

Application No: 21/1209/FH

Location of Site: Princes Parade Promenade
Princes Parade
Hythe CT21 6EQ

Development: Formation of a new badger sett including associated earthworks

Applicant: Folkestone & Hythe District Council

Agent: Tibbalds
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London SE1 3JB

Officer Contact: Lisette Patching

SUMMARY

This application is for the formation of an artificial badger sett to replace a main sett that will be removed as a result of the overall development for Princes Parade that already has planning permission. Notwithstanding that, it is a full planning application that is required to be considered on its own merits. It is considered that there would be no adverse impacts in respect of the Scheduled Monument, ecology, archaeology, contamination, maintenance of the canal, visual or residential amenity, and the application is considered acceptable.

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 it forms part of a larger development that the Council has a substantial interest in and due to the objection from Hythe Town Council.

2. SITE AND SURROUNDINGS

2.1. The application site is located on the south side of the Royal Military Canal (RMC), with the northern boundary of the site running adjacent to the boundary with the canal tow path. The RMC is a Scheduled Monument (SM). The application site comprises an overgrown area of shrubs, scrub, groundcover, trees and grass. The site is relatively flat, comprises made ground and forms part of the wider Princes Parade development site.

2.2. The following designations also apply to the site:

- Archaeological Notification Area;
- Within settlement boundary
- Canal towpath is a Public Right of Way

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

3. PROPOSAL

3.1 Full planning permission is sought for the formation of a badgers’ sett and associated earthworks. The works include a new earth mound of up to 1.5m in height containing the badger sett; 1.5m high cleft chestnut fencing to provide a protective habitat, with badger access points and maintenance gates; retention of existing vegetation and new tree planting; and the provision of a coastal meadow over the access route and clearance area required to constructed the sett.

3.2 The height of the proposed mounding of 1.5m would provide 1.0m above the badger sett chambers. The mound would be approximately 12m wide at its base and approximately 23.5m long and incorporate chambers and pipe runs. It would be formed of clean subsoil built up in 300mm consolidated layers and top with 300mm depth of imported topsoil. The subsoil would either be from the site or imported. Soil from the site would be tested for suitability. The chambers would be constructed from driven untreated half round chestnut stakes and covered with 25mm thick marine plywood roof, overlapping joints by 150mm. The 3000mm diameter pipe runs would be secured with untreated half round chestnut stakes and the joints covered with 1000x1000mm plywood boards and with 150mm depth of pea shingle below for drainage. The mounding would be seeded or turfed with a shade tolerant coastal grass comprising a wildflower mix. Sections through the proposed sett are shown at Figures 1 and 2 below.

Figure 2 – Sections through sett

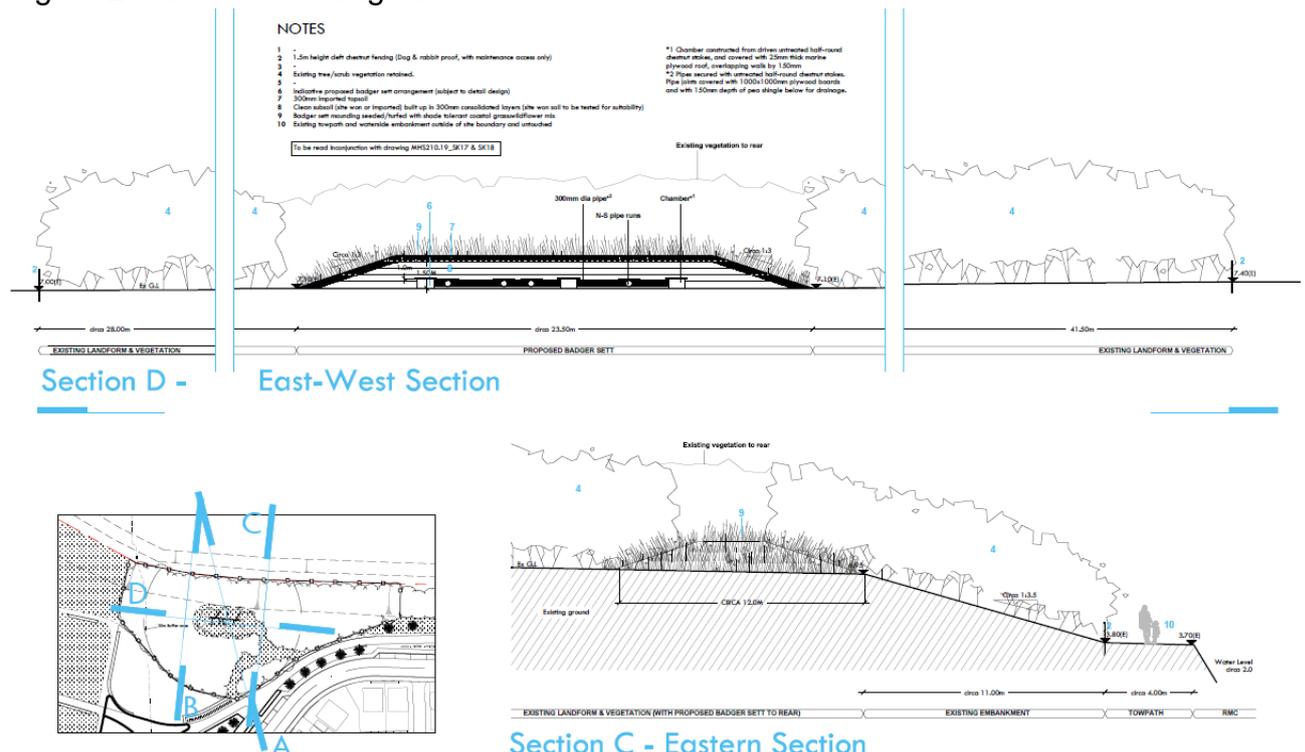
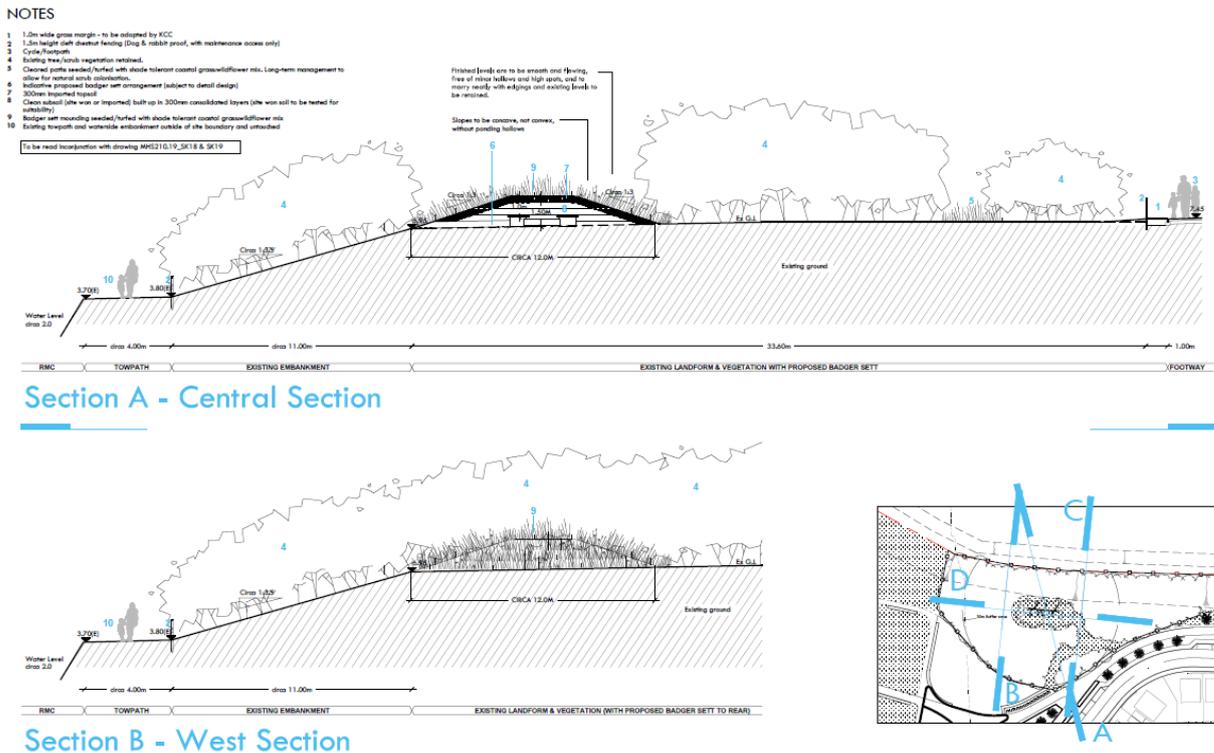
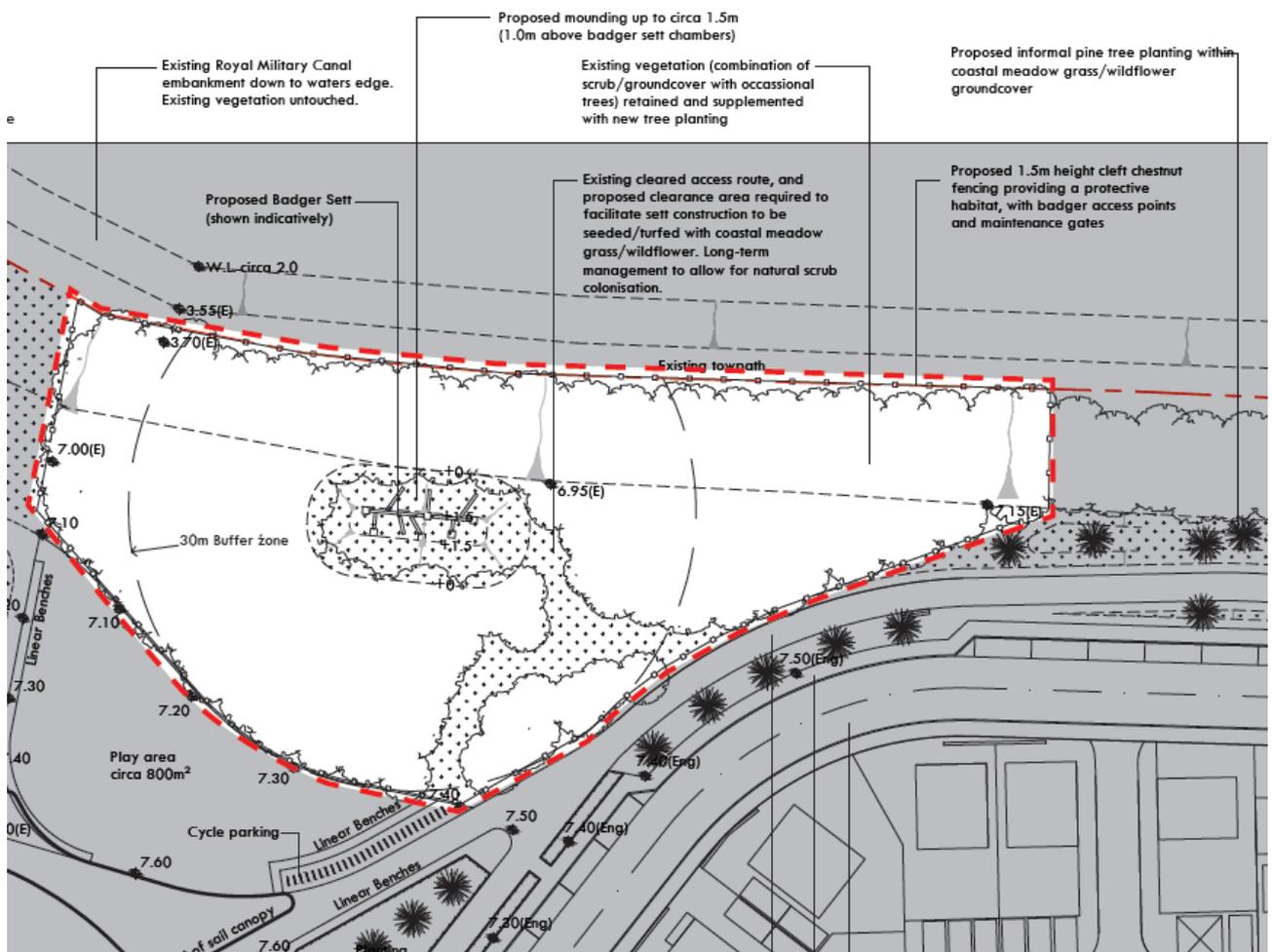


Figure 3 – Sections through sett



3.3 A minimum 30m buffer zone is proposed from the edge of the sett earthworks to protect the site from human interference. Chestnut fencing would be erected along the edge of this and would include badger access points and maintenance gates. The location of the sett and extent of the buffer zone is shown below at Figure 3.

Figure 3 – Location of sett and extent of buffer zone



- 3.4 The existing cleared access route and proposed clearance are required for constructing the sett and would be seeded or turfed with coastal meadow grass: wildflower mix. Long term management would allow for natural scrub colonisation.
- 3.5 Conditions 15, 16 and 17 of the planning permission for the overall development of Princes Parade (Y17/1042/SH) require various ecological reports and mitigation to be carried out, including in relation to the badgers on the wider site. The new sett is required at this stage in order to allow sufficient time for the badgers to migrate to it before the current badger sett is closed at the end of November 2021.
- 3.6 The following reports were submitted by the applicant in support of this current application:

Badger Survey Report

This is a follow on report to that submitted with application Y17/1042/SH and is for the implementation stage of the development. The previous report identified four setts on the wider site with two of them (B and C) found to be in current use, with B confirmed as the main breeding sett.

The proximity of sett B to the development means that it cannot be retained and an updated survey was carried out in order to: establish the range of territory of the clan that is using sett B; locate any additional badger setts that may have established over the interim period and; current activity status and sett classifications for setts A, C D and an additional sett, E. It has informed the proposed location of the replacement sett as it identified the foraging territory of the badger clan.

The report sets out the method of the updated survey and the results. It provides the following evaluation in respect of the replacement sett:

- The home range of the group that occupies Sett B extends to c.380m beyond the location of the proposed new sett;
- The proposed location of the new sett has direct access for badgers to retained areas for foraging on the golf course to the west, the retained southern canal bank and the northern canal bank (which can feasibly be accessed via the footbridges that cross the canal) connecting to the gardens beyond.
- The proposed location for the compensatory sett is considered acceptable and viable in terms of likelihood of use by the badger clan that are due to be excluded from Sett B.

Ecological Method Statement (EMS)

This report has been submitted in respect of conditions 15, 16 and 17 of Y17/1042/H. It has been included with this application as well as it contains a section setting out the further survey work undertaken since the original badger survey for the previous planning application. Further surveys were undertaken in 2019 and 2021 and the results are set out in the Badger Survey Report referred to above.

The EMS sets out the phasing of the development works, including the ecological phase which is scheduled February 2021 to December 2021. This includes the creation of the compensatory badger sett and closing of the existing badger sett. The EMS sets out the methods by which badgers will be encouraged to use the new sett and the old set closed and the monitoring of the setts that will be carried out throughout this period. The exact mitigation and compensation requirement form part of the licence application to be submitted to Natural England for the closure of the sett and will be detailed in the licence, together with any further mitigation required by Natural England.

Site Investigation Report

This relates to the intrusive site investigation carried out by IDOM across the wider Princes Parade site in respect of contamination between 29th March and 29th April 2021. It is a factual account of the site investigation undertaken. The report includes site investigation methods; ground conditions; soil sample testing procedures; groundwater sampling and level monitoring; gas monitoring.

Construction Environmental Management Plan (CEMP)

This sets out how construction impacts will be mitigated during the construction phase of the development. It includes relevant contacts; the construction project team and their individual responsibilities; all relevant environmental aspects, such as noise, contamination, ecology and how these will be protected or dealt with (as appropriate). For this site and development it includes (but is not limited to) protection of mature trees, habitats, protected species and the RMC SM; how any invasive species found will be dealt with; dust and noise mitigation; water pollution prevention measures; and avoiding spread of contaminants.

4. RELEVANT PLANNING HISTORY

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

Y17/1042/SH	Hybrid application accompanied by an Environmental Statement for the development of land at Princes Parade, comprising an outline application (with all matters reserved) for up to 150 residential dwellings (Use Class C3), up to 1,270sqm of commercial uses including hotel use (Use Class C1), retail uses (Use Class A1) and / or restaurant/cafe uses (Use Class A3); hard and soft landscaped open spaces, including children's play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout, site levelling and groundworks, and all necessary supporting infrastructure and services. Full application for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and children's play facility.	Approved
21/1182/FH/CON	Approval of details pursuant to conditions 15, 16 & 17 of Y17/1042/SH	

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees**Hythe Town Council:**

Object on the grounds that there is insufficient evidence and information:

1. That this type of proposal is workable.
 2. To provide this proposal will not cause harm to either the badgers or the residents.
- The Committee has requested further information in relation to their listed objections to be provided.

The Town Council maintains the same objections following notification on further reports.

KCC Ecology: No objection.

- Have reviewed NE badger licence application as well as submitted surveys and comments are based on information in licence application.
- Satisfied with the badger mitigation proposed and the location/design of the replacement sett. It is located within the foraging/commuting range of the badgers currently using the main sett B.
- Proposal is to create a sett with 4 entrances and 6 chambers. Understand from speaking to ecologist that sett has been designed to allow badgers to build additional entrances/chambers if required.
- Sett located between road/housing and open space area. Therefore risk of disturbance to replacement sett. To minimise disturbance a 30m buffer is proposed to be planted with scrub and surrounded by a fence. There will be a need for regular monitoring to the sett to ensure scrub establishes and fence and scrub not damaged/impacted by site users.
- Submitted information has confirmed that once the sett is in use/established, annual monitoring for the replacement/retained setts will be carried out during construction period and the year following completion of the works. If any restoration/restorative works are identified they must be carried out immediately and if required the monitoring must continue beyond year one of the operational phase.
- Scrub must be planted when sett built to ensure maximum time for scrub to establish prior to development being built.
- During construction there will need to be regular surveys of the site to ensure a sett is not established elsewhere during the works.
- Detailed plans for the road must demonstrate that features have been included that will minimise risk of badgers digging under the road and destabilising it.

Several additional matters raised for inclusion in the CEMP, which the applicant has now included.

KCC Archaeology: No objection.

Archaeological potential of site limited due to presence of modern made ground, therefore proposed work will have no significant below ground archaeological impact.

Natural England: No comments.

Environment Agency: No objection.

Initially requested ecological information to demonstrate all protected species potentially impacted by the construction of the badger sett and installation of the fence and any proposed protected species mitigation if required. Following consultation on Badger Survey Report, EMS and CEMP no further comments raised.

Historic England: No objection

- Would not adversely affect the setting of the SM.
- No objection to any of the proposed works that would take place outside of the SM, the boundary of which runs alongside the towpath. New fencing along that line would not require SM Consent (SMC) because degree of alteration to monument would be de minimus.
- Applicant advised to confirm whether or not proposed development including landscaping and fencing would encroach onto the schedule area i.e. the towpath and adjacent verge. If that land would be physically affected they should consider a slight reduction in area so that the monument would be avoided. If encroachment unavoidable they should contact Historic England regarding SMC.

Contamination Consultant: No objection

The consultant concludes the contamination identified in the proposed sett location is unlikely to represent a significantly greater risk to the badgers than the contamination at the existing sett location. The contamination identified in the proposed sett location could potentially have an impact on the establishment of scrub vegetation.

Environmental Protection Officer: No objection

CEMP accepted. Requested additions to noise section to confirm working hours and in respect of public relations.

The applicant has included these.

Local Residents Comments

5.2 9 neighbours directly consulted. 125 letters of objection.

I have read all of the letters received. Many of the objections relate to the overall development rather than just the badger sett. They are not relevant to the consideration of this application and so have not been included in the list of key issues summarised below:

Objections

- Proximity to relocated road will increase badger road deaths
- Badger survey incomplete, inaccurate, unreliable & inconclusive
- Badgers using multiple setts & entire length of site
- Insufficient information
- Why is new badger sett needed
- Proximity of sett to new pond will make it too wet
- Local badger group not consulted
- No evidence that sett will meet needs of badgers and be safe for them
- Proximity to new road likely to cause accidents
- Ruined Princes Parade site would not be suitable habitat for badgers

- Future layout of western end of site unknown, therefore proposing location of new badger sett now is premature
- No expert advice has been sought regards positioning of new sett
- Information about badger population redacted
- Sett will be in a building site which will cause disturbance to badgers
- Tick box exercise
- Have read that artificial setts are not successful
- Western area will become public open space and would reduce badger food supply which would make area unattractive to them
- Open space will attract people & dog walkers and make area unattractive to badgers
- Ground investigation report unclear
- Construction of road would disturb badgers
- Will be impossible to maintain 30m exclusion zone because of proximity of new sett to new road. Deep excavation works within new habitat will cause considerable harm
- What assurances are there that schedule will be adhered to and undertaken in ecologically sensitive manner?
- Will put long terms survival of protected mammals at risk
- No proof or evidence that artificial sett will work
- What action will be taken to safeguard sett from human disturbance, especially during building works
- If badgers try to go back to original area for food could lead to considerable damage in new gardens.
- Badger setts established over hundreds of years, unlikely to settle in new position
- Badgers will be forced to mix with another group
- Will become disorientated trying to find original sett
- Area around attenuation pond will be polluted, so unsuitable for badgers
- Area around new sett for foraging will be smaller
- Location of new sett will potentially encroach on another clan's territory
- Will be an overlap of foraging zones leading to conflict, potential injuries, deaths and transmission of diseases
- Position of new sett close to golf course will lead to damage to course
- New area will be far more public and badgers will feel threatened

East Kent Badger Group:

Object. Position of artificial sett based on convenience rather than scientific knowledge. Concerned site is too close to proposed road. Normal practice to acquire local sett records for such applications and we have received no such enquiry. Unlikely proximity of adjacent social groups has been considered in terms of siting of proposed sett.

CPRE Shepway:

Object. Insufficient information. Where is the badger survey identifying existing setts and runs and report for assessing potential impacts on badger population,

opportunities and options for avoidance and/or mitigation of impacts. Where is evidence that artificial setts are the only mitigation measure available?

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

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

6. RELEVANT PLANNING POLICY

6.1 The Development Plan comprises the Places and Policies Local Plan 2020 and the Core Strategy Local Plan 2013.

6.2 The Folkestone & Hythe District Core Strategy Review Submission Draft was submitted to the Secretary of State on 10 March 2020. Inspectors were appointed to examine the plan on 19th March 2020 and public hearings were held from 15th to 18th December 2020, from 5th to 12th January 2021 and from 29th June to 1st July 2021. The Inspectors wrote to the council on 1st July 2021 to state that the Core Strategy Review complies with the duty to cooperate and can be made 'sound' by amendment through main modifications. The Inspectors followed up their initial assessment by letter on 16th July 2021, stating that, subject to main modifications concerning detailed policy wording, they consider that the plan's spatial strategy and overall approach to the district's character areas and settlements is sound. The Inspectors find that the housing requirement is justified and that the Core Strategy Review will provide an adequate supply of housing over the plan period and at least a five year supply of housing land at the point of adoption. In accordance with National Planning Policy Framework (2021) paragraph 48, the policies in the Core Strategy Review should therefore be afforded significant weight, having regard to the Inspectors' outline of main modifications required.

6.3 The relevant development plan policies are as follows:-

Places and Policies Local Plan 2020

Policy NE2 - Biodiversity

Policy NE7 - Contaminated Land

Policy HE2 - Archaeology

Core Strategy Local Plan (2013)

Policy DSD - Delivering Sustainable Development

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

Core Strategy Review Submission draft (2019)

Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation

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

Government Advice

National Planning Policy Framework (NPPF) 2019

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

Paragraph 11 - Presumption in favour of sustainable development.

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

Paragraph 180 – Mitigation and compensation for harm to biodiversity and habitats.

Paragraphs 183 & 184 – Development and contamination.

Paragraph 194 – Proposals affecting heritage assets

Paragraphs 199 – 205 – Considering potential impacts on heritage assets.

National Planning Policy Guidance (NPPG)

Land affected by Contamination

Natural Environment

Natural England Standing Advice

Badgers: surveys and mitigation for development projects.

7. APPRAISAL

- 7.1 Members will be aware that badgers are afforded substantial protection in law. The process of moving the badgers from the existing sett to any replacement would be via exclusion from the existing, and encouraging them, through various means, to settle in the replacement. Once the existing sett is vacant, it can be destroyed. This entire process is only permitted by way of a licence granted by Natural England (NE). When reviewing the licence application NE will have to be satisfied that the proposed mitigation/compensation is appropriate, including the size and location of the replacement sett. If NE are not satisfied that the proposals are acceptable, including any replacement sett, they can refuse to issue the licence and the process cannot take place.
- 7.2 It is a fundamental principle of the planning system that it should not seek to, nor be used to duplicate legislation elsewhere. In this case, the suitability of the replacement sett and the means of excluding the badgers from, and destroying, the existing sett are dealt with by the NE licencing regime. As such, these issues, as important as they clearly are, should form no part of Member's consideration of this application.
- 7.3 Notwithstanding the above, KCC Ecologists have been consulted on the application and are satisfied with the mitigation proposed. They have raised the importance of ongoing surveys and maintenance and these requirements are covered either by the ecology related conditions on the planning permission for the overall development (Y17/1042) or will be a requirement of any licence granted by Natural England.
- 7.4 The principle of the overall development of which this site forms a part, has been established by the grant of permission for development of the wider site. The sett would be small in scale and located remotely from any dwellings, such that there would be

no impact on residential amenity. The County Archaeologist does not object on the basis of limited groundworks to already man-made ground, therefore, there are no archaeological implications arising from this scheme.

7.5 Given the above, Members should confine their consideration of this application to the following issues:

- a) Impact on Scheduled Monument
- b) Visual amenity
- c) Contamination
- d) Ecological implications
- e) Flood risk/maintenance of the RMC bank

a) Impact on scheduled monument

7.6 The historical value of the RMC is due to it being a unique form of defence associated with the significant threat of Napoleonic invasion. The scheduled area includes adjoining features including the towpaths. Views between the canal and sea are currently interrupted due to the raised land levels from previous use of the wider Princes Parade site and the dense tall vegetation along the southern boundary of the canal tow path. The proposed sett would result in the creation of a 1.5m high mound, the erection of 1.5m cleft chestnut fencing around the edge of the buffer zone and planting. Due to the low level height of the mound and fencing it is not considered that it would adversely impact on the immediate setting of the canal. Any landscaping would not have any greater impact than the existing vegetation which currently obscures completely views between the canal and sea in this location. Historic England concurs with this in respect of the setting of the canal and has no objection to the application. They have requested that clarification be sought on the exact position of the site boundary and proposed fencing in relation to the towpath verge, which falls within the scheduled area. When compared to the scheduled area the application site boundary runs along the boundary of the scheduled area. As the proposed fence line is shown set in from the application site boundary it would be outside of the scheduled area. In any event HE has confirmed that SM consent would not be required for the fence. The earthworks for the sett would be well outside the scheduled area. Even if there were to be encroachment, it would require a separate application made to Historic England for Scheduled Monument Consent, which is a separate legislative procedure and not relevant to the determining of this planning application.

b) Visual amenity

7.7 Due to the low level of the embankment, the landscaping proposed and the unobtrusive type of fencing proposed it is considered that it would have minimal impact on the visual amenity of the area and wider views. The landscaping proposed would replace that needed to be removed for construction of the sett.

c) Contamination

7.8 In the 1930s the wider site was used for gravel extraction and in the 1960s and 1970s it was used as a refuse tip, leading to contamination and raised land levels. A contamination report has been submitted and comments have been provided by RPS, the external consultant dealing with Princes Parade contamination issues for the Council as Local Planning Authority. The report identifies that the type and amount of soil contamination at the application site is similar to that within the area of the existing

badger setts and that the contamination at the proposed location is unlikely to represent a significantly greater risk to badgers than at their existing sett location. Notwithstanding that, the sett is proposed to be constructed of clean material with both clean subsoil and clean topsoil being used and the tunnels formed by pipe runs.

- 7.9 With regard to the Consultant's comments in respect of the potential impact of contamination on the establishment of scrub, the embankment itself would comprise clean soil, the contamination is spread throughout the site where scrub has already established so this is unlikely to be an issue.
- 7.10 No evidence of Japanese Knotweed has been recorded across the whole wider site during the ecological surveys that have been carried out. Any Giant Hogweed found on the site would be managed by a suitably experienced invasive plant specialist. Any other plant found on site that is listed under Schedule 9 of the Wildlife and Countryside Act will be dealt with the same way.

d) Ecology

- 7.11 The Ecology Method Statement (EMS) submitted with this application identifies a number of species and habitats across the wider site, of which this site forms a part. The EMS states that a minimum 8m buffer of existing vegetation will be maintained between the development footprint and the RMC throughout construction, with the edge of the embankment for the proposed sett being in excess of 10m from the canal. The 8m buffer would be included within the boundary of the 30m exclusion zone around the sett so this habitat would be retained. The 8m buffer zone would retain the best quality toad terrestrial habitat in the location most likely to be regularly used by the common toad.
- 7.12 The proposed coastal grassland would provide habitat for invertebrate species commonly found in the area as well as reptiles on the site.
- 7.13 To minimise risks to wildlife during construction habitat would be cleared under ecological supervision, with reptile exclusion fencing being erected around the boundaries of the wider site, and an offsite reptile receptor area being established. The EMS sets out how trapping and translocation would work. The programme for the construction of the badger sett is such that it would be undertaken outside of the bird breeding season.
- 7.16 The applicant was asked to submit a Construction Environmental Management Plan which would set out how the construction would be managed to mitigate risks to wildlife and habitat from the construction of the sett. This has now been submitted and is proposed as a condition on the planning permission, together with compliance with the EMS. It is considered that it has been satisfactorily demonstrated that any impacts on other wildlife and habitats can be mitigated to an acceptable level which addresses the concerns raised by the Environment Agency, and no objection has been raised by KCC Ecology.

e) Flood Risk/Maintenance of the RMC

- 7.17 The proposed development would not create any hard surfacing or have any impact on surface water runoff from the site and the site is not in an identified flood risk area on the EA's flood maps. Therefore there are no flooding implications from the development. It is proposed to install gates for maintenance access within the fencing

around the exclusion zone so access to 8m bylaw margin required by the EA would be maintained.

f) Other issues

- 7.18 A number of issues relating to the suitability of the size and location of the new sett and the likelihood of badgers finding it and using it have been raised in the representations received from local residents. Any interference with an existing badger sett requires a licence from Natural England and there is a specific procedure for licences to interfere with badger setts during development work. The licence covers mitigation work, which in this case is the proposed artificial sett, and the licence application has to include survey reports and mitigation plans. The suitability of the new sett in terms of its location, size and the methods for excluding badgers from the existing sett and ensuring they use the new one before the old one is destroyed are all covered by the Natural England licence process. They are not planning matters that fall to be considered as part of the planning application.
- 7.19 Concern has also been raised about the local badger group not being consulted on the application. East Kent Badger Group is not a statutory consultee. The Council uses Kent County Council Ecologist to provide advice on all ecology matters, Natural England was consulted and raised no comments, and detailed matters about whether the sett would provide acceptable mitigation are dealt with under the Natural England Licence Procedure.

Environmental Impact Assessment

- 7.20 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.

Human Rights

- 7.21 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

- 7.22 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

7.23 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 Due to the scale of the proposed development it is not considered that it would impact on residential or visual amenity or on the setting of the RMC or directly on the SM. Soil contamination has been demonstrated to be similar to that at the site of the existing sett and the new sett would be constructed of clean soil, so there are no contamination issues. Impacts on other species would be low and can be mitigated satisfactorily and the suitability of the sett for badgers is covered by other legislation under the NE licence process and so is not a material planning consideration. The proposal would not prevent access for maintenance of the canal required by the EA and there are no flooding issues. The proposed development is considered acceptable and 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 hereby permitted 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.

2. The development hereby permitted shall be carried out in complete accordance with the following plans and details:

LP 001a REV B – Site Location Plan

MHS210.19_SK17_25.05.2021 Rev C – Section Through Proposed Badger Sett Location

MHS210.19_SK18_02.06.2021 Rev A – Landscape Proposals to Proposed Badger Sett Location
MHS210.19_SK19_15.06.2021 Rev A
Ecological Method Statement issued 11.08.21
3609-LLB-XX-XX-DR-Ec-0012 Rev P01 – Ecological Enhancement Plan
Construction Environment Management Plan. Rev No. 03

Reason:

For the avoidance of doubt and in order to ensure the satisfactory implementation of the development.

3. The landscaping and chestnut fencing shown on drawing MHS210.19_SK18_02.06.2021 Rev A – Landscape Proposals to Proposed Badger Sett Location and shrub planting within the exclusion zone area shall be implemented prior to the first use of the badger sett, the fencing shall be retained until the completion of the development on the wider Princes Parade site and the landscaping and scrub planting shall be maintained until it has become established.

Reason:

In order to ensure the replacement of any disturbed habitat and to ensure badgers are protected from human disturbance during the course of the development.

4. The maintenance gates shown on the Landscape Proposals plan shall be installed in the chestnut fencing at each end of the Environment Agency 8m byelaw margin at the time of its installation and shall thereafter be retained until the fencing is removed.

Reason:

In order to ensure maintenance access to the canal.

Appendix 1 – Site Location Plan