

**Application No:** Y17/1042/SH

**Location of Site:** Princes Parade Promenade, Princes Parade, Hythe, Kent

**Development:** 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 childrens' 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 childrens' play facility.

**Applicant:** Mr. Andy Jarrett  
Folkestone & Hythe District Council  
Strategic Development Projects

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**Date Valid:** 19.09.17

**Expiry Date:** 09.01.18

**PEA Date:**

**Date of Committee:** 16.08.18

**Officer Contact:** Robert Allan

## **SUMMARY**

This report considers whether full planning permission should be granted for the erection of a leisure centre with associated parking infrastructure, open space, landscaping and childrens' play facility, together with outline planning permission (all matters reserved) for up to 150 dwellings, a hotel, retail and/or restaurant/café uses, with hard and soft landscaped open spaces, including childrens' play facilities, surface parking for vehicles and bicycles, alterations to existing vehicular and pedestrian access and highway layout within the site, site levelling and groundworks, and all necessary supporting infrastructure and services. The report concludes that matters relating to land use, design, open space, ecology,

highways and transportation, flooding, drainage and lighting are acceptable when considered against policy and any impacts can be appropriately mitigated by conditions. There are also considered to be economic benefits, as set out in the report and application, both during construction and operational phases, with a variety of permanent jobs provided within the leisure centre, proposed hotel and restaurant uses, as well as contributing to the tourist economy through creating a destination open space and play space. The leisure centre is considered to be the main public benefit, together with the creation of a quality usable public open space, an enhanced pedestrian seafront promenade, the cleaning up and bringing back into use a contaminated underused site and better public access to, and interpretation of, the Royal Military Canal. The site is immediately adjacent to the Scheduled Monument of the Royal Military Canal, a nationally important heritage asset, and it is acknowledged that the proximity to the development would result in less than substantial harm to the setting of the heritage asset. Paragraph 134 of the National Planning Policy Framework requires the decision-maker to weigh the public benefits of the development against the less than substantial harm to the heritage asset. The report concludes that the public benefits do outweigh the less than substantial harm that would be caused to the Scheduled Monument and it is recommended that planning permission should be granted.

**RECOMMENDATION: That planning permission be granted subject to conditions, to include a condition to ensure the housing cannot be constructed without the leisure centre; and a S106 legal agreement relating to the affordable housing and public space management, and that delegated authority given to the Development Management Manager to agree and finalise the wording of the conditions and the legal agreement.**

## **1.0 THE PROPOSAL**

- 1.1 The planning application is a hybrid planning application comprising an outline application, reserving all matters for future consideration, for up to 150 residential dwellings (Use Class C3), up to 1,270sqm of commercial uses including a 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 the existing vehicular and pedestrian access and highway layout within and around the site, site levelling and groundworks, and all necessary supporting infrastructure and services. The detailed element of the application is for a 2,961sqm leisure centre (Use Class D2), including associated parking, open spaces and a childrens' play facility.
- 1.2 The outline aspect of the scheme is defined by a series of parameter plans and diagrams, which define the key spatial relationships of the proposals. The application site is broadly split into eastern and western development zones, as well as the leisure centre area, with the eastern zone to be at least 25 metres from the northern boundary of the site and the western zone to be at least 39 metres from the northern boundary. All development is proposed to be set back at least 12m from the sea wall on the southern side.

- 1.3 Approximately 4.92Ha of public open space is proposed for the application site, with almost half of the site retained as open space. This would comprise:
- An informal space at the western end potentially containing a strategic play space of at least 1,020 sq metres, with the re-provision of the 275 sq metres of existing play space at the eastern end;
  - A central open space linking to the existing footbridge connecting to Seabrook Road;
  - A linear open space running along the northern edge of the site connecting these two larger spaces;
  - A hard landscaped space east of the proposed leisure centre that will host the relocated existing childrens' play area;
  - The promenade, which will be approximately a kilometre of widened public promenade for walking, running, cycling and sitting.
- 1.4 The proposal also involves the realignment of Princes Parade highway from its current position adjacent to the promenade, to the northern boundary of the site adjacent to the Royal Military Canal for part of its length. It is intended that the speed limit will be reduced from 40 to 30 mph and the road traffic-calmed. The proposed development and the Royal Military Canal sluice valve will be accessed from the re-aligned road.
- 1.5 Up to 150 new homes are proposed, of which 30% are to be affordable. It is expected that apartments will make up a large proportion of the new homes on the eastern part of the site, with predominantly terraced and semi-detached houses on the western part, although the final housing mix will be the subject of reserved matters submissions.
- 1.6 The 1,270sqm of commercial uses are envisaged as being accommodated within a single building overlooking a central open space, in the form of ground floor restaurant/café/shops and a small boutique hotel on the upper floors although, again, this would be the subject of a subsequent reserved matters submission.
- 1.7 Public parking would be provided for access to the beach, with 103 spaces in total proposed; 32 in formal on-street bays alongside the linear park section of the re-aligned road and 71 in a new car park to the south of the western open space. Disabled parking spaces will be provided on the eastern part of the site. Informal on-street parking will remain on the section of Princes Parade that is not to be re-aligned. The 23 spaces in the existing Sea Point car park at the eastern end will be incorporated into the car park for the proposed leisure centre.
- 1.8 Height parameters have been proposed for the outline area with the key principles being:
- All development set at a finished floor level (FFL) of 7.8 metres AOD;
  - Buildings immediately to the west of the proposed leisure centre in the eastern development zone to be up to three storeys / 12 metres in height / 19.8 metres AOD, increasing to four storeys moving

westwards for the buildings fronting the promenade, but with the same maximum overall height;

- Buildings facing the canal in the eastern development zone to be up to a maximum of three storeys / 9 metres in height / 16.8 metres AOD;
- Buildings facing the sea in the eastern development zone to be up to four storeys / 12 metres in height / 19.8 metres AOD;
- Buildings in the western development zone to predominantly be up to 2.5 storeys / 9 metres in height / 16.8 metres AOD at the western-most end and rear of the site, accommodating 3 storeys facing the sea but at the same height;
- The commercial building on the central open space to be a maximum of four storeys and 12 metres, dropping to three storeys moving northwards.

1.9 The detailed scheme for the leisure centre would comprise:

- A 25m x 6 lane swimming pool;
- Seating for approximately 100 spectators;
- A 12m x 4 lane teaching pool;
- A 100-station fitness suite;
- Dance and exercise studios;
- Wet and dry changing facilities;
- A café, reception, kitchen and staff facilities; and ancillary plant, storage etc. areas.
- Landscaped external areas, including play space

1.10 The leisure centre is proposed to be a two-storey building to the seaward (southern) aspect, with a cantilevered first floor element, angle splayed on all four sides and containing the dry facilities of the fitness suite and studios, dry change area and spectator seating. The ground floor would contain the wet functions (pools and changing area) along with the café, reception, plant and stores. The pool hall on the northern aspect is proposed to be single storey with a sloped, 'green' roof, reducing in height towards the canal.

1.11 At its highest point, the leisure centre would be 8.5 metres above external finished floor level. The ground floor of the two-storey element would be finished with stone-filled gabions, whilst the first floor would be clad with timber. The single-storey pool hall would be predominantly glazed, with anodised aluminium soffits and a 'green' living roof.

1.12 The main entrance would be located on the eastern façade giving access onto an area of public realm with a re-provided play area and, via a set of steps, the promenade to the south. This would be adjoined further to the east by parking for 62 cars, occupying the area between the promenade and the re-aligned road. Parking for a further 69 cars, together with access for servicing, would be located to the west, behind the eastern extension of the proposed residential development. In total, 108 spaces are provided for the new leisure centre, 7 of which are disabled parking bays and 23 spaces for the replacement of the existing public car park (which has 2 disabled parking bays). A drop-off coach bay is also proposed adjacent to the western car

park, accessed directly from the proposed realigned road. Hard landscaping would comprise:

- Concrete entrance steps with stainless steel nosing and handrails;
- Timber post retaining wall with stainless steel guard rail above;
- Timber seating;
- Gabion / timber wind breaks (shelter for tree / shrub planting);
- Gabion walling with stainless steel guardrail;
- Resin bound gravel surface with cobble trims / margins to the 'square';
- Resin bonded gravel surface with exposed aggregate kerbing and cobble trims (car park);
- Rock bollards.

1.13 For soft landscaping, a range of trees and shrubs suitable for a coastal location are proposed, with the final location and species mix to be agreed via condition, should planning permission be granted.

1.14 The development is proposed to be phased, but the original phasing plan submitted with the application has now been updated as follows:

|         |                            |  |
|---------|----------------------------|--|
| Phase 1 | September 2019 – June 2020 | Site remediation works   |
| Phase 2 | October 2019 – May 2021    | Construction of leisure centre;<br>Realignment of Princes Parade and construction of western car park;<br>Relocation of existing rising main along realigned Princes Parade;<br>Provision of new promenade;<br>Construction of new linear park |
| Phase 3 | November 2020 – May 2022   | Construction of character area east (residential) and central open space   |
| Phase 4 | May 2021 – October 2022    | Construction of character area west (residential and commercial) and western open space  |

1.15 The following documents have been submitted with the planning application:

- Environmental Statement Main Report;
- Environmental Statement Non-Technical Summary;
- Planning, Design and Access Statement;
- Technical Annex 1 Scoping;
- Technical Annex 2 Cultural Heritage;
- Technical Annex 3 Ecology;
- Technical Annex 4 Flood Risk;
- Technical Annex 5 Geo-Environment;

- Technical Annex 6 LVIA (Landscape and Visual Impact Assessment);
- Technical Annex 7 Socio-Economics;
- Technical Annex 8 Transport;
- Technical Annex 9 Lighting;
- Energy Statement and Low & Zero Carbon Technologies Feasibility Study, Shepway Leisure Centre;
- Plans of the proposed leisure centre;
- Parameter plans (extent of development, land use, building heights and massing, access and movement);
- Landscape drawings;
- Levels survey.

1.16 Following consultation responses the following further documents have been provided and are subject to further consultation:

- Additional information & clarification Mar 2018 Covering letter - additional information;
- Additional information & clarification Feb 2018 Appendix 01 Heritage;
- Additional information & clarification Mar 2018 Appendix 02 Heritage;
- Additional information & clarification April 2018 Appendix 03 Viability Cost Appraisal Report;
- Additional information & clarification Feb 2018 Appendix 04 Ecology KCC / EA;
- Additional information & clarification Feb 2018 Appendix 05 Ecology KWT / CPRE;
- Additional information & clarification Feb 2018 Appendix 06 Lighting impact assessment;
- Additional information & clarification Feb 2018 Appendix 07 Ecological impacts of lighting;
- Additional information & clarification Feb 2018 Appendix 08 Transportation;
- Additional information & clarification Feb 2018 Appendix 09 Road safety audit.

1.17 The submission of additional information to address specific consultee comments was prompted following discussions with the applicant and the documents are listed below:

- Appendix 1 - Indicative Surface Water Drainage Strategy;
- Appendix 2 - Significance Criteria;
- Appendix 3 - Princes Parade Consultation Summary;
- Appendix 4 - Princes Parade Mitigation Schedule;
- Appendix 5 - Ecological Mitigation Strategy;
- Appendix 6 - Reptile Report;
- Appendix 7 - Badger Report.

## **2.0 SITE DESIGNATIONS**

2.1 The following apply to the site:

- Inside local plan defined settlement boundary.
- Area of Archaeological Potential;
- Flood Zones 1, 2 & 3 of the Environment Agency Flood Risk maps (partial);
- Immediately to the north of the application site boundary is the Royal Military Canal Scheduled Monument (SM);
- Immediately to the north of the application site boundary is the Local Wildlife Site (LWS), which follows the Royal Military Canal;
- Saved Local Plan Review policies LR9 (public open space) and TM8 (allocation of site for recreation and community facilities)

### **3.0 LOCATION AND DESCRIPTION OF SITE**

- 3.1 The 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. To the west is the Hythe Imperial golf course and Hotel Imperial with the recent residential development to the rear. To the east is the recently completed block of apartments, Olivia Court, with a petrol filling station and restaurant beyond.
- 3.2 At the eastern end of the site is a small visitors' car park, childrens' play area and temporary accommodation for the Seabrook Canoe Centre. Public Bridleway HB83 runs along the northern extent of the application boundary/southern side of the RMC, with the National Cycle Route 2 Bridleway along the southern edge, on the existing promenade.
- 3.3 The majority of the application site is covered in scrub vegetation and is relatively flat, although the former use as a waste disposal site and the past dredging of the canal has raised the ground level by approximately 3.5 metres above the adjacent canal and golf course and resulted in widespread ground contamination. The main promenade and road sit at approximately +6.8 metres (AOD) and the site ranges between +6.5 metres and +8.0 metres AOD. The site drops sharply along the northern boundary, forming a vegetated slope where it meets the canal tow path (HB83). The site covers 10.07 Ha of land owned by the applicant, Folkestone and Hythe District Council.
- 3.4 Access to the interior of the site is heavily curtailed by the vegetation and lack of paths, with the main access across the centre of the site being via the existing path leading to the Seaview Bridge connecting to Seabrook Road. A similar path to the Seabrook Lodge Bridge exists at the western end of the application site.
- 3.5 The 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.

#### 4.0 RELEVANT PLANNING HISTORY

- 4.1 Outline planning permission (86/757/SH) was granted in 1986 for a marina and associated residential, commercial and leisure facilities and was varied under 92/0623/SH. It is not a material consideration in relation to this current application due to the time period that has elapsed since it was granted, as there have been significant changes in planning policy and other material considerations since then.
- 4.2 Immediately adjacent to the application site, at the eastern end immediately adjacent to the area proposed for the leisure centre and associated access and parking, permission was granted under application reference Y14/1248/SH, for the erection of a building for canoe training to house the Seapoint Canoe Centre, which currently operates from temporary metal sea containers that are positioned in the eastern end of the public car park. The facility will provide changing rooms, showers, an office, a small meeting room, two store rooms and a fenced compound to securely store canoes and ancillary equipment. The new building will be cut into the existing embankment and the roof will be a 'green' Sedum roof.

#### 5.0 CONSULTATION RESPONSES

- 5.1 Consultation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below.

##### 5.2 Hythe Town Council

Support

Members raised specific concerns regarding avoidance of damage to or contamination of the Royal Military Canal, associated with the leisure centre works

Chairman's note: many concerns and objections were raised regarding the outline planning element of the application regarding residential dwellings, commercial uses and landscaping etc.

Following an Extraordinary meeting of Hythe Town Council on 12.04.18, Councillors resolved:

That until a full financial disclosure of the viability and cost appraisal report is received – even if it is confidential to members – from Folkestone & Hythe District Council, Hythe Town Council reserves its right to rescind its previous decision of support.



5.3 Sandgate Parish Council

Object

- The proposed development would cause 'serious and unjustified harm' to the Royal Military Canal;
- The proposed heritage benefits of improved public access and interpretation of the RMC must not be offset against the serious harm as they do not flow from the development;
- The application omits how the development meets the NPPF (section 12) requirement to conserve heritage assets, including their setting, in a matter appropriate to their significance;
- A swimming pool site is available at Martello Lakes and would be available by 2020, which is realistically before any construction could take place at Princes Parade;
- Loss of one of the 'finest vistas in the district' and a well-used open space;
- Degradation of wildlife including migratory birds and habitats;
- Sets precedent for further development to the west;
- Not sustainable development as defined by the NPPF in reference to the positive contribution that heritage assets make to sustainable communities;
- To the re-routing of the road;
- Japanese Knotweed has been reported and eradication should be a pre-condition of any planning application;
- No social housing proposed in the development, with up to 45 proposed as affordable, but without unit costs, which are likely to be outside of what is reasonably considered affordable;
- Risk of contamination to surrounding areas during clearance and construction;
- A funding gap remains for the swimming pool, with no answers to how that funding gap will be met;
- The application should be referred to the National Planning Casework Unit for the Secretary of State to consider.

5.4 KCC Highways and Transportation

11.04.18

No objection subject to conditions covering:

- Hard and soft landscaping plan showing details of surfacing materials and planting abutting the public highway;
- Street lighting plan within the public highway;
- Construction management plan;
- Measures to prevent the discharge of surface water onto the highway;
- Provision and retention of parking spaces;
- Provision and retention of cycle parking facilities;
- Provision and retention of visibility splays;

- Use of a bound surface for the first five metres of the access from the edge of the highway.

16.07.18

Having reviewed the recent additional supporting information, I can confirm that with respect to highway matters, I have nothing further to add to my previous response.

## 5.5 Historic England

26.10.17

Object. The Royal Military Canal is a scheduled monument and its conservation warrants great weight in any planning decision. It is also part of a related group of heritage assets the significance of which would be diminished if the proposed development were to go ahead. We believe that this proposal would cause serious and unjustified harm to the significance of the RMC and its associated monuments, as a consequence of the proposed major change affecting the setting. We do not consider that the heritage benefits claimed in mitigation of this harm are sufficiently closely related to the proposed development for them to be legitimate part of a planning decision. Overall, the harm is agreed to be 'less than substantial' within the meaning of the NPPF, but consider the overall level of harm would be serious.

13.04.18

We sustain our objection to this proposed development. Despite the additional information, we consider the proposal continues to fail to comply with the requirements of the NPPF and that the level of unjustified harm to the historic environment is so serious that it should not be approved.

The applicant states that the setting has already been compromised by existing development. We disagree and think that the surrounds of the site have not passed a tipping point beyond which it is no longer possible to understand the design intentions of the canal as a fortification and its strategic relationships to other contemporary military monuments. If the development is permitted a tipping point would be exceeded and for this reason the level of harm that would be caused is considered serious.

Clear and convincing justification for the harm to be caused has not been provided and the more important the asset, the greater the weight to be given to its conservation. Scheduled monuments are nationally important heritage assets and thus a designation of the highest order.

Assessments provided focus too much on the visual aspects of setting and not enough on how the significance of the heritage asset is currently appreciated. Although much has changed since the 19<sup>th</sup> century, the fundamental components of the beach and open land before encountering the canal remain.

We disagree with the analysis of views from within some parts of the scheduled monument or from the associated other scheduled monuments which combined to create a defensive system. The proposal will feature in westward and seaward views, whilst views from the golf course, where land-raising is not present, allows enhanced appreciation of the monument. Views from Martello No.9 would not have been through trees, a consequence of its present day abandonment, so do not represent the appropriate setting. Without trees, the canal may appear as a strong linear feature.

In relation to heritage benefits, improvements to the RMC and its interpretation would be welcomed, but it is not accepted that the development is the only way such public benefits can be implemented. It is felt that the £120,000 estimated for 'heritage works' could be within the scope of the local authority. Heritage benefits are a form of public benefit but very little weight can be placed upon the development as the justification for these.

The viability cost appraisal has not been assessed as per enabling development, which is only referenced in the NPPF in relation to the historic environment as development to secure the conservation of a heritage asset, which cannot be applied in this instance. It is felt that the public benefits can only be provided at the expense of serious compromise of to the public interest, making it unsustainable. Remediation costs are identified, but it is not clear whether these costs would arise whether the site is developed or not. Are contamination issues required to be addressed, or are the works voluntary?

13.07.18

The further information now provided does not lead us to change our assessment of the harm to the historic environment that would be caused by the proposed development and therefore our objection to it still stands.

The surface water drainage strategy confirms disposal into the Royal Military Canal, with three locations where pipes connections would be required. Such works would require Scheduled Monument Consent, sought should the proposal meet the reserved matters stage. Flooding is one of the activities requiring consent under S2 of the 1979 Ancient Monuments and Archaeological Areas Act. A detailed strategy will need to demonstrate that it does not result in the flooding of the monument.

As the location of badger setts is redacted it cannot be certain whether these are in the scheduled area. Any work to close setts should be checked against the scheduling map in order not to raise any consent issues.

## 5.6 KCC Archaeology

Object

- The site makes a positive and significant contribution to the setting of the scheduled monument of the Royal Military Canal and the asset derives considerable significance from this setting. The change from undeveloped land to a character defined by development will be harmful to the understanding of the function of the canal and therefore harmful to the significance of the designated heritage asset. As such our advice is that the development proposals will cause substantial harm to the setting of the Royal Military Canal, will diminish the sense of the canal being a barrier and reduce the ability to understand the defensive function of the asset. Whilst the development will result in substantial harm to the setting of the Royal Military Canal, it is suggested that overall the development will result in less than substantial harm to the significance of the heritage asset. This is because the physical fabric of the canal will be unaffected;
- The applicant has proposed a number of heritage benefits that could be delivered, however even if delivered in full they would do little to balance against the much greater harm of the proposed development. Furthermore it is suggested that the proposed heritage benefits are not 'directly related to the development' and thus should not be a factor in weighing the balance of whether or not planning permission should be granted;
- Other proposed benefits, such as the contribution that the site would make to the district's housing needs would need to be objectively considered in the context of the emerging local plan and partial review of the Core Strategy. We remain of the opinion that alternative sites for development housing should be preferred on heritage grounds;
- Buried archaeology was not considered to be a major factor or constraint and therefore was largely scoped out of the environmental assessment process. Nevertheless the applicant has identified that the proposed development site may contain buried archaeological remains associated with the Royal Military Canal. In this instance the applicant has suggested that the direct impacts of the scheme on buried archaeological remains could be addressed through mitigation measures secured as part of any planning consent. We are satisfied with such an approach and would suggest that such mitigation measures could be secured by condition.

## 5.7 KCC Ecology

31.10.17

Additional information is required prior to determination of the planning application.

**NVC (National Vegetation Classification) Survey** - The NVC surveys have resulted in different conclusions to the ARCH (Assessing Regional Habitat Change) habitat surveys. The ecologists have assessed that as the site was a former landfill site they believe it unlikely that sand dune habitat is present on the site. Please provide a map clearly showing the boundary of the extant landfill site to enable us to understand if all the habitat within the site has been established on the disused landfill site.

**Wintering Birds** - We advise that additional information is provided detailing why the ecologists do not believe there is a requirement for a full wintering bird survey to be carried out – we highlight that due to the time of year the ecologists must consider undertaking at least one survey visit as part of this assessment. The visit will help them support their conclusions or identify the need for a full survey to be carried out.

**Ecological Mitigation** - An outline mitigation strategy has been submitted with the planning application and we advise that it is not sufficient to demonstrate that the ecological interest of the site will be maintained if planning permission is granted.

**Reptiles/Amphibians** - We advise that there is a need for additional information to be submitted detailing how the reptile/amphibian population will be mitigated for if planning permission is granted with regard to the potential receptor site to the north of the canal.

17.04.18

We have reviewed the additional information submitted and we advise that our previous comments have not changed significantly.

The NVC surveys have resulted in difference conclusions to the ARCH Habitat surveys and the additional information provided by the ecologists have not satisfied us why they are satisfied that it is unlikely that sand dune habitat is present on site.

**Ecological mitigation** - An outline mitigation strategy has been submitted with the planning application and we advise that it is not sufficient to demonstrate that the ecological interest of the site and adjacent Local Wildlife Site will be maintained if planning permission is granted. We advise that as the vegetation clearance will be carried out within phase 1 there is a need for a detailed mitigation strategy to be submitted prior to determination and we recommend that the following is included:

- Enhancements of habitats outside the footprint of the proposed development;
- Confirmation that habitat creation works will be carried out within the site upon completion of the remediation works (if granted);
- Plan clearly showing the minimal area of habitat creation and the habitats to be created.

**Reptiles/Amphibians** - Additional information has been provided confirming that the proposed receptor site contains suitable reptile habitat and it is proposed that that enhancement works will be implemented to increase the carrying capacity of the proposed receptor site. As the proposed development will result in a loss of 1.4ha of reptile habitat and the surveys recorded good populations of slow worms and common lizards and low populations of grass snakes we raise further concerns that the site will not be able to enhanced sufficiently to support the reptile population. We advise

that there is a need for a reptile survey to be carried out prior to determination of the planning application to enable us to fully assess whether the proposed mitigation is appropriate.

**Lighting** - there will be a significant increase in lighting within the site and we are not satisfied that the submitted information has fully assessed the ecological impact due to the increase in lighting. The submitted information has recommended the inclusion of a condition that there will be maximum illuminance level of less than 1lux upon the canal path and embankment – we query if this is something that can actually be achieved via a condition particularly when you consider the proposed road requires lighting.

18.07.18

We have reviewed the additional information submitted and we advise that our previous comments have not changed significantly.

We accept that the surveys provide a good understanding of the species present within the site and we currently do not require the submitted specific species surveys to be updated at this stage of the planning application.

We highlight that the proposed development will result in a loss of suitable habitat for protected/notable species (including foraging and commuting habitat). The submitted information has made recommendations for ecological mitigation which we largely accept, however we highlight that our main concern is the lack of certainty of when the habitat creation works will be implemented. We advise that there is a need to create the wildlife habitats within the 2nd phase.

We advise that if planning permission is granted there is a need for the following conditions to be included:

- Updated ecological surveys at the commencement of each phase;
- Habitat creation plan – clearly setting out the habitats that will be created during phase 2;
- Detailed lighting strategy;
- Ongoing monitoring to demonstrate the mitigation has been successful;
- Review, update and Implementation of ecological mitigation strategy at each phase;
- Landscape Ecological Management Plan.

### **Ecological Mitigation**

All existing vegetation will be lost due to the proposed site remediation works within the first phase and the development will commence in 3 subsequent phases. It is intended to create the linear park (running East to West) during the 2nd phase when the leisure centre and road realignment is being implemented.

As the linear park will create a vegetated buffer between the proposed development site and the LWS we are supportive of this approach however we do raise concerns that there will be no habitat creation works within the rest of the site until phases 3 and 4 are implemented.

As it is currently understood what habitat creation is required, particularly within the western park, to provide habitat for the protected/notable species recorded within the site and retain connectivity throughout the site we suggest that there is a need for these habitats to be created as soon the remediation works have been completed to provide plenty of time for the vegetation and habitats to have established prior to the occupation of the development. If there is a delay to works commencing in phase 3 and 4 it will not affect the implementation of the habitat creation works.

We advise that if planning permission is granted there is a need for the habitat creation and ecological enhancements areas to be implemented during phase 2.

#### *NVC surveys*

The NVC surveys have resulted in difference conclusions to the ARCH Habitat surveys and the additional information provided has not satisfied us why it is unlikely that sand dune habitat is present on site. Historic landscape plans indicate that the majority of the area was used as landfill, however if sand was used during the capping process it is possible that the habitat established on site.

The ecological mitigation strategy has indicated that different habitats can be recreated within the proposed development (for example maritime grassland species) which must be demonstrated within a habitat creation plan. The mitigation strategy confirms that a green roof will be created on the leisure centre roof and we advise that the species composition to be included within the site must be based on the results of the botanical surveys.

#### **Reptiles and amphibians**

The submitted information has detailed that the proposed receptor site is located to the north of the canal. We raised concerns that the site already has suitable reptile habitat and it is likely that reptiles (and amphibians) are already present within this site. A reptile survey has been carried out within the proposed receptor site and it has confirmed that low numbers of grass snake were present during the survey and accept that if managed correctly in the long term, the proposed receptor site is sufficient to support the reptile population recorded within the proposed development site. There is a need for a receptor site management plan to be produced and implemented as a condition of planning permission.

The proposed development will result in a loss of terrestrial habitat and connectivity within the whole site and the wider area for the population of breeding toads and may have a significant impact on the toad population. To minimise the impact there is a need to ensure the habitat creation works

throughout the wider site and providing site wide connectivity. As detailed above there is a need for habitat to be created within the wider site as soon as possible and ensure that the drainage scheme will not negatively impact the toad population. Where gully pots are required wildlife kerbs are also used. Gully pots must not be offset from the kerbside as this is not supported by the Sustainable Drainage Team.

The proposed road is between the development and the Royal Military Canal with a risk of toad mortalities as they commute between terrestrial habitat and the canal. Wildlife tunnels should be located under the road to enable safe movement across the road and we advise that the information relating to this point can be addressed as part of the reserve matters applications.

### **Badgers**

There is a disparity between the submitted badger report and the ecological mitigation strategy which needs to be resolved. The report details the following:

- Sett A will be retained;
- Sett B will be lost and an artificial sett created.

However no information has been provided on the location of the proposed artificial sett. The badger report just details that further information will be in the NE licence or in the ecological mitigation strategy - however the ecological mitigation strategy just refers to the badger survey report.

It is intended to retain Sett A however it's not clear (as the maps are blacked out) where the setts are located and if they are located within the area which needs to be capped. If the sett is within the area that needs to be capped we query how it can be retained within the development site. Therefore we have insufficient information to satisfy us that the proposed badger mitigation is appropriate and implementable.

As discussed above, if planning application is granted, the development will result in a loss of habitat and it is intended that the majority of the habitat creation works will not occur until phase 3 or 4. Therefore there will be a delay in the creation of suitable foraging habitat and (depending on the location of the sett) there may be limited connectivity to and from the new sett.

We advise that the information submitted is not sufficient and there is a need for an updated mitigation strategy to be submitted to satisfy us that the badger interest can be maintained.

### **Lighting**

In respect of the concept lighting design strategy, KCC Ecological Advice Service have noted that there will be an increase in lighting within the site, which will spill in to the adjacent LWS, but accept that there is a need.



Due to the ecological interest of the site and surrounding area the lighting should be designed with ecology as the major constraint and if planning permission is granted, a detailed lighting plan should be submitted demonstrating that there will be minimal light spill in to the areas of ecological interest.

## 5.8 Natural England

### **Statutory nature conservation sites – No objection**

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Seabrook Stream SSSI has been notified.

### **Protected landscapes**

The proposed development is for a site within or close to a nationally designated landscape namely Kent Downs AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal.

### **Protected Species**

We have not assessed this application and associated documents for impacts on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

### **Biodiversity enhancements**

The application may provide opportunities to incorporate features into the design which are beneficial to wildlife, and the authority should consider securing measures to enhance the biodiversity if it is minded to grant permission.

### **Landscape enhancements**

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature.

## 5.9 Kent Wildlife Trust

12.10.17

### Object

The maritime grassland community appears to be completely lost in the proposal. The Lloyd Bore report suggests that the presence of landfill precludes any 'fixed dune' habitat. It should be accompanied by evidence of contaminated land studies and detailed habitat survey across the site in order to support this assumption. Presence of breeding and migrating toad

routes do not appear to have been taken into consideration in the overall design.

The proposals are not accompanied by an effective ecological buffer to the Royal Military Canal, which is crucial to prevent any degradation of the Local Wildlife Site (LWS). The buffer needs to be of adequate width throughout (ideally 15m) and include detail of appropriate planting of local provenance suitable for habitat type.

Full consideration has not been given to the value of the site and the adjacent LWS for migratory and wintering birds. The breeding bird summary is disappointing as it attached little significance to the loss of breeding bird habitat.

The site and adjacent LWS represent significant local and county value and should be more strongly protected by the LPA.

09.04.18

Object

The responses to the KWT concerns take the form, primarily, of an explanation and defence of the original ecological evidence and its evaluation. Our objection, however, calls upon the applicant to undertake a review of the scheme design, especially in the introduction of roads, buildings and external lighting in very close proximity to the Royal Military Canal Local Wildlife Site.

It is agreed that the maritime grassland (and fixed dunes) is of 'ecological importance at the local level' but the suggestion that it is then only of 'low' importance fails to acknowledge the fact that supralittoral sediment is a Habitat of Principal Importance in the UK for the purposes of s41 of the NERC Act.

#### 5.10 Council for the Protection of Rural England (Kent)

Object

Botany report

- The survey area is less than 1% of the site area and does not give a fair or true indication of flora on site;
- The timing of the survey does not take into account flora that flowers outside of the months, but that are present on site;
- The presence of the 'fixed sand dune' habitat (a UK BAP Priority Habitat) is recorded;
- Bee orchids may not continue to thrive and may disappear.

Invertebrate report

- Although the survey was within the recommended survey calendar of April to September (17<sup>th</sup> and 26<sup>th</sup> May and 27<sup>th</sup> July 2016), the optimal time for invertebrates is between June and August, so only one of the surveys was during the optimal period, which may influence the quality and type of species in these times.

#### Amphibian report

- The survey approach taken for common toad tends to underestimate populations and it may be that there is a 'good' population in existence on this site.

#### Reptile report

- It is likely that there is an 'exceptional' population of slow worm on the site, as the full application site and RMC wasn't surveyed;
- No survey for swimming reptiles was undertaken, just basking (grass snakes can be found swimming);
- There was an insufficient number of artificial cover objects deployed for the survey, given the site area;
- Common lizards tend to use artificial cover sites less than other species so the population may be higher than recorded.

#### Breeding bird report

- There were no night surveys carried out, so there is no data for owls;
- The claim in the Lloyd Bore report that the site is not suitable for use by passage or wintering species associated with the Dungeness and Sandwich Special Protection Areas (SPA) is doubtful given the observations of local ornithologists.

#### Mammal report

- The claim that the proposal will not impact upon the northern bank of the canal, with limited impact upon the south, is questioned given the sensitivity of the adjacent LWS, with light pollution, domestic cats/dogs, activity, noise and pollution all having an effect;
- There are suitable methods for surveying hedgehogs, contrary to the Lloyd Bore report, and it is likely that hedgehogs are present on site.

#### Bat report

- There is a significant, diverse and viable population of bat activity on site and the development with associated lighting, noise, domestic predators (cats) and pollution is likely to have a detrimental effect. The site is also unlit with a likely abundance of prey food.

*Historic Buildings Committee*

Object

There would be an unacceptable impact upon the setting of the nearby heritage assets, namely the Royal Military Canal (RMC) and its associated fortifications.

There is a loss of openness of the view from the RMC toward the sea already as a consequence of historic landfill operation, but the proposal is an order of magnitude greater in terms of harm. We feel impact in views from the hills to the north has not been properly assessed, whilst an appreciation of the defensive nature of the RMC that can be obtained from viewpoints not accessible to the general public have also not been considered, along with publicly accessible views from Hospital Hill.

The eastern end of the canal has a military significance out of proportion to its size. There are still views from the Drawbridge Redoubt onward to the sea. It seems that ground levels are to be raised some 2 metres higher than existing levels with car parking and hard and soft landscape features above that level, totally obscuring that view, with the leisure centre intruding into the field of view also. The Consideration should be given to locating some or all of the open space at the west end of the site to the east. Views from Hospital Hill are not as badly obscured as the applicant implies, giving a good sense of relationship between the redoubt, the field of fire and inter-visibility with Martello No. 9.

If the drawbridge redoubt was considered as a stand-alone heritage asset, it derives its significance from its setting, with the proposal causing considerable harm to that significance.

The intention to make good some deterioration of nearby fortifications is welcomed but more precise detail is required.

CPRE object to the development within the immediate setting of a designated heritage asset namely, the Royal Military Canal, which is a scheduled ancient monument, together with the loss of open space. Even if the harm is found to be less than substantial within the terms of the NPPF, it cannot be assumed that public benefits will be capable of decisively outweighing any harm.

A 2014 Lee Evans Partnership report recommended that Shepway DC omit housing from any plans as they thought it unlikely that the necessity for the same could be proven, given the availability of sites elsewhere. Previous Planning Inspectors have rejected plans on the site, before the current proposal for 12500 dwellings at Otterpool Park Garden Town. It is considered that there are alternative less harmful locations for new housing.

CPRE is also concerned at the loss of open space and that the LPA cannot demonstrate that they have provided an adequate alternative level of open space in the area, contrary to saved policy LR9.

#### 5.11 Arboricultural Manager

No objection.

5.12 KCC Flood and Water Management

10.10.17

No objection

We agree with the report proposal for a drainage strategy with direct discharge to the sea. In the case of direct discharge into any water environment it is important to consider the management of surface water quality. This is a matter which would be addressed at detailed design. As this is a hybrid application we would anticipate that the drainage design shall be suitably phased to provide surface water management for any earlier works or phases which are progressed on site.

Conditions required for:

- A detailed sustainable surface water drainage scheme;
- Details of the implementation, maintenance and management of the approved sustainable drainage scheme;
- Verification report demonstrating the surface water drainage system has been implemented and operates within approved parameters.

03.04.18

In terms of the drainage strategy, no further comments to make. For the detailed design stage, the drainage system should be modelled using FeH rainfall data. The applicant's calculations in the ES (Technical Annex 4, Herrington Consulting Limited, August 2017) need to be updated.

5.13 Environment Agency

16.11.17

No objection

*Flood Risk*

The site is within an area considered to be at significant risk from flooding, classified as lying within Zone 3a by the Agency's flood risk maps. Detailed hazard mapping within the Shepway Strategic Flood Risk Assessment (SSFRA) shows the site to be outside of the hazard map extents. Therefore we have no objection to the principle of development here providing the LPA is satisfied the Sequential Test has been passed. Acceptable subject to conditions for:

- Ground finished floor levels set at a minimum of 7.45m ODN;
- All development to be set back a minimum of 12m from the existing sea all;

- A 1m high secondary wall be constructed 11m back from the existing sea wall to prevent any localised overland flow reaching the development; and
- A full 8m byelaw margin from top of bank of the Royal Military Canal to the start of any development to be left clear for Environment Agency access;

#### *Groundwater and Contaminated Land*

Planning permission should only be granted subject to the conditions below, as without it, the proposal poses an unacceptable risk to the environment.

- Contaminated land condition;
- Unexpected contamination condition;
- Watching brief during demolition and foundation works;
- Piling or other foundation designs using penetrative methods shall not be permitted other than with express written consent from the LPA;
- Verification report to confirm remediation etc has taken place.

#### *Foul Water Drainage*

This should be directed to foul mains sewer. If this is not the case, then further information will be required.

#### *Surface Water Drainage*

This should be directed toward mains sewerage. If to a surface water sewer then there is no objection and no further consultation is required. However, if this is to be a different method, then further information will be required. There must be no discharge into land impacted by contamination or land previously identified as being contaminated. There must be no direct discharge to groundwater, a controlled water. There must be no discharge to made ground.

#### *Fisheries, Biodiversity and Geomorphology*

The proposed development will be acceptable if a planning condition is included requiring a scheme to be agreed to protect an at least 25m wide buffer zone along the Royal Military Canal, along with one requiring the production of a construction environmental management plan demonstrating how sensitive areas will be protected during construction of the development, and one requiring a scheme to be agreed to ensure the landscape is managed in such a way as to protect and enhance the ecological value of the site.

- 25m buffer zone;
- Construction environmental management plan;
- Landscape management plan.

10.04.18

We have reviewed the additional information and are satisfied with our original response, however we recognise that from the information provided that in certain locations a 25m buffer zone is unattainable, although 20m can

be achieved. As such, the wording of the condition should be changed to include the words 'where achievable'.

5.14 Southern Water

16.10.17

No objection subject to conditions

The exact position of the combined rising main must be determined on site by the applicant before the layout of the proposed development is finalised.

- No development or new tree planting within 3.5 metres either side of the centreline of the combined rising main;
- No new soakaways within 5m of a public combined rising main;
- All existing infrastructure should be protected during the course of construction works.

In order to protect drainage apparatus, if permission is granted a condition should be imposed requiring the developer to advise the local authority (in consultation with Southern Water) of the measures which will be undertaken to protect public sewers.

An initial desk top study indicates that Southern Water cannot accommodate the needs of the development without the development providing additional local infrastructure. The proposal would increase flows into the wastewater sewerage system and as a result increase the risk of flooding in and around the existing area.

An assessment of the available capacity in the local surface water system cannot be undertaken between manholes TR1834885I – TR1834875X as there is currently insufficient data with respect to the invert level and ground level. It is necessary that surveys are undertaken between these locations in order for an assessment of available capacity in the network to be undertaken. Alternatively, the developer can discharge foul and surface water flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul and surface water system.

If development is approved a condition is required for a drainage strategy detailing the proposed means of foul and surface water disposal, together with details of the long term management and maintenance, responsibilities for implementation and timetable for implementation of Sustainable Urban Drainage Systems (SUDS), including any arrangements for adoption by any public authority or statutory undertaker.

Land uses such as general hard standing that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors.

12.04.18

The application details indicate that the proposed means of surface water drainage for the site is via a watercourse. The Council's technical staff and the relevant authority for land drainage consent should comment on the adequacy of the proposal. All other comments in the response of 16.10.17 remain unchanged and valid for the additional details submitted by the applicant.

5.15 RPS (contaminated land consultants)

20.10.17

The recommendations for further works as set out within the submitted reports are accepted, but additional recommendations are made.

- Further assessment / discussion of any alteration to the gas regime resulting from the proposed development. This should include consideration to effects of limiting surface gassing in areas of proposed building and hardstanding cover (potentially inducing lateral migration off site) and the application of additional loading (potentially inducing a temporary increase in gassing);
- Although ground gas is still considered to pose a potential risk to future site users (with further monitoring recommended) there is considered to have been insufficient consideration of potential risks from volatile contaminants of concern within soil and groundwater. A more robust explanation as to why these pathways will not be active upon completion of the redevelopment, using available and future site investigation data, shall be necessary;
- On the basis of the previous reports, the EA are likely to have an ongoing interest with regards to controlled water receptors associated with the site and therefore should be consulted with regards to the current development proposals (including any requirements for further investigations and assessments); and
- The scope for any future investigation / assessment works should be submitted to the Local Authority for approval. The following recommendations are made with regards to the scope of future site investigations:
  - Potential contamination sources introduced since the previous investigations should be targeted;
  - Previously identified contamination hotspots should be targeted;
  - The environmental coverage of the site should be improved in order to supersede the 2002 investigations, the data from which cannot be relied upon based on the time elapsed and improvements in laboratory analysis standards;
  - Further monitoring wells (for ground gas and groundwater monitoring) should be installed, to enable suitable coverage



with consideration to potential source areas (e.g. areas of the greatest thickness of landfilled waste material and previously recorded elevated ground gas concentrations) and the location of proposed buildings;

- On-site screening of soil samples for iVOCs, should be undertaken using a PID;
- Laboratory analysis of soil and groundwater samples should include the previously analysed determinants, as well as VOCs; and
- Evaluation of the site investigation results, including further assessment of risks to the sensitive receptors identified in the ES.

The recommendations above could either be dealt with prior to the planning application determination (by submission of suitable revised / additional assessments) or through the imposing of suitable planning conditions. Further requirements for regulatory approval of a remediation strategy and verification reporting, as well as notification of any unforeseen contamination encountered during groundworks, should be dealt with through the imposing of suitable planning conditions. These planning conditions should seek to ensure that the site is suitable for the proposed use.

02.05.18

RPS has previously undertaken a Formal Second Opinion of environmental reports relating to contamination at the site. The objective was to ensure they were satisfactory in supporting the relevant aspects of the outline planning application Y17/1042/SH.

The recommendations for further works as set out within the reports by Idom Merebrook and Peter Radmall Associates within the ES included further investigation, further assessment and validated clean cover in soft landscaped areas. Additional recommendations from RPS included further assessment / discussion in relation to potential risks from ground gasses and volatile contaminants, as well as consultation with the Environment Agency (EA).

Subsequent to the issue of the RPS Formal Second Opinion letter, comments were received from the Environment Agency proposing phased conditions relating to groundwater and contamination aspects. In summary these conditions included aspects related to preliminary risk assessment, site investigation, detailed risk assessment, options appraisal, remediation strategy, verification plan, dealing with unexpected contamination, watching brief during demolition / foundation works, piling restrictions and verification reporting.

An additional letter was received from the applicant's agent stating that the applicant considers that the geo-environmental conditions proposed by the EA are appropriate and sufficient to address the matters raised in the RPS review letter and that the Council requested a statement outlining the remediation works that would be required to address the existing geo-

environmental conditions even if the proposed development did not go ahead. The applicant's agent stated that their geo-environmental consultants advised that one of the following two measures would be required:

- Introduction of 300mm of clean cover across the entire site;
- Treatment of pathways across the site through the provision of 150mm of imported stone overlying a geotextile layer (to prevent loss and sinking). The remainder of the site would have to be fenced to prevent unauthorised access.

RPS note that the EA's comments relate to potential risks to controlled waters and ecological receptors. Although the EA comments do not specifically relate to risks to human health receptors, the conditions they propose to be placed on the grant of planning permission would likely also be sufficient in ensuring adequate assessment and mitigation (where necessary) of these potential risks.

The proposed mitigation measures (introduction of 300mm clean cover in soft landscaped areas or restricting access to pathways and importing 150mm of stone overlying a geotextile layer in these areas) are considered sufficiently protective of future site users in the event that the proposed development did not go ahead. Should the development proceed, particular consideration would need to be given to assessing and managing the risks from ground gasses and vapours.

#### 5.16 Environmental Health Officer

Environmental Health makes the following recommendations:

**Noise** - The main source of noise will be traffic on the Princes Parade and the A259. A noise impact assessment is therefore required to highlight any potential noise problems and propose suitable mitigation. This assessment must be carried out by a competent person registered with the Institution of Acoustics and needs to be submitted to, and approved by, this Department.

The noise assessment must be carried out in accordance with BS4142:2014. With reference to relevant internal noise level guidance given in BS8233: 2014 and, (particularly regarding night time maximum noise events), WHO 1999; good internal noise levels.

**Dust** - Environmental Health reserves the right to comment on any future construction management plans. The applicant is expected to consider The IAQM (air quality management) – Guidance on the assessment of dust from demolition and construction version 1.1 as part of any future construction management plans.

**Contaminated land** - Conditions and recommendations made by our contaminated land contractors must be adopted and implemented.

Lighting - Environmental Health also accepts the proposed lighting scheme proposed within the Environmental statement technical annex 9 – lighting, dated August 2017. We would highlight the points made in the conclusion of this report; the lighting impact can be further minimised by using accepted methods of lighting control, essentially limiting the luminance and controlling light pollution.

Lighting control should include a combination of photocell control to automatically turn the lighting “on” at dusk and time –clock control to turn “off” post-curfew when the development is not in use. Alternatively passive infrared detectors (PIR) to only activate the lighting temporarily when required to reduce obtrusive light and reduce unnecessary energy consumption or dimming to control the lighting levels. It is in our view that one or more of these methods should be adopted as part of the strategy.

21.11.17

**Noise** - After reviewing further road plans and taking consideration to the proposed speed restrictions, the amount of traffic using this road is unlikely to cause a significant noise issue to the future residents. Therefore a noise acoustic report is not required.

#### 5.17 South Kent Coast Clinical Commissioning Group

05.10.17

A need has been identified for contributions to support the delivery of investments highlighted by our internal Premises Review. This improvement to the primary care infrastructure is expected to result in a need to invest in Oakland Health Centre in Hythe as the closest practice to the development, by way of extension, refurbishment and/or upgrade in order to provide the required capacity.

| Predicted Occupancy rates  | Total number in planning application | Total occupancy | Contribution sought (Occupancy x £360) |
|--|--------------------------------------|-----------------|--|
| 2.8 predicted occupancy as no unit sizes detailed in application | 150                                  | 420             | £151,200                               |

In respect of phasing and patient numbers, the contribution is sought upfront to allow improvement works to be complete in advance of new patients wishing to register and mitigating capacity issues going forward.

Additional comments:

NHS SKCCCG recognises that the provision of leisure centre provides a unique opportunity to address wider health and wellbeing needs for the population that this development will serve. The CCG therefore fully supports the broad aims of the application.

In particular, the use of the proposed facility to deliver outreach services that address wider health and wellbeing needs for the population should be maximised, including rehabilitation clinics to address pulmonary, cardiac and neurological rehabilitation. Dementia cafes could also be run, as well as drop in clinics for wider social needs e.g. social isolation, debt advice and housing advice that can adversely impact mental and physical wellbeing. The available space may need to be flexible enough to allow for clinical use as well as by health and social care practitioners. There is also a potential to link the facility with training opportunities for the health profession. The associated improvements to the natural environment with enhanced open spaces and improved promenade provide additional opportunity to improve physical and mental wellbeing, enabling more social prescribing and supporting an overall ambition for communities to improve levels of physical exercise and reduce ill health.

The SKCCCG would wish to be involved in discussions related to the detailed design and operational specification in order to explore whether the proposals identified above can be incorporated into the service specification that any future operator will be required to deliver.

#### 5.18 Housing Strategy Manager

We would expect this development to provide onsite delivery of 30% affordable housing (60% affordable rent; 40% shared ownership), the units to be delivered by an affordable housing provider approved by the council.

The affordable units should be spread throughout the site in locations approved by the council together with the phasing of the delivery of the affordable units to be agreed by the council.

We also want to explore the options for implementing a local lettings plan to give priority to people with a local connection to Hythe.

## **6.0 REPRESENTATIONS**

6.1 Representation responses are available in full on the planning file on the Council's website:

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

Responses are summarised below.

6.2 In excess of 700 written representations were received objecting on the following grounds:

- Detrimental impact on the setting of the Royal Military Canal, which is a Scheduled Ancient Monument (SAM), as a result of the quantity of development, the relocation of the road and harm to the significance of the Canal and its relationship with other features and monuments;
- The high density of the development

- Poor design, appearance and materials;
- Impact on local nature conservation and loss of open space contrary to saved policy LR9 of the Shepway District Local Plan Review;
- Lack of access for disabled persons;
- Contrary to saved policy TM8 which requires development to enhance the appearance of the Canal and the coastline;
- The proposed development would be subject to an unacceptable level of flood risk;
- Affordable housing provision is too low to deliver significant social benefit;
- Loss of dark sky views as a result of light spill;
- Land stability concerns;
- Suitability of land for building given the presence of canal dredgings;
- Impact on public health due to loss of open recreation space;
- Contamination issues around the site's former use for landfill;
- Pollution as a result of the relocation of the road and the intensive development of the site;
- There are alternative sites available in the district which would be better suited for development;
- Increase in traffic generation from the site, congestion of existing road network and lack of space to provide suitable parking provision;
- Detrimental impact on biodiversity and protected species/wildlife;
- Detrimental ecological impact, particularly as a result of the relocated road disturbing a large badger sett and disturbance to bats as a result of light pollution, loss of habitat for reptiles and migratory birds;
- Certified evidence should be provided of the removal of Japanese Knotweed from the whole site;
- Increase in noise disturbance;
- Overshadowing of neighbouring land to the detriment of amenity;
- Highway safety issue outside existing school;
- Concern around the feasibility of provided safe visibility splays from access points;
- Lack of legibility, permeability and safe pedestrian access;
- Concerns around additional burden on the mains drainage system;
- The application has not demonstrated that the site is a sequentially preferable location in relation to flood risk;
- Height of buildings will visually dominate the skyline;
- No reference to responsibilities under the Equality Act 2010;
- Questioning the accuracy of the Viability Cost Appraisal;
- The proposed timescales for development are unrealistic;
- Concerns with drainage strategy for development as the site was used for silt dredged from the Royal Military Canal;
- The proposed realignment of the road will have a negative impact on canal path users contrary to government health and wellbeing agendas.

6.3 In excess of 170 written representations were received in support of the proposal on the basis of the material planning considerations summarised below:

- The regeneration of the disused site will provide a new pool/leisure centre which will benefit the local area;
- New facilities will attract visitors;
- The development will encourage local sport facilities;
- Provide investment in the local area;
- Provide affordable and social housing;
- The development will boost the local economy.

6.4 Representations received from Save Princes Parade residents group objecting on the following grounds:

- The lack of detail regarding the proposed realigned road makes assessment of impact upon the Scheduled Monument impossible;
- The road will be higher than the canal tow path and will be detrimental to the tranquillity of the canal;
- The proposal would have an adverse effect upon the setting of the Scheduled Monument;
- The proposed open space will cover only 20% of the site and would be contrary to saved policy TM8 that requires the majority of the site to be left open;
- The proposal would not be small scale or low rise, contrary to saved policy TM8;
- The element of the promenade that already exists cannot be said to add to the open space;
- The proposed development will form an isolated island;
- The leisure centre and houses could be located elsewhere;
- The proposal does not enhance the appearance of the canal or coastline;
- Contrary to save policy LR9, the proposal will reduce the amount of open space and only meets the needs of the proposed population;
- Unacceptable loss of environmental quality;
- Lighting will be introduced to an area where there is currently none;
- The application is contrary to the NPPF as the proposed use is not in the Town Centre, and there is already a site identified for the use in the adopted Development Plan;
- The Nicholls Quarry site is in a more suitable location and Council sequential testing was not rigorous;
- The Council's Annual Monitoring Report identifies a seven year land supply for housing, so there is no overriding need to build on Princes Parade;
- Enabling development is only relevant to historic buildings and is not a material consideration;
- The Council is circumventing the Plan led system;
- The site was rejected by the Inspector at the 2004 Local Plan Inquiry and this view remains a material consideration;
- The Council has not met its obligations under the Environmental Protection Act to remediate the harm created by the waste tipped on the site;
- The state of the site is a consequence of neglect by the Council and should not be taken into account;

- The site is vulnerable to flooding and has not been demonstrated to be sequentially preferable, in the terms of the NPPF;
- Drainage is an issue as water cannot be allowed to drain to ground via soakaways, due to existing contamination;
- The proposal is contrary to the three dimensions of sustainability, as set out in the NPPF;
- The viability report is inaccurate and seeks to promote the Princes Parade site over the Nickolls Quarry site;
- The proposed surface water drainage scheme is unacceptable and has insufficient information in relation to how contamination of the canal will be avoided, whether the proposal will be acceptable to Historic England, the reduction in the open space from the proposed pond and costing;
- The timescales between the development of Princes Parade and the likelihood of development at Nickolls Quarry site have reduced significantly;
- The ecological mitigation strategy is inaccurate;
- The use of conditions for a range of ecology issues, contamination issues, phasing, design/layout/landscaping and flood risk/drainage design is unacceptable and such issues should be agreed before planning permission is granted;
- The RSPB was not consulted;
- Land stability should be addressed within the application given the instability of the hill to the north of the site;
- The ecological buffer zone is considered insufficient.

#### 6.5 Representation from Cllr Rory Love;

- Object to the proposal in relation to the relocation of the road, displacing traffic onto Seabrook Road to the detriment of the amenity of local residents;
- The objection does not relate to the replacement swimming pool and the need for housing to help finance the pool is recognised.

6.6 An e-petition of 6,292 names was received, addressed to Cllr Monk, requesting confirmation “to the people of Hythe and the local community in Seabrook that you will reject any proposal to develop the site at Prince's Parade”. However, the petition cannot be considered as an objection against the proposal as the signatories have not signed the petition on that basis. In addition, in accordance with the Council’s constitution, petitions relating to Planning and Licensing matters will not be received or considered by Full Council meeting.

### **Community Involvement & Pre-application Discussions**

6.7 The applicant undertook two public exhibitions on the 29th and 30<sup>th</sup> November 2016. The first was held in Seabrook Church Hall and the second was held in Hythe Town Hall. It is reported that 199 people attended the Seabrook exhibition and a further 321 attended Hythe Town Hall. 339

feedback forms were received. The key points raised in the feedback are set out in section 2.8.4 of the Planning, Design and Access Statement. A Princes Parade website and Facebook group were also created and maintained by the applicant's public relations consultant.

- 6.8 Prior to submission of the planning application, pre-application meetings were held with Officers of the Council and Historic England, and as part of this process, a review of the initial scheme was undertaken by D:SE – Design South East – an independent, not-for-profit, multi-disciplinary review panel that offers impartial design advice and assistance. The comments received are appended to this report, as is a copy of the pre-application advice provided.
- 6.9 Following this process the applicant amended the scheme and sought final comments from the Council and Historic England. This final pre-application advice is appended to the report also.

## **7.0 RELEVANT POLICY GUIDANCE**

- 7.1 The full headings for the policies are attached to the schedule of planning matters at Appendix 1 and the policies can be found in full via the following links:

<http://www.shepway.gov.uk/planning/planning-policy/local-plan>

<https://www.shepway.gov.uk/planning/planning-policy/documents-and-guidance>

<https://www.gov.uk/government/collections/planning-practice-guidance>

- 7.2 The following saved policies of the Shepway District Local Plan Review apply: SD1, HO1, TM8, LR8, LR9, LR10, BE1, BE13, BE16, U1a, U2, U4, U10a, U15, TR2, TR5, TR6, TR11, TR12, CO11, CO13.
- 7.3 The following policies of the Shepway Local Plan Core Strategy apply: DSD, SS1, SS3, SS4, SS5, CSD1, CSD2, CSD4, CSD5, CSD7.
- 7.4 The following Supplementary Planning Documents apply:  
Kent Design Guide  
Affordable Housing SPD
- 7.5 The following paragraphs of the National Planning Policy Framework are of particular relevance to this application:
- 7 – Achieving sustainable development
  - 14 – Presumption in favour of sustainable development
  - 17 – Core planning principles
  - 26 – Ensuring the vitality of town centres
  - 49 – Delivering a wide choice of high quality homes



56, 57, 60, 61 – Requiring good design  
70 – Promoting healthy communities  
75 – Promoting healthy communities  
100 – 103 Meeting the challenge of climate change, flooding and coastal change  
109, 118, 120, 121 – Conserving and enhancing the natural environment  
128, 129, 131 – 134, 137 – Conserving and enhancing the historic environment  
186, 187 – Decision-taking  
196 – Determining applications  
Annex 1: Implementation

- 7.6 Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that the determination of any planning application shall be in accordance with the development plan, unless material considerations indicate otherwise.
- 7.7 The National Planning Policy Framework (NPPF) sets out the Government’s planning policies for England and how these are expected to be applied. As set out in Section 38(6) (above) Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise, and the NPPF forms a material consideration in plan formulation and decision taking.
- 7.8 Central to the NPPF (paragraphs 14 and 17) is a presumption in favour of sustainable development, for decision taking this means approving development that accords with the development plan without delay. Where the development plan is absent, silent, or relevant policies are out of date, granting planning permission unless:
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the framework taken as a whole, or
  - Specific policies in the Framework indicate development should be restricted.
- 7.9 Paragraphs 186 and 187 of the NPPF make it clear that Local Planning Authorities should approach decision taking in a positive way to foster the delivery of sustainable development. The relationship between decision making and plan making should be seamless, translating plans into high quality development on the ground. The NPPF stipulates that local planning authorities should look for solutions rather than problems, and decision takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental considerations of the area.
- 7.10 The NPPF is clear that the “purpose of planning is to achieve sustainable development”, giving a broad definition at paragraph 7, stating that: There

are three dimensions of sustainable development, an economic role, a social role and an environmental role.

- **Economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- **Social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- **Environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

7.11 The NPPF continues (paragraphs 8-9) to advise that all three roles are considered mutually dependant and should not be considered in isolation. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

## **8.0 APPRAISAL**

### **Relevant Material Planning Considerations**

8.1 The main considerations in the determination of this application are the acceptability of the principle of development in this location, whether the proposed development would promote sustainable patterns of growth, the impact upon designated heritage assets, in particular the Royal Military Canal Scheduled Monument, the visual impact of the development upon the landscape, amenities of local residents, ecological considerations, flood risk, highways and transportation matters, and whether adequate mitigation and the public benefits of the development outweigh any adverse impacts.

## **BACKGROUND**

8.2 For both the 2000 Shepway District Local Plan and the 2006 Local Plan Review, the site was proposed for residential allocation by Shepway District Council. Policy HO2G of the Local Plan Review sought to allocate the site for 100 dwellings and a hotel. On both occasions the proposed allocation was rejected by the Planning Inspectorate and removed from the draft plan.

8.3 Whilst the Inspector previously rejected the site for an allocation of housing this consideration was not made against the current Core Strategy policies, nor government guidance set out in the National Planning Policy Framework (NPPF) and PPG, and predated Planning Policy Statements which were

then replaced by the NPPF in 2012. As such the conclusions of the inspector some 14 years ago are considered to be of very limited weight in determining the proposed application as there have been significant changes in national and local planning policy since that time.

### **Emerging Local Policy**

- 8.4 In addition to Government policies and guidance, such as the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG), as set out in section 7 above, the relevant planning policy documents which this application will be considered against would be the overarching Core Strategy Local Plan (2013) and the saved policies in the Shepway Local Plan (2006). The emerging Places and Policies Local Plan (PPLP) has been subject to consultation at both regulation 18 and regulation 19 stage and now forms a final submission draft. The government has also recently consulted on revisions to the NPPF and draft planning practice guidance for viability.
- 8.5 The PPLP Submission Draft sets out the policies to guide development to 2031 and this will replace the 2006 Local Plan. This Plan proposes to allocate land for development to meet the requirements set out in the Core Strategy as well as providing general development management policies (such as design, flood risk and heritage) to guide future proposals.
- 8.6 The PPLP proposes the allocation of the Princes Parade site for mixed-use redevelopment including up to 150 residential dwellings, a leisure centre, hotel, public open space and small-scale commercial uses (Policy UA18). The allocated area is slightly smaller than the application as it excludes the public highway (Princes Parade). Paragraph 216 of the NPPF advises that decision-takers may give weight to relevant policies in emerging plans according to:
- (i) the stage of preparation of the plan;
  - (ii) the extent which there are unresolved objections to relevant policies;
  - (iii) and the degree of consistency of the emerging policies in the plan to the policies in the NPPF.

The Plan has been out to two rounds of consultation and will shortly be submitted to the Planning Inspectorate for examination. While the plan is at an advanced stage of preparation (point i), there are a large number of unresolved objections to Policy UA18 (point ii), whilst the degree of consistency of emerging policies with the policies in the NPPF remains open for consideration at the examination of the plan.

- 8.7 During the Preferred Options preparation consultation in 2016, this allocation received the highest number of representations (nearly 500) for a particular site or policy, including some by Historic England and Kent County Council's Heritage Conservation team. Although there were some supporting comments, most raised concerns, which included:

- Overdevelopment of the area;

- The erosion of the separation between Hythe and Sandgate;
- Would provide second homes and not meet local need;
- Would have a detrimental impact on the Royal Military Canal Scheduled Monument;
- Would have a detrimental impact on the Local Wildlife Site and ecology;
- Would have a detrimental impact on views, landscape and local character;
- The current infrastructure (for example roads, sewers, health and education) would not be able to cope;
- The leisure centre is in the wrong location; and
- Would have a negative impact on tourism and local businesses.

8.8 The Council has recently published the final draft (Regulation 19) for public consultation before submitting it to the Secretary of State for examination. The plan has not, therefore, been considered at an Examination in Public by an independent Planning Inspector working on behalf of the Secretary of State. Due to the stage the Plan has reached in the adoption process Policy UA18 is considered to be a material consideration. However due to the high number of objections to the policy, it is of limited weight when considering this planning application, and the applicant concurs with this in their policy assessment. The application should, therefore, be principally considered against the adopted policies in the Core Strategy Local Plan (2013) and saved policies in the Shepway Local Plan Review (2006), as well as the NPPF and PPG. As set out in the Council's pre-application advice (20 July 2017), the PPLP does, however, represent the emerging view of the local planning authority and the Council's Cabinet, setting out the Council's proposals as to how it will meet the housing need identified in the Core Strategy (and the emerging Core Strategy Review) and deliver its development aspirations.

8.9 The NPPF, PPG and the recently published draft revised NPPF make it clear that arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood planning; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

8.10 Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds

of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process. For example, this could occur if an application were to be submitted for a site that was not proposed within the plan and the delivery of which would undermine the plan itself.

### **Adopted Local Policy**

8.11 Within section 4.3 (Place Shaping and Sustainable Settlements Strategy) of The Core Strategy (2013) in the preamble to policy SS3, table 4.3 sets out a Settlement Hierarchy, providing a strategic framework to accommodate place shaping change, clarifying places not regarded as countryside, to guide regeneration priorities and to co-ordinate development locational decisions overall.

8.12 The status and strategic role of Hythe is identified within the table as:

**Strategic Town for Shepway:** *To accommodate significant development – in so far as consistent with maintaining historic character – appropriate to the needs of their wider hinterlands in Shepway, and maintaining the viability of their local transport hubs, Town Centres and higher-order tourism, employment and public services.*

8.13 This Settlement Hierarchy provides a framework for the planning system to concentrate development in selected locations across the district, and can maximise efficient use of existing infrastructure and support business and community facilities. It also provides capacity to deliver land and resources targeted for strategic needs. Focusing attention on these existing places underpins not only the protection of the district's open countryside, but also seeks the achievement of sustainable places. A complementary mix of uses within a locality minimises the length of journeys to services and employment, and other regular trips, and increases the proportion of people who can travel healthily by walking or cycling.

8.14 Paragraph 3.16 of the Core Strategy 2013 states that the town will benefit from new sports facilities, more attractions and leisure facilities at the sea and by the Royal Military Canal. Policy CSD7 of the same document takes an ambitious and aspirational approach by stating that Hythe should develop as a high quality residential, business, service, retail and tourist centre for the central part of the district. Development should contribute to the seven priorities for investment in the town:

*Hythe should develop as the high-quality residential, business, service, retail and tourist centre for central Shepway in line with the vision in paragraph 3.16. New development should respect the historic character of the town and the established grain of the settlement in line with the place-shaping principles set out in policy SS3. Development should contribute to the priorities for investment in the town which include:*

- a. *Attracting additional employment to the town, especially in the town centre or in deprived urban communities in west Hythe, including by sustaining demand and labour supply in the local population.*
- b. *Upgrading the stock of business accommodation and the environment of employment areas, and regenerating the appearance and sense of security of west Hythe.*
- c. *Developing new/expanded primary and secondary schools to improve educational attainment, and where appropriate, the delivery of improvements in skills/training in nearby deprived areas.*
- d. *Expanding and upgrading of tourism accommodation and visitor and leisure attractions.*
- e. *Investing in strategic flood defences to protect residents and the Hythe Ranges.*
- f. *Delivering public realm improvements in the High Street and town centre:*
  - i. *improving the setting of historic buildings and the Royal Military Canal,*
  - ii. *increasing the ability of shoppers, visitors and residents to access and circulate along the main retail frontage*
- g. *Aiming for a convenient, flexible and integrated public transport system, with improvements to services to the west and north of the town, better linking in the town centre and coastal bus routes to railway stations or development in western Hythe.*

8.15 The easternmost portion of the site is covered by Local Plan Review saved policy TM8, which reads:

*Planning permission will be granted for recreational /community facilities on land at Princes Parade, Hythe as shown on the Proposals Map subject to the following criteria:*

- a) *The use should take advantage of, and enhance the appearance of, the Canal and the coastline*
- b) *The majority of the site should remain open*
- c) *Proposals should not adversely affect the character and setting of the Scheduled Ancient Monument*
- d) *Built development will only be permitted if justified as essential to the use, and should be small scale, low rise and of a high quality design.*

8.16 The remainder of the site is covered by saved policy LR9, which reads:

*The District Planning Authority will provide an adequate level of public open space for leisure, recreational and amenity purposes, by protecting existing and potential areas of open space and by facilitating new provision by means of negotiation and agreement.*

*Loss of open space*

*Areas of open space of recreation, leisure or amenity value or potential as identified on the Proposals Map will be safeguarded. Development*

*proposals which would result in a net loss of such space will only be permitted if:*

- a) sufficient alternative open space exists;*
- b) development does not result in an unacceptable loss in local environmental quality;*
- c) it is the best means of securing an improved or alternative recreational facility of at least equivalent community benefit having regard to any deficiencies in the locality.*

*Provision of new open space*

*In deciding planning applications for residential development within areas where an open space deficiency exists or will be created, the District Planning Authority will be guided by the following criteria;*

- i. Sites of 25 or more dwellings should provide open space to the standard of 2.43 hectares (6 acres) per 1,000 population. Where full provision on site would not be appropriate or desirable the space needed may be met by commuted sum payment towards the provision or improvement of open space nearby on a scale related to the size and scale of the development;*
- ii. Sites for less than 25 dwellings should contribute towards the provision and improvement of open space on a scale related to the size and nature of the development.*

8.17 Consequently, it is clear that there are both competing and complimentary aims within the policies for the site and the wider Hythe Strategy (CSD7) and that these must be balanced and assessed when making a decision on this application.

### **Housing Requirement**

8.18 The adopted Core Strategy Local Plan (2013) sets out the minimum housing delivery requirement of 7,000 dwellings for the district until 2026, which equates to a minimum of 350 dwellings a year, with a target of 8,000 (400 per year). Since the Core Strategy Local Plan was adopted, the District Council has undertaken work to update the Strategic Housing Market Assessment (SHMA) in 2016/2017 to inform a review of the District Council's planning policies through the Core Strategy Review, to ensure they are up-to-date and in conformity with the NPPF (Strategic Housing Market Assessment Part 1 – Objectively Assessed Need): [https://www.shepway.gov.uk/media/4474/Strategic-Housing-Market-Assessment-2017/pdf/2017\\_08\\_08\\_Final\\_SHMA\\_Pt1.pdf](https://www.shepway.gov.uk/media/4474/Strategic-Housing-Market-Assessment-2017/pdf/2017_08_08_Final_SHMA_Pt1.pdf)

8.19 The Core Strategy Local Plan, adopted post-NPPF and following the revocation of the Regional Spatial Strategies (RSS), considered the RSS set target of 290 dwellings per annum over the period to 2026 and states that:

*“this is lower than the rate of delivery achieved in Shepway, which has been in the order of 300 to 500 dwellings in a year for most years between 1990*

*and 2006. Local evidence in the SHMA and SHLAA also suggested that future housing needs, and potentially, land availability were greater than identified in the South East Plan”.*

Although the Core Strategy Local Plan was adopted following the publication of the NPPF, the housing target was derived from an old-style SHMA which was carried out prior to the publication of the Planning Practice Guidance (PPG) and does not follow the required method within the NPPF. However, the PPG is clear that this does not necessarily render the housing targets out of date. With regard to housing requirements, the PPG states that:

*“Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs”.*

- 8.20 Regarding progress towards meeting the 2013 Core Strategy target, over the period 2006/07 to 2016/17 the total plan requirement is for a net additional 3,850 dwellings (11 years at 350 dwellings a year). Over this period the total number of homes delivered was 3,208, an undersupply of 642 homes against the minimum requirement and 1192 below the target set within the plan. However, this largely reflects a reduction in housing completions following the recession in the last decade. Recent figures compiled indicate that there were 612 completions in the year 2017/18, reducing this deficit by 262 to 380 over the plan period. The Council's housing land supply equates to 7.1 years against the adopted plan requirement of 350 homes per year. However it is clear that delivery will need to remain above the minimum requirement adopted in the plan to meet its minimum requirement by 2026 with a significant increase in delivery required to meet the 400 per annum 8,000 home target set out within the plan.
- 8.21 Whilst the government has not formally defined what constitutes an up to date local plan, emerging guidance in the draft NPPF makes clear that a plan is considered up to date for a period of 5 years. As such it is considered that the Core Strategy remains up to date until September 2018, by which point the emerging Core Strategy Review will be approaching a Regulation 19 consultation ahead of examination in 2019.
- 8.22 The emerging NPPF draft contains a new Housing Delivery Test, which is proposed to measure each local authority's performance in delivering new houses. The outcome of the test would be a figure, expressed as a percentage of the total net homes delivered against the total number of homes required over the previous three years. If the Housing Delivery Test shows that there has been significant under delivery of housing over the previous three years (in this context meaning less than 85%), the local authority must include a 20% buffer in its supply of specific deliverable sites in order to achieve the required five years supply.



8.23 In an area in which the local authority cannot demonstrate a five-year supply of deliverable housing sites or where the Housing Delivery Test indicates that delivery of housing has been substantially below the housing requirement (below 75%) over the previous three years, paragraph 75 and paragraph 11d of the draft NPPF dictate that the presumption in favour of sustainable development will apply to any application for housing development. This means that planning permission should be granted unless:

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

8.24 Notwithstanding the above, it is considered that significant new evidence has come to light since the adoption of the Council's Core Strategy Local Plan in 2013 and this is informing the CS Review. Specifically, the updated SHMA (2017) assessed the Objectively Assessed Need (OAN) for housing in the district at 633 dwellings per year over the period to 2036/37 (14,560 dwellings) which reflects current housing need, although this has not yet been through the examination process. This number is significantly greater than that in the adopted Core Strategy Local Plan and also includes a market signals adjustment based on the most up-to-date evidence and statistical data. A review of the Core Strategy is taking place to ensure the district meets its housing need, alongside development already identified within the Core Strategy and the submission draft PPLP. The review will help ensure that the uplift in housing numbers can be accommodated within the district and that the jobs and infrastructure that the new homes will need can also be successfully delivered.

8.25 As such, sites identified within the emerging PPLP, including Princes Parade are essential to ensure that the Council meets its identified housing need and target, meets with the emerging Housing Delivery Test set out in the draft NPPF and contributes towards the emerging housing need identified in the recent 2017 SHMA which is to be met in combination by the sites within the adopted Core Strategy and emerging PPLP and CS Review.

### **Site Selection**

8.26 The application site is approximately 1.5 miles south-east of Hythe Town Centre. In planning terms the site is considered to be an out-of-centre location and there is adopted development plan policy for the uses that are being applied for, being up to 1,270sqm of commercial uses including a hotel use (Use Class C1), retail uses (Use Class A1) and / or restaurant/cafe uses (Use Class A3) and 2,961sqm leisure centre (Use Class D2). These all fall within Main Town Centre uses as defined by the NPPF in Annex 2:

*Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment facilities the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).*

8.27 Paragraph 24 of the NPPF requires the application of a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. Paragraph 26 states that for applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold (if there is no locally set threshold, the default threshold is 2,500 sqm) and; Paragraph 27 states that applications that fail the sequential and impact test should be refused. As previously stated, emerging policy UA18 proposes to allocate the Princes Parade site for a mixed use development. If the PPLP was at the adoption stage this would remove any requirement for a sequential or impact assessment.

8.28 Shepway Core Strategy Local Plan (2013) Policy SS4: Priority Centres of Activity explains that the strategic objectives will be delivered through the following principle:

*“A ‘town centre first’ policy will operate for applicable uses in line with national policy. Potential town centre activities or those creating significant transport demand, including retail, leisure and major office uses, should be located sequentially looking firstly at locations within town centres, then on the edge of centres, and then out of centre; and with regard to their impact on the vitality and viability of the defined town, district and local centres.”*

8.29 Core Strategy policy CSD7 states that Hythe should develop as a high quality residential, business, service, retail and tourist centre for central Shepway. Development should contribute to the seven priorities for investment in the town of which criterion (d) is: “expanding and upgrading of tourism accommodation and visitor and leisure attractions”, offering support for leisure and hotel uses in the wider Hythe area. As previously identified, saved Policy TM8 also allocates land for recreational / community facilities at Princes Parade, subject to other criteria.

### Sequential Testing

8.30 The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. The application of the test should be proportionate and appropriate for the given proposal.

8.31 The checklist below sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:

- With regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre.
- Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- If there are no suitable sequentially preferable locations, the sequential test is passed.

8.32 The primary objective of the proposal is to deliver a new leisure centre to replace the Hythe Swimming Pool and provide additional leisure facilities to meet local needs as the existing pool site coming to the end of its economic and viable life. In 2012 Strategic Leisure were commissioned by the District Council to assess the need for a new leisure facility and explore potential sites (Shepway District Council – New Swimming Pool Facility Feasibility Stage 1, August 2012) within 2.5 miles of the existing facility, with a Supplementary Report to this produced in 2016, updating the facility needs assessment to reflect changes in the demand and supply of leisure facilities in the District. This informed the current proposal. It looked at the existing site in Hythe, a site at Nickolls Quarry and Princes Parade. A further study was undertaken in 2015 by Lee Evans (Options Appraisal and Site Analysis: A leisure Centre for Hythe, October 2015), which looked at the three sites mentioned, as well as The Green, Hythe and South Road Recreation Ground, Hythe.

8.33 In addition to this, as part of the current application, a search for sites was undertaken in the area that also identified:

- Smiths Medical Campus, Hythe
- Land at Station Road, Hythe
- Land at the Saltwood Care Centre
- St Saviours Hospital, Seabrook Road, Hythe
- Foxwood School, Seabrook Road, Hythe

8.34 In looking at the alternative sites, the applicant has stated that the uses proposed are location specific, but acknowledges that the ownership of the land does not present justification in this respect, in line with government guidance in the Planning Practice Guide. The identified criteria for the search were:

- Location and access
- Brownfield / greenfield

- Impact upon residential amenities
- Impact upon historic environment
- Ability for benefits / mitigation
- Deliverability

8.35 The NPPF states that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. There is no requirement for the applicant to consider disaggregation – splitting out all the proposed uses to accommodate them at multiple sites, – instead they should considering alternative sites based on their ability to accommodate all the proposed uses.

8.36 In this respect, the applicant has also made the case that all the uses together are necessary with regard to place-making, as the small-scale commercial uses expand the range of services and bring activity to the site in order to assist in its success and contributing to a sustainable community, serving both visitors and residents of the proposed development. The facilities proposed for the leisure centre have been arrived at through market evidence as to what is required.

8.37 Folkestone and Sandgate have been discounted in the search for sites, as these areas are not considered to be suitable to accommodate a leisure centre intended for, in the majority, residents of Hythe and the surrounding area, and these areas are already served by facilities at Three Hills and Folkestone Sports Centre. The following table contains the sites and their broad assessment by the applicant.

| <b>Site</b>     | <b>Location and allocated use / policy position</b> | <b>Assessment</b>   |
|-----------------|---|---|
| Hythe pool      | Potentially edge of centre                          | Too small to accommodate a replacement / enhanced facility, including adequate car parking.   |
| Nickolls Quarry | Out of centre                                       | SDC has the opportunity to acquire through S.106 associated with a major development; site adequately-sized and cost-effective due to the S.106 terms; however location and accessibility not ideal; unlikely to become available until at least Q3 2020 due to timings of works at the major development site. |
| Princes Parade  | Out of centre                                       | Advantages seen to be size, accessibility, visibility and proximity to coast, open space, tourist facilities, and the existing pool. Constraints of below-ground contamination and potential  |

|                                     |  |  |
|-------------------------------------|--|--|
|                                     |  | heritage impacts of adjacent RMC.  |
| The Green                           | Potentially edge of centre. Land is protected open space and in Flood Zones 1, 2 and 3   | Well-located and accessible by a range of transportation, although current use for formal / informal recreation and proximity to neighbouring residential considered constraining. Restrictive covenant protects site from future development. |
| South Road Recreation Ground        | Potentially edge of centre, but area of land considered for leisure centre would be out of centre. Land is protected open space and Flood Zone 2 | Well-located and accessible by a range of transportation, although current use for formal / informal recreation, flooding, proximity to residential properties and location within a conservation area presented significant constraints.      |
| Smiths Medical Campus               | Out of centre (beyond the Green) and allocated for housing and employment uses in the emerging PPLP  | Not suitable due to preferred use for housing and the surrounding residential land uses.   |
| Land at Station Road, Hythe         | Potentially edge of centre or out of centre, depending upon measurement. Land allocated for housing in emerging PPLP                             | Not suitable due to preferred use for housing and the surrounding residential land uses.   |
| Land at the Saltwood Care Centre    | Potentially edge of centre or out of centre, depending upon measurement. Land allocated for housing in emerging PPLP                             | Not suitable due to preferred use for housing and the surrounding residential land uses.   |
| St Saviours Hospital, Seabrook Road | Out of centre. Land allocated for housing in the emerging PPLP.  | Not sequentially preferable to the application site and not suitable due to preferred use for housing and the surrounding residential land uses.   |
| Foxwood School, Seabrook Road       | Out of centre. Land allocated for housing in the merging PPLP.   | Not sequentially preferable to the application site and not suitable due to preferred use for housing and the surrounding residential  |

|  |  |            |
|--|--|------------|
|  |  | land uses. |
|--|--|------------|

- 8.38 With regard to the applicant's assessment, officers agree with the conclusions for the reasons set out below.
- 8.39 The Hythe pool site is very restricted in size and it is agreed that that it is too small to accommodate the enhanced facility plus adequate parking.
- 8.40 The outline planning permission for Nickolls Quarry, part of the Martello Lakes development that is underway, includes an area allocated for a leisure centre. It is available to the Council via an option secured through a legal agreement entered into as part of the grant of outline planning permission. However, the site is out of centre and is further from the edge of the town than the current application site. The Nickolls Quarry site is being delivered in phases and each phased has to be raised, drained, surcharged and then levelled to form the development platform. The leisure land is in Phase 3 and work has not been completed on phase 1, and no detailed application has been submitted for Phase 2. Therefore there is uncertainty as to when the land for the leisure centre will be available for development and the land is not in the council's control. Furthermore, the viability assessment submitted with the application identifies that there will be a funding gap of just over £2.1 million for the leisure centre at Princes Parade, whereas the funding gap would be £13.86 million if the leisure centre were to be delivered at Nickolls Quarry. £10.9 million when excluding the costs of decontamination at Princes Parade that would not directly relate to the development. This is covered in more detail in the Delivery and Viability section of the report below, as well as the confidential Appendix attached. Officers are satisfied that Princes Parade is sequentially preferable in terms of delivery in respect of timing and finance than Nickolls Quarry.
- 8.41 The Green is well located and accessible and would be a good site in terms of its location. However it is subject to a restrictive covenant which protects it from future development and the land owner has not progressed removing the covenant. It is therefore reasonable to conclude that this site is not available.
- 8.42 South Road Recreation Ground is edge of centre/out of centre and is in a conservation area and also protected open space under policy LR9. It is surrounded by residential development on two sides and so a leisure centre and associated uses here would have be likely to have an impact on the amenity of the residents as well as potential detrimental traffic impacts on South Road. In these respects Princes Parade is a preferable site. The site is also within alternative ownership and there is no evidence that the site is available.
- 8.43 Land at Station Road and Saltwood Care Centre are borderline edge of centre/out of centre. Station Road is protected under policy LR9 and is adjacent to the RMC scheduled monument. Access would be off a very busy section of road. Saltwood Care Centre site would have poor road access, falls within a Local Landscape Area and is on steeply sloping site which is

likely to cause difficulties in design and construction. It is also likely to have significant amenity impacts on surrounding residential properties. In planning terms it is considered to be a less preferable site than Princes Parade.

- 8.44 Smiths Medical, St Saviours Hospital and Foxwood School are all out of centre sites and therefore are not sequentially preferable to Princes Parade.
- 8.45 Given the above, it is considered that it has satisfactorily demonstrated that Princes Parade is the sequentially preferable site for the development in respect of the main town centre uses (i.e. D2, A1/A3 and C1 uses) assessing alternative sites for their suitability and availability.

#### Impact Testing

- 8.46 An impact assessment has been completed for the same uses, with the exception of C1 (hotel) as this does not fall under the retail, leisure or office use classes, instead being considered as a tourism/accommodation use (C1 use class). In respect of the leisure centre, officers agree with the view of the applicant that there are no competing facilities in Hythe Town Centre or Sandgate High Street, either existing or proposed, that would be impacted upon. Hythe Imperial has a pool but this is also an out of centre location. For Folkestone town centre, there is only the Fitone Gym and truGym, whilst out of the centre the Sports Centre has a pool, whilst there are health and fitness facilities at Three Hills and Bannatynes (which also has a pool). These facilities are predominantly private and are also not considered to underpin the vitality and viability of the centre. As stated previously, the 2012 Strategic Leisure report identified a quantitative and qualitative need for additional swimming pool space in the District, with a latent demand for additional gym facilities to serve the residents of Hythe. As such it is not envisaged there would be significant adverse impact. Further, the Council's emerging (draft) Sports Facilities Need Assessment, being produced to support the Core Strategy Review, identifies a further need for gym and leisure facilities within the district over the plan period.
- 8.47 In respect to the A1/A3 uses, only a small floor space of 300sqm is proposed and this doesn't exceed the threshold set by the NPPF for an impact assessment. The Shepway Town Centre Study (2015) considered that developments of less than 2,500sqm could potentially cause a significant adverse impact against some of the district's centres and recommended a locally set threshold for developments outside of Town Centres (such as Hythe) of 500sqm and local centres (such as Sandgate) of 200sqm. However, whilst these locally set thresholds are to be prescribed in Policy RL8 in the emerging PPLP, this policy holds limited weight at this time. Nevertheless, if the locally set thresholds had been prescribed in an adopted policy, an impact test would still have only been appropriate in respect to Sandgate, but this is outside of a reasonable walking distance of the proposed development and due to the limited floor areas proposed they are unlikely to have an impact on comparable businesses in Sandgate.

- 8.48 Officers agree with the conclusions of the applicant that the development is unlikely to draw multiple businesses out of Folkestone, Hythe or Sandgate or have a significant adverse impact on the vitality and viability of the centres. This is due to the lack of other competing leisure facilities in Hythe and the limited commercial floor space proposed.
- 8.49 Overall, it is considered that the applicant has successfully demonstrated that the site meets the requirements of the sequential test. Officers are not aware of any other suitable town centre or edge of centre sites that are immediately available for development. With regard to impact, the proposed development does not exceed the NPPF threshold that would trigger the need for an impact assessment to be undertaken. Furthermore, officers concur with the applicant that the proposed scale and mix of uses would not compete with any like-for-like uses currently existing in the centres of Hythe or Sandgate as they are locational specific. Therefore, it is considered that the applicant has met the requirements of the NPPF (Paragraphs 24 and 26) and Core Strategy Policy SS4.

### **Delivery and Viability**

- 8.50 The application has been supported by a substantial package of further information; set out within a letter from Tibbalds, the agent acting on behalf of the applicant.
- 8.51 Appendix 3 of this further submission comprises a 'Viability Cost Appraisal Report' produced by Betteridge Milsom. Betteridge Milsom is an experienced local cost consultancy/chartered surveyors practice with experience of delivering significant infrastructure, residential and commercial projects. The report is in the form of a RIBA Stage 2 Cost Plan (also known as a formal cost plan 1) and provides an outline and evaluation of costs associated with the provision of a leisure facility at both the Princes Parade site and an alternative location, Nickolls Quarry.
- 8.52 Nickolls Quarry is identified within the application as one of a number of alternative sites. However it is the only alternative site that could be considered to be deliverable and suitable for the development of a replacement leisure centre due to the requirement for the provision of a serviced land parcel within the development which is a requirement of the s106 legal agreement.
- 8.53 The applicant has dismissed the siting of the Leisure Centre at Nickolls Quarry for a number of reasons – in particular the location, the lack of assurance over timing of delivery, and a lack of viability. Location and timing of delivery are covered above. The lack of viability is explained below.
- 8.54 Historic England (and others) have made representations seeking confirmation that the proposed development at Princes Parade is viable and that the quantum of residential development sought is the minimum required to deliver the scheme, if it is indeed viable at all, with local representations received stating the development is undeliverable and will not provide for affordable housing or the delivery of the leisure centre.



- 8.55 In order to address this Appendix 3 has been submitted to the LPA and Historic England on a confidential basis, with the applicant making the case within their supporting letter that the information contained within the report is commercially sensitive and that its release would prejudice the development of the site. A redacted version of the report has been made available and is in the public domain.
- 8.56 Officers have reviewed the information submitted within the report and raised a number of questions, that have been addressed within a subsequent updated report in April 2018.
- 8.57 The confidential appendix to this committee report has been provided to set out the key figures to members considering this application, so as to ensure the Committee has full consideration of the viability of the development. It includes consideration of the income sources for both Nickolls Quarry and Princes Parade, which both benefit from the income from the Nickolls Quarry s106 and the sale of the existing Hythe Pool site, as well as additional income sources for the Princes Parade site (the use of CIL income derived from the development and an offsite affordable housing contribution held via s106) and an assessment of costs associated with the development of both sites.
- 8.58 The supporting letter to Appendix 3 provides an overarching headline figure, drawn from the report which states that the delivery of a 3013 square metre leisure facility (as applied for within this application), together with the delivery of the public elements of the scheme set out in the application and 30% affordable housing would generate a funding gap of just over £2.1 million at Princes Parade and £13.86 million for the Nickolls Quarry site. It is important to note that the costs provided for the delivery of a Leisure Centre at Nickolls Quarry include costs the Council would be expected to incur in capping the Princes Parade site to mitigate the risk to human health. This is likely to be required even if the site isn't developed. Whilst these costs may be reasonable, consideration has been given to the funding gap for the Nickolls site without these costs, for the 3013 square metre scheme, and this would be a lower figure of £10.9m. No funding source for this greater funding gap has been identified as available. As such, it is reasonable to conclude that it is unlikely a new leisure centre will be developed at Nickolls Quarry without an additional funding source being identified.
- 8.59 For the development to be deliverable at Princes Parade the Council will need to meet the funding gap of £2.1m, as well as allocating all CIL receipts from the development to the leisure centre, public realm and open space provision and utilising existing affordable housing capital receipts held (collected via s106) to support the delivery of 30% affordable housing on the site. The applicant has confirmed that measures to meet the £2.1M funding gap will be put in place by the Council's Cabinet if it agrees the business case for the scheme. If this funding gap is not met none of the development will take place. In order to ensure that the housing isn't delivered without the

leisure centre being provided the following triggers are proposed to be included as conditions:

- No construction of any part of the development to take place until evidence has been provided to and agreed by the local planning authority that full funding is available for the leisure centre and that it is deliverable with that funding,
- No construction on any dwelling shall commence until the foundations for the leisure centre have been completed
- No more than 50 dwellings shall be occupied prior to the leisure centre being open and operational

8.60 It is considered the report provided by Betteridge Milsom, as updated, provides a detailed assessment of costs, based on a thorough understanding of the application site; that the funding gap of £2.1m for Princes Parade is an accurate and reasonable conclusion to form for the development and that identification as to how this funding gap will be met has been provided. The report therefore makes very clear that the funding gap for the delivery of the leisure centre at Princes Parade (which includes the cost of remediation) is substantially less than that for Nickolls Quarry and it appears more likely that the lower funding gap can be met for the Princes Parade, than the significantly higher funding gap for the Nickolls Quarry site. Sport England provides capital funding for new facilities, as set out in their strategic facilities prospectus.<sup>1</sup> This confirms funding applications can be made for between £500k and £2m towards new or improved facilities. If approved this would cover the funding gap for the Princes Parade site and demonstrates that there are options for covering the funding gap. However, the status of such a bid or whether such a bid would be made is unknown at this stage.

8.61 It is considered the information provided within Appendix 3, as updated meets with the requirements set out in paragraph 176 of the NPPF. Further guidance is contained within the NPPG. Paragraph: 016 Reference ID: 10-016-20140306 which states that:

*Decision-taking on individual applications does not normally require consideration of viability. However, where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary. This should be informed by the particular circumstances of the site and proposed development in question. Assessing the viability of a particular site requires more detailed analysis than at plan level.*

*A site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken.*

8.62 The information provided makes it very clear that the overall development is reliant on off-site contributions from land sale, s106 and CIL and that even with these sums a funding gap exists. However, it appears likely that this

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<sup>1</sup> <https://www.sportengland.org/media/3686/strategic-facilities-prospectus.pdf>

funding gap can be met and if it isn't, imposing triggers through conditions will ensure no development takes place unless sufficient funding for the leisure centre is in place up front. It is considered that it has been satisfactorily demonstrated that the project is deliverable and viable and that adequate safeguards can be put in place.

## **Heritage**

8.63 There are no designated heritage assets located within the application site. However, the northern boundary of the development site does abut the Royal Military Canal (RMC), a Scheduled Monument (SM). The RMC has been scheduled under the Ancient Monuments and Archaeological Areas Act 1979 in sections (the RMC is 28 miles long). The section that runs along the boundary of the proposed development site is the 'Seabrook Lodge Bridge to Seabrook Sluice' (list entry number 1003260) which is one of 21 sections in total. SMs are historic assets of the highest significance and the NPPF makes clear at paragraph 132 that significance can be harmed or lost through alteration or destruction of the heritage asset or through development within its setting. As heritage assets are irreplaceable any harm or loss should require clear and convincing justification.

## **Heritage Policy**

8.64 The NPPF sets out that planning should be achieving sustainable development, defined as having economic, social and environmental dimensions (para 7), with the role of planning to include protecting and enhancing the historic environment. Para 8 identifies that economic, social and environmental gains should be sought jointly and simultaneously. It is a core planning principle in the NPPF that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (para 17).

8.65 Section 12 of the NPPF is specific to conserving and enhancing the historic environment. Paragraphs 126 to 141 contain the heritage specific policies in the NPPF, and the objective of the policies is to maintain and manage change to heritage assets in a way that sustains and, where appropriate, enhances significance. That significance is the value of a heritage asset to this and future generations because of its heritage interest.

8.66 Paragraph 128 states that "...in determining applications LPAs should require an applicant to describe the significance of any heritage assets affected, including the contribution of their setting..." and that the level of detail provided "...should be proportionate to the assets' importance to...understand the potential impact of the proposal on their significance".

8.67 Paragraph 129 states that the LPA should identify and assess the particular significance of any heritage asset that may be affected by a proposal, including its setting, taking account of the available evidence and any necessary expertise and requires avoidance or minimisation of conflict between conservation of a heritage asset and any aspect of the proposal. If

a proposal cannot be designed to avoid all harm, then the harm should be minimised as part of the design process.

8.68 When determining applications the authority should take into account the Government objectives as expressed in the overarching definition of sustainable development and particularly (paragraph 131):

- the desirability of sustaining and enhancing the significance of all heritage assets (whether designated or not) and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities, including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Consequently, there is a balancing of sometimes competing objectives to be made, based upon an assessment of the significance of the heritage asset affected and the likely harm to the same.

8.69 Designated heritage assets are subject to specific policies that require (paragraphs 132 and 139):

- great weight to be given to their conservation in all decisions;
- clear and convincing justification for any harm to significance however slight and whether through direct physical impact or by change to the setting;
- that substantial harm to or total loss of scheduled monuments and undesignated sites of equivalent importance to scheduled monuments is expected to be 'wholly exceptional'.

8.70 Paragraph 132: "When considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be." Scheduled monuments are considered to be "heritage assets of the highest significance". The same paragraph confirms that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable any harm or loss should require clear and convincing justification.

8.71 Paragraph 134 continues that where a development proposal will lead to less than substantial harm to the significance, this harm should be weighed against the public benefits of the proposal and Paragraph 137 states that LPAs should look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting and that make a positive contribution to better reveal the significance should be treated favourably.

8.72 As such, the NPPF acknowledges that harm to designated heritage assets may be acceptable if outweighed by public benefits. Less than substantial harm does not translate to less than substantial objection. Preservation in this context means not harming the interest, as opposed to keeping it utterly unchanged. The NPPF defines 'significance' in the context of heritage assets as 'The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.'

#### History of SM

8.73 The full history of the RMC has been set out within the ES and Planning, Design and Access Statement. In brief, the RMC was an important part of the country's defences constructed in the early 19th century between 1804 and 1809 in response to a very real fear of invasion by Napoleon's army. It was built to delay the advance of a landing force while the British army mustered inland. The RMC, together with the chain of Martello towers along the coast, form the best preserved monuments to this chapter of the country's history, and since 1986 the entire length of the RMC has been a scheduled monument in recognition of its national importance.

8.74 The eastern end of the RMC was at Seabrook, and it covers the section of coastline where the coastal cliffs to the east give way to the easier landing beaches of St Mary's Bay. To prevent an invading force from passing around the terminal, a complex set of defences was constructed, the surviving elements of which form part of the setting of this part of the RMC:

- the Shorncliffe battery and wall (NHLE 1005117)
- the Shorncliffe redoubt (NHLE 1401815) and
- Martello towers No 8, listed grade II (NHLE 1017174) and No 9, grade II listed and scheduled (NHLE 1017226).

8.75 These fortifications were located so as to form an integrated defensive system with carefully thought-through fields of fire. The ability to appreciate the connection between the related heritage assets has diminished with the development of the area over the last two hundred years, but they remain highly significant and appreciable as a linear group that forms part of the chain of fortifications along the south east coast.

8.76 It is still possible to appreciate the significance of the RMC at this eastern end due to the largely undeveloped nature of the land between the canal and the beach (of which the application site forms part) and this contributes to the setting of the RMC and therefore its significance. Historically, the application site would have been low-lying and clear of vegetation to allow for a clear field of fire from the defensive banks of the RMC. However, from the 1930s, gravel was extracted from the site and in the 1960s and 1970s, it was used as a refuse tip, leading to the contamination of the site and land levels being raised by approximately 4 metres above the level of the RMC, in stark contrast to the low-lying golf course to the west, which is approximately at the original level. The construction of the sea wall and

coast road has also affected the form of the beach, whilst the location of the petrol filling station and the more recent flatted development at Olivia Court have also served to alter the character of the SM.

8.77 The previous land-raising of the site, contamination and unmanaged vegetation growth compromises the ability to move around the site and appreciate the relationships between it and the surroundings, as well as impacting on views from all directions. There are footpaths at the western end and through the centre of the site that allow the site to be crossed, whilst there is a small park at the eastern end. However, the general lack of built development between the canal and the shoreline helps to retain a sense of openness, as well as an understanding how the RMC would have formed a substantial obstacle to the progress of an invading French army. Currently, interpretation boards explain the history and construction of the RMC, although not the relationship of the RMC with the wider area and other defences.

8.78 The development of the site would extend up to the southern boundary of the SM. As such the built form of the development and relocated highway would result in the loss of open space between the asset and the coast, diminishing its open setting and changing the qualities of the space. Whilst there are modern day features in the landscape which has been significantly altered, (including built development in close proximity to the terminus of the canal, land raising, landscape features, coastal defences and highway works) it is considered that the openness of the canal to the coast on its southern side, and the vista offered to this, particularly from long range views from the east at Hospital Hill and between the more built up coastal areas of Sandgate/Seabrook and Hythe contribute strongly to the setting and interpretation of the heritage asset.

## Setting

8.79 Historic England guidance on setting (The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition)) differentiates it from curtilage, character, context and landscape:

- **Curtilage:** This is a legal term describing an area around a building and, for listed structures, the extent of curtilage is defined by consideration of ownership, both past and present, functional association and layout. The setting of a heritage asset will include, but generally be more extensive than, its curtilage (if it has one). It is considered that this definition is not applicable to the Royal Military Canal (RMC) as it is not considered to have a curtilage;
- **Character:** The historic character of a place is the group of qualities derived from its past uses that make it distinctive. This may include: its associations with people, now and through time; its visual aspects; and the features, materials, and spaces associated with its history, including its original configuration and subsequent losses and changes. Character is a broad concept, often used in relation to entire historic areas and landscapes, to which heritage assets and their

settings may contribute. In relation to the RMC, the character varies greatly along its 21 sections with the existing character as described in section 3.0 above;

- **Context:** This is a non-statutory term used to describe any relationship between it and other heritage assets, which is relevant to its significance, including cultural, intellectual, spatial or functional. Contextual relationships apply irrespective of distance, sometimes extending well beyond what might be considered an asset's setting, and can include the relationship of one heritage asset to another of the same period or function, or with the same designer or architect. In this case, this would include the heritage assets listed above;
- **Landscape:** A landscape is 'an area, as perceived by people, the character of which is the result of the action and interaction of natural and/ or human factors' (Taken from the glossary of the *Guidelines for Landscape and Visual Impact Assessment*, 3rd edition published by the Landscape Institute and the Institute of Environmental Management and Assessment).

8.80 The NPPF makes it clear that the extent of the setting of a heritage asset 'is not fixed and may change as the asset and its surroundings evolve' (NPPF, Annex 2: Glossary). This has been the case at the application site, as set out in above. The importance of the setting lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance.

8.81 Understanding the history of change of a setting will help to determine how further development within the asset's setting is likely to affect the contribution made by the setting to the significance of the heritage asset. Settings of heritage assets which closely resemble the setting at the time the asset was constructed or formed are likely to contribute particularly strongly to significance. Settings may have suffered negative impact from inappropriate past developments and may be enhanced by the removal of the inappropriate structures. For this site, the land raising and coastal road have significantly altered the relationship of the canal with the beachfront, with the built development at the eastern end further eroding this relationship and that the relationship with contextual structures in the vicinity further.

8.82 Where the significance of a heritage asset has been compromised in the past by unsympathetic development affecting its setting consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset. Negative change could include severing the last link between an asset and its original setting; positive change could include the restoration of a building's original designed landscape or the removal of structures impairing key views.

8.83 Because the contribution of setting to significance does not depend on public rights or ability to access it, significance is not dependent on numbers of people visiting it. This would downplay such qualitative issues as the

importance of quiet and tranquillity as an attribute of setting, constraints on access such as remoteness or challenging terrain, and the importance of the setting to a local community who may be few in number. The potential for appreciation of the asset's significance may increase once it is interpreted or mediated in some way, or if access to currently inaccessible land becomes possible.

- 8.84 Sustainable development under the NPPF can have important positive impacts on heritage assets and their settings, for example by bringing an abandoned building back into use or giving a heritage asset further life. However, the economic viability of a heritage asset can be reduced if the contribution made by its setting is diminished by insensitively located development. For instance, a new road scheme may adversely affect the setting of a heritage asset but also, increase the public's ability or inclination to visit and/or use it, thereby boosting its economic viability.

### Assessing Harm

- 8.85 All levels of harm, including total destruction, minor physical harm and harm through change to the setting, can be justified on the grounds of public benefits that outweigh that harm taking account of the 'great weight' to be given to conservation and provided the justification is clear and convincing (paragraphs 133 and 134).

- 8.86 Public benefits in this sense will most likely be the fulfilment of one or more of the objectives of sustainable development as set out in the NPPF, provided the benefits will endure for the wider community and not just for private individuals or corporations. It is very important to consider if conflict between the provision of such public benefits and heritage conservation is necessary. In this case, the need for a new leisure centre has been identified, and a site selection process has been undertaken, as set out earlier in the report, to establish whether there are other available that can accommodate the development. The conclusion reached by the applicant and officers is that sequentially this is the best site in terms of availability and deliverability. There is undoubtedly a public benefit in providing a new leisure centre for Hythe. The matter to be determined by the local planning authority is whether the proposal will cause harm to the SM or its setting, whether the harm is significant and whether the public benefits outweigh any harm.

### Impact

- 8.87 As paragraph 132 of the NPPF sets out, being a scheduled monument, the Royal Military Canal as the heritage asset is of the highest significance and great weight must be attached to any impact upon its significance. That significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In this case the RMC itself will not be directly affected by the development proposals; but its setting will be. The impact of the proposed development would be to divorce the canal from the shore to a much greater degree than currently exists by the introduction of built development on the land between the two. Historic



England's (HE) main concern is that the RMC will for most of its eastern end be reduced to a linear monument sandwiched between developments on either side, undermining the understanding of its historic role as a fortified barrier.

8.88 HE has raised further concerns regarding the impact upon the significance of the SM based upon the Landscape and Visual Impact Assessment (LVIA) and Heritage Viewpoints identified by HE:

- Views from the Redoubt at the eastern end toward the sea would be interrupted by the proposed leisure centre. Historic mapping confirms guns were directed towards Sandgate but with another pointing due south across the canal. The leisure centre will be very prominent in the view south from the Redoubt and thus harmful to an understanding of its purpose.
- The view from a historic stone wharf within the scheduled area looking west along the length of the canal will have the proposed development visible where at present there is undeveloped land on the south side, which is suggested to be harmful to understanding how the RMC was conceived of as a fortification with open land between it and the sea.
- The view from the north end of the Seabrook footbridge looking toward the sea - the bridge is within the scheduled area and a location from which to experience the canal, looking both along its length and seawards, with the new development suggested to be likely to be overly prominent at a point where interpretation of the significance of the canal could be expected to occur.
- Looking east from a point within the scheduled area on the historic towpath west of the site adjacent to the golf course where the historic ground levels between the north and south sides of the canal, views are better preserved and the purpose of RMC is clearer. The proposed development would be much more visible than the current step up in ground levels which occurs at the west end of the application site and Historic England feels that explaining the design and function of the RMC through the historic existence of open land south of the canal will be harmed from this location by the presence of significant new buildings between it and the sea.
- Views from the esplanade west of the site looking eastwards would have the proposed development visible in a view which also encompasses the high land on which the Martello towers stand. Historic England asserts that the broad topographical context to which the RMC and its associated fortifications were a military response can be appreciated from these locations.
- In relation to Martello No. 9, historic photos show that the tower was visible from the canal with the reverse also assumed to be true. The

Martello was assumed also to be located in reference to the RMC in order to be within the field of fire of its gun.

- 8.89 Whether a proposal causes substantial harm is a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. It is the degree of harm to the asset's significance, rather than the scale of the development, that is to be assessed. Works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm. The harm may arise from works to the asset or from development within its setting.
- 8.90 Steps have been taken by the applicant to minimise conflict between the heritage asset and the proposal, through the proposed re-routing of the access road to maintain some separation from the heritage asset and the built development; positioning the buildings with lower heights at the northern side of the application site to reduce the impact of built form; enhanced planting to reinforce the existing planting and also provide ecological mitigation and enhancement. It is considered that reasonable measures have been taken within design and layout of the scheme to minimise impact on the SM given the quantum of development proposed.
- 8.91 Notwithstanding the current situation where the coastal road, historic land-raising and neighbouring development have already eroded the setting as it would have been at the time of the construction of the heritage asset, for the 1.05km length of the Royal Military Canal running NNE from Seabrook Lodge Bridge to Seabrook Sluice, the proposed development is considered to further interrupt the historic relationship between the coastline and the Royal Military Canal, as well as views of the nearby associate heritage assets.
- 8.92 For these reasons it is concluded that the proposal will cause harm to the significance of the SM. In terms of the approach within the NPPF the development would not result in the destruction or partial destruction of the monument, nor the whole of its setting, as space and open views would still be present around it, with opportunity remaining to appreciate the relationship between the canal and coast for a significant component of the application site. For these reasons officers agree with Historic England and the applicant that the harm from the development would be less than substantial. However, less than substantial harm does not mean less than substantial objection. In terms of the Framework, such an assessment requires a balancing act to be undertaken and consequently, very substantial public benefits must be demonstrated to be delivered by proposed developments.

#### Public Benefits

- 8.93 In attempting to address the provisions of Paragraph 134 of the NPPF, the applicant has set out the public benefits of the proposal which they consider to outweigh the harm. The public benefits have been identified as:

- Provide means to consolidate and repair neglected but key parts of the site through vegetation clearance and stonework repair;
- Provide better public access and interpretation of the RMC and wider area, emphasising connections between the canal and the sea, delineating lines of fire and maintaining openness;
- Heritage trail between the RMC, Shorncliffe Battery and Martello Towers, interpretation boards and artwork, building on the findings of an archaeological study;
- Environmental improvement scheme at the eastern end to mark the site of the former drawbridge and canal arm leading to it;
- Major new leisure centre that will replace the outdated existing local facility;
- New road behind development would provide ‘untrammelled’ recreation use of the parade, increasing the area of car free public realm from 6,575 sqm to 11,190 sqm – an increase of 4,615sqm;
- Remediation of contaminated land and provision of 3890m<sup>2</sup> of enhanced public open space and play space to serve the wider community;

8.94 These are all benefits that will not be achieved if the development does not go ahead and in terms of the scheduled monument it is considered that the works proposed go a significant way towards balancing out the adverse impacts on the setting that would be caused by the development. All these improvements can be secured via conditions, should planning permission be granted. Whether the public benefits of the development outweigh the harm to the setting of the Scheduled Ancient Monument is discussed later in this report.

8.95 There may be additional subsequent public health benefits through facilities within the leisure centre, which the South Kent Coast Clinical Commissioning Group (SKCCG) feel, through incorporation into the service specification for the centre, could potentially be used to provide rehabilitation clinics, dementia cafes, care navigator roles and drop in clinics. However, these are outside the ability of the applicant to provide so are not included in the officers’ assessment of the benefits.

8.96 In acknowledging that re-provision of leisure facilities for Hythe and the surrounding area is important, Historic England posed the question as to whether these can only be delivered at Princes Parade. They suggest that insufficient weight has been afforded to the protection of the RMC as a designated heritage asset, and that, where residential and commercial elements have been included alongside the leisure centre, it has not been demonstrated that the quantum of development proposed is the minimum judged necessary to deliver the leisure centre, given that the inclusion of these additional elements increases the harm to the historic significance of the RMC beyond that of the leisure centre alone. They requested a ‘viability appraisal’ that supports the application. As set out earlier in this report further information has been provided and identifies to the satisfaction of officers that even when considering the quantum of development proposed,

a funding gap remains, and without that quantum of development proposed, the leisure centre would not be deliverable.

8.97 Historic England has objected to the proposal, considering that it conflicts both with the Development Plan and with the advice of the NPPF in that causing less than substantial harm to the significance of a nationally important group of heritage assets, and in particular to the eastern end of the RMC, has not been clearly or convincingly justified. Historic England does not consider that all of the benefits identified would arise as a direct result of the proposed development, as they could be delivered independently and are not directly related to the proposal. However, it is the role of the Local Planning Authority rather than Historic England to balance whether the public benefits provided by the development outweigh the less than substantial harm caused to the designated heritage asset. This is considered later in this report.

### **Archaeology**

8.98 The site is identified as having potential to contain remains of archaeological interest. It may be that there are features associated with the RMC that are hidden, which may reveal more about the RMC. For example, one of the 1874 maps indicates a sea wall and ditches that may still exist; or there may be foundations associated with 19<sup>th</sup> Century boathouses; or possibly earthworks associated with the drawbridge redoubt.

8.99 KCC Archaeology have commented on the proposal and accept that the direct impacts of the scheme upon buried archaeological remains could be addressed through mitigation measures in the form of an archaeological watching brief, along with details of foundation design, secured by condition should permission be granted.

8.100 Officers consider, in this respect, that the measures proposed are proportional, acceptable and would meet the requirements of paragraph 131 of the NPPF. These can be secured by condition. No objection is raised to the proposed development on archaeology grounds.

### **Open Space / Play Facilities / Leisure Facilities**

8.101 The open space of the application site as a whole measures approximately 7.8ha in size, although in terms of the recreation and leisure use potential, at present the site is largely overgrown scrub and not open space which the public can access freely and easily, thus its current recreation and leisure value is considered to be limited. Contamination has been identified following its previous uses and in the event the proposed development does not take place a more detailed assessment will be required anyway, with remedial works likely to be necessary. Of the 7.8ha, 7.65 ha is within the application site, with 6.5ha covered by saved policy LR9 and 1Ha designated for tourism and recreational facilities under saved policy TM8. A further 0.16ha forms the canoe club structures and car park.

- 8.102 The proposed development will see approximately half of the site retained as accessible public open space, with new open spaces and play areas of various types created throughout the scheme (see section 1.0). The area of the new open spaces being proposed is approximately 3.89ha. This is a loss of approximately 3.91ha from the gross site area. Of this new area, 2.98ha would be designated open space, 0.88ha is covered by TM8 and 0.16ha is part of the canoe club.
- 8.103 Using adopted standards, the residential element of the proposal will require 1.02ha of on-site open space to meet the needs of the additional residents. However, the scheme proposes to provide 3.89ha – an oversupply of 2.87ha in pure policy terms. According to the Open Space Strategy (2017), the Folkestone/Hythe Urban Area currently provides 279.05ha of parks and gardens and semi-natural green space – an over-provision of 85.76ha based upon population figures. Taking into account the reduction in designated open space on the site, as a result of proposed built development, and the increased demand from the proposed development, there would still be significant over-provision in the Folkestone/Hythe urban area to meet the needs of the population. However, it is important to focus on the quality and accessibility of the open space, rather than just the overall quantum that is available. The application therefore provides significant opportunity to provide increased usable open space that is well located and accessible to residents and visitors, and improved in appearance.
- 8.104 Turning to the play space provision, the existing Seapoint Play Area at the eastern end of Princes Parade provides 0.0275ha of destination play space. Within the Hythe Ward, the emerging Shepway District Council Play Area Review (2017) identifies a requirement of 2.75ha for the population, where 1.57ha is currently provided; an identified shortfall of approximately 1.18ha of play space. The Seapoint Play Area will be re-provided on site as part of the scheme, with a further minimum of 1.02ha for the housing provided in accordance with saved policy LR10 in order to meet the needs associated with the development now and provide a significantly enlarged and improved Destination Play Space to the benefit of residents and visitors to the District.
- 8.105 The proposed housing would increase the demand in Hythe from 2.75ha of childrens' play space to 2.88ha should the development be permitted. However, the amount provided on site will meet this plus the extra provision would mean a reduction in the overall under-supply in the Hythe area by approximately 0.89ha to just 0.29ha.
- 8.106 With regard to leisure facilities, Hythe Pool is 1.7km west of the application site, and is currently in a poor condition, being regularly closed for repair, both of which adversely impact upon accessibility of leisure provision in the District. The Supplementary Report (2016) to the Shepway Leisure Needs Assessment (2012) states that there is demand in the district for 1,143.14sqm of water space in swimming pools, however, the actual provision in the district is 809sqm of swimming pools – an obvious under supply of water space. In addition to this is the problem that Hythe has had extensive closures recently due to its age.

8.107 The proposed replacement leisure centre would reduce the identified under-supply of water space to -276.35sqm – accounting for the loss of the Hythe Pool site plus additional water area. As well as addressing the deficit of water space, the new facility will not be subject to repairs and closure as the current facility is, further improving accessibility for all. The development will provide a higher specification and quality facility which will improve accessibility and opportunity for sport and leisure for all and includes a ‘changing places’ specification changing facility which is accessible.

8.108 The representation from the South Kent Coast Clinical Commissioning Group (SKCCG) states that they would wish to be involved in discussions related to the detailed design and operational specification for the leisure centre in order to explore whether rehabilitation clinics, dementia cafes, care navigator roles and drop in clinics can be incorporated into the service specification for the centre. This is not something either the applicant or subsequent operator of the leisure centre can control so it cannot be required by condition as part of any planning permission.

8.109 At paragraph 74, the NPPF sets out the government’s support for retaining existing open space, sports and recreational buildings and land unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

8.110 Close similarities can be drawn between the NPPF (Paragraph 74) and Local Plan Policy LR9 (see section 8.16). However, the NPPF is more flexible in its approach, with the loss of open space justifiable by meeting any one of the qualifying criteria, whereas Policy LR9 is more stringent in its approach by requiring a development proposal to meet all three of its criteria. However the NPPF is more up to date than policy LR9.

8.111 In conclusion, in the context of local and national policy, sufficient alternative open space would remain in the Folkestone / Hythe urban area, which currently has a significant over supply. The area to be provided will be of improved accessibility and environmental quality, meeting the requirements of the open space strategy which recognises a need for qualitative improvement. Childs’ play space would be provided to meet the needs of the development and provide a significantly improved destination play space, reducing the deficit in the area, and the leisure centre would replace an existing facility of poor quality and coming to the end of its useful life, with one that would be of a higher quality and accessibility. It would also address the under-provision of water space in the district. It is considered that the provision of a new leisure centre facility, widened boardwalk, enhanced open space and increased play space are significant public benefits to the district, its residents and visitors. Therefore, it is considered that the applicant has provided evidence that the development proposal for

Princes Parade meets the requirements of NPPF paragraph 74 and parts a) and c) of saved policy LR9. In relation to part b) issues of environmental quality are addressed elsewhere in the report and balanced against the public benefits of the development.

### **Landscape and Views**

8.112 The submitted Landscape and Visual Impact Assessment (LVIA) within the Environmental Statement (ES) considers the effects of the construction phase and the operational effects of the completed development, describing the nature of the effects upon both landscape character and visual amenity in terms of their magnitude, duration, permanence and overall significance. A series of seven assessment views of the site was agreed during pre-application discussions and a specific landscape character assessment of the study area was undertaken by the applicant's consultant. This identified two landscape character areas, which are explained below.

8.113 The RMC and Imperial Hythe Coastal Strip landscape character area is the strip of low-lying land between the main coastline (Princes Parade and promenade) and the RMC containing the Hythe Imperial golf course to the west and land given over to scrubby vegetation (the application site) to the east, which has been subject to land raising in the past associated with historic land uses. There is no built development within the character area, which allows east/west and north/south views, although these can be along the footpaths restricted by vegetation.

8.114 The Princes Parade Coastline landscape character area is a long, narrow coastal strip forming the promenade to the coastline between Hythe and Sandgate and running alongside the RMC and Imperial Hythe Coastal Strip landscape character area to the north. It is characterised by deep shingle beaches set at a lower level to the promenade and coastal road, separated by a concrete sea wall. Hardstanding is dominant on the promenade, road and sea walls, with the area having an extremely uniform appearance. There are occasional shelters inland from the road, with grassy edges receding into the scrubby vegetation previously mentioned. There are wide, open views of the sky and sea.

8.115 The area as a whole is defined by the backdrop of the rising landform north of Seabrook Road and at Hospital Hill. There are distant views along the coastline toward Sandgate and Folkestone to the east; and toward Palmmarsh and Dymchurch to the west, beyond the Imperial Hotel.

### **Construction Phase**

8.116 The construction phase would substantially alter the character of the site, as the proposed remediation strategy would require the removal of surface vegetation and soil from the whole site, with a 'clean' cover material then provided to essentially cap the site. This would have a major-moderate effect on the landscape character within the site and a moderate effect upon Princes Parade, leaving it resembling an active construction site.

- 8.117 It is proposed that, as mitigation, temporary landscape treatment in the form of accessible grass open space is planted on the later phases, until such times as the construction process moves from east to west and these areas become operational; including the proposed linear park within phase 2 of the construction in order to bring forward the date at which new vegetation can become established and start to mature; increasing topsoil depths along the linear park to encourage semi-natural scrub to thrive and soften views of the proposed development from the RMC.
- 8.118 The LVIA concludes that if these measures are implemented, then the effects of the construction-phase works on landscape and visual character would be moderate, short term and temporary, which officers consider to consider to be a reasonable and acceptable conclusion.

### Operational Phase

- 8.119 In terms of visual amenity, a number of the views would be subject to significant effects once the development is constructed. The following views are as numbered in the LVIA. Views 2 and 4, north east from Princes Parade and west from the wharf at the eastern terminus would suffer a moderate, adverse, long-term and permanent impact as a consequence of the new built development where none currently exists. However, this impact needs to be balanced against the public benefits referred to throughout this report, including that new enhanced open space will be created at the western and central areas, with the linear park connecting.
- 8.120 For view 5, south from the RMC close to the footbridge, the ES states a major - moderate, adverse, long-term and permanent impact for footpath users and residents to the north of the canal who currently enjoy sea views. The planting initiated during the construction phase would be important in softening and filtering views of the built development over time.
- 8.121 For view 6, south from Naildown Road, the ES states major – moderate, adverse, long-term and permanent effect on the visual amenity, as built development would be introduced into part of the view where currently, the land meets the sea. Views of the Channel would not be totally blocked, other than the lower part. For view 7, south-west from Hospital Hill, there are two different receptor groups, pedestrians, cyclists and motorists travelling south-west; and a small number of residents with upper floor windows overlooking the site. For the users of Hospital Hill, the proposed development would introduce a block of development within the lower, central part of the view, with the new relocated Princes Parade road running in front of the proposed buildings at ground level. The Hythe Imperial golf course and proposed western open space would form an area of undeveloped land, and distant views of the coastline south of the Hotel would be retained. Views of the majority of the proposal would be prevented by intervening development on Hospital Hill. The impact upon views would be adverse, but given the transient, short duration of the view to those travelling, the limited amenity value and the small amount the proposal that would occupy the view, it is considered that any adverse effect would be of low magnitude and not significant. For residents, the nature of the view is



similar to as described for users of Hospital Hill, with the impacts similar also, giving a moderate, adverse, permanent and long-term effect on visual amenity for view 7.

8.122 In relation to landscape character, once constructed, the ES finds that the increase in built development and loss of openness would give rise to a moderate adverse effect on site character; a major to moderate adverse effect on the RMC and Imperial Hythe local landscape character area (LLCA); and a moderate to minor adverse effect upon the Princes Parade Coastline LLCA.

8.123 Once landscaping has become established, with the LVIA suggesting a period of 11 years plus for this, the moderate adverse effect on site character would remain, due to the net increase in built development, but the effects upon the RMC and the Imperial Hythe Coastal Strip LLCA and the Princes Parade Coastline LLCA are suggested would decrease to moderate adverse and minor adverse respectively. In addition, the adverse effects on the assessment views and receptors are suggested to decrease to moderate to minor in three cases and to moderate in two cases.

#### Assessment

8.124 Overall, the impact upon visual amenity and character will stem from the presence of new built development within existing views. The mitigation proposed comprises:

- A green buffer (linear park) to soften, over time, the views south;
- Reduction in height of buildings and density of development from east to west in response to existing urban grain and surrounding space;
- Provision of open space throughout the proposed development, opening up views and routes;
- The design code - varying roof profiles and materials would create visual interest and require materials sympathetic to the area;
- Early phasing of landscape works to allow vegetation time to grow up ahead of future development.

8.125 Within the site itself, (the RMC and Imperial Hythe Coastal Strip landscape character area), development is proposed within approximately half of this area, which is currently characterised as being undeveloped and semi-natural in character. However, balanced against this, the development would create new areas of enhanced open space at the western end of the site, which would be semi-natural and free from development, linked to the central area of open space by the linear park, as well as improved pedestrian and cycle access, circulation within the site, which is not currently possible, an improved public realm in the form of the promenade, the provision of a leisure centre to benefit the community and attract visitors from a wider area, and the creation of a new destination space for local visitors and further afield.

8.126 If the development does take place, there would also be likely to be a consequential increase in the number of people using and visiting the site,

which may also impact upon the overall tranquillity and intimacy of the canal. There is no doubt the development will have a significant impact on existing views and significantly change the existing character of the site. However, this does not necessarily mean that it is a change for the worse as there are significant improvements to the quality of the space that would result and there are public benefits that could be considered to override this impact.

8.127 Core Strategy policy CSD4 seeks improvements to Green Infrastructure (GI) within the district, through net gains in biodiversity and positive management of areas of high landscape quality or high coastal / recreational potential. Whilst there would be detrimental impact on the visual amenity and landscape character of the area, through an increase in built form and loss of undeveloped space, the proposal would provide qualitative gains through attractive and high quality open spaces, enhanced leisure facilities, improving the accessibility of the existing site and better linking it to the surrounding settlement. Further, through the securing of a design code, there would be a good level of control over the final design of any development to ensure a high quality public realm. Core Strategy Policy CSD4 is restrictive of development which would harm the character of distinctive local landscapes, detrimentally affect biodiversity at all levels of importance, or result in the loss of GI, subject to criteria that harm can be reduced and development designed so as to bring qualitative or quantitative benefits to GI, contribute to a positive sense of place and enhance public open spaces so as to mitigate the impacts to an acceptable level. Through the measures proposed, which can be secured via conditions and legal agreement, it is considered that would be the case for this proposal and there would no conflict with the policy.

### **Design and Layout**

8.128 The majority of the application is for outline planning permission with all matters reserved for future consideration. The parameter plans, together with the illustrative masterplan and design code within the planning, design and access statement set out the key overarching principles to be adhered to as the detailed proposals are developed as reserved matters applications. Each Reserved Matter should set out how they have responded to each of the requirements of this document, at each level of detail within it.

8.128 Paragraph 17 of the NPPF '*seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings* as a core planning principle for plan making and decision taking. Paragraph 58 provides further guidance as to what makes good design whilst paragraph 59 states that local planning authorities should consider using design codes where they could help deliver high quality outcome, stating that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

8.129 At the request of officers, the draft masterplan was subject to design review (see paragraph 6.8) prior to the submission of the application and in summary the D: SE review panel found that:

- This is a sensitive and controversial site and if it is to be developed the response needs to minimise any adverse effects on the character of the site and maximise the benefits;
- With regard to the principle of development, the scheduled ancient monument, archaeological potential, ecology and general amenity value are noted. Existing public rights of way aside, the site is currently not accessible to the public but many enjoy walking alongside and through it. However, the past use of the site has left a legacy of contamination needing to be addressed;
- Views from the Seabrook Road to the beach and sea and back the other way are valuable as is the view down to the site from the higher parts of Seabrook. The Council must therefore weigh up the loss, or partial loss, of all assets against the benefits this development can bring;
- These include the contribution to the housing supply, the transformation of the public realm along the sea front, the further enhancement of the image of Hythe through a high quality housing development and commercial facilities, contributions to improvements of access and interpretation around the Royal Military Canal and the opportunity to replace a crumbling leisure centre with a new facility;
- The proposal to re-route Princes Parade to the north may introduce unnecessary costs and complications, and could undermine the character of the site;
- Consolidation of housing at the eastern end could leave a larger open area of the site, respecting its current character, with the open space contiguous with the golf course. Alternatively, a clustering at the western end could allow a larger public open space to create a link to the leisure centre and canal;
- Better to provide a detailed design code as opposed to just a masterplan;
- The leisure centre is a much needed facility. The current design narrative with a heavy upper floor above a lighter lower one does not work, and the entrance is constrained. The use of corten steel as a cladding material is industrial and does not evoke a beach aesthetic. There should be visitor facilities to make the most of the beachfront location.

8.130 The feedback received from the Panel and Historic England helped shape the final proposed masterplan and detailed plans for the site the subject of this application. It is considered that the amendments made to the scheme

have addressed comments made by the panel and significantly improved the quality of the proposal. These are explained later in this report.

#### Development Parameters

- 8.131 Section 4 of the Planning, Design and Access Statement (PDAS) contains a series of parameter plans and diagrams to define the key spatial characteristics and relationships of the development proposals. It is intended that the future development, if permitted, will be guided by the principles set out in this document, which would form part of the approved plans. It is intended for the development to create a year-round, vibrant and attractive seafront community and as set out in further detail in section 1, there will be a new leisure centre, approximately 4.92ha of public open space (a large informal area at the western end, a central open space, a linear park connecting the two along the canal bank, a hard landscaped area at the eastern end and over 1 kilometre of widened public promenade), 150 homes (30% affordable, predominantly apartments at the eastern end and terraced and semi-detached houses at the western end), public parking for the beach along the proposed re-aligned road and to the south of the western open space and commercial uses (hotel with restaurant/café/retail at ground floor).
- 8.132 As regards development zones, Extent of Development Plan PP – DZ 002 shows the western and eastern development areas covered by the outline planning application, as well as the detailed leisure centre area at the east. These zones relate to buildings only and allow for public open space, roads and paths outside of them. All development will be at least 12 metres from the seawall to allow for wave over-topping and potential flooding. The eastern development zone is immediately adjacent to the leisure centre and, excluding the access road, will be 25 metres back from the northern red line boundary. The western development zone, excluding the access road, will be at least 39 metres away from the northern red line boundary. The positioning of the development areas are considered to reflect the constraints and opportunities of the site, as the buffer zone to the north allows separation distance to the RMC (discussed earlier this report) in order to seek to minimise the impact of the development, whilst the enlarged promenade provides public realm and access improvements for the wider area.
- 8.133 The application has also been accompanied by Storey Heights Parameter plans (section 4.4 of the Planning, Design and Access Statement – PDAS). All buildings will have a finished floor level of 7.8 metres AOD with the taller buildings (3-4 storeys) proposed at the southern edge of the development and predominantly in the eastern development zone facing onto the promenade. The commercial building facing the central open space is also proposed to be a maximum of 4 storeys, providing a landmark structure at the important corner point of the site. Within the western development zone, buildings will be a maximum of 2.5 storeys with a limited amount of 3 storey buildings facing onto the promenade. This arrangement results in a diminishing height moving westward toward the open space, one of the concepts posited by the design review panel, allowing the western open

space to link to the existing golf course, maximising the gap between the development area and the remainder of the site and ensuring a visual break is maintained along the coastline between Hythe and Seabrook.

8.134 With regard to access and movement, the intention of the proposal is to deliver a pedestrian orientated development, where the impact of vehicular traffic on the seafront is minimised. Detail of the vehicular, cycle and pedestrian routes proposed as part of the development can be found in the transport section below, but the key principles cover:

- Diversion of the coast road and reduction in speed limit to reduce the impact of vehicles on the seafront and reduce 'rat-running';
- Informal and formal public parking will be improved and re-provided (see transport section);
- Widening of the promenade to become an improved pedestrian and cycling route;
- Reinforcing the route from the pedestrian footbridge running through the centre of the site as a direct route to the seafront;
- Limited routes through the residential development zones; and
- A potential cross-link in the western open space.

8.135 The site layout is designed to promote walking within the site. There are no formal crossing facilities along Princes Parade currently, and the re-aligned road will include a number of crossing points at perceived pedestrian desire lines including at the bridge crossing the RMC and the Seapoint Canoe Centre. Two north / south pedestrian links are indicated through the western development zone to connect the re-aligned road and the public parking with the promenade, with 1.8 metre footways provided either side of the re-aligned road in the western zone and on the southern side in the eastern zone also. As mentioned previously, the seafront promenade will be widened by approximately 11 metres to enhance the walking route and National Cycle Route 2.

8.136 Overall, it is considered that the broad development zone parameters will result in a development that will function well and add to the overall quality of the area, establishing a sense of place through the creation of streetscapes and open spaces, with a mix of uses that responds to the site, promoting sustainable travel (walking and cycling) within the development and throughout the wider area and enhancing the seafront promenade experience for both residents and visitors. This is only possible through the re-routing of the road.

#### Design Code

8.137 The design code is intended to set design guidelines that should be followed in the design of reserved matters applications in order to ensure each phase is of a high quality and that the overall vision of the development is achieved. A condition is proposed requiring reserved matters applications to comply with the requirements of the Design Code.

#### Promenade

8.138 The promenade is currently cut-off from the public open space by a well-used road that is a physical barrier to movement between the canal and beach. This together with the splash wall, and parallel parking along the road makes access between the public open space and the beach difficult. The road has a uniform, hard character along its length, with limited opportunities to stop and enjoy the space. The presence of moving and parked vehicles also adversely impacts on the amenity of users of the seafront promenade. Though the widening of the promenade and the relocation of the existing road, it is the intention to maximise the enjoyment of the space for activities including walking, cycling and sitting and watching.

8.139 Whilst maintaining a uniform approach to the area, contrasting focal points are proposed along the promenade at:

- A pedestrian link with the Canoe Club;
- The leisure centre atrium;
- The north / south pedestrian links;
- The central open space;
- The pedestrian link with the western open space.

8.140 These focal points would have pockets of native planting appropriate to the maritime environment, with a range of hard-wearing materials, such as concrete paving, concrete setts, concrete with exposed aggregate, timber decking around seating areas and shingle for planting areas. The remainder of the promenade would be coloured asphalt. Other materials may be introduced into the 1.5 metre splash wall, such as sandstone or Kentish ragstone, to avoid homogeneity and soften its appearance although a consistent approach to street furniture (bins, lighting, benches, bollards etc.) is proposed. A 4 metre access would be maintained long the length of the promenade to allow for maintenance and buildings would be set back 3 metres from the northern edge of the promenade to allow semi-private amenity space.

### Open spaces

8.141 The open spaces are an important feature of the proposed development, integrating the site into the landscape whilst providing opportunities for play and recreation, as well as improved connectivity from the canal to the sea. There are three main areas, the central park, the western park and the green link. They will work together to create a network of open space and provide a robust landscape suited to the harsh maritime climate through the use of a simple palette of native species.

8.142 A green link would incorporate the existing embankment from the edge of the re-aligned road to the footpath of the RMC, as well as an east / west pedestrian route to connect the central and western parks. The central park would be centred upon the existing north / south pedestrian link from the canal footbridge, transitioning from the promenade in the south to the vegetated embankment of the RMC to the north, meeting the terrace of the proposed hotel at the western edge and semi-private raised terraces in the

east, which would also provide natural surveillance of the area. A childrens' play area would be integral to the scheme. For the western park, this would be a significantly larger area, with a destination childrens' play area within predominately grasslands and meadow. This area would also have a network of paths connecting to existing footbridge links and the pedestrian routes through the western character area. A soft green interface with the public parking is proposed, in order to lessen the visual impact of parked cars. There is potential for kiosks and toilets to be accommodated within or around this area, although these do not form part of this application.

#### Character area east

- 8.143 The character area east is intended to follow on from the detailed leisure centre proposal, which is discussed later, as well as responding to the urban character of the existing Seabrook and Sandgate development. Buildings would be set back a consistent distance of 3 metres from the northern edge of the promenade to allow a semi-private front terrace / garden zone along the promenade frontage between the buildings and the splash wall. Windows to habitable rooms would face out onto this area to provide an active frontage. This distance would extend to 3.5 metres facing onto the central open space and reduce to 1.5 metres along the frontage with the proposed realigned road, with the same objectives regarding amenity space and surveillance sought. A minimum of two north / south pedestrian routes would be provided to connect the new street to the promenade, with windows to habitable rooms facing these and pedestrian access to circulation cores serving the apartments.
- 8.144 In the Design Code, apartment blocks will feature prominently in the eastern zone, designed with flat roofs to reflect the architectural vernacular of the leisure centre, a distinct top, middle and bottom, with a solid ground floor that is the most robust element (visually) of the elevations. Ground floor materials may include stone, slate tiling or timber cladding. The middle layer would be set forward a minimum of 0.5m / maximum of 1 metre off the plane of the ground floor and finished in smooth, light coloured render. The top layer would be set back from the plane of the middle layer by a minimum of 1.5 metres and may be rendered to match the middle layer or be finished with metal or timber cladding. The buildings will have a strong horizontal emphasis broken with features to reintroduce verticality around entrances to cores and stacking windows above one another.
- 8.145 Pavilion type buildings with a maximum of three storeys and a maximum height of 12 metres AOD would bridge the area between the leisure centre and the western blocks, with identical form and massing, regular spacing, pitched gable ends facing the promenade and a strong base to read as the most robust part of the elevation. Upper floors are to be set forward a minimum of 0.5 metre, to a maximum of 1 metre beyond the plane of the ground floor and be a smooth, light colour render.
- 8.146 Parking for apartments will be within internal courtyards and shared surfaces on the additional north / south pedestrian routes through the zone. This will be set back 4.5 metres from the promenade (minimum) to minimise

visual presence and screened with the splash wall and soft planting. Courtyard parking shall be minimum 1.5 metres from the internal façade in courtyards, with a 0.6 planted buffer adjacent to buildings. No tarmac is proposed within these areas, instead materials used would be consistent with the character area. No parking for the housing will be permitted on the realigned road. For the pavilions, treatments and guidelines will be similar, but with parking between the villas and on the access to the northern side. The boundary between the pavilions and the leisure centre parking area will be formed by a stone or gabion wall.

#### Character area west

- 8.147 As in the eastern zone, buildings would be set back a consistent distance of 3 metres from the northern edge of the promenade to allow a semi-private front terrace / garden zone along the promenade frontage between the buildings and the splash wall, with windows to habitable rooms facing out onto this area to provide an active frontage. Facing onto the realigned road, the setback would vary between 1.5 and 5.5 metres, with no more than four dwellings in a row having the same setback and all dwellings in this area having a planted front garden buffer zone, with windows serving habitable rooms facing the street and front doors providing access to the street frontage.
- 8.148 For the frontage to the central open space, the boutique hotel, which should have its own distinct character within the development, would be set back 10 metres from the edge of this area, with a terrace in this area and an active ground floor area and through-lobby to the rear parking area. The 'light' ground floor would have more solid upper floors that project over the ground floor a minimum of 1 metre, with options for light render, corten steel cladding or timber cladding over.
- 8.149 Two additional north / south pedestrian routes should be provided through the development, with a minimum width of 5 metres, but no vehicular access to parking along these routes. Boundary treatments are to be high quality, solid walls with no close-boarded boundary fence. Windows to habitable rooms would face onto these routes.
- 8.150 For massing, the hotel itself is suggested to be the high point of this sector, with a flat roof within the height parameters previously described. To the promenade frontage, the eastern 50% of this length will be occupied by 3 storey villas with flat roofs and having regular sizing, spacing and a common architectural language, whilst the western 50% will be 2.5 storey semi-detached houses with pitched gable ends facing the promenade and 2.5 storey detached houses with pitched roofs designed so as to have contrasting massing to the semi-detached dwellings. To the new street frontage, all buildings will be 2.5 storey houses with pitched roofs, but the ridgeline must have the same orientation for more than four dwellings in a row to create a varied roofscape.
- 8.151 The design code sets out further specifics regarding the semi-detached and detached houses, stipulating the regularity of the semi-detached pairs to



be offset by having all detached units of differing design, with no two units the same. Again, parking would be via internal courtyard of a high quality, separated by the north / south pedestrian routes and no vehicular connection between. Materials would reflect the palette of the character area.

#### Leisure Centre

8.152 Detailed planning permission for the proposed leisure centre is sought in this application. The appearance and facilities of the leisure centre are set out at 1.9 – 1.13 above.

#### Conclusion

8.153 For the outline aspect of the scheme, the proposal is to have a greater density of development at the eastern end, with a more continuous frontage and greater building heights, 'builds up' the scheme at the more urbanised end of the site adjacent to Seabrook and Sandgate and contrasts with the lower buildings and more fragmented built form to be found in the western zone, which then transitions into the green open space, which then connects to the existing golf course. This is considered to be an acceptable approach that responds well to the existing site character and constraints. It reads as a continuation of the existing built development of Seabrook, while still maintaining a green break between the end of the built development and the golf course and hotel in Hythe and decreasing in height and density moving along the seafront, canal bank towards Hythe. The provision of large areas of open space in the centre, at the western end and along the canal bank will still allow spacious open views across the site. This is considered to be good master planning of the site.

8.154 In longer range views, such as those south from Naildown Road and south west from Hospital Hill, the visual impact of the introduction of built development into a view where currently, undeveloped land meets the sea, has already been noted, but this has to be weighed against the public benefits that will be achieved by the scheme and the improved quality of open space that will result. In terms of the layout it is considered that it has been designed to ameliorate this impact as far as possible through the reduced density and massing as the proposed development progresses westward and through the provision of large areas of open space to break up the bulk of development in the longer distance views.

8.155 Further it is considered that the leisure centre proposal would result in a high quality, contemporary design for the main structure. Its articulation and material palette would break up its overall mass, whilst the landscaping and public realm would create a high quality, robust setting that will fit in with the leisure centre and wider development master plan, creating a destination for a variety of activities both within the building and outdoors within an improved public realm. It will provide a much needed facility for Hythe and the rest of the district and the detailed proposal incorporates links across the site, providing permeability and connections to public transport, cycle routes

and catering for vehicular access. The building will also be accessible for a range of users.

8.156 It is considered that the layout and design parameters of the overall scheme would create a development of high visual value and local distinctiveness achieving a high-quality and inclusive design for all the proposed development, including individual buildings, public and private spaces and the wider area. It is also considered likely to function well and add to the overall quality of the area, establish a sense of place whilst accommodating the required development plus green and public space, facilities, connections between people and places, and transport networks. As such it is considered to be in accordance with paragraphs 57 – 61 of the National Planning Policy Framework, policies CSD4 and SS3 of the Core Strategy and saved policies SD1, BE12 and BE16 of the Shepway District Local Plan Review.

## **Transport**

8.157 Princes Parade currently runs through the south of the application site and provides the only vehicular access to the site. It is proposed to re-align Princes Parade to run along the northern boundary of the application site, the speed limit will be reduced from 40mph to 30mph and the road would be traffic-calmed to further reduce vehicle speeds, with raised tables at new pedestrian crossing points.

8.158 The site is served via existing bus services on the A259, with a total of six stops served by Stagecoach accessible from the site by footpaths over the Royal Military Canal, meaning that no area of the site is further than 300m walk from a bus stop. Folkestone West and Folkestone Central train stations are 4km and 4.6km from the application site, respectively.

8.159 For pedestrian movement and access, there is a public bridleway, HB83, running along the southern bank of the canal and another, HB65, running along the northern boundary alongside a public footpath, HB56. There are two pedestrian links that cross the site on a north / south axis, leading from the footbridges that cross the RMC, one in the middle of the site and the second located to the west of the site next to the Imperial Golf Course, and connecting the promenade and beach with the A259 Seabrook Road to the north. These are existing and would be maintained as part of the development. Two pedestrian routes will run east / west linking the proposed car parking with the leisure centre entrance, one following the re-aligned road and the other along the promenade. The entrance to the proposed leisure centre is to be located at the south eastern 'corner' of the site to provide prominence from the new promenade.

8.160 For cyclists, National Cycle Route 2 runs along the Princes Parade promenade. This is a long distance cycle route that will eventually link Dover with St Austell in Cornwall. The site is connected to the local cycle network via a shared cycle / pedestrian pathway that runs along the promenade. This connects with the A259 Sandgate Esplanade to the east to provide access to Folkestone Town Centre and the Hythe Marine Parade to the west to

provide access to Hythe town centre. This is to be maintained and enhanced within the widened seafront promenade. 56 cycle parking spaces are to be provided for the leisure centre, all located under the cantilevered first floor in close proximity to the main building entrance.

### Vehicular Parking

8.161 Princes Parade currently has double-yellow lines on the northern side of the carriageway and unrestricted parking on the southern side, which is well-used, particularly in summer months. There is also a 23 space paid public car park at Sea Point, at the eastern end of Princes Parade.

8.162 The parking surveys that form part of the submitted Transport Assessment were undertaken on a Saturday in July 2016, which was considered representative of the maximum use scenario for the parking facilities in the vicinity of the site, being a summer weekend. This showed a peak of 100 cars parked in front of the site on the south side of Princes Parade at 1400 hours.

8.163 The existing 23 car park spaces will be incorporated into the new parking layout as part of the proposal. Additional spaces will be provided on both sides (east / west) of the proposed leisure centre as below:

#### Eastern:

- 39 spaces for the leisure centre including 7 accessible spaces;
- 23 public spaces including 2 accessible spaces.

#### Western:

- 69 spaces for the leisure centre.

8.164 This gives 108 spaces in total for the leisure centre, based upon Kent Parking Standards. It is proposed that coaches will access the site via the re-aligned road, with a coach drop-off area located in the western car park area. Service vehicles will access via the western side of the building, also via the re-aligned road way. There are also 71 spaces proposed in a car park at the western end of the site.

### Traffic Impact

8.165 As part of the Transport Assessment traffic surveys were undertaken in September 2016. It is noted that due to the proximity of the road to the beach and promenade, traffic flows are likely to have seasonal fluctuations.

8.166 In assessing the effect of development traffic upon the surrounding highway network, the following junctions were assessed:

- Princes Parade / Seabrook Road (A259);
- Twiss Road / Seabrook Road (A259);
- Twiss Road / South Road;
- East Street (A259) / Prospect Road (A259) / High Street / Station Road.

8.167 The modelling undertaken has demonstrated that in a 2023 scenario, which accounts for traffic associated with the development as well as local traffic growth (incorporating the cumulative impact of Imperial Green, Shorncliffe Garrison and the Seapoint Canoe Centre), all junctions will operate within desired capacity parameters within the AM and PM network peak hours (0800 – 0900 and 1700 – 1800, respectively). The greatest increase in modelled traffic flows will occur at the Twiss Road / South Road junction, with 15.7% increase in traffic at PM peak (average 14.5% increase for AM and PM), whilst the longest predicted increased delay would be at the Seabrook Road / Princes Parade junction, at 3.38 seconds. As a result of this no off-site highway works are required by KCC Highways.

#### Construction Traffic

8.168 During the construction phase, additional traffic (notably HGVs) and highway / utility works will cause disruption in the local area, although this would be temporary whilst construction lasted. These are not grounds for refusing planning permission. However, in order to minimise impacts it is proposed that details should be submitted within the CEMP (Construction Environmental Management Plan) taking into account such issues as traffic volumes, routing, site operations, effect on roads, footpaths and safety, with adverse effects identified and minimised in relation to the construction techniques and methodologies to be employed in various stages of the project.

#### Conclusion

8.169 Whilst the proposal is expected to generate a limited additional demand for local public transport services, the ES suggests this would have an insignificant effect on the existing bus and rail network, which the Council accepts.

8.170 The development will also increase demand on the pedestrian and cycle network through increased movements. However, the proposal will, if permitted, offer significant enhancements to the quality of the existing pedestrian and cycle network as a consequence of the widened promenade, the reduction in the speed limit from 40mph to 30mph on the realigned road together with traffic-calming features, formal pedestrian crossings on the realigned road to provide better links between the proposed development and the canal, and the proposed footway along the northern side of Princes Parade would provide a connection to the walking route alongside the RMC.

8.171 KCC Highways and Transportation have assessed the proposal and the supporting information and found that sufficient parking is proposed to accommodate the existing demand and the future demand from the proposed development, whilst all junctions and roads will still operate within their capacity parameters when accounting for the development, cumulative impact from local schemes and traffic growth, with no significant detrimental effect upon road users. Parking for the housing will be incorporated into the housing layout at the reserved matters stage and assessed then.

8.172 Subject to the requirements of KCC Highways and Transportation with regard to a road restraint risk assessment process (RRRAP), a street lighting plan, a construction management plan and other standard highway conditions, including one to control the palette of materials, it is considered that there are no detrimental highway considerations associated with the development and the proposal will result in qualitative improvements to existing pedestrian and cycle routes, in accordance with NPPF paragraphs 17 and 32, saved policies TR5, TR6, TR11 and TR12 of the Shepway District Local Plan Review, and Shepway Core Strategy Local Plan policies DSD, SS1 and SS3.

## **Flooding**

8.173 A Flood Risk Assessment (FRA) and Surface Water Management Strategy (SWMS) have been submitted with the proposal. When the application was submitted, the Environment Agency (EA) Flood Map located the whole of the application site within Flood Zone 3a, denoting a high probability of flooding; 1 in 100 greater annual probability for river flooding and 1 in 200 greater annual probability for tidal flooding. However, the EA data has been updated and the maps now show the only area of the application site within zone 3 is the existing Princes Parade road, with the remainder located within zone 1.

8.174 In relation to flooding from rivers, the site is located directly adjacent to both the Royal Military Canal (RMC) and the Seabrook Stream, which discharges into the RMC. Both are classified as main rivers and the RMC discharges into the sea via tidal outfall to the east of Princes Parade. The submitted Flood Risk Assessment (FRA) identifies the risk of flooding from various sources:

- Ordinary or man-made watercourses – negligible;
- Overland flow and surface water runoff – low;
- Groundwater – low;
- Sewers – low;
- Reservoirs, canals, other artificial sources – low.

Topographic data confirms that the site is approximately 3 metres above the Royal Military Canal (RMC) and consequently, any risk from this source of flooding is considered low due to the significant rise in water level that would be required, even when considering climate change.

8.175 Coastal flooding is considered to be the primary source of flood risk and further analysis has taken place within the FRA. The open coastline at this location comprises a reinforced seawall, fronted by a managed shingle beach to provide a 1 in 200 year standard of protection against coastal flooding. The Shepway District Council Strategic Flood Risk Assessment (SFRA) places the site outside of the flood hazard risk zone at predicted 2115 sea levels.

- 8.176 The primary source of flooding risk relates to overtopping under storm surge and high tide conditions, with the closest properties considered at some risk, although insufficient to pose a safety risk to future residents. The existing primary sea wall will protect the site from the direct impact of wave overtopping. Further protection would be provided by the enlarged 11 metre promenade and a requirement to set back development 12 metres from the primary seawall, in conjunction with a secondary seawall at the rear of the promenade (a 1 metre high and 1 metre deep 'splash' wall). This is considered suitable mitigation to protect the scheme and is supported by the EA and can be achieved and maintained via conditions/s106 on land within the District Council control.
- 8.177 With respect to finished floor levels, the site has been designed to ensure all habitable accommodation is located significantly above the extreme sea level of 5.87 AODN, with a request from the EA that finished floor levels (FFL) of the development will be set no lower than 7.45 AODN, which can be secured by condition. For the leisure centre the internal FFL will be 7.9 ODN. This will be the same for the other buildings.
- 8.178 In accordance with the NPPF, due to the residential uses of the proposed development being considered a 'more vulnerable' use, the sequential and exceptions test should normally be applied based on the Strategic Flood Risk Assessment (SFRA) and Environment Agency flood risk zones. However, as the centre of the site where the housing is proposed to be located is now within flood zone 1 this is no longer necessary. This supports the conclusions of the Council's SFRA which identifies that the site is at no hazard risk in 2115, taking in to account sea level rise projected for climate change.
- 8.179 As the development can be made safe from flood risk for its lifetime as advised by the FRA with recommendations of flood resilience and resistance proposed to be incorporated into the development that will also ensure flood risk is not increased elsewhere, the development is considered acceptable in this regard.

### **Surface Water Runoff**

- 8.180 The proposal would represent a fundamental change in the runoff characteristics of the site. The drainage assessment within the FRA confirms that surface water from the developed site can not be discharged to ground (i.e. by infiltration) due to the risk of mobilising any contaminants held within the site as a consequence of its former landfill use. The site and the RMC are not currently connected directly or hydraulically, so discharge into it without appropriate controls could result in an increased risk of flooding to the lower areas surrounding the RMC during peak rainfall events.
- 8.181 Consequently, an indicative scheme using a combination of permeable paving, cellular storage, storage tanks and a series of permanent/occasional ponds and swales has been prepared that will discharge surface water to the RMC at a controlled rate. The submitted information suggests a scheme that would control the off-site discharge rate, under the 1 in a 100 year

rainfall event including a 20% increase for climate change, at 7.8 l/s. The existing run-off rate under the same rainfall event has been calculated as 12.8 l/s, so the scheme would present a reduction. At present surface water runoff has the opportunity to enter the RMC and to infiltrate through contaminated land. So in this respect and in terms of the run off rate the development would represent an improvement on the current situation.

8.182 The details of the Sustainable Urban Drainage Systems (SUDS) can be secured by condition, including their long-term management and maintenance. Consequently, this aspect of the scheme is considered to be in accordance with NPPF paragraphs 17 and 103, saved policies SD1 and U4 of the Shepway District Local Plan Review, and policies DSD, SS3 and CSD5 of the Shepway Core Strategy Local Plan.

8.183 Final comments are awaited from the KCC Lead Local Flood Authority and the Environment Agency on the additional documents and will be reported in the supplementary sheets.

### **Foul Drainage**

8.184 A Southern Water combined rising main runs east to west within the site close to the southern boundary and it is proposed to divert this along the realigned section of Princes Parade. Southern Water have confirmed that there is insufficient capacity within the existing network to accommodate the discharge from the development, with the ES stating that additional work shall be carried out by Southern Water, funded by the applicant, to reinforce the network, implemented in advance of any foul discharge from the completed development. The provision of additional capacity will avoid potential environmental effects associated with the surcharging of the sewer and can reasonably be secured via condition. Consequently, this aspect of the scheme is considered to be in accordance with saved policies SD1 and U2 of the Shepway District Local Plan Review and policy CSD5 of the Shepway Core Strategy Local Plan.

### **Ecology**

8.185 This section sets out the ecological constraints at the site, the impacts identified by the ES during construction, the impacts identified post-construction as a consequence of the completed development and then sets out the ecological mitigation proposed.

8.186 The NPPF requires new development to minimise its impact on biodiversity and provide net gains in the same, where possible. At a local level, Core Strategy policy CSD4 reiterates this, whilst saved policy CO11 of the Shepway District Local Plan Review states:

8.187 The District Planning Authority will not give permission for development if it is likely to endanger plant or animal life (or its habitat) protected under law and/or identified as a UK Biodiversity Action Plan priority species or cause the loss of, or damage to, habitats and landscape features of importance for nature conservation, unless;

- i. There is a need for development which outweighs these nature conservation considerations and;
- ii. Measures will be taken to minimise impacts and fully compensate for remaining adverse effects.

### Habitats

8.188 The section of the RMC adjacent to the site is identified as 'Eutrophic standing water', a Habitat of Principle Importance (HPI, and is also a Local Wildlife Site. There are no statutorily designated sites (SSI, SAC, SPA, Ramsar etc) identified within 1 kilometre of the application site.

8.189 Based on the findings of an invertebrate survey and habitat assessment, and the fact that the on-site grassland strip that is located adjacent to Princes Parade is not common within the surrounding local landscape, this habitat is considered of ecological importance for invertebrates at the Local level only. The remainder of the other habitats are of negligible sensitivity or importance for invertebrates. Based on the survey results, the reasons for designation of the RMC Local Wildlife Site, and the extent of habitats present, the adjacent (off-site) section of the RMC is of ecological importance for invertebrates at the County level.

8.190 The Kent Wildlife Trust (KWT) suggests that the application site may have a fixed sand dune habitat within it, with the KCC Ecological Advice Service also questioning the presence of the habitat on site. However the ES refutes this within the additional information provided, indicating that the historic use of the site as a landfill would make it extremely unlikely for such a habitat to be present at the site, with no evidence that sand was imported to the site.

### Flora & Fauna

8. Giant hogweed, Japanese rose and Spanish bluebell, which are all non-native plant species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), have been recorded on-site.

### Common Toad

8.191 The Site supports terrestrial habitats suitable for common toad, and the adjacent section of the RMC provides a suitable breeding site for this species. Results from a common toad survey indicate that the site supports a 'low' population of common toad.

### Reptiles

8.192 Slow worm, common lizard and grass snake are present on the site. The reptile survey results indicate that the site supports 'good' populations of slow worm and common lizard and a 'low' population of grass snake.

### Breeding Birds



8.193 Four red-status bird species (highest conservation priority, with species needing urgent action) utilise on-site habitats. These are song thrush, starling, house sparrow and linnet. The site is also of ecological importance at the local level for Cetti's warbler, house sparrow (foraging only) and reed bunting and Kingfisher was recorded along the canal itself. Both Cetti's warbler and kingfisher are listed on Schedule 1 (protected species) of the Wildlife and Countryside Act 1981 (as amended).

#### Badgers

8.194 As badger setts are susceptible to human interference, the locations have been kept confidential. During badger sett monitoring work conducted in May and June 2018, four setts were identified within the site. It was concluded that two of the setts (setts A and D) are not in 'current use' by badgers, whilst the remaining two (setts B and C) are in 'current use' by badgers.

#### Bats

8.195 The site does not support any features suitable for roosting bats. Eight bat species were confirmed using the site and adjacent section of the RMC during the 2016 bat activity survey. It is possible that additional *Myotis* species are also present. There were differences in the recorded levels of bat activity across the survey area. Bat activity was higher along the adjacent section of the RMC and vegetation on the northern embankment of the Site. Bat activity was low across the remainder of the site.

#### Construction Effects

8.196 During construction, the site would experience extensive clearance and disturbance, as all vegetation is removed in order to enable the remediation required to make the site safe for development and minimise residual risk from the remaining contamination.

8.197 Whilst the ES states that much of the site is of limited habitat value, the on-site southern grass land strip adjoining Princes Parade is of local interest, as a habitat for the nationally-scarce weevil, *Trichosirocalus rufulus*, alongside other 'local' species. In the absence of mitigation, the loss of this area would amount to a moderate adverse effect.

8.198 The ES states that for the protected species of common toad, reptiles (smooth snake, grass snake and common lizard), bats, and birds such as Cetti's warbler, house sparrow and reed bunting, in the absence of mitigation, the stated effects from physical disturbance and habitat loss following phase 1 works would be minor adverse for common toads and birds, and moderate adverse for reptiles and bats. Temporary lighting could also deter foraging bats. Accidental killing of individual animals would be categorised as a major adverse effect.

8.199 Work such as vegetation clearance, remediation and landscaping will take place in close proximity to the RMC and in the absence of mitigation, there

is a risk of accidental spillages or uncontrolled disposal of wastes contaminating runoff into the canal. This could cause ecological damage of moderate to major adverse effect, as the canal is both a habitat of principle importance (HPI) and a designated Local Wildlife Site.

### Completed Development Effects

8.200 The ES identifies that the completed development would represent a fundamental change to the habitat status of the site, as well as introducing physical barriers to movement, lighting, human disturbance, traffic and predation by pets into the area. Without mitigation, the effects on the numbers of common toad and reptiles are anticipated to be minor to major adverse, and moderate to major adverse, respectively. The potential effect on foraging bats due to the introduction of lighting, without control, is predicted to be moderate adverse.

### Ecological Mitigation

8.201 In order to counter construction stage impacts, mitigation would be sought through the submission and implementation of a satisfactory Construction Environment Management Plan (CEMP) via condition, which could cover (but not be limited to):

- Pollution prevention & control (e.g. waste disposal protocols and remedial drainage);
- Demarcation of fenced no-go areas;
- Creation of compensatory grassland and scrub habitats as permitted by phasing;
- Supervised clearance and erection of “herptile” fencing;
- Trapping and translocation of reptiles to created or enhanced off-site habitats;
- Nesting bird surveys or clearance of nesting habitat outside the breeding season; and
- Controls on temporary lighting.

8.202 The findings of the ES state that, assuming that these measures (and any other identified to be necessary) are effectively implemented and monitored, the residual effects are predicted to be negligible in all cases, except for those relating to breeding reed bunting and the loss of on-site grassland/invertebrate habitat, which would be minor adverse. The required details can reasonably be secured via condition, prior to commencement of development.

8.203 In mitigating the operational phase of the development, the ES proposes compensatory habitat is provided for a range of species within the green space identified to be re-provided as part of the development proposal, with a Landscape and Environmental Management Plan (LEMP) reasonably able to be required via condition. This would maintain the ecological importance of the new and re-instated habitats in the long-term and provide foraging, shelter and breeding opportunities for a range of species, such as house

sparrow boxes and reptile hibernacula, as well as selected mitigation measures incorporated by design, such as the location and specification of lighting to avoid light spill onto the canal or adjoining habitats.

8.204 As mentioned above, the loss of invertebrate habitat at construction phase is stated in the ES to be a minor adverse effect. The invertebrate assemblage present within the grassland cannot be replicated or re-created through delivery of new habitats. However, the information submitted asserts that invertebrate assemblages are dynamic, and the proposed new habitats will provide a range of new opportunities for invertebrates, including maritime grassland species.

8.205 The ES also states that the loss of habitat will be minor adverse for the breeding birds, such as reed bunting. Again, the provision of tall scrub and tree habitat within the proposed linear park and embankment, and the western open space will, once established, provide dense cover, foraging and nesting opportunities for the range of species observed using the application site, compensating for the loss of the cleared scrub during phase 1 (construction phase).

8.206 The ES concludes that through the timely adoption of such measures, the residual long-term effects on protected species are predicted to become negligible in all cases, except for a minor adverse effect upon reptiles due to cat predation and a major adverse effect on common toad, through individual animals being accidentally killed on the road.

8.207 For both the construction phase and the operational phase, further information has been submitted during the course of the application, in the form of an addendum to the Environmental Statement, followed by an Ecological Mitigation Strategy (EMS), which supersedes the Ecological Mitigation and Enhancement Plan submitted with the ES, as well as a Mitigation Schedule, which collates the various mitigation measures that have been proposed or assumed in the environmental statement (ES) and specifies how these are to be delivered and monitored. The measures are identified for each assessment topic and are divided into three schedules, relating respectively to the construction phase, scheme design and operation of the completed development.

8.208 The EMS was produced to ensure that the measures proposed for different species do not conflict and that an integrated and co-ordinated approach is followed. It sets out ecological avoidance, mitigation and compensation measures associated with the proposed development and aims to address comments received from Kent County Council Ecological Advice Service (KCC EAS). It adds an additional level of detail to the measures set out already in Technical Appendix 7.8 of the submitted Environmental Statement, with particular reference to:

- Enhancement of habitats outside the footprint of the proposed development;
- Habitat creation works that will be carried out upon completion of the remediation works;

- Methods for ecological mitigation works;
- Development of a concept lighting scheme;
- Details of compensatory plantings; and
- Timings (where possible) for the implementation of ecological measures.

8.209 It is proposed that, should permission be granted, a suite of documents is secured by condition in order to mitigate any impacts. Within the construction phase and to mitigate impacts from construction activities, works would be subject to a Construction Environmental Management Plan (CEMP) or Code of Best Practice, with an Ecological Clerk of Works (ECoW) appointed for the duration of the construction stage to ensure effective and robust implementation of the measures required. An Ecological Mitigation and Enhancement Plan (EMEP) would also be secured and enforced via condition, setting out measures to mitigate firstly the construction impacts, followed by the operational impacts upon the site once complete. The Landscape and Environmental Management Plan (LEMP) will tie all aspects together and identify the responsibilities and management strategy for the plans.

8.210 The phasing of the ecological mitigation is also of prime importance, as the early establishment of compensatory planting will allow key green infrastructure to be reinstated as soon as possible (in Phase 2 of the construction stage), and ensure that off-site compensation measures are delivered prior to the start of construction.

8.211 The information has been assessed by KCC Ecology, Natural England and the Environment Agency and found to be broadly acceptable subject to outstanding matters regarding the mitigation for the badger setts. An update on this will be provided on the supplementary sheets. Subject to this being satisfactorily resolved officers consider that the applicant has demonstrated that the ecological impacts associated with the proposed development could be mitigated effectively, subject to the submission of further detail prior to the commencement of development. The proposal would therefore be acceptable with regard to NPPF paragraphs 17, 109 and 118, Core Strategy Local Plan policy CSD4 and saved policies SD1, CO11 and CO13 of the Shepway District Local Plan Review.

8.212 Further comments are awaited from Natural England and the Environment Agency on the additional documents and will be reported in the supplementary sheets.

## **Lighting**

8.213 As part of the ES, a Lighting Impact Assessment (LIA) was submitted, assessing baseline conditions and potential sensitive receptors, including foraging bats and their foraging habitats, and neighbouring residential properties. The development area has been identified as falling within an E1 lighting environmental zone, so is considered to be intrinsically dark.

- 8.214 A concept lighting design strategy was developed for the detailed aspect of the scheme, the proposed leisure centre. The outline element of the proposal, covering the remainder of the site including the residential elements, car-parking and proposed re-aligned access road, was modelled from the Land Use Parameter Plans and using data from lighting equipment from a reputable lighting manufacturer that would be suitable for the task.
- 8.215 During the construction phase, the risks of light-related impacts upon foraging and commuting bats are likely to be low because, in general, construction works during the main period of bat activity are unlikely to occur so late in the day that it coincides with dusk or night. During the winter period, when construction lighting is likely, bats are either not active, or their activity levels are low. The Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (GN01:2011) will be adhered to during the construction stage to prevent 'sky glow' and minimise the amount of spill light into off-site bat foraging habitats. The equipment used will be carefully selected to limit luminous intensity, with units mounted around the perimeter and directed inwards to avoid direct light being projected into off-site habitats. Along with a range of other controls all of these would be secured via condition through the CEMP.
- 8.216 For the operational phase, the concept lighting scheme includes the car park lighting, the street lighting and the spill from inside the houses. The scheme modelling does not take into account any vegetation within the boundary of the application site and therefore, represents a worst-case scenario. As vegetation required by the ecological mitigation establishes on the northern embankment, the tall scrub and trees will physically reduce light spill into the canal corridor during the growing season, providing low light levels.
- 8.217 The LIA concluded that for all areas, to minimise the physiological and ecological impact of the development lighting scheme on the bat foraging habitats/foraging bats and nature designations, careful consideration will need to be given to the direction and level of lighting, as well as the choice of lamp sources to be utilised throughout the design of the scheme, with LED lighting sources more sympathetic due to the Infrared and UV lighting component being minimal. Further control through photocell control (automatic on at dusk) and time-clock control (turn off post-curfew) would further limit the potential for light pollution. This can all be secured by condition.
- 8.218 The aim is to achieve an illuminance level of 1 lux or less at the southern edge of the buffer with the canal, with the overall upward light ratio for the entire site being 0%. The detailed lighting strategy for the operational stage of the proposed development will be produced at the detailed design stage and will adhere to the principles within the LIA and the EMS, including the 1 lux and 0% requirement, whilst also considering all relevant health and safety and security considerations.
- 8.219 In respect of the concept lighting design strategy, KCC Ecological Advice Service have noted that there will be an increase in lighting within the site,

which will spill in to the adjacent LWS, but accept that there is a need. Due to the ecological interest of the site and surrounding area the lighting should be designed with ecology as the major constraint and if planning permission is granted, a detailed lighting plan should be submitted demonstrating that there will be minimal light spill in to the areas of ecological interest.

8.220 Overall, it is considered that in relation to lighting, the information submitted has demonstrated that the proposed scheme could be implemented without undue negative impact upon ecological or visual considerations in respect of lighting and would accord with NPPF paragraphs 17,109, 118 and 125, Core Strategy Local Plan policy CSD4 and Shepway District Local Plan Review policies SD1, CO11 and U15.

8.221 Comment has also been sought from Natural England and the Environment Agency on the additional documents and will be reported in the supplementary sheets.

### **Geo-Environment**

8.222 The previous use of the site as a refuse tip lead to the contamination of the site and the raising of the land. Consequently, within the Environmental Statement, a Geo-Environmental Assessment was carried out in order to identify any contaminative or geotechnical issues associated with the former land use and the proposed redevelopment of the site. This was reviewed on behalf of the Council by RPS, an independent environmental consultancy, as well as the Environment Agency (EA) as a statutory consultee.

### **Geology**

8.223 Given the history of the site, significant thicknesses of made ground were expected, with geological maps suggesting the underlying geology would be storm beach deposits, tidal flat deposits and the underlying bedrock geology comprising clay and mudstone of the Weald Clay formation. The ground conditions encountered during the investigations confirmed the expected geology of the site, along with finding made ground associated with the former land fill operations.

### **Hydrogeology**

8.224 The superficial geology underlying the site is classified by the EA as a Secondary 'A' Aquifer, indicating layers capable of supporting water supplies at local, as opposed to strategic scale, and potentially forming an important base flow to rivers. The ground water is unlikely to be in hydraulic continuity with the RMC. There are four water abstraction licences within one kilometre of the site. The site is not located within a Groundwater Protection Zone.

### **Hydrology**

8.225 The closest and most obvious surface water feature to the application site is the (RMC). A culverted watercourse flows into the central portion of the canal, a tertiary river flows into the western portion of the canal, while a

secondary river (Seabrook Stream) flows into the canal near the eastern end. The canal flows in an easterly direction, before flowing into the Hythe Bay 50m to the south. There are no surface water abstractions within one kilometre of the site.

### Contamination

8.226 A Phase 1 (Non-intrusive Investigation) and a Phase 2a (Preliminary Exploratory Investigation) were undertaken, which indicated the widespread presence of contamination within the made ground across the site, including elevated concentrations of polycyclic aromatic hydrocarbons (PAH), lead, arsenic (one recorded exceedance) and asbestos (at non-hazardous concentrations). The concentrations of hydrocarbons are present at levels sufficient to pose a risk to human health, whilst phytotoxic (poisonous to plants) metals are present at levels sufficient to affect plant growth. Ground gas is also present at levels that could pose a risk if allowed to collect in unventilated spaces.

### Potential Impacts

8.227 The potential environmental effects of possible ground conditions and contamination at the site have been considered with respect to the following sensitive receptors:

- Human health – including future site users (workers and visitors), construction workers and maintenance personnel, and off-site land users including surrounding residents, pedestrians and nearby site users (e.g. golf course, public park etc)
- Controlled waters including the RMC and underlying aquifers;
- Adjacent land and occupiers;
- Ecological systems (RMC and Hythe Bay);
- Future residents;
- Buried structures and services, including foundations, concrete and water supply pipes.

8.228 An assessment of potential impacts upon sensitive receptors from the site has been made in its current condition, during construction and during the operational period i.e. following construction, assuming absence of mitigation.

8.229 There is no evidence that the identified contamination is currently causing environmental harm or poses a risk to current users of the site, with the hydrocarbons considered to be relatively immobile. The canal is separated hydraulically from the site (possibly by a clay lining installed during construction) and the site is well vegetated, providing little opportunity for people to come into contact with contaminated material.

8.230 However, disturbance of the site, such as during construction, could mobilise contaminants, giving rise to potential for moderate adverse effects associated with:

- Disposal of excavated materials (some of which would be hazardous waste);
- Risk to site workers (through contact, ingestion/inhalation or exposure to ground gas);
- Contamination of controlled waters (groundwater and the canal);
- Accidental spillage (oils or cement slurry); and
- Damage to polymeric services (plastic pipes).

8.231 Potential for minor adverse effects has also been identified in relation to the risk of contaminated dust emissions or mobilisation of contaminants within groundwater or runoff, affecting off-site habitats such as the canal.

8.232 For the completed development, any sources of ground contamination or gas that may remain at completion of the development could pose a residual risk to the surrounding environment and to occupants or users of the site. These were considered to be negligible adverse for leisure centre users given the significant excavation required and the protection from the building structure and hard surfacing; minor adverse for new residents without gardens; and moderate adverse for new residents with gardens and users of public open space. Potential effects for off-site receptors would be negligible, with a minor effect upon controlled waters. This is assuming an absence of mitigation.

#### Mitigation

8.233 Mitigation in accordance with the regulatory regime (Environmental Protection Act 1990 etc) would ensure that, during and following development, an acceptable level of risk would be achieved. During construction, the principal measures would include:

- Further gas and groundwater monitoring;
- Analysis and remediation of contaminated soils and ground water;
- Protocols for the handling and off-site disposal of hazardous wastes;
- Health and safety procedures to protect on-site workers; and
- Monitoring and control of activities capable of spreading contamination.

8.234 The engineering and design of the development would incorporate a range of measures to minimise residual risk from any remaining contamination, including:

- Gas protection for potentially vulnerable spaces (basements);
- Use of contaminant –resistant materials for utilities and foundations; and
- Use of clean cover, break layers and imported topsoil for all areas of landscaping.

8.235 As a result, the residual effects during construction have been identified by the ES as being negligible, with the residual long-term effects considered minor beneficial, since the remediation and containment of site



contamination would neutralize the environmental health risks it currently represents.

### Geotechnical Issues

8.236 Based on the ground conditions, traditional shallow foundations are considered unlikely to be feasible, with alternatives such as ground improvement or piles suggested. Ground improvement involves techniques such as stone columns or vibro concrete columns (VCC) that would enable strip footings to be constructed on the improved ground. Alternatively, bored / Continuous Flight Auger (CFA) piles would be feasible. Driven piles could be considered, having the advantage over CFA that no arisings are generated, however the effect of noise / vibration are suggested as an issue given the proximity of the existing residential development and the RMC.

### Consultee Comments

8.237 In relation to groundwater and contaminated land, the Environment Agency raises no objection subject to conditions, and agrees with the findings and recommendations that further monitoring is carried out at the detailed design stage in order to assess ground gas, groundwater and vapour risk, as well as to ascertain precisely the underlying ground conditions, with investigation taking place once vegetation has been cleared. If members resolve to grant planning permission, conditions covering the following are recommended:

- The submission of a risk assessment, investigation scheme, remediation strategy and verification plan (one condition);
- The discovery of unexpected contamination;
- Watching brief during specified works;
- No piling unless agreed with the LPA and in accordance with the EA guidance should it be demonstrated that there is no unacceptable risk to groundwater;
- None of the conditions relating to contamination should be fully discharged until works are completed and verified.

8.238 The review by the Council's consultants, RPS, agreed with the ES recommendations, adding a suggestion for further assessment and/or discussion of several points, but conceding that these could be sought through the imposition of suitably worded conditions.

8.239 Consequently, it is considered that there are no outstanding issues in relation to geo-environmental issues, including contamination, at the application site that would prevent planning permission being granted subject to appropriate conditions.

### **Socio-Economics**

8.240 The socio-economic aspects of the proposal have been assessed through looking at the effects upon local employment, Gross Value Added generated as a result of new economic activity and the social infrastructure (including schools, primary healthcare and leisure facilities) and the contribution

toward housing targets, as well as health and wellbeing in terms of the more usable public open space and the leisure centre. Paragraph 7 of the NPPF refers to accessible local services that reflect the community's needs and support its health wellbeing.

## Employment

8.241 The ES breaks this down into construction employment associated with the development of the site and post development on-site employment arising from the range of uses proposed, as well as indirect employment arising from the presence of the development.

8.242 It is envisaged that the development would result in approximately 644 net job years of construction employment. Job years are a tool to calculate the amount of work needed to complete a project, so a job-year is one year of work for one person; a new construction job that lasts five years is five job-years. It is noted that the construction labour market is generally transient and flexible, so site workers for the project may be from outside the Folkestone and Hythe district, resulting in a minor beneficial effect locally. The GVA (Gross Value Added) has been calculated at £16,275 for the district, with each of the 644 jobs predicted adding value to the local economy, generating an estimated £10,481,100.

8.243 As regards indirect employment, the new homes provided by the development will lead to increased demand from the residents for local goods and services, which will generate employment in local businesses. It is estimated this would result in 53 full-time equivalent (FTE) jobs being generated (*based Homes and Communities Agency and OffPat guide of an increase of 1000 residents generating 150 jobs*). The development itself would be providing local services (retail/restaurant/café) so approximately half of the additional demand will be met on-site, with the remaining half generating additional demand elsewhere in the locality, resulting in approximately 26 jobs created by demand from the new housing, rising to an estimated 29 with multiplier effects. This is identified as being a minor beneficial effect from indirect employment.

8.244 In relation to on-site employment, it is suggested that between the leisure centre (46), hotel (4-5) and restaurant/café/retail (13-17) there would be up to 63-68 jobs generated on-site. However this must be offset against the jobs already provided at Hythe Pool (18) that will be reallocated, giving an adjusted total of between 45-50. Again, this is considered to be a minor beneficial effect.

8.245 The indirect and direct employment created by the development once complete, using the previously stated figure of £16,275 per head for the district and accounting for the offsetting of the Hythe Pool jobs, is expected to result in a combined GVA of between £732,375 and £813,750, a minor beneficial effect for the local economy.

## Housing

8.246 The 150 new homes proposed at the site will meet national and local policy objectives by contributing toward housing targets, with the 150 representing 37.5% of the annual 400 target within policy SS2 of the Shepway District Core Strategy for the period 2006 – 2026.

8.247 The applicant has committed to meeting the requirement of Core Strategy policy CSD1, which requires 30% affordable housing, The 30% affordable housing proposed, equivalent to 45 units, will also contribute to Core Strategy policy CSD1, with the requirement for the plan period equating to a total of 100 homes and therefore being a 45% contribution. The provision of these units, covering their phasing, the tenure mix (normally 60% affordable rent; 40% shared ownership) and location within the development, can reasonably be secured via legal agreement. The developer has also agreed to implement a local lettings plan to give priority to people in Hythe. The affordable element would also meet the aim of paragraph 50 of the NPPF in delivering a wide choice of high quality homes, to widen opportunities for home ownership and create sustainable, inclusive and mixed communities. The affordable housing can be secured through a legal agreement.

8.248 The application has been supported by a viability assessment that identifies that the development cannot deliver a profit, with a funding gap of £2.1m. However the applicant has confirmed that the development will deliver 30% on site affordable housing, with funding towards this provided by off-site contribution that the Council currently holds from other development.

#### Education Provision

8.249 The likely pupil yield from the proposed scheme has been calculated with Kent County Council (KCC) Pupil Product ratios in order to assess the effects on existing educational infrastructure. As a consequence of the proposal, there would be a minor adverse effect upon education within the ward, as the local primary school (Seabrook) is at capacity, with a negligible impact with regard to secondary school capacity, given an identified surplus of spaces across all secondary schools within a 5km radius of the site.

8.250 In terms of mitigation, the new primary school proposed at the Shorncliffe Garrison site will largely cater for residents within that development. Monies collected from the development, if approved, via the Community Infrastructure Levy (CIL), could be available for future expansion of local primary schools although there is not a specific project identified. In this respect, the proposal is considered not to conflict with Core Strategy policy SS5 with regard to current and future infrastructure needs.

#### Healthcare Provision

8.251 With regard to provision of services within the area, The ES predicted that the development would generate an additional 354 residents in the local area, which when apportioned between the 58 GPs currently within a 5km radius of the site, there would be an additional 6 patients per GP, which is considered a negligible effect.

8.252 With regard to other benefits, Primary care services in the district are delivered by NHS South Kent Coast Commissioning Care Group which has expressed a desire to be involved in discussions relating to the detailed design and operational specification for the leisure centre.

8.253 Consequently, should planning permission be granted, the Council as applicant will initiate a procurement process that will involve the further development of the service specification in order to ensure that the centre is operationally sustainable and meets the needs of the local community, with further discussions with the SKCCG welcomed as part of the procurement process in order to ensure that the health-related benefits of the new facility are maximised. Overall, the leisure centre and public realm development is considered to meet the aims of section 8 of the NPPF and paragraphs 70 and 73, through promoting healthy communities via the delivery of social, recreational and cultural facilities, alongside high quality public space, which encourage the active and continual use of public areas and create opportunities for sport and recreation.

#### Open Space and Childrens' Play Space Provision

8.254 The estimated requirements for open space and childrens' play space has been prepared based upon the proposed unit numbers for the new development. As set out previously the proposal is considered likely to deliver benefits and it considered that the applicant has provided evidence that the development proposal for Princes Parade meets the requirements of NPPF paragraph 74 and parts a) and c) of saved policy LR9. In relation to part b) issues of environmental quality are addressed elsewhere in the report and balanced against the public benefits of the development. This would also meet the paragraph 7 of the NPPF in respect of accessible local services that reflect the community's needs and support its health wellbeing.

#### Leisure Facilities Provision

8.255 The District Council delivers public leisure facilities, with local private facilities provided by various private entities. The proposal would deliver a leisure centre with a swimming pool, fitness suite, dance/exercise studios and associated wet/dry changing facilities and café, to meet an identified under-supply of water space within the district and also address ongoing issues with closure and repairs to the existing facility, which themselves affect accessibility. This would be a benefit to the local area and meet the aims of paragraph 73 of the NPPF through giving access to opportunities for sport and recreation. It would also meet the paragraph 7 of the NPPF in respect of accessible local services that reflect the community's needs and support its health wellbeing.

8.256 Overall, it is considered that there are multiple socio-economic benefits associated with the proposed development, that are in accordance with adopted national and local policy, and that must be weighed against other issues identified elsewhere within this report.

**Environmental Impact Assessment Regulations**

- 8.257 In accordance with the EIA Regulations the site falls within a sensitive area and within Schedule 2 10(b) urban development projects. A screening opinion was carried out and it was concluded that the development is EIA development and as such an Environmental Statement was required. A copy of the screening opinion is available on the planning file and part 2 register. An ES was submitted with the application.
- 8.258 The Local Planning Authority has had the ES assessed by an external consultant to ensure that it was robust and provided the application with the necessary information required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (The EIA Regulations). Although the 2017 Regulations are now in place, in line with the transitional arrangements set out when the new Regulations came into force in May 2017, as the scoping report for the site has previously been considered and approved under the 2011 EIA Regulations, the new application is still to be considered under these 2011 Regulations.
- 8.259 The Consultants used by the Local Planning Authority, WYG, have confirmed that the method used in undertaking the assessment, is in line with the Institute of Environmental Management and Assessment (IEMA) and that the additional information submitted has addressed any deficiencies within the ES.

**Public Benefits weighed against impact on the SM**

- 8.260 Officers have concluded that the harm to the setting of the SM is less than substantial and in such cases paragraph 134 of the NPPF requires the decision maker (the LPA) to weigh the public benefits of a development against the less than substantial harm to the heritage asset. LPAs should also look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance.
- 8.261 In this case the harm caused to the setting of the SM relates to the understanding of the monument and the role it was built to play in the coastal defences against Napoleon. The NPPF is clear that great weight should be given to a designated Heritage Asset's conservation, and that the more important the asset the greater the weight should be. The SM is of national importance and the harm caused to its setting therefore carries significant weight in decision making. Whilst the site currently provides a gap between the canal and the sea, it has been subject to significant alteration, including the raising of land within its former use as a public waste tip. The vegetation that has grown across the site, together with the change in levels means that the relationship between the canal and the sea cannot currently be easily appreciated.
- 8.262 The main purpose of the development is to provide a substantial and much needed public benefit in the form of a new leisure centre to serve the residents of the district. The application demonstrates that the existing facility is in a poor state of repair with limited life expectancy and that there

is already a deficit in water space within the district. The proposed leisure centre will not only replace this but provided an enhanced facility that is accessible to all members of the community. In addition to the leisure centre, the application would deliver the following public benefits over and above what the normal policy requirement would have been for the development were it not impacting on the setting of an SM:

- a substantial area of strategic open space of significantly improved quality and accessibility than the site currently provides;
- remediation of the contaminated open space area which will facilitate improved accessibility to it;
- an enhanced seafront promenade provided an enhanced visual environment and car free space with improved connectivity between the public open space and the seafront, achieved by the repositioning of Princes Parade road to behind development;

In respect of the NPPF requirement for development within the setting of heritage assets to enhance or better reveal their significance the following public benefits are proposed:

- Provide means to consolidate and repair neglected but key parts of the site through vegetation clearance and stonework repair;
- Provide better public access and interpretation of the RMC and wider area, emphasising connections between the canal and the sea, delineating lines of fire and maintaining openness;
- Heritage trail between the RMC, Shorncliffe Battery and Martello Towers, interpretation boards and artwork, building on the findings of an archaeological study;
- Environmental improvement scheme at the eastern end to mark the site of the former drawbridge and canal arm leading to it

8.263 Weighing the less than significant impact of the setting of the SM that will be caused by the development against the public benefits that will arise from it, and taking into account that these include improvements to the SM and better access to and interpretation of it, it is considered that these benefits outweigh the impact on the SM and that subject to conditions relating to the phasing of the development to ensure that the housing is not delivered without the leisure centre such that the balance falls in favour of granting planning permission.

### **Other Issues**

8.264 Policy CSD5 of the Shepway Core Strategy and paragraph 42 of the NPPF seek the provision of high quality communications infrastructure, to sustain economic growth. Subject to the use of a planning condition to require the installation of fixed telecommunication infrastructure and High Speed Fibre Optic (minimal internal speed of 100mb) connections to multi point destinations and all buildings including residential, commercial and community no objection is raised under policy CSD5 of the Shepway Core Strategy and paragraph 42 of the NPPF.

8.265 In term of water sustainability, policy CSD5 of the Shepway Core Strategy in part requires that all developments should incorporate water efficiency measures. The policy states development for new dwellings should include specific design features and demonstrate a maximum level of usage should be 105 litres per person per day or less. This usage level figure is adjusted to 110 litres per person per day under the guidance of Building Regulations Approved Document G (which came into effect in October 2015). This can be controlled by planning condition.

## **9.0 CONCLUSION**

9.1 This report provides a detailed interrogation and assessment of the proposed development against adopted development plan policy, as well as guidance within the NPPF and National Planning Practice Guidance.

9.2 The application demonstrates that matters relating to land use, design, open space, ecology, highways and transportation, drainage and lighting are acceptable when considered against policy and can be appropriately mitigated by conditions, as set out in the report.

9.3 The application proposes a number of significant public benefits as set out in this report. The Core Strategy and NPPF seek to boost the supply of housing. Whilst the Council has an identified 5 year supply of housing against the current Core Strategy requirements, it is recognised that the housing needs of the district are significantly increasing, and that sites proposed within the draft PPLP (Places and Policies Local Plan) and draft Core Strategy Review will be required to meet this need. The delivery of 150 homes on this site, 45 of which would be affordable, would contribute significantly to the Local Planning Authority meeting its housing need, within the Urban Area settlement boundary of Folkestone and Hythe.

9.4 The development would provide for economic benefits as set out in the report and application, both during construction and operational phases, with a variety of permanent jobs provided within the leisure centre, proposed hotel and restaurant uses. It is also considered the proposed development would help to contribute to the tourist economy, by providing a destination open space and play space, leisure centre and attractive public realm and seafront promenade within a popular beach side location, contributing positively to the character of Hythe.

9.5 The main purpose of the development is to provide a substantial and needed public benefit in the form of a new leisure centre to serve the residents of the district. The application demonstrates that the existing facility is in a poor state of repair with limited life expectancy and that there is already a deficit in water space within the district. Alongside the leisure centre, the application proposes the delivery of a substantial area of strategic open and play space, occupying almost 50% of the application site and maintaining and enhancing the visual connection between the sea and canal.

- 9.6 In this case the harm caused to the setting of the SM relates to the understanding of the monument and the role it was built to play in the coastal defences against Napoleon. The NPPF is clear that great weight should be given to a designated Heritage Asset's conservation, and that the more important the asset the greater the weight should be. The SM is of national importance and the harm caused to its setting therefore carries significant weight in decision making. Whilst the site currently provides a gap between the canal and the sea, it has been subject to significant alteration, including the raising of land within its former use as a public waste tip. The vegetation that has grown across the site, together with the change in levels means that the relationship between the canal and the sea cannot currently be easily appreciated. However, it is considered that the development will result in less than substantial harm to the Heritage Asset and this harm has to be weighed against any public benefits that would arise from the development.
- 9.7 The public benefits of the proposal are summarised above and set out within the report and it is considered that the development will result in significant social, economic and environmental benefits to the district. The issue for the Council as Local Planning Authority decision maker is whether the changes to the setting of the RMC Scheduled Ancient Monument, the loss of the open views across the site, the impacts on the existing ecological habitat, the rerouting of Prince Parade and change its character and appearance of the site are outweighed by the benefits to residents and visitors of a new purpose built leisure centre, quality usable open space, an enhanced pedestrian seafront promenade, additional housing, including 45 affordable dwellings, to meet the district's current and future housing need and the cleaning up and bringing back into use a contaminated underused site.
- 9.8 It is considered by officers that, with the mitigation proposed and the required conditions and legal agreement, the benefits do outweigh the harm to the setting the Scheduled Monument and that the balance is in favour of granting planning permission. In accordance with the NPPF it is considered that the proposed development constitutes Sustainable Development and that planning permission should be granted.

### **Local Finance Considerations**

- 9.9 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.
- 9.10 The New Homes Bonus Scheme provides for money to be paid to the Council when new homes are built within the district. Under the scheme the Government matches the council tax raised from new homes for the first four years through the New Homes Bonus. New Homes Bonus payments are not



considered to be a material consideration in the determination of this application.

- 9.11 In accordance with policy SS5 of the Shepway Core Strategy Local Plan, the Council has introduced a CIL scheme that in part replaces planning obligations for infrastructure improvements in the area. The site is located in charging zone C and the CIL levy in the application area is charged at £109.40 per square metre for new dwellings. As the proposal is outline in nature, it is not possible to calculate the residential floorspace to determine the CIL charge.

### **Human Rights**

- 9.12 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.

- 9.13 This application is reported to Committee as it is a significant departure from the development plan.

## **10.0 BACKGROUND DOCUMENTS**

- 10.1 The consultation responses set out at Section 5.0 and any representations at Section 6.0 are background documents for the purposes of the Local Government Act 1972 (as amended).

## **11.0 CONDITIONS & LEGAL AGREEMENT**

- 11.1 A list of condition headings and heads of terms for the legal agreement will be provided on the supplementary sheets which shall include all the conditions identified in the above report as being required.

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## **RECOMMENDATION**

**That planning permission be granted subject to conditions, to include a condition to ensure the housing cannot be constructed without the leisure centre; and a S106 legal agreement relating to the affordable housing and public space management, and that delegated authority given to the Development Management Manager to agree and finalise the wording of the conditions and the legal agreement.**

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Decision of Committee