this are at figure 11 below. The accommodation would include family room, sitting room, dining room, kitchen, study, family bathroom and five bedrooms and ensuites.
- 3.5 It would have painted rendered walls, slate (or slate effect) roof, a metal canopy over the front door and quoins on the corners of the building. There would also be a two-storey rear projection in the same materials. The building would be approximately 19m long 12m wide x 7.6m high.



Figure 11: Proposed Elevations and Floor Plans for 'Fairfield Court'

- 3.6 The second property on site has been designed in the form of an 'L' shaped barn. This would have a lounge, playroom, dining area, kitchen, family bathroom and five bedrooms, two with ensuites.
- 3.7 The property would feature natural stained timber weatherboarding, a flint façade, inset in brickwork, Kent peg tiles and a brick base. There would also be a series of rooflights, a glazed entrance door and a two-storey front projection. The dwelling would be approximately 16m long 14m wide (at the furthest points) and 7.16m high.

3.8 The elevations and floor plans are shown in Figure 12 below.

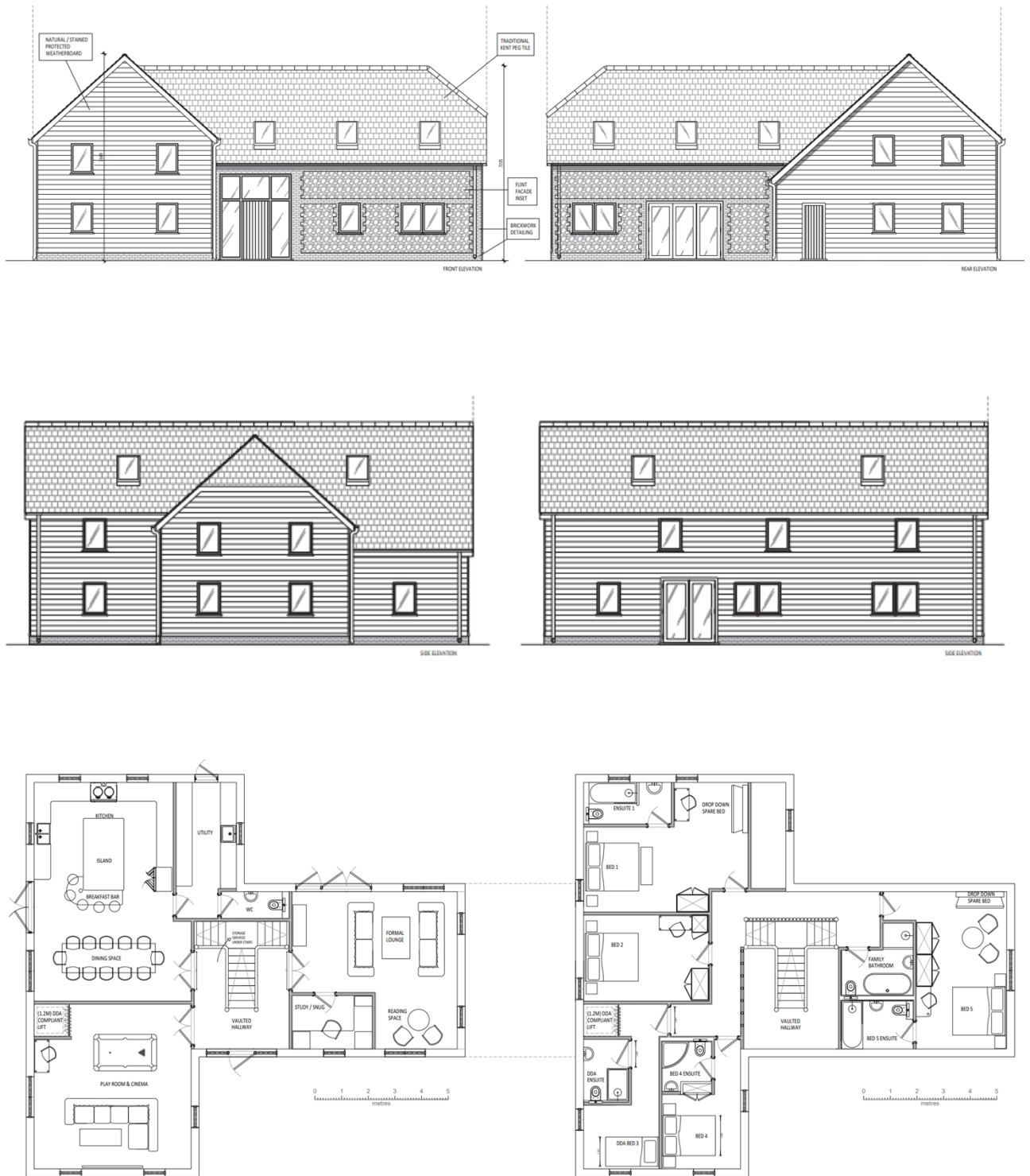


Figure 12: Proposed Elevations and Floor Plans for 'The Barn'

3.9 The third house is referred to as The Cottage on the submitted plans. This would have front and rear gabled projections, three dormer windows to both the front and rear elevations, a chimney stack and a barn hipped roof. The walls are to natural stained weatherboarding with a brick base and Kent peg tiles on the roof.

3.10 The house would contain a lounge, playroom, dining area, kitchen, utility room, family bathroom and five bedrooms, two with ensuites. The building would be approximately 16m long, 10m wide and 7.6m high at the furthest points.

3.11 The elevations and floorplans are shown in Figure 13 below.



Figure 13: Proposed Elevations and Floor Plans for 'The Cottage'

3.12 All properties would have space for car parking and large gardens. The existing property would also have an extended garden area, which would incorporate the existing paddock. The cottage would also include part of the paddock in its garden as well. The properties would be set around a central courtyard which would provide a 16.8m turning circle for refuse vehicles and fire trucks.

3.13 There would also be a 1.5m external boundary fence and a 2m buffer of undeveloped land directly beyond that, along with an inner boundary hedge, which would also be used to separate the properties from each other. The north-western part of the site would be kept as an area of wild pasture, a barn owl roosting area and an area of no construction.

3.14 The following documents and reports were submitted in support of the application:

Planning and Design and Statement

3.15 This document assesses the planning context of the proposed development and the removal of the soil business. The report highlights the benefits of the three houses as opposed to the existing situation and highlights a reduction in the footprint on site compared to the existing situation. The design elements are also explained with the concept of the proposals being developed around a farmstead with a main house, cottage and barn fronting onto an inner courtyard.

Traffic Generation Statement

3.16 This document explains that there would be a reduction in vehicle movements as a result of the development, with the three proposed houses generating less trips than the soil business. It is also highlighted that the type of vehicle, currently HGV's that are unsuited to the narrow country roads, would no longer be needed if the business is removed so it would be more likely be normal family cars.

Letter from Fairfield Soils

3.17 This letter acknowledged that the EA Waste Permit at the site has been revoked but explains that the business does not need a permit in order to operate. The letter explains that there are sources of soil and sand that could be purchased which would be graded and mixed in accordance with the existing permission on site. The letter concludes that the EA Waste Permit is not required to run the business.

Landscape and Visual Statement (LVS)

3.18 This document assesses the impact on the landscape of the proposed development and compares it to the existing situation. The report considered that the current soil heaps are alien features in the landscape however the agricultural barns that house the development are in keeping with the style of buildings found on Romney Marsh. The report states that it is important that the scale of the development should avoid over urbanising and respect the historic pattern of farmstead within the marshland setting.

Flood Risk Assessment

3.19 This document sets out that the site is in Flood Zone 1 so a sequential test and exceptions test are not required by the NPPF. The report also concludes that the site will not give greater rise to flooding elsewhere and that a surface water drainage system will manage runoff from the proposed development.

Preliminary Ecological Appraisal

3.20 This report explains that the site does not lie in any designated site but near the Dungeness, Romney Marsh and Rye Bay SPA, Ramsar and SSSI is located 130m west of the site and the Dungeness SAC is located approximately 8.6km southeast. Evidence of barn owl activity was identified in building B1 but there is no evidence of roosting bats although sensitive lighting is recommended. Areas of grass could provide habitat for reptiles with low populations of common lizard and slow worms being reported. The site is also considered suitable for Great Crested Newts (GCN). The trees, hedgerows and shrubs could have the potential for nesting birds and therefore

any works that may affect these should take place outside the breeding season. The invasive non-native plant New Zealand pygmyweed was identified and should be eradicated from the site. Due to the lack of connectivity, the site is not considered suitable for dormice, otters and water voles. Recommended enhancements have also been identified in the report.

Reptile Survey

- 3.21 This report found low populations of slow worms and common lizard were found on site and that habitat for reptiles would be lost and may require translocation to a receptor site. The report also recommend that greenspaces should incorporate habitat features.

Response to KCC Ecology Comments

- 3.22 This document provides a response to initial queries from KCC Ecology and confirms that an Owl box will be provided, that a reptile area will be retained and explains that the applicant has entered into an agreement with Natural England and has supplied a District Level Licensing form concerning Great Crested Newts.

Response to Natural England

- 3.23 This document provides a response to Natural England on surface water discharge and explains how it would be dealt with if infiltration is not feasible and confirms that sufficient pollution controls would be provided to support the development.

4. RELEVANT PLANNING HISTORY

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

SH/91/0933	Continued use of land for the grading and distribution of top soil and sand	Approved with conditions
93/0813/SH	Non-compliance with condition 1 of 91/0933/SH to allow permanent use of land for the grading and distribution of top soil and sand	Approved with conditions
95/0046/SH	Non-compliance with condition 1 of 93/0813 to allow permanent use of land for the grading and distribution of top soil and sand	Approved with conditions
99/0141/SH	Conversion of part of existing barn into office	Approved with conditions
Y01/0916/SH	Change of use of redundant agricultural buildings to light industrial/office use (class B8)	Refused Appeal Dismissed
Y07/0612/SH	LDC Existing use of areas of site for storage of loose graded soil	Non-Determination
Y10/0184/SH	Retrospective application for change of use of agricultural land	Approved with conditions

	to residential curtilage and retention of hard surfacing for use as a roadway	
Y13/0008/SH	Certificate of Lawfulness for proposed use of land and building edged in red but unhatched for use within Use Class B2, without traffic movement restrictions and use of land edged red and cross-hatched, for any use within Use Class B8 without highway movement restrictions	Refused
Y14/1030/SH	Certificate of lawfulness for proposed use of land and buildings within the area edged in red and both hatched and unhatched on the attached plan for any use coming within Class B2 of the Town and Country Planning (use classes) Order 1987, without restriction as to highway movement	Refused
Y19/0592/FH	Certificate of lawful development for the construction of earth screening and containment bund around raw material stockpile as shown edged red and coloured green on Drawing No. FC1 (Appendix 1)	Deemed invalid, appeal dismissed
Y19/1339/FH	Certificate of lawful development for the construction of an earth screening and containment bund around a raw materials stockpile within the area shown edged red and coloured green on drawing No. FC1	Deemed invalid, appeal dismissed

- 4.2 The most important planning history in respect of the current submission is application 95/0046/SH which amended condition 1 attached to planning permission 93/0813/SH to allow permanent use of the site for grading and distribution of topsoil and sand. This in turn was submitted after SH/91/0933 granted planning permission for the continued use of land for the grading and distribution of topsoil and sand.
- 4.3 Condition 3 of 95/0046/SH stated that 'soil distribution shall be limited to 8000 tonnes per annum', with the reason being sited that the 'approach roads to the site are unsuitable to serve any additional vehicle movements'. It is important to note that the condition does not specify how much material can be brought on so the site or control how much sand can be distributed from the site at all.

- 4.4 Another key consideration in understanding the background for the application site is to ascertain whether the above operation constitutes a waste use and whether the District Council should have granted permission at all, given that Kent County Council is the Local waste Authority for the area.
- 4.5 Article 3(1) of Directive 2008/98 defines waste as “any substance or object which the holder discards or intends or is required to discard”. As waste from construction sites is brought onto the site, processed, graded, and re-distributed, it is Officer’s opinion that the operation meets this definition particularly as the EA have granted a waste permit for the activities on site in the past.
- 4.6 The Council in the 1990s granted a series of applications for planning permission that constituted a waste operation, upon reflection, Officers are now of the view that it was incorrect for Shepway District Council (as it was then) to grant permission and believes that the applications should have been directed to KCC to determine. However, as permission was granted and the use has been ongoing since the 1990’s, the decision to grant permission cannot now be challenged as it has passed any time period for legal challenge.

5. CONSULTATION RESPONSES

- 5.1 The consultation responses are summarised below.

Consultees

Brookland Parish Council: Supportive of the application as long as it is visually appealing, sits well in the landscape and is environmentally friendly.

Southern Water: No objections to the application. Further details on SUDs should be sent to the LPA.

Affinity Water: No comments to make.

Contamination Consultant: No objection subject to the standard contamination condition.

Environment Agency: No objection subject to a condition on the foul drainage treatment plant.

KCC Flood and Water Management: No objection. Infiltration testing and groundwater monitoring has yet to have been undertaken to confirm that infiltration is feasible on site. It is accepted that an alternative option for managing surface water is possible, through the presence of existing watercourses at the site entrance. Conditions are requested regarding SUDs and a verification report.

KCC Highways and Transportation: The proposal would normally fall below the criteria for commenting, however KCC has reviewed the documents and has not raised any objection.

KCC Heritage: The site lies in an area of multi-period archaeological potential but more specifically is within the area of a historic farmstead which according to the early 19th century The map comprised a farmhouse with associated farm building and yards.

The historic farmstead appears to have been much altered and as such there is no archaeological objection subject to a condition on archaeological field evaluation work.

KCC Ecology: No objections. KCC are now satisfied that the Great Crested Newt considerations have been addressed via the countersigned District Level Licence enquiry form. They have asked for a condition that show evidence of payment to Natural England. Future management of the 'wildlife area' needs to be resolved with the LPA. The reptile mitigation strategy should be conditioned as part of any granted planning commission. Biodiversity must be maintained and enhanced through the planning system, to achieve this all of the site's landscaping should consist of native species-only and that integrated bird nest bricks are incorporated. This should be conditioned.

Natural England: No objections subject to the agreed mitigation on site being secured by condition.

KCC (Contributions): As the site is more than 5 hectares, KCC have requested a secondary education contribution of £13,620. They have also asked for CIL contributions towards community learning, Youth Service, Library Bookstock, Social Care and waste as well as a condition on broadband.

Local Residents Comments

5.2 Five neighbours directly consulted, a site notice posted and a press advert were displayed. Eight letters of objection and two letters of support have been received in response to the application.

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

- The EA has revoked the waste permit, ordered closure of the site and the removal of the waste. The proposal would not therefore be an improvement.
- Sand is caught in the definition of soil and should be considered within the context of condition 2 of the 1995 permission.
- Arguments for a new business use are hypothetical and should be disregarded.
- New houses are against policies for the area.
- Highway safety issues due to narrow, poorly maintained muddy roads with agricultural traffic.
- Increase in traffic movements.
- The calculations in the Traffic Statement/ vehicle trip movements are understated.
- Not in keeping with the Romney Marsh Landscape Character Assessment.
- The certificate applications were refused therefore the earth bunds can be removed anyway by the Council.
- The houses are too large/ high, not in keeping and would be visually dominant against a flat landscape.
- The houses are not on the footprint of the barns/ curtilage of the business use.
- An alternative location for the existing business has not been explored.
- Harm to biodiversity and ecology, contrary to NE1 and requires an HRA.
- Impact on the SSSI, RAMSAR and SPA.
- Noise and disturbance that is worse than the current situation would be caused.
- No public transport, amenities or shops mean residents would be reliant on cars.
- Surface water/ foul drainage issues and poor street lighting.
- Light pollution would harm the intrinsically dark nature of the area.
- As the LPA has a five-year housing land supply, the houses are not required.

- No affordable housing is proposed.
- No consultation with neighbours.
- The proposal could affect a historic monument/ heritage assets.
- Internet access is poor and there is a lack of infrastructure in the area.
- There is a need for new housing. Would support the application if the homes were reduced in scale and character and didn't include holiday occupancy.

5.4 The two letters of support can be summarised as follows:

- Three dwellings in place of the business would be welcome.
- A business running at full capacity could create disturbance to the environment.
- A waste permit seems completely irrelevant as a business that doesn't involve waste could be started.
- While the distribution of topsoil is limited by condition, there are no limits on sand.
- 20T lorries travelling all day along narrow lanes creates problems.
- Comments appear to be from people who all have large properties already.
- The Becketts Barn area and Poplar Hall have more buildings at present than this development. This would therefore not represent a housing estate.
- Residents have light pollution from security lights/ infra-red cameras that are on at night causing light pollution to wildlife.
- Progress on this part of the Marsh seems to suit some people when it affects them and not so for anyone else.

5.5 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 2022.

6.2 The relevant development plan policies are as follows:

Core Strategy Local Plan (2022)

SS1 - District Spatial Strategy
 SS2 - Housing and Economy
 SS3 - Place-Shaping and Sustainable Settlements Strategy
 SS4 - Priority Centres of Activity Strategy
 SS5 - District Infrastructure Planning
 CSD1 - Balanced Neighbourhoods
 CSD2 - District Residential Needs
 CSD3 - Rural and Tourism Development
 CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation
 CSD5 - Water and Coastal Environmental Management

Places and Policies Local Plan 2020

HB1 - Quality Places through Design
 HB2 - Cohesive Design
 HB3 - Internal and External Space Standards
 HB6 - Local Housing Needs in Rural Areas

HB10 - Development of Residential Gardens
E2 - Existing Employment Sites
E8 - Provision of fibre to the premises
C1 - Creating a Sense of Place
C3 - Open Space Provision
C4 - Children's Play Space
T2 - Parking Standards
T5 - Cycle Parking
NE2 - Biodiversity
NE3 - Protecting the District's Landscapes and Countryside
NE5 - Light Pollution
NE7 - Contaminated Land
CC2 - Sustainable Design and Construction
CC3 - Sustainable Drainage Systems (SuDS)
HE2 - Archaeology

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 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.

7. APPRAISAL

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

- a) Principle of development
- b) Whether the existing use of the site can continue and the weight to be afforded to this in the decision-making process
- c) Impact of the cessation of the existing use
- d) Design/layout/visual amenity
- e) Heritage
- f) Residential amenity
- g) Ecology
- h) Flooding drainage

- i) Highway safety and amenity
- j) Section 106/ CIL considerations
- k) Overall planning balance

a) Principle of development

- 7.2 The residential development proposed here would normally be considered to be wholly unacceptable as a matter of principle. The site lies in the open countryside, remote from any settlement and in a comparatively unsustainable location. Policies SS1 and SS3 of the Core Strategy Review direct new residential development to existing settlements, other than in exceptional circumstances. The proposed development does not meet the tests of these policies, is therefore contrary to them, and ordinarily the recommendation would be that planning permission should be refused. It is also acknowledged that the applicants have suggested using the buildings as potential holiday lets, however it is noted that the description refers to three dwellings. Should permission be granted for the dwellings, it would be possible to use them for holiday lettings in the future as this can fall within the same C3 use class.
- 7.3 In this case, however, the proposed development would result in the cessation of a use which itself causes significant harm to residential amenity, and to the visual amenity of the area and the character and appearance of the countryside.
- 7.4 The Town and Country Planning Act 1990 (as amended) states that planning decisions must be made in accordance with the development plan unless there are other material considerations that indicate otherwise.
- 7.5 As such, Members must assess whether the cessation of the existing use would bring about such benefits to the wider area as to amount to a material consideration which outweighs the harm arising from new residential development in this location.

b) Whether the existing use of the site can continue and the weight to be afforded to this in the decision-making process

- 7.6 The benefits of the cessation of the use of the site for processing soil/sand can only be taken into account as a material planning consideration if there is a prospect of the use continuing in the future.
- 7.7 There have been numerous objections received from neighbouring properties that state that the business has already been closed now by the EA revoking their permit, so the benefit of allowing the houses as a way of removing the soil business no longer applies. They have stated that with the business gone, the Council should now determine the application in line with paragraph 7.2 above and should refuse planning permission.
- 7.8 The representations also comment that the current business operation is based on taking waste from construction sites so if the applicant were to now obtain it from a non-waste source that would be a different operation. As a result, they contend that the information given with regards to the viability of the business or in terms trip generation or vehicle movements are not valid as this relates to a business strategy that has never been implemented on the site by the operator. One representation also comments that while condition 2 of the 1995 permission does not limit the distribution

of sand, the fact that soil and sand are comparable for the purposes of the permission means that the Council could argue that sand is limited by the condition as well.

- 7.9 KCC have advised that they do not consider the site a waste site, even though the EA have issued a waste permit. The EA have confirmed that the waste permit has been revoked on site and as such the applicant can no longer accept waste from construction sites, process it and sell the product on.
- 7.10 Importantly, the EA have confirmed that it is possible to grade and mix non waste soil on site as that would not constitute waste. Although this would be more expensive and potentially more difficult, the applicant's position is that it is possible and viable. The applicant has also highlighted that while there is a restriction on the amount of soil that can be redistributed from the site, there is no limit on the redistribution of sand.
- 7.10 The applicants have also commented that they have a potential user for the site that had expressed interest in leasing the site who specialise in sand and building materials. They have also been considering other options for the processing, bagging and distribution of sand and sand-based products which they estimate a sales volume of 25,000 tonnes. This could be leased to the supplier or carried out by the applicant themselves. The applicants have also stated that they believe they have non-waste sources of soil which could also be utilised. They have also confirmed that over the last five years they have been operating for six months of the year, whereas the new operations would likely be for 12-months of the year.
- 7.11 Officers have considered the above points very carefully in the assessment of the application. It is acknowledged that the waste permit has been revoked and that operating without obtaining waste from construction sites would be a new way of operating for the business. The permission granted does not though draw a distinction between processing waste soil or processing non-waste soil. While soil is limited in terms of its distribution, sand is not. Equally, soil and sand are clearly, as a matter of fact and degree, not the same substance, and in any case, they are referred to separately in the description of development.
- 7.12 Having regard to the description and conditions imposed on the previous permission, it is considered that the processing of soil and sand could continue on site without the need for a waste permit or for a further grant of planning permission.
- 7.13 In planning terms, the site has planning permission and can operate lawfully within the terms of that permission, and as such this application has been considered in light of this. Members are entitled to give weight to the cessation of this use in considering the merits of the proposed development.
- 7.14 *Mansell v Tonbridge* advises that to amount to a material consideration a possibility will suffice; there is no need to look for certainty or probability. As such this is a planning judgement which is made by the decision maker. As the applicants have advised the Council that they intend to use the site for purposes that fall within the planning permission and that in their opinion this can be done without needing a waste permit, it is considered that this is a 'possible' outcome. Given the above case law, there is no need to confirm that this would be certain or probable only that it is possible. As such it is considered that the fall back of business is possible and as such is a material consideration in the determination of the application. In terms of how much weight to attach to the fallback, this is a matter for Members. It is though considered that the removal this materially harmful use and associated bunds and buildings should be afforded significant weight.

c) Impact of the cessation of the existing use

- 7.15 KCC have advised the LPA that the safeguarding considerations set out in policy DM8 of the Kent and Medway Waste Local Plan will not apply. There would therefore be no objections to the loss of the business in this respect. It is not considered that the existing employment use is protected by any specific policies in the development plan as it is a sui generis use. While existing B1 and B8 uses are protected by policy E2, it is not considered that this site would be. As such there are no objections to the removal of the existing use.
- 7.16 As stated above, there were numerous complaints about the existing business in terms of the impact on dust, noise and HGV movements. This proposal would see the soil business removed following construction works, should see these issues dealt with. It is considered that the removal of the business would represent an improvement on the current situation.
- 7.17 The applicants have put forward an argument that given the amount of vehicle movements at the moment, the proposal would see a reduction in movements and would therefore represent an improvement to the current situation. The use of large HGV's would also no longer take place, and instead occupiers of the dwellings would be more likely to use smaller family cars.
- 7.18 Some of the representations submitted have disputed this, as stated above, as the business would need to find new suppliers of topsoil given that waste products can no longer be used, following the revocation of the EA permit. They have stated that the figures put forward in the Traffic Generation Statement may not be reflective of the potential future situation.
- 7.19 In terms of visual impact, there would also be the added benefit of having the soil heaps, which are unsightly, removed from the land and while local residents have argued that this should happen following the EA revoking the waste permit, the scheme would ensure that the use would not take place on the site again. Compared to the existing situation, the proposal is considered to be a visual improvement, and while the buildings are large, the applicants have demonstrated in their submission that there are other large houses in the area so this development would not be out of character. It is also acknowledged that there would be a reduction in hard surface with the removal of the current working forecourt which would be another benefit.
- 7.20 While officers do have some sympathy towards these arguments, it is clear that under the current permission, a large number of vehicle movements can take place and as such, this does need to be considered in the assessment of the application.

d) Design / layout / visual amenity

- 7.21 Policy HB1 of the PPLP state that proposals should not have a detrimental impact on the street scene, either by themselves or cumulatively and should make a positive contribution to their location and surroundings. The NPPF also encourages high quality design.
- 7.22 The design of the dwellings has changed significantly from when the application was first submitted to adopt the 'farmstead' approach of the current proposals. This was to design a scheme that would be more in keeping with its surroundings in the form of a main house, barn and cottage that the three dwellings adopt in appearance terms.

- 7.23 It is acknowledged that the size of the dwellings are large, particularly compared to the existing property on the site which is to be retained. The applicant's argument is that the existing buildings on site are larger in terms of the existing footprint compared with the proposed development as well as being of a comparable height. The existing buildings are not of any architectural merit so there would be no objection to their replacement with a high-quality scheme.
- 7.24 There have been neighbouring objections on the grounds that the size of the dwellings are too large for the site. The applicants in response for this have highlighted numerous large dwellings in the wider area which they believe demonstrate that the dwellings would not be out of place or character. While it is acknowledged that the dwellings are large, there are other examples of large dwellings in the area. 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, there are no objections to the application on these grounds.
- 7.19 The use of materials such as Kent peg tiles, brick and weather boarding are all local to the area and should ensure that the scheme remains high quality. The use of lighting would increase, particularly in the evening for a residential scheme over the existing commercial use which would have an impact on the surrounding area and on its intrinsically dark character. However, given the reduction in the amount of glazing that is to be used compared with the scheme as it was originally submitted, this is not considered to be harmful. External lighting could be controlled by a suitable worded condition.
- 7.20 In terms of the landscape impact the of the development, the scheme would clearly be visible given the flat nature of the landscape as set out in the Shepway High Level Landscape Appraisal, which places the site on the edge of the Brookland Farmlands area, on the border with the Dowels Farmlands area. This gives the key characteristics as being flat, open landscape, low-lying, agricultural and scattered farmsteads. There is some tree cover around the wider site boundaries, but glimpse views are still possible including from public rights of way.
- 7.21 However, given the proposed development is considered to be an improvement in design terms than the existing, at a reduced quantum of development and would see the removal of the soil business, it is considered that on balance, the scheme would be an improvement on the exiting situation. As such there are no objections on landscape impact.

e) Heritage

- 7.22 The NPPF paragraph 197 sets out what should be considered when determining applications that affect heritage assets and the importance of enhancing their significance. In this case the heritage assets are the conservation area and the listed building. The impact on the setting of both has been considered below.
- 7.23 The application site lies adjacent to but not within the conservation area, and there are no listed buildings immediately adjoining the application site. There are several listed buildings in the wider area, including Cherry Tree House which is 350m to the north east and the Church of St. Thomas and Old Farm which are further away but views are still possible given the flat landscape. However, given the separation distance and vegetation, the development would not harm the setting of these buildings. It is considered that in terms of the impact on the setting of the conservation area, the

proposal would be an improvement to the buildings and soil piles that are on site at the moment. As such the proposal would meet the test under the NPPF with regards to the impact on heritage assets.

- 7.24 There is some potential for buried archaeology on the site as confirmed by KCC Heritage and as such a condition has been recommended to ensure that any discoveries of historic value are properly recorded. Subject to this there are no objections on these grounds.

f) Residential amenity

- 7.25 Policy HB1 of the PPLP states that proposals should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area, taking account of loss of privacy, loss of light and poor outlook, and should avoid unacceptable overlooking and inter-looking.
- 7.26 Given the separation distance to the closest neighbours, there is not considered to be any issues with overlooking or appearing overbearing on any neighbouring property. There would be some impact on light spill as discussed above, however this is not considered to be any different to any of the existing properties and not a reason to refuse the application.

g) Ecology

- 7.27 The application site is situated within close proximity to the Dungeness, Romney Marsh and Rye Bay SSSI, SPA and Ramsar site, which are European designated sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) apart from the SSSI which is a national designation.
- 7.28 Dungeness, Romney Marsh and Rye Bay is a nationally important site by reason of a diverse range of biological and geological features, specifically the coastal geomorphology of Dungeness and Rye Harbour and the following important habitats: saltmarsh, sand dunes, vegetated shingle, saline lagoons, standing waters, lowland ditch systems, and basin fens. These habitats and others within the site support a number of nationally and internationally important species of plants, moss, water voles, breeding birds, waterfowl, great crested newts, and invertebrates.
- 7.29 In considering the European site interest, Natural England advises the Council that it should have regard to any potential impacts that the proposal may have. Regulations 63 and 64 of the Habitat Regulations require a Habitat Regulations Assessment. The proposal is not necessary for the management of the European sites. However, further to the advice of Natural England and subject to the conditions set out within the report, it is considered that the proposal is unlikely to have significant effects upon the integrity of these sites or the species which they contain.
- 7.30 Based on the correspondence with Natural England, it is considered that on site mitigation is required. The mitigation to be provided includes a construction and environmental management plan condition requiring written confirmation that all construction works (including vehicle parking and manoeuvring, storage of materials and machinery) will be restricted to land within the property curtilage. This is needed to ensure that the above designated sites, are protected during construction of the proposed development.

- 7.31 In this regard, whilst there are likely to be impacts upon the SPA arising from this development, the mitigation measures to be implemented within the SPA will ensure that these impacts will not be significant or long-term. It is therefore considered that, subject to mitigation specified above which has been agreed by the applicants, there will be no adverse effect on the integrity of the SPA. An Appropriate assessment has been carried out under the Habitat Regulations that has concluded, that subject to the conditions set out in the report, there would be no adverse impacts on the designated sites. Natural England have raised no objections to this.
- 7.32 KCC Ecology have commented on the application and have comment that protected species such as Great Crested Newts, Slow worms, common lizard, badgers, owls and breeding birds may all be affected by the proposal. They also comment that biodiversity should be enhanced and there should be a management scheme for the wildlife area.
- 7.33 The applicants have considered these issues through the submission of a preliminary ecological survey and a retile survey which make a series of recommendations. These could be secure by way of conditions to ensure there is no harm to protected species and that biodiversity on site is enhanced. Subject to these conditions being adhered to, there are no objections to the scheme on these grounds. An informative has also been suggested with regards to Great Crested Newts.

g) Flooding and drainage

- 7.34 The site is at a low risk of flooding as it sits within Flood Zone 1 and as such neither the sequential test nor the exception test needs to be applied here. The applicants have also suggested that the scheme has the potential to reduce flood risk elsewhere. This would be done by removing the spoil heaps, raised land and impermeable hard surfaced areas which would be replaced with a soft landscaping.
- 7.35 The provision of a SUDs scheme would secure greenfield run-off rates and further details of this would be requested by condition to ensure that it is delivered. Subject to this and further information on foul drainage, there are no objections to the scheme on these grounds.

h) Highway safety and amenity

- 7.36 As has been stated above, the site is in a remote area and is not well served by public transport. Future occupiers of the houses would therefore be reliant on the use of a private car to access local services and amenities.
- 7.37 It is considered that the scheme, on the balance of probability, would result in few trips than are currently undertaken but also that these would be made in smaller vehicles than HGVs. On balance, it is considered that the scheme does represent an improvement on the current situation. The impact of removing the current use has been considered in section c above, and as such those arguments are no repeated here.
- 7.38 With regards to the other issues such as parking and turning space, given the size of the site, these can easily be accommodated with the site. Given the site will use an existing access point with existing visibility splays, there are no objections to this part of the application. Other facilities such as refuse and access for emergency vehicles can also be accommodated on site. KCC Highways and Transportation also have no objections to the proposal on these grounds and as such there are no objections on these grounds.

i) S106/ CIL considerations

7.39 KCC have requested contributions that are set out in paragraph 5.1 above. Most of these are covered by the CIL charging schedule and therefore additional contributions cannot be sought. The exception to this is the request of £13,620 towards secondary education which should be sought as education has been removed from the CIL charging schedule. It is considered that this contribution is appropriate and directly linked to the development. This can be secured by way of a legal agreement.

7.40 It is considered that any subsequent section 106 agreement, also needs to set out that the existing use is to cease, and the previous planning permission granted be extinguished to prevent the activities that it currently allows from taking place on site again.

k) Overall planning balance

7.41 The issues that need considering in this report require an overall planning balance judgement to be made. This is a development which in normal circumstances would be refused due to its location. If the site was currently completely vacant, there may also be a case for considering a reduction in the size of the proposed houses as well. However, these issues need to be considered against the fallback position of the continuation of the bad neighbour use, the potential for the site to reopen for business for twelve months of the year under the existing planning permission and for the associated issues of noise, dust and traffic movements to adversely impact the living conditions of neighbouring properties, the character and appearance of the countryside, and the special character of the adjacent conservation area.

7.42 It is considered, on balance, the removal of the bad neighbour use, and the visual improvements to the character and appearance of the area from the existing situation are considered to outweigh the harm that has been identified above. As such, on balance, it is recommended that planning permission be granted.

Environmental Impact Assessment

7.43 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

7.44 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

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

Human Rights

7.46 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

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

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

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

Working with the applicant

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

8. CONCLUSION

8.1 The proposed 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.

8.2 Taking the above into account the application is recommended for approval subject to the attached conditions.

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. 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.
- 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 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.

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 – Site Location Plan