

DCL/20/45

Application No: Y19/1106/FH

Location of Site: New Inn, 37 High Street, New Romney, Kent TN28 8BW

Development: Erection of two semi-detached houses facing on to Church Road.

Applicant: Mr Diljit Brar

Agent: Mr Marius Alexandru Pustai
Architecture Design Limited

Officer Contact: Emma Hawthorne

SUMMARY

This report considers whether planning permission for the erection of two semi-detached houses facing on to Church Road, New Romney should be granted. The report assesses the principle of development and the addition of two dwellings in this locality, which lies within the settlement boundary of New Romney. The site also lies within New Romney High Street Conservation Area, archaeological area and the setting of a Grade II Listed Building (No.37). The report recommends that planning permission be granted subject to conditions as it is considered that the proposal is acceptable in principle, and the design and layout of the dwellings would be appropriate in the context of the surrounding environment. The amenities of existing and future occupants are safeguarded, there would be no harmful impact on heritage assets, flood risk would not be a constraint, ecology and arboriculture matters can be dealt with by way of planning conditions and there are no highway safety concerns. Therefore, the economic and social benefits of providing two new dwellings in this location outweighs any limited harm and it is considered to be sustainable development in accordance with the development plan policies.

RECOMMENDATION:

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

1. INTRODUCTION

1.1. The application is reported to Committee because New Romney Town Council has objected to the proposal.

2. SITE AND SURROUNDINGS

2.1. The application site is located within the rear car park of the New Inn pub at 37 High Street, New Romney. The site is located within the centre of New Romney, the High

DCL/20/45

Street Conservation Area and archaeological area. Number 37 is a Grade II Listed Building.

- 2.2. The site is currently used as a car park for the former pub building (now a Costa coffee house) and is a tarmacked area with a grassed section on the western boundary and to the south. A war memorial is located to the south east of the site, but lies outside the site boundaries. The war memorial is not listed. There are two storey residential properties to the south west.
- 2.3. Within the site are protected trees covered by Tree Preservation Order (TPO) No. 17 of 2016 which are Holly, Ash and Sycamore trees. The site is open as viewed from Church Road to the rear with two of the protected trees providing a dominant feature within the street scene. At the southern end of the site is a low wall set back by about 7m from Church Road and between this and the road is an open grass verge.
- 2.4. A site location plan is attached to this report as **Appendix 1**.

3. PROPOSAL

- 3.1 Full planning permission is sought for the erection of two semi-detached houses facing onto Church Road. The proposal seeks the development of 2x 2-bed houses with designated parking and access to private gardens.
- 3.2 The proposed dwellings would be comprised of the following accommodation:

Room	Proposed Size
Kitchen	12.8 m2
Living room	20.5m2
Bedroom 1	16.7m2
Bedroom 2/ study	8.9m2
Bathroom	4.4m2
Outdoor amenity space	House A = 178.8m2 House B = 120.5m2

- 3.3 Amended drawings have been submitted under this application which has resulted in the repositioning of the proposed houses, revisions to the parking area and gardens.

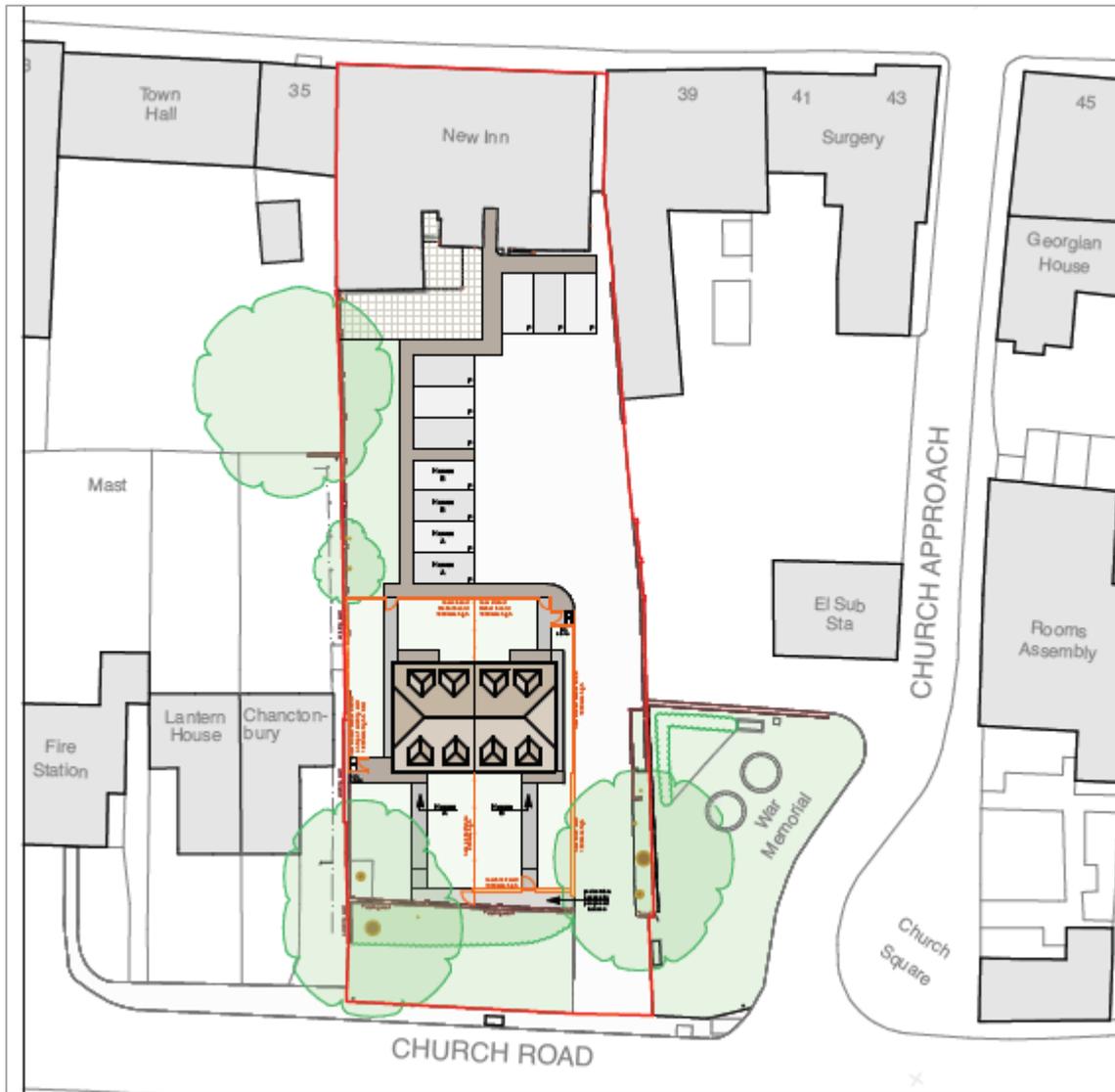


Figure 1: Proposed block plan



SOUTH EAST ELEVATION

Figure 2: Proposed south east elevation

DCL/20/45

- 3.4 In addition to relevant plans and drawings, the following reports were submitted by the applicant in support of the proposal:

Archaeological Desk-based Assessment Report, No. 2017/177, dated October 2017

The Archaeological Desk-based Assessment Report has been prepared with the objective of viewing readily available existing evidence in order to assess the extent and nature of any heritage assets with archaeological interest with the Proposed Development Area, and thereby gauge the likelihood of heritage assets of archaeological interest being affected by development.

The submitted report concludes that on the basis of previous work within the proposed development area and nearby, archaeological remains of regional significance are likely to be extant within the proposed development area. A programme of archaeological watching brief on any demolition work, and evaluation of the area prior to development is recommended.

Arboricultural Impact Assessment. Revision 2, dated July 2018

This report was prepared to provide an assessment of the arboricultural implications of the proposed development. Trees considered to be within the influencing distance of the development have been assessed in accordance with BS5837:2012 "Trees in relation to design, demolition and construction – Recommendations."

The report concludes that there are no arboricultural constraints that can be considered reasonable to preclude the proposed construction.

Design and Access Statement

The Design and Access Statement been prepared to accompany a planning application for the erection of two semi-detached dwelling with associated parking and landscaping within the curtilage of an existing dwelling. This design and access statement is submitted in accordance with the requirement of the Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

4. RELEVANT PLANNING HISTORY

- 4.1 The relevant planning history for the site is as follows (history relating to changes to the Listed Building and outbuildings/walls are not included):

84/0325/SH	Layout and landscaping of land as public amenity area and car park including rebuilding boundary wall.	Approved with conditions
Y00/0015/SH	25% reduction and shaping of a Sycamore Tree the subject of Tree Preservation Order No.1 of 1986	No objection
Y11/0848/SH	Pruning of a Sycamore tree situated within a conservation area to remove encroachment	No objection

DCL/20/45

Y16/0913/SH	Erection of three terrace houses with associated parking and landscaping	Refused and dismissed on appeal
Y18/0528/FH	Erection of 3 terrace houses with associated landscaping and parking	Refused and dismissed on appeal
Appeal Ref: APP/L2250/W/17/3187655	Appeal against refused application Y16/0913/SH	Dismissed on 6th March 2018
Appeal Ref: APP/L2250/W/18/3207959	Appeal against refused application Y18/0528/FH	Dismissed on 8th March 2019.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

New Romney Town Council: Recommend refusal as amended proposal contravenes Policies SD1(b), BE3, BE5(a) and TR12.

Arboricultural Manager: No objection, subject to the following conditions;

- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all pruning operations.
- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the erection of all protective fencing.
- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all operations to remove existing hard surfacing.
- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the installation of the no-dig surfacing.
- A minimum of five working day's notice will need to be given to the LPA tree officer prior to the above works commencing so a mutually convenient date can be agreed for each operation.

Local Residents Comments

5.2 Six neighbours directly consulted. Three letters of objection, no letters of support received and no letters neither supporting nor objecting to the application have been received.

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

Objections

- Land is in a historic conservation area in the heart of New Romney
- Several surrounding historic buildings
- Very little parking for Costa Coffee customers and proposed flat conversion
- Overdevelopment
- Loss of grass verge
- Hazard from large extractor outlet at New Inns kitchen
- Proposed buildings in close proximity to large sycamore trees covered by TPO
- Would set precedent for future development

5.4 Ward Member

No comments received.

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

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

6. RELEVANT PLANNING POLICY

- 6.1 The Development Plan comprises the Shepway Core Strategy Local Plan (2013) and the Places and Policies Local Plan (2020).
- 6.2 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.
- 6.3 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
CSD1 – Balanced Neighbourhoods for Shepway
CSD2 – District Residential Needs
CSD5 – Water efficiency
CSD8 – New Romney Strategy

Places and Policies Local Plan (2020) (PPLP)

The PPLP was adopted by the Council on 16.09.20 after a formal Inspection and review process. It is therefore a material consideration and carries full weight.

HB1 – Quality Places through Design
HB3 – Internal and External Space Standards
RL4 – New Romney Town Centre
T2 - Parking Standards
T5 - Cycle Parking
HE1 – Heritage Assets
HE2 - Archaeology

Core Strategy Review Submission draft (February 2019)

The requirements of the following policies in the emerging Core Strategy are similar to what is set out within the adopted Core Strategy.

DSD – Delivering Sustainable Development
SS1 – District Spatial Strategy
SS2 – Housing and the Economy Growth Strategy
SS3 – Place-Shaping and Sustainable Settlements Strategy
CSD1 – Balanced Neighbourhoods for Shepway
CSD2 – District Residential Needs
CSD5 – Water Efficiency
CSD8 – New Romney Strategy

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

Government Advice

National Planning Policy Framework (NPPF) 2019

6.5 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:-

Paragraph 8 – Three main strands of sustainable development: economic, social, and environmental.

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 48 – Giving weight to emerging plans.

DCL/20/45

Paragraph 108 – Development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or if residual cumulative impacts on the road networked would be severe.

Paragraph 117 – Making effective use of land.

Paragraph 127 -130 – Achieving well designed places.

Paragraphs 189 to 192 – proposals affecting heritage assets.

National Planning Policy Guidance (NPPG)

Design: process and tools

Climate Change

Natural Environment

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

7. APPRAISAL

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

- a) Background
- b) Principle of development and sustainability
- c) Design/layout/visual amenity
- d) Setting of listed buildings
- e) Archaeology and Heritage
- f) Residential amenity
- g) Ecology and biodiversity
- h) Protected trees
- i) Contamination
- j) Drainage
- k) Archaeology
- l) Highway safety

a) Background

- 7.2 The application site has been the subject of previous planning refusals, and two subsequent dismissed appeals for similar development. The most recent application on this site, ref Y18/0528/FH, was for the erection of a terrace of three houses with associated landscaping and parking. This application was refused planning permission and dismissed on appeal on 8th March 2019.
- 7.3 The main areas of concern related to the potential for the development to result in significant pressure relating to the pruning or felling of trees that are subject to a Tree Preservation Order (TPO), and the effect of this upon the character and appearance of the area and the New Romney Conservation Area (CA). The appeal Inspector concluded that these trees were likely to be subject to increased pressure from occupiers of the proposed dwellings to significantly reduce their canopies or to totally remove the trees to eliminate shading and improve both light and outlook for enhanced enjoyment of their homes and gardens. Due to the proximity to the trees there would have been significant pressure for the trees to be extensively pruned or removed to improve the living conditions of future occupiers.
- 7.4 In preparation of this current submission, the applicants and their agents have reviewed the Inspectors report, worked with Officers and have amended the proposal with a view to overcoming the concerns raised. Since the above dismissed appeal, the proposal has been amended in the following ways:
- The proposed development has been reduced from a terraced property with 3x 1-bed houses, to a semi-detached property with 2x 2-bed houses.
 - The external footprint has been reduced by 25% and a further lateral distance increase to the existing trees (T1-T4).
 - The layout has been re-designed to include all habitable rooms to the rear of the properties, away from the existing trees to prevent light issues.
- 7.5 All other previously agreed design characteristics remain largely unchanged. This includes eaves and ridge heights, scale and massing, external appearance and proposed materials, provision of parking and amenity spaces, and residential curtilage.

b) Principle of development and sustainability

- 7.6 As considered under the previous planning applications, the principle of the residential development of this site has already been considered to be acceptable being located within a sustainable town centre location, subject to all material considerations being appropriately addressed.
- 7.7 Therefore, the principle issues to be considered in the determination of this application are whether the previous grounds of refusal have been addressed in terms of the impact upon the trees and the future affect upon the houses and occupiers from the trees.
- 7.8 As before, the impact upon the visual amenity of the conservation area and the setting of the nearby listed buildings, the impacts upon the amenities of neighbouring occupiers and highways issues are to be reconsidered.

c) Design/layout/visual amenity

- 7.9 The site is located within the Conservation Area (CA) where there is a requirement by the Local Planning Authority to pay special attention to the protection or enhancement of the character and appearance of the CA. The Conservation Area covers the historic core of New Romney. The area around Church Road has a different character to the bustle of the commercial High Street and has a 'village' feel, centred on the small square at Church Square at the foot of St Nicholas Church, which dominates the street scene. The small war memorial on the opposite side of the square further adds to the 'village' feel, with the trees on and adjacent to the application site providing a pleasant setting.
- 7.10 The proposal for a pair of semi-detached dwellings is considered acceptable as there is sufficient room within the site to accommodate the development without appearing over-intensive and cramped.
- 7.11 The development presents houses addressing Church Road with front landscaped gardens that would be in keeping with and accord with the traditional character of this part of the road. Therefore the proposed siting and layout is appropriate for the site. The proposal would contribute to the streetscene by infilling a gap currently present between existing built form. In order to address previous concerns, the proposed dwellings have been set back further into the site and have been reduced in width and thus footprint, to accommodate the protected trees, and therefore the siting differs from the previously refused applications. The layout continues to allow for rear gardens and external amenity space for residents together with car parking that would not be visually dominant from the streetscene. As such, the layout and siting of the proposed development is considered acceptable.
- 7.12 With regards to scale and massing, this proposal remains similar to that of the previous application, albeit the width of the proposed dwellings has been reduced. Therefore, as with the previous submission, this continues to be considered acceptable. The existing pattern of development within Church Road comprises predominantly two storey dwellings with pitched roofs. In this regard, whilst the scales are similar, the heights and roof lines do vary where there are no set level within the streetscene. As proposed, the development would have an overall height of 7.65 metres, and eaves height of 3.15 metres, which is not considered to be unduly high for a chalet bungalow and therefore an acceptable scale, corresponding with existing development in the road. The scale, footprints and curtilages of the development are also acceptable, proposing reasonable sized semi-detached properties. In terms of massing, the buildings are proportionally well balanced where their mass and bulk is broken up visually with good detailing such as the dormer windows and fenestration upon the elevations. Due to these features, it is not considered that they would appear unduly bulky or out of proportion.
- 7.13 The overall design of the houses is considered acceptable presenting a well-designed scheme with traditional form and high quality materials, in this sense the prevailing traditional form of housing with steep pitched roofs has been followed to reflect the established character and has taken cues from the distinctive features of the area. The external materials are considered to be of high quality which includes red stock brick elevations, ceramic roof tiles and timber windows and doors.

DCL/20/45

- 7.14 Officers welcome the reduction in the number of units proposed on the site, and given the above considers that this has created an appropriate scheme which has overcome previous concerns in relation to siting, layout and design. The Conservation Officer commented on the previously refused scheme, and raised no objection to the scale, siting, form, design and materials as these are considered to preserve the CA character and appearance as well as the setting of the listed buildings (discussed in greater detail below).
- 7.15 The proposed development is considered to be visually acceptable and as such would preserve the character and appearance of the site, streetscene and wider CA. The impact upon the CA from the protected trees within the site is considered to be acceptable as the proposed development can be constructed without long term harm to the trees, and this is considered in greater detail below.

d) Setting of listed building

- 7.16 For development which affects a listed building or its setting, Section 16(2) of the Act requires special regard to be had to the desirability of preserving the Listed Building or its setting or any special architectural or historic features it possesses. These duties are reflected in Local Plan policy HE1 of the PPLP which states that planning permission will be refused if the proposals are considered to be detrimental to the character of the building.
- 7.17 A sensitive design approach is considered to have been adopted to ensure the setting of the Grade II listed building within the curtilage of the site is preserved, as well as neighbouring listed buildings. The proposed dwellings would be positioned within the area of open land to the rear of 37 High Street, a Grade II listed building and, whilst falling within the curtilage and ownership of the Applicant, therefore is separated with a reasonable distance from the application site and has a distinct and separate character.
- 7.18 Paragraph 196 of the NPPF states that, *“where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”* and it is considered that the proposals would result in less than substantial harm to its setting. The public benefits arising from the proposed development would include supporting local business and services who may be involved in the construction process.
- 7.19 It is considered for this case that the less than substantial harm to the setting of the listed building and its fabric, would not significantly affect its significance and would be outweighed by the public benefits of the proposal, in accordance with paragraph 196 of the National Planning Policy Framework and policy HE1 of the Places and Policies Local Plan.

e) Archaeology and Heritage

- 7.20 The site is identified to be within an area of archaeological interest associated with the historic port and town of New Romney. The proposed development site lies within the medieval core of the settlement close to the Grade I listed St Nicholas's Church which is of twelfth century date. Other medieval remains recorded in the area include parts of buildings revealed during archaeological investigations to the west and to the north-

DCL/20/45

east of the present site. Given the site location, it is probable that important archaeological remains are present.

7.21 In light of this, the application has been accompanied by an Archaeological Desk based survey. This concludes that there is a very high likelihood that the proposed development site will contain archaeological remains of medieval date. It goes on to suggest that potential impacts on the site's archaeological interest could be mitigated through a staged programme of archaeological evaluation to be followed by appropriate safeguarding or investigation and recording. KCC archaeology team were consulted on the previous application, and considered this to be acceptable and raised no objection subject to conditions that covers this work which is reasonable to impose in the event that planning permission is granted.

f) Trees

7.22 The proposal is for a two storey semi-detached development within the open rear part of the site, fronting Church Road. Within this part of the site are a group of TPO trees, which are subject to TPO 17 2017 and identified by the Order as T1 to T4. Section 197 of the Town and Country Planning Act 1990 (as amended) imposes a duty on the decision-maker to ensure that adequate provision is made for the preservation of trees.

7.23 As mentioned above, the area around Church Road has a different character to the bustle of the commercial High Street as it has a 'village' feel. The trees found on and adjacent to the application site contribute to this 'village' feel and create a pleasant setting. The Arboricultural Impact Assessment (AIA) identifies the trees to be mature Sycamores that are generally healthy. It notes them to be prominent and appropriate to the locality. The trees are of considerable size and have wide canopies and large trunks. Collectively the trees make a significant visual contribution to the location. They are clearly noticeable in public views and to residential occupiers in the area. They therefore make a significant visual contribution to the character and appearance of the CA.

7.24 Amendments have been made since the previously refused scheme, and also during the lifetime of this application to move the proposed dwellings further away from the protected trees, which are worthy of retention where they are considered to make a valuable contribution to the streetscene and Conservation Area. Compared with the previously refused applications, it is considered that the development has been amended sufficiently to address the tree issues. The quantum of development on the site has been reduced, bringing it in from the side boundary and the dwellings have been moved back into the site to improve separation distance between the dwellings and the protected trees. This has resulted in the two units being positioned centrally in relation to the canopies of the two trees adjacent to Church Road which ensure that there would be minimal loss of light caused by the tree canopies and maximises the distance of the building from the canopies. Further to this, internal layout changes have been made to reposition habitable rooms within each dwelling to ensure that all habitable rooms receive suitable light levels and preventing pressure upon the removal or severe pruning of the trees.

7.25 The proposal has been reviewed by the Arboricultural Officer and the submitted information is considered sufficient to demonstrate that the proposed development would not cause harm to, or loss of, the protected trees within the site subject to the following conditions.

- An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all pruning operations.
 - An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the erection of all protective fencing.
 - An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all operations to remove existing hard surfacing.
 - An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the installation of the no-dig surfacing.
- A minimum of five working day's notice will need to be given to the LPA tree officer prior to the above works commencing so a mutually convenient date can be agreed for each operation.

- 7.26 Previously concerns were raised with regards to the proximity of the trees to the front windows of the dwellings and the front gardens as some were proposed to be habitable rooms (such as the first floor study as future occupiers would likely use this as a bedroom). The current proposal seeks to located a study to the first floor, front elevation of both units however the studies (which could be used as bedrooms) have been repositioned to the party wall and therefore would be located towards to the centre of the site where the tree canopies are much less of an issue and would allow for greater levels of natural light and outlook.
- 7.27 It is worth noting that previous Inspectors did not consider the issues of leaf drop, honey dew deposits and sooty moulds to be a significant issue and would not be substantial to cause an unacceptable nuisance.
- 7.28 As such, the proposal is considered to be acceptable as the proposal would retain important existing landscape features, including protected trees, and therefore is considered to preserve the setting and character of the Conservation Area. The proposal is considered to have addressed the previous ground of refusal.

g) Residential Amenity

- 7.29 Impact on residential amenities was not a ground for refusal before and it is not considered that this development now results in new harmful amenity issues for neighbouring residents.
- 7.30 The proposed residential use would be compatible with the surrounding residential area. The access would remain in the same location as currently is and whilst there may be greater use of the access, its lawful use is as a car park and as such any increase in use would not be significant or detrimental to local occupiers.
- 7.31 With regard to the adjacent properties, it is considered that owing to the separation distances, boundary treatment including existing and proposed, along with the proposed landscaping the dwelling houses can be sited within the site without being overbearing or causing loss of privacy to neighbouring occupiers. The proposed dwellings are positioned adjacent to, and project slightly beyond the built form to the south west. The proposed dwellings are therefore positioned within the current car park

DCL/20/45

of the site but this is not considered to result in an adverse impact upon the residential amenities of occupiers adjacent.

- 7.32 The occupiers to the south west, at Chanctonbury, are closest to the proposed development and therefore would be affected most, however the impact is not considered to result in any significant harm. The proposed dwellings would not significantly extend past the rear elevation of this property and as such would avoid any significant overbearing or overshadowing impact from protrusion to the rear. The projection to the rear of the site, beyond the rear elevation of Chanctonbury is considered to be of a subservient/appropriate scale. Further to this, Chanctonbury has a conservatory on the rear of the property which is not considered as a habitable room and therefore is afforded less weight.
- 7.33 The proposed dwellings would not extend beyond the front elevation of Chanctonbury and would have no windows upon the side gable facing the development, with only two windows at ground and first floor level upon the facing side front projecting wing, but this is set in from the boundary where the windows would still receive sufficient amount of light and outlook from the south and south east orientations that would prevent a harmful overbearing impact. One window is proposed upon the west facing side elevation of the development, at ground floor level. This would serve a small w/c and therefore would be obscure glazed, which could be secured by way of a planning condition. As such, the proposed development would safeguard privacy.
- 7.34 The proposed dwellings would not be unduly tall and would have low eaves levels and therefore it is considered that the impact upon occupiers of Chanctonbury would not be harmful. It is considered that the occupiers of other neighbouring properties are positioned further away with good separation distances to avoid unacceptable loss of residential amenity.
- 7.35 The dwelling would provide a good standard of amenity for future occupants, in accordance with Development Plan Policies.
- 7.36 The proposal would provide the following accommodation for future occupiers within the dwelling. As illustrated in the table below, the proposed schedule of accommodation exceeds the requirements as set out in Local Plan policy HB3 and therefore provides future occupiers with a good level accommodation.

	Proposed Gross Internal Area (GIA)	Required Gross Internal Area (GIA)	Proposed Built-in storage	Required Built-in storage
House A	80.8m ²	70m ²	3.3m ²	2.0m ²
House B	80.8m ²	70m ²	3.3m ²	2.0m ²

- 7.37 With regards to outdoor amenity space, the dwellings are required to provide area of private garden for the exclusive use of an individual dwelling house of at least 10m in depth and the width of the dwelling. Both dwellings would provide a sufficient level of garden space, which would exceed the width of the proposed dwellings. The depth of the garden space to the rear of the dwellings would be 5.0 metres, however the garden space to the frontage of the dwelling would meet the required 10 metre depth. This area would be set back from Church Road by 8.3 metres and would be sufficiently

DCL/20/45

screened by the existing wall, proposed brick wall and vegetation/ planting. Therefore this area of garden space would receive reasonable levels of privacy.

h) Highways

- 7.38 This was not a ground for refusal previously, and is still considered to be generally acceptable given the number of units proposed has been reduced.
- 7.39 In terms of the sites location, it is a sustainable location where occupiers would benefit from the local services of New Romney including shops, schools, surgeries and public transport. The site also has good connectivity with a good road and footpath network surrounding the site.
- 7.40 For vehicular and pedestrian access, this is proposed off Church Road utilising the existing access which is considered logical and as such acceptable. For car parking, four private off street spaces have been proposed, comprising two spaces for each dwelling, which is acceptable and in accordance with parking standards set out in policy T2 of PPLP.
- 7.41 The residential curtilage for each of the proposed dwellings would also be sufficient to allow for cycle parking facilities. This could be secured via a planning condition in the event of an approval.
- 7.42 The existing, off-street car parking area for 37 High Street is considered to be large and therefore provides sufficient parking of the commercial business also. Given the small scale nature of the development, KCC Highways has not commented on the proposal in relation to parking and highway matters.
- 7.43 Overall, the proposal is considered to be acceptable and in accordance with Local Plan policies T2 and T5.

i) Contamination

- 7.44 The application site is brownfield, previously developed land and as such there is the potential for ground contamination to be present. No ground contamination report has been submitted to support the application, however it is considered that this could be controlled by way of a planning condition in the event of an approval, should Members be minded to permit. The condition would ensure a ground intrusive investigation would be carried out and mitigation measures to be used if required (depending on the results of the investigation). This would be reviewed by the Council's Contamination consultant.

j) Other Matters

- 7.45 To the frontage of the site is an area of open land, in the form of a grass verge. This area of land is in the ownership of the applicant but was gifted to the Council as an area of open space (under a legal agreement) which is therefore managed by the Council. There are no changes proposed to this area of the site, and as such no loss of open space in accordance with Local Plan policy C3.

Environmental Impact Assessment

7.46 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

7.47 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. New Homes Bonus payment are not considered to be a material consideration in the determination of this application.

7.48 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. The CIL levy in the application area is charged at £57.86 per square metre for new residential floor space.

Human Rights

7.49 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

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

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

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

Working with the applicant

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

8. CONCLUSION

- 8.1 In light of the above, it is considered that the proposal has satisfactorily addressed and overcome the previous ground for refusal. The protected trees would not be harmed as a result of the proposal. The principle of the development is accepted and the setting of the listed building and Conservation Area are considered to be preserved. The proposal would not result in harm to neighbouring amenity and provides a high level of accommodation for future occupants. As such it is recommended that planning permission be granted.

9. BACKGROUND DOCUMENTS

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

10. RECOMMENDATIONS

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

Conditions:

1. The development must be begun within three years of the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended).

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

08.36/01 Rev C – Location Plan existing and proposed

08.36/02 Rev C – Block Plan existing and proposed

08.36/03 Rev A – Site Plan existing

08.36/04 Rev C – Site Plan proposed

08.36/05 Rev B – Ground floor plan proposed

08.36/06 Rev C – First floor plan proposed

08.36/07 Rev A – South east elevation

08.36/08 Rev A – South west elevation

08.36/09 Rev A – North west elevation

08.36/10 Rev A – North east elevation

DCL/20/45

TPP_37HIGHST_2 Rev C – Tree Protection Plan Proposed Site – dated July 2020.

Archaeological Desk-based Assessment Report, No. 2017/177, dated October 2017.

Arboricultural Impact Assessment. Revision 3, dated July 2020.

Reason: For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of the Local Plan.

3. Prior to the commencement of the development hereby approved, details of all external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the details of materials as approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the appropriate appearance of the completed development and in the interests of visual amenity, the setting of the Listed Building and the Conservation Area.

4. Prior to the commencement of the development hereby approved, details of the construction of the eaves, verges, brick arches, dormer windows (at a scale of 1:10 or 1:20), and details of joinery of doors and windows (at a scale of 1:1 or 1:2) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the details as approved under this condition, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the appropriate appearance of the completed development and in the interests of visual amenity, the setting of the Listed Building and the Conservation Area.

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
 - i. archaeological field evaluation works in accordance with a specification and written timetable which had been submitted to and approved by the Local Planning Authority; and
 - ii. following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation and recording in accordance with a specification and timetable which had been submitted to and approved by the Local Planning Authority.

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

DCL/20/45

6. Prior to the commencement of any of the following works, a minimum of five working day's notice shall be given to the LPA tree officer in writing so a mutually convenient date can be agreed for each operation;
 - i. An arboricultural watching brief shall be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all pruning operations prior to the commencement of any works to the trees within the site.
 - ii. An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the erection of all protective fencing prior to the commencement of any works to the protective fencing within the site.
 - iii. An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe all operations to remove existing hard surfacing prior to any works to be undertaken to the existing hard surfacing within the site.
 - iv. An arboricultural watching brief will need to be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the installation of the no-dig surfacing prior to the commencement of any development within the site.
 - v. An arboricultural watching brief shall be undertaken by the LPA tree officer, the applicant and the author of the tree report to observe the storage areas of all construction materials and parking areas for all construction vehicles within the site, prior to the commencement of any development within the site.

Reason: To ensure the health and permanent retention of the protected trees within the site, and to ensure their contribution to the Conservation Area is preserved.

7. 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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

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

NOTE: any surface or fly-tipped waste materials should be removed to suitable permitted sites as part of any site clearance/preparation works.

8. Prior to first occupation of the residential units hereby approved, details of how the development will enhance biodiversity will be submitted to, and approved in writing by, the Local Planning Authority. The approved details will be implemented prior to first occupation of the residential units and thereafter retained.

DCL/20/45

Reason: To ensure enhancements for biodiversity are implemented in line with paragraph 175 of the National Planning Policy Framework.

9. No construction work above slab level shall take place until full details of both hard and soft landscape works have been submitted to the local planning authority including tree planting in mitigation of those to be lost, an implementation programme and a maintenance schedule. No building shall be occupied until an approved landscaping scheme has been carried out in accordance with the approved details unless an alternative timescale has been agreed with the local planning authority. The soft landscape works shall be maintained in accordance with the agreed maintenance schedule.

Reason: In order to protect and enhance the appearance of the area including the setting of the Conservation Area.

10. Prior to the first occupation of the development hereby approved, space shall have been laid out within each site for 2 bicycles to be parked.

Reason: To ensure that facilities are available for the parking of bicycles so as to encourage access to the site by means other than private motor car in accordance with policy T5 of the Local Plan.

11. The bin store as shown on the hereby approved plans shall be fully implemented prior to the first occupation of the development hereby permitted and shall thereafter be retained and maintained.

Reason: To ensure adequate means of refuse collection in the interests of the amenities of residents in accordance with the Development Plan.

The domestic parking spaces (labelled House A and House B) shown on the hereby approved plan no.s '08.36/02 Rev C – Block Plan existing and proposed', and '08.36/04 Rev C – Site Plan proposed' shall be kept available for domestic parking purposes in connection with the dwellings hereby permitted at all times, with no obstruction thereto.

Reason: To ensure the permanent retention of the space for parking purposes within the curtilage of the site in order to avoid obstruction of the highway and safeguard the amenities of adjacent properties in accordance with the Development Plan.

12. Construction shall not commence until written documentary evidence has been submitted to, and approved in writing by, the local planning authority proving the development will achieve a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a design stage water efficiency calculator.

The development hereby permitted shall not be occupied until written documentary evidence has been submitted to, and approved by, the local

DCL/20/45

planning authority, proving that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)(b) of the Building Regulations 2010 (as amended). Such evidence shall be in the form of a post-construction stage water efficiency calculator.

Reason: In accordance with the requirements of policies CSD5 and SS3 of the Shepway Core Strategy Local Plan 2013 which identify Shepway as a water scarcity area and require all new dwellings to incorporate water efficiency measures.

Water efficiency calculations should be carried out using 'the water efficiency calculator for new dwellings' <https://www.gov.uk/government/publications/the-waterefficiency-calculator-for-new-dwellings>.

Informatives:

1. The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste. Under the Code of Practice:
 - excavated materials that are recovered via a treatment operation can be re-used onsite providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
 - treated materials can be transferred between sites as part of a hub and cluster project
 - some naturally occurring clean material can be transferred directly between sites.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to:

- the Position statement on the Definition of Waste: Development Industry Code of Practice and;
 - The Environmental regulations page on GOV.UK
2. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the

DCL/20/45

ownership, this land may have 'highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highway-boundary-enquiries>.

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

3. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this Act. Trees and scrub are present on the application site and are assumed to contain nesting birds between 1st March and 31st August, unless a recent survey has been undertaken by a competent ecologist and has shown that nesting birds are not present.
4. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk.

A formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire S021 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

5. Your attention is drawn to the requirements of the Building Regulations 2000 and the possibility of the need to obtain consent under such regulations.

Prior to implementing this permission, you should seek advice from Building Control as to whether or not to make an application. Advice and application forms are available from the Civic Centre, Folkestone (telephone numbers 01303 853538). Alternatively another building control body may be able to assist.

6. Please view the Considerate Constructors Scheme at <http://www.ccscheme.org.uk/index.php/company-registration/how-to-be-veryconsiderate/company-code-of-considerate-practice>.

Appendix 1 – Site Location Plan

