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Application No: Y19/0016/FH

Location of Site: Land adjoining 86 to 88 Tontine Street, Folkestone

Development: Erection of part 3-storey and part 5-storey building comprising 45no. studio apartments with associated access, parking and communal garden.

Applicant: HRS Construction Service (KENT) Ltd

Agent: Lee Evans Planning
St Johns Lane
Canterbury

Officer Contact: Helena Payne

BACKGROUND AND SUMMARY

This application was considered by Members of the Planning & Licensing Committee in October 2020, where Members resolved to grant planning permission subject to conditions and a Section 106 Agreement. However, due to an administrative error the Viability Report had not been made available for public inspection prior to the Committee meeting and subsequent resolution.

To rectify this and ensure that any eventual decision is issued correctly and in accordance with the advice as set out within the National Planning Policy Framework (NPPF), we have since made the document public and undertaken a full re consultation on the application, including the writing to all consultees, site and press notices.

The application is now referred back to the Planning Committee for reconsideration.

The original report is appended to this Supplementary Addition and considers whether planning permission should be granted for the erection of a block of flats, part 5-storey and part 3-storey with a dual aspect onto Tontine Street and St Michael's Street, comprising 45 apartments with associated access, parking and communal garden together with off-site contributions towards affordable housing. The principle of development would be in accordance with the aims of the Core Strategy by regenerating an area of undeveloped brownfield land. The design, materials and scale are considered to be of innovative design with a modern appearance which would be in keeping with the eclectic mix found in the immediate area whilst acknowledging the traditional properties in the surrounding context and setting. Whilst there would be some impact upon neighbouring amenity, it is not considered to be sufficiently detrimental to warrant refusal on this ground. There is no objection on highway safety, ecology, flooding or contamination matters.

RECOMMENDATION:

That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing 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. This report considers the additional consultation responses and asks members to consider the application in light of the additional responses.
- 1.2. This report focuses on the additional consultations only. The original report is attached as **Appendix 1**.
- 1.3. Below the responses to the re-consultation are set out and additional consideration of them following the re-consultation process.

2. PUBLICITY

Consultation Response following Re-consultation

- 2.1. The following representations have been received:

Environment Agency – Comments remain as of 10 June 2020

IDOM Contamination Consultant – The Viability Report is not relevant to land contamination/public protection. No additional comments to make, Comments of 24 January 2019 remain valid.

KCC Flood & Water Management – No further comments to make on this proposal and refer to previous response on 12 June 2019.

KCC Ecology – No change from previous comments

KCC Archaeology – No change from previous comments.

- 2.2. The application is reported to Committee due to the objection from Folkestone Town Council, although they have not commented following the re-consultation process.

Local Residents Comments following Re-consultation

- 2.3. Original neighbour representations can be found summarised within the original Committee Report at Appendix 1.
- 2.4. 30 neighbouring residents were directly consulted. 3 letters of objection have been received following re-consultation (one of these 3 letters of objection contained more than one signature).

- 2.5. Reasons for objection, which differ from those raised originally, are summarised below (the original objections remain valid to the consideration of this application, but are not repeated here).
- 2.6. All letters received have been read and the key issues are summarised below:

Objections

- 2.7. Committee resolved to permit this scheme, a week before this viability Assessment was posted, so it begs the question whether the committee decision should be ignored and the scheme revisited in the light of Councillors' concerns about density.
- a) reduction of 6 units , with the consequent addition of 5 or so decent one-bed flats would be more acceptable, would not reduce the overall footprint, the CIL calculation, the pressure on parking, waste disposal, 'buy to let' landlord presence.
 - b) A new version of the NPPF was published on 19 February 2019. It states at Para 57 of the NPPF: All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.
 - c) The Viability Assessment submitted by the applicant is dated the 18th April 2019, so six weeks after the NPPF came into force. As such either an executive summary, or the full blown Viability Assessment should have legally been placed into the public domain as per the NPPF.
 - d) The Council neglected to abide to the NPPF statement at Para 57, as such Cllrs who were making a decision on the 20th Oct did so blind. It was a background document they had a legal right to view.
 - e) Local authorities are required to make available background papers to committee reports. The Local Government Act 1972, s100D(5) states: “background papers for a report are those documents relating to the subject matter of the report which—
 - 1. disclose any facts or matters on which, in the opinion of the proper officer, the report or an important part of the report is based, and
 - 2. have, in his opinion, been relied on to a material extent in preparing the report, but do not include any published works.”
 - 3. The Viability Assessment was not exempt. As Cllrs did not have all the documents to be able to make a rational decision based on ALL the facts, any planning permission granted, would be null and void.
 - 4. Furthermore, as of December 2017, the Supreme Court in Dover District Council v CPRE Kent [2017] UKSC 79 and Timothy Steer v Shepway District Council, David Westgarth and Lucy Westgarth considered, and to some extent re-cast, the common law duty on local planning authorities to give reasons for granting permission. The very fact Cllrs on the Committee could not give reasons about the Viability

Assessment means the common law duty was not fulfilled.

5. As such this raises a “substantial doubt” as to whether Cllrs had properly understood the key issues or reached “a rational conclusion” given that not all material was presented to them. This is a case where the defect in reasons given to grant permission goes to the heart of the justification for the permission, and undermines its validity. The only appropriate remedy is to quash the permission and bring it back to committee for a second attempt.

- f) A better scheme with less studio flats should be considered. The fact that no affordable housing is proposed on site is questionable.

2.8. Responses are available in full on the planning file on the Council’s website:

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

3. RELEVANT PLANNING POLICY

3.1. The adopted Development Plan for Folkestone & Hythe District comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020), along with The St Mary in the Marsh Neighbourhood Plan (2019).

3.2. The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.

3.3. The relevant development plan policies are as follows:-

Shepway Local Plan Core Strategy (2013)

DSD – Delivering Sustainable Development

SS1 - District Spatial Strategy

SS2 - Housing and the Economy Growth Strategy

SS3 - Place-Shaping and Sustainable Settlements Strategy

SS5 - District Infrastructure Planning

CSD1 - Balanced Neighbourhoods for Shepway

CSD2 – District Residential Needs

CSD5 - Water Efficiency

CSD6 – Central Folkestone Strategy

Places and Policies Local Plan Submission (2020)

- HB1 – Quality Places through Design
- HB2 - Cohesive design
- HB3 - Internal and External Space Standards
- RL2 – Folkestone Major Town Centre
- T2 - Parking Standards
- T5 - Cycle Parking
- NE2 - Biodiversity
- HE1 - Heritage Assets
- CC2 - Sustainable design and construction
- E8 – Provision of fibre to the premises
- C3 – Provision of open space
- C4 – Children’s play space
- CC3 - SUDS

Core Strategy Review Submission draft (2019)

- SS1 – District Spatial Strategy
- SS2 - Housing and the Economy Growth Strategy
- SS3 - Place-Shaping and Sustainable Settlements Strategy
- SS5 - District Infrastructure Planning
- CSD1 - Balanced Neighbourhoods for Shepway
- CSD2 – District Residential Needs
- CSD5 - Water Efficiency
- CSD6 – Central Folkestone Strategy

3.4. The Submission draft of the Core Strategy Review was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019. Following changes to national

policy, a further consultation was undertaken from 20 December 2019 to 20 January 2020 on proposed changes to policies and text related to housing supply. The Core Strategy Review was then submitted to the Secretary of State for independent examination on 10 March 2020.

- 3.5. Accordingly, it is a material consideration in the assessment of planning applications in accordance with the NPPF, which states that the more advanced the stage that an emerging plan has reached, the greater the weight that may be given to it (paragraph 48). Based on the current stage of preparation, the policies within the Core Strategy Review Submission Draft may be afforded weight where there has not been significant objection.
- 3.6. The following are also material considerations to the determination of this application.

National Planning Policy Framework (NPPF) 2019

- 3.7. 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:-

Paragraphs 8, 11, 12, 41, 62, 63, 124, 127, 175,

National Planning Policy Guidance (NPPG)

Paragraph: 007 Reference ID: 10-007-20190509

Paragraph: 020 Reference ID: 10-020-20180724

Paragraph: 007 Reference ID: 10-007-20190509

Paragraph 34 – Developer Contributions

Paragraph 57 – Viability Assessment

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive

Paragraph 53 *‘Well designed places are visually attractive and aim to delight their occupants and passers-by’.*

- N3 - Support rich and varied biodiversity

4. APPRAISAL

- 4.1. A full appraisal of the scheme is set out within the previous planning committee report, and can be found at **Appendix 1**.

- 4.2. It came to light following Members' resolution to permit (subject to conditions and a S.106 Agreement) that the submitted Viability Report, which had formed part of the original submission, had not been made publically available for viewing.
- 4.3. As set out within the National Planning Policy Guidance (NPPG), all planning viability assessments must be publicised alongside other information supporting the application. Whilst an error was made in respect of the publicity of the Viability Report, all matters relating to the Viability of the Scheme were fully considered and addressed by Officers, including the viability report being independently assessed by viability experts as set out within the Officer's Original Committee Report (Paragraph 7.22 – 7.25 and 7.37 respectively). No new information has been submitted in respect of the Viability of the scheme.
- 4.4. It is noted that concern has been raised via representation to this re-consultation regarding the Council's duty to ensure transparency and that as a result of the Viability Report having not been made public up until now, inappropriate consideration of the development had been given. To reaffirm the above, Councillors were provided with all relevant detail in respect of the Viability in order to reach an informed decision, and that despite it not being publically available, it was fully considered by Members in October 2020.
- 4.5. However, upon finding this technical error had taken place and in the interests of transparency, and to ensure proper procedure is followed, Officers have ensured that the Viability Report has been made publically available, carried out a full re-consultation including all original statutory consultees, and neighbours to allow appropriate consideration of the viability information.
- 4.6. In addition to the representations received in respect of the proposed development as set out in the original report, further comments have been made in respect of the viability report, and it has been suggested that the development could be reduced in terms of numbers of dwellings to make way for larger properties. There remains a concern that the smaller one bed units are not appropriate in this location. It has been raised that the scheme might be more viable if the Developer had introduced different unit types. Indeed, the Viability Report (phrased to support 'no affordable provision') may support a smaller number of larger apartments and allow the Applicant to redesign the 11 smaller units. To improve the quality of new homes in the district, proposals will be assessed against Policy HB3 of the PPLP, which considered internal and external space standards. For Flats, it is expected that usable balconies or terraces are provided for all units in new build developments.
- 4.7. As set out within PPLP Policy HB3, planning permission will be granted for new build residential development where the proposed scheme meets the nationally described technical housing space standards; provides an area of private open space; provides each dwelling with discreetly designed and accessible storage space and bicycle storage.
- 4.8. The standards as set out under HB3 advises that the minimum size for a 1 bed 1 person unit would be a minimum of 37sqm. Members will note, as set out in the original Case Officer's report, that whilst the size of the units are only just within the internal space standard requirement they are in accordance with policy requirements. The table below provides a clear indication of the size of each of the units:

Unit Number	Unit Type	GIFA (m2)
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6	2 bed	60
21	1 bed	50
3	1 bed	52
4	1 bed	62
2	Studio	41
2	Studio	40
7	Studio	37
Total - 45		2523

- 4.9. Policy HB3 of the PPLP states that proposals for new residential units should comply with the current nationally described space standards and each of the flats and studio flats would comply with these standards. Each habitable room would feature a window providing adequate levels of daylight and outlook. There would be good sized private balconies to each flat and a communal landscaped area. Therefore, the scheme is considered to represent a good standard of accommodation for future residents in accordance with emerging policy HB3 of the PPLP and the NPPF.
- 4.10. There has been some objection regarding the need for the studio/1 bedroom units, however, as detailed in the original Report, it is considered that these units would be appropriate given the town centre location which is ideal for young professionals who work within the town centre and considering that these units would be more affordable for young professionals to purchase than the more expensive 2 bed units within the proposed development. Policy CSD2 of the Core Strategy Review requires a range of sizes of new dwellings to be provided and although this development only provides 1 and 2 bedroom flats, it would accommodate for young professionals and deliver cheaper properties as set out above.
- 4.11. The total mix of unit types is as follows:

Unit Types	No
Studio	11
1 bed	28
2 bed	6
Total	45

- 4.12. Members' attention is drawn to paragraphs 7.20 – 7.21 with regard to the standard of accommodation, which is concluded to be acceptable in accordance with policy. A reduction of a further 6 units (the proposed scheme has already been reduced from 50 to 45 units) , with the consequent addition of 5 or so one-bed flats may be more acceptable, but would not reduce the overall footprint of the development or affect the associated CIL calculation. The reduction on the pressure on parking, waste disposal, 'buy to let' landlord presence etc would also be negligible (the larger the home, the more parking is required). Matters relating to the viability of the scheme in connection with Affordable Housing (the Viability Report was submitted to justify the shortfall of on-site affordable housing) are detailed within the paragraphs 7.22 - 7.25.
- 4.13. Officer's remain of the view that an offsite contribution would be the best option given the circumstances of the site and that off-site provision would continue to be secured via a S.106 Agreement. The Viability Report has not be designed to justify total numbers of units on the site, and whether less accommodation could be achieved

within the site. It has been designed to identify the level of affordable housing that the scheme can sustain. It is therefore not possible to conclude whether fewer units would affect GDV or sales figures.

5. Conclusion

- 5.1. The conclusion remains unchanged from the previous Committee Report appended to this Supplementary Address. No further additional information has been submitted, and having considered the above-referenced consultation responses, I am of the opinion that my original conclusion remains unchanged.

6. RECOMMENDATIONS

- 6.1. **That planning permission be granted subject to the following conditions and the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing 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.**
- 6.2. **Draft conditions are available at the end of the Original Committee Report at Appendix 1**

Appendix 1 – October 2020 Committee Report

Application No:	Y19/0016/FH
Location of Site:	Land adjoining 86 to 88 Tontine Street, Folkestone
Development:	Erection of part 3-storey and part 5-storey building comprising 45no. studio apartments with associated access, parking and communal garden.
Applicant:	HRS Construction Service (KENT) Ltd
Agent:	Lee Evans Planning St Johns Lane Canterbury
Officer Contact:	Louise Daniels

SUMMARY

This report considers whether planning permission should be granted for the erection of a block of flats, part 5-storey and part 3-storey with a dual aspect onto Tontine Street and St Michael's Street, comprising 45 apartments with associated access, parking and communal garden together with off-site contributions towards affordable housing. The principle of development would be in accordance with the aims of the Core Strategy by regenerating an area of undeveloped brownfield land. The design, materials and scale are considered to be of innovative design with a modern appearance which would be in keeping with the eclectic mix found in the immediate area whilst acknowledging the traditional properties in the surrounding context and setting. Whilst there would be some impact upon neighbouring amenity, it is not considered to be sufficiently detrimental to warrant refusal on this ground. There is no objection on highway safety, ecology, flooding or contamination matters.

RECOMMENDATION:

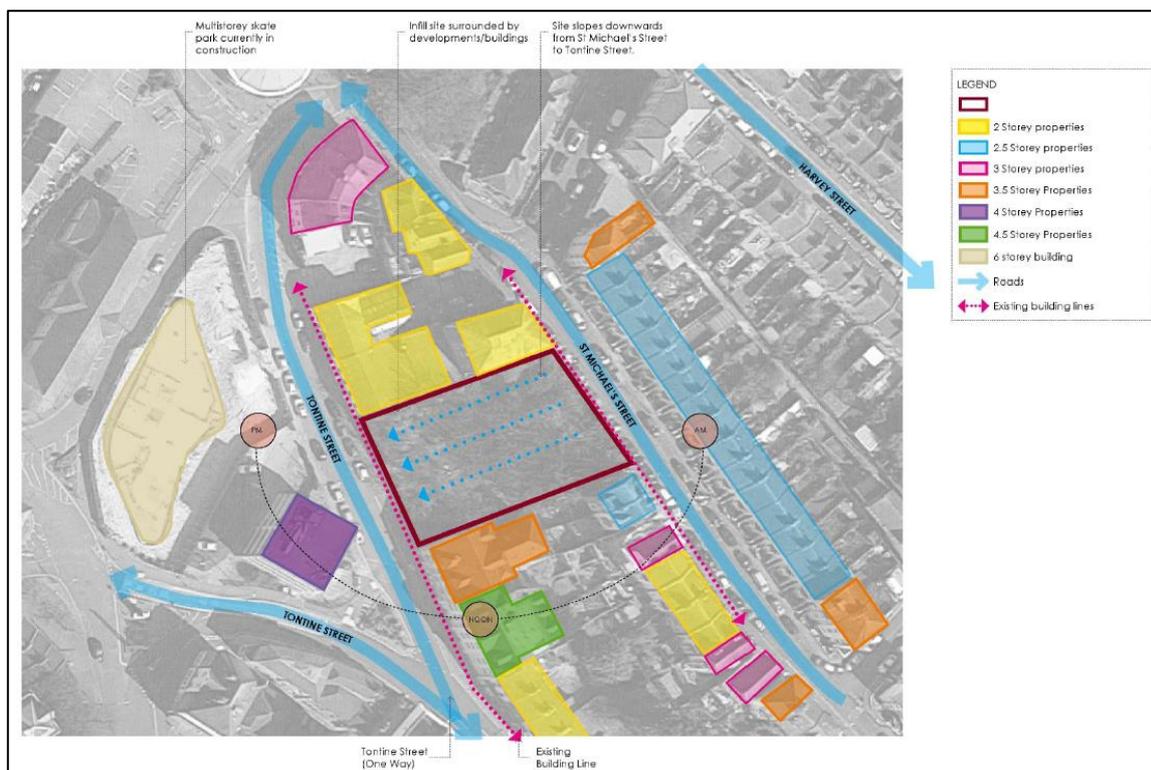
That planning permission be granted subject to the conditions set out at the end of the report and the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing and that delegated authority 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.

7. INTRODUCTION

- 1.1. The application is reported to Committee due to the objection from Folkestone Town Council.

8. SITE AND SURROUNDINGS

- 2.1 The site is within the settlement boundary of Folkestone, within an area of archaeological potential and adjacent to a Conservation Area to the south. The site is currently undeveloped.
- 2.2 The application site is accessed from both Tontine Street and St Michael's Street. St Michaels Street is characterised by terraced dwellings with a mixture of two, three and four-storey buildings and some featuring different levels at the front and back due to land level changes. Tontine Street is characterised by a mixture of five, four and three-storey properties.
- 2.3 The site is surrounded by an eclectic mix of residential properties, events centres and commercial units along both Tontine Street and St Michael's Street. To the south of the application site (on Tontine Street), is a four-storey building with room in the roof and which accommodates flats (Tintigel House), and a two-storey building to the north of the site (86-88 Tontine Street) which is used as an auto-repair business. 'The Cube', a 4 storey adult education and events centre is located on Tontine Street to the west, directly opposite the application site and located adjacent to the skate park which is under construction. From St Michael's Street there is a two-storey building to the north of the site and a three/four-storey residential property to the south with room in the roof space and a lower ground floor. The plan below was submitted within the Design and Access Statement and highlights the different storey levels within the surrounding area (Fig.1)



(Figure 1)

- 2.4 There is no distinctive architectural style in the area as the properties range in both style and age which adds to the visual interest of the area and the varied grain of buildings.
- 2.5 A site location plan is attached to this report as **Appendix 1**.

9. PROPOSAL

- 3.1 Full planning permission is sought for the erection of a part 5-storey and part 3-storey building comprising 45 apartments with associated access, parking and communal garden. The development would have a dual aspect and would be up to 5-storeys fronting Tontine Street (Fig.2) and up to 3-storeys fronting St Michael’s Street (Fig.3). A landscaped courtyard is proposed to the first floor and a raised podium garden is proposed which would have seating and raised planters with trees.



(Figure 2 – Tontine Street Frontage)



(Figure 3 – St Michael Street Frontage)

- 3.2 The scheme has been amended during the process of the application and has been reduced from 50 to 45 flats and reduced from 6-storeys to 5-storeys fronting Tontine Street. The apartments would consist of 8 x studios, 31 x 1 beds and 6 x 2 beds

Fifth floor	= 5 apartments
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Fourth floor	= 10 apartments
Third floor	= 12 apartments, additional refuse and 12 cycle spaces to be accessed off St Michaels Street
Second floor	= 9 apartments
First floor	= 9 apartments
Ground floor	= 25 parking spaces (including 2 disabled spaces), 38 cycle spaces, refuse and post room. Accessed from Tontine Street.

3.3 Subtle changes to the design and layout have also been made during the process of the application which include:

- Widening the pedestrian entrance on the ground floor.
- Changing the bathrooms to shower rooms for all studio apartments at 37m² (Units 5, 27, 29, 32, 37, & 39).
- Removing the ground floor balcony space from flat 30 on St Michaels street increasing this unit size from 37m² to 43m².
- Increasing the landscape buffer on the first floor podium deck amenity space along the side boundary adjacent to Tintagel House.
- Light grey render on St Michaels Street Elevation has been specified as a bright neutral colour.
- Dry risers and services to be located within internal riser cupboards to go up through the roof.

3.4 The material palette to Tontine Street includes white painted timber cladding, light grey render, yellow powder coated aluminium, yellow, teal and light blue render and white painted perforated metal panels. The material palette to St Michaels Street is more limited with more detailing, and which includes white painted timber cladding, light grey render, yellow powder coated aluminium windows, light blue herringbone tiles and grey metal panels.

10. RELEVANT PLANNING HISTORY

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

Y04/0662/SH	Outline application for residential development incorporating a block of flats.	Approved with conditions
Y06/0941/SH	Erection of a block of 14 flats and 2 no. commercial units comprising of retail (Class A1), financial and professional services (Class A2) or business (Class B1) together with associated parking provisions and formation of vehicular access.	Approved with conditions

Y09/0942/SH Extension to time limit of planning permission Approved
Y06/0941/SH for the erection of a block of fourteen with
flats and two commercial units comprising of retail conditions
(Class A1), financial and professional services (Class
A2) or business (Class B1) together with associated
parking and formation of vehicular access.

11. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Object on the following grounds:

- 1) No site notices originally displayed.
- 2) Wish for the site to be developed but this is too intensive and not in keeping with Victorian street scene. The height of the building is higher than the properties in St Michaels street.
- 3) Insufficient on-site parking. The management of traffic movement and traffic flows on a daily basis will require traffic orders. Any of these movements are going to have an effect on the daily flows in Tram Road, Tontine Street, Grace Hill, Town Centre and Dover Road. This will have a serious effect on parking in the area.
- 4) Overlooking to properties in St Michaels Street from proposed balconies.
- 5) Design and Access Statement incorrect as the GP service in lower Dover Road closed in 2017 and there are no GP services in the health centre. Existing GP services in Harbour Ward and East Folkestone consist of only one practice, on Canterbury Road.
- 6) There is no need for one-bedroom properties, not a university town. More need for 2/3 bed properties.
- 7) The scheme is low cost, poor quality, poor sized and will lead to overcrowding, poor living standards and poor health. People deserve better than this.
- 8) 70% of properties private 30% affordable. Does affordable mean social housing? The Committee feels it should.

KCC Archaeology: No objection subject to a condition to require a programme of archaeological work in accordance with a written specification and timetable.

KCC Ecology: No objection subject to ecological mitigation/enhancement requirements being conditioned in relation to bats, birds and reptiles.

Environment Agency: No objection as the application is assessed as having a low environmental risk.

Kent Highways: No objection subject to conditions to secure cycle and vehicle parking, pedestrian visibility splays and details of the underground parking to be

submitted. The traffic generation and resulting impact from the proposed development would not represent a severe impact on the highway network. The pedestrian and vehicular visibility splays do not cause highway safety concerns.

Southern Water: Southern Water can provide foul sewage disposal to service the proposed development and a formal application for a connection to the public sewer should be made to Southern Water.

Contamination Consultants: The submitted Phase 1 Preliminary Risk Assessment fulfils Part 1 of the standard land contamination condition. The remaining parts of the standard condition should be applied.

KCC Flood and Water Management: No objection subject to pre-commencement conditions requiring further details of the proposed drainage system.

NHS Kent and Medway Group (CCG):

	Total Chargeable units	Total	Project
General Practice	45	£23,976	Towards refurbishment, reconfiguration and/or rebuild of a town centre property to enable the relocation of 2 Folkestone practices

KCC Development Contributions:

	Per Dwelling (x45)	Total	Project
Community Learning	£16.42	£738.90	Towards additional resources, equipment, and classes at Folkestone Adult Education Centre for the new learners from this development
Youth Service	£65.50	£2947.50	Towards additional resources for the Youth service locally in Folkestone
Library Bookstock	£55.45	£2495.25	Towards additional services, resources, and stock in Folkestone Library for the additional borrowers generated from this proposal
Social Care	£146.88	£6609.60	Towards specialist Care accommodation in Folkestone and Hythe District
	All Homes built as Wheelchair Accessible & Adaptable Dwellings in accordance with Building Regs Part M 4 (2)		
Waste	£221.92	£9986.40	Towards the new Folkestone and Hythe WTS, MRF and HWRC improvements

Broadband:	<p>Condition: Before development commences details shall be submitted for the installation of fixed telecommunication infrastructure and High-Speed Fibre Optic (minimal internal speed of 1000mb) connections to multi point destinations and all buildings including residential, commercial and community. The infrastructure installed in accordance with the approved details during the construction of the development, capable of connection to commercial broadband providers and maintained in accordance with approved details.</p> <p>Reason: To provide high quality digital infrastructure in new developments as required by paragraph 112 NPPF.</p>
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Please note that these figures:

- are to be **index linked by the BCIS General Building Cost Index from April 2020 to the date of payment** (Apr-20 Index 360.3)
- are valid for 3 months from the date of this letter after which they may need to be recalculated due to changes in district council housing trajectories, on-going planning applications, changes in capacities and forecast rolls, projects and build costs.

Local Residents Comments

5.2 30 neighbours directly consulted. 33 letters of objection, 1 letter of support received.

5.3 All letters received have been read and the key issues are summarised below:

Support

- Development is a welcome bold contemporary addition to the area

Objections

- Unacceptable height and size
- Lack of parking proposed will increase on street parking demand
- Resulting increase in traffic
- Extra rubbish collection required
- Loss of daylight and sunlight to neighbouring properties
- Structure damage to neighbouring houses
- Lack of affordable housing
- Balconies on residential street
- The design is out of keeping, should be more like Y06/0941/SH and Y09/0942/SH
- Impact upon St Michaels Street
- Concern whether the sewage drainage will cope
- Reduction of 5 flats is not a sufficient change
- Studios will not bring the right kind of business or residential feel

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

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

12. RELEVANT PLANNING POLICY

- 3.1 The adopted Development Plan for Folkestone & Hythe District comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020), along with The St Mary in the Marsh Neighbourhood Plan (2019).
- 3.2 The Folkestone & Hythe District Council Core Strategy Review Submission Draft (2019) was published under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations (2012) for public consultation between January and March 2019, as such its policies should be afforded weight where there are not significant unresolved objections.
- 3.3 The relevant development plan policies are as follows:-

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HE1 - Heritage Assets

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E8 – Provision of fibre to the premises

C3 – Provision of open space

C4 – Childrens play space

CC3 - SUDS

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

National Planning Policy Framework (NPPF) 2019

3.5 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:-

Paragraphs 8, 11, 12, 41, 62, 63, 124, 127, 175,

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Paragraph: 007 Reference ID: 10-007-20190509

Paragraph: 020 Reference ID: 10-020-20180724

Paragraph: 007 Reference ID: 10-007-20190509

National Design Guide October 2019

- C1 - Understand and relate well to the site, its local and wider context
- I2 - Well-designed, high quality and attractive
Paragraph 53 *'Well designed places are visually attractive and aim to delight their occupants and passers-by'*.
- N3 - Support rich and varied biodiversity

13. APPRAISAL

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

- a) Principle of development
- b) Design/layout/visual amenity
- c) Residential amenity
- d) Standard of accommodation
- e) Viability and affordable housing

- f) Ecology and biodiversity
- g) Highway safety
- h) Drainage
- i) Contamination
- j) Archaeology
- k) Section 106 contributions
- l) Other matters

a) Principle of development

- 7.2 The general thrust of national and local planning policy is to secure the sustainable patterns of development through the efficient re-use of previously developed land, concentrating development at accessible locations. This proposal is considered to facilitate the achievements of these objectives.
- 7.3 The site is within the defined Seafront/Creative Regeneration Arc as set out within policy CSD6 of the Core Strategy. CSD6 states:
- The Seafront/Creative Quarter Regeneration Arc provides major opportunities for development to contribute to strategic needs and to upgrade the fabric of the town, drawing from its past and potential sense of place:*
- *Further development by the charitable sector and others through conversion and re-use of derelict land promoting cultural, educational uses, visitor attractions, and other small-scale active uses will be encouraged*
- 7.4 The core strategy further states that “*the regeneration of this arc should provide new services and accommodation complementary to the town centre and seize opportunities to articulate Folkestone’s history and contemporary vibrancy/creativity*”.
- 7.5 The application site has been undeveloped for a long time with hoarding surrounding the site. The proposal would constitute the redevelopment of previously developed and derelict land and therefore, the principle of developing the site is considered to accord with the aims of the Core Strategy, by re-using derelict land within the Seafront/Creative Quarter Regeneration Arc.

7.6 In addition, policy SS2 of the adopted Core Strategy sets the Council's Housing target figures as requiring 350 dwellings per annum. As the adopted Core Strategy is more than five years old, the Planning Practice Guidance (Paragraph: 005 Reference ID: 68-005-20190722 – 'Housing supply and delivery') states that where strategic policies are more than 5 years old, or have been reviewed and found in need of updating, local housing need calculated using the standard method should be used in place of the housing requirement. The re-calculation has resulted in the housing targets increasing to 738 dwellings per annum and how this is delivered up until 2036/37 is under review by the Planning Inspector as part of the Examination in Public of the Core Strategy Review. As such, the delivery of 45 flats would contribute towards the Council's housing target.

b) Design/layout/visual amenity

7.7 Policy HB1 of the PPLP requires development to make a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses, particularly with regard to layout, scale, proportions, massing, form, density and materials.

7.8 The application proposes a modern and contemporary development for this site, with the proposal addressing both Tontine Street and St Michaels Street with different scales and forms. The Tontine Street elevation of five-storeys would extend beyond the ridge line of both neighbouring properties however, given the site's close proximity to other taller buildings, such as The Cube and the four-storey skate park, which will measure 23.7m in height when completed, it is considered that the proposed block of flats would not appear out of character with the existing built form within the area. This is particularly relevant when considering the maximum height of the Tontine Street elevation would be 16m, which is a lot lower than the skate park height opposite.

7.9 It is acknowledged that the proposed building fronting Tontine Street would increase in height by a storey higher than the ridge height of the neighbouring property, Tintagel House, however this top floor is proposed to be stepped inwards from the side and front elevations to reduce the overall mass of the proposal, this area would then form outside amenity areas for the top floor flats. The materials would also change from the light grey render on the elevations to yellow render for the top floor, again emphasising the change and helping to reduce the overall bulk and mass of the building.

7.10 The proposal is a modern contemporary design with a flat roof fronting Tontine Street and whilst contrasting with other development within the area in terms of design, it is considered that the proposed materials and subtle design features would reflect and respect the more traditional buildings within the street. The majority of the building would be finished with light grey render to relate to the other rendered properties within Tontine Street, whilst being articulated with feature yellow powder-coated aluminium window box frames, yellow and teal render and a pink metal garage door to create a vibrant interesting elevation to Tontine Street, to integrate well within the Creative Quarter. The teal render to the ground floor would add interest and detail to this public frontage with large windows to resemble shop windows to continue the active frontage character of Tontine Street. With the proposed scale of development, including choice of materials and design features in mind, it is considered in this instance that the development would not detract from the character and appearance of the wider street scene.

- 7.11 In terms of the elevation facing St Michaels Street, the height and window location mimic the existing rhythm of the terraced houses along the street scene. The height would not exceed the ridge height of No.28 St Michaels Street, which is a two-storey residential property with a lower ground floor, which is important given the lower scale of properties within the street scene. In terms of scale, it is not considered that the proposal would dominate the street pattern or the neighbouring properties and as such would integrate well within the street scene. As with the Tontine Street elevation, a light grey render is proposed to relate to the traditional rendered properties within the area, but with subtle splashes of colour to the elevation with both grey and yellow power coated windows and some light blue herringbone tiles to provide a focal point for the entrance.
- 7.12 The landscaped courtyard would provide a focal point for the flats, which look inwards into the site, providing an area of green space to break up and soften the development.
- 7.13 It is considered that the proposal represents an innovative design with a modern and contemporary appearance, which would complement the eclectic mix found in the immediate area whilst acknowledging the traditional properties on either side and whilst relating to the surrounding context and setting. The proposal is considered to be of a high standard of design which accords with existing development in the locality and as such policies HB1 and HB8 of the PPLP.

c) Residential amenity

- 7.14 All development should secure the amenities of its future occupants and protect those amenities enjoyed by nearby and adjoining properties. Policy HB1 and HB8 of the PPLP requires development proposals to safeguard and enhance the amenity of residents. Paragraph 127 of the NPPF sets out that decisions should seek to secure a high standard of amenity for existing and future users. Due to the dual aspect of this application site, neighbouring properties on both Tontine Street and St Michaels Street need to be considered separately.
- 7.15 Regarding the Tontine Street aspect, Tintagel House, is a purpose built block of flats, which is positioned adjacent to the application site to the south and is a four-storey property with room in the roof. There are no side facing windows to the main four-storey building which has a blank elevation to the north, which would be adjacent to the front block of the proposed development. The front block would extend to the same depth as this main block of Tintagel House. There is a rear protruding section to the rear of Tintagel House which is set in from the side boundary and which has a flat at each storey height. This section has side facing windows to the north and to the south of the building with the living room of each flat having a dual aspect by being a through-room with windows to the north and south. There are bedrooms on all the floors with a single window which face north towards the application site. It is considered that there would be some loss of light to the bedrooms from the proposed development however, these windows face north and so do not receive direct sunlight and so the development would not impact upon sunlight into these bedrooms, and there would be a separation of 2.9m between the side facing bedroom windows and the retaining wall for the landscaping which is not considered to be an unacceptable relationship sufficient enough to warrant refusal of the application on this ground.

- 7.16 To the north of the site are blank elevations to 86 and 88 Tontine Street, which is an auto repair garage, and therefore the proposed development would not impact upon these neighbouring buildings as there are no side facing windows which would be affected. Notwithstanding this, these neighbouring buildings are not in residential use.
- 7.17 Regarding the St Michael's Street aspect, No.28 is a three-storey property with a lower ground floor. No.28 is to the south of the application site and is divided into two flats. There are some side facing windows to the north elevation of this neighbouring building however it is not considered that the development would cause a detrimental impact upon these windows by way of overlooking/loss of privacy as there would be a separation of between 2m at the narrowest point, to 2.8m at the widest point from the side of this neighbouring building to the proposed rear block. In addition, as with Tintagel House, the side facing windows are north facing and so would not have direct sunlight in the existing situation. The proposed development is two-storeys adjacent to this building, stepping up to three-storeys away from this building. On balance, it is not considered that this proposed rear block would have an unacceptable relationship sufficient enough to warrant refusal of the application on this ground.
- 7.18 To the north of the application site is a two-storey building, the RCCG Inspiration House Church, which has most of the side facing windows blocked-up. As the building is not within residential use, it is not considered that the proposed development would have a detrimental impact upon this building in amenity terms.
- 7.19 Therefore, in terms of the impact upon neighbouring amenity, whilst it is acknowledged that the development would have an impact upon the residential units within Tintagel House and at No.28 St Michael's Street, due to the mitigation measures proposed as listed above, it is not considered to amount to significant harm to neighbouring amenity which would warrant refusal of the application. As such, the application is considered to be in accordance with policies HB1 and HB8 of the PPLP which seeks to protect neighbouring residential amenity and ensure avoidance of unacceptable overlooking and inter-look.

d) Standard of accommodation

- 7.20 Policy HB3 of the PPLP states that proposals for new residential units should comply with the current nationally described space standards and each of the flats and studio flats would comply with these standards. Each habitable room would feature a window providing adequate levels of daylight and outlook. There would be good sized private balconies to each flat and a communal landscaped area. Therefore, the scheme is considered to represent a good standard of accommodation for future residents in accordance with emerging policy HB3 of the PPLP and the NPPF.
- 7.21 There has been some objection regarding the need for the studio/1 bedroom units, however it is considered that these units would be appropriate given the town centre location which is ideal for young professionals who work within the town centre and considering that these units would be more affordable for young professionals to purchase than the more expensive 2 bed units within the proposed development. Policy CSD2 of the Core Strategy Review requires a range of sizes of new dwellings to be provided and although this development only provides 1 and 2 bedroom flats, it

would accommodate for young professionals and deliver cheaper properties as set out above.

e) Viability and affordable housing

- 7.22 Although the application proposes 45 flats, no affordable housing is proposed on site and during the course of the planning application a viability assessment was carried out by Savills and was submitted to justify this shortfall. Policy CSD1 of the Core Strategy states that developments of 15 or more dwellings should provide 30% affordable housing on-site, this percentage has been reduced to 22% within policy CSD1 of the Core Strategy Review. Policy CSD1, in both documents, further states that *“provision should be made on-site (unless off-site provision through a financial contribution of broadly equivalent value can be robustly justified”*.
- 7.23 Paragraph 57 of the NPPF states *“The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force”*.
- 7.24 The submitted viability assessment has been independently assessed and the conclusion of the study notes that £321,000 would be left to contribute to affordable housing. Since then, the Agent has confirmed that in reality this would only equate to 3 x affordable units on site and that there has been no interest in attracting a Housing Association for this number of units in this location, with Orbit Homes stating that the scheme was *“way too small for us and I think too small for most to be viable”*.
- 7.25 Therefore, officers are of the view that an off-site contribution would be the best option given the circumstances of this site, which is a difficult site to develop due to the change in land levels, and that a robust exception has been provided in accordance with policy CSD1 of the Core Strategy and Core Strategy Review. The £321,000 for off-site provision would be secured through a legal agreement and would assist with realising affordable accommodation in Folkestone in conjunction with other affordable housing development.

f) Ecology and biodiversity

- 7.26 The site was cleared prior to the original ecological scoping survey being carried out, which KCC Ecology highlight is bad practice as the works may have resulted in breach of wildlife legislation.
- 7.27 Regarding bats, the submitted Ecological Assessment assessed the building ruins as having low potential for roosting bats. In addition, bat surveys were undertaken and no bats were observed emerging from the building. However, as the building ruins are open, a precautionary approach is required and this can be conditioned. In addition, an updated bat emergence survey is required to be carried out and submitted to the LPA prior to development commencing, this would be conditioned and any mitigation implemented prior to construction works commencing. A lighting design strategy for biodiversity is also required to be submitted
- 7.28 Regarding reptiles, KCC Ecology consider that the habitat on site has become more suitable for reptiles to be present, although the potential is low. However, to minimise any residual risk of harm or impact to reptiles, the precautionary measures detailed in

paragraph 6.4.2 in the Bat Survey Report will have to be undertaken in the event of reptiles being found on site. Policy NE2 of the PPLP requires development to avoid a net loss of biodiversity and ecological enhancements would be conditioned to be incorporated into the landscaping on site to ensure there would be no net loss.

7.29 There are no other ecological matters for consideration in relation to this proposal, which subject to the above-mentioned conditions is considered acceptable on ecological grounds.

g) Highway safety

7.30 The application is submitted with a Transport Statement and Kent Highways raises no objection to the application, stating that the traffic generation and resulting impact from the proposed development would not represent a severe impact on the highway network. Kent Highways also raises no objection to the proposed layout and pedestrian and vehicular visibility splays.

7.31 The proposed use of the site would undoubtedly alter the traffic movements associated with a residential use compared to the existing empty site. However, it is considered to be less than severe in this instance, and would not warrant refusal on transport grounds.

7.32 The provision of secure cycle storage facilities are acceptable and would be secured by condition to promote more sustainable methods of transport in accordance with policy T5 of the PPLP.

h) Drainage

7.33 The site is located adjacent to the Pent Stream which flows from the North Downs to the sea and is underground on Tontine Street. Due to the location of the stream, the site is adjacent to flood zones 2 and 3. A Flood Risk and Drainage Impact Assessment (by Herringtons Consulting dated December 2018) accompanied the application, which concludes that the site is not at significant risk from any source of flooding, but nevertheless sets out a number of recommendations, including that the ground floor of the development includes flood resistance and resilience measures to reduce the risk of groundwater seepage. The submitted Report also concludes that the development will not increase the risk of flooding elsewhere. The surface water drainage strategy that has been identified is concluded to achieve the objective of minimising peak discharge rates by incorporating a combination of SuDS. In response, KCC Flood and Water Management agrees with the principles for managing surface water, but has advised that as part of the detailed design stage detailed drainage drawings of the proposed drainage layout, including construction drawings, will need to be provided. As this is a full application, KCC has requested a series of pre-commencement conditions, to be attached to any forthcoming planning permission should Members be minded to permit. These details of the proposed drainage system are necessary before any work on site can take place. The drainage scheme shall demonstrate, amongst things, the following:

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- Appropriate operational, maintenance and access requirements for each drainage feature or SUDS component are adequately considered, including any

proposed arrangements for future adoption by any public body or statutory undertaker.

- A verification report pertaining to the surface water drainage system must also be submitted that demonstrates the suitable modelled operation of the drainage system appropriately manages flood risk.

7.34 Subject to the above mentioned conditional requirements, which seek to ensure the satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding, there are no objections to the proposed development on flooding grounds.

i) Contamination

7.35 Regarding contamination at the site, the submitted Phase 1 Preliminary Risk Assessment fulfils Part 1 of the standard land contamination condition but the remaining parts of the standard condition should be applied.

j) Archaeology

7.36 Regarding archaeology at the site, a condition would secure the implementation of a programme of archaeological work in accordance with the written specification and timetable submitted as part of this application.

k) Section 106 contributions

7.37 As paragraph 7.24 advises the application has been subject of an independently assessed Viability Study, which takes into account the affordable housing contribution for the site (which is discussed in detail above) and does not consider the viability of any further contributions in relation to the proposed development. However, following on from the assessment of the submitted Viability Study, the application has been subject of the following s.106 requests, which relate to GP provision and community services. In order to progress the application the Applicant and their Agents have agreed the heads of terms as set out below. However, Members should be mindful that these may reduce the profitability of the scheme.

7.38 The proposal would generate approximately 66.6 new GP patient registrations based on the dwelling mix provided. The application site falls within the current practice boundaries of several practices, all of which are currently operating at their maximum capacity in terms of clinical space. There is currently limited capacity within existing general practice premises to accommodate growth in this area. The need from this development, along with other new developments, will therefore need to be met through the creation of additional capacity in general practice premises. The contribution of £23,976 is sought to contribute towards Folkestone GP provision via S.106 and the applicant has confirmed agreement to these payments.

7.39 Kent County Council assessed the implications of the proposal in terms of the delivery of its community services and considered it would have an additional impact on the delivery of its services, requiring mitigation through financial contributions. As such, contributions totalling £22,777.65 would also be secured via S.106 towards the improvement of community services.

I) Other matters

- 7.40 Two site notices was erected outside the site, one on Tontine Street and the other on St Michaels Street in accordance with the Development Management Procedure Order.

Environmental Impact Assessment

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

Local Finance Considerations

- 7.42 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.
- 7.43 In accordance with policy SS5 of the Core Strategy Local Plan the Council has introduced a Community Infrastructure Levy (CIL) scheme however, the CIL levy in the application area is charged at £0 per square metre for new residential floor space, which the application site falls within, and therefore no CIL Contributions are required.

Human Rights

- 7.44 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

7.5 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.

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

Working with the applicant

7.47 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.

14. CONCLUSION

8.1 The proposed block of flats, as revised during the lifetime of the planning application, is considered to be in line with the aims of the Core Strategy by regenerating an area of brownfield land. The design, of the proposal is considered to be of an innovative design with a modern contemporary appearance, which would be in keeping with the eclectic mix found in the immediate area whilst acknowledging the traditional properties in the surrounding area. Although there would be some impact upon neighbouring amenity, it is not considered to be sufficiently detrimental to warrant refusal on this ground. There is no objection on highway safety, ecology, flooding or contamination matters and the further details required can be secured by suitable conditions. Therefore, together with the off-site contributions towards affordable housing provision, it is considered that the scheme is acceptable and is recommended for approval subject to 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 the applicant entering into a S106 legal agreement securing payments towards Folkestone's GP provision, community services and off-site contributions towards affordable housing and that delegated authority be given to the Chief Planning Officer to agree and finalise the wording of the conditions and add any other conditions that he considers necessary.

1. 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 the following drawings: PR210 03 Rev E; PR210 11 Rev E; PR210 15 Rev C; PR210 14 Rev D; PR210 20 Rev D; PR210 10 Rev D; PR210 21 Rev C; PR210 12 Rev C; PR210 22 Rev C; PR210 23 Rev C; PR210 24 Rev A; PR210 13 Rev D and Site Location Plan.

Reason: For the avoidance of doubt.

3. No development beyond laying of foundations shall take place until samples/details of materials to be used in the exterior of the building shall be submitted to and approved by the local planning authority. The works shall be carried out in accordance with the approved details unless otherwise approved in writing by the local planning authority.

Reason: To ensure that the external appearance of the building does not prejudice the visual amenity of the neighbourhood in accordance with policies HB1 and HB2 of the Places and Policies Local Plan 2019.

4. Within 3 months of planning permission being granted, details of how the development will enhance biodiversity will be included within the site landscape plan, submitted to and approved in writing by the Local Planning Authority. These shall include the installation of bat and bird nesting boxes along with the provision of generous native planting where possible. The approved details will be implemented and thereafter retained.

Reason: To protect and enhance biodiversity in accordance with policy NE2 of the Places and Policies Local Plan 2019.

5. No development beyond laying of foundations shall take place until details have been submitted to and approved in writing by the Local Planning Authority for the installation of a High Speed wholly Fibre broadband To The Premises (FTTP) connection to the dwellings hereby permitted. Following approval the infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process, and be available for use on the first occupation of the dwellings unless otherwise agreed in writing by the Local Planning Authority (where supported by evidence detailing reasonable endeavours to secure the provision of FTTP and alternative provisions that been made in the absence of FTTP).

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

6. Prior to the first occupation of the development, a "lighting design strategy for biodiversity" for the site will be submitted to and approved in writing by the Local Planning Authority. The lighting strategy will:
 - a) Identify those areas/features on site that are particularly important for bats;
 - b) Show how and where external lighting will be installed in accordance with 'Guidance Note 8 Bats and Artificial Lighting' (Bat Conservation Trust and Institute of Lighting Professionals).

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy.

Reason: To safeguard protected species in accordance with the Wildlife and Countryside Act 1981 (as amended) and policy NE2 of the Places and Policies Local Plan 2019.

7. Development shall not begin in any phase 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 be based upon the Flood Risk and Drainage Impact Assessment by Herringtons Consulting (December 2018) and shall demonstrate 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 accompanied and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

8. Prior to first occupation of the development, a verification report pertaining to the surface water drainage system (carried out by a suitably qualified professional) shall be submitted to and approved in writing by the Local Planning Authority, which demonstrates the suitable modelled operation of the drainage system such that flood risk is appropriately managed, as provided by the Lead Local Flood Authority. The report shall contain information and evidence (including photographs of earth works; details of locations of inlets, outlets and control structures; extent of planting; details of materials utilised in construction including sub-soil, topsoil, aggregate and membrane liners; full as built drawings; topographical survey of 'as constructed' features; and an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that the 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, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the NPPF.

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 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the District Planning Authority.

Reason: In the interests of residential amenity.

10. The car parking spaces, bin and cycle storage shown on the approved drawings shall be provided prior to first occupation of the development and thereafter kept available for such use at all times.

Reason: To ensure adequate parking provision and avoid harm to highway safety and amenity.

11. The pedestrian visibility splays as shown on the approved plans, with no obstructions over 0.6m above carriageway level within the splays, shall be provided prior to first occupation of the development, and shall thereafter be retained.

Reason: In the interests of highway safety.

12. Prior to first occupation of the development, the layout and construction details of the underground car parking area shall be submitted to and approved in writing by the Local Highway Authority via the Local Planning Authority

Reason: To ensure adequate parking provision and avoid harm to highway safety.

13. 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 District Planning Authority.

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

14. 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 District Planning Authority, and within whatever planting season is agreed.

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

Pre-commencement

15. Prior to the commencement of development (and vegetation clearance), an updated Bat Emergence Survey shall be carried out and submitted to and approved in writing by the Local Planning Authority. Any recommended mitigation measures must be implemented as detailed within the reports (both the Bat Survey Report dated July 2019 and the subsequent amended Bat Emergence Survey required by this condition) prior to any works commencing.

The full reptile precautionary strategy, as detailed in paragraph 6.4.2 in the Bat Survey Report July 2019 (and any further recommendations within the amended Bat Emergence Survey required by this condition), along with measures to enhance the site for reptiles shall be implemented in full, and shall be thereafter retained.

Reason: To safeguard protected species in accordance with the Wildlife and Countryside Act 1981 (as amended) and policy NE2 of the Places and Policies Local Plan.

16.

(1) An investigation and risk assessment, based on Phase 1 Preliminary Risk Assessment (ref: 491119 V2 (PTE)) by CET infrastructure for HRS Rail Lt dated 16/04/2019, 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).

(2) If investigation and risk assessment shows that remediation is necessary, 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 shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. 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.

(3) Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation scheme and the effectiveness of the remediation shall be 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.

- (4) In the event that, at any time while the development is being carried out, contamination is found that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary a remediation scheme shall be prepared. The results shall be submitted to the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors.

17. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved by the Local Planning Authority.

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

18. Prior to development, a detailed sustainable surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage scheme shall be based upon the Flood Risk and Drainage Impact Assessment by Herrington's Consulting (December 2018) and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 1—year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- That silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- Appropriate operational, maintenance and access requirements for each drainage feature of SUDS component are adequately considered, including any proposed arrangements for future adoption of any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

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. These details and accompanying

calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

Informative:

1. This development is subject to the terms of the accompanying s.106 legal agreement.

Appendix 2 - Site Location Plan