

Application No: 21/1492/FH

Location of Site: The Stade, Folkestone Harbour, Folkestone, CT20 1QH.

Development: Erection of 6 pitches to be used by mobile units along with electric cabinets for power supply.

Applicant: Folkestone Harbour Seafront Development Company.

Agent: Mr G. Fitch, Blueprint Projects, Unit 12 Riverside Business Centre, West Hythe, CT21 4NB.

Officer Contact: Ross McCardle

SUMMARY

This application seeks planning permission for the change of use of the land to provide 6 pitches for the stationing of mobile food units along The Stade. The proposed pitches would allow for 6 mobile food units and electric cabinets to be stationed adjacent to an existing mobile unit. The proposal is not considered to give rise to any unacceptable impacts upon local residential or visual amenity or to the public highway and would not result in unacceptable risk of flooding to existing properties or the proposed pitches. The food mobile units would also preserve the special character and appearance of the conservation area. The application is therefore recommended for approval.

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 of an objection from the Town Council, and a call-in by Councillor Peter Gane in respect of concerns regarding flooding.

2. SITE AND SURROUNDINGS

2.1. The application site comprises land on the northern side of Folkestone harbour, known as The Stade. The land is flat, hard-paved, and forms part of the promenade along the harbour towards/from Sunny Sands beach. There is one existing mobile food unit which is stationed on the promenade.

2.2. The site is within the Leas and Bayle conservation area; within flood zone 2 and adjacent to flood zone 3 (which approximately tracks the mean high water line along the harbour edge). The Council's SFRA which looks at flood risk in more detail identifies the site as being at no risk of flooding in 2115.

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

3. PROPOSAL

- 3.1 Full planning permission is sought for change of use of land to allow for the stationing of 6 mobile food unit pitches as part of a wider series of works and improvements to the harbour and harbour arm. Each pitch would allow for the stationing of one mobile food unit and an electrical cabinet. No other physical works are proposed.
- 3.2 The design of the individual units is not yet known and would vary dependent upon the tenant of each pitch. It is likely they would be of a relatively standard scale, design, and appearance, however; similar to the various food trucks and stalls on the harbour arm (but a design code condition is set out below to ensure some degree of uniformity and to ensure the design is appropriate to the character and appearance of the Conservation area.
- 3.3 The units would be stationed along the northern edge of the promenade, set back from the water's edge. An electrical cabinet measuring approximately 1.2m tall x 500mm wide x 400mm deep would be erected adjacent to each pitch to provide electrical hook-up.

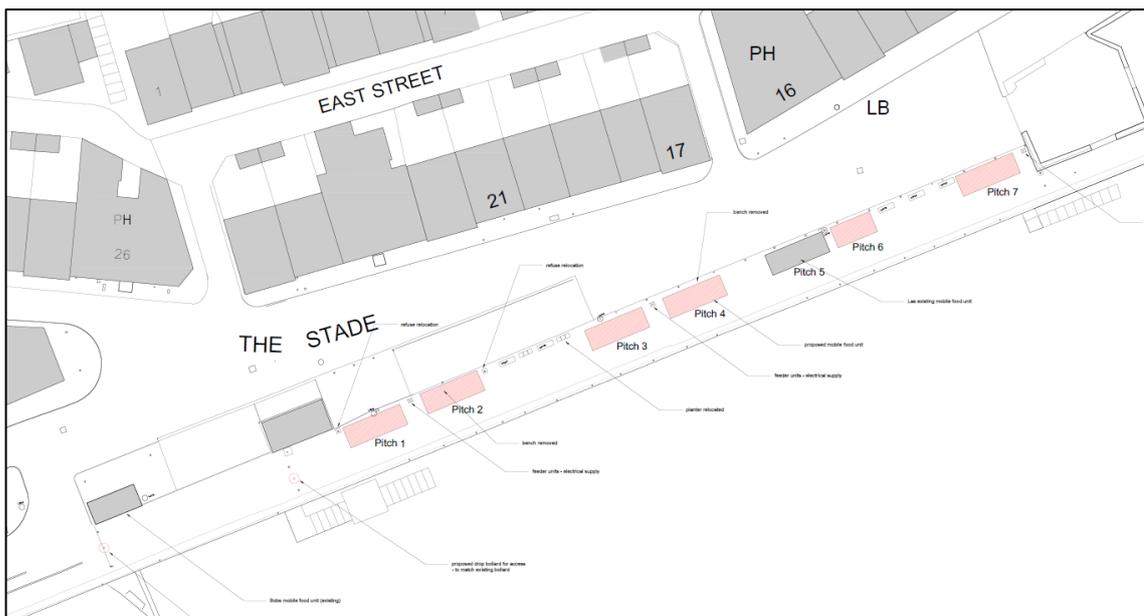


Fig.1: Proposed layout.

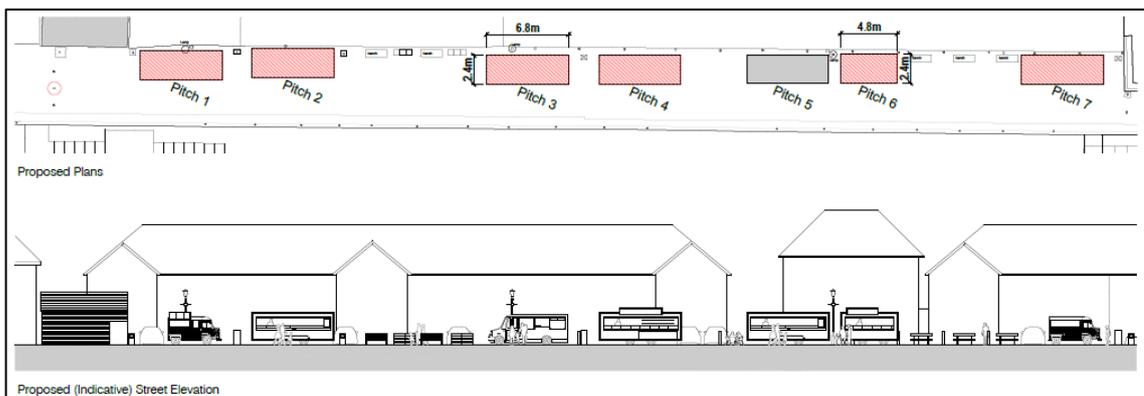


Fig.2: Indicative proposed elevations

4. RELEVANT PLANNING HISTORY

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

Y12/0897/SH	Outline planning permission for redevelopment of the harbour and seafront to provide a mixed-use development comprising up to 1000 dwellings and up to 10,000sqm of commercial floorspace.	Approved
Y17/1099/SH	S.73 consent for removal of condition 41 and variations to conditions 4, 6, 7, 15, 16, 18, 21, 23, 25, 37, and 42 of outline planning permission Y12/0897/SH.	Approved.

5. CONSULTATION RESPONSES

5.1 The consultation responses are summarised below.

Consultees

Folkestone Town Council: Object *“due to over intensive planning, leading to overcrowding and dangerous conditions. Also will affect existing businesses on the Stade.”*

Local Residents Comments

5.2 81 neighbours were directly consulted, a site notice posted, and an advert posted in the local newspaper. 9 letters and a petition containing 31 signatures have been received in objection.

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

- Over-development / too many pitches proposed;
- Additional noise and disturbance;
- Additional litter and vermin;
- Highway safety and convenience;
- Residents and permit holders already have difficulty finding parking spaces;
- Impact on visual amenity;
- Harm to character and appearance of the conservation area;
- Loss of view;
- Flood risk;
- Additional pedestrians will cause pinch points along the quayside;
- Danger of pedestrians falling off the quayside;
- Removal of memorial benches to accommodate proposed units;
- Will the units be sited year-round?; and
- Units and electric cabinets installed ahead of any permission being granted

5.4 The submitted petition repeats some of the issues noted above but also raises the following summarised concerns:

- Food and drink being sold shouldn't duplicate existing offering;
- No premises licences should be granted for sale of alcohol;
- Waste storage is unsightly; and
- Additional public litter bins are required.

Ward Member

- 5.5 Councillor Peter Gane has called the application to committee.
- 5.6 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 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 and has been subject to an Examination in Public in January 2021. 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:-

Places and Policies Local Plan 2020

HB1 (Quality places through design)
HB2 (Cohesive design)
E3 (Tourism)
T2 (Parking standards)
HE1 (Heritage assets)

Core Strategy Local Plan (2013)

DSD (Delivering sustainable development)
SS1 (District spatial strategy)
SS3 (Sustainable settlements)
SS6 (Folkestone seafront strategy)

In support of policy SS6, paragraph 4.143 of the Core Strategy states:

The site is suitable for mixed-use development, focused around distinct character areas and comprising of beach and high-quality residential uses, allied with significant active or commercial uses to provide a destination with clear vibrancy. It is important that recreational and open space uses, and leisure (potentially including food/drink) premises utilise the site's waterside location.

Figure 4.5 of the Core Strategy identifies The Stade as being active frontage within the seafront redevelopment:

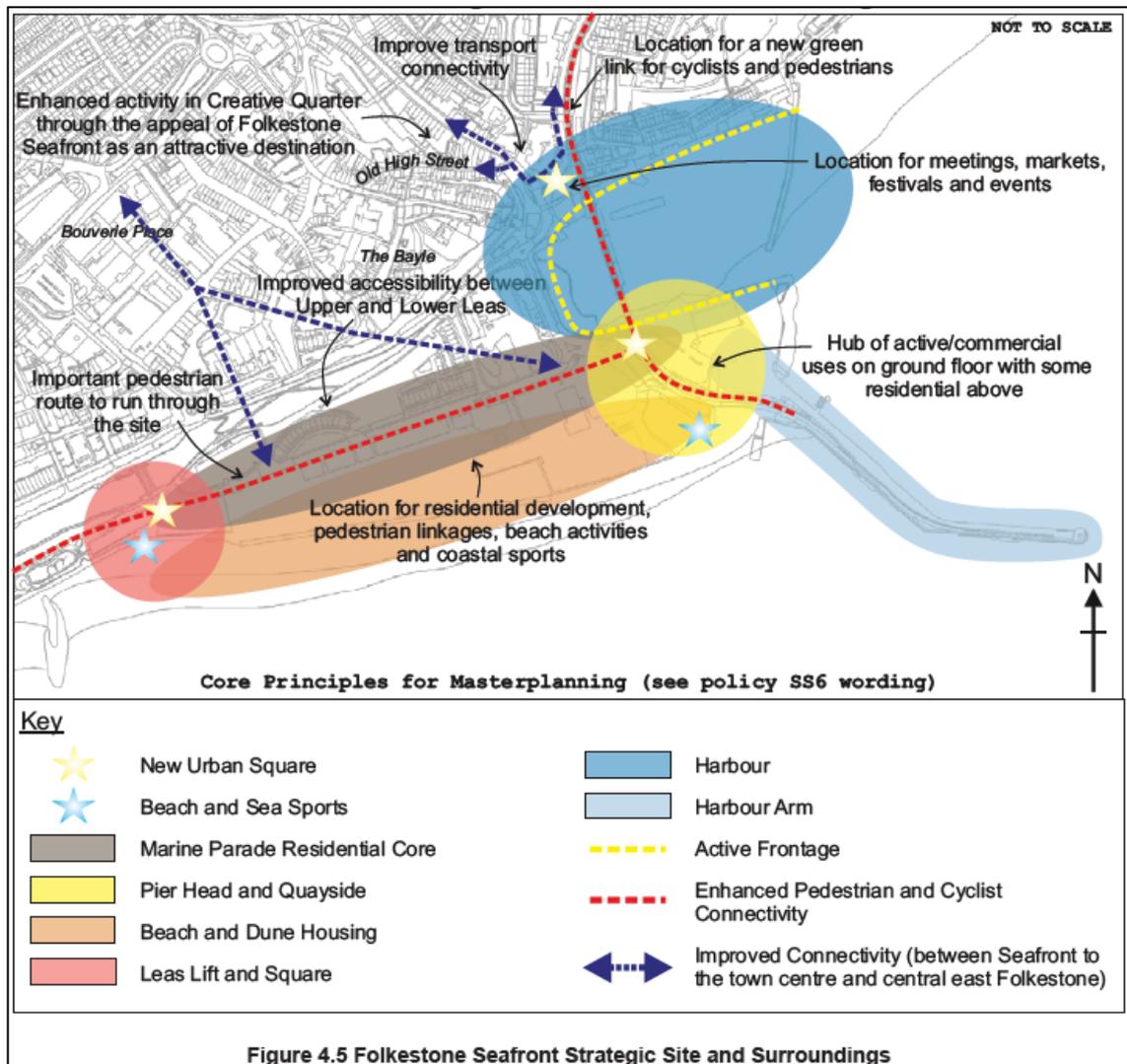


Fig.3: Core Strategy Seafront Masterplan

Policy SS6 then sets out that “Folkestone Seafront is allocated for mixed-use development, providing up to 1,000 homes, in the region of 10,000 sqm of floorspace comprising small shops and retail services” and advises that permission will be granted where:

- a. Proposals clearly support the delivery of planned incremental redevelopment for a distinctive, unique and high-quality seafront environment, with a mix of uses providing vitality for the whole site and Folkestone.
- b. The proposals directly contribute to the regeneration of Folkestone by reconnecting the town centre to the Seafront, and enhancing the attractiveness of Folkestone and its appeal as a cultural and visitor destination, complementary to the Creative Quarter and existing traditional maritime activities.
- g. The layout is planned to achieve sufficient ground floor active/commercial uses in and around the Harbour and at the Pier Head Quarter to ensure a sense of vitality can be maintained, fully utilising the setting, and also featuring a central avenue and a range of open and enjoyable coastal environments.

Core Strategy Review Submission draft (2019)

SS1 (District spatial strategy)

SS3 (Sustainable settlements)
SS10 (Folkestone seafront strategy)

Emerging policy SS10 is very similar to the adopted policy SS6, reiterating its aims and the masterplan map and policy wording remain the same as set out above.

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' final report was received 23rd February 2022; it finds the plan to be 'sound' and to "provide an appropriate basis for the planning of the District." 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' report.

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

Government Advice

National Planning Policy Framework (NPPF) 2021

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 paragraphs of the NPPF are relevant to this application:-

11 – Presumption in favour of sustainable development.

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

111 – Permission should only be refused on highways grounds if there is an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.

154 – Ensure development is not put at risk from flooding, and does not increase flood risk off-site.

194 to 202 – The need to protect heritage assets.

7. APPRAISAL

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

- a) Principle of development and sustainability
- b) Flood risk
- c) Design/layout/visual amenity and impact on conservation area
- d) Residential amenity
- e) Highway safety and amenity

f) Other matters

a) Principle of development and sustainability

7.2 The application site lies within a highly sustainable town centre location where economic development is generally encouraged, and where existing local land uses include retail and food/drink premises (amongst others). Policies SS6 and SS10 of the adopted and emerging Core Strategies (respectively) identify this area for active frontage containing food and drink uses. It is therefore considered that the principle of the proposed development is acceptable.

b) Flood risk

7.3 The application site lies within Flood Zone 2 (medium risk) and adjacent to Flood Zone 3 (high risk). The proposed food/drink units are considered to be “less vulnerable” developments as per the Environment Agency’s flood risk vulnerability classification (<https://www.gov.uk/guidance/flood-risk-and-coastal-change#Table-2-Flood-Risk-Vulnerability-Classification>), and the Agency’s standing advice advises that the development is therefore acceptable in principle. There is no requirement to consult the Environment Agency directly and the National Planning Practice Guidance advises that planning authorities refer to the standing advice, as above. There is also no requirement to carry out the Sequential or Exceptions tests for minor, less vulnerable developments.

7.4 The proposed mobile units would not impede the flow of any water in the event of a flood, as it would be free to flow under and around the base of the each unit; the development therefore would not increase flood risk outside of the application site. The submitted Design & Access Statement also notes that the units could be towed off site during inclement weather or at times of possible flood risk. The development is therefore considered to be acceptable with regards to flood risk and unlikely to suffer from flooding events or result in additional flood risk to nearby properties.

c) Design/layout/visual amenity and impact on conservation area

7.5 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that proposals in conservation areas pay special attention of preserving or enhancing the character or appearance of that area. The NPPF paragraph 197 sets out what should be considered when determining applications that affect heritage assets and the importance of enhancing their significance. In this case the heritage asset is the conservation area. Policy HB1 of the PPLP states that proposals should not have a detrimental impact on the street scene, either by themselves or cumulatively and should make a positive contribution to their location and surroundings.

7.6 The mobile units would be of varying styles and designs as each stallholder would finish their trailer in their individual colours. In that regard the development would be similar to the harbour arm, which features mobile units in a wide variety of styles, designs, and sizes, but which each contribute to creating a vibrant and pleasing whole in terms of the character and appearance of the area. The application details that a similar high-quality development would result at the current application site. However, as the units would be sited for most of the year and there is a need to ensure they sit comfortably within the context of and contribute positively to the conservation area; a condition is recommend which requires the applicant to produce a design code (in

collaboration with planning officers) and ensure any units subscribe to the requirements in terms of maximum sizes, colouring, etc.

- 7.7 A variety and mixture of units would contribute to a vibrant harbour-side and increase visitor numbers to the wider benefit of Folkestone as a whole (and in accordance with the adopted seafront masterplan). While I note local objections to the contrary a harbour quayside would traditionally have been a busy, highly active area and in that regard it is considered that placing structures in the proposed locations would not be harmful to the character or appearance of the wider conservation area subject to them being of an appropriate appearance, as above. In fact it is interesting to note that the historic layout of the Stade featured a number of structures along the frontage, and the position of the existing buildings wasn't established until the late 1930s, leaving very little of the original historic layout remaining. It is therefore difficult to argue that the proposed development would impact the historic character of the area.

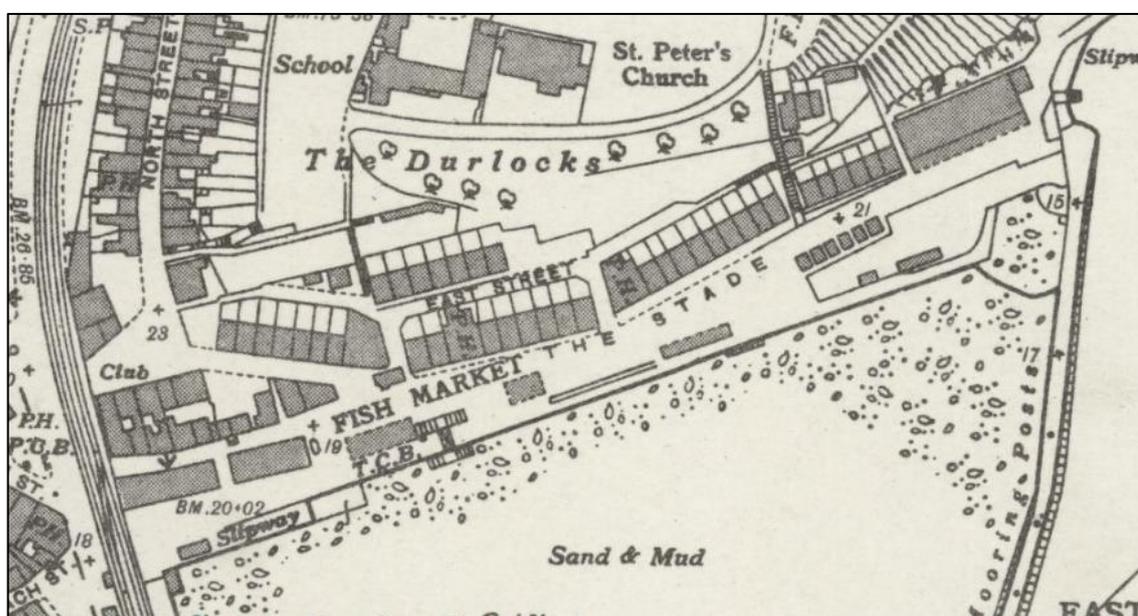


Fig.4: 1946 OS extract showing quayside structures.

- 7.8 It is considered that a condition requiring the units to be removed during the winter months would help to protect visual amenity during the quieter winter months, when one would expect to see fewer tourist/visitor concessions and a generally lower level of activity on the quayside. This would also tie in with minimising any potential impacts of flooding during those months, as set out above.
- 7.9 The layout would place the units out of the main pedestrian thoroughfare along the harbour side.
- 7.10 The submitted drawings indicate that the proposed electrical cabinets would be coloured either green or grey; the standard colours for such installations. However officers consider these would be incongruous within the context of this part of the conservation area, where most street furniture (rubbish bins, railings, lamp-posts, planters, etc.) are coloured black. A condition has therefore been suggested to require the electrical cabinets to be coloured black, to help them to blend with the existing street scene and prevent unacceptable harm to the character or appearance of the conservation area.

7.11 As such it is considered that the proposal would comply with national and local policies with regards to visual amenity and impact on the character and appearance of the conservation area.

d) Residential amenity

7.12 Policy HB1 of the PPLP states that proposals should not lead to an adverse impact on the amenity of future occupiers, neighbours, or the surrounding area.

7.13 The site lies within a vibrant and busy urban location where one would expect there to be a certain degree of background noise and disturbance from vehicles, visitors, and use of the harbour and harbour side. While there are residential dwellings facing on to the site (13 to 25 The Stade and 1 and 2 Back Street - the closest property to the proposal is no. 17 The Stade which is located approximately 11m away) the proposed use would sit within that existing active urban context and would not give rise to levels of noise or disturbance in a manner to justify refusal on amenity grounds. Any specific issues of noise and disturbance could be addressed by the Council's environmental wardens and/or licensing team if necessary.

7.14 The issuing of alcohol licenses for each of the mobile units would be a matter for the licensing team to consider as and when the individual operators apply for one. Similarly any anti-social behaviour arising from use of the units could be controlled either through the license process, or by police if necessary.

7.15 The storage and removal of waste is an important consideration as rubbish and litter would negatively impact the quality of life for local residents. It is therefore appropriate to attach a condition requiring details of waste storage and collection to be provided.

7.16 While local objections are noted, unfortunately there is no right to a view across third-party land.

e) Highway safety and amenity

7.17 The site is adjacent to a public highway and close to public transport connections. The proposed development is relatively small scale and would not generate significant travel movements in its own right but more likely shared journeys to access other facilities within the harbour area. As such, the proposal would not generate traffic movements in excess of highway capacity, or highway safety and amenity issues. In terms of parking demand as a result of the proposed development, the food units due to their limited offerings and lack of seating are not considered to generate a parking demand in their own right either. Customers would generally visit them as part of a wider trip to the harbour. In addition, this is a sustainable town centre location with good access to public transport and parking.

7.18 While I note local concern in regards potential abuse of disabled parking badges to occupy resident's spaces that is unrelated to the matter at hand, and could be pursued as a separate matter if residents wish to pursue the issue with the Council's parking team. Ultimately, this issue is outside of the control of the Local Planning Authority. As such, there are no objections on parking, access or highway safety grounds.

f) Other matters

- 7.19 Commercial competition is not a material planning consideration. A condition is recommended to restrict the pitches to be used for the sale of food and drink only; this is in accordance with the terms of the application but will also help to protect the retail function of the designated town centre nearby. The wording of the condition includes “unless otherwise agreed in writing” which gives the applicant the opportunity to apply for one-off exceptions if necessary (such as for seasonal pop-ups, or event-specific stalls).
- 7.20 There is no evidence to suggest the development would cause harm to the safety of pedestrians on the quayside in terms of increasing the likelihood anyone would fall into the harbour. In any instance that would be a public liability issue, and is not a material planning consideration.
- 7.21 The fact that the electric cabinets have already been installed (and that mobile units were on site for several weeks towards the end of summer) is not justification on which to refuse planning permission. Nor does it affect assessment of the application as submitted.

Environmental Impact Assessment

- 7.22 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

- 7.23 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the Act defines a local finance consideration as a grant or other financial assistance that has been, that will, or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy. There is no CIL requirement for this development.

Human Rights

- 7.24 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

- 7.25 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

7.26 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 Summarise issues and conclude the planning balance and conflict or otherwise with Development Plan.

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 to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall place other than in accordance with drawings (19.36) 41 rev P2, 45 rev P1, 52 rev P1, and drawing FC3.

Reason: For the avoidance of doubt.

3. No development shall take place until details of waste storage and disposal for each pitch hereby permitted have been submitted to an approved in writing by

the Local Planning Authority. The development shall only be carried out in accordance with the agreed details.

Reason: In the interest of local residential and visual amenity.

4. Notwithstanding the submitted details the electrical cabinets hereby permitted shall be coloured black (or such other colour as may be agreed in writing by the Local Planning Authority).

Reason: In the interest of visual amenity and the character or appearance of the conservation area.

5. Prior to the first occupation of the pitches hereby permitted a design code (agreeing the maximum sizes of mobile units and a scheme for the external appearance) shall be submitted to and agreed in writing by the Local Planning Authority. Any mobile unit occupying the approved pitches shall adhere to the approved details.

Reason: In the interest of visual amenity and the character or appearance of the conservation area.

6. The pitches hereby permitted shall be vacated (and all trailers, vehicles, or other mobile structures and supporting equipment removed) and left unoccupied from 1st November in any calendar year and shall not be occupied until after 28th/29th February the following year unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of local residential and visual amenity.

7. The pitches hereby permitted shall be used for the sale of food and drink, and for no other purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the area and in recognition of the terms of the application.

Appendix 1 – Site Location Plan