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Application No: 21/1989/FH

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

Development: New electricity substation and bin store

Applicant: Folkestone & Hythe District Council

Agent: Tibbalds
19 Maltings Place
London SE1 3JB

Officer Contact: David Campbell

SUMMARY

This application is for a new electricity sub-station to serve the future development of 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, design, 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 wider application site is located in a prominent position on the coast, immediately to the south of the Royal Military Canal (RMC), which is a Scheduled Monument (SM) and Local Wildlife Site (LWS). Beyond the RMC to the north is the residential area of Seabrook, focussed along the A259 and to the south is Princes Parade, the sea wall promenade and the beach.

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- 2.2 The wider site is located approximately 260 metres to the south and south-east of the Kent Downs Area of Outstanding Natural Beauty, which extends as far as Cliff Road on the hillside above.
- 2.3 This site for a new electricity substation sits on the eastern side of the wider Princes Parade development site which would be accessed from an area of land that is proposed to become a future car park. The substation would be located between the new leisure centre and proposed residential areas and is to serve the whole development site.
- 2.4 A site location plan is attached to this report as Appendix 1. Figure 1 below also shows the application site within the context of the wider development.

3.0 PROPOSAL

- 3.1 The application proposes a single storey flat roofed building for use as a substation, a bin store and a smaller store. It would be accessed from one of the car parks close to the new leisure centre and the illustrative location of part of the residential development in the position shown on Figures 1 and 2 below. It is to serve the whole development including the leisure centre and residential elements of the scheme.
- 3.2 The application explains that the substation has been located to fit within the wider site layout for the approved leisure centre and this location has been selected as it does not obstruct site lines of vehicles using the car park and allows refuse collection vehicles to park and manoeuvre adjacent to the bin store. Figures 1 and 2 also show how the access road would join the wider scheme that has been previously approved.

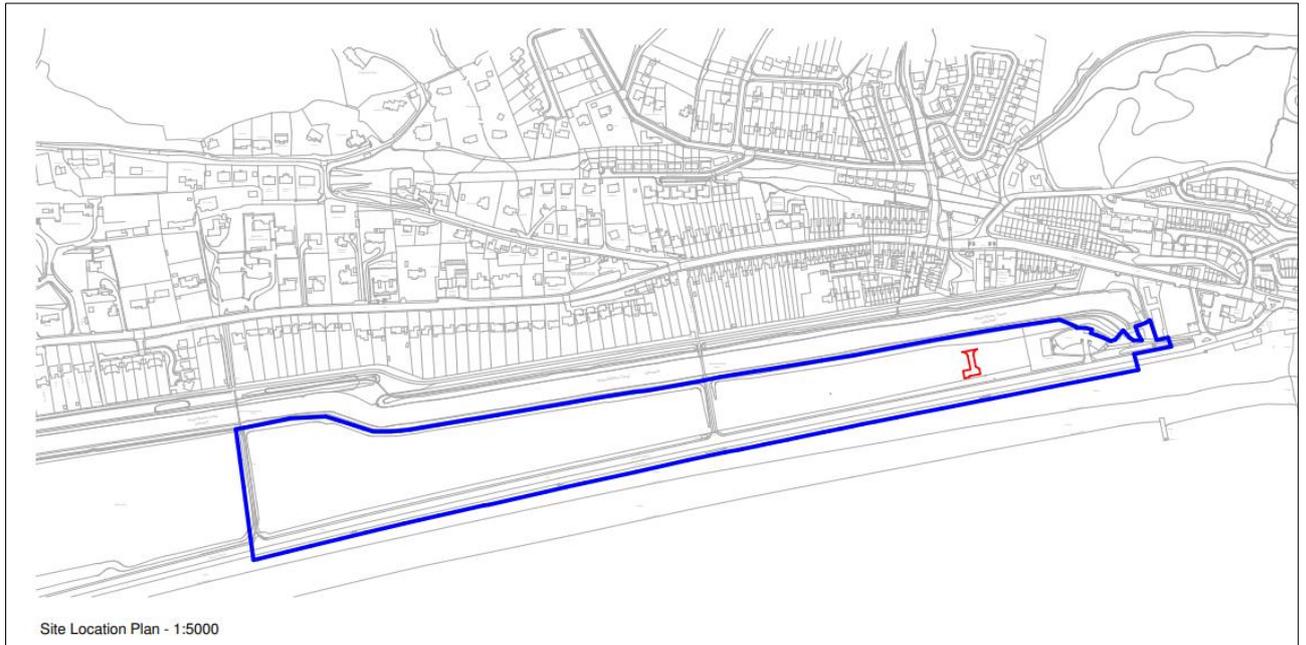


Figure 1 – Site Plan showing location of the site within the wider site area

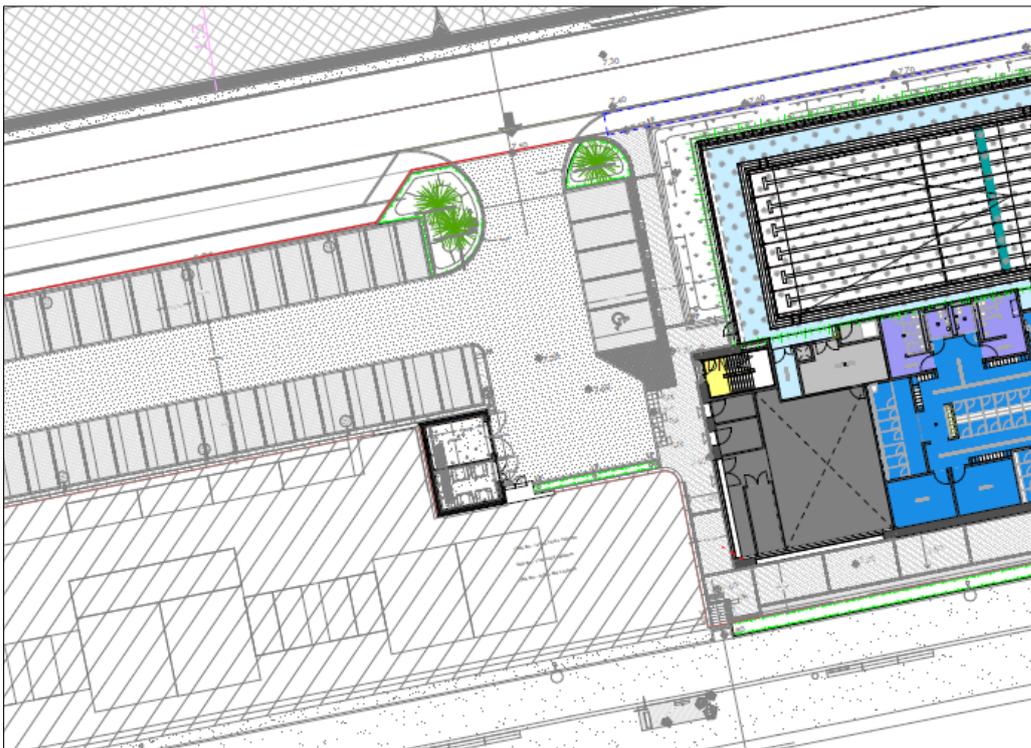


Figure 2 – Position of the substation in relation to the approved scheme.

- 3.3 The bin store would be 8.73m deep, between 4.54m, 5.80m and 8.23m in width and 2.85m in height. The floor plan below in Figure 3 shows how this is to be divided up and how it would provide space for 6 1100ltr bins.

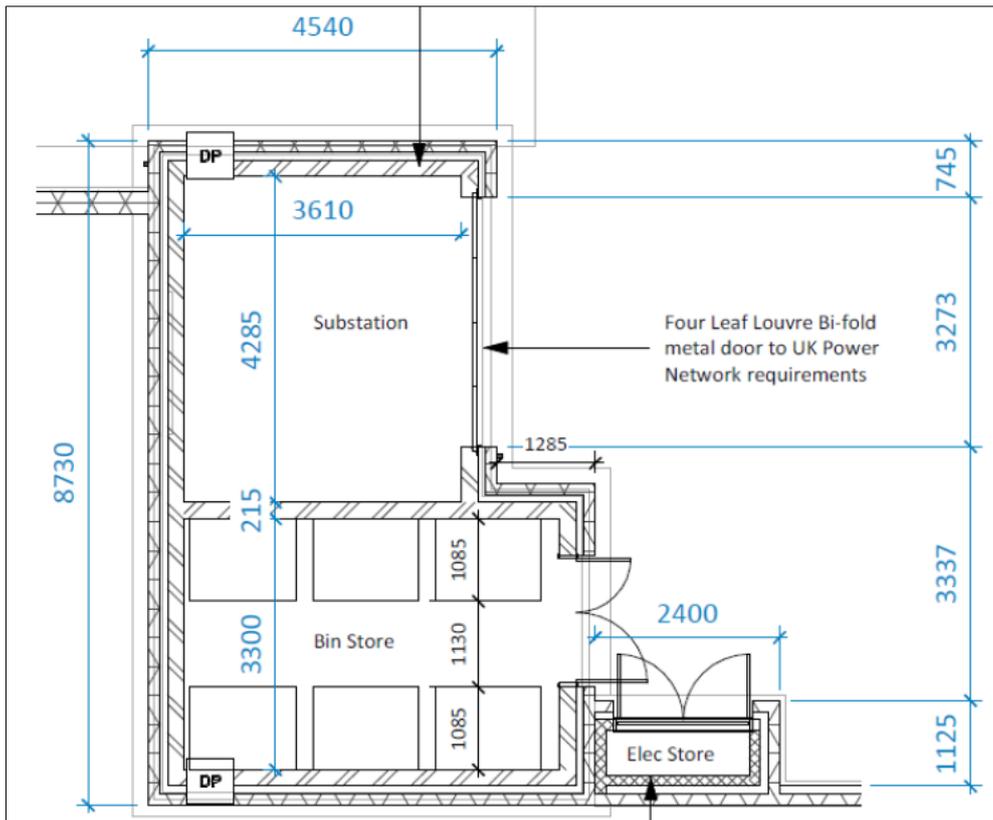


Figure 3 – Layout of the substation

3.4 The building is to be flat roofed and would be finished with faced ragstone, louvred doors to match the ragstone and round washed ballast on the roof. The elevations are given in Figure 4 below.

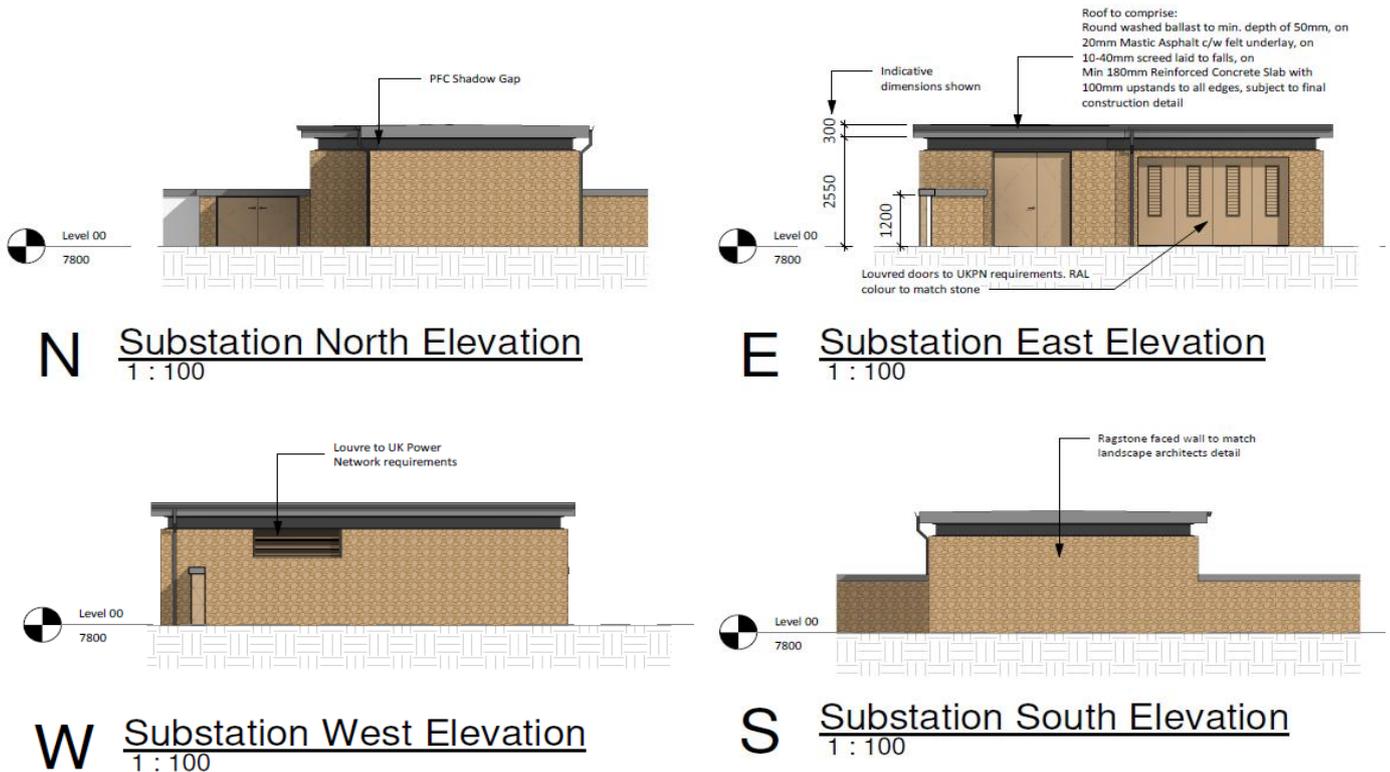


Figure 4 – Elevations of the proposed building.

- 3.5 The following reports were submitted by the applicant in support of this current application:

Design and Access Statement – The Design and Access Statement sets out the design rationale for the scheme, the reason for the proposed location and the materials that are being proposed. It also shows the proposed building within the context of the approved scheme.

Site Investigation Report – A contamination report has been submitted with the application. 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. The purpose of the preliminary report and assessment was to identify any contamination or geotechnical issues associated with the former use of the site. The geochemical issues identified include metal, PAH, TPH and asbestos. The recommendations include ground improvement or a piled solution and suspended floor slats.

Response to EA Objection to New Electricity Substation – This is a technical note seeking to overcome the EA's initial objection to works being carried out with 8m of the Royal Military Canal.

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	Approved

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Hythe Town Council: Object for the following reasons:

- Insufficient information
- The layout and density of the buildings are not in keeping with the street scene and it is out of character.

KCC Ecology: No objection.

- The footprint of the substation is located within area covered by the ecological mitigation strategy 21/1182/FH/CON.
- The plans submitted are not clear but it's understood the substation is not located within an area identified as open space/mitigation area.
- The works for the substation must be carried out once the mitigation for 21/1182/FH/CON has been implemented and the area has been released by the applicant's ecologist.
- The proposed substation is located directly to the south of a main badger sett and therefore it's unlikely that the works can commence until the mitigation to close the badger sett has been implemented.
- It would have been preferable if the ecologist letter had clearly set out what aspects of the mitigation strategy had to be completed to prior to the commencement of the works associated with this application.
- The ecological mitigation agreed under 21/1182/FH/CON must be carried out as this is a separate application to the original application
- This mitigation should be secured by condition.

KCC Public Rights of Way: No comments to make.

KCC Highways and Transportation: No comments to make.

KCC Archaeology: No objection.

It is unlikely that the proposed works will have a significant impact at this location.

Natural England: No comments.

Environment Agency: No objection.

Subject to the mitigation agreed under 21/1182/FH/CON being carried out first.

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Contamination Consultant: Has not objected but requested a condition to ensure that the contamination remediation details to be submitted on the approved application apply to this application as well. No works are to take place until these remediation details are agreed and signed off.

Local Residents Comments

- 5.2 25 neighbours directly consulted. 9 letters of objection received. Objections made to the wider approved development of the site have not been included as they do not specifically relate to the application under consideration.

I have read all of the letters received. The list of key issues is summarised below:

Objections

- Out of keeping, character and place
- The layout and density of the building
- The layout and density of the building are not in keeping with the street scene, it is out of character and out of place.
- Lacks detail
- Dangerously close to Seabrook Primary School and could emit electromagnetic fields which can increase the risk of developing health problems.
- So many people are against the plans for Princes Parade and feel their voices go unheard.
- Global climate change and sea defences none of this work should be completed.
- We need the nature and wildlife to protect our coastal shores.
- Contamination and harm to health.

- 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

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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 UA18 – Princes Parade, Hythe
- Policy HB1 – Quality Places Through Design
- Policy HB2 – Cohesive Design
- Policy T1 – Street Hierarchy and Site Layout
- Policy NE2 – Biodiversity
- Policy NE7 – Contaminated Land
- Policy NE9 – Development around the Coast
- Policy HE1 – Heritage Assets
- Policy HE2 – Archaeology

Core Strategy Local Plan (2013)

- Policy DSD – Delivering Sustainable Development
- Policy SS1 – District Spatial Strategy
- Policy SS2 – Housing and the Economy Growth Strategy
- Policy SS3 – Place Shaping and Sustainable Settlements Strategy
- Policy SS5 – District Infrastructure Planning
- Policy CSD1 – Balanced Neighbourhoods for Shepway
- Policy CSD2 – District Residential Needs
- Policy CSD4 - Green Infrastructure of Natural Networks, Open Spaces and Recreation
- Policy CSD5 – Water and Coastal Environmental Management in Shepway
- Policy CSD7 – Hythe Strategy

Core Strategy Review Submission draft (2019)

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

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

Policy CSD5 – Water and Coastal Environmental Management in Shepway

Policy CSD7 – Hythe Strategy

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 48 – Giving weight to emerging plans.

Paragraph 127 -130 – Achieving well designed places.

Paragraph 174 - Conserving and enhancing the environment

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.

7. APPRAISAL

7.1 The principle of the overall development of which this site forms a part, has been established by the grant of permission for the wider site. The substation/ refuse store would be small in scale and located in a position to serve the whole development. As such the principle of the development is considered to be acceptable.

7.2 Given the above, the main considerations are 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

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- 7.3 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 the previous use of the wider Princes Parade site and the dense tall vegetation along the southern boundary of the canal tow path. The RMC is a Scheduled Monument, a heritage asset as set out in the NPPF and therefore has to be taken into account when a decision is made.
- 7.4 As such paragraphs 194 to 208 of the NPPF are relevant here, particularly 197 which states the desirability of sustaining and enhancing the significance of heritage assets and para 202 which comments on less than substantial harm which should be weighed against the public benefits of the proposal.
- 7.5 The proposed building would be situated in the middle of the wider development which already has the benefit of planning permission, in close proximity to the new leisure centre which is a considerably larger building. As a result it is not considered that it would adversely impact on the immediate setting of the canal, and given that it is to be adjacent to a future car park, it would also not impact on any landscaping. There would be some impact on the setting of the RMC given that the new building would be viewed within the same context from certain positions within the wider site. However, this would not cause any harm (less than substantial or otherwise) given the building would be situated within a wider development site as noted above. As a result, it is not considered that there would be any detrimental additional impact on the Royal Military Canal.

b) Visual amenity

- 7.6 Policy HB1 states that planning permission should be granted where the proposal makes 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, materiality and mix of uses so as to ensure all proposals create places of character.
- 7.7 The proposed substation is small scale and single storey in nature and would be constructed in high quality materials both suitable to the location and the development it is intended to serve. I am satisfied that the substation is well designed and would not result in harm to visual amenity of the locality in the immediate future nor as part of the future Princes Parade development.
- 7.8 In terms of layout, as the substation is required to serve both elements of the hybrid application its location on the boundary between the outline and detailed elements is logical. Combining with the refuse store would in the long term minimise visual clutter from multiple buildings.
- 7.9 The refuse store, which is part of a refuse strategy would also be provided in a manner which is visually acceptable and would ensure that unsightly wheelie bins are contained within an appropriate structure.
- 7.10 Substations of this nature are a common feature of every modern development and do not in my view or experience give rise to any residential amenity concerns.

c) Contamination

- 7.11 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 with this application.
- 7.12 The Council's Contamination Consultant has not objected to the application and has requested a condition to ensure that remediation details are submitted under the hybrid application cover this site as well. This is to ensure that the application does not give rise to any contamination issues in its own right. This has been attached.

d) Ecology

- 7.13 The Ecology Method Statement (EMS) which has now been approved under 21/1182/FH/CON as set out above, identifies a number of species and habitats across the wider site, of which this site forms a part. The EMS gives a number of recommendations which KCC Ecology have recommended are dealt with prior to this application being implemented. This is considered to be a sensible approach and as such a condition has been attached to ensure that this is the case.
- 7.14 Subject to this, 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 issues raised by KCC Ecology.

e) Flood Risk/Maintenance of the RMC

- 7.15 Given that the proposal would be built on a part of the site that is to contain a car park, the proposed development would not create any additional hard surfacing or have any impact on surface water runoff from the site. It should be noted that the site is not in an identified flood risk area on the EA's flood maps.
- 7.16 The EA initially objected to the scheme on the impact to the Royal Military Canal, however they have withdrawn their objection providing the mitigation measures set out in the Ecological Method Statement (previously approved) are adhered to. They note that access to the 8m bylaw margin required by the EA would be maintained. The scheme is therefore considered to be acceptable on these grounds.

f) Other issues

- 7.17 Electromagnetic fields and wider safety issues arising from this development are dealt with under other legislation. Members will of course note that electricity substations are a common and necessary supporting infrastructure, seen throughout the country. The substation is not considered to impact upon existing residential amenity, given the distance to the closest neighbouring properties.
- 7.18 I note concerns have been raised that the density of the development is out of keeping with the area. Density is a measurement of the number of dwellings on an area of land. As no dwellings are proposed as part of this application, density is not a material consideration.

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- 7.19 A number of concerns have been raised regarding a lack of information having been submitted with this application – although this has not been expanded on in respect of what information is missing. Notwithstanding this, officers are satisfied that the application meets both national and local validation requirements and that sufficient information has been provided to assess the development.

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 in its own right. It is however noted that the wider site was submitted with an Environmental Statement.

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

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- 8.1 This application is for a new electricity sub-station to serve the future development of 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, design, visual or residential amenity, and the application is considered acceptable.

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, which only includes the area of land identified in red on the site location plan, hereby permitted shall be carried out in complete accordance with the following plans and details: PPLC-GT3-00-A-901001 – Rev:P02, PPLC-GT3-00-00-DR-A-905000 - RevP04, PPLC-MHS-ZZ-Z0-DR-L-90102, Design and Access Statement, Ecology Letter from Lloyd Bore and Contamination Report from IDOM. Any other alternation not within the red line of the application site do not form part of this application and are therefore not approved here.

Reason:

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

3. No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.

Reason: In the interest of visual amenity.

4. No development shall take place, until the ecological mitigation measures agreed pursuant to conditions 15, 16 and 17 of planning permission Y17/1042/SH covering this part of the application site, have been carried out. A written statement confirming this will be submitted to and be approved in writing by the Local Planning Authority before any works hereby permitted are carried out.

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Reason: In order to safeguard wildlife on site.

5. No development shall take place, until the requirements of condition 25 of planning permission Y17/1042/SH, have been approved in writing by the Local Planning Authority including any additional remediation requirements that are deemed necessary. Works shall be carried out in accordance with the approved details and a written statement confirming this will be submitted to and be approved in writing by the Local Planning Authority before any works hereby permitted are carried out.

Reason: To protect the development and surrounding environment and human health against contamination and pollution.