

Application No: 23/1001/FH

Location of Site: Block E, Hurricane Way, Hawkinge, Folkestone, CT18 7SS

Development: Change of use and alterations to 8 no. apartments.

Applicant: Pentland Properties Ltd

Agent: Mrs Tracey Dixon

Officer Contact: Robert Allan

SUMMARY

The report, which is an addendum update to the report originally produced for planning & Licensing Committee of 05 September 2023. The applicant has augmented their original marketing information following a request from Members, which has been reviewed by an independent external consultant and verified as a robust marketing exercise demonstrating that there is no viable demand for the permitted use. The dwellings would be in a sustainable location, with no detrimental impacts identified in relation to visual impact, residential amenity, highways or ecology, and the proposal is considered acceptable in accordance with adopted policy.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and any others that the Chief Planning Officer deems to be necessary.

1. INTRODUCTION

- 1.1. The application is returned to Planning & Licensing Committee following Members' resolution to defer consideration of the application until additional marketing information had been submitted at the meeting of 05 September 2023. The original Committee report is attached at appendix 2. The report includes the site description and details of the proposed development, the planning history of the site and a detailed appraisal of the scheme.
- 1.2. This report considers the additional information received since the item was last reported to Members..

2. ADDITIONAL INFORMATION

Marketing Summary Report

- 2.1 Following the resolution of the Members of Planning & Licensing Committee of 05 September 2023, the applicant submitted an addendum to the Marketing Summary Report which reported:

- Deeper analysis of the commercial market in the wider area
- Market testing against other, similar units
- How comparable property values have changed since 2020
- The price of the unit since marketing began in 2019
- Who marketing was aimed at.

2.2 This provided a deeper analysis and context to the original document and the decisions taken with regard to this, in order to justify the findings of the original report.

3. CONSULTATION RESPONSES

3.1 The consultation responses to the additional marketing information are summarised below.

Consultees

Hawkinge Town Council: Object – the applicant has failed to produce any evidence of local marketing comparisons i.e. Within the Folkestone & Hythe District. The committee does not consider Canterbury to be illustrative of conditions in Hawkinge. The committee would like to see comparative data that they are marketing on a similar basis to the Shearway Business Park, Folkestone, for example.

KCC Highways & Transportation: No comment - outside of consultation protocol.

KCC Ecological Advice Service: No ecological information is required as part of this application. Conditions requested for landscaping and lighting.

KCC Archaeology: No comments received.

Kent Downs AONB Unit: No comments received.

Environment Agency: No comment – outside of consultation remit.

Southern Water: No objection

Contaminated Land Consultant: No objection subject to standard land contamination condition

Local Residents Comments

3.2 No representations received.

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

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

4. RELEVANT PLANNING POLICY

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

4.2 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

HB1	Quality Places Through Design
HB3	Internal and External Space Standards
E2	Existing Employment Sites
NE2	Biodiversity
NE3	Protecting the District's Landscapes and Countryside
NE5	Light Pollution and External Illumination
NE7	Contaminated Land
T2	Parking Standards
T5	Cycle Parking
CC2	Sustainable Design and Construction

Core Strategy Review 2022

SS1	District Spatial Strategy
SS3	Place-Shaping and Sustainable Settlements Strategy
SS4	Priority Centres of Activity Strategy
CSD1	Balanced Neighbourhoods
CSD4	Green Infrastructure of Natural Networks, Open Spaces and Recreation

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

Government Advice

National Planning Policy Framework (NPPF) 2023

Members should note that the determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. A significant material consideration is the National Planning Policy Framework (NPPF). The NPPF says that less weight should be given to the policies above if they are in conflict with the NPPF. The following sections of the NPPF 2021 are relevant to this application: -

11	Presumption in favour of sustainable development
47	Applications for planning permission be determined in accordance with the development plan
60	Delivering a sufficient supply of homes
135	Achieving well-designed and beautiful places
189	Ground conditions and pollution
193	Effective integration

5. APPRAISAL

- 5.1 The report should be considered with the context of the previous report to Planning & Licensing Committee of 05 September 2023 (appendix 2) where Members raised no concerns in relation to visual impact and design, residential amenity, ecology, highways, affordable housing, or CIL and planning obligations.
- 5.2 As there have been no material changes in circumstance following the resolution of Members, these matters remain as set out in the previous report. Instead, this report will primarily deal with the addendum to the Marketing Summary Report.
- a) Principle of development
 - b) Contaminated land

a) Principle

- 5.3 As set out to Members previously, the Settlement Hierarchy within the Core Strategy provides a framework to concentrate development in selected locations to maximise efficient use of existing infrastructure and support business and community facilities. The application site is within the defined settlement boundary of Hawkinge, a service centre within the North Downs area that has been designated to accommodate development appropriate to the district and the centre's own needs, to grow and consolidate its position as a centre serving the local hinterland with shops, employment, and public services. To this end the broad principle of this development in this location is considered acceptable, subject to all other material planning considerations.
- 5.4 The loss of commercial units is resisted by policy SS4 of the Core Strategy Review and policy E2 of the Places and Policies Local Plan unless it can be demonstrated that they are not viable or not required. There are no records of the property ever having been occupied.
- 5.5 The applicant had submitted a Marketing Summary Report, which sets out the advertising of the unit since 2018, spanning a period significantly greater than the 12 months as required by policy E2. The report acknowledged the changes in the market since the property was constructed, including the effect of Covid-19 and other challenging economic and market conditions which persist to the present day. One offer from 2019 was recorded but was not able to secure planning permission for the required change of use (Y19/0545/FH) as there was no demonstration of the lack of need for the unit, contrary to adopted policy.
- 5.6 There was no reason to doubt the findings of the initial Report, which had been prepared by reputable local chartered surveyors and estate agents, with no evidence to dispute the conclusions drawn.
- 5.7 However, Members considered that additional marketing information should be supplied by the Applicant, with the application deferred from consideration at Planning & Licensing Committee on 5 September 2023 to allow for this. Following this resolution, the Applicant has submitted an Addendum to the Marketing Strategy Report, attached

at appendix 3, which has been reviewed by Officers and independent external consultants.

- 5.8 This Addendum Report has provided a deeper analysis of the commercial market in the wider area, looking at both the UK and the southeast; market tested relative to a similar scheme in Canterbury; looked at comparable property values since 2020; addressed the asking price; and looked at whom the marketing was aimed at.
- 5.9 The Addendum has concluded that the UK market as a whole is volatile, with the south east similarly affected, as a consequence of interest rates, changes in working habits and concluding that there is a limited demand for out of town commercial areas, at this time. There is limited evidence to establish trends to suggest rents and capital values have significantly fallen within the stated period, with take up for established commercial areas close to or above pre-pandemic levels albeit with landlords having to take more flexible approaches to lease negotiations and often greater incentives to reflect market conditions. On this, the guide price has not been adjusted, but a flexible approach was taken to negotiations, with prices being a guide and not an expectation. Indeed, the only agreed sale was at a price of £220,000, well below the guide price. Regarding the marketing audience, this has been aimed at alternative uses, with a brochure, mail shots and multiple websites used and continued to be used.
- 5.10 The original Marketing Report and the Addendum to this have been reviewed by an independent Chartered Surveyors, who has advised that the commentary upon the volatility of the UK economy is valid, with take-up of office space in Kent seeing a 5% increase in demand in 2023, compared to 12% over the last 3 years and 16% over the last 5 years. This is against a background of a reduction in office supply in Kent due to refurbishments, lack of development and conversion to residential, a move to hybrid working seeing occupiers requiring around 30% less space than fully office-based operations and figures showing no trading over the past 12 months in the Folkestone & Hythe submarket. The review places the marketed values as being reasonable and in line with the average for the area, whilst the brochure, mailing and website exposure were also considered acceptable.
- 5.11 The independent review of the submitted information concludes that potential purchasers were dissuaded due to limitations presented by the property location, low levels of footfall and passing trade, with potential purchasers drawn to the larger settlements and business centres, which have better transport links, facilities, footfall and connections to other businesses. The impact of interest rates rising, cost of utilities and changing of shopping habits are all having a significant effect on the market also.
- 5.12 Officers accept the findings of the submitted information and the review of this by the independent consultant. The Town Council's continued objection is noted, but it is considered that the Applicant has fulfilled the requirements of adopted policy, having carried out a thorough and extensive marketing exercise, with no reasonable justification to require the submission of further evidence. In this regard, the loss of the site for employment purposes is considered acceptable.

b) Contaminated land

- 5.13 The Council's contaminated land consultant has reviewed the proposal and as the proposed change of use would introduce new sensitive residential receptors, where the site was previously only assessed in the context of commercial users, which are less sensitive to land contamination risks, it is considered necessary and reasonable

to require an updated land contamination assessment, which can be achieved by applying the standard land contamination condition.

Environmental Impact Assessment

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

Local Finance Considerations

- 5.15 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.
- 5.16 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme, which in part replaces planning obligations for infrastructure improvements in the area. This proposal is CIL liable.

Human Rights

- 5.17 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

- 5.18 In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

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

Working with the applicant

- 5.19 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 proposal would result in the change of use and conversion of a commercial building into eight residential dwellings, following an extensive marketing period which demonstrated that there is no existing demand for the permitted use. The dwellings would be in a sustainable location, with no detrimental impacts identified in relation to visual impact, residential amenity, highways or ecology.
- 6.2 Overall, it is considered that the proposal would result in a sustainable development, in line with adopted policy and is recommended for approval.

7 BACKGROUND DOCUMENTS

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

8. RECOMMENDATION

That planning permission is granted subject to the following 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 complete accordance with drawings:

2277-3B-REV P4-Proposed Site Showing Indicative Works
22773B-013-REV P4 Proposed Site Plan Showing Indicative External Works
22773B_302_REV P3 Proposed Elevations Block E
22773B_301 RevP4 Proposed Layout - Block E
22773B_401_P1 Proposed South Streetview

Reason: For the avoidance of doubt.

3. Prior to first occupation of the flats hereby permitted details to demonstrate that the dwellings hereby permitted shall use no more than 110 litres of water per person per day shall have been submitted to and approved in writing by the

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Local Planning Authority. The details shall be implemented as agreed, prior to first occupation.

Reason: In the interest of sustainable development and minimising water consumption.

4. The materials to be used on the external surfaces of the development hereby permitted shall match those on the existing building in terms of type, colour and texture.

Reason: In the interests of visual amenity.

5. The amenity space shown on the approved plans shall be provided prior to first occupation, or in accordance with a timetable to be first agreed with the local planning authority and retained in perpetuity for use by the residents of all the flats.

Reason: In the interests of residential amenity.

6. Prior to first occupation of any of the units hereby permitted, full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

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

7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out 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. Prior to the first occupation of any dwelling hereby permitted, one electric vehicle charging point per dwelling shall be provided, in accordance with specifications and in location(s) that have been submitted to and approved in writing by the Local Planning Authority.

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

10. The car parking spaces shown on the submitted drawings shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not, shall be carried out on the land so shown or in such a position as to preclude vehicular access thereto; such land and access thereto shall be provided prior to the occupation of the dwelling(s) hereby permitted.

Reason: Development without adequate provision for the parking or garaging of cars is likely to lead to car parking inconvenient to other road users.

11. Prior to first occupation of the dwellings hereby permitted, details of secure, covered cycle parking, at a ratio of one space per bedroom shall be submitted to and approved in writing by the Local Planning Authority, with such details as approved, provided in full prior to first occupation, and thereafter retained.

Reason: In the interest of encouraging sustainable and healthy modes of transport.

12. Prior to first occupation of the dwellings hereby permitted, details of the bin stores to serve the development shall be submitted to and approved in writing by the Local Planning Authority, with such details as approved, provided in full prior to first occupation, and thereafter retained.

Reason: In the interests of visual and residential amenity.

13. 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 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.

14. (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.

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(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:

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.

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(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.

Appendix 1 – Site Location Plan.

**Appendix 2 – Original Committee report as presented on 5 September 2023
(DCL/23/15).**

Appendix 3 – Marketing Strategy Report.